



SHIRE OF CUBALLING

**ORDINARY COUNCIL MEETING
HELD ON THURSDAY 21 FEBRUARY 2008**

MINUTES

SHIRE OF CUBALLING

COUNCIL MEETING THURSDAY 21 FEBRUARY 2008

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 FEBRUARY 2008

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

President welcomed Councillors, declared meeting open 3.35pm.

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 T P Haslam
Cr C Hawksley	Cr J R A Meharry
Cr R D Newman	
Chief Executive Officer, Mr P T Naylor	
Ms Darralyn Ebsary (3:00pm – 3:35pm)	

APOLOGIES

Nil

LEAVE OF ABSENCE

Nil

3. PUBLIC QUESTION TIME

Nil

4. APPLICATION FOR LEAVE OF ABSENCE

Moved Cr Brown, seconded Cr Newman that Leave of Absence be granted to Cr Bradford for the Ordinary meeting of Council to be held on Thursday 20 March 2008.

CARRIED 6/0

5. MINUTES

5.1.1 CONFIRMATION OF 21 DECEMBER 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 21 December 2007 be confirmed.

COUNCIL ACTION

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

CARRIED 7/0

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

HOTHAM CATCHMENT NATURAL RESOURCES MANAGEMENT OFFICER

Ms Darralyn Ebsary, Natural Resources Management Officer for the Hotham Catchment Landcare Group, addressed Councillors prior to the commencement of the Council meeting at 3.00pm on the functions of the Catchment Group and current activities.

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.

Item 8.1.3: Mr Peter Naylor, Chief Executive Officer, declares a Financial Interest.

Item 8.2.2: Councillor Dawson Bradford declares a Financial Interest.

Item 8.5.1: Councillor's Chad Hawksley & Roger Newman declare a Proximity Interest.

Item 8.5.3: Councillor Roger Newman declares a Proximity Interest.

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.

Nil

8.1 REPORTS – FINANCE AND ADMINISTRATION

8.1.1 LIST OF ACCOUNTS SUBMITTED FOR COUNCIL APPROVAL AND PAYMENT – FEBRUARY 2008

Submission to: Ordinary Meeting of Council
Location/Address: Not applicable
Reporting Officer: Belinda Draper, Administration Officer (Finance)
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 \$258,194.35:**

Voucher 10990-11000	\$ 21,417.41
Voucher 12146-12219	\$103,284.53
Electronic fund transfers	\$133,213.12
Credit Card	\$ 279.29

- **Approve for payment the list of Creditors paid from the Trust fund, as detailed below, totalling \$1,102.95:**

Vouchers T2023-T2027	\$ 1,102.95
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COUNCIL ACTION

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

CARRIED 7/0

Type	Date	Num	Name	Memo	Muni	Trust
Cheque	12/20/2007	10990	CASH	Councillor Sitting Fees	3920.00	
Cheque	12/21/2007	10991	Clinton McKenzie	Councillor Sitting Fees	420.00	
Cheque	12/23/2007	10992	TELSTRA	Telephone Account	604.99	
Cheque	01/15/2008	10993	Synergy	Electricity Account	2,300.25	
Cheque	12/24/2007	10994	SHIRE OF CUBALLING.	Social Club Contributions - Dec 2007	125.00	
Cheque	12/24/2007	10995	SHIRE OF CUBALLING.	Staff Deductions	210.00	
Cheque	12/24/2007	10996	WALGSP	Super Contributions December 2007	7,816.37	
Cheque	12/24/2007	10997	MAJOR MOTORS PTY LTD	Parts & Repairs	1,396.12	
Cheque	12/24/2007	10998	WALGA	Advertising	1,588.18	
Cheque	01/21/2008	10999	Australian Taxation Office	December 2007 BAS	6,799.00	
Cheque	01/22/2008	11000	BUILDERS REGISTRATION BOARD OF WA	BRB Payment December 2007	157.50	
Bill Pmt -Cheque	12/24/2007	12146	Filters Plus	Parts	44.55	
Bill Pmt -Cheque	12/24/2007	12147	Great Southern Waste Disposal	Refuse Site Maintenance	2,291.66	
Bill Pmt -Cheque	12/24/2007	12148	SHIRE OF CUBALLING.	Leading Hand Rates	26.72	
Bill Pmt -Cheque	12/24/2007	12149	STAR TRACK EXPRESS	Freight on Parts	66.14	
Bill Pmt -Cheque	12/24/2007	12150	TELSTRA	Telephone Account	618.82	
Cheque	01/25/2008	12151	WALGSP	Super Contributions Jan 2008	7,240.28	
Cheque	01/25/2008	12152	SHIRE OF CUBALLING.	Social Club Contributions Jan 08	115.00	
Cheque	01/25/2008	12153	SHIRE OF CUBALLING.	Staff Deductions - Ashton	330.86	
Bill Pmt -Cheque	01/29/2008	12154	ACCIDENTAL FIRST AID SUPPLIES	First Aid Kit Upgrades	543.20	
Bill Pmt -Cheque	01/29/2008	12155	AIR LIQUIDE WA PTY LTD	Workshop Supplies	263.94	
Bill Pmt -Cheque	01/29/2008	12156	Australian Taxation Reporter	Annual Subscription	440.00	
Bill Pmt -Cheque	01/29/2008	12157	Avon Waste	Refuse Site Maintenance	462.00	
Bill Pmt -Cheque	01/29/2008	12158	Brooks Hire Service	Loader Hire	3,521.93	
Bill Pmt -Cheque	01/29/2008	12159	COMMANDER AUSTRALIA LTD	VOID:		
Bill Pmt -Cheque	01/29/2008	12160	CUBALLING TAVERN	2007 Christmas Function	1,831.50	
Bill Pmt -Cheque	01/29/2008	12161	CUBY ROADHOUSE	Fuel & Refreshments	446.10	
Bill Pmt -Cheque	01/29/2008	12162	CUTTING EDGES	Loader Parts	903.23	

