

I certify that this copy of the Minutes is a true and correct record of the meeting held on 28 April 2009  
Signed: .....  
Presiding Elected Member  
Date:.....



**MINUTES OF ORDINARY COUNCIL MEETING  
HELD IN THE COUNCIL CHAMBERS ON  
TUESDAY, 28 APRIL 2009  
COMMENCING AT 4.00PM**

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

<b>PRESENT:</b>	President	Cr R K Parsons (Chairperson)
	Councillors	Cr S C Chandler (Deputy Shire President) Cr G C Bass Cr R J Gillam Cr K J Hepworth Cr R W Roberts
	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	Mr J Rossiter, Mr B Hope (4.15pm)
<b>GUESTS:</b>		-
<b>APOLOGIES:</b>		Cr L W Wheeler, Cr G L Dean-Gundill
<b>LEAVE OF ABSENCE:</b>		Cr R T McClurg

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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 G L Dean Gundill – Apology, Cr L W Wheeler – Apology, Cr R T McClurg - Leave of Absence requested.

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

Nil.

**4. PUBLIC QUESTION TIME**

**4.1.** Mr Bob Hope asked why Council are now having one meeting a month.

Shire President advised that Council is of the view that the business of Council can be met effectively with one meeting per month.

**4.2.** Mr John Rossiter asked why the recent public meeting was advertised in the Geraldton Guardian and not the local Rag.

Shire President advised that the meeting was advertised in the Geraldton Guardian and the Shire Newsletter which was published in the Rag.

**5. APPLICATIONS FOR LEAVE OF ABSENCE**

Cr Rob McClurg has requested a Leave of Absence from the Council Meeting scheduled for 28 April 2009.

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**COUNCIL MOTION:**

**Moved: Cr R Gillam**

**Seconded: Cr R Roberts**

***That Cr Rob McClurg be granted Leave of Absence for the Council Meetings scheduled for 28 April 2009.***

**VOTING DETAILS:**

**CARRIED  
6/0**

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**6. PETITIONS**

Nil.

**7. CONFIRMATION OF MINUTES**

**7.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 24 MARCH 2009**

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A copy of the Minutes of the Ordinary Council Meeting held on 24 March 2009 has been provided to all Councillors under separate cover.

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**COUNCIL MOTION:**

**Moved: Cr K Hepworth**

**Seconded: Cr R Gillam**

***That the Minutes of the Ordinary Council Meeting, held on 24 March 2009, be confirmed as a true and accurate recording of that meeting.***

**VOTING DETAILS:**

**CARRIED  
6/0**

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

- 8.1.** Special Meeting of Electors was held on 6 April 2009.
- 8.2.** Meeting with Shire of Dandaragan's CEO Clinton Strugnell on 23 April 2009 with regards to Structural Reform.
- 8.3.** Attended Anzac Day Ceremony to lay wreath on 25 April 2009.

## 9. REPORTS

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**CEO.414**

**Subject:** Delegations Register  
**Reporting Officer:** Chief Executive Officer  
**File Reference:** AD.3  
**Date Prepared:** 3 April 2009  
**Voting Requirements:** Simple

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**Issue:**

To review Council delegations.

**Body / Background:**

Council undertook an extensive review of all Delegations in force at the ordinary Council meeting held on 27 May 2008.

A copy of the Delegations Register is available on the Shires website and a hard copy has previously been provided to Councillors.

**Officers Comment:**

Given the extent of the review in 2008 and the changes made, no further changes to the delegations register are recommended.

**Financial Implications:**

Nil

**Statutory Environment:**

The local government act requires Council to review delegations at least once every financial year (s5.46(2)).

**Policy Implications:**

Nil

**Officers Recommendation:**

That Council note the review of delegations and that no changes be made to the current delegations in force.

