



SHIRE OF CUBALLING

**ORDINARY COUNCIL MEETING
HELD ON THURSDAY 15 MARCH 2007**

MINUTES

SHIRE OF CUBALLING

COUNCIL MEETING THURSDAY 15 MARCH 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 15 MARCH 2007

1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

President welcomed Councillors, declared meeting open 3.06pm.

2. RECORD OF ATTENDANCE, APOLOGIES, LEAVE OF ABSENCE

ATTENDANCE

Shire President, Cr T H Wittwer	Deputy President, Cr J D Brown
Cr C R Hawksley	Cr R J D Newman
Cr C R McKenzie	Cr I L Watts
Chief Executive Officer, Mr P T Naylor	
Mr Mark Nicholas – 3:06pm to 3:18pm	
Mr SA & JD Maughan – 3.06pm to 3.18pm	
Environmental Health Officer/Building Surveyor, Mr A Ramsay – 4:40pm to 5:00pm	

APOLOGIES

Nil

LEAVE OF ABSENCE

Cr D S Bradford (Granted at the February 2007 ordinary meeting of Council)

3. PUBLIC QUESTION TIME

- Mark Nicholas addressed Council on Item 8.3.2, Proposed Outbuilding – Lot 293 Colin Street, Cuballing.
- Mr SA & JD Maughan addressed Council on Item 8.5.3, Application of Operate Fast Food Outlet.

Mr Nicholas, Mr and Mrs Maughan departed Council Chambers at 3:18pm.

4. APPLICATION FOR LEAVE OF ABSENCE

Nil

5. **MINUTES**

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

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the minutes (as circulated) of the ordinary meeting of the Shire of Cuballing held in the Council Chambers on 15 February 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**

Mr Trevor Moran, Councils Town Planning Consultant met with Council at 12.30pm, prior to the ordinary meeting of Council to discuss with Councillors the review of the Shire of Cuballing Town Planning Scheme No 2 and Local Planning Strategy.

7. **DISCLOSURES OF INTEREST**

Councillors' and Employees' Disclosures of Interest.

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

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

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

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

Councillors Brown and Newman own land adjoining the Cuballing townsite.

Councillor Wittwer owns land adjoining the Yornaning townsite.

7.2 DISCLOSURE OF INTEREST AFFECTING IMPARTIALITY

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

8.1 REPORTS – FINANCE AND ADMINISTRATION

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

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

Background

Council is supplied with a list of payments for consideration.

Comment

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

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council:

- **Approve for payment the list of Creditors paid from the Municipal fund, as detailed below, totalling \$106,605.17:**

Vouchers 10813-10840 inclusive	\$58,035.92
Vouchers 11650-11672 inclusive	\$11,348.58
Electronic fund transfers	\$36,993.47
Credit Card Payments	\$ 227.20
- **Approve for payment the list of Creditors paid from the Trust fund, as detailed below, totalling \$5,273.20:**

Vouchers 1987-1988 inclusive	\$ 273.20
Electronic fund transfers	\$ 5,000.00

COUNCIL ACTION

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

CARRIED 6/0

8.1.2 STATEMENT OF FINANCIAL ACTIVITY

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

Background

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

Comment

A Statement of Financial Activity has been prepared for period ending 28 February 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 28 February 2007 be received.

COUNCIL ACTION

Moved Cr Brown, seconded Cr Watts 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 Chief Executive Officer witnessed affixing of the Shire of Cuballing Common Seal to the following documents:

1. Licence to use corridor land (WestNetRail)
2. Town Planning Scheme No 2 – Amendment No 1

The Licence to use corridor land was affixed in accordance with Council resolution at the Ordinary meeting of Council on 15 February 2007, where Council agreed to lease Railway Reserve 10329 for an initial period of five years in accordance with the licence prepared by WestNetRail.

