

SHIRE OF WILLIAMS

**MINUTES OF THE ORDINARY MEETING HELD IN THE COUNCIL CHAMBERS ON
WEDNESDAY 19TH APRIL 2006**

1.0 OPENING

1.1 DECLARATION OF OPENING

The President declared the meeting open at 1.05pm

1.2 ANNOUNCEMENT OF VISITORS

Electrician, Ray Sherry may be attending the meeting to give a report on upgrading the power supply to Council's recreation facilities.

2.0 RECORD OF ATTENDANCE

2.1 PRESENT

Cr John Cowcher	President
Cr Ashley Stone	Deputy President
Cr Gary Cowcher	
Cr Greg Cavanagh	
Cr Robert Bowden	
Cr Richard Johnstone	
Cr Moya Carne	
Cr David Earnshaw	
Cr Graham Prowse	
V Epiro	Chief Executive Officer
IR Ball	Deputy Chief Executive Officer
MR Willcocks	Works Supervisor (3.35pm – 4.05pm)

2.2 APOLOGIES

Nil

3.0 PUBLIC QUESTION TIME

Nil

4.0 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

5.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

6.0 CONFIRMATION OF PREVIOUS MINUTES

6.1 ORDINARY MEETING MINUTES

Johnstone/Earnshaw

That the minutes of the Ordinary Meeting held in the Council Chambers on Wednesday 15th March, as circulated, be confirmed as a true and correct record of proceedings.

**Carried 9/0
Resolution 203/06**

6.2 WILLIAMS ART ACQUISITION COMMITTEE MEETING MINUTES

Cavanagh/Stone

That the minutes of the Williams Art Acquisition Committee held on 21st March 2006 be received.

**Carried 9/0
Resolution 204/06**

Carne/Earnshaw

That community representatives on the Williams Art Acquisition Committee be elected for a two year term expiring in line with annual Council elections.

**Carried 9/0
Resolution 205/06**

Carne/Prowse

That an Art Acquisition Reserve be created from the balance of funds not expended from the annual allocation in the budget each year.

**Carried 9/0
Resolution 206/06**

6.3 WILLIAMS COMMUNITY SAFETY AND CRIME PREVENTION PLAN WORKING GROUP MEETING MINUTES

Carne/G Cowcher

That the minutes of the Williams Community Safety and Crime Prevention Plan Working Group meeting held on 30th March 2006 be received.

**Carried 9/0
Resolution 207/06**

7.0 ANNOUCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

8.0 REPORTS OF COMMITTEES/OFFICERS AND COUNCILLORS

8.1 CHIEF EXECUTIVE OFFICER'S REPORT

8.1.1 WILLIAMS LANDCARE (INC.)

Appointment of Natural Resource Management Officer

File Reference: 10.51.10
Author & Date: V. Epiro 30th March 2006

Background:

Williams Landcare (Inc.) and the Narrogin Land Conservation District Committee have appointed David Brian Moore to the position of Natural Resource Management Officer, to replace Michael Barr.

Dave Moore commenced work on the 27th March 2006 and has his own accommodation. Would Council please endorse the use of the Council seal for the Mr Moore's Contract of Employment?

Recommendation:

That the use of the Council seal for D. B. Moore's Contract of Employment be endorsed.

Stone/Cavanagh

That the use of the Council seal for D. B. Moore's Contract of Employment be endorsed.

**Carried 9/0
Resolution 208/06**

8.1.2 MICHAEL ITALIANO

Use of Refuse Site Road

File Reference: 10.10.30
Author & Date: V. Epiro 30th March 2006

Background:

Michael Italiano has negotiated with Dakin Nominees to establish a gravel quarry on location 36 adjoining Council's refuse site and gravel pit. The proposed quarry is not accessible from the Williams / Narrogin Road and Mr Italiano is seeking approval from Council to use the Williams refuse site road and place a gate on the boundary fence adjacent to the quarry.

He anticipates that he would access the quarry a maximum of 4 times per month, however it would more likely be 1 or 2 as he still intends to stockpile gravel at Richmond Street for small orders. As Council is aware Mr Italiano caters to residents' needs for sand and gravel which relieves Council of having to provide this service, however providing the use of the refuse site is minimal there should be no problem with the access road being used. Perhaps Council could grant approval and monitor the use in regards to road condition and safety.

Recommendation:

That Michael Italiano be granted approval to use the refuse site road as access to the proposed gravel quarry on location 36 subject to monitoring of the road condition and safety.

Prowse/G Cowcher

That Michael Italiano be granted approval to use the refuse site road as access to the proposed gravel quarry on location 36 subject to monitoring of the road condition and safety.

**Carried 9/0
Resolution 209/06**

8.1.3 RSL CARPARK

Memorial Plaque

File Reference: 17.1.35
Author & Date: V. Epiro 30th March 2006

Background:

No suggestions have been forthcoming from residents for wording on a memorial plaque to be placed on the RSL Carpark.

Following is a suggested wording for the plaque:

WILLIAMS R.S.L.
CARPARK
Dedicated to the men and women from the Williams
District who served during times of conflict.
Lest we forget.

Recommendation:

For Council consideration.

Prowse/G Cowcher

That a memorial plaque with the following wording be placed on the RSL car park

WILLIAMS R.S.L.
CARPARK
Dedicated to the men and women from the Williams
District who served during times of conflict.
Lest we forget.

**Carried 9/0
Resolution 210/06**

8.1.4 LORD MAYOR'S DISTRESS RELIEF FUND

Annual Contribution (See Appendix 1)

File Reference: 4.11.00
Author & Date: V. Epiro 30th March 2006

Background:

The Lord Mayor's Distress Relief Fund has been in operation since 1961 and until recent years relied on donations for singular natural disasters. However the Fund is now endeavouring to get Councils to make an annual budget allocation so there are funds readily available when a disaster occurs.

