



SHIRE OF CUBALLING

**ORDINARY COUNCIL MEETING
HELD ON THURSDAY 21 JUNE 2007**

MINUTES

SHIRE OF CUBALLING

COUNCIL MEETING THURSDAY 21 JUNE 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 21 JUNE 2007**

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

President welcomed Councillors, declared meeting open 3:07 pm.

2. RECORD OF ATTENDANCE, APOLOGIES, LEAVE OF ABSENCE

ATTENDANCE

Shire President, Cr T H Wittwer	Deputy President, Cr J D Brown
Cr C R McKenzie	Cr C R Hawksley
Cr R J D Newman	Cr I L Watts
Chief Executive Officer, Mr P T Naylor	
Mr Duncan Patten (3:07pm – 3:16pm)	
Mr Allan Ramsay, Environmental Health Officer (4:05pm – 4:15pm)	

APOLOGIES

Nil

LEAVE OF ABSENCE

Cr D S Bradford (Granted at the May 2007 Ordinary Meeting of Council).

3. PUBLIC QUESTION TIME

Mr Patten addresses Council on Planning Application 134522, agenda item 8.5.1, and spoke in support of the application. Mr Patten's address included such matters as future farming operations, best practises for land use and continual sustainable operations in general, and opportunity for population east of Popanyinning to increase.

Mr Patten departed the Chambers at 3:16pm.

4. APPLICATION FOR LEAVE OF ABSENCE

Nil

5. **MINUTES**

5.1.1 **CONFIRMATION OF 17 MAY 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 17 May 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.

- **Mr Peter Naylor declared a Financial Interest in item 8.1.4, Chief Executive Officer Annual Performance Appraisal.**
- **Cr Brown, Hawksley, Newman, Watts, Wittwer and Mr Peter Naylor declared a Proximity Interest in Item 8.1.8, Shire Of Cuballing Budget 2007/2008 Financial Year.**
- **Cr Wittwer declared a Proximity Interest in Item 8.5.1, Mr Duncan Patten – Request For Reconsideration of Planning Application 134522.**
- **Cr Watts declared a Proximity Interest in Item 8.5.3, Western Australian Planning Commission – Planning Application 133250 Batts Road, Popanyinning.**
- **Cr Wittwer declared a Financial Interest in Item 8.5.5, Mr W M Parker – Application To Operate Home Business.**

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.

8.1 REPORTS – FINANCE AND ADMINISTRATION

8.1.1 LIST OF ACCOUNTS SUBMITTED FOR COUNCIL APPROVAL AND PAYMENT – JUNE 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: MR 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 \$158,069.00:**

Vouchers 10863-10885 inclusive	\$40,758.16
Vouchers 117770-11823 inclusive	\$63,911.56
Electronic fund transfers	\$53,357.67
Credit Card	\$ 41.70

- **Approve for payment the list of Creditors paid from the Trust fund, as detailed below, totalling \$815.01:**

Vouchers 1995-1996 inclusive	\$ 515.01
Electronic fund transfers	\$ 300.00

COUNCIL ACTION

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

CARRIED 6/0

Type	Date	Num	Name	Memo	Muni	Trust
Cheque	05/10/2007	10863	Cash	Petty Cash Recoup	237.05	
Cheque	05/16/2007	10864	Australian Taxation Office	BAS Statement – April	7,406.00	
Bill Pmt -Cheque	05/18/2007	10865	BEAUREPAIRES	Tyres	2,007.20	
Bill Pmt -Cheque	05/18/2007	10866	COUNTRY PAINT SUPPLIES	Reserves Maintenance	33.82	
Bill Pmt -Cheque	05/18/2007	10867	EDWARDS MOTORS PTY LTD	Changeover CEO Vehicle	705.90	
Bill Pmt -Cheque	05/18/2007	10868	FARMWORKS AUSTRALIA PTY LTD	Cuballing Cemetery & Weed Control	3,220.80	
Bill Pmt -Cheque	05/18/2007	10869	GFR Industries	Materials	637.03	
Bill Pmt -Cheque	05/18/2007	10870	GT RADIATOR & MACHINING SERVICES	Sharpen Mulcher Blades	110.00	
Bill Pmt -Cheque	05/18/2007	10871	MCDOUGALL WELDMENTS	Refuse Site Upgrade	201.54	
Bill Pmt -Cheque	05/18/2007	10872	NGN AUTO ELECTRICS	Parts	675.00	
Bill Pmt -Cheque	05/18/2007	10873	Narrogin Panel Beating Service	Repairs to OCN	659.37	
Bill Pmt -Cheque	05/18/2007	10874	SHIRE OF BODDINGTON	Hotham Catchment Office Commitment	11,000.00	
Bill Pmt -Cheque	05/18/2007	10875	STATE LAW PUBLISHER	Advertising	55.25	
Bill Pmt -Cheque	05/18/2007	10876	TELSTRA	Telephone Accounts	612.55	
Bill Pmt -Cheque	05/18/2007	10877	WALGA	Market Force Advertising	194.30	
Bill Pmt -Cheque	05/18/2007	10878	WESTRAC EQUIPMENT	Parts	163.50	
Bill Pmt -Cheque	05/18/2007	10879	Yakka	Uniforms – Dew	175.56	
Bill Pmt -Cheque	05/23/2007	10880	Shire of Williams.	Preparation of Cycleway Plan	2,750.00	
Cheque	06/01/2007	10881	AUSTRALIA POST	POSTAGE - LANDOWNER KITS	192.00	
Cheque	05/31/2007	10883	SHIRE OF CUBALLING.	Social Club Contributions May 2007	210.00	
Cheque	05/31/2007	10884	WA Local Government Superannuation Plan	Super Contribtutions May 2007	9,245.79	
Cheque	06/05/2007	10885	Builders Registration Board of WA	BRB Payment May 2007	265.50	
Bill Pmt -Cheque	06/21/2007	11777	AIR LIQUIDE WA PTY LTD	Workshop Supplies	137.28	
Bill Pmt -Cheque	06/21/2007	11778	AUSTRALIA POST	Postage Stamps	50.00	
Bill Pmt -Cheque	06/21/2007	11779	B & V Metcalf	Roadside Vegetation Assessment	667.00	
Bill Pmt -Cheque	06/21/2007	11780	BILL EXPRESS	Transaction Fees	1.08	
Bill Pmt -Cheque	06/21/2007	11781	BORAL CONSTRUCTION MATERIALS GROUP	Roads Sealing	13,791.18	
Bill Pmt -Cheque	06/21/2007	11782	COMMANDER AUSTRALIA LTD	Telephone Keypad for EHO Office	739.20	
Bill Pmt -Cheque	06/21/2007	11783	CORPORATE EXPRESS	Stationery	172.23	
Bill Pmt -Cheque	06/21/2007	11784	COUNTRY PAINT SUPPLIES	Cemetery Maintenance-Cuballing	44.56	
Bill Pmt -Cheque	06/21/2007	11785	CUBALLING TAVERN	Refreshments	131.00	
Bill Pmt -Cheque	06/21/2007	11786	CUBY ROADHOUSE	Fuel, Gas & Refreshments	536.80	

