

I certify that this copy of the Minutes is a true and correct record of the meeting held on 23 September 2008

Signed: .....  
Presiding Elected Member

Date:.....



**MINUTES FOR ORDINARY COUNCIL MEETING  
HELD IN THE COUNCIL CHAMBERS ON  
TUESDAY, 23 SEPTEMBER 2008  
COMMENCING AT 4.00PM**

**THERE ARE NO ATTACHMENTS TO THIS COPY OF THE COUNCIL MINUTES. TO VIEW THE ATTACHMENTS, PLEASE CONTACT THE SHIRE OFFICE ON 9927 0000.**

<b>PRESENT:</b>	President	Cr R K Parsons (Chairperson)
	Councillors	Cr R J Gillam (Deputy President) Cr G L Dean-Gundill Cr K J Hepworth Cr R T McClurg Cr R W Roberts Cr L W Wheeler
	Staff	Mr B E Jones – Chief Executive Officer Mr F A Neuweiler – Manager, Community Development Mr G F Coaker – Town Planner
<b>GUESTS:</b>		Ms Libby Biggs (left at 4.05pm)
<b>APOLOGIES:</b>		
<b>LEAVE OF ABSENCE:</b>		Cr G C Bass Cr S C Chandler

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**1. DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

The Shire President declared the meeting open at 4.00pm and welcomed all those in attendance to the proceedings.

**2. RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE**

Cr George Bass – Leave of Absence.

Cr Stuart Chandler – Leave of Absence

**3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

**4. PUBLIC QUESTION TIME**

Ms Libby Biggs – Hairdresser from Seashell Curls spoke against item TP.449. Libby stated that there needs to be a limit on the number of home occupations which compete against other businesses.

Ms Biggs left the meeting at 4.05pm.

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

Cr Rob McClurg has requested Leave of Absence from the Council Meeting scheduled for 14 October 2008.

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**COUNCIL MOTION:**

**Moved Cr Roberts, seconded Cr Gillam**

***That Cr Rob McClurg be granted Leave of Absence for the Council Meetings scheduled for 14<sup>th</sup> October 2008.***

**VOTING DETAILS:**

**CARRIED  
7/0**

**6. PETITIONS**

Nil.

**7. CONFIRMATION OF MINUTES**

**7.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 9 SEPTEMBER 2008**

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A copy of the Minutes of the Ordinary Council Meeting held on 9 September 2008 has been provided to all Councillors under separate cover.

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**COUNCIL MOTION:**

**Moved Cr Hepworth, seconded Cr Wheeler**

***That the Minutes of the Ordinary Council Meeting, held on 9 September 2008, be confirmed as a true and accurate recording of that meeting.***

**VOTING DETAILS:**

**CARRIED  
7/0**

**8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

**8.1 Citizenship Ceremony**

Conducted a Citizenship Ceremony for two people on Tuesday 9<sup>th</sup> September 2008.

**8.2 WALGA Northern Country Zone**

Attended the Executive Meeting of the Northern Country Zone of the Western Australian Local Government Association by teleconference on Monday 22 October 2008.

## 9. REPORTS

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### **B.406**

<b>Subject:</b>	Performance Bond Refund
<b>Location:</b>	Lot 687, Retreat Boulevard, Port Denison
<b>Proponent:</b>	C & R Conti
<b>Reporting Officer:</b>	Felix Neuweiler, Manager Community Development
<b>Date of Report:</b>	8 September 2008
<b>File Reference:</b>	BG.1
<b>Voting Requirements:</b>	Normal Majority

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### **Issue:**

To consider an application for a performance bond refund.

### **Background:**

The applicants submitted a proposal to Council in December 2004 seeking approval for a duplex development on the above mentioned lot, which is zoned R12.5 under Council's Planning Scheme. Council approved the application, subject to certain conditions. One of these conditions was that a \$2000 performance bond be submitted, to be refunded upon compliance with planning conditions. If the conditions of development would not have been carried out to the satisfaction of Council within 12 months of the date of issuing the building licence, the bond would be forfeited to Council.

The Building Licence was issued on 29 June 2005. Council Officers carried out two final inspections; at unit 1 in January 2008 and unit 2 on the 2 September 2008. The applicants now request that the performance bond be refunded (please refer to the attachment).

### **Officer's Comment:**

A final inspection of unit 1 was carried out in January 2008 to enable the builder to sell that unit. At that stage unit 2 had only just reached the 'lock-up' stage.

The landscaping and general development of the grouped dwellings is of a high standard. However, taking into consideration the original Council resolution that required that all planning conditions be complied with within 12 months, it is recommended that the bond not be refunded. It is Council's discretion to determine otherwise.

### **Financial Implications:**

\$2000 Performance Bond.

### **Statutory Environment:**

Previous Town Planning Scheme No. 4: Under the provisions of the previous Scheme, grouped dwelling developments had an 'AA' classification and Council could approve this type of development if the following conditions were satisfied:

*The proposed project site complying with the provisions of the Scheme and having been agreed to by Council prior to the development of a subdivisional project; or*

*No existing grouped dwellings existing on any lot which abuts or touches the proposed project site;*

*No existing grouped dwellings existing on any of the five (5) lots which have street frontage either side of the proposed project site; or*

*No existing grouped dwellings existing on the opposite street frontage for a distance of at least 40 metres either side of the points which are created by the prolongation of the side boundaries of the proposed project site to the road reserve boundary opposite the same.*

**Policy Implications:**

Policy TP7 – Grouped Dwelling Developments.

**Officer's Recommendation:**

1. That the performance bond not be returned to the owners of Lot 687, Retreat Boulevard, Port Denison as the applicants failed to comply with Council's planning approval.

