



SHIRE OF CUBALLING

**ORDINARY COUNCIL MEETING
HELD ON THURSDAY 19 APRIL 2007**

MINUTES

SHIRE OF CUBALLING

COUNCIL MEETING THURSDAY 19 APRIL 2007

MINUTES

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ORDINARY COUNCIL MEETING MINUTES

**MINUTES OF THE ORDINARY COUNCIL MEETING OF THE SHIRE OF
CUBALLING, HELD IN THE COUNCIL CHAMBERS, CAMPBELL
STREET, CUBALLING ON THURSDAY 19 APRIL 2007**

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

President welcomed Councillors, declared meeting open 3.00pm.

2. RECORD OF ATTENDANCE, APOLOGIES, LEAVE OF ABSENCE

ATTENDANCE

Shire President, Cr T H Wittwer	Deputy President, Cr J D Brown
Cr D S Bradford	Cr C R Hawksley
Cr R J D Newman	Cr I L Watts
Chief Executive Officer, Mr P T Naylor	

APOLOGIES

Cr C R McKenzie

LEAVE OF ABSENCE

Nil

3. PUBLIC QUESTION TIME

Nil

4. APPLICATION FOR LEAVE OF ABSENCE

Nil

5. MINUTES

**5.1 CONFIRMATION OF 15 MARCH 2007 ORDINARY
MEETING OF COUNCIL**

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the minutes (as circulated) of the ordinary meeting of the Shire of Cuballing held in the Council Chambers on 15 March 2007 be confirmed.

COUNCIL ACTION

Moved Cr Watts, seconded Cr Newman that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

6. **PETITIONS, DEPUTATIONS, PRESENTATIONS & DECLARATIONS**

Nil

7. **DISCLOSURES OF INTEREST**

Councillors' and Employees' Disclosures of Interest.

7.1 **DISCLOSURE OF FINANCIAL INTEREST AND PROXIMITY INTEREST**

Members must disclose the nature of their interest in matters to be discussed at the meeting.

Employees must disclose the nature of their interest in reports or advice when giving the report or advice to the meeting.

Councillors Brown, Newman and Wittwer declared a Financial Interest in Item 8.5.4.

Councillors Brown and Newman own land adjoining the Cuballing townsite, and Councillor Wittwer owns lands adjoining the Yornaning townsite.

7.2 **DISCLOSURE OF INTEREST AFFECTING IMPARTIALITY**

Members and staff must disclose their interest in matters to be discussed at the meeting in respect of which the Member or employee has given or will give advice.

Councillor Watts declared an Interest in item 8.5.3. The land affected within the subdivision application is owned by Councillor Watts, however the item is for information only and not for Council consideration.

8.1 REPORTS – FINANCE AND ADMINISTRATION

8.1.1 LIST OF ACCOUNTS SUBMITTED FOR COUNCIL APPROVAL AND PAYMENT – APRIL 2007

Submission to: Ordinary Meeting of Council
Location/Address: Not applicable
Reporting Officer: Bronwyn Dew, Administration Officer
Enabling Legislation: Local Government (Financial Management) Regulations 1996
Council Policy: Register Delegated Authority
Budget Implications: Nil
File Reference: CMR 7
Voting Requirements: Simple Majority

Background

Council is supplied with a list of payments for consideration.

Comment

A copy of the list of payments made from each of Councils bank accounts is attached to this item.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council:

- **Approve for payment the list of Creditors paid from the Municipal fund, as detailed below, totalling \$322,038.48:**

Vouchers 10841-10846 inclusive	\$ 8,832.47
Vouchers 11673-11739 inclusive	\$267,538.58
Electronic fund transfers	\$ 45,667.43

- **Approve for payment the list of Creditors paid from the Trust fund, as detailed below, totalling \$841.49:**

Vouchers 1989-1992 inclusive	\$ 742.47
Electronic fund transfers	\$ 99.02

COUNCIL ACTION

Moved Cr Brown, seconded Cr Newman that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.1.2 STATEMENT OF FINANCIAL ACTIVITY

Submission to: Ordinary Meeting of Council
Location/Address: Not applicable
Reporting Officer: Clare Thomson, Accountant
Enabling Legislation: Local Government (Financial Management) Regulations 1996
Council Policy: Nil
Budget Implications: Nil
File Reference: CMR 7
Voting Requirements: Simple majority

Background

Local Government (Financial Management) Regulations 1996, section 34, provides for monthly financial reporting requirements for local government.

Comment

A Statement of Financial Activity has been prepared for period ending 31 March 2007 in accordance with the abovementioned legislation and circulated with the Council meeting agenda.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the Statement of Financial Position, as circulated, for the Shire of Cuballing for period ending 31 March 2007 be received.

