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with access to modern services and infrastructure,
in a unique part of the world*

MINUTES

of the

Special Meeting of Council

held

Friday 8th DECEMBER 2017

Shire of Cuballing
Council Chambers
Campbell Street, Cuballing

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1. DECLARATION OF OPENING:

The Shire President, Cr Conley, declared the meeting open at 8.33am.

2. ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE:

2.1.1 Attendance

Cr Mark Conley
Cr Eliza Dowling
Cr Roger Newman
Cr Tim Haslam
Cr Dawson Bradford

President
Deputy President

Mr Gary Sherry
Ms Tonya Williams
Mr Bruce Brennan

Chief Executive Officer
Deputy Chief Executive Officer
Manager of Works & Services

2.1.2 Apologies

Cr Scott Ballantyne

2.1.3 Leave of Absence

Nil

3. STANDING ORDERS:

COUNCIL DECISION – 2017/121:

That Standing Orders be suspended for the duration of the meeting to allow for greater debate on items.

Moved: Cr Bradford

Seconded: Cr Dowling

Carried 5/0

4. PUBLIC QUESTION TIME:

4.1 RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE:

Nil

4.2 WRITTEN QUESTIONS PROVIDED IN ADVANCE:

Nil

4.3 PUBLIC QUESTIONS FROM THE GALLERY:

Nil

5. APPLICATIONS FOR LEAVE OF ABSENCE:

Nil

6. CONFIRMATION OF MINUTES:

Nil. Confirmation of minutes of previous meetings will be completed at the next Ordinary Meeting of Council.

**7. PETITIONS/DEPUTATIONS/PRESENTATIONS/
SUBMISSIONS:**

Nil

8. DISCLOSURE OF FINANCIAL INTEREST:

Nil

9. REPORTS OF OFFICERS AND COMMITTEES:

9.1 DEPUTY CHIEF EXECUTIVE OFFICER:

Nil

9.2 CHIEF EXECUTIVE OFFICER:

9.2.1 Deputy CEO Employment

Applicant:	N/A
File Ref. No:	Personal
Disclosure of Interest:	Nil
Date:	5 th December 2017
Author:	Gary Sherry
Confidential Attachment:	9.2.1A Draft Employment Contract 9.2.1A Summary of Salary Package

Summary

Council is to consider entering an employment contract for the position of Deputy Chief Executive Officer with Mr Richard Pares.

Background

Council appointed Ms Tonya Williams to the position of Deputy Chief Executive Officer (DCEO) at their November 2014 Ordinary Meeting.

Ms Williams employment contract expires on Thursday 14th December 2017 and Ms Williams has indicated that she will not extend this contract but return to live in Esperance with her family.

Council approved an employment process for a DCEO at their September 2017 meeting.

The DCEO's primary responsibilities are largely financial, information technology and general administration. The incumbent, because of her abilities, has had an expanded role that included administration building refurbishment, community development and human resources roles.

The position was marketed as an entry level senior position, attracting candidates with some local government administration experience, but seeking to step to new responsibilities extend their career.

The advertised draft employment package advertised included:

- The position providing a salary depending on qualifications and experience of between \$75,000 and \$90,000;
- The salary package includes components of:
 - private use of a Toyota Corolla;
 - an element of private use of a dedicated mobile phone;
 - provision of home internet up to an agreed amount; and
 - relocation expenses;
- the subsidised rental of a residence in Cuballing provided by Council;
- An offer of a three to five year term. An offer of only a three year term could be an alternative;
- A police clearance and start up medical is required;

- Suggests that Council and the CEO would respond positively to study leave and professional development. This would be crucial in developing an employee in the role;
- a draft Employment Contract that included clauses that:
 - Council will commence discussions with the officer over a new contract 12 months from the expiry of this contract, with a decision to finalise the discussions made 9 months prior to the expiry (Clause 5);
 - work the reasonable hours need to carry out the duties (Clause 6.4);
 - provide for an annual performance review (Clause 8);
 - allow suspension if under charge from a criminal offence (Clause 11); and
 - allow termination of the contract by Council with three months notice (clause 14.3).

Comment

Subsequently Council advertised in September 2017 for applicants for the position of DCEO. Applications closed on Thursday 19th October 2017. Thirteen applications were received with a relatively good quality of applicants.

A short list of four applicants was prepared for interviews on Monday 6th November 2017. One of the short listed applicants was unable to attend because of commitments with the Army Reserve.