Recommendation:

For Council's consideration.

Stone/Prowse

That donations continue be made to the Lord Mayor's Distress Relief Fund on request for natural disasters considered worthy by Council.

**Carried 9/0
Resolution 211/06**

8.1.5 SENATOR THE HON. IAN CAMPBELL MINISTER FOR THE ENVIRONMENT & HERITAGE

Community Water Grant

File Reference: 11.30.55
Author & Date: V. Epiro 30th March 2006

Background:

In October 2005 Council made a submission to the Australian Government's Community Water Grants program for a grant of \$33,000 to install a 328,096 litre tank at the depot holding dam site. Advice has been received that a grant of \$30,120 has been approved (the fencing component of \$2,880 was omitted) which will be available for 2006/2007.

I will be liaising with the Water Corporation regarding the installation of the tank to ensure that it will be suitable for the future storage of re-use water when the treatment pond is relocated.

Recommendation:

For Council's information.

8.1.6 MAIN ROADS WHEATBELT SOUTH

Underground Power Albany Highway (see Appendix 2)

File Reference: 12.21.50
Author & Date: V. Epiro 3rd April 2006

Background:

Main Roads have advised that a grant of \$350,000 has been approved under the Federal Black Spot funding program for installation of underground power on the Albany Highway within the Williams townsite. In conjunction with the grant Main Roads obtained a quote from Western Power who provided estimates as follows:

- | | |
|--|------------------|
| • Pinjarra/Williams Road to Williams River | \$130,000 |
| • Williams River to Coalling Creek | \$287,000 |
| • Coalling Creek to Mr Italiano's property | <u>\$114,000</u> |
| | \$531,000 |

Western Power has included a classic proviso in their letter (5th paragraph):

"This variation may be an increase of several hundred per cent or a considerable decrease."

Notwithstanding the above and assuming the estimated costs are around the mark, there is a shortfall of \$181,000.

In view of the above Main Roads is seeking a contribution from Council towards the project.

Western Power has a Local Government funding program for underground power which is open for submissions towards the end of 2006. Council could also consider eliminating 1 or 2 sections (not Main Roads' preferred option) and do the sections between the Williams River and Coalling Creek only. However unless Council wishes to make a cash contribution towards the project it would seem that one of the above options would need to be considered.

It is unlikely that Council would be eligible for state funding with a major part of the cost being provided by federal funding, therefore the main section from the Pinjarra/Williams Road to Coalling Creek (cost \$417,00) would be suggested even though there would still be a shortfall of \$67,000.

Recommendation:

That Main Roads be advised that Council would prefer a reduction in the project in lieu of making a contribution.

G Cowcher/Earnshaw

That Main Roads be advised that Council would prefer a reduction in the project in lieu of making a contribution.

**Carried 9/0
Resolution 212/06**

8.1.7 WILLIAMS WOOLSHED

Annual Contribution Williams Network Visitors Centre (see Appendix 3)

File Reference: 13.20.70
Author & Date: V. Epiro 3rd April 2006

Background:

The Williams Woolshed is seeking an annual contribution of \$10,261 (based on 20% of the annual running costs of \$51,306.53).

Since the opening of the Visitors Centre Council has provided an annual contribution of \$6,000 towards the running costs. Correspondence was forwarded with last year's contribution advising that with the continued success of the centre Council was anticipating a reduction in contributions for the future. However the Woolshed are obviously still intent on retaining a significant contribution towards the running costs of the centre which are detailed in their report.

Recommendation:

For Council's consideration.

Bowden/Johnstone

That Council make a contribution of \$5,000.00 towards the operating costs of the Williams Network Visitor Centre and the several anomalies in the report be brought to the attention of the Williams Woolshed proprietors.

**Carried 8/1
Resolution 213/06**

8.1.8 K. FISHER

Fencing of Public Thoroughfare (ROW) between Hicks Street and Cowcher Street (see Appendix 4)

File Reference: 12.15.37
Author & Date: V. Epiro 5th April 2006

Background:

K & A Fisher the owners of lots 240,242, 244, 246, 248, 250 and 252 Cowcher Street Williams wish to fence all of the lots into one holding. However as the lots fronting the Williams/Narrogin Highway are all fenced at the rear, they (Fishers) wish to fence in the ROW and place gates at the Carne Street end and between lots 251 and 252 (as shown with red line on plan).

The Local Government Act provides that a Council may authorize a person to have a gate or other device across a public thoroughfare that is under its control provided motor traffic can pass. This applies to all public roads and reserves and generally means gates without locks. However K& A Fisher wish to have locked gates to prevent access to their proposed workshop, which I have advised them is not possible even though the ROW is not developed or used by adjoining landowners.

Following are the conditions applicable to granting approval for erection of gates which provide that Council may require the applicant to publish notice of the application (condition 2):

- 1) A person may apply to the local government for permission to have across a public thoroughfare under the control or management of the local government a gate or other device that enables motor traffic to pass across the public thoroughfare and prevents livestock from straying.
- 2) The local government may, before dealing with the application, require the applicant to publish notice of the application in such manner as the local government thinks fit.
- 3) Permission granted by the local government under this regulation is required to specify the period for which it is granted and may be renewed from time to time.
- 4) The local government may impose such conditions as it thinks fit on the construction, placement and maintenance of the gate or other device across the public thoroughfare and may, when renewing the permission or at any other time, vary any condition.
- 5) The local government may at any time withdraw permission granted under this regulation and request the person responsible for the gate or other device to remove it within a time specified in the request.
- 6) A person to whom a request is made under sub-regulation 5) commits an offence if the person fails to comply with the request.
- 7) The penalty for an offence under sub-regulation 6) is \$1,000.
- 8) A local government is required to keep a register of gates and other devices constructed under this regulation.