COUNCIL ACTION

Moved Cr Watts, seconded Cr Brown that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.1.3 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) – MEMBERSHIP AND SERVICES SUBSCRIPTION 2007/2008

Submission to: Ordinary Meeting of Council
Location/Address: Not applicable
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Nil
Council Policy: Nil
Budget Implications: 2007/2008 Budget allocation
File Reference: CA 8
Voting Requirements: Simple majority

Background

Correspondence and supporting documentation from WALGA inviting Council to renew its membership with the Association and its various support services in 2007/2008.

Comment

Council has been a member of WALGA (and the former WA Municipal Association) for many years and they have provided Council and staff with excellent service, support and advice over this time.

WALGA has provided an indicative figure of \$4,400 (+GST), an increase of 4.4% in accordance with CPI at 31 December 2006, to renew its membership for 2007/2008. In relation to other services offered by WALGA and subscribed to by Council there has been moderate increases, but not too significant. Given that the costs of these services had little or no increase for the past three financial years this can be considered acceptable. A comparison of subscription costs (+GST) is detailed below.

	WALGA	Tax	Workplace	Linking	Local
	Membership	Service	Solutions	Councils	Laws
2007/2008	\$4,400	\$880	\$1,500	\$3,500	\$415
2006/2007	\$4,200	\$835	\$1,300	\$2,650	\$400
2005/2006	\$4,050	\$835	\$1,288	\$2,651	\$400
2004/2005	\$3,875	\$835	\$1,248	\$0	\$400

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the Shire of Cuballing renews its membership, and other relevant subscriber based services, with the Western Australian Local Government Association for the 2007/2008 Financial Year.

COUNCIL ACTION

Moved Cr Brown, seconded Cr Watts that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.1.4 MR E C MONGER – LOT 560 COWCHER ST, YORNANING

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 560 Cowcher Street, Yornaning
Reporting Officer:	Belinda Draper, Rates Officer
Enabling Legislation:	Local Government Act 1995
Council Policy:	Nil
Budget Implications:	Outstanding Rates and Charges to be written off
File Reference:	Rates 8
Voting Requirements:	Simple Majority

Background

During a property dispute in Yornaning many years ago it came to Council's attention that Lot 560 Cowcher St, Yornaning was not listed in Cuballing's Rate Book. A Title Search was completed and found the owner to be Mr Ernest Charles Monger, purchasing the land on the 18 May 1908.

Records found, indicate that Mr Monger passed away 16 April 1936, however it seems the land was never transferred to relatives. Attempts to locate family descendants or estates of Mr Mongers Last Will and Testament have been made including a search of documentation of the Supreme Court of Western Australia, Cemeteries Board and Internet, which have been unsuccessful. As a result, Mr Monger's address was recorded in Council's Rate Book as C/- Shire of Cuballing and Rate Notices have not been forwarded.

Comment

Since the assessment was created in 2003, rates have been outstanding and endeavours to find Mr Monger's family continue.

As the rates have been unpaid for at least 3 years and amount of \$1,461.93, including daily penalty interest of 11% and other charges, remains outstanding, the Council may, in accordance with the appropriate provisions of Section 6.64 of the Local Government Act 1995 take possession of the land and hold the land as against a person having an estate or interest in the land and –

- Lease the land from time to time;
- Sell the land;
- Transfer the land to Crown; or
- Transfer the land to itself.

Council staff is requesting the land be transferred to the Crown and be amalgamated with Unallocated Crown Land directly to the north of the property, as Council has indicated in the past that residential development in Yornaning is not seen as a priority.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- **Council applies to the Minister for Local Government requesting Lot 560 Cowcher Street, Yornaning be revested in the Crown; and**
- **Outstanding rates and charges of \$1,461.93 on Assessment 984, Lot 560 Cowcher Street, Yornaning be written off.**

COUNCIL ACTION

Moved Cr Brown, seconded Cr Hawksley that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.1.5 TOWN OF NARROGIN – REQUEST FOR FINANCIAL CONTRIBUTION

Submission to: Ordinary Meeting of Council
Location/Address: Whole of Shire
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Local Government Act 1995
Council Policy: Nil
Budget Implications: Budget 2007/2008
File Reference: F 9
Voting Requirements: Simple Majority

Background

Letter from the Town of Narrogin requesting Council consideration to making a financial contribution of \$25,000 to the Narrogin Leisure Centre in 2007/2008. The letter points out that by making the contribution Shire of Cuballing residents will be entitled to discounted rates when using the Narrogin Leisure Centre facilities.

Comment

When considering this matter for the 2006/2007 Budget, Council resolved not to make a contribution and utilise funds to improve local facilities and amenities in Cuballing and Popanyinning for the benefit of all local residents, as opposed to subsidising the reduced number of residents that use the Narrogin Leisure Centre.

Council has recently been discussing the need to provide facilities at Popanyinning and it may be more appropriate to allocate funds in that direction.