Town Planning Scheme No 2, Amendment No 1, had previously been signed off by Council, however the documents needed to be amended in accordance with the Western Australian Planning Commission decision to approve rezoning Lots 12 & 41, Cuballing townsite, from R10 to R20 and not to R30.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council endorses the affixing of the Shire of Cuballing Common Seal to the following documents:

1. Licence to use corridor land (WestNetRail)
2. Town Planning Scheme No 2 – Amendment No 1

COUNCIL ACTION

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

CARRIED 6/0

8.1.4 ANNUAL REVIEW OF DELEGATION OF AUTHORITY TO THE CHIEF EXECUTIVE OFFICER AND OTHER OFFICERS OF COUNCIL

Submission to: Ordinary Meeting of Council
Location/Address: Whole of Shire
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Local Government Act 1995
Council Policy: Nil
Budget Implications: Nil
File Reference: A 11
Voting Requirements: Simple majority

Background

Provisions within section 5.42 of the Local Government Act 1995 deal with the Delegation of Authority to the Chief Executive Officer and other Officers of Council. Section 5.46 of the Act states that at least once in every financial year the delegations are to be reviewed.

Comment

A copy of the current Delegated Authority issued by Council to the Chief Executive Officer and other Officers of the Shire of Cuballing is circulated with the Council meeting agenda for Councillor information.

Council previously reviewed this document in March 2006. The existing delegations appear to be satisfactory and in the past twelve months have not presented any operational problems.

The Department of Local Government and Regional Development has recently issued a new guideline on Delegations. The guideline is very concise and over time will be reviewed in accordance with Councils operations and functions by the Chief Executive Officer to ascertain if any additional matters need to be included on the Shire of Cuballing Delegated Authority Register.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

The Delegated Authority Register for the Chief Executive Officer and other Officers of the Shire of Cuballing, as circulated and presented to the Council meeting, be adopted.

COUNCIL ACTION

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

CARRIED 6/0

8.2 REPORTS – WORKS

8.2.1 WORKS MANAGERS REPORT

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

PURPOSE PERMIT APPLICATION

The Flora and Fauna Study, with offset planting provisions, was forwarded to the Department of Environment and Conservation (DEC) on Wednesday 14 February 2007. The DEC was not entirely satisfied with the report and required additional information pertaining to some vegetation varieties and offset planting. This information has now been provided to them and the report was to be presented to the Chief Executive Officer on Friday 9 March 2007 for signing off.

STRATHERNE/PARSONS ROADS INTERSECTION

The surveyor (Peter Gow) has completed marking the centre line and levels at this intersection. Works are ready to commence as soon as approval has been obtained from the Department of Environment and Conservation in relation to the purpose permit application.

BITUMEN RESEALS (2006/2007 CAPITAL WORKS PROGRAM)

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

BRIDGE MAINTENANCE

Routine maintenance has been carried out on a number of bridges throughout the Shire as identified in Main Roads Bridge Inspection Reports.

MAINTENANCE GRADING

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

PLANT AND EQUIPMENT

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

STAFF

Brett Ashton is on light duties following knee surgery as result of injury sustained at work.

PRIVATE WORKS

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

Private works invoices for the month of February 2007, total \$3,865.15.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the Works Managers Report be received and information noted.

COUNCIL ACTION

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

CARRIED 6/0

8.2.2 BUSH FIRE INCIDENT REPORT/S

Submission to: Ordinary Meeting of Council
Location/Address: Popanyinning Refuse Site
Reporting Officer: Peter Naylor, Chief Executive Officer
Enabling Legislation: Bush Fires Act 1954
Council Policy: 6.1
Budget Implications: Nil (however Council machinery was utilised to assist with the fire)
File Reference: BFC 10
Voting Requirements: Simple majority

Background

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
16 February 2007	Popanyinning Refuse Site	The fire appears to have been ignited in the metal pile, which contains a number of old car bodies. Cause of fire is unknown.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

The Bush Fire Incident Report be noted and copy forwarded to the Fire and Emergency Services Authority.

