

SHIRE OF YILGARN
MINUTES – ORDINARY MEETING OF COUNCIL
FRIDAY, 17TH DECEMBER 2010

Minutes of the Ordinary Meeting of the Yilgarn Shire Council held in the Council Chambers, Antares Street, Southern Cross on Friday, 17th December 2010.

PRESENT

Cr P R Patroni, Shire President

Cr D G Auld, Deputy Shire President

Crs G V Kenward, W A Della Bosca, O T Truran, J Della Bosca, D J Pasini

Council Officers: J Sowiak, Chief Executive Officer
V Murty, Deputy Chief Executive Officer
R J Bosenberg, Manager for Works
W J Dallywater, Manager Environmental Health & Building
J Merrick Project Officer
K Hastie, Manager of Operations at Shire of Westonia

The meeting was declared open for business at 2.00 pm.

PUBLIC QUESTION TIME

Nil

DISCLOSURE OF INTEREST

Nil

APOLOGIES & LEAVE OF ABSENCE

Cr Truran will be arriving late to Council

CONFIRMATION OF PREVIOUS COUNCIL MINUTES

306/2010

Moved Cr Kenward Seconded Cr W Della Bosca that the Minutes of the previous Meeting of Council held on Friday 19th November 2010, be confirmed as a true and correct record of that meeting.

CARRIED (6/0)

LOCAL EMERGENCY MANAGEMENT COMMITTEE (LEMC)

307/2010

Moved Cr J Della Bosca Seconded Cr Kenward that the Minutes of the Local Emergency Management Committee (LEMC) held Wednesday 17th November 2010 be received.

CARRIED (6/0)

AUDIT COMMITTEE MEETING

308/2010

Moved Cr Auld Seconded Cr Pasini that the Minutes of the Audit Committee Meeting held Friday 19th November 2010 be received.

CARRIED (6/0)

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**WHEATBELT EAST REGIONAL ORGANISATION OF COUNCILS
(WE-ROC) MINUTES**

309/2010

Moved Cr Kenward Seconded Cr Pasini that the Minutes of the Audit Committee Meeting held Wednesday 24th November 2010 be received.

CARRIED (6/0)

WALGA – GREAT EASTERN COUNTRY ZONE MINUTES

310/2010

Moved Cr Kenward Seconded Cr J Della Bosca that the Minutes of the Audit Committee Meeting held Thursday 25th November 2010 be received.

CARRIED (6/0)

ANNOUNCEMENTS BY THE PRESIDING MEMBER AND COUNCILLORS

The Shire President advised the following:-

- Together with the CEO he attended a meeting with the Manager of Wheatbelt GP Mr Paul West, to discuss how the practice is functioning and the associated set up costs to date. Mr West expressed that he was happy with the staff at the practice and how the practice has been running so far.
- That he had attended the St Barbara's Christmas function and he expressed Council appreciations of St Barbara's support in flying the Doctor in and out of Southern Cross on a weekly basis. He was also told of St Barbara's upcoming mining activities including the dewatering of Frazer's mine and further exploration in area next year.
- That he received a letter from the Lord Mayor relating to a \$1000 donation towards Distress Relief Fund – to be used to provide a positive way of boosting community and individual morale. He asked for the CEO to write to the Lord Mayor and thank her for the allocation.
- That the CEO from the Shire of Coolgardie had contacted him and asked for assistance and advise from Council and its officers, as the Shire is having financial problems and seeks advise in developing systems and effective procedures in multiple areas. He advised the CEO to organise a meeting with Mr Mathew Scott and his Officers for January.
- Together with the CEO, Manager for Works, Manager of Environment Health and Building had a meeting with representatives of Polaris Metals regarding the export of iron ore on rail to Kwinana port. Mentioned was the HVRIC – Heavy Vehicle Road Improvement charge should they decide to haul by road.
- He advised of further discussions with Southern Cross Gold and the HVRIC, and that it would need to be discussed at the Joint meeting in Jan.

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CHIEF EXECUTIVE OFFICERS REPORT

Submission to:	Ordinary Meeting of Council – Friday, 17 December 2010
Agenda Reference:	7.1
Subject:	Premier’s Australia Day Active Citizenship Awards – Nominations
File Reference:	1.3.6.2
Author:	Jeff Sowiak – Chief Executive Officer
Disclosure of Interest:	Not applicable
Date of Report:	1 st December, 2010

Background

Nominations for the following categories in the Premier’s Australia Day Active Citizenship closed on Tuesday 30th November, 2010:-

- Premier’s Australia Day Active Citizenship Award
- Premier’s Australia Day Active Citizenship Award for a person under 25 years; and
- Premier’s Australia day Active Citizenship Award for a community group or event.

At the close of nominations 3 nominations were received for the Premier’s Australia Day Active Citizenship Award and one nomination was received for the community group or event. There were no nominations for a person under 25 years.

Comment:

The nominees for the above Award have been circulated to Councillors via confidential email and a decision needs to be made which will then allow staff to request the Australia Day Council to prepare the Certificates prior to presentation on 26 January 2010.

Council may wish to resolve into closed committee to discuss and decide upon nominations for the awards or, as has happened in the past, establish a committee comprising the Shire President, Deputy Shire President and CEO to consider and decide upon nominations for Australia Day Awards.

Statutory Environment

Nil

Policy Implications

Nil

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Financial Implications

Nil

Recommendation

That Council authorise the Shire President, Deputy Shire President and Chief Executive to meet and decide on nominations for the Premier's Australia Day Active Citizenship Award.
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Voting Requirements

Simple Majority

311/2010

Moved Cr W Della Bosca Seconded Cr W Della Bosca that Council authorise the Shire President, Deputy Shire President and Chief Executive to meet and decide on nominations for the Premier's Australia Day Active Citizenship Award.

CARRIED (6/0)

Submission to:	Ordinary Meeting of Council – Friday, 17 December 2010
Agenda Reference:	7.2
Subject:	Proposed Amendments to Local Government Act
File Reference:	2.3.1.1
Author:	Jeff Sowiak - Chief Executive Officer
Disclosure of Interest:	Nil
Date of Report:	1st December, 2010

Background

Council has received a request from the West Australian Local Government Association (WALGA) to provide comment with respect to proposed changes to the Local Government Act

Comment:

The (WALGA) Association have asked Council to comment on a number of proposed amendments to the Local Government Act. This request follows advice from the Minister for Local Government seeking consultation on the Local Government Act Amendment Bill. WALGA noted that this is a significant departure from past practice; traditionally, sector comment has been sought once the Minister and Department of Local Government have drafted instructions to the State Solicitor's Office.

WALGA has welcomed this opportunity to provide comment prior to preparation of the drafting instructions and appreciates the influence this

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consultation process will have in developing amendments to the *Local Government Act 1995*.

In light of the importance of this consultation process, the Association requests that the Minister's proposals are considered at a full Council meeting, with the Council's resultant resolution relayed to WALGA for collating with other Local Government responses to form a representative view and provide strong arguments should the need arise to negotiate aspects of the Minister's proposals.

WALGA have provided an explanatory in relation to the proposed amendments attached, which expand on the issues for consideration. For the purposes of this report I have summarized the position proposed by WALGA and provided additional comments as appropriate. In all but one case I have recommended the WALGA position on the proposed amendments.

Feedback Form

Seven amendments to the Local Government Act 1995 are proposed. These issues are expanded in the attached Explanatory Notes. Council is asked to indicate the level of support or opposition to each proposal and provide additional comments where appropriate. More detailed submissions are also welcomed.

1. Reducing the number of Elected Members to between six and nine

You will note that the comments from WALGA oppose this position as it relates to larger Council's .

There is no national standard or best practice ratio of elected members to population. The argument put by WALGA that Council's with larger populations need more members is predicated on the assumption that there is a greater roll for elected members in such circumstances. This argument belittles rural members by assuming that Councillors in smaller population centres have a less arduous role than their city cousins.

I appreciate that large metropolitan Council's tend to have extensive committee structures and perhaps more meetings in the Council offices. However, it is also true that Councillors may only have to travel a short distance or spend less time at such meetings when they are held. A larger population base also means that Councillors have some anonymity in relation to their recognition and involvement in the larger Council community. Not so in a small community where Councilors would be recognised and regularly involved in Council matters during the course of everyday life.