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**COUNCIL MOTION:**

**Moved Cr Hepworth, seconded**

1. ***That the performance bond not be returned to the owners of Lot 687, Retreat Boulevard, Port Denison as the applicants failed to comply with Council's planning approval.***

***Motion lapsed due to lack of seconder.***

**Moved Cr Gillam, seconded Cr Dean-Gundill**

***That the performance bond be returned to the owners of Lot 687, Retreat Boulevard, Port Denison. The reason being that the lack of availability of tradespeople contributed to the delay in finalising construction.***

**VOTING DETAILS:**

**CARRIED  
5/2**

**CEO.377**

**Subject:** Local Law Review  
**Reporting Officer:** Chief Executive Officer  
**File Reference:** AL.6  
**Date Prepared:** 16 September 2007  
**Voting Requirements:** Absolute Majority

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**Issue:**

To receive a report of the review of various local laws.

**Body / Background:**

At the ordinary Council meeting held on Tuesday 22 July 2008 Council passed the following resolution:

*That Council:*

- *agree to undertake a review of the Standing Orders, Dongara Public Cemetery, Parking & Parking Facilities, Extractive Industries, Activities on Thoroughfares & Trading in Thoroughfares & Public Places and Local Government Property local laws,*
- *provides State-wide public notice of proposal to review these local laws,*
- *dedicate the August Forum for the purpose of a preliminary review, and*
- *request the CEO prepare a report of the review which includes consideration of any submissions that may be received.*

State-wide public notice of the review was provided through advertising in the West Australian newspaper on 30 July 2008 and a notice was also included in the local Rag in accordance with Council Policy.

The submission period closed on Friday 12 September 2008 and no submissions were received

**Officers Comment:**

Council reviewed all of the Local Laws currently under review at the Council Forum held on 12 August 2008. There were no issues raised at that review that require an amendment to any of these Local Laws.

Standing Orders

Council resolved to adopt the current Standing Orders Local Laws at the ordinary Council meeting held on 15 February 2000.

The purpose of the Standing Orders Local Laws is to provide for the orderly conduct of meetings of the Council and Committee, the manner of making an effective petition to the local government, and for the safe custody and use of the Common Seal.

The effect of the Standing Orders Local Laws is that all Council and Committee meetings, the manner of making an effective petition to the local government and the use of the Common Seal are to be governed by the Standing Orders unless otherwise provided in the Act or Regulations.

Generally Council does not meet strictly in accordance with these Local Laws however they provide a good framework in which to conduct meetings should the need arise.

There is no need to either amend or repeal these Local Laws.

#### Dongara Public Cemetery

Council resolved to adopt the Dongara Public Cemetery Local Law at the ordinary Council meeting held on 13 June 2000.

The purpose of the Cemetery Local Law is to provide for the orderly management of the Dongara Public Cemetery in accordance with established plans and to create offences for inappropriate behaviour within the Cemetery grounds. The effect is that all persons engaged in the administration of or burying deceased in the Dongara Public Cemetery, or otherwise providing services to or making use of the cemetery, are to comply with the provisions of these local laws.

There is no need to either amend or repeal these Local Laws.

#### Parking & Parking Facilities

Council resolved to adopt the Parking and Parking Facilities Local Law at the ordinary Council meeting held on 13 June 2000.

The purpose of the Parking and Parking Facilities Local Law is to constitute a parking region, enable the local government to regulate the parking of vehicles within the parking region and to provide for the management and operation of parking facilities provided by the local government. The effect is that a person parking a vehicle within the parking region is to comply with the provisions of the local law and any signs regulating the parking of a vehicle.

There is no need to either amend or repeal these Local Laws.

#### Extractive Industries

Council resolved to adopt the Extractive Industries Local Law at the ordinary Council meeting held on 13 June 2000.

The purpose of the Extractive Industries Local Law is to prohibit the carrying on of an extractive industry unless by authority of a license issued by the local government, to regulate the carrying on of the extractive industry in order to minimise damage to the environment, roads and other peoples health and property and provide for the restoration and reinstatement of any excavation site.

The effect if that any person wanting to carry on an extractive industry will need to be licensed and will need to comply with the provisions of the local law.

There is no need to either amend or repeal these Local Laws.

#### Activities on Thoroughfares & Trading in Thoroughfares & Public Places

Council resolved to adopt the Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law at the ordinary Council meeting held on 13 June 2000.

The purpose of the Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local law was to consolidate various previous local laws relating to activities in thoroughfares and trading in thoroughfares and public places. The effect is that some activities are prohibited and some activities are permitted only under permit.

There is no need to either amend or repeal these Local Laws.

#### Local Government Property

Council resolved to adopt the Local Government Property Local Law at the ordinary Council meeting held on 13 June 2000.



The purpose of the Local Government Property Local Law is to regulate the care, control and management of all property of the local government except thoroughfares. The effect is to control the use of local government property. Some activities are permitted only under a permit or under a determination and some activities are restricted or prohibited. Offences are created for inappropriate behaviour in or on local government property.

There is no need to either amend or repeal these Local Laws.

**Financial Implications:**

Nil

**Statutory Environment:**

Section 3.16 of the local government act states:

3.16. Periodic review of local laws

- (1) Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.
- (2) The local government is to give State-wide public notice stating that —
  - (a) the local government proposes to review the local law;
  - (b) a copy of the local law may be inspected or obtained at any place specified in the notice; and
  - (c) submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.
- (2a) A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.
- (3) After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.
- (4) When its council has considered the report, the local government may determine whether or not it considers that the local law should be repealed or amended.

**Policy Implications:**

Nil

**Officers Recommendation:**

That Council:

- Receive this report on the review of the Standing Orders, Dongara Public Cemetery, Parking & Parking Facilities, Extractive Industries, Activities on Thoroughfares & Trading in Thoroughfares & Public Places and Local Government Property local laws, as required by section 3.16(3) of the local government act.
- Agrees that there is no need to either amend or repeal any of the Local Laws under review.