A decision on this matter does not need to be made at this meeting and the matter could be deferred until Council is deliberating on the 2007/2008 Budget and the availability of funds will be better known.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council defers making a decision on financial contribution to the Town of Narrogin for the Narrogin Leisure Centre at this time, and the matter be again raised for consideration during deliberations for the 2007/2008 Budget.

COUNCIL ACTION

Moved Cr Newman, seconded Cr Watts that the Chief Executive Officers Recommendation be adopted.

CARRIED 4/2

8.1.6 SHIRE OF CUBALLING ANNUAL BUDGET REVIEW

Submission to:	Ordinary Meeting of Council
Location/Address:	Whole of Shire
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Local Government (Financial Management) Regulations 1996
Council Policy:	Nil
Budget Implications:	Budget 2006/2007
File Reference:	F 9
Voting Requirements:	Simple Majority

Background

The Local Government (Financial Management) Regulations 1996, section 33A, requires that between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.

A copy of the budget review, once adopted by Council, is to be provided to the Department of Local Government and Regional Development within 30 days.

Comment

Prior to performing the budget review staff have been waiting for the capital roads works program to be completed to enable a meaningful review to be prepared. Unfortunately due to delay in being issued with a clearing permit by the Department of Environment and Conservation this has not been possible.

Staff will however endeavour to undertake a review of the annual budget bearing in mind that the capital road works program, which is Councils largest budgeted item, has not been completed.

The budget review will be tabled at the Council meeting for Council consideration.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- **The Budget Review, as presented, for the Shire of Cuballing for the nine month period ending 31 March 2007, be adopted; and**
- **A copy of the Budget Review be forwarded to the Department of Local Government and Regional Development within 30 days of being considered and adopted by Council.**

COUNCIL ACTION

Moved Cr Brown, seconded Cr Newman that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.2 **REPORTS – WORKS**

8.2.1 **WORKS MANAGERS REPORT**

Submission to:	Ordinary Meeting of Council
Location/Address:	Whole of Shire
Reporting Officer:	Alex Richardson, Works Manager Peter Naylor, Chief Executive Officer
Enabling Legislation:	Local Government Act 1995
Council Policy:	Nil
Budget Implications:	Nil
File Reference:	CMR 10
Voting Requirements:	Simple majority

PURPOSE PERMIT APPLICATION

The Chief Executive Officer and consultants are still working with the Department of Environment and Conservation to finalise the offset plan arrangements to the Departments satisfaction. This has further been delayed by the DEC again requesting additional information and the consultants being in Sydney. The CEO has requested the DEC to issue extraordinary approval to allow road works to commence on the understanding that the offset requirements will be completed to their satisfaction within the first week of May 2007.

STRATHERNE/PARSONS ROADS INTERSECTION

Works are ready to commence as soon as approval has been obtained from the Department of Environment and Conservation in relation to the purpose permit application.

BITUMEN RESEALS (2006/2007 CAPITAL WORKS PROGRAM)

All of the bitumen resealing works have been completed in accordance with the 2006/2007 capital works program. These works included the Cuballing West, Yornaning East and Popanyinning West Roads, and Cuballing town streets.

MAINTENANCE/GRADING/BITUMEN EDGES

Summer and shoulder grading programs are ongoing to improve general road conditions and drainage on bitumen roads.

Tree lopping on sections of Turners Road has been completed to improve vehicular access and visibility.

Roadside spraying is ongoing.

The water standpipe at Popanyinning has been upgraded to an overhead service.

The local Drum Muster was held on Wednesday 28 March 2007. Unfortunately this was not well supported with only one property owner delivering to the compound.

CUBALLING REFUSE SITE

Fencing of the refuse site is in progress in readiness for when the site management procedures change in September 2007.

PLANT AND EQUIPMENT

All items of plant and equipment are being serviced and maintained as required, and all plant is generally in good working order.

There have been a few issues with the air conditioner on the Front End Loader and these have been referred to WelQuip for attention.

STAFF

Most staff took the opportunity to have a longer break and clear leave entitlements over the Easter period.

Narrogin Agriculture College Students have been working with Council staff and carrying out special projects around the Cuballing townsite. This is a worthwhile partnership and hopefully will continue.

PRIVATE WORKS

Various works requests are still being received and these are being done as time permits

Private works invoices for the month of March 2007, total \$5,708.79.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the Works Managers Report be received and information noted.

COUNCIL ACTION

Moved Cr Hawksley, seconded Cr Brown that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.2.2 SHIRE OF CUBALLING LOCAL BICYCLE PLAN 2007-2012

Submission to:	Ordinary Meeting of Council
Location/Address:	Cuballing and Popanyinning Townsites
Reporting Officer:	Heidi Cowcher, Consultant Peter Naylor, Chief Executive Officer
Enabling Legislation:	Nil
Council Policy:	Nil
Budget Implications:	Allocation included in 2006/2007 Budget
File Reference:	G 4
Voting Requirements:	Simple majority

Background

Council was successful in obtaining a grant through the Department for Planning and Infrastructure Country Pathways Program for preparation of a Pathways Plan for the Cuballing and Popanyinning Townsites.