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There is also the tyranny of distance where Councillors in large rural Local Governments may have to travel extensively as part of their role. Isolation and travel impact on the ability to participate in Local Government decision making in rural areas. There might be fewer people but they are much more sparsely populated.

My experience across various Council's in three States and the Territory suggest that the number is not as important as the ability to attract and retain interested and committed members. Part of that process is to ensure that the meetings are well managed, the issues understood and appropriate recompense is provided for costs incurred.

WALGA has opposed the change and that view is supported even if not for the same reasons.

Recommendation:

That Council supports the WALGA position and opposes the limitation on the number of Councilors to between 6 and 9.

2. Salaries and Allowances Tribunal to set the fees for Elected Members and salaries for CEOs.

The proposed amendments would provide for an objective review of allowances through an independent tribunal which is not dissimilar to the parliamentary system for fixing of allowances and is a system that is adopted in other States.

The inclusion of CEO salaries in this same amendments was not previously addressed with WALGA and the change is to not only establish the appropriate range for CEO's but to prescribe that Council's can only pay within that range. WALGA has suggested that Local Governments should retain the general competence power to determine appropriate remuneration levels for their key executive.

Recommendation:

That Council supports the WALGA position on this issue.

3. New mechanism for the temporary suspension of Council

The proposed amendments will enable the Minister to temporarily suspend a Council in circumstances where he believes that there are significant issues that lead to a breakdown of effective decision making powers. The proposed amendments would be less cumbersome for the Minister, where currently he is required to conduct a panel review process. WALGA supports the proposal

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that the Minister should be able to suspend individual elected members rather than the entire Council

Recommendation:

That Council opposes the changes for the temporary suspension of Councils in favour of the preferred option as proposed by WALGA and that is amendments which would give the Minister the power to suspend individual elected members rather than the whole Council.

4. Require Elected Members to resign when elected to State or Commonwealth Parliament

The proposed amendments would ensure that it would not be possible for a newly elected Member of Parliament to remain as an elected member of Council. This position is supported by WALGA.

In discussion with the Director Westonia Operations it was suggested that It would be more efficient if the legislation was changed to mandate a vacancy on election rather than rely on the member to resign.

Recommendation;

That Council advise WALGA that it supports this proposal on the basis that the members position is 'declared vacant' at the time rather than rely on individual action.

5. Restricting the types of local government investments to low risk products such as those with the WA Treasury Corporation, major banks and government bonds

The proposed amendments attempt to regulate the types of investments that Local Government's can deal with. Experience has shown that those who offer higher interest returns on investments generally also attract higher risk.

Many years ago, when approached by Grange Securities I advised my Council at the time to resist the temptation to invest in Collateralised Debt Obligations simply because the higher yields came with a higher risk. That strategy was adopted by that Council and whilst they may have missed out on 1-2% better returns they still have their investment capital. It is interesting to note that at the time the investments fund manager was regarded as a "Blue Ribbon" Investment with a AA rating.

WALGA opposes the change in favour of allowing Council's to Act within the general competency powers under the Act.

I have had previous experience of the pressure that can be brought to bear on a CEO or Finance Manager by fairly strong financial management

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consultancies touting succulent investments that “Comply with Legislation” and “are generally accepted as best practice within the industry.”

If the CEO opposes this lucrative deal, he is made to look as if he is out of step with current investment strategies and this is a difficult position for the CEO to be placed in.

The memory of the global financial crisis will not last and in time there will be an upsurge in slick financial presenters with imagination keen to enlist those keen on higher returns. I therefore oppose the WALA view and believe that this is one issue where the Government needs to legislate.

Recommendation;

That Council not support the position of WALGA on this issue but endorses the proposed amendments restricting the types of investments that Local Governments can make.

6. Align criminal conviction criteria for Elected Members with that of WA Members of Parliament

The amendments would ensure that no elected member with a statutory penalty of imprisonment of more than five years would be precluded from standing for Local Government.

WALGA has suggested a different approach and that is to align eligibility for membership of Local Government with requirements for membership of State Parliament. This would take in other aspects of disqualification and be consistent with Government policy.

Recommendation;

That Council supports the WALGA position that eligibility for membership of local government be aligned with membership of State Parliament.

7. To limit employee termination payments to one year’s salary

The proposal is to amend the Legislation to limit the payout to Local Government Employees to 12 months in accordance with Western Australian and Commonwealth Public sector arrangements and at this stage WALGA has no policy position on this issue.

The Current contract for CEO contains a provision for a maximum payout of 12 months and this appears more than reasonable.

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Recommendation:

That Council advise WALGA that it supports the limitation of termination payments to employees of Local Government including CEO's to 12 months of their total remuneration package.

Statutory Environment

The recommendations will be considered in the review of Local Government Legislation.

Policy Implications

Nil

Financial Implications

Nil.

Recommendation

That Council endorse the recommendations' 1 to 7 as detailed in the report and communicate this resolution to WALGA for submission to the Minister.

Voting Requirements

Simple Majority

312/2010

Moved Cr Kenward Seconded Cr J Della Bosca that Council endorses the recommendations' 1 to 7 as detailed in the report and communicate this resolution to WALGA for submission to the Minister.

CARRIED (6/0)



Proposed Amendments to the Local Government Act 1995

Explanatory Notes

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November 2010

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Background

The Minister for Local Government has invited the sector to comment on a number of proposed amendments to the Local Government Act 1995. The latest amendments to the Act occurred with the introduction of the Local Government (Official Conduct) Amendment Act 2007 and the proclamation of the Local Government Amendment Act 2009.

WALGA welcomes this opportunity to provide comment prior to preparation of the drafting instructions and appreciates the influence this consultation process will have in developing amendments to the Local Government Act 1995.

It is therefore of some consequence that this consultation process results in a strong response from the Local Government sector to ensure comments and feedback are representative of the majority of Local Governments.

The Association requests that your Council gives formal consideration to the following proposals and provide comment by way of a Council resolution, and inform WALGA by **7th January 2011**.

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1. Reducing Elected Members to between six and nine

Minister's Proposal:

As part of the reform process, local governments were asked by the Minister for Local Government to consider reducing the number of elected members to between six and nine. The rationale is that a smaller number of elected members will encourage greater competition for positions on Council and contribute to a more strategic decision-making focus by councils. Fifty one local governments have committed to reducing the number to the range requested. Sixty one local governments already have Councillor numbers in this range.

It is proposed that section 2.17 of the Act be amended to reduce the number of elected members to between six and nine. Despite the new permitted range, local governments may continue with existing elected member numbers for up to an eight year period from the October 2011 elections. This will be for two full electoral terms. If they have not made the changes by then, the Local Government Advisory Board would take the action as set out in Schedule 2.1, Clause 6.(3) to implement the necessary change for the 2019 elections.

WALGA Comment:

The Association has expressed to the Minister on a number of occasions, the continual opposition of this recommendation by the Local Government sector, most recently with the State Council resolving on 12 October 2010:

“That WALGA;

- c. Oppose the Local Government Reform Steering Committee Report recommendation 8 concerning prescribing the number of Elected members to between 6 and 9”**

The reduction in the numbers to this extent would require Elected Members in large metropolitan Councils to become full time Councillors. A significant number of Local Governments have provided the Association with reasoned arguments explaining the detrimental nature of this one size fits all approach.

It has been suggested the Minister engage the Department of Local Government in researching the benefits of this proposal in greater detail, and provide to the sector similarly reasoned arguments in support of this proposal.

2. Salaries and Allowances Tribunal to set the fees for Elected Members

Minister's Proposal:

Elected Members

At present, the head of power for the setting of elected member fees and allowances is provided under the Act and monetary values are prescribed in Regulations. The Governor approves the setting or amending of these fees and allowances on a recommendation by the Minister for Local Government. Elected member meeting fees have only been amended twice since 1996 and, in both cases, in line with changes to the Consumer Price Index.

It is proposed that the responsibility for the setting of the dollar values for elected member fees and allowances be transferred to the Salaries and Allowances Tribunal, through amendment to the Act and the Salaries and Allowances Tribunal Act 1975. The approach envisaged would be for the Tribunal to provide its advice to the Minister for Local Government, who will then have the final decision about whether the fees and allowances are adopted.

The 2006 Local Government Advisory Board's report into Structural and Electoral Reform, as well as the 2008 WALGA Sustainability Study, both recommended that the Salaries and Allowances Tribunal be responsible for the setting of elected member fees.