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Bill Pmt -Cheque	01/29/2008	12163	DEPT FOR PLANNING & INFRASTRUCTURE	Vehicle Licensing	187.50
Bill Pmt -Cheque	01/29/2008	12164	DEWS MINI EXCAVATIONS	Popo Cemetery	288.75
Bill Pmt -Cheque	01/29/2008	12165	DUGALD FERGUSON MACHINERY	Parts & Repairs	95.25
Bill Pmt -Cheque	01/29/2008	12166	EDWARDS MOTORS PTY LTD	Parts & Repairs	49.70
Bill Pmt -Cheque	01/29/2008	12167	FARMWORKS AUSTRALIA PTY LTD	Recreation Ground Maintenance	31.90
Bill Pmt -Cheque	01/29/2008	12168	Great Southern Waste Disposal	Refuse Site Management	2,291.66
Bill Pmt -Cheque	01/29/2008	12169	GREAT SOUTHERN FUEL SUPPLIES	Fuel, Diesel & Oil	9,582.45
Bill Pmt -Cheque	01/29/2008	12170	Great Southern Ranger Services	Ranger Services	644.83
Bill Pmt -Cheque	01/29/2008	12171	LANDGATE	Interim Valuations	483.60
Bill Pmt -Cheque	01/29/2008	12172	MAKIT NARROGIN HARDWARE	Parts	101.85
Bill Pmt -Cheque	01/29/2008	12173	NARROGIN HIRE SERVICE AND RETICULATION	Jack Hammer Hire	52.50
Bill Pmt -Cheque	01/29/2008	12174	NARROGIN PACKAGING	Toilet Paper & Hand Towels	203.90
Bill Pmt -Cheque	01/29/2008	12175	Narrogin Smash Repairs	Excess for insurance claim	300.00
Bill Pmt -Cheque	01/29/2008	12176	Narrogin Technology Solutions	Keyboard & Mouse - Alex	39.95
Bill Pmt -Cheque	01/29/2008	12177	NGN AUTO ELECTRICS	Workshop Supplies	159.06
Bill Pmt -Cheque	01/29/2008	12178	Radiowest	Fire Safety Messages	132.00
Bill Pmt -Cheque	01/29/2008	12179	STAR TRACK EXPRESS	Freight on signs	58.72
Bill Pmt -Cheque	01/29/2008	12180	STEWART & HEATON CLOTHING CO. P/L	Fire Safety Clothing	788.74
Bill Pmt -Cheque	01/29/2008	12181	Twinkarri	Tree Pruning	40,557.00
Bill Pmt -Cheque	01/29/2008	12182	WATER CORPORATION	Water Charges - Standpipe, Ridley St	1,515.00
Bill Pmt -Cheque	01/29/2008	12183	WESTERN POWER CORPORATION	Inspection of NO 135	275.00
Bill Pmt -Cheque	01/29/2008	12184	WESTNET PTY LTD	Gateway for Licensing Computer	60.50
Bill Pmt -Cheque	01/29/2008	12185	Wilsons Sign Solutions	Honour Board Updates	51.70
Cheque	01/29/2008	12186	PETTY CASH	Petty Cash Recoup Jan 08	260.65
Bill Pmt -Cheque	02/21/2008	12187	ASPHALT SURFACES PTY LTD	Coldmix - Bitumen Patching	279.54
Bill Pmt -Cheque	02/21/2008	12188	AUSTRALIA POST	Postage Stamps	50.00
Bill Pmt -Cheque	02/21/2008	12189	Avon Waste	Waste Management	462.00
Bill Pmt -Cheque	02/21/2008	12190	BEAUREPAIRES	Tyres & Repairs	2,395.71
Bill Pmt -Cheque	02/21/2008	12191	BILL EXPRESS	Transaction Fees	4.40
Bill Pmt -Cheque	02/21/2008	12192	BUILDERS REGISTRATION BOARD OF WA	BRB Payment January 2008	94.50

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Bill Pmt -Cheque	02/21/2008	12193	BURGESS RAWSON (WA) PTY LTD	Water Account Memorial Park	74.42	
Bill Pmt -Cheque	02/21/2008	12194	CASH	Coles Card for Council Shopping	500.00	
Bill Pmt -Cheque	02/21/2008	12195	COURIER AUSTRALIA	Freight	2.48	
Bill Pmt -Cheque	02/21/2008	12196	Cuballing Tennis Club.	Subs - Peter Naylor	90.00	
Bill Pmt -Cheque	02/21/2008	12197	DUGALD FERGUSON MACHINERY	Parts & Repairs	133.90	
Bill Pmt -Cheque	02/21/2008	12198	Earl Street Surgery	Employee Medical - Paul Doyle	99.00	
Bill Pmt -Cheque	02/21/2008	12199	Great Southern Waste Disposal	Management of Cuballing Refuse Site	2,291.66	
Bill Pmt -Cheque	02/21/2008	12200	GREAT SOUTHERN FUEL SUPPLIES	Fuel & Oil	1,392.57	
Bill Pmt -Cheque	02/21/2008	12201	MAKIT NARROGIN HARDWARE	Parts	216.20	
Bill Pmt -Cheque	02/21/2008	12202	MOBILE MASTERS	Parts & Repairs	446.60	
Bill Pmt -Cheque	02/21/2008	12203	MULGREW AUTOMOTIVE	Parts and Repairs	176.00	
Bill Pmt -Cheque	02/21/2008	12204	NARROGIN CARPET CLEANERS	Carpet Cleaning	215.00	
Bill Pmt -Cheque	02/21/2008	12205	Narrogin Technology Solutions	Stationery - Depot	22.95	
Bill Pmt -Cheque	02/21/2008	12206	NGN AG REPAIRS	Parts and Repairs - Parks & Reserves	68.00	
Bill Pmt -Cheque	02/21/2008	12207	PH & KE GOW LICENSED SURVEYORS	Survey Yornaning East Road	5,712.00	
Bill Pmt -Cheque	02/21/2008	12208	PIE NETWORKS	Telecentre Computer	253.40	
Bill Pmt -Cheque	02/21/2008	12209	PIONEER ROAD SERVICES PTY LTD	Supply/Spray Bitumen Primerseal - widening	7,471.20	
Bill Pmt -Cheque	02/21/2008	12210	POPANYINNING GENERAL STORE	Fuel - January	113.00	
Bill Pmt -Cheque	02/21/2008	12211	Pressure Masters	Depot Parts	193.05	
Bill Pmt -Cheque	02/21/2008	12212	Quicken	Computer Software Subscription	579.00	
Bill Pmt -Cheque	02/21/2008	12213	Radiowest	Fire Safety Advertising	132.00	
Bill Pmt -Cheque	02/21/2008	12214	Rotary Club of Narrogin	Cuballing Country Festival	125.00	
Bill Pmt -Cheque	02/21/2008	12215	STAR TRACK EXPRESS	Freight - signs	66.14	
Bill Pmt -Cheque	02/21/2008	12216	SUNNY SIGN COMPANY PTY LTD	Signs	394.90	
Bill Pmt -Cheque	02/21/2008	12217	Synergy	Streetlights - Jan 2008	272.45	
Bill Pmt -Cheque	02/21/2008	12218	TELSTRA	Telephone Account	626.27	
Bill Pmt -Cheque	02/21/2008	12219	WATER CORPORATION	Water Account	973.05	
Cheques	12/18/2008	T2023	Bill & Bens Hot Bread Shop	Buns - Micks Send Off		27.50
Cheques	12/18/2008	T2024	Narrogin Country Fresh Meats	Sauages - Micks Send Off		26.85
Cheques	01/22/2008	T2025	Building & Construction Industry Training Fund	BCITF Payment December 2007		276.80