Comment

Mrs Heidi Cowcher, Community Development Officer with the Shire of Williams, was employed as a consultant to undertake the planning process on behalf of Council. The community consultation process was carried out as part of the Community Safety and Crime Prevention Survey that was undertaken throughout the Shire in February 2007.

Heidi has now completed a draft Plan for adoption by Council. The Plan is then to be submitted to the Department for Planning and Infrastructure (DPI) by 30 April 2007 for their endorsement.

Final endorsement of the Plan by the DPI should then add weight to future grant applications by Council for funding under the Country Pathways Program for installation of pathways as indicated in the Plan.

A copy of the draft Plan has been circulated with the Council meeting agenda.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the draft Shire of Cuballing Local Bicycle Plan (2007-2012) as prepared and circulated be adopted by Council and forwarded to the Department for Planning and Infrastructure for endorsement.

COUNCIL ACTION

Moved Cr Bradford, seconded Cr Brown that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.2.3 D K & M J FERRELL – REQUEST FOR BITUMEN SEALING OF PORTION OF BEESTON AND BRUNDELL STREETS, CUBALLING

Submission to:	Ordinary Meeting of Council
Location/Address:	Portion Beeston and Brundell Streets, Cuballing townsite
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Nil
Council Policy:	Nil
Budget Implications:	2007/2008 Budget consideration
File Reference:	R 9
Voting Requirements:	Simple majority

Background

Request from Mr & Mrs Ferrell for Council consideration to bitumen sealing the portion of Beeston Street, from the end of the existing sealed section, and Brundell Street, from its junction with Beeston Street, to the Cuballing Refuse Site to eliminate dust that is created from vehicular traffic visiting the refuse site.

Mr & Mrs Ferrell further explain that the current dust problem is going to be considerably worse with the proposed introduction of managed/restricted

hours/days at the refuse site and traffic to the site is concentrated over a short period of time.

Comment

Mr & Mrs Ferrell's request has merit as the road receives a lot of traffic and the dust and corrugation problems have been extremely bad this year, however this has been exacerbated because of the extreme dry conditions being experienced and road surfaces throughout the Shire are suffering.

Is proposed to upgrade (widen to 6m bitumen seal and reseal) the existing sealed section of Beeston street in 2007/2008 to cater for expected intense traffic flow with the new proposed operations for the refuse site.

Perhaps Council could then consider bitumen sealing the remainder of the road/s for 2008/09 Financial Year. There is no doubt that traffic count would justify sealing of the road/s as requested.

It is estimated the cost to bitumen seal the remainder of Beeston Street and portion of Brundell Street to the refuse site will be about \$50,000.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Mr & Mrs Ferrell be advised:

- **The existing bitumen sealed section of Beeston Street is programmed to be upgraded (ie widened to 6m bitumen surface and resealed) in 2007/2008; and**
- **Council will give further consideration to bitumen sealing the portions of Beeston and Brundell Streets, as per their letter of request, in the 2008/2009 Financial Year.**

COUNCIL ACTION

Moved Cr Newman, seconded Cr Bradford that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.2.4 MR & MRS P KNEALE, LOT 91 HOTHAM STREET, POPANYINNING – NOISE COMPLAINT

Submission to: Ordinary Meeting of Council
Location/Address: Lot 9 Popanyinning East Rd, Popanyinning townsite
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Environmental Protection (Noise) Regulations 1997
Council Policy: Nil
Budget Implications: Nil
File Reference: A 4
Voting Requirements: Simple majority

Background

Mr & Mrs Kneale have written to Council complaining about noisy activities being carried out at Lot 9 in Popanyinning over the recent East period. The noisy activities mostly relate to the riding of trail bikes.

Comment

Mrs Kneale has previously contacted the Chief Executive Officer to complain about similar activities in the past. On this occasion the CEO spoke to the property owner (Mr Ray Roads) about the matter but obviously to no avail.

Mrs Kneale contacted Cr Ian Watts over the Easter weekend to voice her most recent complaint. Cr Watts referred to the matter to the Police and eventually Mrs Kneale phoned back to say the noise had ceased.

A letter has been sent to Mr Roads following Mr & Mrs Kneale's recent complaint.

As Council is aware, staff have minimal powers under the Environmental Protection (Noise) Regulations 1997 and therefore cannot enforce the provisions of the legislation. It therefore becomes a Police issue and if happens again aggrieved neighbours will have to contact the Police (either Pingelly or Narrogin) to address the problem.

The CEO has requested the property owner (Mr Roads) contact him so the circumstances can be explained fully.