Providing for an independent body to set the value of fees and allowances for local government elected members will bring the approach into line with that already in place for State Members of Parliament. In addition, other States have independent tribunals established to set fees and allowances for local government members.

The Minister for Local Government will also retain responsibility for the types of fees, allowances and expenses that elected members can be paid or reimbursed and the circumstances in which they are made.

Chief Executive Officers (CEOs)

At present, the Tribunal has a statutory role in making recommendations as to the remuneration to be paid or provided to local government CEOs. These recommendations are to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

It is proposed that the legislation be amended so that local governments are required to ensure the salaries of their CEOs are set within the salary bands recommended by the Tribunal. Similar to that for elected members, the approach envisaged would be for the Tribunal to provide its advice to the Minister for Local Government, who will then have the final decision about whether the salary bands are adopted.

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WALGA Comment:

Elected Members – It is pleasing to note that the setting of remuneration levels for Elected Members by the Salaries and Allowances Tribunal has not been linked to the State Government’s plan to reduce elected members.

The Association has advocated on this issue since 2004 and reaffirmed this advocacy when State Council considered this matter in light of the 2006 Local Government Advisory Board (LGAB) Report on Structural Reform, subsequently resolving:

That recommendation 1.35 of the Local Government Advisory Board report be supported and that the State Government be requested to amend the Local Government Act 1995 accordingly to achieve the following outcome:

“That the Western Australian Salaries and Allowances Tribunal be given the responsibility for establishing the range of fees and allowances for elected members, with each Local Government having the ability to set a fee within this range. The Tribunal also be required to update the fees and allowances on an annual basis.”

- (a) That the State Government be requested to amend the Local Government Act accordingly;**
- (b) In the event the Local Government Act 1995 is amended as per the Association’s advocacy:**
 - i. that the question of the quantum and extent of Councillor Fees and Allowances be sought from other states with a view of presenting this to the Western Australian Salaries and Allowances Tribunal to support any Association submission on this subject; and**
 - ii. that targeted research be undertaken on Councillor responsibilities, level of control and work values, so that these can be extrapolated as industry averages and provided to the Tribunal in further support of any Association submission.**

Chief Executive Officers (CEOs) – This is a recent addition by the Minister to the Local Government Act amendment proposals and did not feature in the Local Government Reform Steering Committee Report recommendations. WALGA takes a view that Local Governments should retain the general competence power to determine appropriate remuneration levels for their key executive.

3. New mechanism for the temporary suspension of a Council

Minister's Proposal:

The Department delivers both proactive and reactive assistance and support to Councils to aid them in providing good governance to the people of its district. However, on occasion, division and conflict between Council members, and between Council Members and the administrative officers, arises leading to Councils becoming dysfunctional.

Section 8.19 of the Act provides for the suspension of a Council, however, this only applies where an Inquiry Panel is appointed by the Minister to inquire and report on a local government's operation or affairs within six months of the suspension. The operation of Inquiry Panels has been found to be effective in dealing with serious and systemic governance issues. However, because the Inquiry process can recommend dismissal of a council, it involves a process that is necessarily exhaustive, and correspondingly time consuming and costly. It is estimated that a Panel Inquiry would cost approximately \$1-1.5 million. It is not viewed as being an appropriate mechanism to deal with the type of situations outlined above.

Section 8.15(2) of the Act also provides for a council to be suspended in circumstances where the council has not complied with an order made with respect to the recommendations of an Authorised Inquiry that is conducted pursuant to section 8.3 of the Act. Although less costly and time consuming than a Panel Inquiry, an Authorised Inquiry still typically takes between 6 – 12 months from commencement to completion. As a consequence, an Authorised Inquiry does not provide an immediate response to issues that are detrimentally affecting the operation of the local government.

It is proposed that Part 8 of the Act be amended to provide an alternative mechanism for the Minister to utilise where the Minister becomes aware of significant issues that he or she believes may lead to a breakdown in the effective decision making process of an elected Council. This mechanism will allow for the suspension of a Council and the appointment of a Commissioner to act on behalf of the Council for a maximum period of six months. Prior to the end of this period, the Minister would decide whether to reinstate the Council or to keep it suspended and establish a Panel Inquiry, as required by section 8.19 of the Act.

This new approach is considered to provide a circuit breaker to allow the issues that have arisen to be quickly resolved by the Commissioner and for the Council to be reinstated. The addition of an alternative 'issue resolution' process will enable the Minister to choose the most practical 'suspension' mechanism for each specific circumstance.

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Once the Minister becomes aware of a dysfunctional Council, the suspension powers would operate in the following manner. The Minister would request the Department of Local Government to carry out an assessment and provide a report on the issues about a local government that have been brought to his or her attention. Based on this information, the Minister would then decide whether to take any action and, if so, whether the new suspension power would be utilised, or a Panel Inquiry held.

If this new suspension power was used, the Council would be issued a 'notice of intent to suspend' by the Minister and be given a period of 21 days to respond to this notice. If the Minister chose to carry through with the intention to suspend, a Commissioner would be appointed and the elected members of council temporarily suspended for a period of no more than six months. Elected members would continue to receive their meeting allowance.

Prior to the end of the six month suspension, the Minister would either reinstate the Council, or appoint an Inquiry Panel in line with the current section 8.19 of the Act.

In summary, Part 8 would require amendment to incorporate the following steps:

- (a) The Minister issues the Council with a notice of intention to suspend due to issues arising that the Minister believes may lead to a breakdown in the effective decision making process of an elected Council;*
- (b) The Council will have a period of 21 days in which to respond to the Minister's notice detailing the Minister's reasons for providing a notice of intention to suspend;*
- (c) The Minister would give serious consideration to the reasons provided and determine whether the council should be suspended;*
- (d) If the Minister decides to suspend the Council, he or she has the option of suspending and appointing a Commissioner for a maximum period of six months (new power) or if the identified issues are considered so significant that a Commissioner would not be able to resolve them within six months, to immediately appoint an Inquiry Panel (existing power) to investigate the issues; and*
- (e) Prior to the end of the six month suspension period, the Minister is to reinstate the Council or appoint a Panel Inquiry.*

The Minister is to have the power to require council members to undertake remedial action, such as undergoing training or mediation, during the period of suspension.

WALGA Comment:

The proposed amendment appears to have its origin in situations the Minister and his Department have encountered, where there was insufficient reason to

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conduct a Panel Inquiry yet the operations of a Council were affected by internal conflicts that could potential escalate. From this perspective, WALGA appreciates there may the need for extraordinary powers to immediately provide to a community, a cost-effective remedy that will lead to the resumption of good governance.

WALGA's policy position on this issue was considered in 2008 where there was support for a mechanism to suspend individual Elected Members rather than an entire Council.

4. Require Elected Members to resign when they are elected to State or Commonwealth Parliament

Minister's Proposal:

The Act provides that if a local government elected member is elected as a Member of Parliament, his or her council position does not become vacant until the next ordinary election day. There is no requirement in the Act, or other legislation, for the local government elected member to resign and, as such, a person can be an elected member of a local government Council and the Western Australian Parliament.

Section 36(1)(b) of the Constitution Acts Amendment Act 1899 requires a member of the WA Parliament to immediately resign when elected to Commonwealth Parliament.

It is proposed to amend the Act to require elected members to immediately resign (or for their position to become automatically vacant) when elected to State or Commonwealth Parliament. This will contribute to appropriate separation of responsibilities and reduce potential conflicts of interest that might arise if representing at a State or Federal and Local level simultaneously.

This will also align with the eligibility requirements for nomination or membership into State and Commonwealth Parliament set by the State Electoral Act 1907 and Constitution Acts Amendment Act 1899.

In 2008, WALGA requested the Minister consider an amendment of this type.

WALGA Comment:

The proposal aligns with a State Council resolution of August 2007 –

That the Minister for Local Government be requested to consider amending the Local Government Act 1995 to require Elected Members to resign from Council immediately upon being declared elected to State or Federal Parliament.

5 Restricting the types of local government investments to low risk products such as those with the WA Treasury Corporation, major banks and government bonds.

Minister's Proposal:

The investment options available to local governments were altered in 1997 when the prescribed list of investments in the Trustees Act 1962 was removed and replaced by the 'Prudent Person' rule. This rule is no longer viewed as providing sufficient clarity and guidance in relation to local government investment management policies.