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Bill Pmt -Cheque	06/21/2007 11787	CV & JE Caldwell	Blasting	300.00
Bill Pmt -Cheque	06/21/2007 11788	DEWS MINI EXCAVATIONS	Excavations	206.25
Bill Pmt -Cheque	06/21/2007 11789	DMH Engineering	Parts & Repairs	4,019.40
Bill Pmt -Cheque	06/21/2007 11790	Dryandra Electrical Services	Netball Courts Lighting	1,780.35
Bill Pmt -Cheque	06/21/2007 11791	EDWARDS MOTORS PTY LTD	Parts & Repairs	283.20
Bill Pmt -Cheque	06/21/2007 11792	FARMWORKS AUSTRALIA PTY LTD	Cemetery Maintenance & Stratherne Rd	1,454.20
Bill Pmt -Cheque	06/21/2007 11793	Geoff Parkins Farm Machinery Centre	Parts & Repairs	146.25
Bill Pmt -Cheque	06/21/2007 11794	GFR Industries	Stratherne Road - Headwall	572.00
Bill Pmt -Cheque	06/21/2007 11795	GREAT SOUTHERN FUEL SUPPLIES	Fuels	10,528.84
Bill Pmt -Cheque	06/21/2007 11796	INGERSLEY ELECTRICAL	Workshop	142.93
Bill Pmt -Cheque	06/21/2007 11797	JASON SIGNMAKERS	Signs for Changeroom Doors	740.52
Bill Pmt -Cheque	06/21/2007 11798	JR & A HERSEY P/L	Workshop Supplies	277.89
Bill Pmt -Cheque	06/21/2007 11799	LANDGATE	Valuations	4,130.00
Bill Pmt -Cheque	06/21/2007 11800	LANDVISION	Planning Services	165.00
Bill Pmt -Cheque	06/21/2007 11801	MAKIT NARROGIN HARDWARE	Workshop Supplies	285.60
Bill Pmt -Cheque	06/21/2007 11802	MCDOUGALL WELDMENTS	Refuse Site Maintenance	697.06
Bill Pmt -Cheque	06/21/2007 11803	NARROGIN BEARING SERVICE	Parts & Repairs	296.75
Bill Pmt -Cheque	06/21/2007 11804	Narrogin Beauty Clinic	Grooming Workshop - Holiday program	700.00
Bill Pmt -Cheque	06/21/2007 11805	NARROGIN HIRE SERVICE AND RETICULATION	Hire Post Hole Digger	65.00
Bill Pmt -Cheque	06/21/2007 11806	NGN AG REPAIRS	Parts & Repairs	27.00
Bill Pmt -Cheque	06/21/2007 11807	NGN AUTO ELECTRICS	Parts & Repairs	31.72
Bill Pmt -Cheque	06/21/2007 11808	PARRYS	Work Clothing	307.35
Bill Pmt -Cheque	06/21/2007 11809	RD & RA BETTELEY	Roadworks	9,108.00
Bill Pmt -Cheque	06/21/2007 11810	REINFORCED CONCRETE PIPES PTY LTD	Headwall Pipes	1,886.83
Bill Pmt -Cheque	06/21/2007 11811	SHIRE OF WICKEPIN	Recycling Costs	594.00
Bill Pmt -Cheque	06/21/2007 11812	Southern Wire Pty Ltd	Refuse Site Upgrade	3,553.00
Bill Pmt -Cheque	06/21/2007 11813	STAR TRACK EXPRESS	Freight on signs	153.47
Bill Pmt -Cheque	06/21/2007 11814	STATE LAW PUBLISHER	Advertising	304.93
Bill Pmt -Cheque	06/21/2007 11815	SUNNY SIGN COMPANY PTY LTD	Signs	215.60
Bill Pmt -Cheque	06/21/2007 11816	Synergy	Electricity Account	263.65
Bill Pmt -Cheque	06/21/2007 11817	TELSTRA	Telephone Accounts	723.06
Bill Pmt -Cheque	06/21/2007 11818	The Australian Government Directory	Advertising	440.00
Bill Pmt -Cheque	06/21/2007 11819	WA State Emergency Volunteer Association	Advertising - SES Winter Journal	451.60

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Bill Pmt -Cheque	06/21/2007 11820	WALGA	Internet Gateway Management	726.00
Bill Pmt -Cheque	06/21/2007 11821	WATER CORPORATION	Water Accounts	1,453.85
Bill Pmt -Cheque	06/21/2007 11822	WESTRAC EQUIPMENT	Parts	270.69
Bill Pmt -Cheque	06/21/2007 11823	Yakka	Uniforms	339.24
EFT	05/15/2007 150507	SHIRE OF CUBALLING.	Wages & Salaries 2/5/07 - 15/ 05/07	17,772.75
EFT	05/29/2007 290507	SHIRE OF CUBALLING.	Wages & Salaries 16/5/07 - 29/5/07	17,710.04
EFT	06/05/2007 050607	Bronwyn Dew	Re-imburse Training Costs	329.48
EFT	06/12/2007 120607	SHIRE OF CUBALLING.	Wages & Salaries 31/5/07 - 12/06/07	17,545.40
Cheque	06/05/2007 T1995	Ken Kickett	Bond Refund - Rec Centre	100.00
Cheque	05/31/2007 T1996	Building & Construction Industry Training	BCITF Payment May 2007	415.01
EFT	05/14/2007 T140507	PD & LM Drew	Bond Refund - Hall	100.00
EFT	06/05/2007 T050607	G Renfrey	Bond Refund - Rec Centre	100.00
EFT	06/12/2007 T120607	PD & LM Drew	Bond Refund - Hall	100.00
Credit Card	05/05/2007 050507	Refreshments/Meals	Plant Inspection	41.70
				<u>41.70</u>
				<u>158,069.09</u>
				<u>815.01</u>

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 May 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 May 2007 be received.

COUNCIL ACTION

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

CARRIED 6/0

8.1.3 SHIRE OF CUBALLING COMMON SEAL

Submission to: Ordinary Meeting of Council
Location/Address: Not applicable
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Local Government Act 1995
Council Policy: Nil
Budget Implications: Nil
File Reference: A 18
Voting Requirements: Simple majority

Background

It is a requirement that the use of the Common Seal of the Shire of Cuballing be endorsed by Council.

Comment

During the previous month the Shire President and/or Chief Executive Officer witnessed affixing the Shire of Cuballing Common Seal to the following document:

1. Deed of Agreement between Shire of Cuballing and Department of Veterans' Affairs for grant to refurbish Cuballing War Memorial.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council endorses the affixing of the Shire of Cuballing Common Seal to the Deed of Agreement between Shire of Cuballing and Department of Veterans' Affairs.

COUNCIL ACTION

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

CARRIED 6/0

8.1.4 CHIEF EXECUTIVE OFFICER ANNUAL PERFORMANCE APPRAISAL

Mr Peter Naylor (Chief Executive Officer) declared a Financial Interest.

Submission to:	Ordinary Meeting of Council
Location/Address:	Nil
Reporting Officer:	Cr Thomas Wittwer, Shire President
Enabling Legislation:	Local Government Act 1995
Council Policy:	Chief Executive Officer Contract of Employment
Budget Implications:	Nil
File Reference:	S 8 & S 15
Voting Requirements:	Simple Majority

Background

At the 17 May 2007 Ordinary meeting of Council, Council conducted the Annual Performance Appraisal for the Chief Executive Officer.

Comment

Following the performance appraisal process Council was unanimous in its appreciation of the excellent performance of the Chief Executive Officer (CEO) for the previous twelve month period.

It was resolved that the Chief Executive Officers conditions of employment be increased as follows:

- Annual Salary be increased by the Consumer Price Index amount of 3.52% at 31 March 2007, to be effective from 1 July 2007. New annual salary being \$97,577;
- Additional amount of \$5,000 be included in the Chief Executive Officers Conference Budget for attendance at the National Local Government Managers Annual Conference; and
- The Chief Executive Officer purchase work related home computer to maximum value of \$3,000.

SHIRE PRESIDENTS RECOMMENDATION

That:

- **Chief Executive Officers Annual Salary be increased by the Consumer Price Index amount of 3.52% at 31 March 2007, to be effective from 1 July 2007. New annual salary being \$97,577;**
- **Additional amount of \$5,000 be included in the Chief Executive Officers Conference Budget for attendance at the National Local Government Managers Annual Conference; and**
- **The Chief Executive Officer purchase work related home computer to maximum value of \$3,000.**

COUNCIL ACTION

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

CARRIED 6/0

8.1.5 OFFICE OF CRIME PREVENTION – COMMUNITY SAFETY AND CRIME PREVENTION PLAN

Submission to:	Ordinary Meeting of Council
Location/Address:	Whole of Shire
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Nil
Council Policy:	Nil
Budget Implications:	Nil
File Reference:	G 3
Voting Requirements:	Simple Majority

Background

In 2005 Council entered into a Community Safety and Crime Prevention Partnership Agreement with the Office of Crime Prevention for preparation of a Community Safety and Crime Prevention Plan for the Shire of Cuballing.