Of the four shortlisted applicants two had university degrees in related areas, one had 20 years experience in local government, two had held relatively senior finance positions in relatively large commercial operations, two had accounting qualifications, two were CPA's and one had experience in the federal public service including the Australian Tax Office.

Interviews with three candidates were conducted on Monday 6th November 2017 with an interview panel of the Deputy Shire President the Chief Executive Officer and the current DCEO. The selection panel identified Mr Richard (Rick) Pares as the preferred candidate.

In summary Mr Pares abilities, qualifications and experiences include:

- completing a Bachelor of Business (Agriculture) and a Master of Accounting at Curtin University and membership of the CPA Australia of;
- being the Chief Financial Officer of the Scott Park Group where during his employment from 2009 to 2016 Scott Park Group grew from 45 to 275 staff;
- Financial controller of the Numans Groups from 2006 to 2009. The Numans Group provide mining type accommodation solutions; and
- employment with accounting firms based in Dowerin and Perth.

Mr Pares is able to start with Council on Monday 15th January 2018. With this start date there will be four weeks from the time Ms Williams ends her employment with Council and Mr Pares commences.

The proposed Employment Contract between Mr Pares and Council is included at Confidential Attachment 9.2.1A for consideration by Council. The proposed contract is based on the WALGA, Department of Local Government and LGMA standard employment contract and includes most of the general conditions from the Local Government Officers Award. The contract is in line with the draft contract included in the advertising package.

The employment contract does include the following specific clauses:

- a three year term from 15th January 2018 to 14th January 2021;

- while there is no requirement to continue after, the Council and/or the Officer shall initiate discussions not later than 12 months prior to the expiry of the Term for the parties to enter into a new Contract for a further term with the Council making a decision to finalise those discussions not later than 9 months prior to the expiry of the term of this Contract;
- a six month probation period. At the completion of the completion of the probation period a performance review will be conducted;
- a three month notice of termination of the contract for any reason by Council and a six week notice of termination of the contract for any reason by the officer;
- an initial salary package of \$130,800 including:
 - o a commencement salary of \$90,000;
 - o a possible maximum 15.5% Superannuation contribution including SGC and Council's 6% contributory. The option of the officer sacrificing salary to make additional superannuation contributions is possible;
 - o private use of a vehicle;
 - o provision of a mobile telephone and internet access;
 - o the provision of residential accommodation within the town of Cuballing; and
 - o refund of relocation expenses up to a value of \$2,500.

Strategic Implications

The position of DCEO is a key position in the Shire of Cuballing's workforce structure. The role is a crucial one in meeting the increasing financial compliance required of local governments and as a member of the Executive Management Team including the Chief Executive Officer and Manager Works & Services.

Statutory Environment

The DCEO position is a senior staff member under sections 5.37 and 5.39 of the Local Government Act 1996.

Section 5.37 includes:

- The CEO is to inform the Council of each proposal to employ or dismiss a senior employee, and the Council may accept or reject the CEO's recommendation; and
- An advertisement for a senior employee it is to be advertised by the local government in a prescribed manner.

Section 5.39 requires that:

- the employment of the senior employee is to be governed by a written contract;
- a contract for an acting or temporary position, cannot be for a term exceeding one year and for permanent positions cannot be for a term exceeding 5 years; and
- a contract must include the expiry date, performance criteria and any other prescribed requirements.

Policy Implications – Nil

Financial Implications

The annualised expenditure for the draft employment contract with Mr Pares is \$90,000 salary and a total salary package of \$130,800. The details of this salary package are included at Confidential Attachment 9.2.1B.

Council has budgeted for this position in 2017/18 and the draft employment contract is within the allocations made.

Economic Implication - Nil

Social Implication

Mr Pares will live in Council provided rental accommodation within the town of Cuballing.

Environmental Considerations - Nil

Consultation

Selection panel including Cr Dowling, Chief Executive Officer and current DCEO.

Options

Council may resolve:

1. the Officer's Recommendation;
2. the Officer's Recommendation with minor amendments to the terms of the draft contract of employment with direction to seek to renegotiate the employment contract with Mr Pares; or
3. to not enter into the employment contract and subsequently re-advertising the Deputy Chief Executive Officer position.

