SHIRE OF IRWIN
DONGARA-PORT DENISON
A BRILLIANT BLEND

AGENDA FORUM

to be held on

Tuesday 18 June, 2024

in the

Council Chambers
11-13 Waldeck Street, Dongara

Commencing
at
5.00pm

Agenda Forum Information

1. Your Council generally handles all business at Ordinary or Special Council Meetings.
2. From time to time Council may, for a Committee, Working Party or Steering group examine specific subjects and then report to Council.
3. The purpose of the Agenda Forum is for council members and community members to be informed on agenda items before the next Ordinary Council Meeting.
4. Generally, all meetings are open to the public. Occasionally Council will be required to deal with person, legal and other sensitive matters and on these 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.
5. **Public Questions Time**: It is a requirement of the *Local Government Act 1995* to allow at least fifteen (15) minutes for public question time. At the Agenda Forum all questions asked must be related to the items listed on the Agenda Paper. Please note the following.
   a) Meetings are scheduled for a 5.00pm start (unless otherwise advised)
   b) Record your full name and suburb of resident on the Attendance Form available in the public seating area.
   c) When invited by the Presiding Member to ask your question/s, please state your full name for the benefit of the note taker and those present,
   d) A minimum of 15 minutes is allocated to Public Question Time, which may be extended at the discretion of the Presiding Member.
   e) 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.
   f) The Presiding Member may elect for written questions to be responded to as normal business correspondence.
   g) The Presiding Member may decide that a question shall not be responded to where the same or similar questions has been asked at a previous meeting and a respond 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.
   h) A question may be taken on notice by Council for a later response. Responses will be provided in writing to the member and summary will be included in the agenda of the next Ordinary Council Meeting of Council.
   i) Members of the public are encouraged to raise matters relating to operations and administration through the Shire's Customer Request System.
   j) Should you wish to provide written questions prior to the meeting please submit them by 4.00pm the day before the meeting. By submitting written questions, this assists the administration with preparing a response.
   k) Should you wish to provide a presentation at the Agenda Forum, a request will need to be submitted in writing directly to the Chief Executive Officer by 4pm the day before the meeting. The presentation must be related to an item listed on the agenda paper.
   l) Presentations have a time limit of 10 minutes and a limit of 2 representatives will be allowed to speak.
   m) Agendas for the Agenda Forum and Ordinary Council Meetings are available to the public from the Shire of Irwin Administration Centre or via the Shire's Website www.irwin.gov.au seventy-two (72) hours prior to the meeting.
   n) Recording of Minutes for Agenda Forums is not required by legislation however a summary of notes from the Agenda Forum will be presented to Council at the next Ordinary Council Meeting.

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AGENDA FORUM

to be held

18 June 2024

Commencing at 5.00pm

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Members

Councillor M Leonard	President
Councillor B Wyse	Deputy President
Councillor I Scott	
Councillor A J Gillam	
Councillor E Tunbridge	
Councillor P Summers	

Staff

Mr S D Ivers	Chief Executive Officer
Miss P Machaka	Manager Finance
Mr M Connell	Manager Development
Ms F Boksmati	Acting Manager Community Services
Mr M Jones	Acting Manager Operations
Ms S Mearns	Acting Executive Assistant

Guests

Apologies

Mr S Stubbs	Community Emergency Services Manager

Approved Leave of Absence

Gallery

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4. PUBLIC QUESTION TIME

5. DECLARATIONS OF INTEREST

6. APPLICATIONS FOR LEAVE OF ABSENCE

7. PETITIONS AND DEPUTATIONS

8. CONFIRMATION OF MINUTES AND TABLING OF AGENDA FORUM NOTES

8.1 Minutes of the Ordinary Council Meeting held 28 May 2024

The Minutes of the Ordinary Council Meeting held 28 May 2024 have been provided to all Councillors under separate cover.

OFFICER RECOMMENDATION:
That Council confirms the Minutes of the Ordinary Council Meeting held 28 May 2024.

8.2 Agenda Forum Notes 18 June 2024

At the Agenda Forum held 18 June 2024, Shire Officers presented background information and answered questions on Items to be considered at the June Ordinary Council Meeting. Notes from the Agenda Forum are included in the *Attachment Booklet – June 2024*.