**COUNCIL MOTION:**

**Moved: Cr K Hepworth**

**Seconded: Cr R Roberts**

*That Council note the review of delegations and that no changes be made to the current delegations in force.*

**CARRIED  
6/0**

**VOTING DETAILS:**

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**CEO.415**

**Subject:** Special Meeting of Electors – Lots 53 and 54  
**Reporting Officer:** Chief Executive Officer  
**File Reference:** AA.3.2  
**Date Prepared:** 7 April 2009  
**Voting Requirements:** Simple

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**Issue:**

To receive and consider the minutes of the Special Meeting of Electors held on Monday 6 April 2009.

**Body / Background:**

A request for a Special meeting of Electors was received by the Shire President from R A Hope of 18 Carnarvon Street Port Denison, which meets the requirements of the local government act.

The matter to be discussed was to review Councils decision to rezone lots 53 and 54 on plan 226843 as passed at the ordinary Council meeting held on 24 February 2009.

The public meeting was held at 10:00am on Monday 6 April 2009 at the Dongara Town Hall. Public notice was provided by advertisement placed in the Geraldton Guardian and through the Shires monthly Newsletter. The Geraldton Guardian also ran a story on the matter and the person requesting the public meeting notified most households within the townsites by way of a letter drop.

Minutes of the meeting are attached.

**Officers Comment:**

The majority of those present at the meeting expressed opposition to the proposed rezoning.

It should be noted that at the 2007 local government elections there were a total of 2255 electors on the electoral roll and 809 voted.

There were 110 present at the public meeting (excluding Councillors and staff) which is less than 5% of total electors. An analysis of the attendance records and our October 2007 electoral roll shows that those in attendance were from:

Denison Ward	43
Rural Ward	23
Town Ward	16
Not on roll	28

**Financial Implications:**

Nil

**Statutory Environment:**

5.28. Electors' special meetings

- (1) A special meeting of the electors of a district is to be held on the request of not less than —
  - (a) 100 electors or 5% of the number of electors, whichever is the lesser number; or
  - (b) 1/3 of the number of council members.
- (2) The request is to specify the matters to be discussed at the meeting and the form or content of the request is to be in accordance with regulations.

(3) The request is to be sent to the president.

(4) A special meeting is to be held on a day selected by the president but not more than 35 days after the day on which he or she received the request.

5.29. Convening electors' meetings

(1) The CEO is to convene an electors' meeting by giving —

(a) at least 14 days' local public notice; and

(b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.

(2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.

5.33. Decisions made at electors' meetings

(1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —

(a) at the first ordinary council meeting after that meeting; or

(b) at a special meeting called for that purpose, whichever happens first.

(2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

**Policy Implications:**

Nil

**Officers Recommendation:**

That Council:

- Receive the minutes of the Special Meeting of Electors held on Monday 6 April 2009 as a true record of proceedings, and
- Note the decisions made at that meeting

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**COUNCIL MOTION:**

**Moved: Cr R Gillam**

**Seconded: Cr R Roberts**

***That Council:***

- ***Receive the minutes of the Special Meeting of Electors held on Monday 6 April 2009 as a true record of proceedings, and***
- ***Note the decisions made at that meeting***

**VOTING DETAILS:**

**CARRIED  
6/0**



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**CEO.416**

**Subject:** Policy Manual Amendments  
**Reporting Officer:** Chief Executive Officer  
**File Reference:** AA.2  
**Date Prepared:** 15 April 2009  
**Voting Requirements:** Simple

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**Issue:**

To consider changes to Council Policy.

**Body / Background:**

In October 2008 Council undertook a review of Council Policies and agreed that the following Policies needed further review:

Policy A5 Localised Purchasing  
Policy A13 Office Staff Dress Code  
Policy A21 Community Bus Hire

These Policies have now been reviewed for Council consideration.

**Officers Comment:**

Policy A5 Localised Purchasing – This Policy has been rewritten. The intent is to apply the price preference to local (Shire) businesses or regional (Mid West Region) businesses if there is no local supplier.

