

I certify that this copy of the Minutes is a true and correct record of the meeting held on 13 May 2008

Signed:
Presiding Elected Member

Date:.....



**MINUTES FOR ORDINARY COUNCIL MEETING
HELD IN THE COUNCIL CHAMBERS ON
TUESDAY, 13 MAY 2008
COMMENCING AT 4.00PM**

Due to the size of the document, there are no attachments to this copy of the Council Minutes. To view attachments, please contact the Shire office or email Judy Hurst on ceosecretary@irwin.wa.gov.au

PRESENT:

President	Cr R K Parsons (Chairperson)
Councillors	Cr R J Gillam (Deputy President) Cr S C Chandler 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 G M Peddie – Director, Corporate Services (Minute Taker) Mr F A Neuweiler – Manager, Community Development Mr G F Coaker – Town Planner

GALLERY:

Messrs Gerard Dornford, Herve Calmy (GHD),
Lou Milnko (Surveyor), Ms Jenny Jagoe

APOLOGIES:

-

LEAVE OF ABSENCE:

Cr G C Bass

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

With the exception of Cr George Bass who had leave of absence, all other Councillors were present.

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. PUBLIC QUESTION TIME

- 4.1 Mr Ralph Murray – Clementina Road:** Mr Murray expressed concern at the excessive driving speed by “hoons” in the Clementina Road area and asked for Council’s assistance to eradicate the problem.

Cr Robyn Parsons advised that Council is aware of these issues and that it would provide support to the police in catching the offenders and stopping this behaviour from continuing.

- 4.2 Mr Herve Calmy – GHD:** Mr Calmy was in attendance in order to comment on Council Item TP.428 concerning the proposed Scheme Amendment for the Bookara Beach Development.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS

Nil.

7. CONFIRMATION OF MINUTES

7.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 22 APRIL 2008

A copy of the Minutes of the Ordinary Council Meeting held on 22 April 2008 has been provided to all Councillors under separate cover.

COUNCIL MOTION:

Moved Cr Hepworth, seconded Cr Wheeler

That the Minutes of the Ordinary Council Meeting, held on 22 April 2008, be confirmed as a true and accurate recording of that meeting.

CARRIED
8/0

VOTING DETAILS:

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

The Shire President reported that she attended the following with the CEO:

- Anzac Day Service on 25 April 2008.
- Meeting with Landcorp on 30 April 2008 in order to discuss issues concerning the South Denison buffer zone and Burges Street.
- Attended Budget Breakfast Meeting with the Hon Kim Chance at the African Reef Resort on 9 May 2008.

9. REPORTS

B.396: ILLEGAL BUILDING WORKS
LOCATION: 289 STEELE ROAD, BONNIEFIELD
PROPONENT: NW & MB PATEMAN
REPORTING OFFICER: FELIX NEUWEILER - MANAGER, COMMUNITY DEVELOPMENT
DATE OF REPORT: 6 MAY 2008
FILE REFERENCE: BG.1
VOTING REQUIREMENTS: NORMAL MAJORITY

BACKGROUND:

At the meeting held on 25 March 2008, Council determined:

1. *That Council resolve to serve a Notice pursuant to Section 401 (1)(c) of the Local Government (Miscellaneous Provisions) Act 1960 requiring Mr and Mrs Pateman to pull down all illegal buildings situated at 289 Steele Road, Bonniefield within 6 weeks from the date of this Council meeting, having constructed the buildings prior to the issue of a Building Licence.*
2. *That, should Mr and Mrs Pateman fail to comply with Council's Notice, the matter be brought back to Council for further consideration.*

The outbuildings are still standing (please refer to the attachment) and it does not appear that the property owners sought a review of Council's decision through State Administrative Tribunal.

OFFICER'S COMMENT:

Unfortunately, Council is now in a situation where legal action appears the only option left to deal with this issue. It is therefore recommended that Council authorise the Chief Executive Officer to seek legal advice and instigate legal proceedings pursuant to the Local Government (Miscellaneous Provisions) Act 1960 against the owners of the property located at 289 Steele Road, Bonniefield.

Financial Implications:

Legal advice.

Statutory Implications:

Local Government (Miscellaneous Provisions) Act 1960 – S. 374. Plans of buildings to be approved by local government –

- (1) No person shall –
 - (a) lay out for building, or commence or proceed with a building on, land in a district; or (b) in respect of the structure of a building already erected on land in a district, amend, alter, extend, or enlarge, or commence or proceed with the amendment, alteration, extension, or enlargement of the structure of the building, until he has caused to be submitted to the local

government, and the local government has approved by the issue to the person of a building licence in the prescribed form and on payment of the prescribed fee.

S. 401. Notice of required alterations - (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 — (c) which, where permission of the local government is required for carrying it 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.

Policy Implications:

Policy B13, Illegal Building Works.

Strategic Implications:

Nil.

STAFF RECOMMENDATION:

That Council authorise the Chief Executive Officer to seek legal advice and instigate legal proceedings pursuant to the Local Government (Miscellaneous Provisions) Act 1960 against the owners of the property located at 289 Steele Road, Bonniefield for the construction of several outbuildings prior to the issue of a Building Licence and a contravention of a Section 401 Notice.

COUNCIL MOTION:

Moved Cr Chandler, seconded Cr Gillam

That Council authorise the Chief Executive Officer to seek legal advice and instigate legal proceedings pursuant to the Local Government (Miscellaneous Provisions) Act 1960 against the owners of the property located at 289 Steele Road, Bonniefield for the construction of several outbuildings prior to the issue of a Building Licence and a contravention of a Section 401 Notice.