COUNCIL ACTION

Moved Cr McKenzie, seconded Cr Brown 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
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 February 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
28/06-07	J Brennan	OB	18m2 Garage	Lot 68 Derby St Cuballing
29/06-07	R Brennsell	WA Shed Company	135m2 Steel Frame Shed	Lot 2 (Loc 129) Popanyinning East Road Popanyinning
30/06-07	P Harkin	OB	165m2 Shed	Loc 4425 Calcoran Road Popanyinning
31/06-07	J Hall	OB	208m2 Steel Frame Shed	Loc 10432 Karping Road Popanyinning
32/06-07	G Brown	OB	202m2 Steel Frame Shed	Loc 4168 Draper Road Popanyinning
33/06-07	R Hamersley	OB	36m2 Garage	Lot 412 Clifford St Cuballing

CHIEF EXECUTIVE OFFICER'S RECOMMENDATION

That the Building Surveyor'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

8.3.2 MR MARK NICHOLAS – PROPOSED OUTBUILDING – LOT 293 COLIN STREET, CUBALLING

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 293 Colin Street, Cuballing
Reporting Officer:	Allan Ramsay, Environmental Health Officer/Building Surveyor
Enabling Legislation:	Building Regulations 1989
Council Policy:	Shire of Cuballing Town Planning Scheme No 2 (Local Planning Policy – Outbuildings)
Budget Implications:	Nil
File Reference:	BC 4
Voting Requirements:	Simple majority

Background

Council has received an application for Planning Consent from Mr. Nicholas (the applicant) for the construction of a 135m², 2.6 metre high Colorbond outbuilding on Lot 293 Colin Street, Cuballing (the subject property). The proposal is to build the shed only seven (7) metres from the boundary making it very noticeable from the road.

The applicant has indicated that the outbuilding is to be used to garage a new school bus to protect it from the heat and rain (as per the requirements for the school bus contract) and the location requested is for security and the minimum removal of established trees.

Comment

The subject land is zoned Rural Residential under the Shire of Cuballing's Town Planning Scheme No.2 (Local Planning Policy - Outbuildings).

Oversized Outbuilding

Council's Town Planning Scheme No. 2 Policy (Local Planning Policy Outbuildings) states that in a Rural Townsite and Rural Residential zones of the Shire where the lot size is over 1500m² or on a General Agricultural zoned lots with an area of 2 ha or less:

(ii) Colorbond construction, where the total outbuilding does not exceed 120m² in total floor area;

Any application for planning approval, which does not comply with the above, shall be referred to Council for consideration.

Council's Town Planning Scheme No. 2 Development Table indicates that setbacks for the Rural Residential Zone is to be determined by Council if it is not listed in the schedule of which, in this case, it is not.

Although there is no policy offering guidance to Council staff, each application will be assessed on its merits.

The shed will be more noticeable if it is built only seven (7) metres off the boundary of Colin Street and even more noticeable being 15m² larger and 700mm higher than the requirements under the Outbuilding Policy. Furthermore, the boundary setback of the shed would be approximately 20 meters in front of the existing house.

For comparison with the Rural Townsite Zone under the Town Planning Scheme No 2 the setbacks are fifteen (15) metres.

As a rule of thumb, Council Staff have been assessing similar projects under the Residential Design Codes (R2) of a twenty metre setback.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That Council resolves to approve the construction of the 9m wide and 15m deep and 3.7m high to eaves, 135 m² outbuilding on Lot 293 Colin Street, Cuballing subject to the following conditions:

- **The issue of an approved building license for the construction of the outbuilding;**
- **The outbuilding to be sited with a twenty (20) metre setback from Colin Street and not the seven (7m) setback as requested in the proposal from Mr Nicholas; and**
- **The outbuilding hereby permitted shall be only used for the purpose of either garaging the new school bus or incidental residential use of the property and shall not be used for any habitable or other purposes.**

COUNCIL ACTION

Moved Cr Newman, Seconded Cr McKenzie 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 February 2007.

