SHIRE OF IRWIN
DONGARA-PORT DENISON
A BRILLIANT BLEND

AGENDA

and

Notice of Ordinary Council Meeting

to be held on

Tuesday 27 February, 2024

in the

Council Chambers
11-13 Waldeck Street, Dongara

5.00pm – Agenda Briefing Session
5.30pm – Councillor Information Session
6.00pm – Ordinary Council Meeting

AGENDA & BUSINESS PAPERS

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

Please be advised that Ordinary Council Meetings during 2024 will be held on the following dates in the Council Chambers at 11-13 Waldeck Street, Dongara, commencing at **6.00pm**.

DATES	
27 February 2024	26 March 2024
23 April 2024	28 May 2024
25 June 2024	23 July 2024
27 August 2024	24 September 2024
22 October 2024	26 November 2024
9 December 2024 (Monday)	

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

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.

Shane Ivers
CHIEF EXECUTIVE OFFICER



Council Meeting Information

1. Your Council generally handles all business at Ordinary or Special Council Meetings.
2. From time to time Council may form a Committee, Working Party or Steering group to examine specific subjects and then report to Council.
3. Generally, all meetings are open to the public. Occasionally Council will be required to deal with personal, 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.
4. **Public Question Time**: It is a requirement of the *Local Government Act 1995* to allow at least fifteen (15) minutes for public question time following the opening and announcements at the beginning of the meeting. Should there be a series of questions, the period can be extended at the discretion of the Presiding Member. If presenting questions to Council please note the following, as guided by the *Shire of Irwin Meeting Procedures Local Law 2016*:
    - Public Question Time occurs early in the meeting so please arrive at least 5 minutes before the advertised meeting start time (Ordinary Meetings are scheduled for a **6.00pm** start, unless otherwise advised).
    - Record your full name and suburb of residence on the Attendance Form available in the public seating area.
    - When invited by the Presiding Member to ask your question/s, please state your full name for the benefit of the minute taker and those present.
    - Only questions can be addressed to Council, not statements.
    - A minimum of 15 minutes is allocated to Public Question Time. A member of the public has 2 minutes to submit a question.
    - You may ask up to 2 questions before other members of the public will be invited to ask their questions to ensure all have an equal and fair opportunity to ask questions.
    - The Presiding Member may elect for written questions to be responded to as normal business correspondence.
    - The Presiding Member may decide that a question shall not be responded to where:
    - the same or similar question has been asked at a previous meeting and a response has already been provided;
    - a statement has been made and is not reformed into a question; or
    - a question is offensive or defamatory in nature and is not reformed into a question.
    - A question may be taken on notice by Council for a later response. Responses will be provided in writing to the member and a summary will be included in the agenda of the next Ordinary Meeting of Council.
    - Members of the public are encouraged to raise matters relating to operations and administration through the Shire's Customer Request System.
    - At a Special Meeting of Council, only questions relating to the purpose of that meeting may be raised.
    - Should you wish to provide written questions prior to the meeting so that an appropriate response can be prepared, please submit them at least seventy-two (72) hours prior to the Council meeting at which you wish them to be presented.
5. Agendas for Ordinary Meetings of Council are available to the public from the Shire of Irwin Administration Centre or via the Shire's website www.irwin.wa.gov.au seventy-two (72) hours prior to the meeting.
6. Public Inspection of Unconfirmed Minutes will be available for public inspection at the Shire of Irwin Administration Centre or via the Shire's website www.irwin.wa.gov.au within ten (10) working days after the Meeting.

Table of Contents

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS 4
2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE 4
3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE 4
4. DECLARATIONS OF INTEREST 5
5. PUBLIC QUESTION TIME 5
6. APPLICATIONS FOR LEAVE OF ABSENCE 5
7. PETITIONS AND DEPUTATIONS 5
8. CONFIRMATION OF MINUTES 5
8.1 Minutes of the Ordinary Council Meeting held 11 December 2023 5
8.2 Minutes of the Annual Meeting of Electors held 25 July 2023 5
8.3 Minutes of the Annual Meeting of Electors held 5 February 2024 5
9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION 5
10. REPORTS 6
10.1 Officer Reports 6
CC01-02/24 Accounts for Payment – December 2023 and January 2024 6
CC02-02/24 Monthly Financial Statements for the Period Ended 31 January 2024 8
CC03-02/24 Monthly Financial Statements for the Period Ended 31 December 2023 11
CEO01-02/24 Arrangements for an Extraordinary Election 14
ID 01-02/24 Delegated Authority Report – Development, December 2023 and January 2024 17
ID 02-02/24 Proposed Local Planning Scheme Amendment No. 19 – Special Use (Roadhouse) Rezoning Lot 16 Brand Highway, Dongara 19
ID 03-02/24 Proposed Local Planning Scheme Amendment No. 21 – R30 Rezoning Lot 18 (No. 9) Francis Road, Port Denison 23
ID 04-02/24 Proposed Road Closure – Portion of Seahorse Loop, Port Denison 28
ID 05-02/24 Major Land Transaction Proposed Disposal of Land by Lease – Seaspray Beach Holiday Park, Dongara 31
ID 06-02/24 Major Land Transaction Proposed Disposal of Land by Lease – BIG4 Dongara Denison Beach Holiday Park, Port Denison 35
10.2 Committee Reports 39
10.2.1 CASE Committee 39
11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN 39
12. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN 39
13. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION 39
14. MATTERS FOR WHICH THE MEETING IS CLOSED TO THE PUBLIC 39
15. CLOSURE 39

AGENDA

of the

ORDINARY COUNCIL MEETING

to be held

27 February 2024

Commencing at 6.00pm

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
Mr P Bracegirdle	Manager Community Services
Mr M Jones	Acting Manager Operations
Ms S Mearns	Acting Executive Assistant

Guests

Apologies

Approved Leave of Absence

Gallery

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Question: Bev Ewen, 5 Osborne Way, Port Denison
Given that I have very young grandchildren regularly holidaying at 5 Osborne Way (adjacent to Lot 502), will it be a condition that the dividing fence proposed by the Shire of Irwin completely separate along the entire boundary joining Lots 502 and 501 at a height of 1.8 metres, No 3 Osborne Way from No 5 Osborne Way?