Policy A13 Office Staff Dress Code – There is no need for this policy and it is recommended it be deleted.

Policy A21 Community Coach – This policy has been rewritten for Councils consideration.

**Financial Implications:**

Nil

**Statutory Environment:**

Local government act

**Policy Implications:**

Recommends deletion of Council Policies and replacing them with new Policies.

**Officers Recommendation:**

That Council:

- Replace Policy A5 with the new Policy as presented,
- Delete Policy A13, and
- Replace Policy A21 with the new Policy as presented

**COUNCIL MOTION:**

**Moved: Cr K Hepworth**

**Seconded: Cr S Chandler**

That Council:

- Replace Policy A5 with the new Policy as presented,
- Replace Policy A21 with the new Policy as presented

**CARRIED  
6/0**

**VOTING DETAILS:**

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**COUNCIL MOTION:**

**Moved: Cr R Gillam**

**Seconded: Cr R Roberts**

That Council:

- Retains Policy A13 – Office Staff Dress Code

**CARRIED  
4/2**

**VOTING DETAILS:**

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*Council did not accept the Officers Recommendation in regards to the Dress Code Policy on the basis that the Policy may continue to be required to enforce dress code standards in the workplace.*

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**CEO.417**

**Subject:** New Policy – Common Seal  
**Reporting Officer:** Chief Executive Officer  
**File Reference:** AA.2  
**Date Prepared:** 15 April 2009  
**Voting Requirements:** Simple

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**Issue:**

To consider a new Policy regarding use of the Common Seal.

**Body / Background:**

Council currently does not have a Policy governing use of the Common Seal. A register has recently been established to record the use of the Common Seal and a draft Policy is attached for Council consideration.

**Officers Comment:**

Nil

**Financial Implications:**

Nil

**Statutory Environment:**

Local government act

**Policy Implications:**

Recommends adoption of new Policy

**Officers Recommendation:**

That Council adopt policy A30 Use of Common Seal, as presented.

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**COUNCIL MOTION:**

**Moved:** Cr S Chandler

**Seconded:** Cr R Roberts

***That Council adopt policy A30 Use of Common Seal, as presented.***

**VOTING DETAILS:**

**CARRIED  
6/0**

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**CEO.418**

**Subject:** Naming of Council Facilities  
**Reporting Officer:** Chief Executive Officer  
**File Reference:** BC.1  
**Date Prepared:** 16 April 2009  
**Voting Requirements:** Simple

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**Issue:**

To consider the adoption of a new Policy to govern the naming of Council Facilities.

**Body / Background:**

An application has been received to rename a Shire owned facility. As Council does not currently have a Policy on this matter there is no consistent process in which to deal with the request.

A draft Policy has been prepared for Council consideration and once adopted will be used as the basis to deal with this and future requests.

**Officers Comment:**

Nil

**Financial Implications:**

Nil

**Statutory Environment:**

Nil

**Policy Implications:**

Recommends adoption of a new Policy

**Officers Recommendation:**

That Council adopt the Policy "Naming of Council Facilities" as presented.

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**COUNCIL MOTION:**

**Moved: Cr S Chandler**

**Seconded: Cr R Gillam**

***That Council adopt the Policy "Naming of Council Facilities" as presented.***

**VOTING DETAILS:**

**CARRIED**  
**6/0**

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**DCS.322**

**Subject:** Accounts for Payment  
**Reporting Officer:** Director Corporate Services  
**Date Of Report:** 28 April 2009  
**File Reference:** Minute Book  
**Voting Requirements:** Normal Majority

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**Issue:**

To receive the list of accounts paid during March 2009.

**Background:**

A list of accounts paid under delegated authority is attached showing all payments made during the month of March 2009.

**Policy Implications:**

Under Delegation C3 Council has delegated authority to the Chief Executive Officer to authorise all payments by Council.

**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 sub-regulation (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.