OFFICER RECOMMENDATION:
That Council notes that the Agenda Forum was held on 18 June 2024.

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

10. REPORTS

10.1 Officer Reports

CORPORATE AND COMMUNITY	CC01-06/24
Subject:	**CC 01-06/24 Accounts for Payment**
Author:	**S Clarkson, Senior Finance Officer**
Responsible Officer:	**P Machaka, Manager Finance**
File Reference:	**2.00057**
Voting Requirements:	**Simple Majority**

Council Role:

☐	**Advocacy**	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
☒	**Executive**	The substantial direction setting and oversight role of the Council e.g., performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
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Report Purpose:
For Council to receive the list of accounts paid under delegated authority during May 2024.

Background:
A list of accounts paid under delegated authority is attached showing all payments made during the month of May 2024.

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 – May 2024
CC01-06/24 Attachment 1 Accounts for Payment – June 2024

OFFICER RECOMMENDATION:

That Council by Simple Majority, receives the Accounts paid during May 2024 as contained in CC01-06/24 Attachment 1 of the Attachment Booklet – June 2024, represented by:

Payment Type/Numbers	Total Amount
EFT 32010 – 32111	**$628,221.82**
Muni Cheques – 32194 – 32200	**$9,891.27**
Direct Debit – Telstra	**$3,827.51**
Direct Debit – WA Treasury Corporation	**$65,350.56**
Direct Debit – Credit Card	**$15,946.35**
Direct Debit – N-Able Pty Ltd	**$1,688.25**
Direct Debit – Australian Phone Company	**$225.23**
Direct Debit – Rental Allowance/Charges	**$8,700.00**
Direct Debit – Bonds Administrator	**$1,080.00**
Direct Debit – Superannuation	**$55,956.05**
Grand Total	**$790,887.04**

CORPORATE AND COMMUNITY	CC02-06/24
Subject:	**CC 02-06/24 Monthly Financial Statements for the Period Ended 30 April 2024**
Author:	**P Machaka, Manager Finance**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**2.00057**
Voting Requirements:	**Simple Majority**

Council Role:

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Report Purpose:
For Council to consider and receive the Monthly Financial Statements for the period 1 July 2023 to 30 April 2024.

Background:
The Monthly Financial Statements to 30 April 2024 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
- Statement of Financial Position
- 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 April 2024 is detailed in the attached report and summarised as follows relative to year-to-date budget expectations:

30/04/2024	YTD Budget	YTD Actual	Variance YTD to Budget
Operating Revenue	9,361,050	9,324,695	0%
Operating Expenditure	(11,364,587)	(12,110,968)	7%
Net Operating	(2,003,537)	(2,786,273)	
Non-Operating Revenue	555,923	608,476	9%
Non-Operating Expenditure	(2,900,066)	(3,179,725)	10%
Net Non-Operating	(2,344,143)	(2,571,249)	
Cash at Bank		999,483	
Cash at Bank Restricted		704,535	
Reserve Bank		1,662,138	
Total Cash Funds		3,366,156	

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 must be shown according to the nature classification.

(4) A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be -

(a) presented to the council - at an ordinary meeting of the council within 2 months after the end of month to which the statement relates; 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 – June 2024
CC02-06/24 Attachment 1: Financial Statements for the Period Ended 30 April 2024.

OFFICER RECOMMENDATION:
That Council by Simple Majority, receives the Monthly Financial Statements for the period 1 July 2023 to 30 April 2024 as contained in Attachment Booklet – June 2024.

CORPORATE AND COMMUNITY	CC03-06/24
Subject:	**CC03-06/24 Budget Amendments 31 May 2024**
Author:	**P Machaka, Manager Finance**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**2.00057**
Voting Requirements:	**Absolute Majority**

Council Role:

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Report Purpose:
For Council to approve amendments to the 2023/24 budget as detailed in the attachment.

Background:
The Shire has identified some 2023/24 expenditure accounts that require budget amendments as they have insufficient budget allocated against them.