The CEO informed the meeting that a letter has also been received on this matter from Mr & Mrs P Cooper-Davis, of 25 Hotham Street, Popanyinning, supporting the comments of Mr & Mrs Kneale and providing photographs of damage sustained to the Popanyinning Walk Trail.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- Council endorses the Chief Executive Officers actions in following up on the complaint and writing to Mr & Mrs Roads; and

- Response be forwarded to Mr & Mrs Kneale advising the actions taken and explaining the situation under the provisions of the Environmental Protection (Noise) Regulations 1997.

COUNCIL ACTION

Moved Cr Bradford, seconded Cr Brown that:

- Council endorses the Chief Executive Officers actions in following up on the complaint and writing to Mr & Mrs Roads; and
- Response be forwarded to Mr & Mrs Kneale and Mr & Mrs Cooper-Davis advising the actions taken and explaining the situation under the provisions of the Environmental Protection (Noise) Regulations 1997.

CARRIED 6/0

8.3 REPORTS – BUILDING

8.3.1 BUILDING SURVEYORS REPORT

Submission to: Ordinary Meeting of Council
Location/Address: Whole of Shire
Reporting Officer: Allan Ramsay, Environmental Health Officer/Building Surveyor
Enabling Legislation: Local Government (Miscellaneous Provisions) Act 1960
 Building Regulations 1989
 Builders’ Registration Act 1939
Council Policy: Register Delegated Authority
Budget Implications: Nil
File Reference: CMR 2
Voting Requirements: Simple majority

Summary

There were five (5) applications approved and licenses issued for the month of March 2007.

Listed below is a summarized breakdown of the application and proposed structures:

Approval License No	Name of Owner	Registered Builder (RB) or Owner Builder (OB)	Structure	Location of Building
34/06-07	G Raffaele	OB	128m2 Steel Framed Shed	Lot 3536 Bunmulling Rd Popanyinning
35/06-07	T Heal & C Wood	OB	54m2 Colourbond Shed	Lot 358 Russell St Cuballing
36/06-07	R Sayles	OB	43m2 Shed	Lot 50 Derby St Cuballing

37/06-07	P Dory & T Cook	OB	Fibreglass Swimming Pool	Lot 108 Popanyinning East Rd Popanyinning
38/06-07	P Zawal	OB	128m2 Steel Frame Shed	Lot 14994 Popanyinning West Rd Popanyinning

Builders' Registration Act 1939 – Increase in the limit for Unregistered Builder

As from 2 July 2007 it will not be necessary for a builder to be registered unless the building work exceeds \$20,000.00. This amount will be increased from the current \$12,000.00.

The introduction of the increase in the unregistered building limit has been timed to coincide with a number of changes to monetary thresholds and limits that are contained in the Home Building Contracts Act 1991, including the minimum amount for requiring home indemnity insurance, which will also increase from \$12,000.00 to \$20,000.00 as from 2 July 2007.

Building works worth under \$20,000.00 will still need to be submitted to Council for building approval.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the Building Surveyor's Report be received and information noted.

COUNCIL ACTION

Moved Cr Brown, seconded Cr Watts that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.4 REPORTS – HEALTH

8.4.1 SHIRE OF CUBALLING HEALTH LOCAL LAWS 2007

Submission to:	Ordinary Meeting of Council
Location/Address:	Whole of Shire
Reporting Officer:	Allan Ramsay, Environmental Health Officer/Building Surveyor
Enabling Legislation:	Health Act 1911
Council Policy:	Nil
Budget Implications:	Nil
File Reference:	CMR 2
Voting Requirements:	Simple majority

Background

Council resolved at its ordinary meeting held on 16 November 2006 to make a Health Local Law and this was advertised in the West Australian and Narrogin Observer newspapers on Wednesday 29 November 2006, for the 42 days statutory submission period, closing on 17 January 2007.

Comment

At the closure of the submission period, Council received a letter from the Department of Health and an email from the Department of Local Government and Regional Development, to make some minor amendments, to delete “Principal” in Subsection 4.2.3 (2) and substituted by the word “an”, to change the year to 2007 from 2006, and the words “Local Government Act 1995 be inserted immediately below the words “Health Act 1911” in the title of the proposed local law.