CARRIED
7/1

VOTING DETAILS:

CEO.354: LOCAL GOVERNMENT WEEK 2008
LOCATION: PERTH CONVENTION CENTRE
PROPONENT: WA LOCAL GOVERNMENT ASSOCIATION
REPORTING OFFICER: BRIAN JONES – CHIEF EXECUTIVE OFFICER
DATE OF REPORT: 2 MAY 2008
FILE REFERENCE: DW.9/7
VOTING REQUIREMENTS: NORMAL MAJORITY

ISSUE:

To consider registering delegates for the 2008 Local Government Week Convention.

BACKGROUND:

WALGA has provided notification that the 2008 Local Government Week Convention will be held at the Perth Convention Centre from Thursday, 31 July to Saturday, 2 August 2008.

There are also professional development opportunities for Councillors leading up to, and during, the week following the conference.

A copy of the information provided is attached.

OFFICER'S COMMENT:

Accommodation has been booked for 5 attendees for the Thursday (31st) and Friday (1st) nights. As the Gala Dinner is on the Saturday night, an additional night's accommodation will need to be booked if any Councillors wish to attend.

Last year, Crs Rob Gillam, Gail Dean-Gundill, Rob McClurg and Kevin Hepworth, and the CEO attended.

Crs Robyn Parsons and Stuart Chandler represent Council on the Northern Country Zone of WALGA and Cr Parsons has advised of her interest in attending.

Strategic Implications:

Nil.

Financial Implications:

Cost of registering for the conference is \$960 per delegate, plus cost of accommodation and Gala Dinner (if attending).

Statutory Environment:

Nil.

STAFF RECOMMENDATION:

That the Shire President, Chief Executive Officer and Councillors:

-
-
-

be registered to attend the Local Government Week Convention for 2008.

COUNCIL MOTION:

Moved Cr Dean-Gundill, seconded Cr Chandler

That the Shire President and Chief Executive Officer be registered to attend the Local Government Week Convention for 2008.

CARRIED
8/0

VOTING DETAILS:

CEO.355: IRWIN RECREATION CENTRE
LOCATION: POINT LEANDER DRIVE, PORT DENISON
PROPONENT: -
REPORTING OFFICER: BRIAN JONES – CHIEF EXECUTIVE OFFICER
DATE OF REPORT: 6 MAY 2008
FILE REFERENCE: RS.2
VOTING REQUIREMENTS: ABSOLUTE MAJORITY

ISSUE:

To consider a process for formulating a management plan for the new Irwin Recreation Centre.

BACKGROUND:

The new Irwin Recreation Centre is due for completion in December 2008 and Council needs to ensure a comprehensive management plan is in place, including appropriate consultation with user groups and the community, prior to opening the facility.

OFFICER'S COMMENT:

There are many issues that need to be considered and finalised prior to the opening of the Irwin Recreation Centre. These include but are not limited to:

- Advertising permitted inside and out, what to charge, size etc.
- Usage of facilities by sporting clubs, hours of usage, additional charges for extra usage, etc.
- Function room management, is a liquor license required?
- How will gymnasium be equipped and managed?
- What are the opening times?
- Staff requirements.
- Security.
- Schedule of fees and charges (membership categories, casual users, bonds etc).
- Signage inside and around the centre.
- Furniture and equipment required for function room (tables, chairs, cutlery, glassware, etc).
- Sporting Equipment required.
- Cleaning.
- Crèche.
- Kiosk, how will it be managed and stocked, pricing policy.
- Marketing.

It is recommended that the current Sports & Recreation Facilities Committee be expanded to include the Recreation Centre Manager and Director Corporate Services and be requested to prepare a draft management plan for consideration by Council.

The process should include consultation with known user groups and the general community.

It is also important to liaise with other similar sized local governments with Recreation Centres to learn from their experiences. Narrogin, Merriden and Katanning would be good examples. Kulin is a smaller community, but has recently completed a new Recreation Centre.

Strategic Implications:

Nil.

Financial Implications:

Council needs to adopt a range of new fees and charges to cover the Recreation Centre operations.

Statutory Environment:

Nil.

STAFF RECOMMENDATION:

That Council:

- Request the Sports & Recreation Facilities Committee to prepare a comprehensive management plan for the new Irwin Recreation Centre, to be finalised and presented for Council consideration by the end of October 2008, and
- Appoint Geoff Peddie (Director Corporate Services) and Laurie Smith (Recreation Centre Manager) to the Sports & Recreation Facilities Committee.

COUNCIL MOTION:

Moved Cr Hepworth, seconded Cr Dean-Gundill

That Council:

- ***Request the Sports & Recreation Facilities Committee to prepare a comprehensive management plan for the new Irwin Recreation Centre, to be finalised and presented for Council consideration by the end of October 2008, and***
- ***Appoint Geoff Peddie (Director Corporate Services) and Laurie Smith (Recreation Centre Manager) to the Sports & Recreation Facilities Committee.***

CARRIED BY ABSOLUTE MAJORITY

8/0

VOTING DETAILS:

DCS.293: ACCOUNTS FOR PAYMENT
LOCATION: -
PROPONENT: -
REPORTING OFFICER: GEOFF PEDDIE – DIRECTOR, CORPORATE SERVICES
DATE OF REPORT: 5 MAY 2008
FILE REFERENCE: MINUTE BOOK
VOTING REQUIREMENTS: NORMAL MAJORITY

ISSUE:

To receive the list of accounts paid during April 2008.

BACKGROUND:

A list of accounts paid under delegated authority is attached showing all payments made during the month of April 2008.

OFFICER'S COMMENT:

Policy Implications:

Nil.

Under Delegation C3, Council has delegated authority to the Chief Executive Officer and the Director, Corporate Services to authorise all payments by Council and thus act as a cheque signatory for all accounts to be paid.

Statutory Implications:

13. Lists of accounts

- (1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —
 - (a) the payee's name;
 - (b) the amount of the payment;
 - (c) the date of the payment; and
 - (d) sufficient information to identify the transaction.
- (3) A list prepared under subregulation (1) or (2) is to be —
 - (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
 - (b) recorded in the minutes of that meeting.