**COUNCIL MOTION:**

**Moved Cr Hepworth, seconded Cr Gillam**

***That Council:***

- ***Receive this report on the review of the Standing Orders, Dongara Public Cemetery, Parking & Parking Facilities, Extractive Industries, Activities on Thoroughfares & Trading in Thoroughfares & Public Places and Local Government Property local laws, as required by section 3.16(3) of the local government act.***
- ***Agrees that there is no need to either amend or repeal any of the Local Laws under review.***

**CARRIED  
7/0**

**VOTING DETAILS:**

**CEO.378**

**Subject:** Eneabba Gas – Lot 713 Brand Hwy  
**Reporting Officer:** Chief Executive Officer  
**File Reference:** AM.7 / AM.1  
**Date Prepared:** 16 September 2008  
**Voting Requirements:** Simple Majority

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**Issue:**

To consider accepting freehold title to Lot 713 Brand Hwy from Eneabba Gas Ltd

**Body / Background:**

Lot 713 is located on the Brand Hwy/Midlands Rd intersection, comprises 3.9736 hectares and is owned freehold by Eneabba Energy Pty Ltd.

The land is zoned general farming and is within the Irwin River flood plain (see map attached).

**Officers Comment:**

Eneabba Gas have no use for this lot and have offered to sell it to the Shire for \$1.

This land has little development potential and is currently used as a parking bay.

Lot 713 is rated as part of their landholdings on the other side of Brand Hwy and therefore, given the value of the land, would have a minimal impact on rate revenue.

Eneabba Gas have agreed to prepare the required documentation to allow for the transfer to be achieved.

**Financial Implications:**

Nil

**Statutory Environment:**

Nil

**Policy Implications:**

Nil

**Officers Recommendation:**

That Council agree to purchase freehold title for Lot 713 Brand Highway from Eneabba Energy Pty Ltd for the consideration of \$1.

**COUNCIL MOTION:**

**Moved Cr Wheeler, seconded Cr Gillam**

***That Council agree to purchase freehold title for Lot 713 Brand Highway from Eneabba Energy Pty Ltd for the consideration of \$1.***

**VOTING DETAILS:**

**CARRIED  
7/0**

**F.348**

**Subject:** Financial Statements for the Period ending 31 August 2008  
**Reporting Officer:** Accountant/Senior Administration Officer  
**File Reference:** Minute Book  
**Date Prepared:** 2 September 2008  
**Voting Requirements:** Simple Majority

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**Issue:**

To consider and receive the Monthly Financial Statements for the period 1 July 2008 to 31 August 2008.

**Body / Background:**

The Monthly Financial Report to the 31 August 2008 is prepared in accordance with the requirements of the Local Government Act and the Local Government (Financial Management) Regulations and includes the following:

- Rate Setting Statement
- Income Statement by Program
- Income Statement by Nature & Type
- Balance Sheet
- Statement of Changes in Equity
- Cash Flow Statement
- Disposal of Assets
- Information on Borrowings
- Reserve Funds
- Net Current Assets
- Rating Information
- Trust Fund Summary
- Statement of Bank Reconciliations
- Capital Works Program
- Restricted Assets Statement
- Schedules 3 – 14 Budget vs Actuals Comparison
- APU Operating Statement

**Financial Implications:**

Nil.

**Statutory Environment:**

The Local Government (Financial Management) Regulations provides as follows:

Section 34. Financial activity statement report

- (1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail -
  - (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
  - (b) budget estimates to the end of the month to which the statement relates;
  - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
  - (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
  - (e) the net current assets at the end of the month to which the statement relates.
- (2) Each statement of financial activity is to be accompanied by documents containing -
  - (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
  - (b) an explanation of each of the material variances referred to in sub regulation (1)(d); and
  - (c) such other supporting information as is considered relevant by the local government.
- (3) The information in a statement of financial activity may be shown -
  - (a) according to nature and type classification;
  - (b) by program; or
  - (c) by business unit.
- (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be -
  - (a) presented to the council -
    - (i) at the next ordinary meeting of the council following the end of the month to which the statement relates; or
    - (ii) if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of the council after that meeting; and
  - (b) recorded in the minutes of the meeting at which it is presented.

**Policy Implications:**

Nil.

**Officers Recommendation:**

That the Monthly Financial Statement for the period 1 July 2008 to 31 August 2008 be received.

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**COUNCIL MOTION:**

**Moved Cr Hepworth, seconded Cr Dean-Gundill**

***That the Monthly Financial Statement for the period 1 July 2008 to 31 August 2008 be received.***

**VOTING DETAILS:**

**CARRIED  
7/0**

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**H.78**

**Subject:** Strategic Waste Management Plan  
**Location:** Shire of Irwin and Mid West Region  
**Proponent:** Cardno (WA) Pty Ltd  
**Reporting Officer:** Felix Neuweiler, Manager Community Development  
**Date of Report:** 8 September 2008  
**File Reference:** HE.1/2  
**Voting Requirements:** Normal Majority

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**Issue:**

Council is requested to provide comments and endorse the proposed Batavia Regional Organisation of Council's Strategic Waste Management Plan.

**Background:**

The Waste Management Board established the Zero Waste Management Plan Development Scheme (ZWPDS) in 2006. It is envisaged that the ZWPDS assists Local Government with the preparation of Strategic Waste Management Plans (SWMP) in order to facilitate the State's vision of 'Towards Zero Waste'.