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Cheques	01/23/2007	T2026	Cuballing Tavern	Drinks - Micks Send Off	327.00
Cheques	11/02/2008	T2027	Building & Construction Industry Training Fund	BCITF Payment January 2008	444.80
EFT	12/20/2007	201207	SHIRE OF CUBALLING.	Councillors Sitting Fees	10702.00
EFT	12/21/2007	211207	SHIRE OF CUBALLING.	Wages & Salaries 12/12/07 -25/12/08	18345.88
EFT	12/21/2008	211207.1	SHIRE OF CUBALLING.	Shire Bonus	8600.00
EFT	12/24/2007	241207	Birds Silo's & Shelters	Part for Bush Fire Unit	724.36
EFT	12/24/2007	241207.1	Ashton Brett	Final Wages Payout	332.08
EFT	01/08/2008	010808	SHIRE OF CUBALLING.	Wages & Salaries 26/12/07 -8/1/08	17,723.29
EFT	01/17/2008	011708	Watch 24 Pty Ltd	Security	43.29
EFT	01/22/2008	220107	SHIRE OF CUBALLING.	Wages 9/1/08 - 22/01/08	16,095.43
EFT	01/23/2008	230107	Peter Naylor	LGMA National Conference - Airfares	966.00
EFT	01/23/2008	230107.1	Jem Truck Sales	Isuzu Truck	40,000.00
EFT	01/23/2008	230107.2	Neil Flood	Travel - Dec	243.10
EFT	01/25/2008	250107	Volunteer Workers Report	Advertising	462.00
EFT	01/29/2007	290107	SHIRE OF CUBALLING.	Transfer of Bond to Muni - Rates for Mrs Tomas	100.00
EFT	02/05/2008	050208	SHIRE OF CUBALLING.	WAGES 23/01 - 05/02	16,733.84
EFT	02/11/2008	110208	Neil Flood	Travel - January	421.85
EFT	11/02/2008	110208.1	WA Outdoor Cinema	Outdoor Cinema	1,220.00
EFT	02/11/2008	110208.2	Wittwer, T	Balance of Presidents Allowance	500.00
Credit Card	11/27/2007	271107	SK8 Australia	CEO Clothing	149.93
Credit Card	12/13/2007	131207	Hancock and Sons	Mick Harris Send Off	50.00
Credit Card	12/28/2007	281207	Caltex, Katanning	Fuel OCN	79.36
					\$258,194.35
					\$1,102.95

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 January 2008 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 January 2008 be received.

COUNCIL ACTION

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

CARRIED 7/0

Moved Cr Newman, seconded Cr Hawksley that the quotation from Edwards Holden, Narrogin, to changeover the Chief Executive Officers vehicle (2007 Statesman Sedan) for new 2008 Statesman Sedan for changeover cost of \$8,000 (GST inclusive), be accepted.

CARRIED 7/0

8.1.3 CHIEF EXECUTIVE OFFICER ANNUAL LEAVE

The Chief Executive Officer, Mr Peter Naylor, declares a financial interest in this item.

Submission to: Ordinary Meeting of Council
Location/Address: Shire Administration Office
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Nil
Council Policy: Nil
Budget Implications: Not applicable
File Reference: Staff 8
Voting Requirements: Simple Majority

Background

The Chief Executive Officer (CEO) is proposing to take 5 weeks (25 days) of annual leave entitlements from Monday 7 July 2008 until Friday 8 August 2008, inclusive, resuming on Monday 11 August 2008.

Comment

At the time when the CEO is due to take the abovementioned leave he will have available approximately 10 weeks of accrued annual leave entitlements.

The CEO is requesting Council consideration to being paid out the balance of the 5 weeks entitlements and therefore is proposing to take 5 weeks leave at double pay and thus forfeiting the balance of leave entitlements due (up to maximum of 10 weeks).

For the duration of leave proposed to be taken it will be necessary for Council to appoint an acting CEO, and Mr Len Calneggia, former CEO at the Shire of Wickepin, has been tentatively booked subject to Council approval and appointment.

The additional payment to the CEO will not result in extra cost to Council because if the CEO was to take 10 weeks of leave then an acting CEO would need to be appointed for the extended period.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- **The Chief Executive Officers application for Annual Leave for the five week period 7 July 2008 to Friday 8 August 2008, inclusive, be endorsed;**
- **The Chief Executive Officers request to be paid at double time for the duration of the leave be approved, thus cancelling out additional leave entitlements due up to a maximum of 10 weeks;**
- **Mr Len Calneggia be appointed as Acting Chief Executive Officer for the period 7 July 2008 to Friday 8 August 2008, inclusive.**

COUNCIL ACTION

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

CARRIED 7/0

8.1.4 DEPARTMENT OF LOCAL GOVERNMENT AND REGIONAL DEVELOPMENT – COMPLIANCE AUDIT RETURN 2007

Submission to:	Ordinary Meeting of Council
Location/Address:	Shire Administration Office
Reporting Officer:	Clare Thomson, Accountant Peter Naylor, Chief Executive Officer
Enabling Legislation:	Local Government Act 1995 Local Government (Audit) Regulations 1996 Local Government (Financial Management) Regulations 1996
Council Policy:	Nil
Budget Implications:	Nil
File Reference:	Finance 23
Voting Requirements:	Simple Majority

Background

Each year, Council is required to complete and submit a Local Government Compliance Audit Return for period 1 January to 31 December. Completing the Return is a statutory requirement under the provisions of the Local Government Act 1995, and associated Regulations.

Comment

The Compliance Audit Return for the Shire of Cuballing for period 1 January 2007 to 31 December 2007 has been completed and a copy is circulated to Councillors with the Council meeting agenda. During the audit process there have been no instances during the reporting period where Council has failed to comply with relevant legislation and the process required. The Compliance Audit Return is to be submitted to the Department of Local Government and Regional Development by 31 March in each year.

It is requirement for the Compliance Audit Return to be:

- a) Presented to the Council at a meeting of the Council;
- b) Adopted by the Council; and
- c) Recorded in the minutes of the meeting at which it is adopted.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

The Local Government Compliance Audit Return for the Shire of Cuballing for reporting period 1 January 2007 to 31 December 2007, as circulated, be adopted and forwarded to the Department of Local Government and Regional Development.

COUNCIL ACTION

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

CARRIED 7/0

8.1.5 MR RW LOWE – DOG ACT PROSECUTION, OUTSTANDING ACCOUNT

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 339 Bunmulling Road, Popanyinning
Reporting Officer:	Belinda Draper, Administration Officer (Finance)
Enabling Legislation:	Local Government Act 1995
Council Policy:	Nil
Budget Implications:	Yes, Outstanding Fees and Charges to be written off
File Reference:	Finance 13
Voting Requirements:	Simple Majority

Background

In 2004 Mr Robert William Lowe, resided at Lot 339 Bunmulling Road, Popanyinning, and was keeping 7 German Shepherd dogs on his property. Initially, the Shire did not have control on dog numbers within the district however requested that the dogs at the property be properly controlled and registered. The dogs were not registered and proceedings were brought against Mr Lowe for breach of the Dog Act.

In September 2004 the Shire gazetted Dog Local Laws, which prohibited the keeping of more than 4 dogs over the age of 3 months on rural properties within its district. Dog owners were able to seek exemption from that requirement to keep up to 6 dogs on their premises.

Mr Lowe was warned to reduce the number of dogs on his property on several occasions otherwise he would be prosecuted.

As no exemption had been granted and there was no effort made by Mr Lowe to abide by Councils Dog Local Laws, legal action was invoked and an invoice seeking reimbursement of the penalties and costs was issued.

Comment

Since the invoice was raised in 2005, no attempt has been made to pay the outstanding amount and endeavours to contact Mr Lowe have been unsuccessful.

The debt has been unpaid for period in excess of two (2) years and amount of \$2,904.70, remains outstanding It is requested by Council staff that Council, in accordance with the provisions of Section 6.12 of the Local Government Act 1995 write off amount of outstanding money \$2,904.70, which is owed to the local government.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council write off outstanding amount of \$2,904.70, which is owed by Mr Robert William Lowe to the Shire of Cuballing.