**Officer's Recommendation:**

That the Accounts paid during March 2009, represented by Municipal Cheque Numbers 27328 - 27363, EFT payment numbers 8524 - 8704 totalling \$1,037,875.98. Trust Payment Cheque Numbers: 2125-2129 totalling \$22,990.75 & Police Licensing Payment No's PL 030309 – PL270309 totalling \$79,762.10 be received.

**COUNCIL MOTION:**

**Moved: Cr G Bass**

**Seconded: Cr K Hepworth**

***That the Accounts paid during March 2009, represented by Municipal Cheque Numbers 27328 - 27363, EFT payment numbers 8524 - 8704 totalling \$1,037,875.98. Trust Payment Cheque Numbers: 2125-2129 totalling \$22,990.75 & Police Licensing Payment No's PL 030309 – PL270309 totalling \$79,762.10 be received.***

**VOTING DETAILS:**

**CARRIED  
6/0**

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**F.355**

**Subject:** Financial Statements for the Period ending 31/03/2009  
**Reporting Officer:** Accountant/Senior Administration Officer  
**File Reference:** Minute Book  
**Date Prepared:** 15 April 2009  
**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 March 2009.

**Body / Background:**

The Monthly Financial Report to the 31 March 2009 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

**Officers Comment:**

Nil.

**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 March 2009 be received.

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**COUNCIL MOTION:**

**Moved: Cr K Hepworth**

**Seconded: Cr G Bass**

***That the Monthly Financial Statement for the period 1 July 2008 to 31 March 2009 be received.***

**VOTING DETAILS:**

**CARRIED  
6/0**



**TP.464**

**Subject:** Proposed Subdivision of Lot 6 (No 11) St Dominics Rd, Port Denison  
**Proponent:** Oakriver Nominees Pty Ltd  
**Reporting Officer:** Town Planner  
**File Reference:** WAPC 139635 / TP.3.1  
**Date Prepared:** 21 April 2009  
**Voting Requirements:** Simple

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**Issue:**

An application to subdivide Lot 6 St Dominics Road, known as the Priory Lodge, has been referred by the Western Australian Planning Commission for consideration and comment by Council.

**Body / Background:**

Lot 6 is 2.4 hectares in area and has 124 metres of frontage to St Dominics Road.

The front portion of the property is occupied by the Priory Lodge. The rear portion is currently vacant and mostly cleared.

The property is zoned “Special Use Zone (No 25)” under Local Planning Scheme No 5 with the permitted uses as follows:

- Licensed Historic Inn
- Holiday Accommodation
- Lodging House
- Restaurant
- Incidental uses to the permitted uses.

The adjoining land to the west is zoned “Residential R30” and is mostly developed. The adjoining land to the south and east (owned by the Dominican Sisters) is zoned “General Farming” and is undeveloped.

The Priory Lodge is listed on the Shire’s Municipal Inventory of Heritage Places (MI) as Place No 55 and has a Management Category of 1B.

Category 1B places are described in the MI as follows:

‘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 the owner to conserve the significance of the place.

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

The property is currently being assessed by the Heritage Council of Western Australia (HCWA) for inclusion on the State Register (Place No 01229). This is an ongoing process.

The application proposes to subdivide the property into two lots. Lot A would contain the existing Priory Lodge buildings and be 1.039 hectares in area. Lot B would contain the rear portion of the property and would be 1.391 hectares in area. Lot B is proposed to have access to St Dominics Rd via two 12.5m wide battleaxe driveways, one down either side of the Prior Lodge. (See attached).

**Officers Comment:**

Any potential impact the proposed subdivision may have on the heritage significance of the property has been considered in consultation with the Midwest Heritage Adviser.

In this regard it is noted the Priory Lodge has close links with the former Dominican Cemetery and Memorial Walk directly to the east of the site. A survey of the property has revealed however, that these features including the arch at the entrance to the walk, are fully contained on the adjoining property and have their own separate listing under the MI (Place No 56). They will not be impacted on by this proposal.