Council will be aware that the Shire of Irwin, in association with the Shires of Chapman Valley and Northampton and the City of Geraldton-Greenough appointed Cardno (WA) Pty Ltd to prepare a joint submission for the Zero Waste Plan Phase 2.

During the period since their appointment, the Company's Environmental Consultant Robert Sim has conducted site visits, held meetings with stakeholder representatives and sought public comment in order to formulate a report for submission to the Department of Environment and Conservation (DEC). This Report is due to be submitted to the (DEC) no later than the 30 September 2008.

**Officer's Comment:**

The Strategic Waste Management Plan was advertised and public comments invited for a period of five weeks. No comments from members of the public were received.

A summary of the report is included in the attachments; the full report can be made available upon request or viewed on the Shire of Irwin's webpage ([www.irwin.wa.gov.au](http://www.irwin.wa.gov.au)).

It should be noted that the Management Plan recommends that the Shires of Irwin, Northampton and Chapman Valley employ a shared Environmental Officer. The proposed officer's duties are currently carried out by Council's EHO.

**Financial Implications:**

Cardno's total fee is \$55,600; DEC's funding to each local government is \$15,000. As four Local Governments are involved, Cardno's fee is covered by funding.

The Shire of Irwin would have to contribute \$20,000 annually towards the salary of the shared Environmental Officer.

**Statutory Environment:**

Waste Avoidance and Resource Recovery Act 2007 and Zero Waste Management Plan Development Scheme.

**Policy Implications:**

Policy H2, Disposal of Chemical Drums – Dongara Transfer Station: Council will not allow the disposal of used chemical drums at the Transfer Station.

**Officer's Recommendation:**

That Council advise Cardno (WA) Pty Ltd that no public comments were received and resolves to endorse the proposed Batavia Regional Organisation of Council's Strategic Waste Management Plan, with the exception of the creation of a shared Environmental Officer, as these duties are already being carried out by Shire Officers.

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**COUNCIL MOTION:**

**Moved Cr Roberts, seconded Cr Hepworth**

*That Council advise Cardno (WA) Pty Ltd that no public comments were received and resolves to endorse the proposed Batavia Regional Organisation of Council's Strategic Waste Management Plan, with the exception of the creation of a shared Environmental Officer, as these duties are already being carried out by Shire Officers.*

**VOTING DETAILS:**

**CARRIED**  
**7/0**



**TP.447**

**Subject:** Proposed Grouped Dwelling Development on Lot 731 Premier Circle  
**Proponent:** MD & BL Tregilles  
**Reporting Officer:** Town Planner  
**File Reference:** P26/2008  
**Date Prepared:** 16 September 2008  
**Voting Requirements:** Simple

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**Issue:**

To consider an application to construct two grouped dwellings on Lot 731 (No 56) Premier Circle, Dongara.

The application proposes to vary the Residential Design Codes (R Codes) in relation to the two garage boundary walls, of which one has been objected to by the neighbour. Council consideration is therefore required.

**Body / Background:**

*Zoning*

The property is zoned Residential R12.5 under the Shire of Irwin Local Planning Scheme No 5.

Under the Scheme, land in the Residential R12.5 zone can be approved for Grouped Dwelling development, subject to the requirements of Clause 5.3.1.

This lot has also previously been designated as a 'duplex' lot. At Council's meeting held on 21 December 2004 this lot and others in the same subdivision were identified as suitable for grouped dwelling development.

*The Proposal*

Lot 731 is currently vacant with an area of 1007m<sup>2</sup> and 14 metres of frontage to Premier Circle. The ground naturally slopes from the south side boundary up to the north side boundary with a maximum level difference of approximately 2.5 metres.

The application proposes to construct two, single storey dwellings on the property. Both units are proposed to be three bedroom, single bathroom designs and constructed of double brick and colorbond. Unit A will include a double garage, while Unit B will include a single garage with adequate room for tandem parking. (Please see attached).

The proponents have advised that if approval for the grouped dwellings is granted they intend to make application to the Western Australian Planning Commission to vacant survey-strata title the property. In this regard the dwellings have been designed taking into account a future boundary between the two units, as shown on the plan.

*Statutory Considerations*

Applications for Grouped Dwellings are required to comply with the provisions of the Local Planning Scheme and the Residential Design Codes (R Codes). Additionally, applications that have the potential to impact on an adjoining property (i.e. boundary walls) should be referred to the adjoining property owner for comment.

- Local Planning Scheme

In relation to the Scheme, Clause 5.3.1 makes provisions of grouped dwellings in the R12.5 zone and states as follows:

'5.3.1 Where an area is designated with an R Code R12.5, no residential development, other than a single dwelling house is permitted, except that the local government may approve a Grouped Dwelling development containing a maximum of 2 dwelling units, subject to R20 requirements, if the following conditions are satisfied:-

- (i) the proposed development complying with all relevant provisions of the Scheme; and
- (ii) no existing grouped dwellings existing on any lot which abuts the proposed project site; and
- (iii) no existing grouped dwelling existing on the opposite street frontage for a distance of at least 40 metres either side of the points which are created by the prolongation of the side boundaries of the proposed project site to the road reserve boundary opposite the same.'

In this regard, the application is compliant in that it proposes two dwellings in accordance with R20 requirements, is not contrary to any other provision of the Scheme and there are no existing grouped dwellings on any abutting lot or any lot opposite for a distance of at least 40 metres.

- Residential Design Codes

The application has also been assessed against the provisions of the R Codes. The standard provisions relating to site area, streetscape, setbacks, open space, car parking, site works etc are all compliant.

The only area of non-compliance relates to the proposed garage boundary walls. Each garage is proposed to have a wall on the boundary that is 6.9m long by 3.4m high.