If Council were to consider giving approval, Condition 2 should be enacted to enable submissions to be made on the proposal.

Recommendation:

For Council's consideration.

Johnstone/Cavanagh

That K & A Fisher be granted permission to erect gates across the right of way between Carne Street and Hicks Street in accordance with the conditions listed.

**Carried 9/0
Resolution 214/06**

8.1.9 HAINES NORTON

Interim Audit Visit Report (see Appendix 5)

File Reference: 4.22.00
Author & Date: V. Epiro 5th April 2006

Background:

There were three (3) matters raised from the interim audit visit, them being:

- 1) There was no public notice given (as required under Financial Management Regulation 56 (4) (B)) of Council's intention to impose a differential rate on the Williams townsite. This was an oversight which will be strictly adhered to in the 2006/2007 budget.
- 2) Councillors Financial Returns must be submitted prior to 31st August. There is no need for any further comment on this issue.
- 3) There were some incorrect dates regarding minutes which need to be corrected.

Recommendation:

That the above matters be noted and minutes corrected as required.

Earnshaw/Prowse

That the above matters be noted and minutes corrected as required.

**Carried 9/0
Resolution 215/06**

8.1.10 REVIEW OF LOCAL LAWS

Local Laws Gazetted 24th October 1997

File Reference: 4.22.00
Author & Date: V. Epiro 10th April 2006

Background:

No submissions were received at the close of the submission period (April 7th) for the review of the Local Laws in relation to;

Fencing
Cemeteries
Firebreaks
Swimming Pool, Hall, Pavilion Management
Removal and Disposal of Obstructing Vehicles or Animals

As no submissions were received Council needs to determine whether to repeal or amend any of the above Local Laws. If the Local Laws are to remain as at present then Council should record this by way of a resolution.

Recommendation:

That there be no change to the Local Laws gazetted 24th October 1997.

Cr Cavanagh recommended that the Fire Break Order be amended to remove the requirement for establishing fire breaks around rural land.

Cavanagh/Johnstone

That the Shire of Williams Local Law Relating to Firebreaks section two be amended as follows:

Section 2 – All owners or occupiers of land within the district of the Williams Shire shall have firebreaks during the firebreak period of the dimensions prescribed within these Local Laws.

(a) Rural Land

1. Firebreaks 2.5 metres wide surrounding each building, haystack or fuel dump.

**Carried 7/2
Resolution 216/06**

8.1.11 PLANNING FOR THE FUTURE

Principal Activities Plan

File Reference: 4.21.40
Author & Date: V. Epiro 11th April 2006

Background:

The Local Government Act 1995 (sections 5.53 and 5.56) was amended in 2005 to compel Councils to prepare a Plan for the Future (previously Principal Activity Plan) for a period of at least 2 years. In 2005 Council opted to continue with the Principal Activities Plan which should please the Department of Local Government as it is for a five (5) year period and at least in Williams' case is a living working document.

There is a requirement in the Act and Regulations for Council to seek community consultation in conjunction with preparation of the Plan. It is suggested that Council review the Plan for 2006/2007 – 2010/2011 at the May Meeting and invite community submissions accordingly.

Recommendation:

That the Principal Activities Plan for 2006/2007 – 2010/2011 be reviewed at 9am Wednesday 17th May 2006.

Stone/Cavanagh

That the Principle Activities Plan for 2006/2007 – 2010/2011 be reviewed at 7.30pm on Wednesday 10th May 2006.

**Carried 9/0
Resolution 217/06**

8.1.12 COUNCIL HOUSING

Vacant Residences

File Reference: 9.10.20
Author & Date: V. Epiro 11th April 2006

Background:

The South West Catchment Council have now advised that they will not be requiring a residence for a project officer as an appointment is not anticipated for some months. Works Supervisor Mark Willcocks has also advised that he is not interested in tenancy of the Tradespersons residence at 8 Fry Street Williams. Therefore both residences are available for rental as determined by Council.

Recommendation:

For Councils consideration.

Carne/Earnshaw

That the residence at 4 Brooking Street be offered for commercial rent when repairs are completed and that the Works Supervisor again be approached to relocate to 8 Fry Street on the condition that the present residence at 4 Fry Street will be offered for sale in the near future.

**Carried 9/0
Resolution 218/06**

8.1.13 D WILSON LOTS 199 AND 200 WILLIAMS STREET

Prosecution Proceedings

File Reference: 13.34.10
Author & Date: V. Epiro 12th April 2006

Background:

I attended the Bunbury Magistrates Court on Monday April 10th in relation to Councils action against Mr Darren Wilson. Mr Wilson entered a written plea of Not Guilty, therefore the matter was adjourned to 15th May 2006 for a hearing.

Recommendation:

For Councils information.

Afternoon Tea - Council adjourned for afternoon tea at 3.05pm and resumed the meeting at 3.35pm

Works Supervisor Mark Willcocks attended the meeting at 3.35pm to discuss his report.

8.3 WORKS SUPERVISORS REPORT

Maintenance Grading

Medlen Road, Hurley Road, Dardadine Road

Private Works

Work has been ongoing on the Albany Highway passing lane and should be completed by the end of the week.

Earnshaw/Johnstone

That the Works Supervisor's Report be received.

**Carried 9/0
Resolution 219/06**

Other items discussed:

Marradong Road

Approximately 100 metre section of the bitumen needs to be excavated to repair the section that has subsided.

Munday Road

Unsure how to remedy the problem of erosion. Can experiment with a section of rock pitching or sealing and kerbing may be required.

Ram Pavilion

Waiting for Tim Medlen to arrange construction of the retaining wall before other works can be completed.

Machine Hire

Rob Batt has a contract to carry out earthworks on the Boddington Gold Mine and has asked if he could hire Council equipment to assist. Council agreed to hire equipment if it fitted in with the works program.