Voting Requirements – Simple Majority

COUNCIL DECISION – 2017/122:

That the Council enter into the three year contract of employment with Mr Richard Jan Pares included at Confidential Attachment 9.2.1A including;

- 1. a total salary package of \$130,800; and**
- 2. an annual salary of \$90,000.**

Moved: Cr Dowling

Seconded: Cr Newman

Carried 5/0

9.2.2	Amending Council's Road Construction Program
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Applicant: N/A
 File Ref. No: ADM10
 Disclosure of Interest: Nil
 Date: 5th December 2017
 Author: Gary Sherry
 Attachments: 9.2.2A Amended Road Construction Costings – 2017/18
 9.2.2B Location Map

Summary

Council is to consider:

- 1. deferring budgeted works on Popanyinning West Road because the delays in obtaining clearing permits risks completion of these projects in 2017/18; and**
- 2. completing alternative projects on Popanyinning East Road using the unexpended Roads To Recovery Funding.**

Background

Council has the following road construction or resealing projects included in the 2017/18 Budget:

Road	Project Cost		Grant Income		Council Contribution
	Construction	Resealing	RRG	Roads to Recovery	
Wandering Narrogin Road	140,072		66,240		73,832
Wandering Narrogin Road	324,865		216,577		108,288
Stratherne Road	148,664		99,109		49,555
Popanyinning West Road		40,418		40,418	-
Popanyinning West Road	169,721			169,721	-
Yornaning West Road		15,239		15,239	-
Victoria Road		12,796		12,796	-
Cuballing East Road		5,080		5,080	-
TOTALS	783,322	73,533	410,843	243,254	231,675

The \$140,072 to be expended on the Wandering Narrogin Road largely includes construction of an extension to a very large culvert that was delayed with very heavy rain in February 2017. This project has commenced and will shortly be completed.

The various resealing works are planned for joint completion in January 2018. The finalised quotations obtained for these works was at a rate of \$2.75 per m². This is considerably lower than the conservative budget estimate of \$3.50 per m² and will result in some \$13,000 in savings.

The remaining construction works on Wandering Narrogin, Stratherne and Popanyinning West Roads all involve widening of existing roads and require obtaining permits to clear roadside vegetation.

Staff lodged the required applications for clearing permits for Wandering Narrogin Road and Stratherne Road in March 2017. An application for a clearing permit for Popanyinning West Road was submitted in July 2017.

The following clearing permits were granted on Wednesday 15th November 2017:

1. Popanyinning West Road 7678/1
2. Wandering Narrogin Road 7524/1
3. Stratherne Road 7523/1

This time ino approval dates are considerably delayed on normal Department Water Environment Regulations target times for determining applications. None of this delay appears to be the fault of the Shire of Cuballing.

Subsequent to receiving approval Clearing Permits for Wandering Narrogin Road and Popanyinning West Road have been appealed. Shire staff are not aware at this time, who has lodged the appeals.

While there are no statutory timelines in respect to appeal investigations, the Appeals Convenor aims to have 80% of appeal reports submitted to the Minister for Environment within 60 days of receiving a final response to the appeal from the relevant decision making authority and proponent. While it is expected that the appeal will not be upheld, this decision may not be made until at least February 2017.

Shire staff will complete the Wandering Narrogin culvert extension and the resealing works in line with the 2017/18 Budget.

Currently the Stratherne Road clearing permit has not been appealed and works are planned to commence at the earliest possible time on Monday 18th December 2017. Staff expect to also complete this project in line with the 2017/18 Budget.

However, the Shire of Cuballing's remaining works program is now expected to be significantly impacted by the delays in the clearing permit process. Staff have completed as much work on both the Wandering Narrogin and Popanyinning West Roads as is possible without completing the acutal clearing. If approval is not promptly granted for the clearing of Wandering Narrogin and Popanyinning West Roads, Council is unlikely to be able to complete both of these jobs in 2017/18.

The Wandering Narrogin Road grant funding under the State Road funding arrangements through the Wheatbelt South Regional Road Group (RRG) is not transferable and only applies to this project. It is possible to defer the project into 2018/19 but not to transfer the funds to another project.

Roads to Recovery grant funded projects are able to be transferred to other road projects with appropriate approval by the Federal Government.

Council staff have already applied for 2018/19 clearing permits and intend to apply for permits to clear in the 2019/20 early in the 2018 calendar year. Clearing permits cost \$200 and once granted, last for 5 years.

Comment

Staff are concerned about the financial impact if there is significant delay obtaining permission to clear the vegetation that allows the completion if the Wandering Narrogin Road and Popanyinning West Road widening components of the 2017/18 Council budget.

Failure to complete these works in 2017/18 risks the possibility of not receiving income of up to \$317,399 in 2017/18. While some contract and material expenditure can be reduced, wages and plant operation costs cannot.

Therefore staff have recommended that Council defer the uncompleted component of the Popanyinning West Road widening in the 2017/18 Council budget to 2018/19 and complete alternative projects that do not involve obtaining clearing permits.