Clause 6.3.2 of the R Codes relates to building on the boundary and states the following:

*'A2 – Except where otherwise provided for in an adopted local planning policy, walls built up to a boundary behind the front setback line within the following limits, subject to the overshadowing provisions of element 6.9:*

- ii. In areas coded R20 and R25, walls not higher than 3m with an average of 2.7m up to 9m in length to one side boundary only.'*

With a height of 3.4m the proposed boundary walls therefore do not comply with the above Acceptable Development provision. It is also noted that boundary walls are proposed to two side boundaries.

- Neighbour Consultation

As this represents a variation to the Acceptable Development provisions of the R Codes with potential to impact on adjoining property, the application was referred to each adjoining property owner in accordance with Part 4 – Neighbour Consultation of the R Codes. A copy of the correspondence is attached.

No comments were received from the owner of Lot 730 on the south side and it is therefore assumed they have no objection.

However, the owners of Lot 732 (G & C Di Bartolomeo), adjoining on the north side, have responded and advised they object to the proposed boundary wall. A copy of their correspondence is attached and is summarised as follows:

- Wall is too high for a residential boundary wall and considerably more than the R Code height and average.
- The garage wall is the second boundary wall on the property and believe it could be repositioned so not to have a boundary wall.
- A boundary wall 3.4m high and 6.9m long would be 'visually ugly' for any neighbour, positioning of wall could de-value the property.

In accordance with R Codes procedure, the applicant was given the opportunity to respond to the objection. A copy of the applicant's response is also attached and is summarised as follows:

- Main consideration for the height of the boundary wall is the protection of neighbouring allotments from the spread of fire. To make allowance for a possible timber frame roof construction, the wall has been designed to allow a maximum Fire Resistance Level (FRL) of 60/60/60.
- Table 2a of the R Codes for R12.5 development allows walls up to 3.5m with a nil setback.
- The walls to two boundaries proposed by this application are justified by the fact that if approval is granted the property will be strata subdivided, therefore creating two lots and only one boundary wall per lot.
- Repositioning the dwelling to eliminate the need for a boundary wall will result in substantially more earthworks, which would likely require retaining on the boundary and possibly have more of an impact.
- Any opinion that a boundary wall may de-value a property is subjective. The finish of the wall can be discussed between property owners and the local authority and implemented by way of a condition of approval.

**Officers Comment:**

In considering the two boundary walls, they both satisfy the general objectives for boundary walls as outlined in the Performance Criteria of the R Codes. Particularly that it is good design for walls to non habitable rooms such as garages to be built on the boundary, rather than a minimal setback off the boundary which creates wasted space. Additionally, the walls will not have any significant impact on overshadowing or access to sun to the adjoining lots.

The main consideration therefore is the objection lodged by the adjoining owners of Lot 732 and the response provided by the applicant.

In this regard the applicant's main justification for the height of the wall is to provide maximum fire separation. The extra height is intended to provide an increased level of fire separation which will allow for the roof to be constructed of timber and allow any building on the other side to also be constructed right up to the boundary without compromising fire safety.

The Shire's Building Department has been consulted regarding this aspect and advised that the proposed height is appropriate in order to provide a FRL of 60/60/60.

With regards to boundary walls to two side boundaries (as opposed to only one side boundary as per the standard R Codes requirement), the applicant has advised that the property is intended to be strata titled if approval for the grouped dwellings is granted. This is not an uncommon practice and will create two new lots, with one boundary wall each. This is considered reasonable justification. It is also noted that in assessing boundary setbacks under the R Codes, grouped dwellings are to be assessed as though there is a boundary between each building. This would also suggest that each dwelling is essentially on a separate lot.

The remaining arguments are largely subjective, particularly whether or not such a wall would de-value the property. It is noted however, that if approval is granted, the finish of the wall should be to the satisfaction of the adjoining neighbour. If a dispute arises then it should be to the satisfaction of the Shire and this should be imposed as a condition of approval.

The justification provided by the applicant is considered acceptable in this instance, particularly that the increased height in the wall will allow for maximum fire separation and will not compromise the development potential of the adjoining lot.

The objections raised by the neighbour are acknowledged, however, based on the fact the wall satisfies the R Code Performance Criteria and the surface is to be finished to their satisfaction, it is unlikely it will have any adverse impacts on their adjoining lot.

It is also noted that the development site is poorly suited to a grouped dwelling development with a narrow frontage and steep incline in ground level at the rear. In order to make a grouped dwelling development fit this site, some concessions and alternative design considerations will be necessary.

Based on the above reasons, it is recommended that the application be approved, subject to conditions.

**Financial Implications:**

Nil.

**Statutory Environment:**

Shire of Irwin Local Planning Scheme No 5.  
Residential Design Codes (2008).

**Policy Implications:**

Nil.

**Officers Recommendation:**

That the application for two grouped dwellings on Lot 731 Premier Circle, Dongara, be approved subject to the following conditions:

1. The development hereby approved shall occur generally in accordance with the attached endorsed plans. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
2. A Building License is required to be approved by the local government prior to the commencement of any construction works on site.
3. The external surface finish of the garage boundary walls is to be to the satisfaction of the adjoining neighbour. In the instance of a dispute, the finish is to be to the satisfaction of the local government.
4. Stormwater runoff from all impervious areas is to be directed to and drained into appropriately sized soak wells, located on site, installed to the approval of the Local Government.
5. All new developments are to be serviced by a concrete, brick paved or bitumen crossover constructed at right angles to the street alignment and in accordance with the Shire's specifications.
6. Landscaping of the front setback area of each dwelling is to be installed to the approval of the local government.
7. Any soils disturbed or deposited on the site are to be stabilised and retained on site.
8. Any additions to or change of use of any part of the building/s or land (not the subject of this consent) shall be subject to a further development application and consent for that use.
9. This approval shall expire if the development hereby permitted is not commenced within the year from the date hereof or not completed within two years of the date hereof, or within any extension of those times, upon written application (made before or within 14 days after the expiry of the approval) to the Local Government, is granted by it in writing.