Stone/Cavanagh

That a hire rate of \$120.00 per hour be set for the Mercedes Prime Mover and Tri Axle trailer.

**Carried 9/0
Resolution 220/06**

Mr Willcocks left the meeting at 4.05pm

8.1 CHIEF EXECUTIVE OFFICER' S REPORT – LATE ITEMS

G Cowcher/Earnshaw

That the following late items be accepted as urgent matters for discussion.

**Carried 9/0
Resolution 221/06**

8.1.14 SOUTH-WEST CATCHMENT COUNCIL

Employment of Natural Resource Management Officer (NRMO)

File Reference: 10.51.10

Author & Date: V. Epiro 13th April 2006

Background:

The South West Catchment Council (SWCC) are proposing a new funding arrangement for the employment of a Natural Resource Management Officer (NRMO).

The new proposal by SWCC, to commence from the 1st July this year, seeks to standardise the various arrangements that exist with the employment of NRMO's across the region. In doing so it hopes to give certainty to the availability of funding, at least for two years, which has been an area of concern. Landcare Officers have left the industry when contracts have concluded due to the lack of further funding or the lack of security of employment in the longer term.

SWCC proposes to allocate \$700,000 per year across its region to support the funding of NRMO positions. If local governments agree to be involved and be the employer of the NRMO, SWCC will offer funding in accordance with a standard arrangement. That arrangement is as follows:

Offer	Cash from SWCC to NRMO salary /year	Employer provides
STAGE 1	\$16,000	In-Kind contributions such as <ul style="list-style-type: none"> • Legislative obligations to an employee • HR Administration • Workstation (computer, phone, email stationery etc) • Access to vehicle • Access to other equipment
	Up to \$8,000 (matched 1:1 to your cash	Cash to salary. SWCC will match up to \$8,000
	<i>Demand assessed by SWCC</i>	
STAGE 2	Up to \$6,000 additional cash <i>may</i> be offered depending on demand across the region.	Additional cash up to \$6,000 to match available extra subsidy.

In the proposal submitted by SWCC it has indicated that if two or more local governments choose to employ an NRMO between them, then each can claim the base \$16,000. However in order to claim the full amount both councils will have to justify the required level of in-kind support. In the situation of the NRMO, it is the Williams Shire that provided most of the in-kind support.

One factor not discussed in this funding arrangement is the ability of the NRMO to attract funding through the management of projects. Generally projects delivering funding to farmer groups for land care work will include a component for project management, which the NRMO is able to claim. However it is difficult to estimate what the amount would be and the monies would offset the contribution by the Williams Council (\$13,000). It would seem that for the ongoing employment of a NRMO to continue both the Narrogin and Williams Council would be required to make a cash commitment of \$13,000 as per the attached budget.

Recommendation:

That the Shire of Williams supports the funding offer proposed by the South West Catchment Council for the future employment of a Natural Resource Management Officer over the next two financial years subject to similar support being received from the Shire of Narrogin.

Stone/Johnstone

That the Shire of Williams supports the funding offer proposed by the South West Catchment Council for the future employment of a Natural Resource Management Officer over the next two financial years subject to suitable arrangements with the Shire of Narrogin regarding cash and in kind contributions to the scheme.

**Carried 9/0
Resolution 222/06**

8.1.15 GRAY & LEWIS

Land Use Proposals

File Reference: 14.25.26
Author & Date: V. Epiro 18th April 2006

Background:

Following the Planning Session conducted in April David Gray has now forwarded some suggested proposals for potential expansion of the town site, which are attached. A plan of the proposals will be distributed at the meeting.

Recommendation:

For Councils consideration.

Council considered a preferred concept plan for the future development of the Williams Townsite.

Cr Stone declared an interest in this item and left the meeting at 4.45pm

Cavanagh/Earnshaw

That Council instruct Planner, David Gray to prepare an amendment to Williams Town Planning Scheme No 2 to incorporate rezonings as follows:

- Areas adjacent to Williams townsite: Eddington Road – from Rural to Residential and Special Rural
- Area at junction of Albany Highway and Pinjarra Williams Road – from Rural to Residential

**Carried 8/0
Resolution 223/06**

Cr Stone returned to the meeting at 5.00pm

8.1.16 SENIOR OFFICERS

Performance Review

File Reference: 4.30.60
Author & Date: V. Epiro 18th April 2006

Background:

Attached is a copy of the Employee Performance Review form which is to be used for the review of the Chief Executive Officer, Deputy Chief Executive Officer and Works Supervisor at 10am on Wednesday 19th April 2006.

Recommendation:

For Councils information.

8.1.17 RURAL NUMBERING

Installation of Numbers

File Reference: 12.15.34
Author & Date: V. Epiro 18th April 2006

Background:

Quotations were invited for installation of the rural numbers with only one quotation being received from the Williams Football Club of \$10 per number. Following an examination of the maps provided by DPI the numbers worked out to around 230. Quotes were sought for 230 numbers plus 26 blank numbers and 250 galvanised star pickets with the quote from Sunny Signs being accepted as follows;

Rural Numbers	\$5.85
1.5m star pickets	\$4.85

The Department of Planning and Infrastructure will provide assistance for the installation of numbers which will be organised on receipt of the materials.

Recommendation:

For Council Information.

G Cowcher/Cavanagh

That the quotation of \$10.00 per number submitted by the Williams Football Club be accepted.

**Carried 9/0
Resolution 224/06**

8.1.18 COMMUNITY DEVELOPMENT OFFICER – FUNDING OPTIONS FOR THE SWIMMING POOL.

Prowse/Earnshaw

That application for funding be made to the Department of Local Government and Regional Development Community Facilities Fund, Foundations of Regional and Rural Renewal, and Lotterywest – Community Playgrounds for the following:
Shade areas, toddler fencing and play equipment and swimming pool perimeter fencing,

**Carried 9/0
Resolution 225/06**

8.1.19 MERLE BARDWELL – COMMUNITY ART ACQUISITION

Mrs Bardwell congratulates Council on their initiative to establish a Williams Art Collection.

