

I certify that this copy of the Minutes is a true and correct record of the meeting held on 24th November 2009
Signed:
Presiding Elected Member
Date:.....



**MINUTES FOR ORDINARY COUNCIL MEETING
HELD IN THE COUNCIL CHAMBERS ON
TUESDAY, 24 NOVEMBER 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.

PRESENT:	President	Cr S C Chandler (Chairperson)
	Councillors	Cr R T McClurg (Deputy President) Cr J B Fitzhardinge Cr K J Hepworth Cr R W Roberts Cr B C Scott Cr I F West
	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 John Rossiter Mr Mike Purslow
APOLOGIES:		-
LEAVE OF ABSENCE:		Cr L W Wheeler

-
- 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 L W Wheeler – Leave of Absence
 - 3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
Nil.

4. PUBLIC QUESTION TIME

4.1. Mr John Rossiter asked the following question:

“What has happened to the Aged Persons Trust Committee and the management of the aged persons units?”

The Shire President advised that the Trust Committee is not a committee of Council and has not managed the Units for many years.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6. PETITIONS

Nil.

7. CONFIRMATION OF MINUTES

7.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD ON 27 OCTOBER 2009

A copy of the Minutes of the Ordinary Council Meeting held on 27 October 2009 has been provided to all Councillors under separate cover.

COUNCIL MOTION:

Moved: Cr K Hepworth, Seconded: Cr R Roberts

That the Minutes of the Ordinary Council Meeting, held on 27 October 2009, be confirmed as a true and accurate recording of that meeting.

VOTING DETAILS:

**CARRIED UNANIMOUSLY
7/0**

8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

The Shire President informed Council on the following matters:

- 8.1** Camp Quality presented a Certificate of Appreciation to Council for it's support in making the community bus available and the use of the Recreation Centre for their recent visit.
- 8.2** The Roadwise 'White Ribbons' campaign was launched on Monday 23 November 2009, and Human Spirit Awards were presented to 5 recipients.
- 8.3** The Annual Electors meeting is to be held at 5.30 pm tonight at the Recreation Centre.

9. REPORTS

The Shire President advised Council that Item TP.476 has been withdrawn pending additional information being obtained in relation to the proposed development.

CEO.436

Subject: Council Meeting January 2010
Reporting Officer: Chief Executive Officer
File Reference: GV.CM
Date Prepared: 5 November 2009
Voting Requirements: Simple Majority

Issue:

To consider changing the date of the January 2010 ordinary Council meeting.

Body / Background:

Ordinary Council meetings are held on the fourth Tuesday of each month.

The fourth Tuesday of January 2010 is the 26th, being Australia Day which is a public holiday.

Officers Comment:

Nil.

Financial Implications:

Nil.

Statutory Environment:

Local government act.

Policy Implications:

Nil.

Officers Recommendation:

That Council holds the January 2010 ordinary Council meeting on the third Tuesday, being the 19 January 2010, commencing at 4:00pm.

COUNCIL MOTION:

Moved: Cr I West

Seconded: Cr K Hepworth

That Council holds the January 2010 ordinary Council meeting on the third Tuesday, being the 19 January 2010, commencing at 4:00pm.

**CARRIED UNANIMOUSLY
7/0**

VOTING DETAILS:

CEO.437

Subject: Appointments to Committees
Reporting Officer: Chief Executive Officer
File Reference: GV.CO.2
Date Prepared: 12 November 2009
Voting Requirements: Absolute majority

Issue:

To appoint councillors and staff to various committees.

Body / Background:

Council appointments to Council committees and to represent Council on external committees and other bodies expire at each ordinary elections day.

Council is now required to make these appointments following the October 2009 local government elections.

Officers Comment:

Councillors have had the opportunity to advise of which Committees that they are interested in.

In regards to committees that should include members of the community it has been recommended that Council advertise for expressions of interest from community members and ratify appointments at the December Council meeting.

In regards to the Local Emergency Management Committee it is recommended that the Committee itself make a recommendation to Council on appropriate members for Council to appoint to the Committee.

Financial Implications:

Nil

Statutory Environment:

The relevant sections of the local government act are:

5.9. Types of committees

- (1) In this section —
other person means a person who is not a council member or an employee.
- (2) A committee is to comprise —
 - (a) council members only;
 - (b) council members and employees;
 - (c) council members, employees and other persons;
 - (d) council members and other persons;
 - (e) employees and other persons; or
 - (f) other persons only.

5.10. Appointment of committee members

- (1) A committee is to have as its members —
 - (a) persons appointed by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons appointed to be members of the committee under subsection (4) or (5).

- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the *Interpretation Act 1984* applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his wish —
 - (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee, the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

5.11. Tenure of committee membership

- (1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —
 - (a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;
 - (b) the person resigns from membership of the committee;
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day, whichever happens first.
- (2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —
 - (a) the term of the person's appointment as a committee member expires;
 - (b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;
 - (c) the committee is disbanded; or
 - (d) the next ordinary elections day, whichever happens first.