Consideration was given to the desire to see any future development of proposed Lot B to be sympathetic and complimentary to the Priory Lodge. In this regard the Shire could request a condition of subdivision approval that would require the preparation of Design Guidelines over Lot B. However, as no indication has been offered at this stage as to how Lot B may be developed, it may be premature to request this at subdivision stage. It would however, be appropriate to request a Notification on the Certificate of Title for Lot B alerting the owners and successors in title to the need for any new development to take into consideration the heritage significance of the Priory Lodge.

It is noted that this application does not propose any changes to the permitted uses over the land. If the application is approved, proposed Lot B at the rear would still be subject to the permitted uses as listed under “Special Use Zone (No 25)” in the Scheme.

The boundaries of proposed Lot A have been designed to encompass all buildings and uses associated with the Priory Lodge, including car parking. The access leg for Lot B on the east side however, will be required by Lot A so vehicles can reach the car parking for the Priory Lodge from the street. This can be addressed by a ‘Vehicle and Pedestrian Access Easement’ over the appropriate parts of Lot B to ensure reciprocal use rights of the driveways.

The proposed access leg to Lot B down the west side will not require the removal of any buildings or significant trees. Although it is quite steep off St Dominics Rd and this will need to be properly engineered at development stage.

Lot 6 falls within the area identified by the Water Corporation as being subject to flooding of the Irwin River. This has little impact at subdivision stage, but will need to be taken into consideration when the land is developed in the future. It would therefore be appropriate to request a Notification on the Certificate of Title of Lot B advising of the potential for this lot to be inundated in a 1 in 100 year flood and that any development will need to be adequately designed for this.

Lastly, if the subdivision application is approved and new titles issued, it does not mean that Lot B will be taken off the MI. The current listing applies to the whole property and this can only be changed either at the time of review of the MI, or by specific application to Council in accordance with Part 7 of the Scheme. The proponents have not indicated their intentions in this regard.

It is recommended the application be supported subject to conditions.

**Financial Implications:**

Nil.

**Statutory Environment:**

Planning & Development Act 2005,  
Part 10 – Subdivision and development control  
Section 138 – Approval of Commission

(2) Subject to subsection (3), in giving its approval under section 135 or 136 the Commission is to have due regard to the provisions of any local planning scheme that applies to the land under consideration and is not give an approval that conflicts with the provisions of a local planning scheme.

**Policy Implications:**

Nil.

**Officers Recommendation:**

That Council advises the Western Australian Planning Commission that it supports the proposed subdivision of Lot 6 St Dominics Road, Port Denison, subject to the following conditions:

1. A "Pedestrian and Vehicle Access Easement" be placed over the access legs to proposed Lot B to the benefit of proposed Lot A, to enable common use of the driveways, and the easement being shown on the Deposited Plan.
2. A Notification, pursuant to section 165 of the *Planning & Development Act 2005*, is to be placed on the Certificate of Title of proposed Lot B advising that any proposed development of the lot will need to have regard for the heritage significance of adjoining Lot A.
3. A Notification, pursuant to section 165 of the *Planning & Development Act 2005*, is to be placed on the Certificate of Title of proposed Lot B advising that the lot may be subject to inundation from the Irwin River in a 1 in 100 year flood event and that any proposed development must be designed to have regard for this.
4. All buildings and effluent disposal systems having the necessary clearances from the new boundaries as required under the relevant legislation.