Mrs Bardwell is also coordinating an event in September 2006 in the Tarwonga Hall entitled “Landscape and Landcare”. This is the culmination of an Envirofund landcare project completed in 2005, in conjunction with an arts project and study embarked on earlier at Edith Cowan University. To assist with funding speakers application has been made to Community Arts under the Tarwonga Sports & Recreation Association. Council support is requested by way of endorsement of the event to the funding body and a donation.

8.1.20 TOWN OF NARROGIN – REGIONAL BUILDING SERVICE CERTIFICATION AND APPROVAL SCHEME

The Town of Narrogin offers to extend the Regional Building Service in light of proposed changes to the Building Act that will allow competition in the area of building approvals. The proposed changes will also increase qualification levels for Building Surveyors. The Town of Narrogin requires a fair and reasonable commitment from Councils wishing to utilize the service.

The Chief Executive Officer advised that he had written to the Shire of Boddington to ascertain if they were willing to continue with the current scheme of sharing their Environmental Health Officer/Building Surveyor. They have since advised that because of the extra workload expected with the establishment of the gold mine and subsequent expansion of building activities they will require their EHO/Building Surveyor full time. Therefore Council will need to explore other avenues to obtain Health/Building services from 1st July 2006.

8.2 DEPUTY CHIEF EXECUTIVE OFFICER'S REPORT

8.2.1 ACCOUNTS FOR PAYMENT

Stone/Johnstone

That Municipal Fund cheques 2756 - 2774 totaling \$157,934.33 approved for payment by the Chief Executive Officer be endorsed and that Municipal Fund cheques 2775 - 2840 totaling \$143,203.57 be approved for payment subject to clarification of the price charged on cheque no. 2784 - Bird Silos.

**Carried 9/0
Resolution 226/06**

8.2.2 FINANCIAL STATEMENTS

Bowden/Earnshaw

That the financial statements presented for the period ending 31st March 2006 be received.

**Carried 9/0
Resolution 227/06**

8.4 ENVIRONMENTAL HEALTH OFFICER / BUILDING SURVEYORS REPORT

BUILDING PERMITS:

#159	W & P Gillett	5 Adam Street, Williams	Zinc Patio
#160	K & J Martin	Lot 5 Munthoola Road, Williams	Zinc Patio
#161	J Harris	Loc 6963 Bates Road, Williams	Zinc/Hardiplank transportable dwelling

8.4.1 NEW BUILDING ACT:

Summary

A proposal to introduce a New Building Act into Western Australia, inviting comments from interested parties.

Background:

The New Building Act for Western Australia

Listed below is an overview of the procedures that will be in place and the documentation that will be required by this proposed Act-

OBJECTIVES AND GUIDING PRINCIPLES UNDERLYING A NEW BUILDING ACT FOR WESTERN AUSTRALIA

Objectives-

- Establish, maintain and improve standards for the construction and maintenance of buildings.
- To facilitate the adoption and efficient application of national uniform building standards and certification of building products, construction methods, building designs, building components and building systems.
- To promote the consolidation of building legislation.
- To provide for appropriate environmental standards in building matters.
- To provide an efficient and effective system for dealing with building applications, giving approvals, enforcement of building standards, and administration of building matters and the resolution of building disputes.
- To facilitate the application of nationally uniform standards of competency and conduct in relation to certain building practitioners.
- To facilitate the cost effective construction of buildings.
- To aid the achievement of an efficient and effective building industry.
- To achieve State objectives for National Competition Policy in the building control system.

The Guiding Principles are

- Quality buildings that are cost efficient;
- Functional, safe and environmentally friendly buildings.
- Good decision making in all aspects of building.
- Efficiency and effectiveness in building management, administration and regulation
- Openness and accountability with respect to all building matters.
- Recognition of the rights and responsibilities of all parties in building matters in an equitable manner.

There is going to be a whole new framework for the approval of buildings and their maintenance.

The Regulatory Framework will be used to achieve the above objectives. The following processes will be involved in the concept, construction and maintenance of a building.

Conceptually it is based on the principles that-

1. Competent people should be engaged in the process,
2. Key competencies should be recognisable.
3. Application of a particular competency should be a matter of record.

This concept is supported by a risk-based approach where the level of supervision and regulation would be consistent with the risk. There would be three checkpoints in the building process where regulators and consumers can confirm that their requirements are being met-

1. Design approval, prior to issuing approval to build.
2. Construction approval, prior to issuing approval to occupy.
3. Continuing use, where a change of use or audit process occurs.

The following areas are where the extra checks will be implemented and thus the extra expense in the planning, construction and maintenance of all new structures will be incurred.

DESIGN APPROVAL.

The owner of the building is responsible for the building at all times. This being the case he/she would employ or commission people who had the expertise and qualifications to ensure that the following is true-

At the completion of the design the building complies with the-

1. Planning Scheme for this area and that planning approval for this structure has been given.
2. It complies with the BCA
3. It complies with the Western Australian Fire-Brigade requirements.
4. The Western Australian Water Authority approval has been given for this project to proceed.
5. That this building must demonstrate to the Licensing Authority that it meets all the relevant standards for approval.

BUILDING APPROVAL

This is not a Building License. It is only saying that this building has met the minimum requirements to be able to have a license issued by a licensing authority.

This is a service that can be used to ensure that the building will be able to have a building license issued when it is presented to the license issuing authority.

The building approval process will also be used in dealing with retrospective approvals and changes of use issues.

Once building approval has been gained, then a builder can be appointed and a building license issued to the owner for the construction of the proposed structure.