STAFF RECOMMENDATION:

That the Accounts paid during April 2008, represented by Municipal Cheque Numbers 26961-26996, EFT Payment Numbers 7224-7362 totalling \$844,073.50, Trust Payment Cheque Numbers 2058-2062 totalling \$6,500.00 and Police Licensing Payment Numbers PL 010408–PL280408 totalling \$59,081.50, be received.

COUNCIL MOTION:

Moved Cr Dean-Gundill, seconded Cr Hepworth

That the Accounts paid during April 2008, represented by Municipal Cheque Numbers 26961-26996, EFT Payment Numbers 7224-7362 totalling \$844,073.50, Trust Payment Cheque Numbers 2058-2062 totalling \$6,500.00 and Police Licensing Payment Numbers PL 010408–PL280408 totalling \$59,081.50, be received.

CARRIED
8/0

VOTING DETAILS:

DCS.294:	PROPOSED ROUNDABOUT
LOCATION:	POINT LEANDER DRIVE/GOLF COURSE/BLENHEIM/PEARSE ROADS INTERSECTION
PROPONENT:	-
REPORTING OFFICER:	GEOFF PEDDIE – DIRECTOR, CORPORATE SERVICES
DATE OF REPORT:	5 MAY 2008
FILE REFERENCE:	ER.6.1
VOTING REQUIREMENTS:	NORMAL MAJORITY

ISSUE

To consider and adopt the draft design of the roundabout prepared by Greenfield Technical Services for the intersection of Point Leander Drive/Blenheim Road/ Golf Course Road and Pearse Road.

BACKGROUND:

At the meeting held 25 July 2006, Council adopted the following resolution for the installation of a roundabout at the intersection of Point Leander Drive with Blenheim Road, Golf Course Road and Pearse Road.

“That Council supports the latest plan, being Option 3, drawing number IRW-BLGC-003 as attached, for a roundabout at the intersection of Point Leander Drive/Blenheim Road/Golf Course Road and Pearse Road and that a funding application be submitted through the Regional Road Group.”

Council has since been successful in receiving State Black Spot funding approval for 2007/08 for the first stage of this project, being \$130,000 (Council to allocate \$65,000) to finalise the detailed design and to relocate/protect services. An application for stage 2 funding in 2008/09 has been submitted for \$353,460, with Council required to allocate \$176,730 from own resources, to complete construction of the project.

Council's Consulting Engineer, Mr Michael Keane from Greenfield's Technical Services, has prepared and submitted a draft design and report of the roundabout, numbered IRW-PLRB-001, which are attached for Councillors' information and consideration. The design has been forwarded to the service providers requesting quotations and to Main Roads WA for its information.

OFFICER'S COMMENT:

The Engineers have noted in their report that, since the preliminary layout was adopted by Council in 2006, some minor adjustments have been made in the draft design to accommodate vehicles up to 19 metres in length. Some land acquisition will also be required to accommodate footpaths and lighting installation. Provision has been made in the project costing for this requirement.

Financial Implications:

The Shire of Irwin Budget for 2007/08 provides funding for this project to match Black Spot grant funding. It is unlikely, however, that any expenditure other than design and preliminary costs will be incurred during this year, due to time constraints, and provision will be made in the 2008/09 budget. Council has claimed and received the first progress payment of 40% of the 2007/08 funding and surplus funds will be transferred to Restricted Assets at year end.

Policy Implications:

Nil.

Statutory Implications:

Nil.

STAFF RECOMMENDATION:

That Council adopts the draft design, being drawing number IRW-PLRB-001 as attached, prepared by Greenfield Technical Services, for the construction of a roundabout at the intersection of Point Leander Drive/Blenheim Road/ Golf Course Road and Pearse Road.

COUNCIL MOTION:

Moved Cr Gillam, seconded Cr Chandler

That Council adopts the draft design, being drawing number IRW-PLRB-001 as attached, prepared by Greenfield Technical Services, for the construction of a roundabout at the intersection of Point Leander Drive/Blenheim Road/ Golf Course Road and Pearse Road.

CARRIED
8/0

VOTING DETAILS:

TP.425:	PROPOSED ADDITIONS
LOCATION:	LOT 11 (NO 30386) BRAND HIGHWAY, DONGARA
APPLICANT:	JWM CLARKE
OWNER:	JWM & A CLARKE
REPORTING OFFICER:	GLENN COAKER – TOWN PLANNER
DATE OF REPORT:	6 MAY 2008
FILE REFERENCE:	BA.2 (P12/08)
VOTING REQUIREMENTS:	NORMAL MAJORITY

BACKGROUND:

A Development Application has been received to construct an additional ensuite bathroom and two new internal doorways to the front house on the above property.

The property is listed on the Shire of Irwin Municipal Inventory of Heritage Places as Place Number 98.

OFFICER'S COMMENT:

The property includes two dwellings, one at the front and one at the rear, and a stone rainwater tank and a privy. The additions are proposed to take place to the front dwelling.

The application includes constructing a new ensuite bathroom on the south-east corner of the front house, under the existing verandah roof. The external walls are proposed to be rendered with lime mortar and the window on the east elevation is proposed to match the existing window frames. The application also includes cutting two new internal doorways, one to the new ensuite and one to the existing bathroom (see attached).

Statutory Considerations:

The property is zoned Special Residential under the new Local Planning Scheme No 5. A Single House is a "P" or Permitted Use in this zone.

The property is listed on the Shire of Irwin Municipal Inventory of Heritage Places and has been allocated a Category of 1B.