Delaying the Popanyinning West Road widening will allow staff to commence an alternative project immediately and then focus entirely on completing only the Wandering Narrogin Road prior to the end of the 2017/18. Staff believe it is more possible to complete one major construction job later in the financial year, rather than two.

Staff suggest that as alternative projects, Council complete:

1. gravel sheeting 2.03 kilometres of Popanyinning East Road from SLK 14.99 to 16.32 and SLK 13.57 to 14.27 for a cost of \$61,778; and
2. reconstruction and stabilisation of a 400 metre section of the Popanyinning East Road from SLK 7.80 to 8.20 for a cost of \$98,348.

The gravel sheeting required on two sections of Popanyinning East Road will reinstate gravel to sections of this road where staff are regularly repairing wash and blowouts in the road surface. The 400 metre section of reconstruction and stabilisation of Popanyinning East Road is a quickly deteriorating section of road that has been impacted by salt and the high water table. Both of these sections of road would be strongly recommended for these treatments in 2018/19 if not bought forward into 2017/18. Council staff will have photographs of the impacted areas for Councillors at the meeting.

Shire staff have urgently sought this decision to allow booking of contractors and works to commence in early 2018.

Strategic Implications - Nil

Statutory Environment

The Appeals Convenor is a statutory office established under section 107A of the Environmental Protection Act 1986. Ms Emma Gaunt is the current Appeals Convenor.

Local Government Act (1995)

6.8. Expenditure from municipal fund not included in annual budget

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —
 - (a) is incurred in a financial year before the adoption of the annual budget by the local government; or
 - (b) is authorised in advance by resolution*; or
 - (c) is authorised in advance by the mayor or president in an emergency.

* Absolute majority required.

- (1a) In subsection (1) —
additional purpose means a purpose for which no expenditure estimate is included in the local government's annual budget.

Policy Implications – Nil

Financial Implications

Detailed financial estimates of road construction costings are outlined at Attachment 9.1.2A.

Economic Implication

The provision roads wide enough to accommodate both current and future freight tasks will provide economic benefit to local business.

Environmental Considerations

The wheatbelt area is an area with little remnant vegetation. The improved protection of remnant vegetation and rehabilitation of environmental degraded areas will provide environmental benefits.

Consultation - Nil

Options

Council may resolve:

1. the Officer's Recommendation;
2. to defer a decision at this time to allow staff to research alternative projects for completing out of budget expenditure other than those identified by staff as replacement projects for the deferred widening works on Popanyinning West Road; or
3. to not defer the budgeted widening works on Popanyinning West Road, whilst acknowledging the financial risk to Council of such action.

Voting Requirements – Absolute Majority

COUNCIL DECISION – 2017/123:

That Council:

1. **delay any further budgeted widening works on Popanyinning West Road to the 2018/19 financial year;**
2. **approve out of budget expenditure of up to \$98,348 to complete reconstruction and stabilisation of a 400 metre section of the Popanyinning East Road from SLK 7.80 to 8.20;**
3. **approve out of budget of up to \$61,778 to complete gravel sheeting of 2.03 kilometres of Popanyinning East Road from SLK 14.99 to 16.32 and SLK 13.57 to 14.27; and**
4. **seek approval to use the balance of 2017/18 Road To Recovery grant funding intended for widening works on Popanyinning West Road and anticipated savings from reduced resealing costs to complete the identified projects on Popanyinning East Road in 2017/18.**