Council subsequently appointed the Shire of Williams Community Development Officer, Mrs Heidi Cowcher, to perform this task on its behalf.

Comment

A Steering Committee was appointed to assist Mrs Cowcher with the process; consisting of the Shire President (Councillors Watts and Wittwer), the Shire Chief Executive Officer, WA Police Service representative (Sergeant Burt Dartnell), Shire of Cuballing Townscape Committee representative (Mr Ian Grainger) and Popanyinning Progress Association representative (Mrs Shirley McIlwaine). The Committee met on two occasions; in November 2006 to work through the processes involved and help formulate a community survey, which was circulated in late January 2007, and in March 2007 to collate the

survey results and provide further information and direction to Mrs Cowcher in formulating the Plan.

A Draft Community Safety and Crime Prevention Plan for the Shire of Cuballing has now been completed and requires Council endorsement prior to being presented to the Office of Crime Prevention for their final endorsement and payment of funds to commence implementing proposed actions.

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

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the Draft Shire of Cuballing Community Safety and Crime Prevention Plan, as presented to the Council meeting, be endorsed and forwarded to the Office of Crime Prevention.

COUNCIL ACTION

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

CARRIED 6/0

Council requested that a letter be forwarded to the Shire of Williams thanking them for allowing Community Development Officer, Mrs Heidi Cowcher to assist with the preparation of the Shire of Cuballing Pathways and Community Safety & Crime Prevention Plans.

**8.1.6 DEPARTMENT FOR PLANNING AND INFRASTRUCTURE –
MANAGEMENT OF UNALLOCATED CROWN LAND LOT 61
FORREST STREET POPANYINNING**

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 61 Forrest Street, Popanyinning
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Land Administration Act 1997 Native Title Act 1993
Council Policy:	Nil
Budget Implications:	2007/08 Budget Allocation (if required)
File Reference:	Lands 7
Voting Requirements:	Simple Majority

Background

Lot 61 is located at the rear (western side) of the former Popanyinning School Site, being Lot 313, which has management vested with the Shire of Cuballing for “Community” Purposes.

The land has been identified as possible location for development of tennis courts within Popanyinning because of close access to existing toilet facilities, and power and water if required.

Council has requested consideration for Lot 61 to have management vested with the Shire for purpose of “Recreation and Community” use.

Comment

The Department for Planning and Infrastructure (DPI) advise that the formal process for the above is now more involved with the introduction of the Native Title Act 1993, and associated legislation. This includes research into existing land tenures, survey information, land ownership details and consulting government agencies. It is also likely that an aboriginal survey will have to be undertaken of which Council will be responsible for the costs, estimated to be \$15,000 - \$20,000.

The DPI is requesting Council to advise if it wants to proceed with the investigation and land management process.

Whilst the proposed Popanyinning tennis court project is under review by the Popanyinning Progress Association, along with many other projects within Popanyinning townsite area, it would still be ideal for Council to gain management of Lot 61, if possible, as it provides an alternative venue for the development of certain facilities/amenities within Popanyinning (to the recreation grounds) because of the availability of toilets, power and water.

It may be worthwhile Council requesting the DPI to proceed with the initial part of the investigation and then seek further advice/direction from Council if the aboriginal survey needs to be undertaken.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- **The Department for Planning and Infrastructure (DPI) be requested to commence the investigation process for Unallocated Crown Land Lot 61 Forrest Street, Popanyinning, to have management vested with the Shire of Cuballing; and**
- **DPI be requested to seek further advice/direction from the Shire of Cuballing at the completion of the initial investigation process and if an aboriginal survey needs to be undertaken.**

COUNCIL ACTION

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

CARRIED 6/0

8.1.7 SHIRE OF CUBALLING EQUAL OPPORTUNITY MANAGEMENT PLAN

Submission to:	Ordinary Meeting of Council
Location/Address:	Not applicable
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Equal Opportunity Act 1984
Council Policy:	Shire of Cuballing Equal Opportunity Management Plan
Budget Implications:	Nil
File Reference:	Staff 11
Voting Requirements:	Simple Majority

Background

In June 2003, Council, in accordance with the provisions of the Equal Opportunity Act 1984, adopted an Equal Opportunity Management Plan for the Shire of Cuballing.

Comment

Section 1, clause 5, of the Plan provides for the Plan to be reviewed annually on or before 30 June in each year.

The Chief Executive Officer and Administration Staff have reviewed the Plan for its current relevancy and there are no proposed changes.

Each Councillor has previously been provided with a copy of the plan; should anyone require another copy please contact the Chief Executive Officer.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the existing Equal Opportunity Management Plan, as reviewed by the Chief Executive Officer and Administration Staff, be adopted for the Shire of Cuballing without modification.

COUNCIL ACTION

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

CARRIED 6/0

8.1.8 SHIRE OF CUBALLING BUDGET 2007/2008 FINANCIAL YEAR

Councillors Brown, Hawksley, Newman, Watts and Wittwer, and the Chief Executive Officer declared a Proximity Interest in this item as proposed road works on the draft budget is adjacent to property that they own or occupy in a professional capacity.

Submission to: Ordinary Meeting of Council
Location/Address: Not Applicable
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Local Government Act 1995
Council Policy: 3.11
Budget Implications: Nil
File Reference: F 9
Voting Requirements: Simple Majority

Background

A Draft Budget, and associated supporting information/documentation, for the 2007/2008 Financial Year, has been provided to Councillors prior to the Council meeting.

Comment

As in previous years it is not proposed to adopt the draft budget at this Council meeting, however it provides Council with the opportunity to peruse and give consideration to various items that have been included and to determine what changes can be made if considered necessary.

The Draft is currently showing a deficit of about \$150,000, however there are a couple areas within the draft document where this can be easily obtained as will become evident as Council works through the document.

The draft budget does not include a rate increase, no income from private works and no funds transfer from the Roadworks Reserve Account, other than \$50,000 as part of Roads To Recovery Supplementary Funds, even though the works program has been increased (in dollar value) to the 2006/07 program.

All items on the *Shire of Cuballing Plan for the Future* have been included, although some minor changes have been made to the plant replacement program to fit in with current requirements. No provision has been made for a contribution to the Town of Narrogin for annual maintenance costs for the Narrogin Leisure Centre, and/or other Narrogin facilities and amenities.

Included with the draft budget document are spreadsheets providing details of the various items included on the budget for Council consideration, and a detailed breakdown of works and services for 2007/2008. These documents will help to provide Councillors with a summarised overview of all the works and services not specifically relating to recurrent expenditure. Other supporting documentation is also available for Council perusal if considered necessary.

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In respect to the rates, whilst no increase has been factored into the draft budget, Council should give consideration to a 5.38% increase in line with the information provided by the WA Local Government Associations estimate of the Local Government Cost Index for period ending 31 March 2007. This is a 1.86% increase on the Consumer Price Index figure for the same period.

The draft budget has again this year been provided in a simplified format, to the statutory format, that provides Councillors with a better explanation of the information. Administration Costs, including Salaries and Superannuation, have been included wholly in the Administration section prior to being allocated to the various areas in accordance with the principles of Activity Based Costing. Payment of Loans Principal has been included in the capital works section, whilst the interest component has been allocated directly to the areas in which the loans were raised. The Works Supervisors Salary has been directly allocated to the Public Works Overheads section.

Council has been successful in obtaining Rates Payment Incentive Prizes from the Sorrento Beach Resort and Esplanade Hotel in Fremantle.

If any Councillor wishes to discuss the draft budget in detail or seek clarification on any particular item, please contact the Chief Executive Officer.

It is necessary for five Councillors to declare a proximity interest due to owning or occupying land adjacent to roadworks included on the draft budget. The Chief Executive Officer has written to the Department of Local Government and Regional Development seeking an exemption for those Councillors to participate in the draft budget deliberations, however this will not be received until the July 2007 Council meeting. Therefore it is proposed for Council to hold a special budget forum at the conclusion of the Council meeting to enable all Councillors to participate in the deliberations.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That deliberations on the Shire of Cuballing Draft Budget for the 2007/2008 Financial Year, agenda item 8.1.8, be deferred until closure of the Council meeting and considered in a Special Budget Forum.