As the changes requested to the Local Law are of a minor nature and do not significantly change what was first proposed it is not necessary to recommence the procedure for making the local law

Apart from the minor amendments it would appear that the Department of Health is satisfied that the proposed local law and it can now be submitted to the Department of Health for approval prior to gazettal.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- **The Draft Health Local Laws 2007, as amended, be adopted for the Shire of Cuballing and copies submitted to the Executive Director Public Health for consent, in accordance with Section 342(1)(a) of the Health Act 1911; and**
- **Following receipt of the above consent, Council publish the local law in the Government Gazette in accordance with Section 342(3) of the Health Act 1911.**

COUNCIL ACTION

Moved Cr Watts, seconded Cr Bradford that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.4.2 DUNCAN BOYCE, ADRENALIN 4 X 4 INC – APPLICATION TO CONDUCT 4 WHEEL DRIVE EVENT

Submission to: Ordinary Meeting of Council
Location/Address: Lot 3536 Bunmulling Road, Popanyinning
Reporting Officer: Allan Ramsay, Environmental Health Officer/Building Surveyor
Enabling Legislation: Health Act 1911
Health (Public Buildings) Regulations 1992
Health (Food Hygiene) Regulations 1993
Caravan Parks and Camping Grounds Regulations 1997
Council Policy: Nil
Budget Implications: Nil
File Reference: TP 4
Voting Requirements: Simple majority

Background

The Adrenalin 4x4 Inc Club have made an application to hold a 4 Wheel Drive (4WD) event at Lot 3536 Bunmulling Road, Popanyinning, over a two-day period some time in July or August 2007, the date yet to be finalised.

Comment

Council is requested to grant approval for the event under the provisions of the Health Act 1911 relating to public buildings.

Lot 3536 is zoned General Agriculture under Town Planning Scheme No 2 and comprises 68 hectares in area.

Vehicles used in the events will be either towed to the property or driven. Licensed 4WD vehicles will be modified at the property for the off road events.

A plan of property provided shows the location of the two courses, a pit area, and location of the camping and toilet areas.

The organizers of the event are expecting about 500 people to attend. They have neither indicated the hours nor the days of the event at this stage.

The event is not a fund raiser. As this will be their first event in this Shire they are envisaging that it will break even. The club is non-profit and any proceeds (if any) will help fund other events.

Various businesses will be approached to sell food and drinks and no alcohol will be for sale at the event.

The gathering of persons for public events is controlled under the Health Act 1911 and more specifically under the Health (Public Buildings) Regulations 1992. The definition of a “Public Building” under the Act includes “a building or place or part of a building or place where persons may assemble”. This includes amongst other uses; social, entertainment, recreational or sporting purposes.

Council may grant approval for public events under Section 177 of the Act and set conditions and the time for which approvals are valid.

The Health (Public Buildings) Regulations 1992 and the Health (Food Hygiene) Regulations 1993 set the statutory requirements for ensuring that public safety at events is provided. This includes safe food handling, adequate toilet facilities and a risk management plan etc. These are administered by Council’s Environmental Health Officer.

The Caravan Parks and Camping Grounds Regulations 1997 set the statutory requirements for camping on the property.

The property owner, Mr G Raffaele, has provided a letter to Council supporting the event.

The applicants have not at the time of writing this report provided copies of public liability insurances to cover this event. It is recommended that the event not be permitted to proceed if copies of all insurances are not provided to the Shire at least 7 days before the event.

The public safety, camping, food hygiene and noise legislation and any permits will be administered by Council’s Environmental Health Officer in accordance with statutory requirements.

This event is supported subject to adherence with the legislative requirement being undertaken.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That approval be granted to the Adrenalin 4x4 Inc to hold a 4 Wheel Drive event at Lot 3536 Bunmulling Road, Popanyinning, on a trial basis for one event only subject to the following conditions:

- **The event is restricted to the hours of 7.00am to 6 pm;**
- **Neighbouring property owners to given 7 days notice of the event;**
- **The event to be run in compliance with all legislative requirements stipulated to Adrenalin 4x4 Inc by Council’s Environmental Health Officer; and**
- **The event to be covered by comprehensive Public Liability Insurance to a minimum value of 10 million dollars and naming the Shire of Cuballing on the policy. The certificate of currency is to be sighted by the Shire at least 7 days prior to the event proceeding. In the event of not meeting this condition approval for the event is withdrawn.**

COUNCIL ACTION

Moved Cr Hawksley, seconded Cr Bradford that the Chief Executive Officers Recommendation be adopted.

CARRIED 6/0

8.5 REPORTS – TOWN PLANNING

8.5.1 WESTERN AUSTRALIAN PLANNING COMMISSION (WAPC) – PLANNING APPLICATION 133602 W G P & P C MUDD

Submission to: Ordinary Meeting of Council
Location/Address: Lots 469 & 141 and 139 & 463 Cooke Road, Popanyinning East
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Planning and Development Act 2005
Council Policy: Shire of Cuballing Town Planning Scheme No 2
Budget Implications: Nil
File Reference: TP 12
Voting Requirements: Simple majority

Background

Correspondence advising that the WAPC has refused the above planning application.

Comment

This application was originally presented to Council at its ordinary meeting held on Thursday 15 February 2007. At the meeting Council resolved:

That the proposed subdivision and realignment of boundaries of Lots 469 & 141 and 139 & 463 Cooke Rd, Popanyinning East, as per planning application 133602, be supported.