Categories range from 1 through to 6, with 1 being of most significance. A Category 1B is described as follows:

"1B - POSSIBLE INCLUSION ON THE STATE REGISTER OF HERITAGE PLACES

Highest level of protection appropriate: warrants further assessment for possible entry into the State Register of Heritage Places. Provide maximum incentives under the Town Planning Scheme with encouragement to conserve the significance of the place.

Prepare a floor plan and photographically record the place prior to any redevelopment."

The Statement of Significance for this property under the Municipal Inventory states the following:

"The two stone houses and associated buildings on the property 'Tyford' have high historic significance for their connection with early settlement of the district through the Grant and, later, the

Clarkson families. Further, the buildings are in a prominent position on Brand Highway close to the eastern entry to the town and add significantly to the character of the town.”

The application was referred to the Midwest Heritage Adviser for comment. The comments received from the Heritage Adviser are summarised below:

- The current layout of the dwelling only allows access to the existing bathroom externally via the verandah. The inclusion of the new ensuite and the new internal doors will allow a practical and habitable layout to the dwelling, more suited to modern living.
- The owners have been persuaded to recess the new addition back from the front elevation (i.e. set back approx 0.5m) and render it to match the existing verandah enclosure. This will minimise the impact the additions have on the heritage values of the place.
- The use of a timber window frame to match the existing is considered appropriate.

The recommendation from the Heritage Adviser is that the application be supported.

OFFICER'S COMMENT:

The application complies with the provisions of the Local Planning Scheme.

On the basis that the proposal complies with the Scheme, the additions will provide a more liveable dwelling, will be sympathetic but not detract from the original heritage values of the place and is supported by the Midwest Heritage Adviser, it is recommended that the application be approved.

Financial Implications:

Nil.

Policy Implications:

Nil.

Strategic Implications:

Nil.

STAFF RECOMMENDATION:

That the application for an additional ensuite bathroom and two internal doorways to the front house on Lot 11 (No 30386) Brand Highway, 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 authority.
2. A Building Licence is required to be approved by the local authority prior to the commencement of any construction works on-site.
3. All stormwater runoff is to be retained and disposed of on-site to the approval of the local government.
4. Any soils disturbed or deposited on the site are to be stabilised and retained on-site.

5. 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.
6. 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.

COUNCIL MOTION:

Moved Cr Chandler, seconded Cr McClurg

That the application for an additional ensuite bathroom and two internal doorways to the front house on Lot 11 (No 30386) Brand Highway, 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 authority.***
- 2. A Building Licence is required to be approved by the local authority prior to the commencement of any construction works on-site.***
- 3. All stormwater runoff is to be retained and disposed of on-site to the approval of the local government.***
- 4. Any soils disturbed or deposited on the site are to be stabilised and retained on-site.***
- 5. 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.***
- 6. 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.***

CARRIED
8/0

VOTING DETAILS:

TP.426: PROPOSED FILL AND RETAINING
LOCATION: LOT 21 MARINA HEIGHTS, PORT DENISON
APPLICANT: JF FITZPATRICK
OWNER: JF & AE FITZPATRICK
REPORTING OFFICER: GLENN COAKER – TOWN PLANNER
DATE OF REPORT: 6 MAY 2008
FILE REFERENCE: BA.2 (P15/08)
VOTING REQUIREMENTS: NORMAL MAJORITY

BACKGROUND:

A Development Application has been received to place fill and retaining on the above property.

This property has received previous consideration by Council for approval to build two grouped dwellings. That application was approved by Council at its meeting held on 11 February 2003. The approval was valid for a period of 2 years and, as no works have started, the approval has since expired.

This new application appears to be consistent with the original approval, however, does not propose to construct any dwellings; it is for fill and retaining only. A further application will be needed for approval to construct any dwellings on-site.

The Proposal:

Lot 21 is 603m² in area with access from Marina Heights. The property is currently vacant.

Adjoining Lot 22 to the north-east is also vacant apart from existing fill and retaining on-site. In this regard, there is a limestone retaining wall on the common boundary between the two properties reaching a maximum height of 1.8m.

Lot 20, which adjoins on the opposite side (south-west), is also vacant with no retaining or fill.

The application proposes to fill and retain Lot 21 by continuing the existing retaining wall fronting adjoining Lot 22 across the front or north-west boundary of this property and then build a new retaining wall down the side boundary with adjoining Lot 20.

The lot would then be filled to match the height of the retaining walls. To take advantage of the ocean views, the retaining and fill is proposed to gradually increase from the road frontage to the opposite boundary.

The fill would therefore be split into three levels. Coming directly off Marina Heights, the build-up would be approximately 0.4m, the middle section would be built up 1.3m and the front section overlooking the skatepark reserve and ocean would be built up a maximum of 1.8m (see attached).

Statutory Considerations:

The property is zoned Residential R50 under the Shire of Irwin Local Planning Scheme No 5.

In relation to fill and retaining, Clause 5.20.1 of Local Planning Scheme No 5 states the following:

“No person shall construct a retaining wall with a height greater than 0.5m without first obtaining the Planning Approval of the local government.”

The proposed retaining wall reaches a maximum height of 1.8m and, as such, the applicant is seeking Council approval.

Retaining and fill is also dealt with in the Residential Design Codes 2002 (R Codes). Clause 3.6.1 A1.4 of the R Codes states the following:

“Filling behind a street setback line and within one metre of a common boundary:

- not more than 0.5m above the level at the boundary; or
- retained in accordance with A2.”

In this instance, the proposal does not comply with the R Codes standard provisions as it is for fill higher than 0.5m and is not retained in accordance with A2 (which would require the retaining wall to be set back off the boundary).

Therefore, in order for the application to be approved, it requires Council to exercise its discretion.

In this regard, the R Codes require that, where a discretionary decision is required and, in the opinion of the local government, the application may impact on any adjoining property, the application is to be referred to that property owner for comment. In this case, the proposed retaining wall along the common boundary with Lot 20 is likely to have an impact on that property.