Response: *The application was determined at the Ordinary Council meeting held on 11 December 2023 where it was conditioned that "Prior to the commencement of the use or the end of February 2024, whichever is the later, a dividing fence on the boundary at 1.8m high is to be installed between Lots 501 and 502 Osborne Way, Port Denison."*

4. DECLARATIONS OF INTEREST

5. PUBLIC QUESTION TIME

6. APPLICATIONS FOR LEAVE OF ABSENCE

7. PETITIONS AND DEPUTATIONS

8. CONFIRMATION OF MINUTES

8.1 Minutes of the Ordinary Council Meeting held 11 December 2023

The Minutes of the Ordinary Council Meeting held 11 December 2023 have been provided to all Councillors under separate cover.

OFFICER RECOMMENDATION:
That Council confirms the Minutes of the Ordinary Council Meeting held 11 December 2023.

8.2 Minutes of the Annual Meeting of Electors held 25 July 2023

The Minutes of the Annual Meeting of Electors held 25 July 2023 have been provided to all Councillors under separate cover.

OFFICER RECOMMENDATION:
That Council confirms the Minutes of the Annual Meeting of Electors held 25 July 2023.

8.3 Minutes of the Annual Meeting of Electors held 5 February 2024

The Minutes of the Annual Meeting of Electors held 5 February 2024 have been provided to all Councillors under separate cover.

OFFICER RECOMMENDATION:
That Council confirms the Minutes of the Annual Meeting of Electors held 5 February 2024.

9. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

10. REPORTS

10.1 Officer Reports

CORPORATE AND COMMUNITY	CC01-02/24
Subject:	**CC01-02/24 Accounts for Payment – December 2023 and January 2024**
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.
☐	**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 receive the list of accounts paid under delegated authority during December 2023 and January 2024.

Background:
A list of accounts paid under delegated authority is attached showing all payments made during the months of December 2023 and January 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 – February 2024
CC01-12/23 Attachment 1: Accounts for Payment – December 2023 and January 2024

OFFICER RECOMMENDATION:

That Council, by Simple Majority, receives the Accounts paid during December 2023 and January 2024 as contained in CC01-12/23 Attachment 1 of the Attachment Booklet – February 2024, represented by:

Payment Type/Numbers	Total Amount
EFT 31389 – 31600	**$1,543,438.89**
Muni Cheques – 32179 – 32184	**$66,655.55**
Direct Debit – Telstra	**$9,258.55**
Direct Debit – WA Treasury Corporation	**$167,280.63**
Direct Debit – Credit Card	**$43,437.61**
Direct Debit – N-Able Pty Ltd	**$2,129.17**
Direct Debit – Australian Phone Company	**$2,181.97**
Direct Debit – Insurance Premium Repayments	**$109,976.44**
Direct Debit – Rental Allowance	**$3,600.00**
Direct Debit – Vestone Capital Pty Ltd	**$10,554.20**
Direct Debit – Superannuation	**$115,200.26**
Grand Total	**$2,073,713.27**

CORPORATE AND COMMUNITY	CC02-02/24
Subject:	**CC02-02/24 Monthly Financial Statements for the Period Ended 31 January 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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☐	**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 consider and receive the Monthly Financial Statements for the period 1 July 2023 to 31 January 2024.

Background:
The Monthly Financial Statements to 31 January 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 & Type
- 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 January 2024 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

31/01/2024	YTD Budget	YTD Actual		Variance YTD to Budget
Operating Revenue	8,737,366	8,741,771		0%
Operating Expenditure	(7,648,517)	(8,537,574)		12%
Net Operating	1,088,849	204,197		
Non-Operating Revenue	311,182	285,142		-8%
Non-Operating Expenditure	(3,870,002)	(2,395,891)		-38%
Net Non-Operating	(3,558,820)	(2,110,749)		
Cash at Bank		3,289,602		
Cash at Bank Restricted		704,507		
Reserve Bank		1,643,225		
Total Cash Funds		5,637,334		

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 – February 2024
CC02-02/24 Attachment 1: Financial Statements for the Period Ended 31 January 2024.

OFFICER RECOMMENDATION:
That Council by Simple Majority, receives the Monthly Financial Statements for the period 1 July 2023 to 31 January 2024 as contained in Attachment Booklet – February 2024.

CORPORATE AND COMMUNITY	CC03-02/24
Subject:	**CC03-02/24 Monthly Financial Statements for the Period Ended 31 December 2023**
Author:	**P Machaka, Manager Finance**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**2.00057**
Voting Requirements:	**Simple Majority**

Council Role:

☐	**Advocacy**	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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☐	**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 consider and receive the Monthly Financial Statements for the period 1 July 2023 to 31 December 2023.

Background:
The Monthly Financial Statements to 31 December 2023 are prepared in accordance with the requirements of the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996* and includes the following statutory reports:

- Statement of Financial Activity by Nature & Type
- 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 December 2023 is detailed in the attached report and summarised as follows relative to year to date budget expectations:

31/12/2023	YTD Budget	YTD Actual	Variance YTD to Budget
Operating Revenue	8,587,420	8,542,105	-1%
Operating Expenditure	(6,590,461)	(6,941,806)	5%
Net Operating	1,996,959	1,600,298	
Non-Operating Revenue	302,932	276,051	-9%
Non-Operating Expenditure	(3,705,615)	(2,268,769)	-39%
Net Non-Operating	(3,402,683)	(1,992,718)	
Cash at Bank		2,414,971	
Cash at Bank Restricted		703,807	
Reserve Bank		1,636,345	
Total Cash Funds		4,755,123	

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 – February 2023
CC03-02/24 Attachment 1: Financial Statements for the Period Ended 31 December 2023.

OFFICER RECOMMENDATION:
That Council by Simple Majority, receives the Monthly Financial Statements for the period 1 July 2023 to 31 December 2023 as contained in Attachment Booklet – February 2024.

OFFICE OF CEO	CEO01-02/24
Subject:	**CEO01-02/24 Arrangements for an Extraordinary Election**
Author:	**S Mearns, Acting Executive Assistant**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**GV.EL.1**
Voting Requirements:	**Absolute Majority**

Council Role:

☐	**Advocacy**	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
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Report Purpose:
For Council to consider appointing the WA Electoral Commissioner to conduct a postal extraordinary election resulting from the resignation of Cr Hayley Palmer and the subsequent vacancy.

Background:
Cr Hayley Palmer resigned as a Shire of Irwin Councillor on 25 January 2024. Section 2.32 of *The Local Government Act 1995* states:

> ***S2.32 How extraordinary vacancies occur in offices elected by electors***
> *The office of a member of a council as an elector mayor or president or as a councillor becomes vacant if the member —*
>
> *(b) resigns from the office;*

It is therefore necessary for the Shire to make arrangements to hold an extraordinary election.