A building license then will be issued to the building owner after the builder has been identified. This will depend on the size and nature of the structure and also the qualifications of the proposed builder.

THE BUILDING LICENCE

The Building License will be issued to the Building Owner by the License Issuing Authority. This could be the Local Government, State Government or a Special Authority for specialist building types.

The Local Authority is intended to be the normal License Issuing Authority for most buildings.

It is expected that the building approval, the issue of licences and certificates and enforcement will be carried out by the local authority in which the building is located.

The License Issuing Authority must obtain advice from an appropriately qualified building surveyor that a proposed building has met all the certification and approval requirements that apply to the building. The License Issuing Authority Building Surveyor is not expected to actually check that all the compliance and approval certificates presented by the building owner are in order.

CONSTRUCTION APPROVAL

The building owner takes prima facie responsibility for the construction process, ensuring the required certification is in place. A License Issuing Authority may issue notices requiring the builder to rectify departures from approved designs or deal with dangerous aspects of the building.

Certification required by a License Issuing Authority during construction is intended to confirm that there is no deviation from the approved design and that specific technical matters are complied with.

A certificate of construction compliance signed by the builder, supported by the certificate of construction inspection issued by the appropriately registered professionals, must be provided to the License Issuing Authority as evidence that the required inspections have been carried out and the building has been constructed in accordance with the building approval and building license.

CERTIFICATE OF OCCUPANCY

The Certificate of Occupancy will confirm the building classification, the approved use, and will set out an essential maintenance and inspection regime to ensure that the building performs as expected when design approval was given.

The building owner is responsible for ensuring that the building is properly maintained.

Certificates of Occupancy are issued for a set period of time and will require regular audits to ensure that the obligations of the owner have been met and then another certificate will be issue for a designated period of time.

If the owner changes the use of the building, then a new certificate of occupancy will need to be issued.

ROLE OF LOCAL GOVERNMENT

The primary function of the local authority is to oversee the approval process for buildings in its locality to ensure public safety and a continuing high level of standard over the life of buildings. This will be done primary through:

- Risk management of the certification of compliance process;
- Checking adherence to all required statutory approvals prior to issuing building approvals, building license and occupancy approvals;
- Monitoring possible conflicts of interest and the registration status of persons providing certification services;
- Issuing building approvals, building license and occupancy approvals;
- Monitoring building usage and essential service maintenance;
- Random audits of the entire process.

WORKS REQUIRING BUILDING APPROVAL

Definitions of a Building are as follows and these will need a building license:

- A Structure attached directly to land
- A Structure excavated into land
- A Structure attached to land through water
- A Structure attached to another building or structure
- A Relocated building
- A Retaining Wall
- A Fence

Class 10a & Class 10b (Sheds, Patio, Verandah and Pools)

These structures may not require a building license to be issued but they will have to supply all the documentation to prove that the structures comply with the following-

- Western Australian Water Authority stamped plans
- Does it comply with the Planning Scheme for that location
- Does it comply with the BCA and Australian Standards for construction

THE PROCESS AND DOCUMENTATION FOR A BUILDING LICENSE

1. Approval only by Relevant License Issuing Authority acting on the advice of a suitably registered building surveyor is the only authority that can grant approval and a building license in Western Australia.
2. There will be a Standard Building Approval and License Application for the State.
3. Certificate of Design Liability. Legal responsibility for the soundness of the design of the building to the building owner. This Certificate will be presented to the license issuing authority accepting responsibility in a regime of proportionate liability for this building.
4. Certificate of Design Compliance. This states that the building complies with the Building Code of Australia and must be signed by a registered person.
5. Building approval will not be issued until all planning and other statutory approvals required for the proposed building have been issued.
6. The license issuing authority must only issue a building approval to the building owner. This can only be done when an appropriately qualified builder is secured to build this structure and all of the statutory approvals required for the proposed building are in place and the detailed documents provided conform to those approvals.
7. The building approval is to specify the Class and Use of the Building.
8. Certificate of Construction Liability. Once a builder is identified and prior to issuing of a building license, the builder will provide a signed statement that it takes full legal responsibility for the quality of construction.
9. Building License. This is issued to the owner once all of the above is in place.
10. Construction Inspections. These will be set out in the building license and the inspections will be done to confirm compliance with the approved plans. Certificate of Construction Compliance will be issued to comply with the inspections regime as set out on the building license.
11. Certificate of Occupancy. This is to be issued before the structure can be used. This can only be issued to the Owner when all of the required certificates of inspection have been supplied to confirm that this structure is in compliance with the minimum building standards.
12. Maintenance of structure. There will be a maintenance schedule for each building that will need to be followed and complied with. If this is not adhered to then there will be no ongoing certificate of occupancy issued and the building will not be able to be used.

There are many checks and balances in the proposed Act to give its officers the power to enforce it.

Registration of Building Surveyors

Building Surveyors currently provide the main service of certifying compliance with the Building Code of Australia (BCA).

Under the proposed new Act, there will be two separate functions for Building Surveyors

- 1 To confirm that the building as a whole meets the requirements of the BCA and, where appropriately skilled, certify compliance with specific aspects of the Code and
- 2 To confirm all approvals are in place, to issue building approvals, building licenses and certificates of occupancy and to enforce compliance with building regulations.

It is proposed to provide a national accreditation system in two classes, these being

- 1 level 1 being an unrestricted building surveyor able to certify compliance with the BCA for any class of building and
- 2 level 2 being a restrictive building surveyor able to certify compliance with the BCA for buildings of less than 3 stories, or less than 3000m².

Level 1 will generally be a degree level education with appropriate experience whereas level 2 will be a diploma level education.

Comment:

This proposed new Act will have important ramifications for Local Government, particularly those in rural areas and those without a large population base.