As such, the application was referred to the owner of Lot 20 for comment. The Shire has subsequently received written notification from that owner stating that they object to the proposal.

The correspondence from the adjoining lot owner is attached, and the objection is summarised as follows:

- Object due to the height restrictions placed on the property,
- Object because the height of the retaining wall and any subsequent fencing that would be required for any dwelling would impact on the privacy provisions and be visually unacceptable.

To further clarify the first point of the objection, it is noted that these properties are subject to a restrictive covenant on the certificate of title for the maximum height of any building. Lot 21 is allowed to build to a maximum height of 11.4m above Australian Height Datum and Lot 20 is allowed to build to a maximum of 11.0m above Australian Height Datum (the contours and finished levels on the site plan relate to the Australian Height Datum).

Where the Shire receives an objection from an adjoining lot owner to a proposed development, the Shire is then to provide the applicant with an opportunity to respond to those objections. In this regard, the applicant has provided the attached response and which is summarised as follows:

- In relation to the height restrictions placed on the title, the owners have instructed their designer, Eaton Designs, to ensure any dwelling built on the property is below the required height limit. This would mean that any dwelling would be of single storey construction.
- In relation to privacy provisions, the designer has prepared sectional drawings which show that with the provision of a side boundary fence 1.8m high on top of the wall, the fence will act as a screen and block any views into the neighbouring property.

- In relation to the visual amenity of the wall, it is to be constructed of the same limestone material used in many of the existing developments in Port Denison, including the existing retaining wall on the opposite side boundary with Lot 22.

OFFICER'S COMMENT:

In determining the application, Council needs to consider the objections raised by the neighbour and the responses provided by the applicant.

With regard to the objection relating to the height restrictions placed on the property, it is noted this is not a current consideration. This will certainly be a requirement when application is made to build a dwelling(s) on the property, but the current application is only for fill and retaining which is well below the maximum height.

Further to this, the applicants have planned for the height restriction and are satisfied they can build a dwelling on top of the fill which will still be under the limit.

In relation to the privacy concerns, the response provided by the applicant is considered satisfactory. Under the Shire's Local Laws Relating to Fencing, a 1.8m high fence would be required to be placed on top of the retaining wall on this side boundary which, as explained by the applicant, will restrict views from a single storey dwelling on Lot 21 into Lot 20.

It is also noted that when an application is made to building a dwelling or dwellings on Lot 21, they will be assessed and required to comply with the specific privacy and overlooking provisions of the R Codes.

The concern relating visual amenity is perhaps the most relevant consideration. The neighbour has advised that the proposed wall, once a fence is placed on top of, will be visually unacceptable. The applicant's response is valid in that the entire length of the wall is not 1.8m high; it ranges from 0.4m to 1.8m. Also, that the wall will be built of limestone similar to those already built in the area.

The visual amenity of the wall, however, may be a matter of opinion and warrants further consideration. Additionally, the applicant's response does not address the issue of the overall height of the structure with a fence on top.

With regard to the visual amenity, the wall itself is proposed to be built of limestone blocks. This is in keeping with other retaining walls in the area and will continue the same material as already used for retaining along the frontage adjoining the skatepark reserve. This continuity is encouraged and limestone blocks are generally regarded as a high quality finish.

In relation to the fencing on top of the wall, the construction of such would have to comply with the Shire's Local Law, however, the exact finish and colour of the fence is something that can be negotiated between neighbours. A fence of an appropriate colour to blend with the limestone would help to minimise any visual intrusion from the overall structure.

With regard to the overall height of the structure, it is noted that the owner of Lot 20 also has the opportunity to build that property up to a similar height. This is often the end result where views are to be maximised. If this was to occur, the height of the retaining along this boundary would be reduced by the amount of fill to be brought in.

The alternative for both lots, if views are to be maximised without bringing in fill, would be to build two storey dwellings, however, two storey dwellings would be considered to have a far greater impact on the overall height and obtrusiveness of development, rather than a retaining wall and fence on top. This is particularly relevant in the R50 zone where lot sizes can be reduced to a minimum area of 160m², which necessitates multiple storey dwellings in order to achieve satisfactory floor space.

With the above considerations in mind, it is considered that the proposed retaining wall (with fence above) will not be visually unacceptable.

The application complies with all other requirements of the Scheme and the R Codes.

It is recommended the application be approved subject to conditions.

Financial Implications:

Nil.

Policy Implications:

Nil.

Strategic Implications:

Nil.

STAFF RECOMMENDATION:

That the application for retaining and fill on Lot 21 Marina Heights, Port Denison 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 Building Licence is required to be approved by the local authority prior to the commencement of any construction works on-site.
3. All soils disturbed or deposited on the site are to be stabilised and retained on-site.
4. 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.
5. 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. a) All development works must be carried out in accordance with control of noise practices set out in Section 6 of AS2436-1981.
 - a. No works shall commence prior to 7:00am without the Shire approval.
2. 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.

COUNCIL MOTION:

Moved Cr Chandler, seconded Cr Hepworth

That the application for retaining and fill on Lot 21 Marina Heights, Port Denison 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 Building Licence is required to be approved by the local authority prior to the commencement of any construction works on-site.*
- 3. All soils disturbed or deposited on the site are to be stabilised and retained on-site.*
- 4. 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.*
- 5. 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. a) All development works must be carried out in accordance with control of noise practices set out in Section 6 of AS2436-1981.*
 - a. No works shall commence prior to 7:00am without the Shire approval.*
- 2. 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
8/0

VOTING DETAILS:

Cr Lance Wheeler declared a proximity interest in the following item and departed the Chambers at 4.32pm.