Section 4.9 (1) of the *Local Government Act 1995* outlines that Council must determine a date for the extraordinary election within one month after the vacancy occurs. The Shire is obliged to hold an extraordinary election within 4 months of a vacancy occurring (s.4.9 (2)). However, the election must take place a minimum of 80 days after the appointment of a returning officer. Consequently, the earliest date the Extraordinary Election could be held is 17 May 2024.

Following contact with the WA Electoral Commission, correspondence has been received outlining the processes that Council should consider, including whether to appoint the Electoral Commissioner to be responsible for undertaking the extraordinary election and to conduct the election by postal vote.

The current procedure required by the *Local Government Act 1995* is that written agreement must be obtained before the vote by Council is taken to appoint the Electoral Commissioner to conduct the election. To facilitate the process the Electoral Commissioner has provided correspondence serving as agreement to be responsible for the conduct of this extraordinary election for the Shire of Irwin in accordance with section 4.20(4) of the *Local Government Act 1995*. The Commissioner's agreement is subject to the proviso that the Shire of Irwin also wishes to have the election undertaken by the Western Australian Electoral Commission as a postal election.

Officer's Comment:
The Shire of Irwin has a long, and relatively successful, history of conducting postal elections, with the 2021 ordinary local government election seeing a 41.45% participation rate.

Council does have a number of options to consider, which have been summarised below:

Vacancy remains unfilled
Subject to Council resolution, the *Local Government Act 1995*, section 4.17(3)(4A) provides for a position to remain unfilled. However, the reduction in Councillor seats may risk the ability to make absolute majority decisions, particularly should there be any absences. Given that the term expiry is October 2027, it is felt appropriate that the vacancy be filled.

In-person election
Council may elect to run the election in-person. This may have a lesser financial impact on ratepayers. However, it is anticipated that participation would be significantly lower and could place the burden on individual ratepayers to attend an in-person election. The administrative resources required of staff may also increase any cost estimates already provided for.

Postal election to be run by Electoral Commission
It is recommended that Council agree to the Electoral Commission running the 2024 extraordinary election via postal vote due to the experience of the WAEC, their independence and impartially in the process, and convenience and participation rates for voters. Advantages are outlined below;

Advantages for electors
- Convenience of casting a vote in their own homes – particularly for disabled and aged voters and those without access to transport.
- Provision of candidate profiles to each elector to assist in their decision-making.
- Time to contact candidates and make an informed decision.
- Reduced costs in time and travel in casting a vote.

Advantages for candidates
- Availability of an experienced Returning Officer "at arm's length" from Local Government business.
- Detailed candidates' guides prepared by the Electoral Commission.
- An opportunity to reach all eligible electors at no cost through the candidate profile.
- Confidence that the election is being run by the State's independent Electoral Commission.
- Elected candidates have an increased support base.

Advantages for the Local Government
- All eligible electors are given information about the election.
- Electors can vote more easily as there are virtually no barriers to voting.
- Elections are seen to be conducted by the impartial Western Australian Electoral Commission.
- The workload for the CEO is reduced in an area that is not core business.
- The vast majority of elector and candidate enquiries are received and resolved by either the Returning Officer or the Electoral Commissioner
- Elected Councillors have a high level of support from the local community.

Following a request to the WA Electoral Commission for a quotation to conduct this extraordinary election, they have responded with a cost estimate for conducting the election of $24000, shown in **Attachment** CEO01-02/24. The WA Electoral Commission operate a full cost recovery model and have based this estimate on:

- 2820 electors;
- Response rate of approximately 40%;
- Appointment of a local Returning Officer; and
- The Count being conducted at the Shire of Irwin office using CountWA.

The letter notes that this is an estimate only and the actual cost of the election will be charged.

Consultation:
Administration have consulted with the Electoral Commission on the timeline and requirements to run the extraordinary election.

Statutory Environment:
The *Local Government Act 1995* s4.9(1), s4.20(4) and s4.61(2)

Policy Implications:
Nil

Financial/Resource Implications:
The WA Electoral Commission have provided a cost estimate of $24,000 to run the election, which has not been budgeted for in the 2023/24 financial year. It is requested that Council approve this as unbudgeted expenditure, pursuant to section 6.8(1)(b) of the *Local Government Act 1995* (the Act).

Strategic Implications:
Our Brilliant Future – Strategic Community Plan 2021 – 2031
Strategy 4.2.4 Promote programs to encourage participation in elections.

Attachments:
Attachment Booklet – February 2024
CEO01-02/24 – Cost Estimate for Extraordinary Election

OFFICER RECOMMENDATION:

That Council, by Absolute Majority:

1. **Fixes, in accordance with Section 4.20(4) of the *Local Government Act 1995* the date of the extraordinary election for the vacant councillor position be held on or after 17 May 2024**
2. **Declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the extraordinary election; and**
3. **Decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the extraordinary election will be as a postal election.**
4. **Agree to the costs estimate provided by the WA Electoral Commission of approximately $24,000 to conduct the extraordinary election**

DEVELOPMENT SERVICES	ID01-02/24
Subject:	**ID 01-02/24 Delegated Authority Report – Development, December 2023 and January 2024**
Author:	**M Connell, Manager Development**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**3.00125**
Voting Requirements:	**Simple Majority**

Council Role:

☐	**Advocacy**	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
☒	**Executive**	The substantial direction setting and oversight role of the Council e.g., performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
☐	**Legislative**	Includes adopting local laws and local planning schemes.
☐	**Review**	When Council reviews decisions made by Officers.
☐	**Quasi-judicial**	When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g., local planning applications, building permits, other permits/licences (e.g. under 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 receive the Delegated Authority Report – Development, December 2023 and January 2024.

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 months of December 2023 and January 2024, with 9 building permits and 7 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 – February 2024
ID01-02/24 Attachment 1: Delegated Authority Report – Development, December 2023 and January 2024

OFFICER RECOMMENDATION:
That Council, by Simple Majority receives the Delegated Authority Report – Development, December 2023 and January 2024 as contained in ID01-02/24 Attachment 1 of the Attachment Booklet – February 2024.

DEVELOPMENT SERVICES	ID02-02/24
Subject:	**ID 02-02/24 Proposed Local Planning Scheme Amendment No. 19 – Special Use (Roadhouse) Rezoning Lot 16 Brand Highway, Dongara**
Author:	**M Connell, Manager Development**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**P1168 & A8339**
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 not support Amendment No. 19 (the amendment) to the Shire of Irwin Local Planning Scheme No. 5.