In 2007, it was revealed that eight local governments and two regional local governments had invested in Collateralised Debt Obligations with Lehman Brothers (formerly Grange Securities). This has resulted in multi-million dollar losses by the affected local governments and concerns have been raised in the community about the performance of local governments in this area.

It is proposed to amend the Act to allow for regulations to prescribe the investments that can be made by local government. This will include Government guaranteed and other low risk investments. A requirement for local governments to only invest in these types of products is expected to minimise the investment exposure of local governments and the loss of ratepayer funds.

At this stage, the following forms of investment are being considered to be included in this regulation:

- 1. a deposit with the Western Australian Treasury Corporation or an investment facility of the Western Australian Treasury Corporation;*
- 2. any public funds or securities issued by, or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory; and*
- 3. interest bearing deposits with, and/or debentures or bonds issued by, an authorised deposit-taking institution (as defined in the Banking Act 1959 (Cwth)) where the Institution has a Standard & Poor's Rating of A-1+ (short-term) or AA (long term, but excluding subordinated obligations).*

Further discussion is proposed to take place between the Department of Local Government, local governments and the WA Treasury Corporation to develop this regulation.

WALGA Comment:

There remains subjectivity in the definition of the term 'low risk' in the context of this proposal. The WA Local Government Association supports the sector's right to retain the principle of general competency powers as provided under the Local Government Act 1995, and that Local Governments be allowed to continue to decide for themselves how best to deal with investment opportunities.

6 Align criminal conviction criteria for Elected Members with that of Western Australian Members of Parliament

Minister’s Proposal:

It is proposed to amend the Act to preclude a person who has been convicted of an offence with a statutory penalty of imprisonment for five years or more from standing for election to local government.

This will align the eligibility requirements for local government candidates with those that apply to State Members of Parliament. This requirement will have a positive impact on the calibre of those standing and ultimately representing the community on Council.

These provisions need to be modelled on section 32(1)(b) of the Constitution Acts Amendment Act 1899 whereby a person is disqualified where he or she has been convicted on indictment of an offence for which the indictable penalty was or included

- (i) imprisonment for life, or*
- (ii) imprisonment for more than five years.*

Serving elected members with such records will be able to serve out their terms, however, would not be eligible for re-election once the legislation was amended.

WALGA Comment:

This proposal is consistent with the Associations policy position.

It is suggested that for true alignment of criteria, the proposal take a holistic approach incorporating all aspects of Candidates/Elected Member qualification and disqualification rather than one aspect of disqualification, namely criminal convictions.

One option would be for this proposal to be broadened to “Align the qualification and disqualification criteria for Local Government election candidates and Elected Members with that of Western Australian Members of State Parliament”.

7. To limit employee termination payments to one year's salary

Minister's Proposal:

Recent consideration of the current provisions in the Act indicates that it is possible for employees of local governments, including CEOs, to receive up to two years' salary on redundancy. This situation has arisen out of an anomaly in the Act not intended when the Act was developed.

It is proposed that an amendment to regulations to limit payouts to all such employees to a maximum of one year's salary will bring local government provisions into line with Western Australian State and Commonwealth public sector arrangements and would be consistent with organisational practice in other jurisdictions.

This proposal will not effect the two year guarantee of employment as provided for in Clause 11 (4) of Schedule 2.1 of the Act.

WALGA Comment:

There is no current Association policy position on this proposal.

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Submission to:	Ordinary Meeting of Council – Friday, 17 December 2010
Agenda Reference:	7.3
Subject:	Policy Emergency Services leave
File Reference:	2.3.3.2
Author:	Jeff Sowiak - Chief Executive Officer
Disclosure of Interest:	Nil
Date of Report:	9 th December 2010

Background

The Council has a number of employees who are or may wish to be involved in emergency services as volunteers and this report seeks to establish a policy concerning the provision of limited paid leave to attend to emergencies and training during normal working hours.

Comment:

There are requirements under the Fair Work Act 2009 to provide leave to employees who are engaged in eligible community service activities and this includes Jury Service, volunteer emergency activities such as St John's Ambulance and as Volunteer fire fighters.

The draft policy has been sourced from the WALGA human resource policy manual which I believe covers the current situation for all staff except the Chief Executive Officer.

In the application of the Policy to the Chief Executive Officer it would appear appropriate that approval for such leave, be at the discretion of the Shire President.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Wage allocation for ordinary hours when employee attending to an emergency

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Recommendation

That Council endorse the Human Resources Policy concerning Emergency Services Leave and in so far as the policy applies to the Chief Executive Officer , approval for Emergency Services Leave is at the discretion of the Shire President.

Voting Requirements

Simple Majority

313/2010

Moved Cr Pasini Seconded Cr Auld that Council endorse the Human Resources Policy concerning Emergency Services Leave and in so far as the policy applies to the Chief Executive Officer , approval for Emergency Services Leave is at the discretion of the Shire President.

CARRIED (6 /0)

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EMERGENCY SERVICES LEAVE

POLICY

It is recognised and supported that the participation of employees in volunteer emergency Local Governments such as the State Emergency Service and Volunteer Fire Brigade is a positive and a vital role to the community.

OBJECTIVE

Provide members of recognised emergency service bodies who are employed by the Local Government access to a reasonable amount of additional leave for the purpose of performing the functions when required.

Legislation

Section 108 of the *Fair Work Act 2009* states:

“An employee who engages in an eligible community service activity is entitled to be absent from his or her employment for a period if:

- (a) the period consists of one or more of the following:
 - (i) time when the employee engages in the activity;
 - (ii) reasonable travelling time associated with the activity;
 - (iii) reasonable rest time immediately following the activity; and
- (b) unless the activity is jury service—the employee’s absence is reasonable in all the circumstances.”

Definitions

Section 109 states that eligible community service is:

- “(a) jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory; or
- (b) a voluntary emergency management activity (see subsection (2)); or
- (c) an activity prescribed in regulations made for the purpose of subsection (4).”

And then describes voluntary emergency management activity as:

- “(a) the employee engages in an activity that involves dealing with an emergency or natural disaster; and
- (b) the employee engages in the activity on a voluntary basis (whether or not the employee directly or indirectly takes or agrees to take an honorarium, gratuity or similar payment wholly or partly for engaging in the activity); and

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- (c) *the employee is a member of, or has a member-like association with, a recognised emergency management body; and*
- (d) *either:*
 - (i) *the employee was requested by or on behalf of the body to engage in the activity; or*
 - (ii) *no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such a request, it is likely that such a request would have been made.*”

With a recognised **emergency management body** being defined as:

- “(a) *a body, or part of a body, that has a role or function under a plan that:*
 - (i) *is for coping with emergencies and/or disasters; and*
 - (ii) *is prepared by the Commonwealth, a State or a Territory; or*
- (b) *a fire-fighting, civil defence or rescue body, or part of such a body; or*
- (c) *any other body, or part of a body, a substantial purpose of which involves:*
 - (i) *securing the safety of persons or animals in an emergency or natural disaster; or*
 - (ii) *protecting property in an emergency or natural disaster; or*
 - (iii) *otherwise responding to an emergency or natural disaster; or*
- (d) *a body, or part of a body, prescribed by the regulations”*

PROCEDURE

- Paid leave of up to 38 hours per calendar year will be granted to employees who are members of an approved volunteer emergency service Local Government (such as SES or Volunteer Fire Brigade) for the purpose of participating in training or service, at the discretion of the Chief Executive Officer.
- This leave will be in addition to annual leave entitlements.
- Service or training in excess of 38 hours per calendar year is subject to the approval of the Chief Executive Officer and is conditional upon the likely disruption to the employee’s work.
- Paid leave granted under this Policy will be treated as continuous service for the purposes of calculating annual leave, long service leave, sick leave or any other entitlements. Unpaid Leave will be treated as leave without pay.
- Employees requiring access to Emergency Service Leave are to provide reasonable notification to the Local Government where possible, and have the leave approved by the Chief Executive Officer.

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- Employees granted paid leave under this Policy shall be paid for time absent from duty up to the total of ordinary time usually worked in that day or period during the emergency, but not including time in excess of ordinary working hours, weekends or public holidays.
- Employees seeking leave to participate in a volunteer emergency service Local Government under this policy must provide certification that they have become members of a recognised volunteer service organisation.