TP.427: PROPOSED SUBDIVISION
LOCATION: LOTS 250 AND 251 WILLIAM STREET, PORT DENISON
APPLICANT: LANDWEST URBAN AND RURAL PLANNING CONSULTANTS
OWNER: GE, CJ & CG LEE
REPORTING OFFICER: GLENN COAKER – TOWN PLANNER
DATE OF REPORT: 6 MAY 2008
FILE REFERENCE: TP.3/1 (WAPC REF: 137371)
VOTING REQUIREMENTS: NORMAL MAJORITY

BACKGROUND:

An application to subdivide the above property has been referred by the Western Australian Planning Commission for consideration and comment by Council.

This application has previously been applied for and received approval in 1990, however, the new titles were never requested and the approval has since expired.

The owners now wish to progress the subdivision and the new application is identical to the previous one.

Lot 250 is currently 956m² and Lot 251 is 910m² in area. Both lots include existing residential development.

Some of the buildings on each lot currently encroach over the dividing boundary. The application therefore intends to rectify this anomaly by creating a new dividing boundary with the existing buildings located wholly within their respective lots (see attached).

Statutory Considerations:

Lots 250 & 251 are zoned residential R12.5 under the Shire of Irwin Local Planning Scheme No 5.

The minimum lot size under this zoning is 700m² and the average is 800m².

The application as proposed complies with this requirement with proposed Lot 1 being 750m² and proposed Lot 2 being 1112m².

The Residential Design Codes 2002 (R Codes) require areas coded R12.5 to have minimum frontages of 17m, which both new lots comply with.

The closest setback to the new boundary will be 1.5m from the existing dwelling on proposed Lot 2. This complies with the setbacks in the R Codes.

Neither property is listed on the Shire of Irwin Municipal Inventory of Heritage Places.

OFFICER'S COMMENT:

The proposed new boundary is unusual and will create irregular-shaped lots, however, the lot sizes and frontages comply, as do the new setbacks.

Of most importance, however, is the rationalisation of the boundaries. The proposal will result in the buildings associated with each property being contained within their own lot boundaries, rather than encroaching into adjoining property. If they are left the way they are, it can result in problems down the track with transferring titles, maintenance etc.

It is recommended the application be supported on this basis.

Financial Implications:

Nil.

Policy Implications:

Nil.

Strategic Implications:

Nil.

STAFF RECOMMENDATION:

That the application to subdivide Lots 250 and 251 William Street, Port Denison be supported subject to the following condition:

1. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation.

COUNCIL MOTION:

Moved Cr Chandler, seconded Cr McClurg

That the application to subdivide Lots 250 and 251 William Street, Port Denison be supported subject to the following condition:

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

CARRIED
7/0

VOTING DETAILS:

Cr Lance Wheeler returned to the Chambers at 4.33pm.

Cr Lance Wheeler declared a financial interest in the following item and departed the Chambers at 4.35pm.

TP.428: PROPOSED SCHEME AMENDMENT
LOCATION: LOTS 4 AND 5 BRAND HIGHWAY, BOOKARA
APPLICANT: GHD
OWNER: DORNFORD PTY LTD
REPORTING OFFICER: GLENN COAKER – TOWN PLANNER
DATE OF REPORT: 7 MAY 2008
FILE REFERENCE: BA.2
VOTING REQUIREMENTS: NORMAL MAJORITY

BACKGROUND:

An application has been received to rezone the above property from General Farming to a Special Use site.

This application was last considered by Council at its Special Meeting held on 21 April 2008, whereby the following was resolved:

“That Council:

- Confirm that the intent of the Council resolution adopted at the Ordinary Council Meeting held on 27 November 2007, being that Council provides support for rezoning of the land to ‘Special Use’ in accordance with the draft proposal submitted by Dornford Pty Ltd and GHD, was for the purpose of providing general in-principle support to the overall concept of the draft proposal to allow further consideration by Council with a view to considering a formal application at a later date.*
- Formally consider the request to initiate an amendment to the Shire of Irwin’s Local Planning Scheme No 5 to rezone Lots 4 and 5 Brand Highway from ‘General Farming’ to ‘Special Use’ at the Ordinary Council Meeting to be held on Tuesday, 13 May 2008.”*

Following that Special Meeting, Council held a workshop with the Shire’s consultant planners and GHD/Dornford Pty Ltd in attendance. The workshop gave the opportunity for Council to ask questions of the applicants and consider the main issues associated with the proposal.

COMMENT:

- General**
In determining this application, it is noted that this report does not consider the broader planning principles associated with residential development in this location. These issues have previously been raised in the original consultants report. This report focuses on the details of the amendment.

The main outcome of the workshop was that there were a number of staging, management and operational issues that Council felt had not been adequately addressed as part of the Scheme Amendment report submitted by the applicants.

As a result, GHD were requested to submit the Operational Management Plan prior to Council formally considering the application, rather than prior to lodgement of the first subdivision or development application, as proposed by Clause 26.9 of the amendment text.

In this regard, GHD have submitted a preliminary plan, titled “Operation and Management – Preliminary Measures”. This plan is described by GHD as follows:

“The purpose of this document is to clarify operational and managerial issues associated with the Subdivision Guide Plan and focusing on:

- staging,
- tourism/residential ratio,
- residential strata bodies, and
- ownership and management of natural assets.

It should be noted that this document is not intended to act as an Operational Management Plan for the Bookara Beach estate, but rather the intent of this document is to set broad principles to define the intent of the future Estate Operational Management Plan (EOMP).”

Attached is the Preliminary Operation and Management Plan and a revised version of the wording to be included in the Schedule 4 – Special Use Zones of the Scheme text. The key elements of the preliminary plan are summarised below.