The WAPC has outlined its reasons for refusal as:

- 1. The proposed subdivision is inconsistent with the 'Rural' zoning of the land in Council's Town Planning Scheme. The purpose and intent of this zoning is to preserve the area's current rural use and density of development. Subdivision in the manner proposed would create the potential for additional building development and the introduction of increased non-rural activity in conflict with the zoning objectives.*
- 2. The proposed subdivision is inconsistent with the 'Rural' zoning of the land, the principal purpose of which is to preserve its rural use and density of development. The subdivision, if permitted, would result in an unplanned breakdown of land holdings.*
- 3. In order to preserve agricultural land, the Commission does not favour the fragmentation of rural holdings without satisfactory evidence to demonstrate that the land will remain in productive agricultural activity.*

4. *Approval to the subdivision would set an undesirable precedent for the further subdivision of surrounding lots.*

Under section 144(1) of the Planning and Development Act 2005, the planning applicant may, within 28 days of the date of the decision (12 March 2007), make a written request to the WAPC to reconsider its decision.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the correspondence be received and information noted.

COUNCIL ACTION

Resolved that the correspondence be received and information noted.

8.5.2 MR LES MARSHALL, BEAULAND MANAGEMENT PTY LTD – CLOSURE OF ROAD RESERVE

Submission to:	Ordinary Meeting of Council
Location/Address:	unnamed road reserve east of Popanyinning
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Land Administration Act 1997
Council Policy:	Nil
Budget Implications:	Nil
File Reference:	Roads 1
Voting Requirements:	Simple majority

Background

Correspondence from Mr Marshall requesting Council consideration to the closure of unnamed and unmade road reserve running between his properties, being lots 343 & 135 and 344 & 134, and terminating at English Road. Mr Marshall explains that he has future plans to submit a planning application to the WA Planning Commission (WAPC) to realign the boundaries of his existing properties and to acquire the land from the closed road reserve and amalgamate with the properties. The intention is for all the properties to front on to English Road on their proposed north eastern boundary.

Comment

Whilst there is no adopted policy on this matter for Council and staff to follow, Council has in recent times shown an inclination not to close road reserves and retain them as nature strips. A decision that could prove to be positive with the Department of Environment and Conservation for offset planting arrangements when submitting future applications for clearing permits under the Environmental Protection (Clearing of Native Vegetation) Regulations 2004.

There is no reason why Mr Marshall cannot still pursue a planning application with the WAPC to realign the boundaries and size of the existing lots if Council does not support his request on this occasion.

In view of the previous item on this meeting agenda (item 8.5.1), the WAPC appears to be taking a hard line on these types of planning proposals and it may be that an application by Mr Marshall to the WAPC to realign the existing lots could very well be refused by the Commission even if supported by Council.

It may also be worthwhile Council investigating the adoption of a suitable policy on this matter to assist staff when future enquiries are made.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- Mr Marshall be advised that Council does not agree with the closure of the unnamed/unmade road reserve that runs between his properties, being lots 343 & 135 and 344 & 134, and terminating at English Road;
- Council would prefer the unmade road reserves throughout the Shire to be retained as vegetation strips rather than amalgamated with neighbouring properties; and
- Staff be authorised to investigate a suitable policy on this matter for Council consideration.

COUNCIL ACTION

Moved Cr Newman, seconded Cr Watts that:

- **Mr Marshall be advised that Council does not agree with the closure of the unnamed/unmade road reserve that runs between his properties, being lots 343 & 135 and 344 & 134, and terminating at English Road;**
- **Council would prefer the unmade road reserves throughout the Shire to be retained rather than amalgamated with neighbouring properties; and**
- **Staff be authorised to investigate a suitable policy on this matter for Council consideration.**

CARRIED 6/0

**8.5.3 WESTERN AUSTRALIAN PLANNING COMMISSION (WAPC) –
PLANNING APPLICATION 133250 LOCATIONS 3859 & 2712 AND
LOTS 501 & 502 BATTS ROAD POPANYINNING WEST**

Cr Watts declared a Financial Interest in this item, however did not depart the Council Chamber as the matter was for information only and did not require Council consideration.

Submission to: Ordinary Meeting of Council
Location/Address: Loc's 3859 & 2712, lots 501 & 502 Batts Rd, Popanyinning West
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Planning and Development Act 2005
Council Policy: Shire of Cuballing Town Planning Scheme No 2
Budget Implications: Nil
File Reference: TP 12
Voting Requirements: Simple majority

Background

Correspondence advising that the WAPC has requested further information from the applicant prior to making a final decision on the planning application.

Comment

This application was originally presented to Council at its ordinary meeting held on Thursday 15 December 2006. At the meeting Council resolved:

That the subdivision Locations 3859 & 2712 and Lots 501 & 502 Batts Rd, Popanyinning, as per planning application 133250, be supported.

The WAPC has however requested additional information from the applicant in support of the creation of lots for conservation purposes.