Policy Implications:

Nil

Officers Recommendation:

That Council

- Endorse the following appointments to Council committees:

ADMINISTRATION CENTRE REFURBISHMENT COMMITTEE

Crs Stuart Chandler, Rob McClurg and John Fitzhardinge

AGED HOSTEL COMMITTEE

Crs Stuart Chandler, Rob McClurg, Richie Roberts, Bronwen Scott and the CEO

AUDIT COMMITTEE

Crs Kevin Hepworth, John Fitzhardinge and Ian West

STRUCTURAL REFORM COMMITTEE

Crs Stuart Chandler, Kevin Hepworth and the CEO

TIDY TOWNS COMMITTEE

Crs Kevin Hepworth and Bronwen Scott

HERITAGE ADVISORY COMMITTEE

Crs Richie Roberts and Bronwen Scott

LOCAL EMERGENCY MANAGEMENT COMMITTEE – (LEMC)

Crs Stuart Chandler, Kevin Hepworth and the Manager Community Development

BUSHFIRES BRIGADE COMMITTEE

Cr Lance Wheeler

- Appoint the following councillors to represent Council:

BATAVIA REGIONAL ORGANISATION OF COUNCILS - (BROC)

Crs Stuart Chandler and Cr Rob McClurg

MIDWEST COASTAL REGIONAL SUB ROAD GROUP

Crs Stuart Chandler and Ian West

NORTHERN COUNTRY ZONE OF WA LOCAL GOVERNMENT ASSOCIATION (NCZWALGA)

Crs Stuart Chandler, Rob McClurg and the CEO (Proxy)

DONGARA –CAPE BURNEY COASTAL PLANNING STRATEGY STEERING COMMITTEE

Cr John Fitzhardinge and the Town Planner

NATIONAL SEA CHANGE TASKFORCE

Cr Kevin Hepworth

MARITIME ADVISORY COMMITTEE

Cr John Fitzhardinge

ROADWISE COMMITTEE

Crs Richie Roberts, Bronwen Scott and the Manager of Works

- Advertise for expressions of interests from community members who wish to be appointed to the Tidy Towns Committee and Heritage Advisory Committee.

COUNCIL MOTION:

Moved: Cr R Roberts

Seconded: Cr B Scott

That Council

- **Endorse the following appointments to Council committees:**

ADMINISTRATION CENTRE REFURBISHMENT COMMITTEE

Crs Stuart Chandler, Rob McClurg and John Fitzhardinge

AGED HOSTEL COMMITTEE

Crs Stuart Chandler, Rob McClurg, Richie Roberts, Bronwen Scott and the CEO

AUDIT COMMITTEE

Crs Kevin Hepworth, John Fitzhardinge and Ian West

STRUCTURAL REFORM COMMITTEE

Crs Stuart Chandler, Kevin Hepworth and the CEO

TIDY TOWNS COMMITTEE

Crs Kevin Hepworth and Bronwen Scott

HERITAGE ADVISORY COMMITTEE

Crs Richie Roberts and Bronwen Scott

LOCAL EMERGENCY MANAGEMENT COMMITTEE – (LEMC)

Crs Stuart Chandler, Kevin Hepworth and the Manager Community Development

BUSHFIRES BRIGADE COMMITTEE

Cr Lance Wheeler

- **Appoint the following Councillors to represent Council:**

BATAVIA REGIONAL ORGANISATION OF COUNCILS - (BROC)

Crs Stuart Chandler and Cr Rob McClurg

MIDWEST COASTAL REGIONAL SUB ROAD GROUP

Crs Stuart Chandler and Ian West

DONGARA –CAPE BURNEY COASTAL PLANNING STRATEGY STEERING COMMITTEE

Cr John Fitzhardinge and the Town Planner

NATIONAL SEA CHANGE TASKFORCE

Cr Kevin Hepworth

MARITIME ADVISORY COMMITTEE

Cr John Fitzhardinge

ROADWISE COMMITTEE

Crs Richie Roberts, Bronwen Scott and the Manager of Works

- Advertise for expressions of interests from community members who wish to be appointed to the Tidy Towns Committee and Heritage Advisory Committee.

**CARRIED UNANIMOUSLY
7/0**

VOTING DETAILS:

Prior to the meeting Cr J Fitzhardinge provided the following notice of amendment to the Officer's Recommendation:

COUNCIL MOTION:

Moved: Cr J Fitzhardinge

Seconded: Cr B Scott

That the President and Cr West be appointed as the delegates to the Northern Country Zone of WALGA.

VOTING DETAILS:

**3/4
LOST**

COUNCIL MOTION:

Moved: Cr R Roberts

Seconded: Cr R McClurg

That Council

- Endorse the following appointment to Council committees:

NORTHERN COUNTRY ZONE OF WA LOCAL GOVERNMENT ASSOCIATION (NCZWALGA)

Crs Stuart Chandler, Rob McClurg and the CEO (Proxy).

**CARRIED
4/3**

VOTING DETAILS:

DCS.339

Subject: Accounts for Payment
Reporting Officer: Director Corporate Services
Date of Report: 24 November 2009
File Reference: Minute Book
Voting Requirements: Normal Majority

Issue:

To receive the list of accounts paid during October 2009.