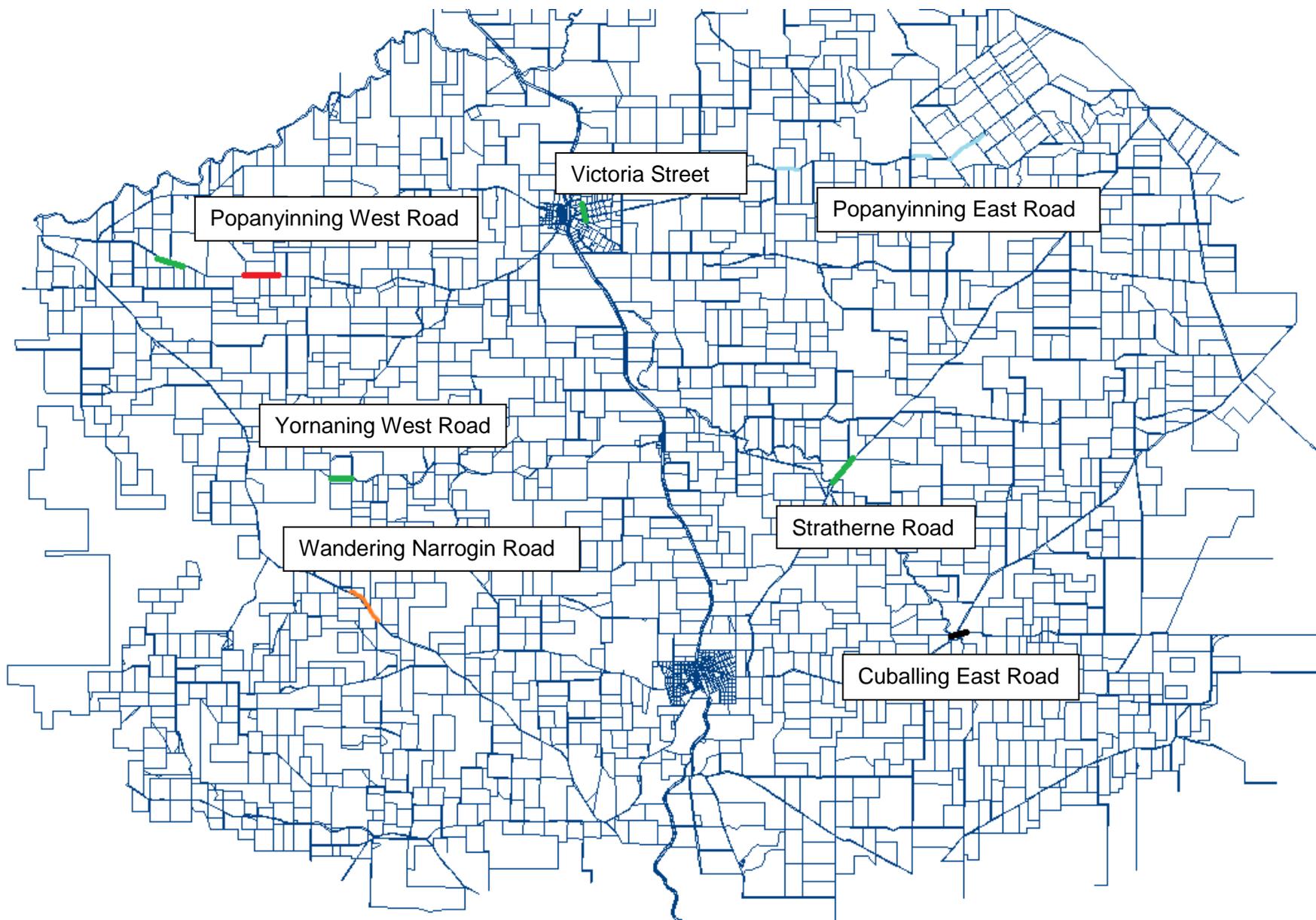
Moved: Cr Haslam

Seconded: Cr Dowling

Carried 5/0

Amended Road Construction Costings – 2017/18

Road	Budgeted Cost	Estimated Project Cost				Estimated Grant Income		Council Contribution
		Construction	Gravel Sheeting	Resealing	TOTAL	RRG	Roads to Recovery	
Wandering Narrogin Road	140,072	140,072			140,072	66,240		73,852
Wandering Narrogin Road	324,865	324,865			324,865	216,577		108,288
Stratherne Road	148,664	148,664			148,664	99,109		49,555
Popanyinning West Road	40,418			33,617	33,617		33,617	-
Popanyinning West Road	169,721	19,272		-	19,272		19,272	-
Yornaning West Road	15,239			14,007	14,007		14,007	-
Victoria Road	12,796			9,918	9,918		9,918	-
Cuballing East Road	5,080			3,294	3,294		3,294	-
Popanyinning East Road		98,348			98,348		98,348	-
Popanyinning East Road			61,778		61,778		61,778	-
TOTALS	856,855	731,221	61,778	60,836	853,835	381,926	240,234	231,675



10. CONFIDENTIAL MATTERS:

Nil

11. ELECTED MEMBERS' MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:

Nil

12. URGENT BUSINESS WITHOUT NOTICE WITH THE APPROVAL OF THE PRESIDENT OR MEETING:

Nil

13. NEXT MEETING

Ordinary Council Meeting, 2.00pm, Thursday 21st December 2017 at the Shire of Cuballing Council Chambers, Campbell Street, Cuballing.

14. CLOSURE OF MEETING:

There being no further business, the Shire President, Cr Conley, closed the meeting at 9.00am.