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**COUNCIL MOTION:**

Moved: Cr S Chandler

Seconded: Cr R Roberts

***That Council advises the Western Australian Planning Commission that it supports the proposed subdivision of Lot 6 St Dominics Road, Port Denison, subject to the following conditions:***

1. ***A "Pedestrian and Vehicle Access Easement" be placed over the access legs to proposed Lot B to the benefit of proposed Lot A, to enable common use of the driveways, and the easement being shown on the Deposited Plan.***
2. ***A Notification, pursuant to section 165 of the Planning & Development Act 2005, is to be placed on the Certificate of Title of proposed Lot B advising that any proposed development of the lot will need to have regard for the heritage significance of adjoining Lot A.***
3. ***A Notification, pursuant to section 165 of the Planning & Development Act 2005, is to be placed on the Certificate of Title of proposed Lot B advising that the lot may be subject to inundation from the Irwin River in a 1 in 100 year flood event and that any proposed development must be designed to have regard for this.***
4. ***All buildings and effluent disposal systems having the necessary clearances from the new boundaries as required under the relevant legislation.***

**VOTING DETAILS:**

**CARRIED  
6/0**

**TP.465**

**Subject:** Proposed Built Strata Subdivision of Lot 107 Moore Road, Dongara  
**Proponent:** Ryan Smsf Warrant Pty Ltd  
**Reporting Officer:** Town Planner  
**File Reference:** WAPC 1923-08 / TP.3.1  
**Date Prepared:** 21 April 2009  
**Voting Requirements:** Simple

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**Issue:**

An application to strata subdivide Lot 107 Moore Road, Dongara has been referred by the Western Australian Planning Commission for consideration and comment by Council.

**Body / Background:**

At Council's meeting held on the 10<sup>th</sup> of June 2008, it resolved to grant planning approval for 15 storage sheds to be built on Lot 107 Moore Road, Dongara.

The storage sheds have now been constructed and the owner has applied to the Western Australian Planning Commission to strata subdivide the development.

Lot 107 is 6002m<sup>2</sup> in area and has approximately 50 metres of frontage to Moore Road.

The property is zoned "Light Industry" under Local Planning Scheme No 5.

The land on the opposite side of Moore Road is zoned "General Industry" and the vacant land to the rear (west) of the property is also zoned "Light Industry". It is noted that the "Special Residential" zone (Moreton Bay Estate) extends to within 80 metres of the western boundary of Lot 107.

The application proposes to create 15 built strata lots and one common property lot.

The strata lots will correspond with the walls of the individual sheds and will range in size from 72m<sup>2</sup> to 210m<sup>2</sup>.

The common property will cover all remaining areas and will be used to provide internal access to each strata lot, landscaping to the front and rear setbacks and will also include the ablution facilities.

Exclusive usage rights are proposed to be granted to an area of common property down the side of each strata lot to provide car parking for at least two vehicles. (See attached).

**Officers Comment:**

There are two main factors for consideration in regards to this application.

Firstly, in accordance with the planning approval issued by the Shire, the approved use for each shed is for 'storage' purposes. Subdividing the sheds into individual strata lots does not automatically give new owners the right to use their shed for whatever purpose they want. The only way a different use can be approved is by the Shire issuing a planning approval for that new use, in accordance with Parts 4 and 8 of the Scheme.

If the sheds are strata subdivided there is potential for new owners, who may be unaware of the approved use and zoning of the development, to occupy and use their shed for a purpose other than 'storage' and potentially for a use that is not compatible with the Light Industry zone.

It is important that the Light Industry zone remain 'light' in nature to provide a buffer between the General Industry zone on the opposite side of Moore Road and the Special Residential zone immediately adjoining to the west. If incompatible uses creep into this area, the effectiveness of the buffer will be significantly diminished.

This issue has been discussed with the applicant and additional by-laws are proposed to be added to the Strata Management Statement (required under the *Strata Titles Act 1985*) which alert owners to the approved use and zoning of the development. In particular, the Management Statement is proposed to include the following:

'16. Use of Lots

The use of the lots on the parcel for storage premises must be in accordance with the current planning approval or any future planning approval issued by the Shire of Irwin under its Local Planning Scheme. A proprietor or tenant shall not use their lot for any purpose other than the purpose set out in the current planning approval or any future planning approval. The strata company shall take all reasonable steps to ensure proprietors and tenants conform to this obligation.'