COUNCIL ACTION

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

CARRIED 7/0

8.1.6 C Y O'CONNOR COLLEGE OF TAFE – GRADUATION SPONSORSHIP

Submission to: Ordinary Meeting of Council
Location/Address: Not applicable
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Not applicable
Council Policy: 1.1
Budget Implications: Yes, no provision on 2007/2008 budget
File Reference: Finance 15
Voting Requirements: Simple majority

Background

Request from C Y O'Connor College of TAFE for Council consideration to sponsor an award at their 2008 Awards Ceremony to be held on 29 March 2008. A list of the award categories and monetary value is included in the correspondence.

Comment

Council Policy, 1.1 School Awards, is as follows:

Council will support the East Narrogin Primary School and the Narrogin Senior High School Awards Presentation Nights by a donation assessed at budget preparation. Requests received from other Schools will be considered by Council upon receipt thereof.

In accordance with the policy, Council does provide an annual donation to the East Narrogin Primary and Narrogin Senior High Schools. In addition to this Council has in recent years also supported the Narrogin Agricultural School and Narrogin Primary School Graduation Ceremonies.

Whilst C Y O'Connor College of TAFE does have a regional campus in Narrogin and no doubt people from within this area would utilise its services, no budget provision has been made in 2007/2008, and the above information indicates that Council certainly provides financial support to the various schools within the local district.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council declines the request from C Y O'Connor College of TAFE to sponsor an award at their 2008 Awards Ceremony.

COUNCIL ACTION

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

CARRIED 7/0

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**

POPANYINNING WEST ROAD

Construction works for the widening the next section of this road have commenced. Culvert extensions have been completed, it is estimated all works will be completed within the next six (6) weeks.

RESEALING PROGRAM

Pioneer Road Surfaces have scheduled to complete the resealing works throughout the Shire in early/mid April 2008.

GRADING/MAINTENANCE

Maintenance grading is proceeding throughout the Shire as time and resources permit. The graders have been working in the north eastern section of the Shire.

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 differential for the Venieri front-end loader has been sent to Drivetrain Australia for repairs, it is expected to be completed by end of February 2008 and hopefully the loader will be back in operation soon thereafter. Drivetrain Australia are assisting Council in its endeavours to get Venieri to recognize some responsibility for warranty compensation.

The new small Isuzu Truck (CN2) has been purchased and Kevrek crane fitted.

STAFF

Graeme Renfrey cleared two (2) weeks of accrued annual leave entitlements.

Trainee Brett Ashton resigned over the Xmas/New Year period. Reimbursement is being sought from C Y O'Connor College of TAFE for the fees paid towards the Certificate III Civil Construction Course.

Nicholas Moore has been employed through Hotham Personnel in a temporary part time capacity to assist in the town maintenance area.

Paul Doyle commenced in a temporary full time position as general maintenance/plant operator. Paul will be studying Certificate III in Civil Construction through the Main Roads WA REACH Program.

PRIVATE WORKS

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

Private works invoices for the months of December 2007 and January 2008, total \$5,082.89.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the Works Managers Report be received and information noted.

COUNCIL ACTION

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

CARRIED 7/0

8.2.2 BUSH FIRE INCIDENT REPORT – LOCATION 6265 PATULLO ROAD

4:01pm Cr Bradford declared a Financial Interest and departed the Chambers.

Submission to:	Ordinary Meeting of Council
Location/Address:	Location 6265 Patullo Road, Popanyinning West
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Bush Fires Act 1954
Council Policy:	6.1
Budget Implications:	Nil
File Reference:	Bush Fire Control 10
Voting Requirements:	Simple majority

Background

The following Bush Fire Incident Report has been received for recent fire within the Shire of Cuballing.

Comment

A summary of the fire is hereunder:

Date	Property Owner	Details
27 December 2007	Hillcroft Farms D S & G Bradford & Co	Fire reportedly caused by machine (bale stacker) skid striking rock. It is alleged that the machine was operating during harvest and movement of vehicles in paddocks ban within the Shire. The fire was well attended by farmer response units, Department of Environment and Conservation, and the Popanyinning & Cuballing Brigades.

Separate reports for the fire have been submitted by Dawson Bradford Jnr and the Deputy Chief Bush Fire Control Officer Rob Harris. Mr Bradford accepts responsibility for the fire and acknowledges that he should have ensured that the machine operator was aware of the Harvest and Movement of Vehicles in Paddocks Ban. He also raises some issues relating to the varying conditions on either side of the Great Southern Highway and perhaps the Fire Weather Officers should take this into account when implementing bans and on some occasions use the Highway as a demarcation line to have a ban in the eastern or western part of the Shire and not the whole of Shire if weather conditions are not compatible across the whole of the Shire. This information could be referred to the Bush Fire Advisory Committee for consideration.

In recent times the following incidents have been considered serious enough to warrant Council resolving to send the property owners a warning letter and stating that this type of incident is not acceptable and that a similar incident in the future will incur much harsher penalties in accordance with the provisions of the Bush Fires Act 1954.

- 27 December 2002; property owner deliberately lit fire during prohibited burning period
- 17 November 2006; property owner deliberately lit fire during prohibited burning period
- 7 December 2006; property owner continued to harvest during harvest and movement of vehicles in paddocks ban
- 6 May 2007; property owner deliberately lit fire on neighbouring crown land without permission (fire escaped)

The current matter before Council appears to be in line with the abovementioned incidents and therefore it is deemed that a similar course of action be taken by Council.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- The Bush Fire Incident Report be noted and copy forwarded to the Fire and Emergency Services Authority;
- Correspondence be forwarded to Hillcroft Farms, D S & G Bradford & Co, advising that movement of vehicles in paddocks during a harvest and movement of vehicles in paddocks ban is a blatant violation of the Bush Fires Act 1954 and is viewed very seriously by Council, and that a repeat of this nature in the future will leave Council with no alternative but to take necessary actions in accordance with the provisions of the Bush Fires Act and associated legislation; and
- Correspondence from Mr Bradford Jnr be referred to the Shire of Cuballing Bush Fire Advisory meeting for consideration.

COUNCIL ACTION

Moved Cr Newman, seconded Cr Haslam that:

- **The Bush Fire Incident Report be noted and copy forwarded to the Fire and Emergency Services Authority;**
- **Correspondence be forwarded to Hillcroft Farms, D S & G Bradford & Co, advising that movement of vehicles in paddocks during a harvest and movement of vehicles in paddocks ban is a blatant violation of the Bush Fires Act 1954 and is viewed very seriously by Council, and that a repeat of this nature in the future will leave Council with no alternative but to take necessary actions in accordance with the provisions of the Bush Fires Act and associated legislation;**
- **Mr Dawson Bradford Jnr be requested to attend a FESA Fire Control Officer course as soon as possible to gain a better understanding of fire control responsibilities, and how/why harvest and movement of vehicle in paddocks bans are imposed;**
- **Council implement a suitable policy to provide clear guidelines on how future incidents of a similar nature are to be enacted upon;**
- **Council writes to the CBFCO and advises of the actions being imposed and reinforcing Councils support for the bush fire brigade network and the excellent and conscientious work that the volunteers within the district undertake; and**
- **Correspondence from Mr Bradford Jnr be referred to the Shire of Cuballing Bush Fire Advisory meeting for consideration.**

CARRIED 5/1

4:56pm – Cr Bradford re-entered the Chambers

8.2.3 BUSH FIRE INCIDENT REPORT – YORNANING DAM

Submission to: Ordinary Meeting of Council
Location/Address: Reserve 5271, Yornaning West Road
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Bush Fires Act 1954
Council Policy: 6.1
Budget Implications: Nil
File Reference: Bush Fire Control 10
Voting Requirements: Simple majority

Background

The following Bush Fire Incident Report has been received for recent fire within the Shire of Cuballing.