COUNCIL ACTION

Moved Cr Newman, seconded Cr Brown 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

STRATHERNE/PARSONS ROADS INTERSECTION

Programmed earthworks for the 2006/07 financial year have been completed. The works were sealed with an emulsion spray to hold the road surface over the winter period. Resealing of the works will be budgeted and programmed for next financial year to complete the job.

CUBALLING WEST ROAD

Works have commenced on this project. Road verge clearing is mostly completed, culvert extensions completed, and gravel sheeting of the widening has commenced. Sections, as prepared, will be sealed with an emulsion spray to hold them over the winter period until reseal works can be programmed for next financial year.

Unfortunately a Telstra cable was damaged during the clearing process. The incident has been reported to the Municipal Liability Scheme and claim form submitted. Whilst Dial Before You Dig plans were obtained the cable did not appear to be at the statutory depth of 600mm. It may be possible that the cable became entangled in developing tree roots and this caused them to be lifted higher than the 600mm. The insurance company has been requested to investigate the matter.

WINTER GRADING

Winter Grading has commenced in the southern portion of the Shire. Roads completed include Congellin-Narrogin, Halls, Wardering and Leasons Roads.

CUBALLING REFUSE SITE

Gates for the refuse site have been made ready for hanging on 1 September 2007. Staff constructed the gates with assistance from Narrogin Agriculture College student who was working with the Shire on work experience.

Staff are continuing to work through the process for the refuse site to be managed with restricted opening days/times effective from 1 September 2007. Talks are still being had with prospective site managers.

CUBALLING CEMETERY

The new fence and gates project at the cemetery has been completed. This project was carried out in conjunction with students from the Narrogin

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Agriculture College. It is now proposed to erect a shelter from the single gate entrance out to and over the Niche Wall.

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.

The front end loader recently had a fan bearing replaced.

STAFF

Brett Ashton has completed the Certificate II in Civil Construction (Plant Operation) and now will proceed with the Certificate III. Brett's initial two-year period of employment (traineeship) was to be completed in January 2008, however due to delays with C Y O'Connor College of TAFE this has been extended to 30 June 2008.

The Works Manager recently attended a Traffic Management workshop at Main Roads WA in Narrogin.

REGIONAL ROAD GROUP

Councils current RRG Works Program (five year) is due to end in the next twelve months and consideration needs to be given as to what other road/s on the Roads 2025 Strategy is/are to be included on future five year works programs to be submitted to Main Roads WA. The roads on the strategy are: Wandering-Narrogin Road, Stratherne Road and Congellin-Narrogin Road.

Main Roads WA, Wheatbelt South, advise that they will soon have staff available to assist Shires with assessing roads suitable for Restricted Access Vehicles. Can Council please advise what roads within the Shire are seen as a priority to have assessed and arrangements will be made with Main Roads as required.

COMPLAINT

A letter of complaint has been received in relation to vehicles regularly cutting the corners when turning off Ridley Street (Great Southern Highway) into Campbell Street, and also turning off Campbell Street into Austral Street (north). The complainant has suggested that Council consider the installation of traffic islands to ensure the vehicles traverse the corners on the correct side of the road.

The Chief Executive Officer has referred the matter to Main Roads WA for advice in respect to the most appropriate traffic devices (if any) to be installed at the intersections.

PRIVATE WORKS

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

Private works invoices for the month of May 2007, total \$25,084.41.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the Works Managers Report be received and information noted.

COUNCIL ACTION

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

CARRIED 6/0

8.2.2 SHIRE OF PINGELLY – APPOINTMENT OF DUAL FIRE CONTROL OFFICERS 2007/2008

Submission to:	Ordinary Meeting of Council
Location/Address:	Whole of Shire
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Bush Fires Act 1954
Council Policy:	Nil
Budget Implications:	Nil
File Reference:	BFC 5
Voting Requirements:	Simple majority

Background

Letter from the Shire of Pingelly advising of their appointment of Messrs Alan Parsons, Mark Watts, Neville Giles, Robert Kirk and Rodney Shaddick, as Dual Fire Control Officers with the Shire of Cuballing for the 2007/2008 Fire Season.

Comment

Dual Fire Control Officers are appointed to provide legal cover for a Fire Control Officer in charge at a wildfire that burns across a Shire boundary. The Dual Fire Control Officer can stay in charge and follow the fire, or hand over control to a fire control officer from the second Shire (if one is available and in attendance).

Section 40 of the Bush Fires Act 1954 empowers Council to appoint dual fire control officers with neighbouring local authorities and section 38(2) of the Act requires such appointments to be advertised in a local paper.

Reporting Officer

Peter Naylor, Chief Executive Officer

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That pursuant to section 40 of the Bush Fires Act 1954, Messrs Alan Parsons, Mark Watts, Neville Giles, Robert Kirk and Rodney Shaddick be appointed as Dual Fire Control Officers for the Shires of Cuballing and Pingelly for the 2007/2008 Fire Season.

COUNCIL ACTION

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

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 six (6) applications approved and licenses issued for the month of May 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
45/06-07	R & G Freeman	OB	Patio	Lot 123 Ridley St Cuballing
46/06-07	J McDougall	OB	Open sided extension to exiting Shed	143 Campbell St Cuballing
47/06-07	A M & B M Furphy	OB	T & R Transportable House	Lot 20 Gaths Road Cuballing
48/06-07	T Carthew	Choice Sheds, York	Hay/Machinery Shed	Lot 9840 Williams Rd Popanyinning
49/06-07	A Sprigg	OB	Steel Framed Undercroft, Bedroom & Living Room addition	Lot 40 Russell St Cuballing

50/06-07	Donald & Hills	McGrath Homes	Transportable House	Lot 315 Forrest St Popanyinning
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Builders Registration Board – Increase in Fees

The Minister for Consumer Protection, the Hon Sheila McHale, has recently approved increases in the building licence fee from \$35.00 to \$37.00, effective from 1 July 2007.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

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

COUNCIL ACTION

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

CARRIED 5/1

8.4 REPORTS – HEALTH

8.4.1 ENVIRONMENTAL HEALTH OFFICERS REPORT

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: Register Delegated Authority
Budget Implications: Nil
File Reference: CMR 2
Voting Requirements: Simple majority

Purpose

To advise Council of Environmental Health inspections that have been carried out in the district during the month of May 2007.

Approval to construct On-Site Effluent Disposal System

One approval was issued to A M & B M Furphy to construct a septic tank and leach drain system at Lot 20 Gaths Road, Cuballing, during the month of May 2007.

Health Local Law

Council's Health Local Law has progressed to the stage of being published in the Government Gazette (GG #118 of 5 June 2007).

Food Premises Inspections

1. Cuballing Tavern: was inspected in relation to food and public building safety under the statutory provisions of the Health Act 1911. The premises were noted as clean and well maintained during the inspection.
2. Popanyinning Takeaway: the new food van was inspected and it complies with the Food Hygiene Regulations. A new leach drain and grease trap is currently being installed at the premises to cater for the extra load on the existing systems due to the new food van.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the Environmental Health Officer's Report be received and information noted.

COUNCIL ACTION

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

CARRIED 6/0

8.4.2 ON-SITE EFFLUENT DISPOSAL SYSTEM MALFUNCTION – LOT 294 COLIN STREET, CUBALLING

4.05pm Allan Ramsay entered the Chambers

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 294 Colin Street, Cuballing
Reporting Officer:	Allan Ramsay, Environmental Health Officer/Building Surveyor
Enabling Legislation:	Health Act 1911
Council Policy:	8.1
Budget Implications:	Nil
File Reference:	Health 11
Voting Requirements:	Simple majority

Background

Several letters were received from residents in February 2007 regarding health issues at Mr Grundy's home at Lot 294 Colin Street, Cuballing.

Comment

The matters were subsequently investigated and it was found that the on-site effluent disposal system was of major concern. The septic tank was blocked, soil drains blocked and the leach drain was unable to cope with the amount of use the system was getting from a large family. A pool of effluent was noticeable adjacent to the leach drain in a tin shed and the overflow relief gully also had a pool of gray water around it.