Background:

A list of accounts paid under delegated authority is attached showing all payments made during the month of October 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 October 2009, represented by Municipal Cheque Numbers 27550–27576 EFT payment numbers 9391 - 9509 totalling \$646,679.61 Trust Payment Cheque Numbers: 2169- 2184 totalling \$14,812.91 & Police Licensing Payment No's PL 051009– PL221009 totalling \$57,585.75 be received.

COUNCIL MOTION:

Moved: Cr R McClurg

Seconded: Cr J Fitzhardinge

That the Accounts paid during October 2009, represented by Municipal Cheque Numbers 27550– 27576 EFT payment numbers 9391 - 9509 totalling \$646,679.61 Trust Payment Cheque Numbers: 2169- 2184 totalling \$14,812.91 & Police Licensing Payment No's PL 051009– PL221009 totalling \$57,585.75 be received.

CARRIED UNANIMOUSLY

VOTING DETAILS:

7/0

DCS.340

Subject: Appointment of Fire Officers
Reporting Officer: Director Corporate Services
File Reference: ES.VO.1
Date Prepared: 10 November 2009
Voting Requirements: Simple Majority

Issue:

To appoint persons as Fire Control Officers and other positions under the Bushfires Act.

Body / Background:

The Annual General Meeting of the Irwin Bushfire Brigades was held on Wednesday 16 September 2009.

At that meeting it was recommended that Council make the following appointments:

Mr Peter Summers			Chief Fire Control Officer.
Mr John Koric, Mr Murray Butcher			Deputy Chief Fire Control Officers
Mr Peter Summers, Mr John Koric and Mr Ashley Clarkson			Fire Weather Officers.
Mr Brian Jones, Mr Geoff Peddie and Mr Ashley Clarkson			Fire Control Officers
North Brigade	Brigade Captain		John Koric
	Brigade Lieutenants	1	Piers Blake
		2	L Edwards
		3	To Be Advised
	Fire Control Officer		John Koric
South Brigade	Brigade Captain		Chris Gillam
	Brigade Lieutenants	1	Rob Gillam
		2	C Forsyth
		3	N Summers
	Fire Control Officer		Chris Gillam
Town Brigade	Brigade Captain		Murray Butcher
	Brigade Lieutenants	1	Jim Butcher
		2	Ashley Clarkson
		3	Peter Schulze
	Fire Control Officer		Murray Butcher

Officer's Comment:

Council is required to appoint the Officers in accordance with the Bushfires Act 1954 (see statutory section) and advertise those appointments accordingly.

Financial Implications:

Nil

Statutory Environment:

Section 38 of the Bushfires Act 1954 reads:

38. Local government may appoint bush fire control officer

- (1) A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it.
- (2) (a) The local government shall cause notice of an appointment made under the provisions of subsection (1) to be published at least once in a newspaper circulating in its district.

Policy Implications:

Nil

Officer's Recommendation:

That Council endorses the following appointments:

Mr Peter Summers			Chief Fire Control Officer.
Mr John Koric,			Deputy Chief Fire Control Officers
Mr Peter Summers, Mr Piers Blake and Mr Ashley Clarkson			Fire Weather Officers.
Mr Brian Jones, Mr Geoff Peddie and Mr Ashley Clarkson			Fire Control Officers
North Brigade	Brigade Captain		John Koric
	Brigade Lieutenants	1	Piers Blake
		2	L Edwards
		3	To Be Advised
	Fire Control Officer		John Koric
South Brigade	Brigade Captain		Chris Gillam
	Brigade Lieutenants	1	Rob Gillam
		2	C Forsyth
		3	N Summers
	Fire Control Officer		Chris Gillam
Town Brigade	Brigade Captain		Murray Butcher
	Brigade Lieutenants	1	Jim Butcher
		2	Ashley Clarkson
		3	Peter Schulze
	Fire Control Officer		Murray Butcher

COUNCIL MOTION:

Moved: Cr R Roberts

Seconded: Cr I West

That Council endorses the following appointments:

Mr Peter Summers

Chief Fire Control Officer.

Mr John Koric

Deputy Chief Fire Control Officers

**Mr Peter Summers, Mr John Koric
and Mr Ashley Clarkson**

Fire Weather Officers

**Mr Brian Jones, Mr Geoff Peddie
and Mr Ashley Clarkson**

Fire Control Officers

North Brigade

Brigade Captain

John Koric

Brigade Lieutenants 1

Piers Blake

2

Lynton Edwards

3

Geoff Crabb

Fire Control Officer

John Koric

South Brigade

Brigade Captain

Chris Gillam

Brigade Lieutenants 1

Rob Gillam

2

C Forsyth

3

N Summers

Fire Control Officer

Chris Gillam

Town Brigade

Brigade Captain

Murray Butcher

Brigade Lieutenants 1

Jim Butcher

2

Ashley Clarkson

3

Peter Schulze

Fire Control Officer

Murray Butcher

CARRIED UNANIMOUSLY

VOTING DETAILS:

7/0

F.362

Subject: Financial Statements for the Period ending 31/10/2009
Reporting Officer: Accountant/Senior Administration Officer
File Reference: Minute Book
Date Prepared: 6 November 2009
Voting Requirements: Simple Majority

Issue:

To consider and receive the Monthly Financial Statements for the period 1 July 2009 to 31 October 2009.

Body / Background:

The Monthly Financial Report to the 31 October 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 2009 to 31 October 2009 be received.