In accordance with section 6.8(1) *of the Local Government Act 1995,* a local government is not to incur expenditure from municipal for an additional purpose except where the expenditure:

- Is incurred in a financial year before the adoption of the annual budget by the local government.
- Is authorised in advance by Council resolution – absolute majority required
- Is authorised in advance by the Mayor or President in an emergency

Officer's Comment:
After the Annual Budget review the Shire recognised additional rate revenue of approximately $460,000, which consisted of back and interim rates. The Shire also anticipates that expenditure will exceed budget by the end of June 2024 in various accounts. It is therefore recommended that the Shire amend the 2023-24 budget to recognise the additional revenue and expenditure as listed in the attachment.

Consultation:
Nil

Statutory Environment:
Local Government Act 1995, Section 6.8(1)

Policy Implications:
Nil

Financial/Resource Implications:
As detailed in the attachment

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 – June 2024
CC03-06/24 Attachment 1: May 2023/24 Budget Amendments

OFFICER RECOMMENDATION:
That Council by Absolute Majority, approve the budget amendments for the period ending May 2024 as contained in Attachment Booklet – June 2024, in accordance with *section 6.8(1) of the Local Government Act 1995.*

OFFICE OF CEO	CEO01-06/24
Subject:	**CEO 01-06/24 Register of Delegations 2024 – Council to CEO – Annual Review**
Author:	**L Hos, Governance Officer**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**3.00024**
Voting Requirements:	**Absolute Majority**

Council Role:

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Report Purpose:
For Council to review the Register of Delegations – Council to Chief Executive Officer (the 'Register'), provided as Attachment Booklet June 2024.

Background:
Section 5.46(2) of the *Local Government 1995* requires delegations to be reviewed at least once each financial year, *"at least once every financial year, delegations made under this Division are to be reviewed by the delegator."* The delegation's register was presented to Council at the 27 June 2023 Ordinary Council Meeting. Council is required to review the Council to CEO delegations, and it is the responsibility of the CEO to review delegations to other employees.

When Council reviews the delegations, this ensures that the business and function of Local Government can be carried out efficiently.

To delegate is to appoint another person to exercise a power or discharge a duty. A delegation does not strip the person making the delegation of the right to exercise the delegated power or discharge the delegated duty.

All delegations for the Shire of Irwin are managed and administered through the software program called Attain.

Officer's Comment:
The process to review the Shire of Irwin Delegations include the following considerations:

a) Could the delegation be considered a day-to-day function of the administration?
b) Does this delegation require any qualifications?
c) Does the specific 'Act' require a delegated authority?
d) Does the delegation authority contribute to the transparency with regards to decision making?

As well as considering from the *Local Government Act 1995*:

- The role of Council under section 2.7;
  - governs the local government's affairs; and
  - is responsible for the performance of the local government's functions.
- The functions of the CEO under section 5.41(d);
  - to manage the day-to-day operations of the local government.

It is proposed the following delegations to be revoked for the reason as listed plus the Shire has received advice from WALGA that these delegations are not required to be delegated from Council to CEO. Any decision to revoke a delegation must be done by absolute majority, section 5.45(b).

Delegation Reference Number	**Subject**	**Legislation**	**Reason for Proposed Revocation**
CEO10	Information to be available to the public	*Local Government Act 1995 s.94, s.95*	The functions of these delegation are a part of the day-to-day function of the administration.
CEO11	Financial Management Systems and Procedures	*Local Government Act 1995 s5.46(3) Local Government (Administration) Regulation 1996 – Regulation 19*	The functions of these delegations are a part of the day-to-day function of the administration. The functions of these delegations are incorporated into the Shire's Compliance Calendar.
CEO12	Audit CEO review of systems and procedures	*Local Government Act 1995 s5.46(3) Local Government (Audit) Regulations 1996*	The functions of these delegations are a part of the day-to-day function of the administration. The functions of these delegations are incorporated into the Shire's Compliance Calendar.

Delegation CEO100 "Tenders for Goods and Services" was updated.

Consultation:
The administration reviews delegations on a regular basis throughout the year. Governance consulted with Managers across the organisation to ensure that delegated authorities align with the day to day business of the administration.