And

'17. Theme and Future Development'

The parcel is to be used for self storage units and initially comprise of 15 lots to be used solely for self storage purposes or purposes approved by the Shire of Irwin. All future development should be in accordance with section 7 and 7B of the *Strata Titles Act 1985*, requiring the approval of the Corporate Body prior to the issue of a building license by the local authority. Any future development should be consistent in style, building material and colour to the original development.'

Each individual owner would be required to have a copy and be familiar with the Strata Management Statement and as such this will serve to ensure each shed is only used for storage or another use approved by the Shire.

Secondly, it is noted that the application proposes to create individual strata lots as small as 72m<sup>2</sup>, whereas the minimum lot size for the Light Industry zone as per the Scheme is 1000m<sup>2</sup>.

This is considered acceptable in this instance as the strata subdivision is in effect formalising what has already been approved by the Shire and is now built on site.

In this regard, the current owner has the discretion to privately lease out each individual shed (as opposed to strata subdividing) and the Shire would have no influence over this. Strata subdivision actually has the advantage of providing the Shire with an opportunity to comment and impose conditions, as per the Management Statement above.

A further condition should be requested however, that the strata subdivision is in accordance with the planning approval issued by the Shire and the conditions of that approval are to be fully complied with prior to titles being issued. This will ensure the original intent of the development is adhered to.

Other than this, the application is generally satisfactory. It is noted that an upgrade contribution to Moore Road was taken at the time of the original subdivision of Lot 107 (WAPC ref: 129887) and as such is not required now.

It is recommended the application be supported subject to conditions.

**Financial Implications:**

14 new rateable properties.

**Statutory Environment:**

Strata Titles Act 1985; and  
Planning & Development Act 2005.

**Policy Implications:**

Nil.

**Officers Recommendation:**

That Council advises the Western Australian Planning Commission that it supports the proposed built strata subdivision of Lot 107 Moore Road, Dongara, subject to the following conditions:

1. The additional by-laws to the Strata Management Statement as submitted by the applicant being included on the approved document.
2. Compliance with the conditions of the planning approval issued by the Shire of Irwin to G&A Ryan dated the 13<sup>th</sup> of June 2008.

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*Cr S Chandler left the meeting prior to this item being debated (4.28pm).*

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**COUNCIL MOTION:**

**Moved: Cr K Hepworth**

**Seconded: Cr R Gillam**

***That Council advises the Western Australian Planning Commission that it supports the proposed built strata subdivision of Lot 107 Moore Road, Dongara, subject to the following conditions:***

- 1. The additional by-laws to the Strata Management Statement as submitted by the applicant being included on the approved document.***
- 2. Compliance with the conditions of the planning approval issued by the Shire of Irwin to G&A Ryan dated the 13<sup>th</sup> of June 2008.***

**CARRIED  
5/0**

**VOTING DETAILS:**

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*Cr S Chandler returned to the chambers at 4.32pm.*

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**TP.466**

**Subject:** Proposed Scheme Amendment No 2 – Lots 35 & 39 Brand Highway, Dongara  
**Proponent:** SC & FL Chandler  
**Reporting Officer:** Town Planner  
**File Reference:** TP.3/2  
**Date Prepared:** 22 April 2009  
**Voting Requirements:** Simple

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**Issue:**

To consider proposed Scheme Amendment No 2 to the Shire of Irwin Local Planning Scheme No 5 for final adoption.