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As Mr Grundy (the owner of the property) was in ill health all communication was through his son Mr Rick Grundy, at the property owners request.

Initially, the septic tank was pumped out which did relieve some of the short-term problems. However, the system was/is in a very poor condition and Mr Rick Grundy was advised to have the system upgraded, which included a new leach drain and repairs to the soil drains. As a result of no action taking place following correspondence, including a letter dated 15 March 2007 which referred to a health order being placed on the property outlining corrective measures and a time frame for the work to be completed if no action was taken, a Requisition under Section 184 of the Health Act was issued to Mr Grundy on the 22 March 2007 giving him until the 19 April 2007 to have the problem resolved to the satisfaction of Council's Environmental Health Officer. The requisition gave Mr Grundy the opportunity to apply to the State Administration Tribunal for a review of the order in the manner prescribed by Section 36 of the Health Act.

Mr Grundy has since had a quotation from a licensed plumber and contrary to him stating that he has advised the plumber to carry out the necessary work; the plumber has stated on several occasions that he has not been contacted by Mr Grundy or told to carry out the work. The quotation is for the amount of \$2,700.00.

Section 184 of the Health Act 1911 states:

- (1) *On the report of any environmental health officer or other person that the nuisance exists on any premises, the local government may, and, if the Executive Director, Public Health so requires, shall, by requisition to the owner and occupier of the premises, require them to abate the nuisance in the manner and within the time specified in the requisition.*
- (2) *The owner and occupier are hereby jointly and severally empowered and required to comply with the requisition, and do whatever is necessary in order to effectually abate the nuisance.*
- (3) *If default is made in duly complying with the requisition within the time specified therein, then the owner and occupier each commits an offence.*
- (4) *If such default occurs, the local government shall cause the requisite work to be done at the expense in all things of the owner and occupier, who shall be jointly and severally liable therefore.*
- (5) *All such expenses shall be recoverable by the local government from the owner and occupier by action in a court of competent jurisdiction, and until paid shall be a charge on the house and buildings, and also on the land on which the same is built or to which it appertains.*

The premise is occupied by a large family and there is a health issue with the on-site effluent disposal system. The owner's son Mr Rick Grundy has had more than adequate time to have the on-site effluent disposal system upgraded.

The owner or occupier could be prosecuted for not having the required work carried out, however, this form of action would delay having the health issue rectified.

In this case, it would be prudent for Council to carry out the work and recover the costs from the owner or occupier.

Mr Ramsay, Councils Environmental Health Officer, addressed Council and advised of what has transpired and the present situation at the property in relation to the sanitary disposal system problem. Mr Ramsay stated that in recent conversation, Mr Grundy advised that he did not want to repair the existing septic tank and leach drain system and wants to upgrade to a "Bio" type system, however he can't afford it at the present time and will take about 12 months. Mr Ramsay informed Mr Grundy that this will not be acceptable as the matter has already been delayed too long and it needs to be fixed now. Mr Ramsay further explained the processes in accordance with section 184 of the Health Act 1911, as detailed previously in this report.

4.15pm Mr Ramsay departed the meeting.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- That Council resolve to carry out the required work to repair the on-site effluent disposal system; and
- That Council recover the costs to repair the on-site disposal system from the owner by action in a court of competent jurisdiction and until paid shall be a charge on the house and buildings, and on the land on which the same is built or to which it appertains.

COUNCIL ACTION

Moved Cr Hawksley, seconded Cr Watts that the Shire of Cuballing's requirements and/or obligations under Section 184 of the Health Act 1911 be referred to a solicitor for clarification and legal advice, and/or other actions available to Council; and subject to that advice:

- **Council resolve to carry out the required work to repair the on-site effluent disposal system; and**
- **Council recover the costs to repair the on-site disposal system from the owner by action in a court of competent jurisdiction and until paid shall be a charge on the house and buildings, and on the land on which the same is built or to which it appertains.**

CARRIED 4/2

Councillors Brown and McKenzie voted against the motion.

8.5 REPORTS – TOWN PLANNING

8.5.1 MR DUNCAN PATTEN – REQUEST FOR RECONSIDERATION OF PLANNING APPLICATION 134522

4:33pm Cr Wittwer declared a Proximity Interest and departed the Chambers. Cr Brown assumed the chair.

Submission to: Ordinary Meeting of Council
Location/Address: Lots 12344, 13905, 3535, 3675, 4398, 4732, 4787, 156, 371, 2200, 3202, 154 & 367 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

This matter was previously presented to the Ordinary meeting of Council held on Thursday 17 May 2007.

On that occasion Council resolved not to support the planning application, however voting on the decision was extremely close and required the Shire President to cast a second vote in accordance with section 5.21 (3) of the Local Government Act 1995. Cr McKenzie was absent from the meeting and with only six (6) members present the initial vote was 3 all.

Correspondence has been received from Mr Duncan Patten requesting Council to reconsider the planning application.

Comment

The Department of Local Government and Regional Development (DLGRD) advise that as Councils resolution from the May 2007 meeting has been enacted upon, should Council wish to reconsider the application, it is dealing with a new issue and is not required to rescind the previous motion.

The application has been submitted by property surveyor A J Marsh Pty Ltd on behalf of owners J S Patten, N R Patten, D J B Patten and L J Patten.

The application is to realign the boundaries of the existing 13 locations/lots for farm management purposes and to provide formed road access to all new proposed lots.

Mr Patten advises that the planning application is designed to enhance the value of his property/s by moving titles from good farming areas to outer areas of the property, which are not recognised as viable farming areas.

The Shire of Cuballing Town Planning Scheme #2 (clause 4.2(b)) generally does not support the further breakdown or subdivision of land in the

agricultural areas. The aim of this part of the Scheme is to protect the economic viability of rural zoned land through a presumption against subdivision except where such subdivision will enhance and/or promote the viability and diversity of general farming activity.

Western Australian Planning Commission Planning Policy DC 3.4 Subdivision of Rural Land deals with these types of applications.

Clause 3.1.1 of the Policy states that *“there is a general presumption against subdivision of rural land unless it is specifically provided for in a town planning scheme, an endorsed local planning strategy or an endorsed local rural strategy”*.

Clause 3.2.1 of the Policy States that *“Notwithstanding section 3.1.1, the Commission may approve subdivision of rural land for the following specific purposes:*

- (e) For the relocation of boundaries where:*
 - (i) the new boundaries reflect good environmental and land management practises;*
 - (ii) no additional dwelling entitlements are created or where the dwelling entitlements are removed or reduced; and*
 - (iii) the proposal is intended to facilitate the ongoing agricultural usage on all of the lots”.*

The application does not intend to create additional lots and is proposing for boundary changes and/or realignment. The WAPC has advised it has concerns with the application as to whether the above guidelines are being met and are seeking legal advice. The WAPC advise of their concerns as follows:

- *“The applicant has not demonstrated how the new boundaries will reflect good environmental and land management practises;*
- *Additional dwelling entitlements are created as some of the current lots has no road frontage. The land is currently used as a farming entity and by creating new lots all with road frontage is considered as a breakdown of agricultural land given that it would then be possible to sell the land as separate entities eg hobby farms.*

The applicant is trying to relocate boundaries of properties which are non-contiguous and it is our view that boundaries cannot be relocated if lots are non-contiguous. The DPI has requested legal advice on this issue and will be advised of the legality of this issue within the next 14 days (Legal advice has been requested from the State Solicitor’s Office).

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- *It was not demonstrated that the proposed new lots could support ongoing agriculture on the proposed lots. Especially how will proposed lots 1-4 be capable of accommodating individually viable agricultural enterprises, and how the subdivision is beneficial for ongoing agriculture while reducing the size of lot 13905”.*

As Council is aware the WAPC (DPI) makes the final decision in relation to all planning applications and it may be appropriate for Council to wait until they have received the requested legal advice prior to reconsidering and making further comment on the application.