On-Site Effluent Disposal Systems

Permits to Use an Onsite Effluent Disposal System

L Ballard Lot 49 Derby Street, Cuballing (new leach drains to existing effluent disposal system).

Lot 254 Colin St, Cuballing

4.40pm Mr Allan Ramsay EHO/BS entered the Council Chambers.

Mr Ramsay addressed Council on recent visits to the above property and endeavours to have the property owner/occupier undertake necessary repairs to the on-site effluent system disposal system to ensure it is functioning correctly. Mr Ramsay further stated that he is concerned for the health of the occupiers of the premises, particularly the children, should the system not be repaired. He also stated that he will undertake next inspection of the property on Thursday 22 March 2007 and if repairs have not been effective then it may be necessary to enforce the relevant provision of the Health Act 1911.

Council informed Mr Ramsay and the Chief Executive Officer that it fully supports and endorses the actions being taken by staff and enforcing the provision of the Health Act if warranted.

5:00pm Mr Ramsay departed the Council Chambers.

CHIEF EXECUTIVE OFFICER'S RECOMMENDATION

That the Environmental Health Officers Report be received and information noted.

COUNCIL ACTION

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

CARRIED 6/0

8.4.2 FUTURE OPERATIONS AND MANAGEMENT OF CUBALLING REFUSE SITE

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 350 Reserve 10186 Cuballing townsite
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Environmental Protection Act 1986
Council Policy:	Nil
Budget Implications:	Provision on 2006/2007 Budget
File Reference:	H 10a
Voting Requirements:	Simple majority

Background

Following notice sent out to residents of the Shire on 30 January 2007, on the future operations and management of the Cuballing Refuse Site, 10 responses were received by the submission date 9 March 2007.

Comment

The 10 responses varied within their context from total support of the whole management concept to varying degrees of support depending upon cost structure, opening days/times, possible introduction of refuse collection service, necessity of manager being in attendance during opening times, and various other comments. Copies of the responses have been circulated with the Council meeting agenda.

Now that Council has made an initial commitment to reviewing and improving the operation and management of the refuse site, staff consider it imperative that the process be followed through. Restricting the operating hours and manning the site when opened will control the dumping of refuse and ensure best practice procedures are introduced, particularly for recycling, reducing the amount of rubbish at the tip face and reducing wind blown litter around the site.

Further consideration now needs to be given to the following issues:

- Appointing a Refuse site manager;
- Office/ablution facility;
- Provision of power/generator and water;
- Fencing of the site (costs included on 2006/2007 budget); and
- Introduction of tipping fees. It is recommended that until such time as a refuse collection service is introduced residents of the Shire be provided with a tip pass for domestic refuse, a small fee be introduced for local commercial refuse, and more exorbitant fees be considered for non Shire waste (both domestic and commercial).

Determining the actual operating costs to introduce the above will be difficult to ascertain until Council has some indication as to what hourly rate a site manager will be asking for. Therefore staff could advertise seeking expressions of interest from suitable persons to help potentially fill the position and to enable a budget be prepared.

The Shire of Williams has recently introduced a similar management structure at their Williams Refuse Site and it may be worthwhile Councillors and staff undertaking an inspection of that site to gain an understanding of how it is operating and some useful tips on the positives and negatives of the introduction process.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That:

- **Councillors and staff undertake inspection of the Williams Refuse Site;**
- **Staff be authorised to proceed with installation of fencing of the Cuballing Refuse Site;**
- **Staff advertise seeking expressions of interest for Cuballing Refuse Site Manager;**
- **Staff ascertain costs with providing office/ablution, power (generator) and water at the Cuballing Refuse Site; and**
- **Staff investigate and present for Council consideration possible fees and charges structure for the Cuballing Refuse Site;**