The information was to be provided to the WAPC by 9 April 2007, no further feedback has been received at this time.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the correspondence be received and information noted.

COUNCIL ACTION

Resolved that the correspondence be received and information noted.

8.5.4 REVIEW OF SHIRE OF CUBALLING LOCAL PLANNING STRATEGY AND TOWN PLANNING SCHEME NO 2

Councillors Brown, Newman and Wittwer declared a Financial Interest in this item.

Submission to:	Ordinary Meeting of Council
Location/Address:	Whole of Shire
Reporting Officer:	Trevor Moran, Town Planning Consultant Peter Naylor, Chief Executive Officer
Enabling Legislation:	Planning and Development Act 2005
Council Policy:	Shire of Cuballing Town Planning Scheme No 2 Town Planning Scheme No 2 Local Planning Policies
Budget Implications:	Provision allocated on 2006/2007 Budget
File Reference:	TP 8
Voting Requirements:	Simple majority

Background

Following direction from Council the Town Planning Consultant has prepared draft amendments to the Town Planning Scheme No 2 and Local Planning Strategy, and also plans for future development within the Cuballing and Popanyinning townsites.

Comment

In essence the report has been prepared to identify areas within the Shire to which pressures of growth, both residential and business, can be directed and/or accommodated. A summary of the proposals for consideration follows:

Cuballing:

1. The consolidation of the town centre (increased densities dependent upon provision of adequate effluent treatment systems).
2. Rural Residential development to the north and Rural Townsite and Rural Residential development to the south of the town (subject to land capability and environmental assessment).
3. The introduction of controls over vegetated areas identified for future development in the townsite.
4. The introduction of controls over development of flood prone land and the protection of riparian vegetation in areas affected by the main drainage lines which traverse the townsite.

Popanyinning:

1. Modest residential development in the current undeveloped portion of the existing townsite.

Yornaning:

1. A rural industry precinct adjacent to the highway at Yornaning with supporting industry located in the former Yornaning townsite.

2. A Special Control Area over Yornaning townsite to control the possible mix of residential and industrial type uses.

The above proposals will allow the population of the Cuballing and Popanyinning townsites to increase to approximately 800 and 250, respectively, and allow for the future development of an agricultural industry precinct at Yornaning if demand requires.

The Chief Executive Officer advised that as Cr McKenzie is not in attendance at the meeting this matter will have to be dealt with in three parts. If all of the Councillors who have declared an interest in the item leave the room at the same time the meeting will be left without a quorum.

4.37pm – 4.45pm: Councillor Wittwer departed the Council Chambers whilst the Yornaning townsite proposals were discussed. In Councillor Wittwers absence Cr Brown assumed the Chair.

4.45pm – 4.52pm: Councillors Brown and Newman departed the Council Chamber whilst the Cuballing townsite proposals were discussed.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council approves the addendum to the Local Planning Strategy and:

- Forwards it to the Western Australian Planning Commission for comment and endorsement;
- Subject to the above adopts the addendum as part of its Local Planning Strategy (modified if necessary); and
- Amend Town Planning Scheme No 2 where necessary to conform with the above.

COUNCIL ACTION

All Councillors Present:

Moved Cr Watts, seconded Cr Brown that Council approves the addendum to the Local Planning Strategy, pertaining to Popanyinning and Rural Homestead Lots, and:

- **Forwards it to the Western Australian Planning Commission for comment and endorsement;**
- **Subject to the above adopts the addendum as part of its Local Planning Strategy (modified if necessary); and**
- **Amend Town Planning Scheme No 2 where necessary to conform with the above.**

CARRIED 6/0

Cr Wittwer declares a Financial Interest and departs the Council Chamber:

Moved Cr Newman, seconded Cr Watts that Council approves the addendum to the Local Planning Strategy, pertaining to Yornaning, and:

- Forwards it to the Western Australian Planning Commission for comment and endorsement;
- Subject to the above adopts the addendum as part of its Local Planning Strategy (modified if necessary); and
- Amend Town Planning Scheme No 2 where necessary to conform with the above.

CARRIED 5/0

Crs Brown and Newman declare a Financial Interest and depart the Council Chamber:

Moved Cr Hawksley, seconded Cr Watts that Council approves the addendum to the Local Planning Strategy, pertaining to Cuballing, and:

- Forwards it to the Western Australian Planning Commission for comment and endorsement;
- Subject to the above adopts the addendum as part of its Local Planning Strategy (modified if necessary); and
- Amend Town Planning Scheme No 2 where necessary to conform with the above.

CARRIED 4/0

9. MEETING CLOSURE

There being no further business the Shire President declared the meeting closed at 4.55pm.

***CONFIRMED AS A TRUE RECORD OF PROCEEDINGS ON
THURSDAY 17 MAY 2007***

SHIRE PRESIDENT