Background:
The amendment seeks to rezone Lot 16 Brand Highway, Dongara to the 'Special Use' zone to primarily facilitate the development of a roadhouse.

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

Council at its meeting held on 13 December 2021 resolved to initiate the amendment and the advertising period has now concluded with 14 submissions being received.

The applicant has formally advised the Shire that their client has cancelled the contract to purchase the site and they do not wish to proceed with the amendment.

Proposal
The amendment seeks to rezone Lot 16 Brand Highway, Dongara to the 'Special Use' zone to primarily facilitate the development of a roadhouse. The 'Special Use' will also include a range of development controls and complementary uses.

The amendment report details the intended development of the site and includes an indicative concept plan. The amendment report is contained in ID02-02/24 Attachment 1.

Location Plan



Officer's Comment:
As a result of the advertising period a number of issues were raised that are discussed in further detail in the 'Consultation' section of this report. The applicant was provided the opportunity to try and address the matters raised and no response was provided.

Although Council has the option to support the amendment it is considered contrary to the principles of orderly and proper planning to recommend support of the amendment in the absence of those matters being addressed.

Consultation:
Prior to public advertising, the Environmental Protection Authority (EPA) is required to assess the amendment under Part IV of the *Environmental Protection Act 1986*. The EPA advised that the amendment should not be assessed and that it is not necessary to provide any advice or recommendations.

The amendment was publicly advertised in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The advertising involved the following:

- A public notice was published in the Midwest Times;
- A written notice was sent to adjoining landowners within approximately 300m of the site;
- A sign was placed on-site;
- A copy of the amendment was made available for public inspection at the Shire office;

- The amendment details were published on the Shire's website; and
- The amendment was referred to the following Government/Service agencies:
    - Department of Primary Industries and Regional Development
    - Department of Water and Environmental Regulation
    - Department of Health
    - Department of Mines, Industry Regulation and Safety
    - Department of Biodiversity, Conservation and Attractions
    - Department of Jobs, Tourism, Science and Innovation
    - Main Roads Western Australia
    - Water Corporation
    - Western Power
    - Mid West Development Commission

In response to the advertising a total of 14 submissions were received (6 from the public and 8 from government/service agencies). The key relevant planning issues raised in the submissions are summarised as follows:

- Traffic impact;
- Noise and visual pollution;
- The site is not suitable for the development;
- Would deter people from visiting town centre;
- Does not meet the definition of roadhouse and provides no certainty on other uses for the site;
- Deficiencies with the bushfire management plan; and
- Wastewater disposal.

A 'Schedule of Submissions' which includes recommendations for each submission is contained in ID02-02/24 Attachment 2 and a copy of the actual submissions is contained in ID02-02/24 Confidential Attachment 3.

The applicant was provided the opportunity to try and address the matters raised. No response was provided, and they now do not wish to proceed with the amendment.

Statutory Environment:
Part 5, Section 75 of the *Planning and Development Act 2005* provides for a local government to amend a local planning scheme.

Division 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the process that must be followed for complex amendments to a local planning scheme. Council must pass a resolution to either support the amendment (with or without modification) or not support the amendment.

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 – February 2024
ID02-02/24 Attachment 1: Amendment 19 Report
ID02-02/24 Attachment 2: Schedule of Submissions
ID02-02/24 Confidential Attachment 3: Submissions

OFFICER RECOMMENDATION:
That Council, by Simple Majority not support Amendment No. 19 to the Shire of Irwin Local Planning Scheme No. 5 as it is considered contrary to the principles of orderly and proper planning to recommend support of the amendment in the absence of those matters raised during the advertising period not being addressed.

DEVELOPMENT SERVICES	ID03-02/24
Subject:	**ID 03-02/24 Proposed Local Planning Scheme Amendment No. 21 – R30 Rezoning Lot 18 (No. 9) Francis Road, Port Denison**
Author:	**M Connell, Manager Development**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**P1299 & A1223**
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 support, without modification, Amendment No. 21 (the amendment) to the Shire of Irwin Local Planning Scheme No. 5.

Background:
The amendment seeks to amend the Residential R-Coding of Lot 18 (No. 9) Francis Road, Port Denison from R12.5 to R30.

Lot 18 is located some 900m from the coast and approximately 1.5km from the Port Denison marina. The site has an area of 1.0114 ha with a depth of approximately 113m and a width of approximately 98m. Development approval was issued in June 2023 for two grouped dwellings located in the south-east corner of the site, which are currently under construction. The balance of the land is vacant.

The site is part of a broader triangular shaped residential area bounded by Francis Road to the east, Blenheim Road to the south and Point Leander Drive to the north-west. To the south of the site the land has an R-Code of R30 and the very norther section of the broader location also has a R30 density. The central portion encompassing Lots 16, 17 and 18 are coded R12.5.

Council at its meeting held on 26 September 2023 resolved to initiate the amendment and the advertising period has now concluded with 5 submissions being received.