Responsibility

Chief Executive Officers are required to approve Emergency Service Leave and managers to ensure that appropriate documentation is supplied by the employee.

Variation to Policy

This policy may be varied or cancelled at the discretion of Chief Executive Officer.

All employees will be notified by the normal correspondence method of any variation or cancellation to this policy.

All employees are required to read this policy prior to applying for leave.

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Submission to:	Ordinary Meeting of Council - Friday, 17 December 2010
Agenda Reference:	7.4
Subject:	SALE OF LAND
File Reference:	3.1.4.3
Author:	Jeff Sowiak - Chief Executive Officer
Disclosure of Interest:	Nil
Date of Report:	9 th December 2010

Background

Council has previously resolved to offer for sale land in Leo Street and has accepted an offer from Mr & Mrs Kent for the sale of two adjoining blocks for \$50,000 subject to a consolidation of the two blocks. This report seeks endorsement of necessary documents to affect one such sale.

Comment:

Council at its meeting in January 2010 resolved to sell what was then lots 5 & 6 Leo Street to Gary and Josephine Kent for \$50,000 on the proviso that an application to consolidate the blocks into one parcel was successful. Council has been advised that the consolidation is approved and it is therefore possible to progress the sale of what is now described as Lot 10 DP 67065 Leo Street to Gary and Josie Kent.

It is therefore necessary to have a resolution of Council to for the execution of any necessary documents under Council seal.

Statutory Environment

Council has developed the land for resale and has advertised the land for sale to the public pursuant to section 3.58 & 3.59 of Local government Act.

Policy Implications

Nil

Financial Implications

Council had allowed for the sale of subdivided land in the annual budget.

Recommendation

That Council resolve to sell lot 10 Leo Street to Gary Gerald and Clare Josephine Kent for \$50,000 and to execute any necessary documents under Council seal.

Voting Requirements

Simple Majority

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314/2010

Moved Cr Kenward seconded Cr W Della Bosca that Council resolve to sell lot 10 Leo Street to Gary Gerald and Clare Josephine Kent for \$50,000 and to execute any necessary documents under Council seal.

CARRIED (6/0)

Cr Truran arrives at Council Chambers at 3.00pm

Submission to:	Ordinary Meeting of Council – Friday, 17 December 2010
Agenda Reference:	7.5
Subject:	LEGAL ADVICE ROAD CONTRIBUTION
File Reference:	
Author:	Jeff Sowiak - Chief Executive Officer
Disclosure of Interest:	Nil
Date of Report:	9 th December 2010

SUSPENSION OF STANDING ORDERS – CONFIDENTIAL SESSION

315/2010

Moved Cr Truran Seconded Cr J Della Bosca that Council goes into Confidential Committee and Council resolve to receive the report concerning legal advice with respect to road contribution.

CARRIED (7/0)

316/2010

Moved Cr W Della Bosca Seconded Cr Pasini that Council receives the report of the Confidential Committee and resumes standing orders.

CARRIED (7/0)

	LATE ITEM
Submission to:	Ordinary Meeting of Council – Friday, 17 December 2010
Agenda Reference:	7.6
Subject:	CAZALY RESOURCES – LETTER OF SUPPORT
File Reference:	3.2.1.4
Author:	Jeff Sowiak - Chief Executive Officer
Disclosure of Interest:	Nil
Date of Report:	9 th December 2010

CAZALY RESOURCES – LETTER OF SUPPORT

The Shire of Yilgarn (Shire) has been working together with Cazaly Resources Limited (Cazaly) to develop the Parker Range Iron Ore Project (Project) anticipated to be operational by mid-2011.

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The Shire understands from Cazaly that a decision process for the allocation of iron ore export through Kwinana Bulk Terminal Berth 2 (KBT) is nearing conclusion by Fremantle Ports. The Shire is presenting this letter of support for the Parker Range Project and Cazaly Resources Limited for the purpose of assisting to obtain port export allocation at KBT for the Project to proceed.

Background

The Project consists of a proposed new iron ore mine located approximately 52 km south south-east from the township of Southern Cross and 14 km south of Marvel Loch in WA. The Project has an initial life of mine of between 7-10 years at nominal 4 Mtpa production. The Project involves an open pit, road transport to a new rail terminal at Moorine Rock, and rail 414 km on the Eastern Goldfields Railway to the port of Kwinana KBT for export. Supporting infrastructure includes a new accommodation village at Marvel Loch and extensions to existing Western Power network.

Reasons for Support

The Shire's principal reasons for supporting the Project are:

- A major project development of about \$300m including third party investment, with significant opportunities for the Shire of Yilgarn.
- Establishment of a new, high quality iron ore mine in a new southern Yilgarn Province near townships of Southern Cross, Marvel Loch and Moorine Rocks.
- Creation of approximately 750 construction jobs for the mine development, with a peak workforce of 250 persons over a 12-month period.
- Creation of 159 permanent operational jobs for 7-10 years (initially), not including short term operations and maintenance support workforce from the local area.
- Target to recruit at least 25% local personnel from the Shire for both construction and operations (i.e. over 200 new jobs for local residents).
- Extensive commerce benefits to Shire of Yilgarn business during construction and operational phases, specifically:
 - Light industrial services (fabrication, fitting, electrical and equipment servicing)
 - Materials and hardware supply
 - Water haulage
 - Catering and cleaning
 - Paramedical services
 - Local accommodation and meals in existing townships

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- Security
- Fencing services
- Bus operations
- Vehicle maintenance
- Freight delivery
- Explosives supply
- Concrete supply
- Miscellaneous earthmoving and civil equipment hire
- Gravel supply
- Community participation and support programs (e.g. Fire and Rescue, Hospital and local Doctor Funding, Fundraising Events).
- New 173 workers accommodation village at Marvel Loch (\$12M) to reinvigorate the township, inclusive of water and maintenance of community oval.
- Upgrade of Shire roads, inclusive of Parker Range - Forestania - Southern Cross Road and Liddell Road (in part) to sealed bitumen standard (\$5m).

317/2010

Moved Cr Auld Seconded Cr Pasini that Council agrees to write to selected correspondents in support of Cazaly's - Parker Range Iron Ore Project.

CARRIED (7/0)

	LATE ITEM
Submission to:	Ordinary Meeting of Council – Friday 17 December 2010
Agenda Reference:	8.1
Subject:	Financial Reports
File Reference:	8.2.3.2
Author:	Vivienne Murty – Deputy Chief Executive Officer
Disclosure of Interest:	Not applicable
Date of Report:	10 th December 2010

Background

Enclosed for Council's information are various financial reports that illustrate the progressive position of Council financially on a month-by-month basis.

The following reports are enclosed and have been prepared as at the 30th November 2010:

- Statement of Financial Position

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- Statement of Investments,
- Statement of Surplus,
- Monthly Statement of Financial Activity
- Rates Receipt Statement
(prepared to 9th December 2010)

Councillors will be aware that it is normal practice for all financial reports to be indicative of Council's current Financial Position as at the end of each month.

Statutory Environment

Local Government (Financial Management) Regulations 1996 Regulation 34(i)(a) and Regulation 17.

Policy Implications

None

Financial Implications

None

Strategic Implications

None

Recommendation

That the Various Financial Reports for the period ending 30th November 2010 as presented, be received.

Voting Requirements

Simple majority required

318/2010

Moved Cr Kenward Seconded Cr Auld the Various Financial Reports for the period ending 30th November 2010 as presented, be received.

CARRIED (7/0)

Submission to:	Ordinary Meeting of Council – Friday 17 th December 2010
Agenda Reference:	8.2
Subject:	Accounts for Payment
File Reference:	8.2.1.2
Author:	Vivienne Murty – Deputy Chief Executive Officer
Disclosure of Interest:	Not applicable
Date of Report:	10 th December 2010

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Background

Municipal Fund – Cheque Numbers 35844 to 35964 totalling \$392,309.94, Municipal Fund – Cheque Numbers 968 to 970 totalling \$121,373.52, Trust Fund – Cheque Number 401896 to 401901, totalling \$20,011.80 and Trust Fund – Cheque Numbers 5703 to 5707 (DPI Licensing), totalling \$42,549.00 are presented for endorsement as per the submitted list.

Statutory Environment

Sections 5.42 and 5.44 of the Local Government Act 1995 and Local Government (Financial Management) Regulations 1996, Regulation No 12 and 13.