Council has in the past supported planning applications where boundary realignments are proposed and no new lots created. In some instances the WAPC has also endorsed the applications but not on all occasions. It appears that this particular application is being thoroughly investigated by the WAPC and could prove to be a reasonable model for future planning applications within the Shire.

The Chief Executive Officer informed Council that the WAPC has received the requested legal advice and they do not believe that it will affect Council reconsidering the Planning Application at the Council Meeting. The legal advice generally relates to the non-contiguous nature of the application and how it meets the WAPC Planning Policies.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council defers giving further consideration to Planning Application 134522 until the Western Australian Planning Commission has received the legal advice it is seeking from the State Solicitor’s Office and all relevant information is available for Council consideration.

COUNCIL ACTION

Moved Cr Hawksley, Seconded Cr Watts that Planning Application 134522 be supported.

CARRIED 5/0

4:41pm Cr Wittwer re-entered the Chambers.

**8.5.2 WESTERN AUSTRALIAN PLANNING COMMISSION (WAPC) –
PLANNING APPLICATION 134533 LOT 2 BOXSELL ROAD,
HILLSIDE**

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 2 Boxsell Road, Hillside
Reporting Officer:	Peter Naylor, Chief Executive Officer Trevor Moran, Landvision, Town Planning Consultant David Gray, Gray & Lewis TPC
Enabling Legislation:	Land Administration Act 1997
Council Policy:	Shire of Cuballing Town Planning Scheme No 2
Budget Implications:	Nil
File Reference:	TP 12
Voting Requirements:	Simple majority

Background

Correspondence from the WAPC requesting Council to provide any information, comment or recommended conditions on a subdivision proposal received for the abovementioned Lot.

Comment

The application is submitted by Planning Enterprises on behalf of Mr Colin Boxsell.

The application proposes to subdivide Lot 2 into three (3) new separately titled lots. One is proposed as a conservation lot whilst the others will continue to be used for broad acre agricultural purposes.

Lot 2 Boxsell Road is situated in both the Shire of Cuballing and the Shire of Narrogin. As such it is important that there be some unity in the consideration of the application by the two local governments. The planning documents were forwarded Trevor Moran, Landvision, and David Gray, Gray & Lewis for comment.

At the present time Lot 2 has an area of 576.46 hectares. As can be seen from the attached plan of the proposed subdivision the three new lots will have areas of 174.58ha, 88.02ha and 312.12ha respectively. The smaller of the lots (Proposed Lot 2) is identified as a 'conservation lot' and will contain the existing dwelling and outbuildings and driveway from Boxsell Road to those buildings.

In support of the application Planning Enterprises has provided the following justification:

1. Lot 2 is located within the Wheatbelt Agricultural Policy Area illustrated in Figure 1 of WAPC Policy No. DC 3.4 – *Subdivision of Rural Land*.
2. Given the extent of clearing undertaken on land within the Wheatbelt Region and the increased propensity for land degradation, the long term conservation of areas of existing native and regenerated

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vegetation as proposed by this application will serve an important function in future catchment and land management in the district.

3. Approval of the proposed subdivision will ensure the long term protection and preservation of significant stands of native vegetation (in perpetuity) in a locality where such stands of vegetation are rare due to the traditional extent of land clearing undertaken to facilitate broadacre agricultural activities.
4. The site specific assessment of Lot 2 undertaken by the Great Southern District office of the Department of Environment and Conservation did not raise any objections to the proposal and confirmed that the native vegetation on the proposed conservation Lot (i.e. Proposed Lot 2) has local conservation value, particularly in terms of its ability to provide a habitat for the Red Tailed Phascogale (*Phascogale calura*).
5. Discussions with the Department of Environment and Conservation suggest that the Department is likely to support the subdivision proposal for Lot 2 given that many beneficial environmental outcomes. It is anticipated that the WAPC will refer the subdivision application to the Department for consideration and comment as part of the statutory referral process prescribed by section 142 of the Planning and Development Act 2005.
6. The proposed conservation lot (i.e. Proposed Lot 2) comprises a total area of 88.02 hectares of which 75 hectares (i.e. 85.2%) is covered by native and regenerated vegetation.
7. The lot boundaries of the proposed conservation lot have been configured having regard for the land's natural features and the location of existing broadacre agricultural activities and existing fence lines and internal access tracks/firebreaks, thereby ensuring minimal disturbance to and therefore protection of the current agricultural usage and all significant native and regenerated vegetation.
8. The landowner is willing to have a conservation covenant in perpetuity with the Department of Environment and Conservation, National Trust or other responsible agency, registered on the Certificate of Title of the proposed conservation lot which serves to:
 - i) prohibit further clearing (other than for necessary land management requirements);
 - ii) clearly delineate a building envelope and /or building exclusion area; and
 - iii) prohibit stocking outside any designated building envelope.

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9. The two agricultural lots proposed by this application (i.e. Proposed Lots 1 & 3) comprise areas that are consistent with the prevailing lot size in the locality and contain substantial cleared areas that are physically capable and suitable for the continuation of a wide range of sustainable agricultural uses. Agricultural uses that have potential to be established on the lots under the terms of their current zoning classifications are listed as follows:

SHIRE OF CUBALLING TPS NO.1	SHIRE OF NARROGIN TPS NO.2
<ul style="list-style-type: none"> • Abattoir (A) • Agriculture – Extensive (P) • Agriculture – Intensive (P) • Agroforestry (A) • Animal Establishment (D) • Animal Husbandry – Intensive (A) • Aquaculture (D) • Industry – Rural (D) • Plantation (A) • Rural Pursuit (P) • Winery (A) 	<ul style="list-style-type: none"> • Abattoir (SA) • Industry – Noxious (SA) • Intensive Agriculture (AA) • Piggery (SA) • Poultry Farm (SA) • Rural Pursuit (P)

10. Proposed Lot 1 comprises a total area of 174.58 hectares of which 39 hectares (i.e. 22.3%) is covered by native and regenerated vegetation.
11. Proposed Lot 3 comprises a total area of 312.12 hectares of which 48 hectares (i.e. 15.4%) is covered by native and regenerated vegetation. Notwithstanding this lot's non-compliance with the approximate 20% vegetation cover criteria specified by WAPC Policy No. DC 3.4, it is the landowner's intention to fence existing stands of native vegetation and continue with current revegetation programs to provide for an increase in the total amount of native vegetation on the land to satisfy the 20% criteria in the short term future.
12. The landowner is willing to have a conservation covenant in perpetuity with the Department of Environment and Conservation, National Trust or other responsible agency, registered on the Certificate of Title of

each of the two proposed agricultural lots to ensure the long term protection of the remaining native vegetation.

13. The proposed subdivision is consistent with the aims and objectives of current State Planning Policies as these apply to conservation of the environment and natural resources and the long term protection of agricultural land.
14. The proposed subdivision is consistent with the strategic direction espoused by the State Planning Strategy as this applies to the sustainable management and protection of agricultural land, natural resources and landscape and cultural heritage values.

Advice received from the Councils' planning consultants is summarised as follows:

Landvision (for the Shire of Cuballing)

"In response to your request for comment on the above subdivision application I advise as follows:

1. *The Land is in the General Agricultural Zone in the Shire's TPS No.2 for which the objectives are attached and with which the proposal is generally compatible.*
2. *It is outside of the Hotham River Environs Policy Area in the Shire's endorsed Local Planning Strategy and the vegetation corridor network indicated in the Local Planning Strategy although it occupies a strategic position in the Hotham River Catchment.*
3. *Given that the 3 proposed lots recognise vegetation and topographic boundaries the proposal would seem to be more desirable than an alternative based upon cadastral boundaries.*
4. *However access remains as issue of the proposed lots has a legal access to two roads which may give rise to further subdivision particularly proposed Lot 3 which is severed by a road reserve. Also easements are being proposed to access the internal lots.*
5. *If the proposed easement on the western boundary were converted to a road reserve, easements to Lot 1 and Lot 50 could be eliminated and these lots and proposed lot 1 would benefit from this access.*
6. *the local authority boundary could be redrawn along the southern boundary of the proposed Lot 2 with proposed Lot 3 being in the Shire of Narrogin.*

In summary I believe the subdivision should be supported subject to the creation of a road reserve on the western boundary (instead of an easement) possibly as far a Curtis Road."