Proposal

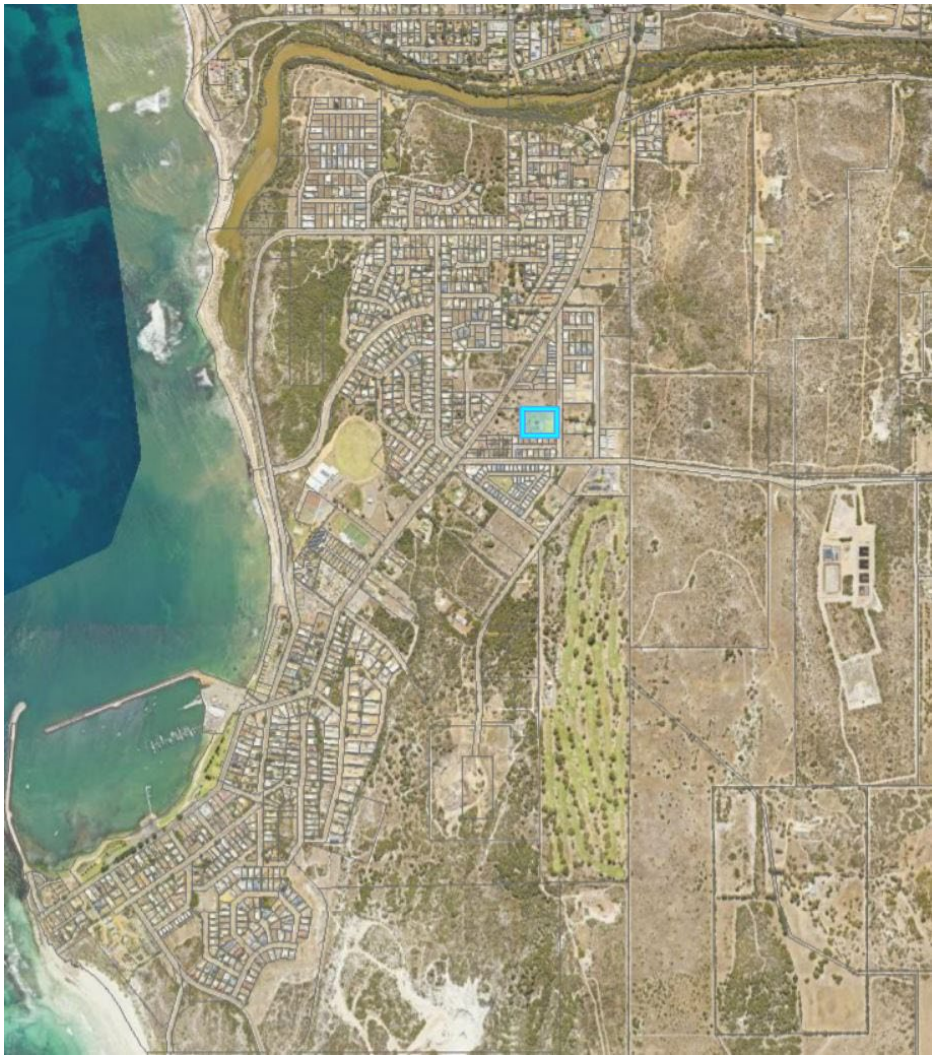
The amendment seeks to amend the R-Coding of Lot 18 from R12.5 to R30, which will enable the land to be developed for medium-density housing. Under the existing R12.5 R-Code the site has a maximum potential of 12 dwellings. The R30 code allows for development with a minimum lot size of 260m^2 and an average lot size of 300m^2. This would provide for an increase in the maximum development potential to 33 dwellings.

Whilst this amendment only proposes the change in R-Coding for Lot 18 it is appropriate at this stage in the planning process to plan for the coordination of future subdivision of the adjoining Lots 16 and 17. Accordingly it is proposed to adopt a local development plan concurrently with the amendment.

The local development plan will determine an appropriate road network and public open space regime to enable Lots 16, 17 and 18 to be developed in an orderly and proper manner.

The amendment report, which also contains the local development plan is contained in ID03-02/24 Attachment 1.

Location Plan



Officer's Comment:

The amendment has been assessed against the following planning framework applicable to the amendment as detailed below.

Guilderton to Kalbarri Sub-regional Strategy
The primary purpose of this Strategy is to guide growth, future planning and development in the sub-region. The Strategy identifies Dongara – Port Denison as a sub-regional centre that aims to support population and economic activities within its hinterland through the provision of goods and services. Urban growth within the Dongara – Port Denison sub-regional centre is promoted and the amendment is consistent with the strategic direction of the Strategy.

Local Planning Strategy
The Strategy sets out the long-term planning directions for the Shire and guides land use planning over the next 20 years. The Strategy promotes density infill of existing vacant residential zoned land as a priority. Lot 18 is located in 'Policy Area B' and is identified as 'Urban / Residential (Higher Density)'. The amendment is consistent with the Strategy and will provide adequate land to accommodate urban expansion and further will improve housing diversity and choice within the Dongara – Port Denison area.

Dongara – Port Denison District Structure Plan
This Plan provides a strategic framework to sustainably grow the townsites of Dongara and Port Denison in a manner that serves the needs of the community now and in the future. Lot 18 is identified on the Plan as 'Existing Urban / Residential (Proposed Higher Density)' and within the future urban area identified as the 'St. Dominics Precinct'. This precinct is the initial growth corridor for development and the amendment is consistent with the Plan.

Public Open Space Strategy
The Strategy provides a framework for the future distribution of public open space for the Dongara – Port Denison area. The Strategy identifies Ayelia Park (abutting Lot 18 to the north) as a 'local park'. Ayelia Park is currently 689m^2 in size. The Strategy recommends the upgrading of the park to Neighbourhood park status and adding additional land to the park.

The local development plan proposed as part of the amendment further details that any future residential subdivision of Lot 16 will enable the park to be expanded through the standard 10% public open space contribution. At this stage, it is anticipated that the subdivision of Lot 16 will require some 985m^2 of land to be ceded for public open space. Locating this future open space adjacent to the existing open space will ensure that Ayelia Park will be of a sufficient size to be both functional and useable as a future neighbourhood park and achieve the anticipated outcomes of the open space strategy.

The subdivision of Lots 17 and 18 will require the payment of cash in lieu of public open space. These funds could then be used to further implement the recommendations of the open space strategy.

Conclusion
The proposal to amend the R-Coding of Lot 18 to R30 will enable the lot to be developed for medium-density residential housing consistent with the objectives detailed in both the Shire of Irwin Local Planning Strategy and the Dongara – Port Denison District Structure Plan.

It is considered that the amendment complies with the planning framework applicable to the site and the requirements of orderly and proper planning.

Consultation:
Prior to public advertising, the Environmental Protection Authority (EPA) is required to assess the amendment under Part IV of the *Environmental Protection Act 1986*. The EPA advised that the amendment should not be assessed and that it is not necessary to provide any advice or recommendations.

The amendment was publicly advertised in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The advertising involved the following:

- A public notice was published in the Midwest Times;
- A public notice was published in the Dongara Denison Local Rag;
- A written notice was sent to adjoining landowners within approximately 200m of the site;
- A sign was placed on-site;
- A copy of the amendment was made available for public inspection at the Shire office;
- The amendment details were published on the Shire's website; and
- The amendment was referred to the following Government/Service agencies:
    - Department of Education
    - Department of Fire and Emergency Services
    - Department of Planning, Lands and Heritage
    - Department of Water and Environmental Regulation
    - Water Corporation
    - Telstra

In response to the advertising a total of 5 submissions were received (1 from the public and 4 from government/service agencies). The key relevant planning issues raised in the submissions are summarised as follows:

- The Local Development Plan should prevent the creation of dead-ends or cul-de-sacs.
- Connection to water and sewer is available.
- Previous block work on Lot 18 has caused disturbance and possible structural damage to existing properties.

A 'Schedule of Submissions' which includes recommendations for each submission is contained in ID03-02/24 Attachment 2 and a copy of the actual submissions is contained in ID03-02/24 Confidential Attachment 3.