Policy Implications / Delegation Register

Council has provided delegation to the Chief Executive Officer, Deputy Chief Executive Officer, Manager of Environmental Health and Building Services and/or Manager for Works to make payments from the Shire of Yilgarn Municipal, Trust or other Fund.

Financial Implications

Reduction to Bank Accounts balances.

Strategic Implications

Nil.

Recommendation

That Council endorse the accounts covered by Municipal Fund – Cheque Numbers 35844 to 35964 totalling \$392,309.94, Municipal Fund – Cheque Numbers 968 to 970 totalling \$121,373.52, Trust Fund – Cheque Number 401896 to 401901, totalling \$20,011.80 and Trust Fund – Cheque Numbers 5703 to 5707 (DPI Licensing), totalling \$42,549.00 are presented for endorsement as per the submitted list.

Voting Requirements

Simple majority.

319/2010

Moved Cr Truran Seconded Cr J Della Bosca that Council endorse the accounts covered by Municipal Fund – Cheque Numbers 35844 to 35964 totaling \$392,309.94, Municipal Fund – Cheque Numbers 968 to 970 totaling \$121,373.52, Trust Fund – Cheque Number 401896 to 401901, totaling \$20,011.80 and Trust Fund – Cheque Numbers 5703 to 5707 (DPI Licensing), totaling \$42,549.00 are presented for endorsement as per the submitted list.

CARRIED (7/0)

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MANAGER OF WORKS REPORT

Submission to:	Ordinary Meeting of Council – 17 th December 2010
Agenda Reference:	Works 9:1
Subject:	Mr. Stan Beaton Request for Bitumen Leonis Street Southern Cross
Location/Address:	Leonis Street Southern Cross
Name of Applicant:	Mr. Stan Beaton
File reference:	6.1.1.194
Author:	Robert Bosenberg - Manager of Works
Disclosure of Interest:	N.A.
Date of Report:	6 th December 2010

Background

Correspondence has been received from Mr. Stan Beaton expressing some concern about the amount of dust he is receiving in his house and garage been generated from vehicles utilising the unsealed section of Leonis Street located in Southern Cross.

Mr. Beaton has stated in his correspondence that there is a quite an abundant of vehicles of which include cars, utes, trucks, farming equipment and contracting machinery utilising Leonis Street gaining access to Mr. Pedrins property located some 250 metres east of his residence.

Comment

Leonis Street starts at the intersection of Crateris Street heading east (*as attached appendix 1 marked in red*). The constructed length of Leonis Street is 400 metres and has a pavement width of 7 metres. The pavement surface is a mixture of imported gravel and in-situ clay materials.

The majority of traffic utilising Leonis Street would be local traffic gaining access to Mr. Pedrins property. The traffic would increase marginally during the grain carting season as this route is utilised to gain access to farming land located at the end of Leonis Street.

Although there is no traffic data recorded on this road it would be safe to say that during the peak season the average daily traffic would reach between 15 – 20 vehicles a day. In the low season the average daily traffic would reduce to 10 – 15 vehicles a day. The vehicle movement in both traffic periods would be a mixture of light vehicles, farm machinery and trucks.

If council was to consider upgrading this road to seal standard then it would be recommended that the upgrade extends one hundred metres past Mr. Pedrins main access gateway to his residences (*approximate total length of 350 metres*). Estimated cost to carry out these works is \$49,193.

Financial Implications

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Reduction to Bank Accounts balances.

Strategic Implications

Nil.

Voting Requirements

Simple majority.

Recommendation

That the 350 metre section of Leonis Street be included in Councils 2011/2012 Financial Year Budget deliberations to construct to seven metre bitumen standard

Also

Mr. Beaton is advised of Councils decision and that although it will be included in Councils 2011/2012 Budget deliberations there is no guarantee that this works will progress as Council may deem that other projects have a higher priority.

320/2010

Moved Cr Kenward seconded Cr J Della Bosca that the 350 metre section of Leonis Street be included in Councils 2011/2012 Financial Year Budget deliberations to construct to seven metre bitumen standard

Also

Mr. Beaton is advised of Councils decision and that although it will be included in Councils 2011/2012 Budget deliberations there is no guarantee that this works will progress as Council may deem that other projects have a higher priority.

CARRIED (7/0)

XMAS PERIOD - DRIVER REVIVER CARAVAN OPERATING HRS

The Manager for Works advised Council that he had received a fax from Pat Dal Busco calling for volunteers to man the Driver Reviver van and advising the dates and times that the Van will be operating:

Sunday, December 19	10am to 8pm
Thursday, December 23	2pm to 8pm
Friday, December 24	10am to 8pm
Tuesday, December 28	10am to 8pm
Friday, December 31	10am to 8pm
Monday, January 3	10am to 8pm

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**MANAGER OF ENVIRONMENTAL HEALTH AND BUILDING
REPORTS**

Submission to:	Ordinary Meeting of Council – Friday 17 th December, 2010
Agenda Reference:	10.1
Subject:	Planning Application – Home Occupation – Selling of Plants from Southern Cross Caravan Park
Location/Address:	Reserve 23237 Lot 755 Coolgardie Road, Southern Cross
Name of Applicant:	Mr Noel Boulden, Manager of the Southern Cross Caravan Park
File Reference:	3.1.3.3 (Previously 10303)
Author:	Manager Environmental Health & Building Services – W J Dallywater
Disclosure of Interest:	Not applicable
Date of Report:	8 th December, 2010

Background

Mr Noel Boulden, Manager and Lessee of the Southern Cross Caravan Park, has written seeking approval to sell plants from the Caravan Park situated on Reserve 23237 Lot 755 Coolgardie Road, Southern Cross. Mr Boulden propagates the plants himself. Initially he started propagating plants to grow and place in the garden beds around the Caravan Park, but many of his customers have enquired about and purchased plants before leaving Southern Cross. In recent times, Mr Boulden has placed an advertisement in the local newsletter “Crosswords” advertising his plants for sale to local residents. See attached letter.

Comment

Town Planning Issues

Reserve 23237 Lot 755 Coolgardie Road is zoned “Special Use – Caravan Park”.

The nature of the business of a caravan park is a commercial business. Customers travel to and from the Caravan Park daily. The fact that Mr Boulden started propagating plants from those plants he already had growing in the Caravan Park or from plants he has purchased to add to garden beds around the Park is a positive. In the process of propagating more plants maybe produced than what is required, and therefore the on-selling of them to his customers staying at the Park would seem reasonable.

This has now grown to be something Mr Boulden enjoys doing and so he now produces more plants than he needs at the Park and is wanting to sell them to local residents as well as his customers staying at the Park.

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Home Occupation

A Home Occupation is generally a small hobby or small business established on the applicant's residential property where the person wishes to test the demand for their products in the community before spending the money to establish a business on land zoned "Commercial" or "Industrial".

Under the Shire of Yilgarn Town Planning Scheme No 2 a Home Occupation means the following:-

"means a business or activity carried out within a dwelling house or the cartilage or a house by a person resident therein or within a domestic outbuilding by a person resident in the dwelling house to which it is appurtenant that:

- (a) entails the conduct of a business, office, a workshop only, and does not entail the frequent retail sale or display of goods of any nature;
- (b) does not cause injury to or prejudicially affect the amenity of the neighbourhood;
- (c) does not detract from the residential appearance of the dwelling house or domestic outbuildings;
- (d) does not entail employment of any person not a member of the occupier's household;
- (e) does not occupy an area greater than 20 m²;
- (f) does not display a sign exceeding 0.2 m² in area;
- (g) in the opinion of the Council is compatible with the principle uses of which land in the zone in which it is located may be put;
- (h) will not result in the requirement for a greater number of parking facilities than normally reserved for a single dwelling, and will not result in a substantial increase in the amount of vehicular traffic in the vicinity; and
- (i) does not entail the presence, parking and garaging of a vehicle of more than two (2) tonnes tare weight."

This application meets with the above definition in that the propagation and selling of the plants is carried on from around his place of residence which is located within the Caravan Park; it is a hobby in that he does this work around his main job of managing the Caravan Park; it does not occupy an area greater than 20 square metres; it is only him and his wife who are involved in the activity; and will not involve a lot of additional parking requirements at the Caravan Park.

I recommend that Council approve Mr Boulden's application to propagate and sell plants from the Southern Cross Caravan Park site.