Statutory Environment:
Local Government Act 1995

- Section 5.42 Delegations of some powers and duties to CEO
- Section 5.43 Limits on delegations to CEO
- Section 5.46 Register of, and records relevant to, delegations to CEO and employees

Policy Implications:
The Register of Delegations – Council to CEO will link with and guide some Council Policies. Reference to the relevant Council Policy for each delegation is made within the Register.

Financial/Resource Implications:
Nil

Strategic Implications:
Our Brilliant Future - Strategic Community Plan 2021 – 2031
Strategy 4.2.1 Ensure Compliance whilst embracing innovation and best practice principles.

Attachments:
Attachment Booklet June 2024
CEO01-06/24 Attachment 1: Register of Delegations 2024

OFFICER RECOMMENDATION:

That Council, by Absolute Majority:

1. **Reviews all Council delegations of authority in accordance with s.5.46 of the *Local Government Act 1995;***
2. **Revokes delegations 10. Information available to the public 11. Financial Management Systems and Procedures 12. Audit CEO Review of Systems and Procedures listed in the attachment as 'Marked for Removal';**
3. **Adopts the 'Register Delegations of Authority' Council to CEO dated June 2024 as presented in attachment booklet June 2024; AND**
4. **Approves the Chief Executive Officer to update the Register of Delegations – Council to CEO accordingly.**

DEVELOPMENT SERVICES	ID01-06/24
Subject:	**ID 01-06/24 May 2024 Development Delegated Authority Report**
Author:	**M Connell, Manager Development**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**3.00125**
Voting Requirements:	**Simple Majority**

Council Role:

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Report Purpose:
For Council to receive the May 2024 Development Delegated Authority Report.

Background:
Local governments utilise levels of delegated authority to undertake day-to-day statutory functions, thereby allowing Council to focus on policy development, representation, strategic planning and community leadership, with the organisation focussing on the day-to-day operations of the Shire.

The use of delegated authority means the large volume of routine work can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community.

Officer's Comment:
This report presents the details of development functions made under delegated authority for the month of May 2024, with 16 building permits and 5 applications for development approval having been issued.

Consultation:
Nil.

Statutory Environment:
- *Local Government Act 1995*
- *Local Government (Administration) Regulations 1996*

Policy Implications:
Nil.

Financial/Resource Implications:
Nil.

Strategic Implications:
Our Brilliant Future – Strategic Community Plan 2021 – 2031
Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles
Strategy 4.3.2 Adopt and follow better practice processes

Attachments:
Attachment Booklet – June 2024
ID01-06/24 Attachment 1: May 2024 Development Delegated Authority Report

OFFICER RECOMMENDATION:
That Council by Simple Majority, receives the May 2024 Development Delegated Authority Report, as contained in ID01-06/24 Attachment 1 of the Attachment Booklet – June 2024.

REGULATORY SERVICES	ID02-06/24
Subject:	**ID 02-06/24 Proposed Road Name and Albatross Lane Extension, Port Denison**
Author:	**M Connell, Manager Development**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**P24/29**
Voting Requirements:	**Simple Majority**

Council Role:

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Report Purpose:
For Council to approve the road name extension of 'Albatross Lane' and the new road name 'Pelican Lane' to be applied to the unnamed road that runs south-west between Samuel and Herbert Streets, Port Denison.

Background:
The Shire has been informed by Landgate's mapping team that there is an anomaly concerning the named extent of Albatross Lane in Port Denison. The name 'Albatross Lane' was approved in 2003 only between Samuel Street and Leitch Street. However, Albatross Lane is signposted further west at George Street. Landgate has requested the Shire review the placement of this street sign and advise them accordingly.

There are three properties currently addressed off Albatross Lane (No's 5, 7 and 9). As the three addresses run in a north-east direction, extending the name through to William Street is not an issue.

In terms of the unnamed portion of the lane (running south-west from Samuel to Herbert Streets) applying a new name would be most appropriate, particularly due to the lack of available house numbers.

Officers consider that a new road name that would have some association with the current 'Albatross' name would be most appropriate for the locality. The name 'Pelican' is recommended, and should Pelican Lane not be approved then the alternate names of Shearwater and Mollymawk are proposed.

A copy of the proposed road naming plan is contained in ID02-06/24 Attachment 1 and the reasons/origins of the proposed names are as follows:

Pelican Lane – the word *albatross* comes from the Spanish and Portuguese word *alcatraz* meaning "pelican".