Statutory Environment:
Part 5, Section 75 of the *Planning and Development Act 2005* provides for a local government to amend a local planning scheme.

Division 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the process that must be followed for standard amendments to a local planning scheme. Council must pass a resolution to either support the amendment (with or without modification) or not support the amendment.

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 – February 2024
ID03-02/24 Attachment 1: Amendment 21 Report
ID03-02/24 Attachment 2: Schedule of Submissions
ID03-02/24 Confidential Attachment 3: Submissions

OFFICER RECOMMENDATION:
That Council, by Simple Majority supports Amendment No. 21 to the Shire of Irwin Local Planning Scheme No. 5 without modification.

DEVELOPMENT SERVICES	ID04-02/24
Subject:	**ID 04-02/24 Proposed Road Closure – Portion of Seahorse Loop, Port Denison**
Author:	**M Connell, Manager Development**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**P1304 – A1424**
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 request the Minister for Lands to approve the closure and subsequent amalgamation of a portion of Seahorse Loop that abuts Lot 780 (No. 52) Seahorse Loop, Port Denison.

Background:
The Shire has received a request from the owner of Lot 780 (No. 52) Seahorse Loop, Port Denison to close a portion of Seahorse Loop that abuts the land.

Lot 780 is located at a bend in Seahorse Loop and results in the front boundary being somewhat irregular in shape. The owner is requesting the road alignment be 'straightened' resulting in a more uniform front boundary, enabling the lot to be developed more effectively.

A copy of the proposed road closure plan is contained in ID04-02/24 Attachment 1.

Location Plan



Officer's Comment:
Overall, it is assessed that the proposed closure will have no adverse impacts on the streetscape of Seahorse Loop. There are no services that will be affected by the closure and it is considered that the closure complies with the requirements of orderly and proper planning.

Consultation:
The closure was advertised in accordance with the provisions of the *Land Administration Act 1997* and involved the following:

- A notice was published in the Dongara Denison Local Rag;
- A copy of the closure was made available for public inspection at the Shire office;
- The closure was published on the Shire's website;
- A written notice was sent to abutting landowners on Seahorse Loop; and
- A written notice was sent to the following Government/Service Agencies:
  - Alinta Energy
  - Department of Planning, Lands and Heritage
  - Telstra
  - Water Corporation
  - Western Power

In response to the advertising a total of 2 submissions were received with no objections raised.

Statutory Environment:
Section 58 of the *Land Administration Act 1997* enables a local government to request the Minister for Lands to permanently close a public road. Regulation 9 of the *Land Administration Regulations 1998* details the information that must accompany such a request.

Policy Implications:
Nil

Financial/Resource Implications:
Nil, the applicant will be responsible for the payment of all costs associated with the closure and amalgamation process.

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

Attachments:
Attachment Booklet – February 2024
ID04-02/24 Attachment 1: Proposed Road Closure Plan

OFFICER RECOMMENDATION:
That Council, by Simple Majority request the Minister for Lands to approve the closure and amalgamation of a portion of Seahorse Loop, Port Denison as shown on the proposed road closure plan Drawing No. 30523AS1-1-0.

DEVELOPMENT SERVICES	ID05-02/24
Subject:	**ID 05-02/24 Major Land Transaction Proposed Disposal of Land by Lease – Seaspray Beach Holiday Park, Dongara**
Author:	**M Connell, Manager Development**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**P1265**
Voting Requirements:	**Absolute Majority**

Council Role:

☐	**Advocacy**	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
☒	**Executive**	The substantial direction setting and oversight role of the Council e.g., performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
☐	**Legislative**	Includes adopting local laws and local planning schemes.
☐	**Review**	When Council reviews decisions made by Officers.
☐	**Quasi-judicial**	When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g., local planning applications, building permits, other permits/licences (e.g. under 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 proceed with the major land transaction for the disposal by lease of Reserve 25412 being Lot 94 on Deposited Plan 191394 Church Street, Dongara.

Background:
Reserve 25412 (the 'site') is vested in the Shire for the purpose of *"Caravan Park"*. The Shire has been granted care, control and management of the site under a Management Order with the power to lease for any term not exceeding 50 years, subject to the consent of the Minister for Lands. The site has been used as a caravan park since 1999 and has been progressively developed over time with a mix of chalets and caravan bays.

The Shire currently leases the site to McWhite Pty Ltd for use as a caravan park which is operated as the *Seaspray Beach Holiday Park*. The current lease expires in 2029 and the lessee approached the Shire a number of years back seeking a new lease of the site for the maximum term of 50 years.

Council at its meeting held on 22 February 2020 resolved to support the future expansion of the holiday park and initiate renewal of the lease. The future expansion of the lease area will be further progressed once the new lease is finalised.

Location Plan



Officer's Comment:
Under sections 3.58 and 3.59 of the *Local Government Act 1995*, the proposed lease constitutes a disposal of property and the total value of the proposed lease is such that it constitutes a major land transaction.

The Shire is therefore required to prepare business plan and give statewide public notice of the major land transaction and business plan. The business plan is contained in ID05-02/24 Attachment 1 and contains an overall assessment of the major land transaction and details of:

- its expected effect on the provision of facilities and services by the local government;
- its expected effect on other persons providing facilities and services in the district;
- its expected financial effect on the local government;
- its expected effect on matters referred to in the local government's current plan;
- the ability of the local government to manage the performance of the transaction; and
- any other matter prescribed for the purpose of this subsection.

In conjunction with the business plan a draft lease has been prepared. The draft lease is contained in ID05-02/24 Confidential Attachment 2 and key aspects of the lease are:

- The lease is for the site only as if it were unoccupied. It does not include any improvements made or effected to the Premises by the lessee.
- The lease term is for 50 years commencing on the date the lease is executed by all parties.
- The lease contains a notification that the site is located in a coastal hazard risk area that is likely to be subject to coastal erosion and/or inundation over the next 100 years. The lessee accepts all risks associated with erosion / inundation and acknowledges that the site may not remain suitable or adequate for the use.

- The draft lease proposes the lease rent to be 4% of the gross revenue for the preceding year or the current market rent, whichever is the lesser, with rent reviews (new valuation) undertaken every 5 years.
- The lessee is required to pay all other outgoings or charges (including rates).

Consultation:
The major land transaction was advertised in accordance with s. 3.59 of the *Local Government Act 1995* and involved the following:

- A public notice was published in the West Australian newspaper;
- A public notice was published in the Dongara Denison Local Rag;
- A copy of the business plan was made available for public inspection at the Shire office;
- The business plan was published on the Shire's website;

No submissions were received in response to the advertising.