COUNCIL ACTION

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

CARRIED 6/0

8.5 REPORTS – TOWN PLANNING

8.5.1 M & S EDWARDS – POPANYINNING KENNELS LICENCE

Submission to:	Ordinary Meeting of Council
Location/Address:	1 (lot 136) Lord Street, Popanyinning
Reporting Officer:	Peter Naylor, Chief Executive Officer
Enabling Legislation:	Dog Act 1976
Council Policy:	Shire of Cuballing Town Planning Scheme No 1 Shire of Cuballing Town Planning Scheme No 2 Shire of Cuballing Dogs Local Law 2004
Budget Implications:	Nil
File Reference:	TP 4
Voting Requirements:	Simple majority

Background

At various Council meetings between 17 September 1992 and 17 November 1994, Council granted planning approval for the abovementioned kennels to be established in Popanyinning. Unfortunately, whilst Council could give planning approval under the provisions of the Shire of Cuballing Town Planning Scheme No 1, it did not have the authority to issue a kennel licence under the provisions of the Dog Act 1976 as a Dogs Local Law had not been adopted.

Comment

The Dog Act 1976, sections 26 & 27 refer to the keeping of dogs and licensing approved kennel establishments. Both sections state that the provisions are pursuant to the local government having adopted a suitable Dogs Local Law.

Given that Council has already granted planning approval it is now possible to issue a kennel licence under the provisions of the Dog Act 1976 and Shire of Cuballing Dogs Local Law 2004. No special advertising requirements apply.

A letter of application and application form in the prescribed format, in accordance with Schedule 1 of the Shire of Cuballing Dogs Local Law 2004, has been provided by Mrs Edwards.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

In accordance with the Dog Act 1976, sections 26 & 27, and the Shire of Cuballing Dogs Local Law 2004, a kennel licence be issued to M & S Edwards for the kennels operating at 1 (lot 136) Lord Street, Popanyinning.

COUNCIL ACTION

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

CARRIED 6/0

8.5.2 WESTERN AUSTRALIAN PLANNING COMMISSION (WAPC) – PLANNING APPLICATION 130176 B & J GRAY

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:	TP 11
Voting Requirements:	Simple majority

Background

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

Comment

This application was first presented to Council at its Ordinary meeting held on Thursday 16 February 2006. At the meeting Council resolved:

“That the Western Australian Planning Commission be advised:

- *That Council is prepared to support the subdivision application on the proviso that the portion of Lot 131 on the northern side of Bunmulling Road, and 0.463ha in size (which is smaller than the permitted minimum lot size without a reticulated water supply in accordance with TPS No 2 clause 5.12.6), is ceded to the Crown at no cost and incorporated into Reserve 11342 (Lot 126); and*
- *That an Environmental Impact study be undertaken because of the low-lying nature of the land.”*

Following the above resolution, and in their deliberations on the matter, the WAPC deferred a final decision on the application until 29 December 2006, and requested the proponents to provide a drainage management plan to the satisfaction of the Shire of Cuballing by this date.

Council staff and the Hotham Catchment Group Natural Resource Management Officer (NRMO) held separate meetings with Mrs Gray to assist and advise, where possible, with the drainage issue. On both occasions she was advised that Council staff and the NRMO did not have the expertise to prepare a plan for them and that they should contact the Department of Environment and Conservation and/or the Department of Agriculture. This does not appear to have happened and has resulted in the WAPC refusing the application.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That the correspondence be received and information noted.

COUNCIL ACTION

Resolved that the correspondence be received and information noted.

8.5.3 POPANYINNING GENERAL STORE – APPLICATION TO OPERATE FAST FOOD OUTLET

Submission to:	Ordinary Meeting of Council
Location/Address:	Lot 9 Francis Street, 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 4
Voting Requirements:	Simple majority

Background

Correspondence from the owners Popanyinning General Store (S & J Maughan) seeking planning approval to operate a food caravan as a fast food outlet on the above lot which neighbours the Popanyinning General Store.