Comment

A summary of the fire is hereunder:

Date	Property Owner	Details
5 January 2008	Yornaning Dam Reserve 5271	Camp Fire lit at Yornaning Dam during the Prohibited Burning Period. Council’s Camp Fire Policy allows for this but it is alleged that the fire could be more compared to a bon fire than camp fire.

This incident was the result of person/s lighting a campfire at the Yornaning Dam. Council has a Camp Fire Policy which allows for the lighting of camp fires during the Restricted and Prohibited Burning Periods.

Campfires within the Shire of Cuballing during the restricted and prohibited burning period are prohibited except between the hours of 6pm and 11pm and subject to the fire being extinguished by midnight.

However it appears from the Bush Fire Incident Report that the person/s had lit a larger fire that could more compared to a bonfire. The Fire Control Officer whom prepared the incident report suggests that Council should remove the signs and review its policy.

The Shire of Cuballing Campfire Policy was adopted by Council in December 2003, following consultation with the Shire of Wandering and the Department of Conservation and Land Management, to create some uniformity for the Dryandra Woodlands region. The Shire of Wandering has recently changed its policy to prohibit the lighting of campfires during the restricted and prohibited burning periods. The Department of Environment and Conservation advise that they do not have a policy and are happy to work with whatever policy the local government adopts. Perhaps in light of the fire at Yornaning Dam and to be in line with other Shires in the Dryandra Region the existing policy could be amended to ban the lighting of campfires during the restricted and

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prohibited burning periods and signage throughout the Shire changed accordingly.

The Chief Executive Officer is seeking information from the neighbouring Shires of Narrogin, Pingelly, Wickiepin and Williams as to their individual policies on this matter. Whilst Councils decision shouldn't be influenced by what another Council may have or do it would be better to have a uniform policy within the region.

Another matter for consideration is that the Campfire Policy was adopted in 2003 and this is first incident of note brought to Councils attention, therefore does it need to be amended? Council will soon be undertaking its bi-annual review of the Shire of Cuballing Policy Manual it may be more appropriate to review the policy at this time.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- **The Bush Fire Incident Report be noted and copy forwarded to the Fire and Emergency Services Authority; and**
- **Review of the Shire of Cuballing Campfire Policy, adopted in December 2003, be undertaken during the bi-annual review of the Policy Manual.**

COUNCIL ACTION

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

CARRIED 7/0

8.2.4 NARROGIN & DISTRICTS CYCLE CLUB INC – PERMISSION TO CONDUCT ROAD RACES ON ROADS WITHIN THE SHIRE OF CUBALLING

Submission to:	Ordinary Meeting of Council
Location/Address:	Various roads within the Shire of Cuballing
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Road Traffic Act 1974
Council Policy:	Nil
Budget Implications:	Nil
File Reference:	Roads 1 & Town Streets 7
Voting Requirements:	Simple Majority

Background

Correspondence from the Cycle Club requesting Council permission to conduct their annual road races on various roads within the Shire of Cuballing during 2008.

Comment

Details of the road races are as follows:

Dates	Start/Finish	Routes and roads used
24 May, 5 July & 16 August	Popanyinning General Store	Popanyinning Race From Popanyinning town to Pingelly town on the Great Southern Highway
17 May, 28 June & 9 August	Cuballing Tavern, Alton Street	Cuballing Criterion From Cuballing Tavern, Campbell, Alton, Austral & Darcy Streets (circuit)
21 June, 2 August & 30 August	From edge of Narrogin just past Bannister Street	Narrogin – Cuballing – Popanyinning Race From the edge of Narrogin just past Bannister Street, to Popanyinning town along the Great Southern Highway

The Cycle Club has been conducting races on roads within the Shire of Cuballing for many years without any apparent incidents and/or problems. It is good that the Club considers racing on different venues throughout the region, which provides the riders with some variance.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the application submitted by the Narrogin & Districts Cycle Club Inc for permission to conduct road races on various roads within the Shire of Cuballing, as indicated above, be supported.

COUNCIL ACTION

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

CARRIED 7/0

8.3 REPORTS – BUILDING

8.3.1 BUILDING SURVEYORS REPORT

Submission to: Ordinary Meeting of Council
Location/Address: Whole of Shire
Reporting Officer: Neil Flood, 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

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Summary

There were seven (7) building applications approved and licenses issued for the months of December 2007 and January 2008.

Listed below is a summarised breakdown of the applications and proposed structures.

Approval License No	Name of Owner	Registered Builder (RB) or Owner Builder (OB)	Structure	Location of Building
29 – 2007/08	T & D Hobson	OB	S/F Shed	Lot 104 Alexandra Rd Popanyinning.
30 – 2007/08	S Clarke-Smith	OB	Addition S/F Dwelling	Lot 238 Dungog St Cuballing
31 – 2007/08	P & H Dowdell	OB	Additions & Renovations T/F Dwelling	Lot 23 Wandering-Narrogin Rd Cuballing
32 – 2007/2008	K G Cox	Cavalier Homes Pty Ltd	Relocation S/F Dwelling	Lot 144 Page Rd Popanyinning
33 – 2007/2008	C R Ferrell	OB	New S/F Residence	Lot 291 Brundell St Cuballing
34 – 2007/2008	D & N Dutton	OB	New S/F Colourbond Dwelling	Lot 99 Cuballing St Cuballing
35 – 2007/2008	Uniting Church	OB	Addition S/F Hall	Lot 220 Alton St Cuballing

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the Building Surveyors Report be received and information noted.

COUNCIL ACTION

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

CARRIED 7/0

8.3.2 ILLEGAL STRUCTURE – LOT 113 ALEXANDRA ROAD, POPANYINNING

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 113 Alexandra Road, Popanyinning
Reporting Officer:	Neil Flood, Environmental Health Officer/Building Surveyor
Enabling Legislation:	Local Government (Miscellaneous Provision) Act Health Act 1911 – As Amended
Council Policy:	Nil
Budget Implications:	Nil
File Reference:	Building Control 6
Voting Requirements:	Simple majority

Background

Councils previous Building Surveyor, Mr Allan Ramsay, spoke to the owner of Lot 113 Alexandra Street, Popanyinning, Mr Mike Shannon, on the 31 August 2006, and then wrote to Mr Shannon on the 6 December 2006, regarding the two illegal structures (Donga's) which are placed on the property.

On the 22 November 2007 Mr Shannon was again written to asking him to either submit plans and specifications for the structure/s within fourteen (14) days or the buildings would be condemned as unfit for human habitation (copy of letter attached).

Mr Shannon informed the building surveyor that Lot 113 was for sale and he would remove the Donga's when the lot was sold.

Comment

Eighteen months has elapsed since Mr Ramsay initially spoke to Mike Shannon and nothing has been done.