Throughout the process Officers have been liaising with the lessee regarding the terms of the draft lease.

Statutory Environment:
Section 3.59 the *Local Government Act 1995* details the process governing 'commercial enterprises by local government' including major land transactions.

The proposed lease constitutes a disposal of property and the total value of the proposed lease is such that it constitutes a major land transaction. Before a local government enters into a major land transaction it is required to prepare a business plan and give statewide notice.

At the conclusion of the public advertising, Council is required to determine (by absolute majority) if it wishes to proceed with the transaction as proposed or so that it is not significantly different from what was proposed.

Policy Implications:
Nil

Financial/Resource Implications:
In the 2022/23 financial year the lease rent income received by the Shire was $23,595.93.

The draft lease proposes the lease rent to be 4% of the gross revenue for the preceding year or the current market rent, whichever is the lesser, with rent reviews undertaken every 5 years.

A licensed property valuer has recently valued the disposal on the basis of 'Market Rental Value' which was determined at $30,000 per annum. The valuation report is contained in ID05-02/24 Confidential Attachment 3.

Council has previously resolved that the Shire would accept the costs for the public notice and a market valuation ($4,676.80 in total), however legal costs associated with preparation and execution of the lease would be recoverable from the lessee.

Strategic Implications:
Our Brilliant Future - Strategic Community Plan 2021 – 2031
Strategy 2.1.5 Leverage opportunities and investment, and promote retail development
Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Attachments:
Attachment Booklet – February 2024
ID05-02/24 Attachment 1: Business Plan
ID05-02/24 Confidential Attachment 2: Lease
ID05-02/24 Confidential Attachment 3: Valuation Report

OFFICER RECOMMENDATION:

That Council, by Absolute Majority:

1. **Notes that no submissions were received for the major land transaction for the disposal by lease of Reserve 25412 being Lot 94 on Deposited Plan 191394 Church Street, Dongara;**
2. **Authorises the Chief Executive Officer to proceed with the major land transaction as proposed or so that it is not significantly different from what was proposed; and**
3. **Authorises the Chief Executive Officer to execute all documents necessary for the lease.**

DEVELOPMENT SERVICES	ID06-02/24
Subject:	**ID 06-02/24 Major Land Transaction Proposed Disposal of Land by Lease – BIG4 Dongara Denison Beach Holiday Park, Port Denison**
Author:	**M Connell, Manager Development**
Responsible Officer:	**S Ivers, Chief Executive Officer**
File Reference:	**P1272**
Voting Requirements:	**Absolute Majority**

Council Role:

☐	**Advocacy**	When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.
☒	**Executive**	The substantial direction setting and oversight role of the Council e.g., performance of the Local Government's function under law, administration of Local Laws, adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
☐	**Legislative**	Includes adopting local laws and local planning schemes.
☐	**Review**	When Council reviews decisions made by Officers.
☐	**Quasi-judicial**	When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice e.g., local planning applications, building permits, other permits/licences (e.g. under 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 proceed with the major land transaction for the disposal by lease of Reserve 25826 being Lot 502 on Deposited Plan 425295 Ocean Drive, Port Denison.

Background:
Reserve 25826 (the 'site') is vested in the Shire for the purpose of *"Recreation Camping and Caravan Park"*. The Shire has been granted care, control and management of the site under a Management Order with the power to lease for any term not exceeding 30 years, subject to the consent of the Minister for Lands. The site has been used as a caravan park since 2000 and has been progressively developed over time with a mix of chalets and caravan bays.

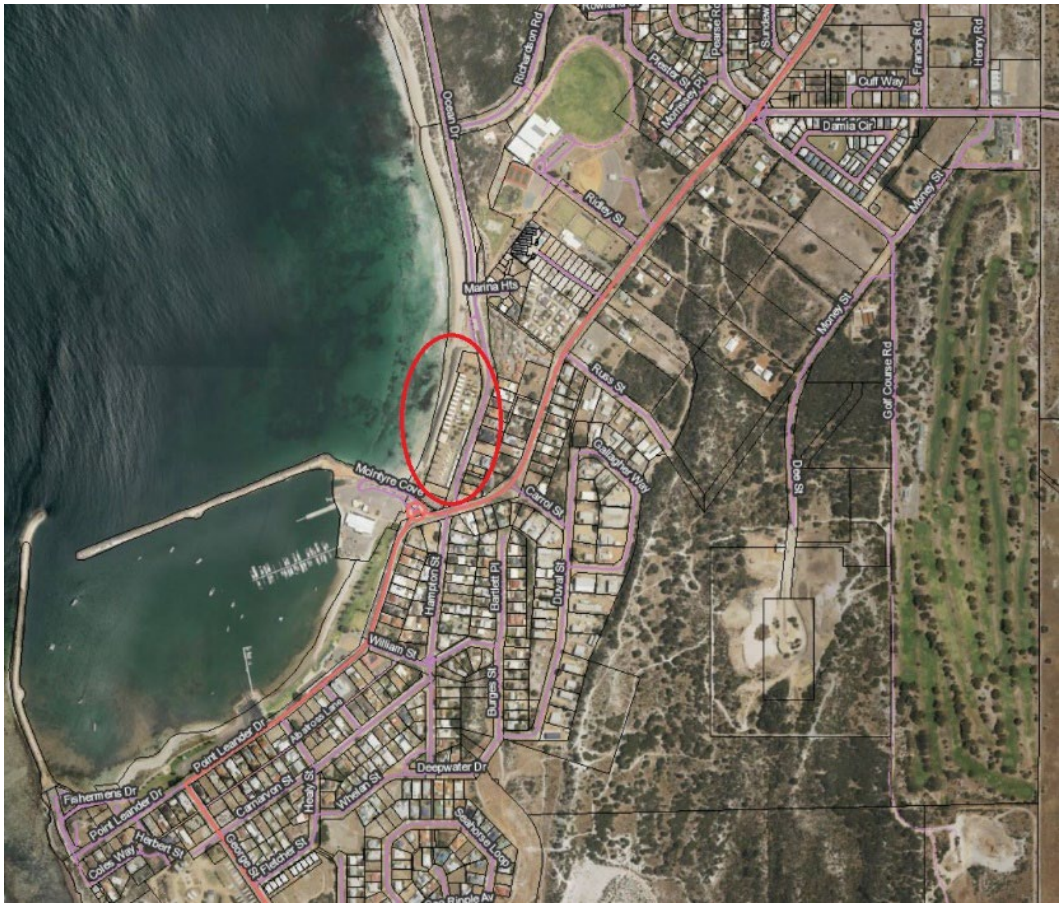
The Shire currently leases the site to Phobos Nominees Pty Ltd for use as a caravan park which is operated as the *BIG4 Dongara Denison Beach Holiday Park*. The current lease expires in 2026 and the lessee approached the Shire a number of years back seeking a new lease of the site for the maximum term of 30 years.