Shearwater Lane – the sooty shearwater is a medium-large seabird. Its flight is powerful and direct, with wings held stiff and straight, giving the impression of a very small albatross.

Mollymawk Lane – the mollymawks are a group of medium sized albatrosses that form the genus *Thalassarche*, which are the most common of the albatrosses in the southern hemisphere.

Location Plan



Officer's Comment:
The proposed names are considered appropriate given their association with the current 'Albatross' name and all the names have passed preliminary validation for availability from Landgate.

Consultation:
The *Policies and Standards for Geographical Naming in Western Australia* requires that any new naming proposal considered to be of significance to the immediate or extended community must include evidence of consultation with the community.

The proposed names are not considered to be of significance to the immediate or extended community and therefore no public consultation is required.

Statutory Environment:
The practice of officially naming roads is covered under section 26A of the *Land Administration Act 1997*. The local government must first approve proposed road names and then forward them to the Minister for Lands for final approval.

The legislation is supported by the *Policies and Standards for Geographical Naming in Western Australia* which provides the necessary information and details the principles and standards which apply to all naming. The proposed names are considered to be in accordance with the policy and standards.

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.

Attachments:
Attachment Booklet – June 2024
ID02-06/24 Attachment 1: Proposed Road Naming Plan

OFFICER RECOMMENDATION:

That Council, by Simple Majority:

1. **Approve the road name extension of 'Albatross Lane' north-east from Leitch to William Streets, Port Denison; and**

2. **Approve the use of the following road names in order of preference for the unnamed road that runs south-west between Samuel and Herbert Streets, Port Denison:**

    a. **Pelican Lane;**
    b. **Shearwater Lane; and**
    c. **Mollymawk Lane.**

REGULATORY SERVICES	ID03-06/24
Subject:	**ID 03-06/24 Proposed Shipping Container Outbuilding – Lot 55 (No. 43) Philbey Road, Dongara**
Author:	**M Connell, Manager Development**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**P24-33 & A35**
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 the 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 determine an application for development approval for a 'Shipping Container' to be used as an 'Outbuilding' on Lot 55 (No. 43) Philbey Road, Dongara.

This report recommends conditional approval of the application.

Background:
The Shire has received an application for retrospective development approval for a shipping container to be used as an 'Outbuilding' on Lot 55 (No. 43) Philbey Road, Dongara.

In April 2024 the owner applied to the Shire for registration of a honey processing food business (Dongara Honey). In assessing the application, it became apparent that the honey processing was to occur in a shipping container that had been placed on-site without Shire approval. In May 2024 the food business was registered as a low risk food business.

The site is rectangular in shape, generally flat and has an area of 4,003m^2. The site has its primary access from Philbey Road and is located at the corner of Brennand Road. A single storey dwelling and 93m^2 outbuilding are located on the property which also has some mature vegetation. A 1.8m high colourbond fence surrounds the property.

The site is located in the established northern part of Dongara which is characterised by low density single dwellings with outbuildings that surround the Dongara Irwin Race Club.

Proposal

The development comprises a 20 foot shipping container (light grey in colour) with an area of 15m^2 (6.1m x 2.44m), with a wall height of 2.6m. The container is proposed to be located to the south of the site, adjacent to the west of the existing outbuilding (cream in colour), with a 6.4m setback to the southern (rear) boundary and 29m from the western boundary abutting Brennand Road.

The shipping container is used to house various items associated with processing and bottling of honey which is sourced from hives located off-site. It contains hot and cold running water, air conditioning, power and is fully lined creating a vermin proof, sterilised and hygienic environment for honey. The suitability of the container for the food business has been approved by officers.

The application for development approval is contained in ID03-06/24 Attachment 1 which includes external and internal photos of the shipping container along with written support of the application from the neighbouring properties.

The following is an outline of the application.

Applicant / Owner	Malcolm Poulter
Local Planning Scheme No. 5	'Residential' R2.5 zoning
Use Class and Permissibility	Single House – 'P' use
Structure Plan/Precinct Plan	No
Lot Size	4,003m^2
Existing Land Use	Residential
State Heritage Register	No
Local Heritage	No
Bushfire Prone Area	No

Location Plan



Officer's Comment:
In considering an application for development approval, cl. 67(2) of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires a local government to have due regard to the following matters that are relevant to the application as detailed below.