COUNCIL MOTION:

Moved: Cr B Scott

Seconded: Cr K Hepworth

That the Monthly Financial Statement for the period 1 July 2009 to 31 October 2009 be received.

CARRIED UNANIMOUSLY
7/0

VOTING DETAILS:

TP.477

Subject: Special Residential Zone – Point Leander Drive
Proponent: LJ Grill
Reporting Officer: Town Planner
File Reference: A2193
Date Prepared: 16 November 2009
Voting Requirements: Simple Majority

Issue:

To consider a review of the zonings and development potential of the land currently bounded by Point Leander Drive, Russ Street, Money Street and Lots 55 and 149.

Body / Background:

The owner of Lot 12 Point Leander Drive, Port Denison (LJ Grill) has engaged consultants Founded Pty Ltd to investigate a possible subdivision of their lot. They have approached the Shire and requested preliminary comments on three potential subdivision layouts over Lot 12.

Lot 12 is 1.4 hectares in area and is currently zoned Special Residential under the Shire of Irwin Local Planning Scheme No 5. This zoning supports a minimum lot size of 2000m² where a reticulated water service is provided.

Officer's Comment:

Before specific comments on the subdivision of this one lot can be provided, there are a number of issues in relation to the area as a whole which need to be considered.

Firstly, it would not be appropriate to allow subdivision of one lot independent of the other lots surrounding it without first having regard for how the subdivision of the area as a whole would be coordinated.

To ensure a well planned road network, lot configuration, allocation of public open space, drainage and infrastructure provision etc. it would be necessary to first prepare and adopt an Outline Development Plan (ODP).

The Scheme includes provisions for an ODP to be prepared where the local government deems this necessary. Specifically, Clause 5.23.2.1 states the following:

“The local government may prepare, or require the preparation of, an outline development plan prior to considering applications for subdivision or planning approval within the Residential/Special Residential Zones.”

A plan is attached showing lot boundaries, existing zonings and the potential extent of an ODP over this area.

The consultants working on behalf of the owner of Lot 12 have advised that they do not believe it is appropriate for their client to be responsible for preparing and bearing the cost of an ODP over this area.

However, before considering who should be responsible for preparing and paying for an ODP over this area, how the ODP may actually look raises some issues in relation to zoning which must first be addressed.

Before an ODP can be prepared, there are three elements of this ‘block’ that need to be reviewed to ascertain whether or not the current zonings are the most suitable.

Firstly, this area includes an extension of the Marine Based Industry zone. The objectives of this zone are to provide land exclusively for the fishing and marine industries, any use not directly related to these industries is prohibited.

It is understood that this extension of the Marine Based Industry zone was included in Scheme No 5 at a time when the fishing industry was in a strong position and there was a demand for new lots and for land to be made available. Since that time however, the fishing industry has experienced decline and there is no demand or current need to provide land for this purpose and unlikely to be any in the future. As such, the area covered by the Marine Based Industry zone may be suitable for an amendment to allow a more appropriate use.

Secondly, the large dune ridge running through the middle of this area (roughly from the south-east corner to the north-west corner) is a considerable obstacle to subdivision. Not only due to its steep and high nature, but also due to it being covered in remnant vegetation which will likely come under consideration from the Department of Environment and Conservation for protection. It may be that the most appropriate use for the ridge is to form the public open space contribution (Local Reserve zoning) from the subdivision of the lots it straddles.

Thirdly, the current zoning over the flat land on the western side of the dune could be considered restrictive and possibly too low a density given its prime urban location. In this regard it is close to the amenities of Port Denison and within easy access of the Dongara town centre via Point Leander Drive. A higher residential density may be more appropriate which would help to consolidate the existing urban area and allow this land to capitalise on its potential.

The above points provide a brief look at the issues which need to be carefully considered in determining the most appropriate development over this land. There may also be other elements influencing the potential zoning of this land which are not covered in this item.

As such, it is suggested that the Shire initiate a report over this land to provide recommendations on the most appropriate use of the land, with a view to a possible rezoning or rezonings.

This could be prepared by the Shire's consultant planners, Landvision, at an estimated cost of approximately \$5000. The report would need to be instigated relatively quickly, in order to minimise the delay to prospective developer's, including the owners of Lot 12.

It is anticipated that the Shire would pay for the cost of the report for the benefit of the landowners. There are adequate funds in the current Town Planning budget to cover the cost of the report.

The information would then provide the landowners with the basis to begin proceedings to develop their land, whether that be rezoning or an ODP for subdivision.

The information contained in the report would be expected to add value to their land and as such it would be appropriate for the landowners to prepare and pay for any rezoning or ODP documents as recommended by the report.

If Council are supportive of the preparation of an initial report, once it has been finalised and its recommendations endorsed by Council, it may be appropriate to adopt it as a local planning policy or similar. This will ensure that any landowner proposal is consistent with the recommendations of the report.

Financial Implications:
Approximately \$5000.

Statutory Environment:

Planning & Development Act 2005.

Policy Implications:

Nil.

Officer's Recommendation:

Part 1

That Council initiate the preparation of a report to review the current zonings and development potential over the lots bounded by Point Leander Drive, Russ Street, Money Street and Lots 55 and 149, with a view to recommending possible rezonings over this land.