The concept is good because it puts the onus on the building owner to have all the approvals in place and will take all responsibility for the structure.

It is however an elongated approval process as more approvals are needed and the approval process can impose compulsory inspections that can be undertaken by either local government building surveyors or a privately appointed building surveyor. It will require “quoting” on the inspection process as the building owner can rightly go with a cheaper option which may not be the local government.

Perhaps the most worrying aspect for smaller rural local governments is the fact that the registration process for building surveyors will preclude almost all those EHO/BS already doing the job.

Most are like myself, who did some building components with our health courses and were automatically parachuted into the building surveyor capacity.

The proposed accreditation system will not recognise this automatically, although there is a small suggestion that there will be a process of Recognised Prior Learning (RPL), whereby we will be assessed and granted a level 2. However it has been stated that level 2 is proposed to be an advanced diploma qualification, something not readily available in WA. Certainly the degree course is not available in WA.

If there is no granting of RPL, or it is too onerous to comply, small local authorities will not be able to use the EHO as the Building Surveyor and will have to employ both.

The building license process will also extend to include the following:

- 1 Certificate of design liability
- 2 Certificate of design compliance
- 3 Certificate of construction compliance
- 4 Certificate of construction inspections
- 5 Preliminary approvals to occupy
- 6 Certificate of occupancy
- 7 Maintenance schedule after completion (commercial buildings)

This will significantly increase the workload for local government building officers, whether they be staff (if qualified) or contract.

Consultation:

There have been seminars to discuss these proposed reforms and there has been a number of agenda items circulating in local government circles regarding this issue.

Options:

Consider the proposal and make a submission if deemed warranted.

Statutory Environment:

Once gazetted Council will be required to comply with all aspects of the new Act.

Policy Implications:

N/A

Financial Implications:

This could be huge for a number of reasons. Firstly it is expected that the building process will be more expensive for the building owner. Secondly it should be more expensive for local authority for the work involved if it is not all recoverable. Lastly if those practising now are not able to do so in the future, and local government needs to contract a qualified building surveyor as well as employ an EHO, on what ever basis, it will cost money.

Economic Implications:

As above

Social Implications:

N/A

Environmental Considerations:

N/A

Strategic Implications:

Council needs to digest the ramifications of the proposed Act and comment accordingly.

Voting Requirements:

Simple Majority

Recommendation:

That Council determines whether the proposed New Building Act will have a detrimental effect on local government services and finances and responds to the Department of Housing and Works accordingly.

Cavanagh/Earnshaw

That Council determines whether the proposed New Building Act will have a detrimental effect on local government services and finances and responds to the Department of Housing and Works accordingly.

**Carried 9/0
Resolution 228/06**

8.4.2 MISCELLANEOUS PROVISIONS ACT AMENDMENTS

Background:

Building control in Western Australia is managed by the Local Government Act (the ACT) and in particular the Miscellaneous Provisions of the ACT.

Local Government is responsible for building control in its area by using the Misc Provisions and regulations created under the Misc Provisions (the Regulations).

There is an amendment to the Miscellaneous Provisions before Parliament at the moment to change some aspects of the way building control is handled.

The amendment bill provides for:

- 1 A mechanism to approve illegally constructed buildings retrospectively.
- 2 Regulating the qualifications of building surveyors.
- 3 Removing the ability of unqualified people, such as councillors, to resolve to approve a building application.
- 4 Clarifies more clearly the definition of a swimming pool.

The Department of Housing and Works, the Dept that administers building control, is seeking comments on the amendment bill.

Comment:

The amendment bill could be seen as an interim measure as there is a proposal for a new Building Act that will supersede the Misc Provisions. The new Act will have even more wide spread ramification for local government in respect to building control.

- 1 Retrospective building approval – This part is in line with what this Shire now does with respect to illegal building work. The amendment bill will provide for a “building approval certificate” to be issued for illegal building work when plans have been submitted, all relevant fees have been paid and the work complies with relevant codes.
There will be a penalty to ensure those that do the right thing are not subsidising the ones that have erected the unlawful work.
- 2 Building surveyor qualifications – Currently if a local government has over 15,000 people it needs to appoint a building surveyor with a certificate from the Municipal Building Surveyors Qualifications Committee (MBSQC). Those local governments with less people can appoint a person without any formal qualifications. In this Shires case, and most other country Shires, the task of building surveyor has fallen on the Environmental Health Officer. The amendment bill will provide for a head of power to prescribe the level of qualifications of people that can be delegated the power to issue building licences. The proposal is for a two tier accreditation. Level one will be able to practice without any limitations and must have a degree or equivalent and at least three years relevant experience. Level 2 will be restricted to three stories and 2000 m² and will need an advanced diploma or equivalent as well as two years experience. It is proposed that people that are already doing the job (such as myself) will have the opportunity to have their experience and qualifications assessed through a “recognised prior learning” (RPL).
- 3 The current act allows a local government to issue a building license, through a resolution of Council, without any involvement of a building surveyor. It is proposed that this is to cease and will only happen if a third party is consulted prior to the issue of the license. The third party may be another employee, a contractor to the local government or a person engaged by the builder. This is intended to allow a local government to appoint someone external to the local government in times of tight employment.
- 4 Delegation of Authority – This will allow a more flexible head of power to prescribe the qualifications of people that a local government may delegate to issue building licenses. The regulations will provide that a person who may receive delegated authority must be employed by or engaged on contract to the local government.
- 5 Definition of Swimming Pool – this will stiffen up the definition of a swimming pool to ensure spas are included, which will in turn ensure that the fencing requirements for pools include spas.

- 6 Increases in Penalties – The maximum and daily penalties for building without a license will be increased from \$5000 and \$200 per day to \$50,000 and \$5000 per day. In addition the penalties for allowing the unauthorised occupation of a building will be increased from \$400 and \$16 per day to \$4000 and \$160 per day.