(a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area

The following aims and provisions of the Shire of Irwin Local Planning Scheme No. 5 (LPS5) are relevant to this application:

1.6 The Aims of the Scheme
h) to safeguard and enhance the character and amenity of the built and natural environment of the Scheme area.

4.2 Objectives of the Zones
4.2.1 Residential Zone
d) To ensure that all residential development within the zone, shall be of a standard that does not adversely affect the overall amenity of other residential development in the zone.

The above matters of character and amenity are detailed further in this report.

4.3 Zoning Table

The application seeks approval for a shipping container to be used as an outbuilding which is a use that is ancillary to a 'Single House' use class. The Zoning Table of LPS5 lists 'Single House' as an 'P' use under the 'Residential' zone which means that the use is permitted providing the use complies with the relevant development standards and the requirements of the Scheme.

5.2 Residential Design Codes

5.2.2 Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform with the provisions of those Codes.

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 development 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.*

The Residential Design Codes (R-Codes) is dealt with further in this report.

(c) any approved State planning policy

State Planning Policy 7.3 Residential Design Codes (R-Codes) apply to all residential development throughout Western Australia.

Outbuildings are defined in the R-Codes as:

> *An enclosed non-habitable structure that is detached from any dwelling.*

The relevant objective of the R-Codes is set out in cl. 5.4(c) as follows:

> *To maintain the amenity of streetscapes and views along the street by ensuring that associated outbuildings and other fixtures attached to buildings do not detract from the streetscape and are not visually intrusive to neighbouring properties or adjoining public spaces.*

The applicable design principle as set out in cl. 5.4.3, P3, of the R-Codes is:

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

Clause 2.5 of the R-Codes deals with the exercise of judgement. The relevant parts are as follows:

> *2.5.1 Subject to clauses 2.5.2 and 2.5.3, the decision-maker is to exercise its judgement to consider the merits of proposals having regard to objectives and balancing these with the consideration of design principles provided in the R-Codes Volume 1.*
>
> *2.5.2 In making a determination on the suitability of a proposal, the decisionmaker shall exercise its judgement, having regard to the following:*
>
> *(a) any relevant purpose, objectives and provisions of the scheme;*
> *(b) any relevant objectives and provisions of the R-Codes Volume 1;*
> *(c) a provision of a local planning policy adopted by the decision-maker consistent with and pursuant to the R-Codes Volume 1; and*
> *(d) orderly and proper planning.*

In terms of the applicable design principle as set out in R-Codes ('outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties'), it is noted that for the most part, outbuildings in the locality are located either completely or partially behind existing dwellings but generally unscreened from view, in an open landscape on large lot sizes.

The shipping container is located adjacent to the existing outbuilding at the rear of the lot and is concealed by the boundary fencing. Photos of the shipping container taken from both streets (Philbey and Brennand Roads) are contained in ID03-06/24 Attachment 2 and demonstrate that the container is relatively small in scale and does not appear visually prominent in the streetscape.

The impact of the development on the streetscape would be acceptable as the development is consistent with the siting of other outbuildings in the locality and does not appear at odds with other development. Most of the development will be screened by existing vegetation or the boundary fencing thus further mitigating the visual impacts from the streetscape.

As a further measure, it is recommended that a condition be placed on the application requiring the shipping container be painted the same (or similar) cream colour as the existing outbuilding that would visually enhance the container with the shed.

(g) any local planning policy for the Scheme area

The Shire's 'Shipping Containers' local planning policy was approved on 23 July 2019 and has the following objectives:

- To establish guidelines for the assessment of proposals to place shipping containers or other similar relocatable storage units on land within the municipality.

- 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.

Clause 3.3 of the policy states that *the placement of a shipping container or other relocatable storage unit will not be permitted on land zoned 'Residential' or 'Special Residential', unless on a temporary basis…or if fully enclosed in an approved outbuilding.* A copy of the policy is contained in ID03-06/24 Attachment 3.