Part V Dwellings Division 1 - Houses unfit for occupation of the Health Act 1911 – Section 135, 136 and 137 states:

Dwellings unfit for Habitation

135. (1) Any local authority may, of its own motion, and shall, when required by order of the Executive Director, Public Health by notice in writing, declare that any house, or any specified part thereof, is unfit for human habitation.

(2) The notice may direct that such house or part thereof shall not, after a time to be specified in the notice, be inhabited or occupied by any person.

(3) The notice shall be affixed to some conspicuous part of the house, and a copy of such notice shall be served upon the owner or occupier thereof.

[Section 135s amended by No. 28 of 1984 s. 45.]

Such house not to be let or occupied

136. Any person who, after the expiration of the specified time, inhabits or occupies, or suffers to be inhabited or occupied, such house or part thereof commits an offence.

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[Section 136s amended by No. 113 of 1965 s 8 (1); No. 80 of 1987 s. 31.]

Condemned building to be amended or removed

137. A notice may be served by the local authority upon the owner of such house directing him, within a time limited by such notice, either to amend the same in some specified manner or take down and remove the same.

Provided that-

- (i) the notice may direct the owner to take down and remove the house, without giving him the alternative of amending the same; and*
- (ii) any person aggrieved by any notice under this section shall have a right to appeal against such notice, and, in relation to any such appeal, the provisions of section 36 shall mutatis mutandis apply.*

[Section 167 amended by No. 30 of 1932 s. 21.]

Also Division 9 – Notice of required alteration section 401 of the Local Government (Miscellaneous Provisions) 1965 states:

(1) A local government may, during or after the erection of a building in its district, give to the builder or owner of the building, written notice of anything, in the construction of the building-

- (a) which tends to render the building unsafe or prejudicial to the public interest;*
- (b) which is not in compliance with, or is a departure from, the plans and specifications for the building, of which plans and specifications the approval of the local government has been obtained as required by this Act, or which is a contravention of this Act; or*
- (c) which, where permission of the local government is required for carrying out, has been carried out without that permission;*

and requiring him to pull down or so alter the building as to remove the cause of the objection and on being served with the notice the builder or owner shall comply with the requisition, unless he applies to the State Administrative Tribunal under subsection (3) for a review of the decision to make the requisition and the State Administrative Tribunal sets aside the decision.

Any person who is aggrieved by any notice may apply to the State Administrative Tribunal, St Georges Terrace, Perth.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council:

- 1. Condemn the two structures on Lot 113 Alexandra Road, Popanyinning, as unfit for human habitation and the buildings be removed within thirty (30) days as provided for under sections 135, 136 and 137 of the Health Act 1911 (as amended);**
- 2. Order the owner Mr Mike Shannon to remove the illegal structures from Lot 113 Alexandra Road, Popanyinning, within thirty (30) days**

under section 401(1)(c) of the Local Government (Miscellaneous Provisions) Act 1965; and

3. Inform Mr Shannon that if he is aggrieved by council's orders he may apply to the State Administrative Tribunal for a review.

COUNCIL ACTION

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

CARRIED 7/0

8.4 REPORTS – HEALTH

8.4.1 FUTURE OPERATIONS AND MANAGEMENT OF POPANYINNING REFUSE SITE

Submission to:	Ordinary Meeting of Council
Location/Address:	Popanyinning Refuse Site, Lot 125 (Reserve 27005) Popanyinning East Road
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Environmental Protection Act 1986
Council Policy:	Nil
Budget Implications:	Nil (2007/2008)
File Reference:	Health 10a
Voting Requirements:	Simple majority

Background

When Council introduced operational and management changes to the Cuballing Refuse Site in September 2007, it was proposed that similar changes would be introduced for the Popanyinning Refuse Site in September 2008.

Comment

The changes invoked for the Cuballing Refuse Site are working extremely well with plenty of positive and only a few negative comments from the local community.

The same process needs to be introduced at Popanyinning, however with the new Waste Avoidance legislation to be introduced early in 2008 it begs the question of whether Council should proceed with the change at the present time or wait until it is clear what the requirements of the new legislation will be, also until the completion of the Zero Waste Management Plans (ZWMP) which have become a requirement for all local governments to undertake.

The ZWMP's were due to be completed by 31 March 2008, however this time frame has been extended until 30 September 2008.

The recycling process at the Popanyinning Refuse Site has changed in recent times. Avon Waste now supply three (3) recycling bins at the refuse site and these are collected and replaced on a monthly basis. This appears to be working well and more cost efficient to Council, and Avon Waste are happy with the arrangement. This has replaced the old yellow recycling bin system

that was being transported to Wickepin on a weekly/fortnightly basis by Shire staff.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

The introduction of operational and management changes to the Popanyinning Refuse Site be deferred for 12 months until September 2009.

COUNCIL ACTION

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

CARRIED 7/0

8.5 REPORTS – TOWN PLANNING

8.5.1 WESTERN AUSTRALIAN PLANNING COMMISSION (WAPC) – PLANNING APPLICATION 135987 WATSONS ROAD, CUBALLING

Crs Hawksley and Newman declared a Proximity Interest in this item as they own land adjoining Lot 2, however as the matter is for information only did not leave the Council Chamber.

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 2 Watsons Road, 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:	Town Planning 12
Voting Requirements:	Simple majority

Background

Correspondence from the WAPC advising that the Commission is prepared to endorse the planning application subject to compliance with certain conditions.

The application was previously presented to the October 2007 meeting of Council, at the meeting Council resolved to support the application.

That after taking into consideration the provisions of Shire of Cuballing Town Planning Scheme No 2 and WAPC Planning Policy DC3.4, in particular clause 3.2.1(a), Council informs the Western Australian Planning Commission that it has no objections to Planning Application 135987.

Comment

The conditions of approval imposed by the WAPC for the application are:

- 1. Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of Western*

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Power for the provision of an underground electricity supply service to the lot(s) shown on the approved plan of subdivision.

- 2. The transfer of land as a Crown Reserve, free of cost to Western Power for the provision of electricity supply infrastructure.*

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 WESTERN AUSTRALIAN PLANNING COMMISSION (WAPC) – PLANNING APPLICATION 136742, LOTS 7805 & 10263 WILLIAMS ROAD, POPANYINNING WEST

Submission to:	Ordinary Meeting of Council
Location/Address:	Lots 7805 & 10263 Williams Road, 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:	Town Planning 12
Voting Requirements:	Simple majority

Background

Planning application submitted by property surveyor P H & K E Gow on behalf of property owners T J & J A Watts to realign the boundaries of Lots 7805 & 10263 in line with Williams Road which runs through Lot 10263 and along the western boundary of Lot 7805. The application does not propose to create additional lots and/or certificates of title.

Comment

The application was not referred to Councils Town Planning Consultant, Mr Trevor Moran, as he has been away on leave.

In general terms it is WAPC Planning Policy (Development Control Policy 3.4, Subdivision of Rural Land) that, in the absence of the planned provision for closer settlement and more intensive agricultural uses, existing large rural lots be retained for broadacre and traditional forms of farming and that the fragmentation of rural land and loss of rural character through piecemeal, unplanned subdivision not be permitted. The Shire of Cuballing Town Planning Scheme No 2 generally supports this.

Policy 3.4 does however allow for various forms of subdivision, which do not result in loss of rural character, and may be permitted.