**Advice to Applicant:**

1. In regards to Condition 3, on application for a Building License, details of stormwater collection and disposal should be provided, including details of all downpipes and soak wells.

2. In regards to Condition 5, all areas not required for driveway access are to be landscaped and watered by a reticulation system.
3. a) All development works must be carried out in accordance with control of noise practices set out in Section 6 of AS2436-1981.  
b) No works shall commence prior to 7:00am without the Shire approval.
4. All buildings are to comply with the Building Code of Australia; the applicant is to arrange for an inspection by Council's Building Surveyor prior to commencing use.

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**COUNCIL MOTION:**

**Moved Cr Gillam, seconded Cr McClurg**

***That the application for two grouped dwellings on Lot 731 Premier Circle, Dongara, be approved subject to the following conditions:***

1. ***The development hereby approved shall occur generally in accordance with the attached endorsed plans. The endorsed plans shall not be modified or altered without the prior written approval of the local government.***
2. ***A Building License is required to be approved by the local government prior to the commencement of any construction works on site.***
3. ***The external surface finish of the garage boundary walls is to be to the satisfaction of the adjoining neighbour. In the instance of a dispute, the finish is to be to the satisfaction of the local government.***
4. ***Stormwater runoff from all impervious areas is to be directed to and drained into appropriately sized soak wells, located on site, installed to the approval of the Local Government.***
5. ***All new developments are to be serviced by a concrete, brick paved or bitumen crossover constructed at right angles to the street alignment and in accordance with the Shire's specifications.***
6. ***Landscaping of the front setback area of each dwelling is to be installed to the approval of the local government.***
7. ***Any soils disturbed or deposited on the site are to be stabilised and retained on site.***
8. ***Any additions to or change of use of any part of the building/s or land (not the subject of this consent) shall be subject to a further development application and consent for that use.***
9. ***This approval shall expire if the development hereby permitted is not commenced within the year from the date hereof or not completed within two years of the date hereof, or within any extension of those times, upon written application (made before or within 14 days after the expiry of the approval) to the Local Government, is granted by it in writing.***

**Advice to Applicant:**

1. ***In regards to Condition 3, on application for a Building License, details of stormwater collection and disposal should be provided, including details of all downpipes and soak wells.***
2. ***In regards to Condition 5, all areas not required for driveway access are to be landscaped and watered by a reticulation system.***
3. a) ***All development works must be carried out in accordance with control of noise practices set out in Section 6 of AS2436-1981.***  
b) ***No works shall commence prior to 7:00am without the Shire approval.***

4. ***All buildings are to comply with the Building Code of Australia; the applicant is to arrange for an inspection by Council's Building Surveyor prior to commencing use.***

**CARRIED**  
**7/0**

**VOTING DETAILS:**

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**TP.448**

**Subject:** Proposed Signs to Dongara Hotel  
**Proponent:** Peermont Holdings Pty Ltd  
**Reporting Officer:** Town Planner  
**File Reference:** P36 & 37/2008  
**Date Prepared:** 17 September 2008  
**Voting Requirements:** Simple

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**Issue:**

To consider an application to install two signs at the Dongara Motel, one on the main hotel roof and a second on the bottle-shop roof.

**Body / Background:**

Lot 23 Morton Terrace is zoned Special Use under Local Planning Scheme No 5. Permitted uses include hotel, motel, tavern, club premises, public utility, betting agency, public restaurant and incidental uses to the permitted uses. There are no specific development conditions in the local planning scheme for Lot 23 however signs are an incidental development.

These advertisements are not exempt under the Local Planning Scheme therefore planning approval is required.

The Dongara Hotel sign is for a large aluminium light box 6m long by 1m high to be located on the roof of the Dongara Hotel. The sign face has a maroon background with white lettering. It will be internally illuminated with fluorescent tubes. (See attached plan)

The Bottlemart sign proposed for the bottle shop is blue and yellow in colour and measures 8.3m x 0.6m. The sign will be mounted above the guttering on the roof (see attached plan).

**Officers Comment:**

Dongara Hotel is entered in the Shire of Irwin Municipal Inventory as a Category 2 place, meaning a high level of protection is appropriate. The proposal has been referred to the Midwest Heritage Adviser who has viewed the proposal and advised internally illuminated signs are not considered appropriate for significant heritage buildings, however externally illuminated signs are acceptable. The consultant has advised the Dongara Hotel sign is considered to be unacceptable given that it is located on the main roof of the building and it would visually dominate the roof of the heritage building (see attached report).

However, it is likely that an internally lit sign, with the dark maroon background as proposed, would be less visually obtrusive than a sign that is externally lit with spotlights which would brightly light the entire sign.

The Dongara Hotel features a recently updated façade to the north-east section of the building which now features large aluminium framed windows and entry doors. The sign is proposed to be located over this section. The heritage consultant has advised signs on heritage buildings should ideally be located on veranda roofs or the parapet wall behind them. The verandah does not extend to this portion of the hotel and there is no parapet wall behind it, leaving little option but for the sign to be placed on the roof. The sign is located under the pitch of the roof and it is the Officer's opinion that it does not visually dominate, given it is only 1m high.

The sign will not have any impact on the amenity of the area or the streetscape. Due to the colour of the sign being quite dark the illumination will not have a significant impact and the hotel is setback quite a distance from Moreton Terrace which will also reduce any negative visual impact.

The north-east façade of the Dongara Hotel currently has “Dongara Hotel” painted in yellow writing on a light brown background. This sign is obstructed by three large umbrellas in the courtyard. It should be a condition of approval that this sign is painted over as both signs could potentially be visually dominating and detract from the overall appearance of the building.