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Statutory Environment

Compliance with the Shire of Yilgarn Town Planning Scheme No 2.

Policy Implications

Nil

Financial Implications

Nil

Recommendation

That Council grants planning approval to Mr Noel Boulden to establish a plant selling business from his residence situated within the Southern Cross Caravan Park on Reserve 23237 Lot 755 Coolgardie Road, Southern Cross.

Voting Requirements

Simple Majority.

321/2010

Moved Cr Pasini Seconded Cr Kenward that Council grants planning approval to Mr Noel Boulden to establish a plant selling business from his residence situated within the Southern Cross Caravan Park on Reserve 23237 Lot 755 Coolgardie Road, Southern Cross.

CARRIED (7/0)

Submission to:	Ordinary Meeting of Council – Friday 17 th December, 2010
Agenda Reference:	10.2
Subject:	Planning Application – Installation of a Private Swimming Pool for the Southern Cross Caravan Park Managers
Location/Address:	Reserve 23237 Lot 755 Coolgardie Road, Southern Cross
Name of Applicant:	Mr Noel Boulden, Manager of the Southern Cross Caravan Park
File Reference:	3.1.3.4
Author:	Manager Environmental Health & Building Services – W J Dallywater
Disclosure of Interest:	Not applicable
Date of Report:	8 th December, 2010

Background

Mr Noel Boulden, Manager and Lessee of the Southern Cross Caravan Park situated on Reserve 23237 Lot 755 Coolgardie Road, Southern Cross has applied for permission to install an above-ground swimming pool with

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isolation fencing in the yard on the west side of his residence located within the Caravan Park. The proposed swimming pool will be for private use only and not available for customers staying at the Caravan Park. See attached site plans showing the location of the proposed swimming pool.

Comment

This matter is brought to Council as the Caravan Park is owned by Council.

The proposed swimming pool will be constructed of steel posts in the ground with a metal sheet perimeter fixed to the posts, a vinyl internal lining, and finished with a Perspex type edging around the top of the pool structure. There will be an access ladder that can be removed readily. It will be a salt chlorination pool 6.0m long x 3.6 metres wide x 1.3 metres deep.

The isolation fencing will consist of aluminium loop pool fencing on three sides with a self-closing and latching gate that open outwards away from the pool. The fourth side will be the existing corrugated iron fence that separates the Manager's private yard from the rest of the Caravan Park. Access to this yard is through a gate at the side of the house through the dividing corrugated fence.

Mr Boulden has stated that the pool is only for his family's private use.

Statutory Environment

Compliance with the Building Code of Australia 2010.

Policy Implications

Nil

Financial Implications

Nil

Recommendation

That Council grant approval to Mr Noel Boulden to install a new above-ground salt chlorination swimming pool with isolation fencing in the yard to the west of his residence situated within the Southern Cross Caravan Park for the private use of his family members.

Voting Requirements

Simple Majority.

322/2010

Moved Cr Kenward Seconded Cr Pasini that Council grant approval to Mr Noel Boulden to install a new above-ground salt chlorination swimming pool with isolation fencing in the yard to the west of his residence situated

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within the Southern Cross Caravan Park for the private use of his family members.

CARRIED (7/0)

Submission to:	Ordinary Meeting of Council – Friday 17 th December, 2010
Agenda Reference:	10.3
Subject:	Planning Application – Install Temporary Signs
Location/Address:	Southern Cross and Koolyanobbing
Name of Applicant:	Onyx Projects - Mr Chris Jacobs, Senior HSE Advisor
File Reference:	4.2.2.3
Author:	Manager Environmental Health & Building Services – W J Dallywater
Disclosure of Interest:	Not applicable
Date of Report:	9 th December, 2010

Background

Mr Chris Jacobs of Onyx Projects on behalf of Cliffs Asia Pacific Iron Ore has written to the Shire seeking approval to erect three temporary roadside signs to direct transport vehicles to the upgrade project at the Koolyanobbing Mine Processing Plant which is scheduled to commence early in the New Year 2011. Cliffs Asia Pacific Iron Ore is planning to build a new crusher and conveyor at Koolyanobbing that will handle up to 11 million tonnes. To ensure that transport vehicles travel on the recommended route, Onyx Projects wish to erect directional signs on the corners of:-

- 1) Phoenix & Polaris Street, Southern Cross;
- 2) Dowd Street and the railway service road on the north side of the railway line; and
- 3) The railway service road on the north side of the railway line and Cliffs' haul road that runs north-south and crosses the railway line and is located east of the Koolyanobbing townsite.

See attached letter with coloured artwork of the required signs, and maps showing the proposed installation locations.

Comment

Under clause 5.2 *Control of Advertisements* of the Shire of Yilgarn Town Planning Scheme No 2 “*the erection, placement and display of advertisements and the use of land or buildings for that purpose is development within the definition of the Act requiring, except as otherwise provided, the prior approval of Council*”. In assessing an application, Council shall examine each such application in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is to be displayed, including it's historic or landscape significance and traffic safety, and the amenity of adjacent areas which may be affected.

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The signs will also need to comply with Council Policy 5.4 Advertising & Directional Signs.

These signs will be 1200mm wide x 900mm high and will be mounted on standard steel posts. The signs need to be larger than normal finger directional signs so that the transporters are able to readily see them.

The signs will need to be in place from January to April or until all the heavy structure has been transported to site.

Shire's Manager of Works, Mr Robert Bosenberg, is aware of this application and has no objections. The distances stated on the signs are not to conflict with the Shire's signs. The signs will need to meet all Australian Standards for roadside signs, and prior to the signs being installed, Onyx Projects will need to contact Mr Bosenberg to agree on the positioning of the signs off the bitumen roads.

Statutory Environment

Nil

Policy Implications

Council Policy 5.4 Advertising and Directional Signs.

Financial Implications

Nil

Recommendation

That Council grants approval to Onyx Projects for the erecting of three temporary directional signs for a period of approximately 4 months from January to April 2011 as stated in this application, on the condition that the signs meet the Australian Standards for roadside signs, the distances stated on the signs are not conflict with Shire signs, and that Onyx Projects consult with the Manager of Works on the exact positioning of the signs.

Voting Requirements

Simple Majority.

323/2010

Moved Cr Truran Seconded Cr Kenward that Council agrees to grant approval to Onyx Projects for the erecting of three temporary directional signs for a period of approximately 4 months from January to April 2011 as stated in this application, on the condition that the signs meet the Australian Standards for roadside signs, the distances stated on the signs are not conflict with Shire signs, and that Onyx Projects consult with the Manager of Works on the exact positioning of the signs.

CARRIED (7/0)

SHIRE OF YILGARN
MINUTES – ORDINARY MEETING OF COUNCIL
FRIDAY, 17TH DECEMBER 2010

Submission to:	Ordinary Meeting of Council – Friday 17 th December, 2010
Agenda Reference:	10.4
Subject:	Planning Application – Commercial Extraction of Blue Metal from Private Property
Location/Address:	Location 779 Nulla Nulla South Road & Sandalwood Rock Road, Mt Hampton
Name of Applicant:	Mr Steven James Rose
File Reference:	3.1.3.2
Author:	Manager Environmental Health & Building Services – W J Dallywater
Disclosure of Interest:	Not applicable
Date of Report:	9 th December, 2010

Background

Mr Steven Rose has submitted a planning application to extract blue metal from the rural property of Location 779 corner of Nulla Nulla South & Sandalwood Rock Roads, Mt Hampton. This property is owned by Mr Rose's father, Mr John Peter Rose.

Mr Rose is hoping to supply a new mining company with the blue metal for mining purposes (back-filling of drill holes for blasting).

Mr Rose along with his brother owns and operates Yilgarn Drill and Blast Pty Ltd. They will carry out all drilling and blasting operations, and will bring a mobile crushing plant to site as required. Mr Rose at this time expects to process 5,000 cubic metres of rock over a period of 14-15 days. Mr Rose envisages between 30,000 and 50,000 tonnes of blue metal will be excavated in a 12 month period. The proposed area to be excavated is approximately 12,000 square metres (2.965 acres or 1.2 hectares).

Mr Rose will be using existing cleared land from the entry off Nulla Nulla South Road to the rock site for his access road and the stockpile area. The natural bush and fauna on the rock may need to be surveyed to determine if there are any threatened species living on the rock and to assess how they will be affected by the mining operation.