Development Control Policy 3.4, Subdivision of Rural Land, Section 4 Policy measures for rural lots for farming and conservation:

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4.5 Boundary realignments

Lot boundaries which are poorly aligned with natural or constructed features and/or which result in encroachments may be corrected through minor boundary realignments.

4.6 Farm rationalisation

Multiple lots in one ownership may be rationalised through boundary realignments to improve farm management and/or to provide access to landlocked lots provided that:

- (a) the new lot pattern is consistent with the objectives of the policy;*
- (b) no additional lots are created; and*
- (c) the new boundaries reflect good environmental and land management practice and are appropriate for the intended land uses.*

The applicant states that the reason for subdivision is to relocate the boundary of Lot 10263 so the small portion does not cross Williams Road. The small portion of existing Lot 10263 on the eastern side of Williams Road will be merged into Lot 7805. No additional lots and/or titles will be created. This seems quite reasonable and appears to meet the requirements of clause 4.5 of section 4 as defined above.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Planning Application 136742 be supported.

COUNCIL ACTION

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

CARRIED 7/0

8.5.3 WESTERN AUSTRALIAN PLANNING COMMISSION (WAPC) – PLANNING APPLICATION 136314, LOT 16 GREAT SOUTHERN HIGHWAY, CUBALLING

Cr Newman declared a Proximity Interest in this item as he owns land adjoining Lot 16, however as the matter is for information only did not leave the Council Chamber.

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 16 Great Southern Highway, Cuballing
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Planning and Development Act 1995
Council Policy:	Shire of Cuballing Town Planning Scheme No 2
Budget Implications:	Nil
File Reference:	Town Planning 12
Voting Requirements:	Simple majority

Background

Correspondence from the WAPC advising that the Commission has resolved to refuse the planning application.

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The application was previously presented to the December 2007 meeting of Council, at the meeting Council resolved to support the application.

That Planning Application 136314 be supported with the following condition to be imposed:

A restrictive covenant, in relation to the proposed easement, to be placed on the two certificates of title, which cannot be removed without Shire of Cuballing and Main Roads WA agreement.

Comment

The WAPC advises that its reasons for refusing the application are:

- 1. The proposed subdivision is inconsistent with the 'General Agricultural' zoning of the land in Council's Town Planning Scheme No 2. 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 Commission's Rural Landuse Planning Policy requires Councils to prepare a Local Planning Strategy to comprehensively plan for change and development in rural areas. The proposed subdivision is inconsistent with the Shire's Local Planning Strategy by reason that the Strategy has a presumption against subdivision in the General Agricultural Zone. The Commission is not prepared to approve the subdivision of rural land that would lead to unplanned development and could be to the detriment of other rural uses, proper management of rural land and a rational settlement pattern.*
- 3. The proposed subdivision does not comply with the Commission's Policy DC 3.4, by reason that subdivision is not provided for in the Shire of Cuballing Town Planning Scheme No 2 or the Shire's Strategy or any provision of Policy DC3.4.*
- 4. The Commission is not satisfied that it is necessary for the subdivision to take place to meet the applicant's stated aims.*
- 5. Approval to the subdivision would result in the creation of a lot of a much smaller size than those prevailing in the locality and therefore set an undesirable precedent for further subdivision of a similar type in this general area.*

The applicant has 28 days from the date of the decision to 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.

**8.5.4 WESTERN AUSTRALIAN PLANNING COMMISSION (WAPC) –
PLANNING APPLICATION 136149, WARDERING ROAD AND
WILLIAMS-KONDININ ROAD, CUBALLING EAST**

Submission to: Ordinary Meeting of Council
Location/Address: Lots 8025, 8026, 4017, 1924 & 9109 Wardering and Williams-Kondinin Roads, Cuballing 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: Town Planning 12
Voting Requirements: Simple majority

Background

Correspondence from the WAPC advising that the Commission is prepared to endorse the planning application subject to compliance with certain conditions.

The application was previously presented to the November 2007 meeting of Council, at the meeting Council resolved not to support the application.

That Planning Application 136149 not be supported.

Council noted that the applicant has indicated that the current and proposed land use of the subdivision will not change and believes the applicant can continue with normal farming activities and practises without the application being approved.

Comment

The conditions of approval imposed by the WAPC for the application are:

- 1. The battleaxe legs of proposed Lots 3 & 4 be constructed to a trafficable standard to the satisfaction of the Shire of Cuballing.*
- 2. A caveat to be placed on the Certificate of Title of proposed Lots 3 & 4 acknowledging that maintenance of the battleaxe road access is the responsibility of the owner.*
- 3. the applicant/owner entering into an agreement with the local government to ensure reciprocal rights of access over adjoining battleaxe accessway(s).*

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the correspondence be received and information noted.

COUNCIL ACTION

Resolved that the correspondence be received and information noted.

**8.5.5 DEPARTMENT FOR PLANNING AND INFRASTRUCTURE (DPI)
STATE LAND SERVICES – AUTOMATIC MANAGEMENT
(VESTING) OF RESERVES**

Submission to:	Ordinary Meeting of Council
Location/Address:	Whole of Shire
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Planning and Development Act 2005
Council Policy:	Nil
Budget Implications:	Nil presently, but could/will create ongoing costs to manage public areas
File Reference:	Town Planning 1
Voting Requirements:	Simple majority

Background

DPI write requesting Council consideration as to whether it would accept management of reserves created as a consequence of land vesting in the Crown pursuant to s. 152 of the Planning and Development Act 2005 (PDA).

Comment:

The proposal by DPI seems to be another state government handball to local government. There are many reserves throughout the Shire that are vested with Council; however the majority of them have a useful purpose. Many are recreation reserves, gravel reserves or other reserves vested for community use.

It is logical that reserves will change hand and management from time to time however to have a blanket vesting to Council would become onerous. Management and vesting of reserves should be considered on individual merit.

Planning and Development Act 2005 s. 152

s.152. Certain land to vest in the Crown

(1) If the Commission has approved a subdivision of land subject to a condition that one or more portions of land shown on a diagram or plan of survey relating to the subdivision or a plan under the Strata Titles Act 1985 are to vest in the Crown for any one or more of the following purposes —

- (a) conservation or protection of the environment;*
- (b) an artificial waterway;*
- (c) a pedestrian accessway;*
- (d) a right-of-way;*
- (e) a reserve for water supply, sewerage, drainage, foreshore management, waterway management or recreation;*

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- (f) a public purpose specified in the condition and related to the subdivision, then, subject to the encumbrances referred to in subsection (5), the land subject to the condition vests in the Crown by force of this section without any conveyance, transfer or assignment or the payment of any fee.*
- (2) Land vested under subsection (1) is vested —*
 - (a) in the case of a plan lodged for registration under the Strata Titles Act 1985, at the time the Registrar of Titles registers the plan under that Act; and*
 - (b) in any other case, at the time the new certificate, or if more than one, all the new certificates, for the land the subject of the diagram or plan of survey, has or have been registered under the Transfer of Land Act 1893.*
- (3) Land vested under subsection (1) —*
 - (a) is Crown land;*
 - (b) does not form part of a parcel comprised in a plan that is registered under the Strata Titles Act 1985;*
 - (c) is to be taken to be reserved under section 41 of the Land Administration Act 1997 for the purpose set out in the condition; and*
 - (d) may be dealt with in accordance with the Land Administration Act 1997.*
- (4) The Registrar of Titles is to do all things necessary to give effect to this section.*
- (5) Land vested under this section is to be vested subject to —*
 - (a) any easement on that land created for the purposes of the subdivision, shown on the diagram or plan of survey and referred to in section 167;*
 - (b) any easement on that land created under Part IVA of the Transfer of Land Act 1893 for the purposes of the subdivision and shown on the diagram or plan of survey;*
 - (c) any existing encumbrance specified in a direction of the Minister responsible for the administration of the Land Administration Act 1997, or a person authorised in writing by that Minister for the purposes of this section, lodged with the Registrar of Titles on or before the vesting; and*
 - (d) any encumbrance prescribed, or of a class prescribed, by the regulations.*