The existence of a policy cannot replace the discretion of the decision-maker in the sense that it is to be inflexibly applied regardless of the merits of the particular case. More importantly the relevant consideration for Council is whether the merits of this particular application warrant approval when assessed against the impacts on the amenity of neighbouring properties, the streetscape or the overall area.

The streetscape aspect is dealt with previously in this report as per the R-Codes and the amenity aspect is dealt with further in this report.

It should be noted that the development fully complies with the Shire's 'Outbuildings' local planning policy as follows:

	Zone	**Conditions**
1	Special Residential, R5 and lower	a. Individually or collectively does not exceed 180m^2 in area (plus an additional 60m^2 unenclosed lean-to-area). b. Maximum 4.2m wall height and maximum 5m total height.

The development will consist of:

- 108m^2 collective area (15m^2 shipping container and 93m^2 existing outbuilding)
- 2.6m wall and total height

(m) the compatibility of the development with its setting, including –
(i) the compatibility of the development with the desired future character of its setting; and
(ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development
(n) the amenity of the locality including the following –
(ii) the character of the locality

The impact of the proposed development on the amenity of the locality is at the heart of the issues with this application. Amenity is defined as '*all of those factors which combine to form the character of an area and include the present and likely future amenity*'.

The locality is characterised by large sized residential lots (generally 4,000m^2 or 1 acre) with outbuildings located in a somewhat open landscape. There is nothing in the planning framework that is likely to change this established character in the foreseeable future and the expected pattern of future development will generally reflect current development in the locality.

The bulk and scale of the shipping container is relatively small in area and relatively low in height in comparison with the dwelling and the existing outbuilding, making it consistent with the character and amenity of the locality.

The development is effectively screened from both street frontages with an existing fence and boundary vegetation, which further ameliorates any concerns about its visual impact.

A further relevant consideration for the amenity of neighbouring properties, is the fact that the abutting neighbours all provided written support for the application.

Conclusion

If the exercise of discretion is to be an orderly and proper one, the planning principles identified as relevant to this application should not be lightly departed from without the demonstration of a sound basis for doing so and which basis has some planning merit.

The fundamental policy position is that shipping containers are not permitted in the residential zone, however, in consideration of the mitigating factors, such as the development not presenting as a prominent feature in the streetscape, a departure from the policy is warranted.

Having considered the impact of the proposed development on the character and amenity of the locality it is concluded that the proposed development would not be out of harmony with the existing and desired future character of this large lot sized residential locality.

The application is consistent with the requirements of orderly and proper planning, having considered the planning framework applicable to the site.

The *Planning and Development (Local Planning Schemes) Regulations 2015* states that the local government is to be taken to have refused to grant development approval if it has not made a determination within 60 days of acceptance of the application (in this instance being 26 July 2024). Deferring the matter is therefore not recommended.

Consultation:
The application was accompanied by written submissions from each of the neighbouring properties, all with no objections to the application.

Statutory Environment:
Clause 65 of the of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides for subsequent approval for development already commenced or carried out, and the local government may grant development approval with or without conditions or refuse the application.

Policy Implications:
Nil.

Financial/Resource Implications:
Nil, however costs may be imposed on the Shire should the applicant/owner review Council's decision through the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

Strategic Implications:
Our Brilliant Future - Strategic Community Plan 2021 – 2031
Strategy 2.1.1 Continuously improve approval processes.

Attachments:
Attachment Booklet – June 2024
ID03-06/24 Attachment 1: Application for Development Approval
ID03-06/24 Attachment 2: Street Photos
ID03-06/24 Attachment 3: Shipping Containers local planning policy

OFFICER RECOMMENDATION:

That Council, by Simple Majority approve the application for development approval for a for an 'Outbuilding' on Lot 55 (No. 43) Philbey Road, Dongara subject to the following conditions:

1. **All development must be carried out in accordance with the approved plans listed below and subject to any modifications required as a result of any condition of this approval.**

   - **Site Plan**
   - **Site Photos**

2. **All stormwater is to be disposed of on-site to the approval of the Shire.**

3. **The shipping container is to be painted the same (or similar) cream colour as the existing outbuilding within 6 months from the date of this approval.**

10.2 Committee Reports

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

13. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

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

15. CLOSURE