Comment

The proposal is for the food van to be located on the property to the northern side of the Store. The land is generally vacant but does contain a gas bottle enclosure/ramp at the rear. The food van is to be placed about 17 metres in front (or to the east) of the gas bottles and about 7 metres from the property boundary bordering onto Francis Street.

A Fast Food Outlet is classified as an “A” use in the zoning table of the Shire of Cuballing Town Planning Scheme No 2. 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.

Clause 9.4.3 outlines the advertising requirements as indicated below:

The local government may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways

- (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;*
- (b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is published;*
- (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.*

Sub clauses “a” and “c” of the above have been fulfilled. Notices (Schedule Eight of the Shire of Cuballing Town Planning Scheme No 2) have been served on neighbouring property owners and a sign (displaying Schedule Eight Notice) has been erected at the property. The Schedule Eight Notice provides full details of the proposal and advises that comments on the proposal may be submitted to Council on or before the 14 March 2007.

At the time of preparing this report no submissions have been received at the Shire office, however it is believed that the Popanyinning General Store has received some letters of support for the proposal and these will be provided to Council on 14 March 2007.

The proposal as presented has merit and would provide an additional service to the community of Popanyinning. Whilst the applicants haven’t purchased a food caravan at this time they have been discussing the matter with Councils Environmental Health Officer/Building Surveyor and certainly appear keen to meet all health requirements.

Any submissions received to the proposal will be tabled at the Council meeting for consideration.

The Chief Executive Officer informed Council that two letters have been received, and a petition with about 79 signatures, supporting the proposal. No submissions and/or correspondence has been received opposing the application.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

That, subject to the due consideration of any submissions received on the proposal, Council supports the establishment of a Fast Food Outlet Caravan operating at Lot 9 Francis Street, Popanyinning, subject to complying with all relevant health requirements in accordance with the provisions of the Health Act 1911.

COUNCIL ACTION

Moved Cr Newman, seconded Cr McKenzie that Council supports the establishment of a Fast Food Outlet Caravan operating at Lot 9 Francis Street, Popanyinning, subject to complying with all relevant health requirements in accordance with the provisions of the Health Act 1911.

CARRIED 6/0

8.5.4 REVIEW OF SHIRE OF CUBALLING TOWN PLANNING SCHEME NO 2

Councillors Brown, Newman and Wittwer declared a financial interest in this item.

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

Background

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

Comment

The Chief Executive Officer has made arrangements with the Town Planning Consultant, Mr Trevor Moran, to visit Council at 12.00noon, prior to today's ordinary Council meeting to work through the various proposals.

Council worked through the various proposals as presented by the Town Planning Consultant, and made minor changes as considered appropriate.

5.05pm – 5.10pm: Councillor Wittwer departed the Council Chambers whilst the Yornaning townsite proposals were discussed. In Councillor Wittwers absence Cr Brown assumed the Chair.

5.10pm – 5.28pm: Councillors Brown and Newman departed the Council Chambers whilst the Cuballing townsite proposals were discussed.

CHIEF EXECUTIVE OFFICERS RECOMMENDATION

COUNCIL ACTION

Moved Cr Watts, seconded Cr Hawksley that:

- **The Chief Executive Officer meet with Councils Town Planning Consultant to finalise proposed amendments to the Shire of Cuballing Town Planning Scheme No 2 and Local Planning Strategy; and**
- **The final proposals be presented to the April 2007 Ordinary Meeting of Council for consideration.**

CARRIED 6/0

9. MEETING CLOSURE

There being no further business the Shire President declared the meeting closed at 5:32pm.

***CONFIRMED AS A TRUE RECORD OF PROCEEDINGS ON
THURSDAY 19 APRIL 2007***

SHIRE PRESIDENT