Council at its meeting held on 24 November 2020 resolved to support the expansion of the holiday park at the northern end of the site to formalise an area that had been used by the park for several years. Council also resolved to initiate renewal of the lease.

In early 2022 a small portion of land on the southern end of the site was excised from Reserve 25826 to facilitate improved access to Grannies Beach and facilitate future works to make the beach a more functional and practical space.

Council at its meeting held on 22 February 2022 resolved to give public notice to lease the site to the current lessee and to accept the costs for the public notice and valuation.

Location Plan



Officer's Comment:
Under sections 3.58 and 3.59 of the *Local Government Act 1995*, the proposed lease constitutes a disposal of property and the total value of the proposed lease is such that it constitutes a major land transaction.

The Shire is therefore required to prepare business plan and give statewide public notice of the major land transaction and business plan. The business plan is contained in ID06-02/24 Attachment 1 and contains an overall assessment of the major land transaction and details of:

- its expected effect on the provision of facilities and services by the local government;
- its expected effect on other persons providing facilities and services in the district;
- its expected financial effect on the local government;
- its expected effect on matters referred to in the local government's current plan;
- the ability of the local government to manage the performance of the transaction; and
- any other matter prescribed for the purpose of this subsection.

In conjunction with the business plan a draft lease has been prepared. The draft lease is contained in ID06-02/24 Confidential Attachment 2 and key aspects of the lease are:

- The lease is for the site only as if it were unoccupied. It does not include any improvements made or effected to the Premises by the lessee.
- The lease term is for 30 years commencing on the date the lease is executed by all parties.

- The existing facilities located on the southern portion of the site (which was excised from Reserve 25826) are to remain until 2 March 2026, which is the end date of the current lease.
- The lease contains a notification that the site is located in a coastal hazard risk area that is likely to be subject to coastal erosion and/or inundation over the next 100 years. The lessee accepts all risks associated with erosion / inundation and acknowledges that the site may not remain suitable or adequate for the use.
- The draft lease proposes the lease rent to be 6% of the gross revenue for the preceding year or the current market rent, whichever is the greater, with rent reviews (new valuation) undertaken every 5 years.
- The lessee is required to pay all other outgoings or charges (including rates).

Consultation:
The major land transaction was advertised in accordance with s. 3.59 of the *Local Government Act 1995* and involved the following:

- A public notice was published in the West Australian newspaper;
- A public notice was published in the Dongara Denison Local Rag;
- A copy of the business plan was made available for public inspection at the Shire office;
- The business plan was published on the Shire's website;

1 submission was received from the current lessee requesting the lease rent be reduced from 6% to 4%. A copy of the submission is contained in ID06-02/24 Attachment 3.

Throughout the process Officers have been liaising with the lessee regarding the terms of the draft lease.

Statutory Environment:
Section 3.59 the *Local Government Act 1995* details the process governing 'commercial enterprises by local government' including major land transactions.

The proposed lease constitutes a disposal of property and the total value of the proposed lease is such that it constitutes a major land transaction. Before a local government enters into a major land transaction it is required to prepare a business plan and give Statewide notice.

At the conclusion of the public advertising, Council is required to determine (by absolute majority) if it wishes to proceed with the transaction as proposed or so that it is not significantly different from what was proposed.

Policy Implications:
Nil

Financial/Resource Implications:
In the 2022/23 financial year the lease rent income received by the Shire was $122,844.37.

The draft lease proposes the lease rent to be 6% of the gross revenue for the preceding year or the current market rent, whichever is the greater, with rent reviews undertaken every 5 years. This is in accordance with the terms of the current lease.

The lessee is seeking the lease rent be reduced to 4% of the gross revenue which is the figure used for the 2 other caravan sites the Shire leases. A comparison of the 4% and 6% figures based on the 2022/23 lease rent income is as follows:

- 6% - $122,844.37
- 4% - $81,896.25 (a reduction of $40,948.12)

A licensed property valuer has recently valued the disposal on the basis of 'Market Rental Value' which was determined at $49,000 per annum. The valuation report is contained in ID06-02/24 Confidential Attachment 4.

Council has previously resolved that the Shire would accept the costs for the public notice and a market valuation ($4,676.80 in total), however legal costs associated with preparation and execution of the lease would be recoverable from the lessee.

Strategic Implications:
Our Brilliant Future - Strategic Community Plan 2021 – 2031
Strategy 2.1.5 Leverage opportunities and investment, and promote retail development
Strategy 4.2.1 Ensure compliance whilst embracing innovation and better practice principles

Attachments:
Attachment Booklet – February 2024
ID06-02/24 Attachment 1: Business Plan
ID06-02/24 Confidential Attachment 2: Lease
ID06-02-24 Attachment 3: Submission
ID06-02/24 Confidential Attachment 4: Valuation Report

OFFICER RECOMMENDATION:

That Council by Absolute Majority:

1. **Notes the submission made for the major land transaction for the disposal by lease of Reserve 25826 being Lot 502 on Deposited Plan 425295 Ocean Drive, Port Denison;**

2. **Authorises the Chief Executive Officer to proceed with the major land transaction as proposed or so that it is not significantly different from what was proposed; and**

3. **Authorises the Chief Executive Officer to execute all documents necessary for the lease.**

10.2 Committee Reports

10.2.1 CASE Committee

The Minutes of the CASE Committee Meeting held 12 February 2024 have been provided to all Councillors under separate cover.

OFFICER RECOMMENDATION:
That Council receives the CASE Committee Meeting held 12 February 2024.

Resultant from the CASE Committee Meeting held 12 February 2024, the following recommendation is presented to Council for approval.

COMMITTEE AND OFFICER RECOMMENDATION:

That Council:

1. approves the following funding allocation for the Community Assistance Scheme; and
2. approves its allocation from the 2023/24 financial year budget.

ORGANISATION	PROJECT DESCRIPTION	GRANT
Dongara Denison Lions Club	Celebrate the 40 Year Milestone and the history of the Dongara Denison Lions Club.	$5000
Irwin Autumn Social Club	To support the hire of appropriate transport enabling social outings for the club and its members.	$3,500
	TOTAL	**$8,500**

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