Part 2

That Council advise the consultant working on behalf of the owner of Lot 12 (No 140) Point Leander Drive of Part 1 above and that any proposed rezoning, subdivision or development will need to be in accordance with the outcomes of that report, as adopted by Council.

COUNCIL MOTION:

Moved: Cr K Hepworth

Seconded: Cr J Fitzhardinge

Part 1

That Council initiate the preparation of a report to review the current zonings and development potential over the lots bounded by Point Leander Drive, Russ Street, Money Street and Lots 55 and 149, with a view to recommending possible rezonings over this land.

Part 2

That Council advise the consultant working on behalf of the owner of Lot 12 (No 140) Point Leander Drive of Part 1 above and that any proposed rezoning, subdivision or development will need to be in accordance with the outcomes of that report, as adopted by Council.

CARRIED UNANIMOUSLY

VOTING DETAILS:

7/0

TP.478

Subject: Proposed Extractive Industry
Proponent: Bushido Holdings (WA) PTY LTD
Reporting Officer: Town Planner
File Reference: P36/09
Date Prepared: 17 November 2009
Voting Requirements: Simple Majority

Issue:

To consider an application for an Extractive Industry (lime sand) operation on Lot 1 (No 28666) Brand Hwy, Mount Adams.

Body / Background:

The Land

Lot 1 is located on the western side of Brand Highway and has frontage to Kailis Drive along its northern boundary. It is 469.9 hectares in area and includes a mix of cleared, flat land close to the highway and coastal dunes covered in remnant vegetation on the western side. There are no buildings on the property.

The land is currently used for agricultural purposes, mostly grazing of cattle.

Zoning

The property is currently zoned "Rural Smallholdings" under the Shire of Irwin Local Planning Scheme No 5. It falls within Policy Area G of the Local Planning Strategy.

Under this zoning and policy area the property has potential for subdivision with a minimum lot size of 20 hectares. The property is subject to the draft Policy Area G Structure Plan which the Shire has prepared for this area.

The Proposal

The proponent has engaged Landwest Urban and Rural Planning Consultants to apply for a license to extract lime sand over a portion of Lot 1. It is proposed the lime sand will service the inland agricultural areas.

The application includes written details of the proposed operation and a site plan. The particulars of the application are summarised as follows:

- The operation will be located in the north-west corner of Lot 1, with the extraction pit located in the dunes on the western side.
- A new entrance will be constructed off Kailis Drive, with a short internal road to the extraction pit constructed of gravel or marl.
- Extraction will be limited to an area of between 2 and 3 hectares at any one time.
- The extraction pit is proposed to ultimately cover an area of approximately 7 hectares.
- The perimeter dunes are proposed to remain so that the excavation will not be visible from either Brand Highway or Kailis Drive, and to reduce dust problems.
- Extraction will involve clearing of the vegetation, stockpiling of the top soil and removing the dunes (which are the lime sand resource).
- Excavation will not extend below 30 metres AHD which corresponds with the level of the flat plain adjoining the dunes on the east side.
- Machinery to be used will include a front end loader, mobile screening plant and dual trailer trucks to a maximum length of 27.5m.
- The predominant operational months will be from January through to May.
- Operational hours are proposed to be from 6am to 6pm.
- The estimated volume for extraction is 10,000 tonnes per season.

- Truck movements will average between 5 and 10 per day during the operational months.
- At the end of each season, the excavated area will be rehabilitated.
- No buildings or other development is proposed.
- Approval is sought for a period of five years.

Please see the attached site plan for location and further details.

Officer's Comment:

The application has been assessed against both the Shire of Irwin Extractive Industries Local Law 2000 and the Shire of Irwin Local Planning Scheme No 5. The application was found to be generally compliant, although the following items require consideration.

Firstly, an Industry – Extractive is listed under the Shire of Irwin Local Planning Scheme No 5 as an "A" use in the Rural Smallholdings zone, meaning that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with Clause 9.4 (advertising).

As such, the application was advertised for a period of 21 days in accordance with Clause 9.4, concluding on the 20th of October 2009. Advertising included writing to adjoining landowners, writing to relevant agencies, an advertisement in the Dongara Rag and a sign on site.

At the close of advertising a total of six responses were received, with no objections.

Two agencies did however provide advice. APA Group have requested that the proponent give consideration to installing a protective barrier on the northern side of Kailis Drive, adjacent to the new entrance, to protect the gas pipeline easement from vehicles exiting the site. The Department of Environment and Conservation have also advised that the proponent should be made aware that clearing of vegetation is prohibited without a clearing permit.

It is suggested that the proponent will need to liaise with these two agencies in regards to these matters.

Secondly, the location of the proposed extractive industry is within Policy Area G of the Rural Smallholdings zone which, as described above, provides for subdivision of landholdings into 20ha lots.

Extractive industries have the potential to conflict with rural smallholding development, particularly where large trucks and sand extraction over the windy summer months are concerned.

It is noted that the proposed location of the pit is an area that is not currently subject to subdivision and the Shire is not aware of any pending subdivision application over this land. As such, it currently presents little potential for adverse impacts.