The request is indicative as to how the WA Government is continuing their agenda of trying to pass many of their historical tasks and responsibilities to local government. Local Government cannot afford to keep taking additional responsibilities on from State Government, if there are not adequate resources made available. There is nothing to be gained at all by Council acceding to this request from the DPI.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council advises the Department of Planning and Infrastructure it is not willing to accept automatic management of reserves created as a condition of subdivision under section 152 of the Planning and Development Act 2005.

COUNCIL ACTION

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

CARRIED 7/0

**8.5.6 WESTERN AUSTRALIAN PLANNING COMMISSION (WAPC) –
PLANNING APPLICATION 136056 LOT 131 BUNMULLING ROAD,
POPANYINNING**

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 131 Bunmulling 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:	Town Planning 4
Voting Requirements:	Simple majority

Background

Planning application to subdivide Lot 131 Bunmulling Road, Popanyinning, into three separate Lots, has been submitted by the property owners Bertram & Julie Gray.

This application was presented to the December 21, 2007, Ordinary meeting of Council. At that meeting Council resolved as follows:

That the Western Australian Planning Commission be advised that Council is prepared to support Planning Application 136056 subject to the following conditions:

- That an Environmental Impact study be undertaken because of the low-lying nature of the land;*
- The applicant be responsible for costs to install a cross over to provide access from Bunmulling Road to service proposed Lot 2;*
- The applicant be responsible for upgrading/improvements required for the Durham Road road reserve and/or unnamed road reserve on the southern boundary of the property, to the satisfaction of the Shire of Cuballing, and installation of cross over to service proposed Lot 3; and*
- The applicant be required to inform prospective purchasers of the requirements of Clauses 5.12.7 and 5.12.8 of Town Planning Scheme No 2, pertaining to development in Rural Residential Zoned areas, and that no outbuilding will be*

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approved unless a single dwelling is existing on the property or is to be constructed at the same time (Clause 4.2 (c)).

Following the above resolution, and in their deliberations on the matter (after contacting the proponents), the WAPC contacted the Shire office to have on site meeting at the property to gain a better understanding of the concerns being expressed by Council about the low lying nature of the land.

WAPC Planning Officer, Mr Simon Davis, met with the Shire President, Chief Executive Officer and Works Manager, on site on Thursday 31 January 2008.

In discussions with the Council delegates, Mr Davis acknowledged Councils concerns and requested opinion if the applicants amended the application to subdivide the property into two (2) lots instead of three (3). This would mean that proposed Lot 3 which contains most of the land of concern would not eventuate and the land would remain as part of proposed Lot 1 which will remain in the ownership of Mr & Mrs Gray, the planning applicants. In addition to this a crossover from Bunmulling Road is already in place to provide access to proposed Lot 2.

At the on site meeting the Shire President and Chief Executive Officer indicated that if this was the case then it would be likely that Council would support the application with dot points 1 & 3 of Councils resolution for item 8.5.2 of December 21, 2007, Council meeting, not being required.

Mr Davis advised that he would take this information back to the applicants for consideration.

Comment

Amended planning application has now been received from the WAPC, on behalf of Mr & Mrs Gray, to subdivide Lot 131 Bunmulling Road, Popanyinning, into two lots. Proposed Lot 1 covers the larger portion of the land to the east of the property, and includes the low lying area of concern, proposed Lot 2 is the same as per the original application and has existing crossover access from Bunmulling Road and is the higher portion of land.

Based on this information and the Shire President and Chief Executive Officers comments to Mr Davis on 31 January 2008, the Chief Executive Officer has indicated to the WAPC that Council will be in support of the planning application with dot points 1 & 3 of motion 8.5.2 of 21 December 2007, to prepare an environmental impact study, and to construct the Durham and unnamed road reserves to the east and south of the property, not being required.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

- 1. That the Western Australian Planning Commission be advised that Council is prepared to support Planning Application 136056, to subdivide Lot 131 into two separate land parcels, subject to the following conditions:**

- The applicant be responsible for costs to install a cross over to provide access from Bunmulling Road to service proposed Lot 2; and
- The applicant be required to inform prospective purchasers of the requirements of Clauses 5.12.7 and 5.12.8 of Town Planning Scheme No 2, pertaining to development in Rural Residential Zoned areas, and that no outbuilding will be approved unless a single dwelling is existing on the property or is to be constructed at the same time (Clause 4.2 (c)).

2. The Chief Executive Officers actions be endorsed.

COUNCIL ACTION

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

CARRIED 7/0

8.5.7 SHIRE OF CUBALLING TOWN PLANNING SCHEME NO 2, AMENDMENT NO 2, AGED PERSONS ACCOMMODATION

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 3111 (Reserve 49201) Andover Street, Cuballing
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
Budget Implications:	Nil
File Reference:	Town Planning 8
Voting Requirements:	Simple Majority

Background

In June 2005 Council submitted an application to the Department of Housing and Works (DHW) for development of a joint aged accommodation project (two 2 bedroom units) in Cuballing.

Originally the development was proposed to be on Lots 12 & 41 (vacant land opposite the Cuballing Agriculture Hall and adjacent to the old Bank building in Alton Street), however there was some community conjecture about the site and Council sought management of Lot 3111 on corner of Andover Street (unmade) and Austral Street for this purpose.

Lot 3111 has had management vested with the Shire of Cuballing for purpose of aged accommodation, however the property is currently zoned R10 under the Shire of Cuballing Town Planning Scheme No 2, and ideally needs to be rezoned to R20 to be suitably zoned for the required purpose.

Comment

In the Residential Design Codes land zoned R10 is only permitted to have one unit/dwelling constructed per 1,000m², whereas R20 permits one unit per

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500m2. Rezoning the land, which is 3,585m2 in size, will eventually allow seven units to be established on the site.

The rezoning process is quite time consuming and to enable Councils application to the DHW, which is currently on deferral, needs to commence as soon as possible to be considered for the 2008/2009 financial year.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council, in pursuance of Section 75 of the Planning and Development Act 2005, amend Shire of Cuballing Town Planning Scheme No 2 by rezoning Lot 3111 (Reserve 49201) Andover Street, Cuballing, from Rural Townsite R10 to Rural Townsite R20.

COUNCIL ACTION

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

CARRIED 7/0

9. OTHER BUSINESS

Nil

10. MEETING CLOSURE

There being no further business the Shire President declared the meeting closed at 5.23pm.

**CONFIRMED AS A TRUE RECORD OF PROCEEDINGS
ON WEDNESDAY 19 MARCH 2008**

SHIRE PRESIDENT