Staging of the Development

- Portion of the coastal accommodation (Nature Based Tourism) and primary access road to the beach to be developed as part of first stage.
- Portion of the private recreation to be developed in conjunction with the coastal accommodation (Nature Based Tourism).
- Service infrastructure to be developed to ensure each stage is sustainable.
- Expected that operators of private recreation will make facilities available to permanent residents.
- Appendix A outlines three indicative development stages.

Timeframe for Development

- Scheme Amendment to be approved by June 2009.
- First subdivision application Dec 2009.
- First development completed by June 2011.

Ratio of Tourism to Residential

Option (a)

- 1 chalet/hotel-motel room/self contained apartment = 0.33 of a residential lot.
- 1 caravan site = 0.25 of a residential lot.
- 1 camping site = 0.20 of a residential lot.

Option (b)

- residential lots provided at a rate equivalent to 25% of tourism land area.

Option (c)

- At a rate as determined as appropriate by the WAPC.

Strata Bodies

- Anticipated 10-20 individual strata bodies covering residential, commercial and holiday accommodation.
- Each strata body runs independently.
- Each strata body responsible for own management issues and common property.
- Operation of Strata Bodies protected under *Strata Titles Act 1985*.
- Each strata company to prepare a Management Statement to control development.

Operation and Management of the Estate

- Dornford Pty Ltd and associated companies to be responsible for implementing the Subdivision Guide Plan, all overarching plans/reports and subdivision applications.
- Requirements of the EOMP to be placed as notification on Certificates of Title, binding successive owners to the relevant provisions.

Residential Development

- Residential lots to be coded R10 (avg. 1000m²).

- Only one Single House permitted per residential lot.
- Residents are to be made aware of Design Codes by way of notification on title.

Conservation Areas

- Where possible, conservation areas are to be incorporated as common property in a strata development.
- Otherwise remain under Dornford Pty Ltd and managed in accordance with EOMP (this will be the case for the Brand Highway dune ridge).

The Preliminary Operation and Management Plan goes some way to addressing some of the concerns that have been raised in relation to this scheme amendment, however, there are some aspects that require modification or further clarification.

2.2 Staging of Private Recreation

This part indicates that the private recreation will likely be built progressively alongside the Nature Based Tourism chalets. It goes on to say that the staging and release of these facilities will ultimately be subject to market demand. This should be amended to provide a clear statement which links the staged development of private recreation components to the staged release of the tourism accommodation.

3 Ratio of Tourism to Residential

This section outlines the basis for calculating the tourism to residential ratio. In this regard, it is useful to remember that the Tourism Planning Taskforce Report, which the justification for residential is based on, states 'up to 25 per cent of the units and developable land area may be used for residential purposes.'

If the 25% is then to be applied to the number of tourism units or accommodation types provided, then it must first be determined what a "tourism unit" is. For example, it would be logical to assume that a camp site does not hold the same value as a self-contained apartment. For this purpose, the following is suggested:

A "Tourism Unit" is equivalent to the following:

- (1) hotel/motel room, chalet or self contained apartment,
- (2) caravan bays, or
- (4) camp sites.

Once this has been established, then the 25% ratio, as per the Tourism Planning Taskforce Report, can be applied. This would result in the following rates:

- (4) hotel/motel rooms, or chalets, or self-contained apartments = 1 residential lot.
- (8) caravan bays = 1 residential lot.
- (16) camp sites = 1 residential lot.

It is suggested that Clause 26.2 (ii)(a) of the text to be included in the Scheme be amended to reflect the above. Additionally, parts (b) and (c) should be deleted to give clarity and certainty to the developer, the Shire and the WAPC.

4.2 Relation of Each Strata Body to Others

The proposed deed binding individual strata bodies to the requirements of the EOMP should be prepared to the satisfaction of the Shire of Irwin prior to finalisation of the Scheme Amendment.

The list of items to be included in the deed between each strata body needs to include private roads.

5.1 Estate Operations Management Plan (Paragraph 4)

The requirements of any management plan, which will ultimately be the responsibility of new lot owners, should be transferred by way of caveat on the title, rather than notifications and restrictive covenants. A caveat would be more effective in this instance.

6.1 Applicable R Code

The proponents have indicated that residential land will be coded R10. This allows lot sizes to a minimum of 1000m², although lot sizes are proposed to be between 1500m²-4000m². This clause should be amended to include a specific provision for a minimum lot size of 1500m² and a maximum of less than 4000m². The applicable R Code would become R5.

An additional clause needs to be added limiting the maximum amount of residential lots, regardless of the number of tourism units or subdivision layout, to 300.

Appendix A – Indicative Stage 1 Plan

This plan needs to be amended to accurately reflect the number residential lots in relation to the number of tourism units to be built. The 150 bay caravan park and the portion of the Nature Based Tourism, if based on the ratio in Part 3, would allow approximately 60 residential lots, not 85 as indicated.

Other various amendments that need to be included are as follows:

Subdivision

An additional clause 26.2 needs to be included with the following words;

“The preparation and assessment of any Subdivision Guide Plan is to be in accordance with the provisions laid out in the Model Scheme Text for structure plans.”

Land Use and Development

Clause 26.2(i) needs to be amended as follows:

“Land use and development shall be restricted to those land use precincts as defined on the Subdivision Guide Plan dated that has been approved by Council.”

Clause 26.2(ii) needs to be amended as follows:

“The creation and release of residential lots shall be permitted as follows:”

Commercial Lots

The size of the commercial lots as proposed by the Subdivision Guide Plan is in excess of what would be expected to be appropriate for a small scale shopping area such as this. These lots should be reduced in size to a maximum of 1000m² each.

Subdivision Guide Plan

- The SGP should be amended so that Lease Area A is changed to ‘Reserve for Recreation’ rather than specifically for a Lifesaving Club.
- The SGP should also be amended to provide for a possible future road link to the land to the south.