However, this may not always be the case and it cannot be anticipated when the landowner, who is not the applicant for the extractive industry, may wish to subdivide.

It is important that the subdivision potential of the land be protected, as this is an important part of Council's objectives for this land as per its Rural Smallholdings zoning under Scheme No 5. As such, it is suggested that while there is no development pressure on this land, the operation may be appropriate. However, a condition should be applied whereby the operation is to cease and rehabilitation of the land be completed either within five years of approval (as suggested by the applicant) or upon application for subdivision by the landowner, whichever occurs first.

Thirdly, consideration needs to be given to the impact the proposed operation will have on Kailis Drive, which is a Shire controlled road.

The application does not include any details of the proposed crossover onto Kailis Drive, other than to say it will be constructed to local government requirements. Of concern is the potential for fully laden trucks exiting the site to turn onto Kailis Drive and damage the seal, plus whether or not the proposed crossover point will have adequate sight distances considering a maximum speed limit of 110km/hr along Kailis Drive and whether or not additional turning pockets will be required to ensure safety of other road users.

It is therefore suggested that as a condition of approval, the applicant will need to design and construct a suitable intersection onto Kailis Drive, to the approval of the Shire of Irwin. The proponent will need to liaise directly with the Shire's Works Manager to ensure an appropriate design.

All other aspects of the application are considered satisfactory, including setbacks, staging, scale of the operation and rehabilitation and decommissioning.

It is recommended the application be approved subject to conditions.

Financial Implications:

Annual renewal fee of \$315.

Statutory Environment:

Shire of Irwin Extractive Industries Local Law 2000.

Shire of Irwin Local Planning Scheme No 5.

Policy Implications:

Nil.

Officer's Recommendation:

That Council approves the proposed Extractive Industry (Lime Sand) on Lot 1 (No 28666) Brand Highway, Mount Adams subject to the following conditions:

1. The extractive industry is hereby approved for either a period of five (5) years from the date of this approval, or upon application to subdivide the land by the landowner, whichever occurs first. All operations are to cease and the land be rehabilitated upon expiry of the approval.
2. The extractive industry hereby approved shall occur 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.
3. The extractive industry hereby approved shall occur in accordance with the details outlined in "The Proposal" (as amended) as provided by the applicant in the correspondence dated 7 September 2009.
4. Compliance with the Shire of Irwin Extractive Industries Local Law 2000.
5. Prior to commencing operations the design and construction of a suitable intersection onto Kailis Drive to provide access to the site, to the approval of the local government.
6. Rehabilitation and decommissioning of the extractive industry is to occur in accordance with the "Rehabilitation and Decommissioning Program" dated 3 November 2009.
7. No blasting of material is permitted as part of extraction operations, unless separate written approval is granted by the local government.
8. An extraction pit area of no larger than 3 hectares is permitted to be open at any one time.

9. The proponent must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.
10. The proponent shall provide to the local government a copy of the policy taken out in accordance with Condition 9, within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.
11. If the proponent intends to cease carrying out the extractive industry:
 - temporarily for a period of 12 months; or
 - permanently;The proponent must give the local government written notification of the cessation no later than 1 week after those operations have ceased.
12. Any additions to or change of use of any part of the operation (not the subject of this consent) shall be subject to a further development application and consent for that use.

Advice:

1. In regards to Condition 5 above, the proponent is to liaise directly with the Shire of Irwin Works Manager.
2. APA Group have requested that consideration be given to installing a protective barrier on the northern side of Kailis Drive, adjacent to the new entrance, to protect the gas pipeline easement from vehicles exiting the site. They can be contacted on ph: 9353 7500.
3. The Department of Environment and Conservation, Moora District, has advised that clearing of vegetation is prohibited unless the clearing is authorised by a clearing permit obtained from DEC or is a kind that is exempt in accordance with Schedule 6 or Regulation 5 of the *Environmental Protection (Clearing Native Vegetation) Regulations 2004*.
4. On or before the 31st of December each year, application for the renewal of the license must be made in writing to the local government, including payment of the applicable fee and any other information required by the local government.
5. A license cannot be transferred to any other person without the prior written approval of the local government.
6. Certain prohibitions apply to every license. Please refer to clause 6.2 of the *Shire of Irwin Extractive Industries Local Law 2000* for applicable prohibitions.
7. Compliance may be required with the *Mines Safety and Inspection Act 1994*, the Department of Mines & Petroleum should be contacted to ascertain any obligations in regards to this Act.