The rock site is 4.17Kms in a straight line to the nearest house, which he lives in, and it is 1.3Kms in a straight line to the Nulla Nulla South Road.

Mr Rose has contacted the Department of Environment and Conservation (DEC) in regards to a clearing permit, and maybe an excavation licence.

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Comment

Town Planning Issues

Location 779 Nulla Nulla South Road is zoned “Rural/Mining” under the Shire of Yilgarn Town Planning Scheme No 2. The proposed land use of “extractive Industry” is a permitted use under the Scheme.

The Scheme text also indicates that planning approval is required for mining activity, and this has been interpreted to mean those extractive industries that do not fall under the Mining Act. The reason for this is that large volume extractive industries or mining operations that are governed under the Mining Act have various conditions of approval placed on them which include noise, dust, waste material, fumes, etc, while small extractive industries would have no conditions placed on them regarding these issues unless they were brought to Council. Some local governments have their own local laws governing extractive industries for this reason. The Shire of Yilgarn has no such local laws.

Environmental Issues

Until Mr Rose has a contract and knows how much and in what period he needs to supply blue metal to the mining company it is hard to guess how frequently the drilling, blasting, excavating, crushing, and transporting processes will occur on the site.

All of these processes will produce noise and dust. As Mr Rose’s dwelling is the closest to the excavation site he will be aware of any noise problems. I do believe that excavation will only occur during daylight hours which will assist with the issue of noise travel and it affecting near neighbours. It should be noted that the rock site is approximately 10Kms in a straight line from the Mt Hampton Old School and Hall, and is approximately 2Kms from Sandalwood Rock which is surrounded by a water reserve (Reserve 20204 Lot 799).

Mr Rose will need to carry out some form of dust suppression so that travellers on the Nulla Nulla South Road are not adversely affected.

I would not expect that rocks would travel 1.3Kms with the blasting process, however, Mr Rose needs to ensure that rocks do not reach the roadway and cause problems for road users.

There should be no waste water produced or other waste material produced from this process.

Visually the excavation process will be visible to travellers on the Nulla Nulla South Road but the distance should be too far for people to readily see the scarring of the rock.

Other Issues

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There is also the issue of trucks entering onto the Nulla Nulla South Road and travelling on Council controlled roads to get to their destination.

The Manager of Works, Mr Robert Bosenberg, has looked at this application and advised that Mr Rose may need to apply for a heavy transport permit, and will need to be made aware of Council's Heavy Vehicle Haulage Road Impact Charge Policy.

Statutory Environment

Shire of Yilgarn Town Planning Scheme No 2.

Policy Implications

Council Policy 6.5 "Traffic Intersection Management Plan (Private Haul Roads intersecting with roads under Council control)".

Financial Implications

Nil

Recommendation

That Council grants planning approval to Mr Steven Rose to establish an "extractive industry" for the mining of blue metal from a rock outcrops on Location 779 corner Nulla Nulla South & Sandalwood Rock Road, Mt Hampton on the condition that he obtains all necessary licenses and permits for this proposed business, and that he is made aware of Council's Heavy Vehicle Haulage Road Impact Charge Policy.

Voting Requirements

Simple Majority.

324/2010

Moved Cr Kenward Seconded Cr W Della Bosca that Council grants planning approval to Mr Steven Rose to establish an "extractive industry" for the mining of blue metal from a rock outcrops on Location 779 corner Nulla Nulla South & Sandalwood Rock Road, Mt Hampton on the condition that he obtains all necessary licenses and permits for this proposed business, and that he is made aware of Council's Heavy Vehicle Haulage Road Impact Charge Policy.

CARRIED (7/0)

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Submission to:	Ordinary Meeting of Council - Friday 17 th December, 2010
Agenda Reference:	10.5
Subject:	Proposed Opening Unallocated Crown Land (UCL) for Development
Location/Address:	UCL Land Adjoining Lot 53 Polaris Street, Southern Cross
Name of Applicant:	Department of Regional Development and Lands - Ms Kerrie Bridger
File Reference:	1.6.17.2 & 2.4.3.2
Author:	Manager Environmental Health & Building Services - W J Dallywater
Disclosure of Interest:	Not applicable
Date of Report:	8 th December, 2010

Background

At the March and April 2005 Council Meetings Council considered a request from Mr Mario Pedrin to purchase or lease Reserve 26585 Lot 766 "Park" corner Algenib & Leonis Street, Southern Cross as Mr Pedrin wanted a larger block of land where he could build a house, store his earth moving equipment, and keep a couple of sheep and maybe a horse. Public comments were received and steps commenced to change the reserve status. Shortly after this a suitable property came on the market for sale and Mr Pedrin purchased it.

Based on this application it was decided that Council should investigate possible land for development as larger lots where people could building a dwelling and keep a couple of sheep or a horse and/or stables within the townsite boundary. It was suggested that the Unallocated Crown Land (UCL) adjoining Lot 53 Polaris Street directly south of the lot maybe suitable land for this purpose.

I wrote to the then Department for Planning and Infrastructure asking if this would be possible. Council received a response in November 2006 advising that the land was subject to Native Title and that an Aboriginal Heritage Survey would need to be carried out on the land. The estimated cost of this was between \$15,000 and \$20,000. However, prior to the Aboriginal Heritage Survey being carried out, the proposal needs to be further investigated.

This information was taken to the December 2006 Council Meeting and Council passed the following motion:-

"That Council further investigate the possibility of securing the Unallocated Crown Land adjoining Southern Cross Lot 53 Polaris Street as a future "Special Urban" subdivision in line with the comments provided by the Department for Planning and Infrastructure."

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I again wrote to the Department for Planning and Infrastructure requesting it carries out the necessary investigations. The matter was discussed with representatives from the Department of Regional Development and Lands earlier this year when they visited Southern Cross and Marvel Loch.

A letter has been received from the Department of Regional Development and Lands (DRDL) seeking updated comments and Council's comments on leasing the land shown hatched on the attached smart plan for "grazing or stabling of horses". The DRDL would consider offering more than one lease over the large lot, subject to demand. The smaller lots may be suitable for residential development. If there is a positive response from both the Shire and the Department of Mines and Petroleum to this enquiry, the DRDL will proceed with a "Notice of Intention to Take" process.

Comment

The land shown hatched on the smart plan is zoned "Rural/Mining" under the Shire of Yilgarn Town Planning Scheme No 2. As the land is within the townsite boundary the rural activity would be small scale and is not to include broad acre spraying of chemicals. There should be no mining activity allowed within the townsite boundary.

Horses have been kept on Lot 735 Crateris Street for several years without incident/problems. Sheep and a lama are currently being kept on Lot 744 Leonis Street and have done so for several years now without incident/problems.

While the DRDL is currently suggesting offering leases over the large UCL lot, it would be hoped that this would only be the initial step in the land being made ready for future subdivision into smaller lots of approximately 1.2 to 2.0 acres in area with access roads. This would provide space for a dwelling plus enough land to keep a horse or a couple of sheep, etc.

I would recommend that Council develop a planning policy for the future development options for this land to minimise potential nuisance issues and complaints arising.

Statutory Environment

Compliance with the Land Administration Act 1997.

Policy Implications

Nil

Financial Implications

Unknown at this time.

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Recommendation

That Council advise the Department of Regional Development and Lands that it supports the proposal to lease the Unallocated Crown Land adjoining Lot 53 Polaris Street, Southern Cross for "grazing or stabling of horse" and that the smaller lots would be suitable for residential development, and that Council wishes to develop a planning policy for the future development of this land and will advise/consult with the Department regarding this planning policy.

Voting Requirements

Simple Majority

325/2010

Moved Cr Pasini Seconded Cr Kenward that Council advises the Department of Regional Development and Lands that it supports the proposal to lease the Unallocated Crown Land adjoining Lot 53 Polaris Street, Southern Cross for "grazing or stabling of horse" and that the smaller lots would be suitable for residential development, and that Council wishes to develop a planning policy for the future development of this land and will advise/consult with the Department regarding this planning policy.

CARRIED (7/0)



CLOSURE

There being no further business to discuss, the Shire President declared the meeting closed at 4.15 pm.

I, Peter Romolo Patroni confirm the above Minutes of the meeting held on Friday, 17th December 2010 are confirmed as a true and correct record of that meeting held on Friday 21st January 2011.

Cr Romolo Patroni
SHIRE PRESIDENT