Gray & Lewis (for the Shire of Narrogin)

"Further to your facsimile we have assessed the proposed subdivision and generally agree with the comments provided by Landvision. We offer the following advice:

1. *Constructed Road Frontage*

All Lots need to be provided with constructed road frontage. Whilst all lots have frontage to gazetted roads, a number of those are not constructed.

The applicant proposes to provide an internal access/easement along the western boundary of Lot 2 to the north of Boxsell Road. The easement will provide physical access to Lot 1 but does not provide constructed road frontage.

We agree with Landvision's recommendation that the 'easement' should be provided as road reserve – it needs to extend to the boundary of Lot 1 unless they adjust its location so it connects to the existing road reserve on the western side for the small portion north of Curtis Road.

2. *Recommended Conditions*

Council may consider recommending that the WAPC impose a number of conditions including;

(a) *Those lots not fronting an existing road being provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) being constructed and drained at the applicant/owner's cost.*

(b) *All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation.*

(c) *A detailed plan identifying building exclusion areas is to be prepared in conjunction with the local government and Environmental Protection Authority. The building exclusion areas are to provide for adequate buffers to the existing abattoir and the extent of the buffer should be determined based on advise from the Environmental Protection Authority.*

(d) *A Restrictive Covenant, pursuant to section 129BA of the Transfer of Land Act 1893 (as amended) is to be placed on the Certificate of Title of the proposed lot(s) advising of the existence of a restriction on the use of the land. Notice of this restriction to be included on the Deposited Plan. The restrictive covenant is to state as follows:*

"A building exclusion area has been established for the lot to ensure that no residential of sensitive development occurs within buffer areas established for the abattoir".

(e) *The applicant/owner making arrangements satisfactory to the Western Australian Planning Commission to ensure prospective purchasers of the proposed lots will be advised of the potential for amenity impacts arising from proximity to the existing abattoir located to the south of the lots.*

(f) *A Conservation Covenant with the Department of Conservation and Land Management, pursuant to section 129BA of the Transfer of Land Act 1893 (as amended) is to be placed on the Certificate of Title of the proposed conservation Lot 2 advising of the existence of a restriction on the use of the land to*

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protect areas identified for conservation. Notice of this restriction to be included on the Deposited Plan. The Conservation Covenant is to be prepared in consultation with the Department of Conservation and Land Management to provide adequate provisions as follows:

- (1) Prohibit further clearing (other than necessary for fire or land management);*
- (2) Clearly delineate a building envelope and/or building exclusion areas to be shown on the subdivision plan;*
- (3) Prohibit stocking outside of any designated building area;*
- (4) Protect remaining native vegetation.*

The applicants can utilise a small portion of existing road reserve to service Lot 1 (north of Curtis Road) and construct the remaining road within their property boundary to link to Boxsell Road. If this portion is preferred then the following conditions may be considered;

- (g) Arrangements being made with the local government for the upgrading and/or construction of the existing road abutting the western boundary of proposed Lot 2 to the north of Curtis Road. This road will need to be constructed for a section adjacent to the western boundary of Lot 1 so it has gazetted constructed road frontage.*
- (h) Roads that have been designed to connect with existing or proposed roads abutting the subject land are to coordinate such that the road reserve location and width match and connect seamlessly. This applies to the road required along the western boundary of Lot 2 (currently proposed as a 20 metres wide easement).*

Council may also consider including footnotes in the letter of recommendation to the Commission as follows:

- (1) The Commission is advised that Condition 1 is recommended for the 20 metres 'easement' proposed by the applicant along the western boundary of Lot 2. It is recommended that this be ceded as road reserve so Lot 1 and 3 can be provided with gazetted constructed road frontage.*
- (2) The applicant be advised that support for this subdivision should not be construed as support for any further proposed subdivisions.*

We recommend that Council consider supporting the subdivision subject to the above conditions and advice."

The proposed subdivision area was visited by the Chief Executive Officers (CEO) of the Narrogin and Cuballing Shires. The purpose was view the proposed requirements for a 20 metre easement, to service the new Lot 3. Within the area of the proposed easement there were a number of

infrastructure facilities including a dam, telecommunications mast guide wires and an exposed section of the pipeline for the Great Southern Water Scheme. Practicably it would only be possible to have an easement of about 10 metres in width.

Notwithstanding the advice from the planning consultants that the Councils could give conditional support for the subdivision, there are some significant issues that go against the proposal.

Firstly, the WA Planning Commission's Policy DC 3.4 dealing with Subdivision of Rural Land states "*there is a general presumption against subdivision of rural land unless it is specifically provided for in the town planning scheme, an endorsed local planning strategy or an endorsed local rural strategy.*" Whilst the policy does indicate that the Commission may approve subdivision of land for the excising of a conservation lot, in this case a further two rural lots are also being proposed.

Secondly, the Councils' planning consultants agree that a gazetted road reserve is preferable to having an easement, as is proposed in this application. It is most unlikely that a 20 metre easements can be accommodated in this case due to the existence of other infrastructure on the land. It certainly would not allow for a road reserve to be created.

Finally, there is the issue of the potential for land use conflict in the future due to the existence of the established abattoir on Boxsell Road. There is the suggestion of having an exclusion zone and a Restrictive Covenant on titles, however there is still the potential for complaints to be made, which could effect the ongoing operation of the abattoir.

The owner of the abattoir has contacted the CEO of the Shire of Narrogin and has expressed concern about the proposal highlighting the issues mentioned above.

A copy of the planning proposal was circulated to Councillors with the Council meeting agenda for the Ordinary meeting of Council held in May 2007.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

The WA Planning Commission (WAPC) be advised that the Shire of Cuballing does not support the proposed subdivision of Lot 2 Boxsell Road, Narrogin, for the following reasons:

- 1. the proposal does not fully meet the requirements of the WAPC Policy DC 3.4 dealing with the Subdivision of Rural Land as additional rural lots are being created without specifically being provided for in the town planning scheme or endorsed local planning strategy;**
- 2. the applicant has not demonstrated that access to all lots can**

- be accommodated with an easement or gazetted road reserve without being affected by existing infrastructure; and
3. the proposal has the potential to result in land use conflict due to the existence of a nearby abattoir.

Further, if the WAPC were to support the application, the Council would seek to inclusion of the following conditions:

- (1) Those lots not fronting an existing road being provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) being constructed and drained at the applicant/owner's cost.
- (2) All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation.
- (3) A detailed plan identifying building exclusion areas is to be prepared in conjunction with the local government and Department of Environment and Conservation (DEC). The building exclusion areas are to provide for adequate buffers to the existing abattoir and the extent of the buffer should be determined based on advise from the DEC.
- (4) A Restrictive Covenant, pursuant to section 129BA of the Transfer of Land Act 1893 (as amended) is to be placed on the Certificate of Title of the proposed lot(s) advising of the existence of a restriction on the use of the land. Notice of this restriction to be included on the Deposited Plan. The restrictive covenant is to state as follows:

“A building exclusion area has been established for the lot to ensure that no residential of sensitive development occurs within buffer areas established for the abattoir”.

- (5) The applicant/owner making arrangements satisfactory to the WAPC to ensure prospective purchasers of the proposed lots will be advised of the potential for amenity impacts arising from proximity to the existing abattoir located to the south of the lots.
- (6) A Conservation Covenant with the DEC, pursuant to section 129BA of the Transfer of Land Act 1893 (as amended) is to be placed on the Certificate of Title of the proposed conservation Lot 2 advising of the existence of a restriction on the use of the land to protect areas identified for conservation. Notice of this restriction to be included on the Deposited Plan. The Conservation Covenant is to be prepared in consultation with the DEC to provide adequate provisions as follows:
 - i. Prohibit further clearing (other than necessary for fire or land management);
 - ii. Clearly delineate a building envelope and/or

- building exclusion areas to be shown on the subdivision plan;
- iii. Prohibit stocking outside of any designated building area;
 - iv. Protect remaining native vegetation.