COUNCIL MOTION:

Moved: Cr S Chandler

Seconded: Cr R McClurg

That Council approves the proposed Extractive Industry (Lime Sand) on Lot 1 (No 28666) Brand Highway, Mount Adams subject to the following conditions:

1. **The extractive industry is hereby approved for either a period of five (5) years from the date of this approval or for any extension as approved by the local government, or upon application to subdivide the land by the landowner, whichever occurs first. All operations are to cease and the land be rehabilitated upon expiry of the approval.**
2. **The extractive industry hereby approved shall occur 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.**
3. **The extractive industry hereby approved shall occur in accordance with the details outlined in "The Proposal" (as amended) as provided by the applicant in the correspondence dated 7 September 2009.**
4. **Compliance with the Shire of Irwin Extractive Industries Local Law 2000.**

5. Prior to commencing operations the design and construction of a suitable intersection onto Kailis Drive to provide access to the site, to the approval of the local government.
6. Rehabilitation and decommissioning of the extractive industry is to occur in accordance with the “Rehabilitation and Decommissioning Program” dated 3 November 2009.
7. No blasting of material is permitted as part of extraction operations, unless separate written approval is granted by the local government.
8. An extraction pit area of no larger than 3 hectares is permitted to be open at any one time.
9. The proponent must have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum not less than \$10,000,000 in respect of any one claim relating to any of the excavation operations.
10. The proponent shall provide to the local government a copy of the policy taken out in accordance with Condition 9, within 14 days after the issue of that policy and shall provide to the local government evidence of renewal within 14 days of each renewal date.
11. If the proponent intends to cease carrying out the extractive industry:
 - temporarily for a period of 12 months; or
 - permanently;The proponent must give the local government written notification of the cessation no later than 1 week after those operations have ceased.
12. Any additions to or change of use of any part of the operation (not the subject of this consent) shall be subject to a further development application and consent for that use.

Advice:

8. In regards to Condition 5 above, the proponent is to liaise directly with the Shire of Irwin Works Manager.
9. APA Group have requested that consideration be given to installing a protective barrier on the northern side of Kailis Drive, adjacent to the new entrance, to protect the gas pipeline easement from vehicles exiting the site. They can be contacted on ph: 9353 7500.
10. The Department of Environment and Conservation, Moora District, has advised that clearing of vegetation is prohibited unless the clearing is authorised by a clearing permit obtained from DEC or is a kind that is exempt in accordance with Schedule 6 or Regulation 5 of the *Environmental Protection (Clearing Native Vegetation) Regulations 2004*.
11. On or before the 31st of December each year, application for the renewal of the license must be made in writing to the local government, including payment of the applicable fee and any other information required by the local government.
12. A license cannot be transferred to any other person without the prior written approval of the local government.
13. Certain prohibitions apply to every license. Please refer to clause 6.2 of the *Shire of Irwin Extractive Industries Local Law 2000* for applicable prohibitions.
14. Compliance may be required with the *Mines Safety and Inspection Act 1994*, the Department of Mines & Petroleum should be contacted to ascertain any obligations in regards to this Act.

CARRIED UNANIMOUSLY

VOTING DETAILS:

7/0

TP.479

Subject: Proposed Scheme Amendment No 8
Proponent: P & B Kretschmer-Benda
Reporting Officer: Town Planner
File Reference: LP.PL.2
Date Prepared: 17 November 2009
Voting Requirements: Simple Majority

Issue:

To consider an application to amend the Shire's Local Planning Scheme No 5 to make "Family Day Care" and "Child Care Premises" permitted uses on Lot 4 (No 30701) Brand Highway, Bonniefield (cnr Francisco Rd).

Body / Background:

The Land

Lot 4 is 2.4 hectares in area with frontage to both Brand Highway and Francisco Road. Access to the site is currently from Francisco Road.

The property consists of various buildings including two dwellings side by side and a shed. One of the dwellings has previously been used for Bed & Breakfast accommodation.

Current Zoning

Under Local Planning Scheme No 5 the property is zoned "General Farming." This zone generally applies to the broad acre agricultural areas of the Shire and includes provisions to protect the land for that use.

The owners of Lot 4 have approached the Shire and advised that they wish to operate a Family Day Care from the premises.

Under this current zoning however, both Family Day Care and Child Care Premises are listed as "X" uses, meaning that the uses are not permitted by the Scheme.

A Family Day Care is described in the *Child Care Services Act 2007* as follows:

"means a child care service provided at a place where —

- (a) the person providing the service lives; and
- (b) none of the children to whom the service is provided live;"

A Child Care Premises is described (in part) in the same Act as follows:

"For the purposes of this Act a child care service is a service for the casual, part-time or day-to-day care of a child or children under 13 years of age (or such other age as may be prescribed for the purposes of this subsection) that is provided —

- (a) for payment or reward, whether directly or indirectly through payment or reward for some other service; or
- (b) as a benefit of employment; or
- (c) as an ancillary service to a commercial or recreational activity."

Under the current zoning therefore, if the proponents were to make application for planning approval for a Family Day Care or Child Care Premises on this property, the application would have to be refused by the Shire. Approval to an "X" use of land can only proceed by way of an amendment to the Scheme.

The Proposal

The proponents have engaged planning consultants Geraldton Independent Planners to prepare a scheme amendment to this property.

The purpose of the amendment is to make Family Day Care and Child Care Premises permitted uses on Lot 4.

The amendment documentation as submitted intends to do this by including these two uses as “Additional Uses” under Schedule 2 of the Scheme. An additional use is one which has been identified as being appropriate for a specific property but would otherwise be prohibited by the zoning table. There are no additional uses in the Scheme at present.

Specifically, the amendment proposes to modify Schedule 2 as follows:

Schedule 2 – Additional Uses

No.	Description of Land	Additional Uses	Conditions
AU1	Lot 4 (No 30701) corner brand Highway and Francisco Road, Bonniefield	- Family Day Care - Child Care Premises	

And to amend the relevant scheme map so that Lot 4 is identified as having Additional Use rights. (See attached).