In relation to the Bottlemart sign, this sign will be mounted above the guttering on the roof. The bottle-shop is not part of the original Dongara Hotel and is an extension at the rear of the building. The heritage consultant has advised that given the sign is to be erected on a later addition of the hotel and is located as per a parapet sign, it is considered acceptable. However the consultant is also of the opinion that the overall length is excessive and consideration should be given to a reduction in length to lessen the visual dominance of the sign, suggesting a reduction in length of 2m.

Currently the façade of the bottle-shop is dominated by numerous advertising signs of different shapes and colours. The corporate image presented in the application is a vast improvement. Considering the bottle-shop is at the rear of the hotel, faces the east boundary and is setback substantially from the secondary street, the impact of this sign at 8.3m long will be minimal.

**Financial Implications:**

Nil.

**Statutory Environment:**

Shire of Irwin Local Planning Scheme No 5.  
Shire of Irwin Municipal Inventory of Heritage Places.

**Policy Implications:**

Nil.

**Officers Recommendation:**

That the application to erect two roof signs at the Dongara Hotel be approved subject to the following conditions:

1. The development hereby approved shall occur generally in accordance with the attached endorsed plans. The endorsed plans shall not be modified or altered without the prior written approval of the local authority.
2. A Sign License is required to be approved by the local government prior to the erection of the signs on site.
3. The existing “Dongara Hotel” sign on the north-east façade of the hotel being painted over to match existing.

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**COUNCIL MOTION:**

**Moved Cr Wheeler, seconded Cr McClurg**

***That the application to erect two roof signs at the Dongara Hotel be approved subject to the following conditions:***



1. ***The development hereby approved shall occur generally in accordance with the attached endorsed plans. The endorsed plans shall not be modified or altered without the prior written approval of the local authority.***
2. ***A Sign License is required to be approved by the local government prior to the erection of the signs on site.***
3. ***The existing “Dongara Hotel” sign on the north-east façade of the hotel being painted over to match existing.***

**CARRIED  
7/0**

**VOTING DETAILS:**

**TP.449**

**Subject:** Proposed Home Occupation on Lot 96 (No 70) Point Leander Drive,  
Port Denison  
**Proponent:** J & F Cockman  
**Reporting Officer:** Town Planner  
**File Reference:** P42/2008  
**Date Prepared:** 17 September 2008  
**Voting Requirements:** Simple

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**Issue:**

To consider an application for a Home Occupation to carry out a hairdressing business on the above property.

**Body / Background:**

The property is zoned Residential R50 under the Local Planning Scheme.

The property is already developed with an existing double storey dwelling and a detached habitable room, previously approved for ancillary accommodation (granny flat).

The proposal is for hairdressing to be undertaken in the existing detached habitable room at the rear of the dwelling (see attached).

Home Occupations are listed as a 'D' use in the residential zones under Local Planning Scheme No 5. This means that they can only be approved at Council's discretion.

Home Occupation applications are subject to Council Policy TP1 which states the following provisions:

1. A Home Occupation must be compatible with and incidental to the residential use and enjoyment of a property.
2. Approval will only be granted to a Home Occupation if there is in Council's opinion no adverse impact on existing or future commercial uses situated within business or industrial zones which would service the locality.
3. The Home Occupation activity operating via the appointment system only (where applicable).
4. The Home Occupation must be compatible to the existing and desired future amenity of the area and the rezoning intent and the scheme provisions relating to Home Occupations.
5. Letters of support or non-objection for a Home Occupation must be obtained from landowners adjoining and adjacent to the site and submitted with the application for Council's consideration.
6. A condition requiring annual renewal of planning approval shall be imposed on a Home Occupation whereby the Council can monitor the operation and scale of the activity.
7. Will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in car parking being undertaken on road verges or a substantial increase in the amount of vehicular traffic in the vicinity.
8. Home Occupation approval is not transferable to any person and only applies to the resident for which the approval is granted.

In addition, Home Occupation applications must comply with the definition given under the Local Planning Scheme which states the following:

'Means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

- (a) does not employ any persons not a member of the occupiers household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20m<sup>2</sup>;
- (d) does not display a sign exceeding 0.2m<sup>2</sup> in area;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) In relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles.
- (g) Does not involve the use of an essential service of greater capacity than normally required by the zone.

**Officers Comment:**

This application is for the detached habitable room to be used by the owner for hairdressing services. The applicant will be the only employee. The floor area of the room is 30m<sup>2</sup>, 10m<sup>2</sup> larger in floor area than what is permitted by the Scheme for a home occupation.

As the building already exists on site and the impact of the home occupation is conditionally limited by other factors including employment of only one person seeing one customer at a time by appointment only, it is unlikely the increased floor area will have any additional impact on the amenity compared with if the floor area was 20m<sup>2</sup>. Additionally, adjoining neighbours to the north and south have signed letters of non-objection.

Despite not meeting the floor area requirement, Clause 5.5.1 of the local planning scheme allows the local government to approve an application despite the non-compliance.

Approvals for home occupation are renewed annually and if in the opinion of the local government the activity is causing a nuisance or annoyance to owners or occupiers of land in the vicinity, the Shire has the authority to not re-issue the approval.

The hairdressing business will be a quiet operation that will not affect the amenity of the neighbourhood. The only impact on the neighbours will be the increase in the numbers of cars visiting the site each day but the impact of this will be minimal.

There is adequate parking for an additional two vehicles. There is a double garage at the rear of the house for the owner and adequate space at the rear of the property near the detached unit for customer parking, that is concealed from the road by the main house.