COUNCIL ACTION

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

CARRIED 6/0

8.5.3 WESTERN AUSTRALIAN PLANNING COMMISSION – PLANNING APPLICATION 133250 BATTS ROAD, POPANYINNING

Cr Watts declared a Proximity Interest. (Councillor Watts was not required to leave the Council Chambers as the item was for information only and no decision to be made).

Submission to: Ordinary Meeting of Council
Location/Address: Locations 3859 & 2712 and Lots 501 & 502 Batts Road, Popanyinning
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 Western Australian Planning Commission (WAPC) has approved the above planning application, subject to meeting with certain conditions.

Comment

This application was first presented to Council at its Ordinary meeting held on Friday 15 December 2006. At the meeting Council resolved:

“That the subdivision of Locations 3859 & 2712 and Lots 501 & 502 Batts Road, Popanyinning, as per Planning Application 133250, be supported”.

Following the above resolution, and in their deliberations on the matter, the WAPC deferred a final decision on the application and requested the applicant provide further information to the Commission in support of the creation of lots for conservation purposes.

This information has now been provided to the WAPC satisfaction and planning application approved with condition that the battleaxe access leg for

proposed Lot B having a minimum trafficable surface of 6 metres to allow for two-way traffic.

With regard to the condition, the purpose is so vehicles can safely enter as well as evacuate the proposed lot in a fire emergency. The driveway should be suitable for conventional two-wheel-drive vehicles as well as fire appliances on a four-wheel-drive 7 tonne chassis.

It is a requirement that the applicant liaise with the Shire of Cuballing to ensure the condition is fulfilled.

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 MS K F BULLARD – APPLICATION FOR INTENSIVE AGRICULTURE USE LOT 277 CAMPBELL STREET, CUBALLING

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 277 Campbell Street, Cuballing
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 3
Voting Requirements:	Simple majority

Background

Application received from Ms Bullard seeking Council approval to undertake an intensive agriculture activity, production of Capers, on the above property.

Comment

Ms Bullard purchased the property in November 2006, with the prime reason to semi retire there with her partner and carry out the abovementioned industry.

The full proposal is to build a residence, plant 1-1½ acres of Capers, and construct associated infrastructure to successfully establish the venture.

The Caper plant is a native to the Mediterranean and the production of capers in Australia is a relatively new exercise. The plant is reported to be very versatile and has a range of culinary uses including edible buds, berries and leaves. Research on the plant has produced the following Environmental and Ecological comments:

Environmental

The plant grows in poor nutrient soils, is salt tolerant, some varieties appear to be drought resistant, they require few environmental inputs and kangaroos & rabbits appear not to be attracted to them.

Ecological

The plant lends itself to an organic or low impact farming system requiring few inputs (water, fertiliser) once established. They do not appear to be prone to pests and disease limiting the need for chemical applications and the root system combined with the established canopy reduce weed growth.

This information indicates that the proposed industry will have minimal, if any, impact on neighbouring property owners.

The land is zoned Rural Residential in the Shire of Cuballing Town Planning Scheme No 2. The proposed use (being Agriculture – Intensive) is identified as an ‘A’ use in the Scheme Zoning Table. This means that the use is not permitted unless Council has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the Scheme.

The applicant has also indicated they would like Council permission to construct a shed with size of 140m², including wet area for employees, and erect a 18 x 8 metre tunnel house (hot house). It is difficult for Council to approve such erections without being in receipt of suitable building plans.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- **The applicant be advised that Council endorses the proposed industry on Lot 277 Campbell Street, Cuballing, however will need to give special notice to neighbouring property owners in accordance with clause 9.4 of the Shire of Cuballing Town Planning Scheme No 2;**
- **Special notice be given to neighbouring property owners of Lot 277, of the proposed industry, in accordance with clause 9.4 of the Town Planning Scheme No 2; and**
- **The applicant be advised that Council cannot approve the building of shed/s and other structures on the property until suitable building plans have been submitted for due consideration.**

COUNCIL ACTION

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

CARRIED 6/0

8.5.5 MR W M PARKER – APPLICATION TO OPERATE HOME BUSINESS

4:48pm Cr Wittwer declared a Financial Interest and departed the Chambers. Cr Brown assumed the Chair.

Submission to: Ordinary Meeting of Council
Location/Address: Lot 328 Carton Street, Cuballing
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Nil
Council Policy: Shire of Cuballing Town Planning Scheme No 2
Budget Implications: Nil
File Reference: TP 3
Voting Requirements: Simple Majority

Background

Letter of application from Mr Parker requesting Council approval to operate a Home Business (Carpentry and Cabinet Making) at his property, being Lot 328 Carton Street, Cuballing.

Comment

The proposed use fits into the “Home Business” category of the Shire of Cuballing Town Planning Scheme No 2, which has a “D” use in the Rural Townsite area of the Zoning Table of the Scheme. This means that the use is not permitted unless the local government has exercised its discretion by granting planning approval. Also a “D” use does not require Council to advertise or give special notice of the application in accordance with the provisions (clause 9.4) of the Scheme. In the letter of application, Mr Parker is applying for a Home Occupation, however this type of activity cannot occupy an area of greater than 20m². Mr Parker has been consulted and it is considered more appropriate that a Home Business, which can occupy an area up to 50m², be granted.

Whilst it is not a requirement that the proposal be advertised, Council may consider as a courtesy to advise neighbouring property owners of the proposal and they be offered the opportunity to comment. The owner of adjoining property Lot 327, to the south, did complain about noise from Mr Parkers residence whilst the house and shed were being built and expressed concern about rumours of Mr Parker obtaining a home business to carry out a carpentry/cabinet business at the property. However as Mr Parker points out in his correspondence the cutting or treating of timber will be quieter than cutting steel and the operation of chainsaws and lawnmowers which are acceptable in normal urban living.

If in support of the application, it would be appropriate for Council to introduce restricted operating hours to ensure any possible inconvenience to neighbours will be minimised.

Council did grant approval to a Steel Manufacturing Home Business in Derby Street, in December 2002, with restricted operating hours, and no complaints

have been received from neighbouring properties in relation to this business. That particular property is situated in a similar density development to Mr Parkers.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Mr W M (Wayne) Parker be advised that Council is prepared to support his proposed Carpentry/Cabinet Making Home Business application at Lot 328 Carton Street, Cuballing, subject to the following actions and conditions:

- **Adjoining landowners/residents be advised of the proposed Home Business and be provided with an opportunity (period of 14 days) to comment; and**
- **Hours of operation be restricted from 8.00am to 5.00pm Monday to Saturday.**

COUNCIL ACTION

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

CARRIED 5/0

4:52 Cr Wittwer re-entered the Chambers.

9. URGENT BUSINESS

9.1.1 CUBALLING REFUSE SITE

Chief Executive Officer informed Council that Great Southern Waste Disposal (GSWD) have provided a quotation to manage by contract the Cuballing Refuse Site for 12 month period commencing on 1 September 2007. The quotation then provides for two optional extensions of 5 years subject to the satisfaction of both parties. Details of the quotation are hereunder:

- Cost per annum \$25,000
- Opening Hours/Days
- Saturday 11:00am to 5:00pm
- Sunday 10:00am to 5:00pm
- Monday 8:00am to 1:00pm
- Refuse Site will be closed Anzac Day, Good Friday and Christmas Day
- GSWD will be responsible for all recycling activities
- Shire of Cuballing to provide; lunchroom caravan, toilet, generator, water tank and whatever else is considered necessary for the comfort of the site manager.

Council considered the quotation provided and the requirements to better control and manage the refuse sites within the Shire to meet the stringent standards being introduced by the Department of Environment and Conservation.

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Council believes management of the Refuse Site by contract is preferable and cost efficient to employing additional staff to man the site and still being responsible for all recycling measures.

COUNCIL ACTION

Moved Cr Watts, Seconded Cr Newman that the quotation for amount of \$25,000, as provided by Great Southern Waste Disposal for management of the Cuballing Refuse Site effective from 1 September 2007, be accepted.

CARRIED 6/0

10. 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 19 JULY 2007**

SHIRE PRESIDENT