Planning Context

From a local planning perspective, the use and development of Lot 4 is initially guided by the Local Planning Strategy, followed by the zoning under the Local Planning Scheme.

In regards to the Local Planning Strategy, the property falls within Policy Area E. This policy area provides strategic direction for the land to be rezoned to allow for a mix of rural smallholding and tourism uses. This policy area forms part of the Dongara-Cape Burney Coastal Strategy currently underway.

Justification

The proponents have provided the following justification for the amendment:

- Permitting a Family Day Care or Child Care Premises on this specific lot would not be out of character with the surrounding land;
- It would not create any imposition on services or infrastructure within this locality;
- It would apply to this specific lot only and will not result in adhoc development of these uses elsewhere in the General Farming zone;
- It will ensure that residents are well catered for and will contribute to a liveable community to the expanding northern Dongara locality.

Officer’s Comment:

The amendment is supported as proposed.

This is on the following basis. At a strategic level, it is not considered that the proposed amendment would be in conflict with the Local Planning Strategy. In fact, if the land is to be rezoned at some point in the future to Rural Smallholdings or possibly Rural Residential, it is noted that both a Family Day Care and Child Care Premises are “D” or discretionary uses in these zones.

At a statutory level, it would also be unlikely that the proposed additional uses would have any real impact, adverse or otherwise, on the area. The property is zoned General Farming, however the land in this area is not typical of the intent for this zone. The landholdings are more consistent with small scale agriculture and rural living in close proximity to the urban area, rather than full scale farming operations.

Considering this, there may be some merit in allowing this lot to operate child minding facilities. Its accessibility from town, its open spaces and its position in an expanding area lend itself to this type of development.

Additionally, the way the amendment is designed allows close control of these uses, it would not result in the automatic expansion of these uses to other lots in the zone.

One issue for consideration though, is the standard of Francisco Road. The portion of the road which this property gains access from is underwidth and is currently only constructed of gravel. Also, the intersection of Francisco Road and Brand Highway do not meet currently safety standards.

In this regard however, the proposed amendment and subsequent use of the lot is not anticipated to generate much traffic. The scale of the proposed operation and the additional vehicle movements it would create would be relatively insignificant. As such, it is not recommended that upgrading to the road or intersection be required.

Lastly, it is noted that under the Shire of Irwin's 09/10 schedule of fees and charges, a minor scheme amendment (such as this one) is listed as having an applicable fee of \$3000 plus gst.

Considering the straight forward nature of this amendment and that the Shire's scheme is prohibitive to an otherwise inoffensive development, it is suggested the fee could be reduced to \$500 plus gst, as a contribution from the Shire. This will still allow the Shire to cover its costs, including advertising.

Financial Implications:

Reduced the minor scheme amendment fee from \$3000+gst to \$500+gst.

Statutory Environment:

Child Care Services Act 2007

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.

Officer’s Recommendation:

Part 1

That Council, pursuant to Section 75 of the *Planning & Development Act 2005*, amend its Local Planning Scheme No 5 by:

1. Amending Schedule 2 – Additional Uses within the Scheme Text by adding the following:

Schedule 2 – Additional Uses

No.	Description of Land	Additional Uses	Conditions
AU1	Lot 4 (No 30701) corner brand Highway and Francisco Road, Bonniefield	- Family Day Care - Child Care Premises	

2. Amending the Scheme Maps by the inclusion of the symbol “AU1” over Lot 4 (No 30701) corner of Brand Highway and Francisco Road, Bonniefield.
3. Amending Clause 4.5 within the Scheme Text by deleting the words; ‘There are no additional uses which apply to the Scheme.’

and replacing them with;

‘Despite anything contained in the Zoning Table, the land specified in Schedule 2 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land.

Note: An additional use is a land use that is permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.’

Part 2

The scheme amendment fee for this particular application be reduced from \$3000 plus gst to \$500 plus gst.

COUNCIL MOTION:

Moved: Cr J Fitzhardinge

Seconded: Cr K Hepworth

Part 1

That Council, pursuant to Section 75 of the *Planning & Development Act 2005*, amend its Local Planning Scheme No 5 by:

1. Amending Schedule 2 – Additional Uses within the Scheme Text by adding the following:

Schedule 2 – Additional Uses

No.	Description of Land	Additional Uses	Conditions
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‘There are no additional uses which apply to the Scheme.’

and replacing them with;

‘Despite anything contained in the Zoning Table, the land specified in Schedule 2 may be used for the specific use or uses that are listed in addition to any uses permissible in the zone in which the land is situated subject to the conditions set out in Schedule 2 with respect to that land.’

Note: An additional use is a land use that is permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.’

Part 2

The scheme amendment fee for this particular application be reduced from \$3000 plus gst to \$500 plus gst.

CARRIED
6/1

VOTING DETAILS:

Cr R Roberts requested that his vote against the motion be recorded. He stated that he had concerns with the safety of traffic at the Francisco Road / Brand Highway intersection.

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 4.27pm.

I certify that this copy of the Minutes is a true and correct record of the meeting held on 24th November 2009
Signed:
Presiding Elected Member
Date:.....