**Body / Background:**

At Council's meeting held on the 25<sup>th</sup> of March 2008, the following was resolved:

*"That, upon gazettal of the Shire of Irwin Local Planning Scheme No 5:*

- 1. Pursuant to section 75 of the Planning & Development Act 2005, Council adopts the Scheme Amendment which provides for the rezoning of Lots 35 and 39 (No 30262) Brand Highway, Dongara from General Farming to General Industry.*
- 2. The application be referred to the EPA in accordance with section 81 of the Planning & Development Act 2005.*
- 3. The application be submitted to the Department for Planning & Infrastructure for consent to advertise.*
- 4. The Overall Development Plan submitted by Landwest Urban & Regional Planning Consultants, be adopted over Lots 35 & 39 (No 30262) Brand Highway, Dongara.*

Local Planning Scheme No 5 was gazetted on the 7<sup>th</sup> of May 2008 and the Scheme Amendment was referred to the both the Environmental Protection Authority (EPA) and the Department for Planning & Infrastructure (DPI) in accordance with the above.

The Environmental Protection Authority (EPA) has since advised that the Scheme Amendment does not pose any significant impact on the environment is therefore 'Not Assessed'. Advice was given however that the rezoning does have the potential for surrounding land uses to be impacted on by industrial noise emissions and that noise and vibration amelioration methods need to be achieved at the next stage in the planning process.

The Department for Planning & Infrastructure (DPI) subsequently gave permission for the Scheme Amendment to be advertised. Advertising was for a period of 42 days and finished on the 11 March 2009. Advertising included the following:

- Sign on site;
- Advertisement published in the Local Rag;
- Advertisement published in the Geraldton Guardian;
- Letters to surrounding landowners; and
- Letters to all servicing authorities and relevant government agencies.

At the close of advertising a total of 11 submissions were received. A Schedule of Submissions is attached and copies of the actual submissions are available if required.

**Officers Comment:**

The majority of submissions have no objection or comment. The Water Corporation have offered advice as to requirements at subdivision stage.

Notably, two submissions object to the proposed Scheme Amendment. Their reasons for such and a recommendation for each is outlined in the Schedule of Submissions.

The Department of Water also made a late submission which has been included in the Schedule of Submissions.

In accordance with the *Town Planning Regulations 1967*, Council is required to consider each submission and forward a decision regarding the Scheme Amendment to the Department for Planning & Infrastructure.

If Council resolves to finally adopt the Scheme Amendment, it is then referred to the Western Australian Planning Commission for assessment and a recommendation to the Minister. If the Minister approves the Scheme Amendment, it is published in the Government Gazette and becomes operational from that date.

**Financial Implications:**

Nil.

**Statutory Environment:**

Planning & Development Act 2005 (as amended),  
Section 75 – Local planning scheme may be amended

A local government may amend a local planning scheme with reference to any land within its district, or with reference to land within its district and other land within or adjacent to its district, by an amendment –

- (a) Prepared by the local government, approved by the Minister and published in the *Gazette*; or
- (b) Proposed by all or any of the owners of any land in the scheme area, adopted, with or without modifications, by the local government, approved by the Minister and published in the *Gazette*.

**Policy Implications:**

Nil.

**Officers Recommendation:**

That Council:

1. Determine the submissions as outlined in the Schedule of Submissions.
2. Pursuant to section 75 of the *Planning & Development Act 2005*, adopt for final approval Amendment No 2 to Local Planning Scheme No 5.
3. Seek final approval of the Scheme Amendment from the Minister for Planning & Infrastructure.



*Cr S Chandler declared a financial interest being the applicant and left the chambers at 4.32pm.*

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**COUNCIL MOTION:**

**Moved: Cr K Hepworth**

**Seconded: Cr R Gillam**

***That Council:***

- 1. Determine the submissions as outlined in the Schedule of Submissions.***
- 2. Pursuant to section 75 of the Planning & Development Act 2005, adopt for final approval Amendment No 2 to Local Planning Scheme No 5.***
- 3. Seek final approval of the Scheme Amendment from the Minister for Planning & Infrastructure.***

**CARRIED  
4/1**

**VOTING DETAILS:**

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*Cr S Chandler returned to the chambers at 4.34pm.*

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**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 4.35pm.

I certify that this copy of the Minutes is a true and correct record of the meeting held on  
28 April 2009

*Signed:* .....  
Presiding Elected Member

Date:.....