In regards to Point 2 of Policy TP1, there are several hairdressing businesses in Dongara/Denison. However, refusing the application on this basis could possibly be deemed as anti competitive. Provided the application complies with the provisions of the Scheme, including its suitability for the Residential zone, then it should be approved. The application can only be determined on land use planning grounds, business considerations cannot be taken into account.

In this instance the application is deemed suitable for a Home Occupation in the Residential zone and is recommended for approval subject to conditions.

**Financial Implications:**

Nil.

**Statutory Environment:**

Shire of Irwin Local Planning Scheme No 5.

**Policy Implications:**

Council Policy TP1.

**Officers Recommendation:**

That the application for Home Occupation (Hairdressing) at Lot 96 (No 70) Point Leander Drive, Dongara be approved subject to the following conditions:

1. The Home Occupation shall not employ any person not a member of the occupier's household.
2. The Home Occupation shall not display a sign exceeding 0.2m<sup>2</sup> in area.
3. The Home Occupation shall not involve the retail sale, display, or hire of goods of any nature.
4. The Home Occupation shall operate via the appointment system only, with a maximum of one client at any one time and maximum of five appointments in any one day.
5. Hours of operation shall be limited to 9:00am to 5:00pm Monday to Friday and not at all on weekends and Public Holidays, unless otherwise approved by the Local Government.
6. This planning approval only applies to the applicant for which the approval is granted, it shall not be transferred or assigned to any other person and shall not be transferred from the land in respect of which it was granted. Should there be a change of the occupier on the land in respect of which this planning approval is issued the approval is cancelled.
7. This approval is valid for a period of twelve (12) months from the date of this advice after which time further renewal is required from the Local Government annually. Any alterations or additions to the activity must be disclosed to the Local Government upon application for renewal of the approval.

Advice to Applicant:

1. The previous approval for ancillary accommodation is no longer valid. If the owners wish to use the unit for ancillary accommodation in the future, further planning approval will be required from the local government.

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**COUNCIL MOTION:**

**Moved Cr Hepworth, seconded Cr Roberts**

***That the application for Home Occupation (Hairdressing) at Lot 96 (No 70) Point Leander Drive, Dongara be approved subject to the following conditions:***

1. ***The Home Occupation shall not employ any person not a member of the occupier's household.***
2. ***The Home Occupation shall not display a sign exceeding 0.2m<sup>2</sup> in area.***
3. ***The Home Occupation shall not involve the retail sale, display, or hire of goods of any nature.***
4. ***The Home Occupation shall operate via the appointment system only, with a maximum of one client at any one time and maximum of five appointments in any one day.***

5. ***Hours of operation shall be limited to 9:00am to 5:00pm Monday to Friday and not at all on weekends and Public Holidays, unless otherwise approved by the Local Government.***
6. ***This planning approval only applies to the applicant for which the approval is granted, it shall not be transferred or assigned to any other person and shall not be transferred from the land in respect of which it was granted. Should there be a change of the occupier on the land in respect of which this planning approval is issued the approval is cancelled.***
7. ***This approval is valid for a period of twelve (12) months from the date of this advice after which time further renewal is required from the Local Government annually. Any alterations or additions to the activity must be disclosed to the Local Government upon application for renewal of the approval.***

***Advice to Applicant:***

1. ***The previous approval for ancillary accommodation is no longer valid. If the owners wish to use the unit for ancillary accommodation in the future, further planning approval will be required from the local government.***

**CARRIED  
5/2**

**VOTING DETAILS:**

**10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**11. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

**12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION**

**COUNCIL MOTION:**

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*Moved Cr Roberts, Seconded Cr Dean-Gundill*

*That Council deal with the late item presented with regards to Rental Accommodation for the Chief Executive Officer (CEO.379).*

**VOTING DETAILS:**

**CARRIED  
7/0**

**CEO.379**

**Subject:** Rental Accommodation – Chief Executive Officer  
**Reporting Officer:** Chief Executive Officer  
**File Reference:**  
**Date Prepared:** 23 September 2008  
**Voting Requirements:** Absolute majority

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**Issue:**

To consider entering into a lease agreement for a residence for the Chief Executive Officer.

**Body / Background:**

Council has agreed to the sale of the property at 22 Waldeck Street during the current financial year, with proceeds from the sale to assist in funding the much needed redevelopment of our administration building.

Council has previously agreed to acquire an alternate residence for use by the CEO.

**Officers Comment:**

A suitable residence has been identified and Council is now required to endorse the lease agreement.

The property is 60 Seahorse Loop and is being offered for rent for \$380 per week.

It is recommended that Council endorse a lease agreement of this property for a two year period.

**Financial Implications:**

Council has not allocated any funds for this purpose in the 2008/09 budget and accordingly it is unbudgeted expenditure. Estimated cost for 2008/09 is \$15,000.

The contract of employment with the CEO requires Council to pay \$300 per week rent for a residence for the CEO.

**Statutory Environment:**

Nil

**Policy Implications:**

Nil

**Officers Recommendation:**

That Council authorise the Chief Executive Officer to enter into an appropriate lease agreement on behalf of the Shire for 60 Seahorse Loop Dongara.

**COUNCIL MOTION:**

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*Moved Cr Roberts, Seconded Cr Gillam*

*That Council authorise the Chief Executive Officer to enter into an appropriate lease agreement on behalf of the Shire for 60 Seahorse Loop Dongara.*

**VOTING DETAILS:**

**CARRIED**  
**7/0**



**13. MATTERS BEHIND CLOSED DOORS**

**14. CLOSURE**

There being no further business, the Chairperson declared the meeting closed at 4.35pm.

I certify that this copy of the Minutes is a true and correct record of the meeting held on  
23 September 2008

*Signed:* .....

Presiding Elected Member

*Date:* .....