As noted previously, the plan at this stage is only preliminary. It is not the final document and may be subject to further changes and refinement. In this regard, it is important to be absolutely clear on the commitments and guarantees of the developer and how they will be passed on to subsequent landowners prior to final adoption of the amendment. It is also important to ensure that the general intent of this preliminary document is maintained.

It is therefore recommended that, if the amendment is to be initiated, that this preliminary plan be incorporated into the applicant’s amendment report, so that it forms part of the document to be referred to other agencies; however, the final and comprehensive Estate Operational

Management Plan should be prepared prior to final adoption of the amendment, to the satisfaction of the Council. Clause 26.9 of the Scheme Amendment text will need to be amended to reflect this.

In view of the previous consideration that has been given to this application and the above additional information, there are two main options in determining the application.

If Council feels the Preliminary Operational Management Plan is sufficient, once the recommended changes have been incorporated, then Council could initiate the Scheme Amendment. This would then kick-start the formal assessment and referral process to other government agencies.

Alternatively, Council may feel it beneficial to refer the application to the Western Australian Planning Commission for comment prior to initiating the amendment or otherwise.

- **Financial Implications:** Costs associated with initiating the proposed scheme amendment.
- **Policy Implications:** Nil.
- **Strategic Implications:** Possible amendment to Local Planning Scheme No 5. Possible support for development that is not in accordance with the Strategies and Actions of Policy Area E of the Local Planning Strategy.

STAFF RECOMMENDATION:

Option 1

Subject to the changes as detailed above being implemented to the satisfaction of the Chief Executive Officer, that Council;

1. Pursuant to Section 75 of the Planning & Development Act 2005, amend Shire of Irwin Local Planning Scheme No 5 by:
 - a) rezoning portion of Lots 4 and 5 Brand Highway, Bookara from “General Farming” to “Special Use” (“SU 26”);
 - b) including a list of permitted uses and specific conditions relating to the site in Schedule 4 – Special Use Zones of the Scheme;
 - c) inserting new land use definitions for “Airfield” and “Nature Based Tourism Facility” within Schedule 1 – Interpretations of the Scheme.
 - d) amending the definition of “Holiday Accommodation” within Schedule 1 – Interpretations of the Scheme;
 - e) reserving a portion of Lots 4 and 5 Brand Highway, Bookara, Local Reserve – “Parks and Recreation” as shown on the proposed zoning map;
 - f) reserving a portion of Lot 4 and 5 Brand Highway, Bookara, Local Reserve – “Major Highway” as shown on the proposed zoning map; and
 - g) amending the Scheme Map accordingly.
2. Advise the applicant that Council’s initiation of Scheme Amendment No.1 has been undertaken to enable specific assessment of the site by the relevant government departments and this cannot be construed that Council will resolve to give final approval to this rezoning proposal.
3. Advise the applicant that a further fee will be required, in order to cover costs associated with the assessment and initiation of the amendment, in accordance with the Town Planning (Local Government Planning Fees) Regulations 2000.

Or

Option 2

1. That Council refer proposed Scheme Amendment No 1 to the Western Australian Planning Commission for comment.

2. The applicant be given the opportunity to review the amendment report prior to referral to the Western Australian Planning Commission by the Shire.

COUNCIL MOTION:

Moved Cr Chandler, seconded Cr Gillam

Subject to the changes as detailed above and the changes in Notes 1-3 below being implemented to the satisfaction of the Chief Executive Officer, that Council;

1. ***Pursuant to Section 75 of the Planning & Development Act 2005, amend Shire of Irwin Local Planning Scheme No 5 by:***
 - a) ***rezoning portion of Lots 4 and 5 Brand Highway, Bookara from “General Farming” to “Special Use” (“SU 26”);***
 - b) ***including a list of permitted uses and specific conditions relating to the site in Schedule 4 – Special Use Zones of the Scheme;***
 - c) ***inserting new land use definitions for “Airfield” and “Nature Based Tourism Facility” within Schedule 1 – Interpretations of the Scheme.***
 - d) ***amending the definition of “Holiday Accommodation” within Schedule 1 – Interpretations of the Scheme;***
 - e) ***reserving a portion of Lots 4 and 5 Brand Highway, Bookara, Local Reserve – “Parks and Recreation” as shown on the proposed zoning map;***
 - f) ***reserving a portion of Lot 4 and 5 Brand Highway, Bookara, Local Reserve – “Major Highway” as shown on the proposed zoning map; and***
 - g) ***amending the Scheme Map accordingly.***
2. ***Advise the applicant that Council’s initiation of Scheme Amendment No.1 has been undertaken to enable specific assessment of the site by the relevant government departments and this cannot be construed that Council will resolve to give final approval to this rezoning proposal.***
3. ***Advise the applicant that a further fee will be required, in order to cover costs associated with the assessment and initiation of the amendment, in accordance with the Town Planning (Local Government Planning Fees) Regulations 2000.***

Note 1: ***The tourism to residential rates shall reflect the following 3:1 ratio:***
(3) ***hotel/motel rooms, or chalets, or self-contained apartment = 1 residential lot***
(6) ***caravan bays = 1 residential lot***
(12) ***camp sites = 1 residential lot***

Note 2: ***The applicable minimum of frontage for R5 coded residential lots shall be 22.5 metres.***

Note 3: ***Only specific details that do not impact on the intent and implementation of the EOMP may be omitted from the EOMP prior to final adoption of the Scheme Amendment.***

CARRIED
7/0

VOTING DETAILS:

Cr Lance Wheeler returned to the Chambers at 4.44pm.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

12. URGENT BUSINESS APPROVED BY PERSON PRESIDING OR BY DECISION

Nil.

13. MATTERS BEHIND CLOSED DOORS

Nil.

14. CLOSURE

There being no further business, the Chairperson declared the meeting closed at 4.45pm.

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

Signed:
Presiding Elected Member

Date:.....