The issue of retrospectively approving buildings is what Council is now doing so there is probably not a lot of comment required.

The issue of building surveyor qualifications may require some comment. It is most likely that I will be able to continue fulfilling both EH and Building roles in the transitional period but not necessarily when the New Building Act is proclaimed. In that instance Council will have to employ a Building Surveyor (this could be on contract) and an EHO. However the way the Misc Provisions addresses qualifications could shape how the New Building Act addresses qualifications. The proposed new building Act is likely to recognise only a level one or two building surveyor, not one that has been recognised as having RPL. This means for the Transitional period (the time between the proclamation of the Misc Provisions Amendment Bill and the proclamation of the new building Act, people like myself can continue to act in the job. The ability to continue in the job during the transitional period is restricted to operating in the local government you are presently employed with, i.e. there is no portability.

When the new Building Act is proclaimed it is expected that the Shire will need to appoint someone with either a level one or two qualification to act as building surveyor, remembering that a level 2 has some restrictions (it may be possible to gain RPL).

If Council is concerned about employing additional staff or not being able to full fill positions it should comment so.

Consultation:

There have been information sessions held to discuss this and there is a number of agenda items from other local authorities concerning the proposal.

Options:

Comment if thought appropriate on all or some of the aspects of the amendment bill.

Statutory Environment:

Local Government Act (Miscellaneous Provisions)

Financial Implications:

During the transitional period, as long as I stay in the job, there will be no financial implications. After the transitional period (i.e after the new building act comes in), if the qualifications are to be implemented as expected, there could be a financial implication as most of the states EHO/Building Surveyors will not automatically be able to operate.

Economic Implications:

As above

Strategic Implications:

It is important that Council informs the Department of Housing and Works and/or local politicians of its misgivings if it has any.

Voting Requirements:

Simple majority

Recommendation:

That Council considers the implications of the Local Government Act (Miscellaneous Provisions) Amendment Bill and makes submissions to the Department of Housing and Works and local politicians relevant to those considerations.

8.4.3 INCOMPLETE BUILDINGS

Background:

At the March meeting it was resolved to write to those owner builders who had not completed their projects within the given time frame (2 years). A letter was forwarded and their responses are attached.

Options open to a Local Government regarding length of time to build are as follows; if the building permit has expired-

1. Do nothing and let the builder/owner complete it at their own pace.
2. Write to the owner requesting that they complete it within a nominated time.
3. Serve a notice on the owner to explain why it hasn't been completed and then, depending on the response, serve a demolition order on the owner or revert back to option 1 or 2 above.

Council needs to decide whether the reasons given are valid for the non-completion of the buildings. If Council is satisfied with the reasons given there is nothing more to be done. Council can write again either agreeing with the expected time frame, encouraging them to finish earlier or just thanking them for their response.

However, if Council is dissatisfied with the response it would need to serve an order on the owners to demolish the building within a time to be specified. If this course of action is decided on and the owners do not comply Council can demolish the building and try to recover costs. If an order is served on the owner to demolish, a right of appeal needs to be given and it would be expected that the right would be exercised. The State Administration Tribunal (SAT) would then adjudicate. Once again Council needs to consider what course of action it wants to pursue.

Recommendation:

For Councils consideration.

Carne/Cavanagh

That Council thank the two people making an effort to complete their buildings and that Council looks forward to the completion of the buildings as outlined in their response and also that Council advise the owners of the straw building that an early completion is anticipated on their return from overseas.

**Carried 9/0
Resolution 229/06**

8.4.4 REQUEST TO RESIDE IN A CARAVAN

Background:

The owner of lot 118 Richmond Street has applied to reside in his caravan on the above lot (see attached letter). Regulation 11 (1) of the Caravan Parks and Camping Grounds Regulations states that a person may camp on land he or she owns, or has the owners permission, for up to 3 nights in any period of 28 consecutive days, and for any period longer than 3 days with the permission of the Local Authority. Council can therefore either agree or disagree with his request.

A lot of Local Authorities allow on site accommodation for 12-24 months while they are building. This is normally dependant on the person already having building permit in place and having sufficient facilities to ensure there are no unhealthy conditions created. In this instance the applicant has sufficient facilities in place. He does not have a building permit in force, though he states that he is engaged in the design at the moment.

Council also needs to consider the current court action it is engaged in with another land owner who is camping on land that he owns. By way of comparison the other party has not applied to live on site, has no ablution facilities and does not appear to be applying for a building permit.

Council needs to determine if it will allow the applicant to reside on site on the expectation that he will submit a building application, and in fact whether it is in the interests of the Shire to allow on site accommodation while building.

As can be seen by the previous item the term of the building process can extend greatly past the time allowed which could mean someone could reside in a caravan or shed for years whilst building.

Recommendation:

1. That Council grants approval for the applicant to live on site at lot 118 Richmond Street until June 30 2008, subject to his submitting plans for approval for a dwelling prior to 30 June 2006;
2. Should no plans be submitted for approval by 30 June 2006 the permission to live on site be rescinded;
3. Council considers formulating a policy on living on site whilst building and what conditions will be attached to that permission.

Carne/Stone

1. That Council grants approval for the applicant to live on site at lot 118 Richmond Street until June 30 2008, subject to his submitting plans for approval for a dwelling prior to 30 June 2006;
2. Should no plans be submitted for approval by 30 June 2006 the permission to live on site be rescinded;
3. Council considers formulating a policy on living on site whilst building and what conditions will be attached to that permission.

**Carried 9/0
Resolution 230/06**

Stone/Johnstone

That the Environmental Health Officer/Building Surveyor's Report be received.

**Carried 9/0
Resolution 231/06**

Electrician Ray Sherry attended the meeting at 5.30pm to explain to Council the power distribution system at the Pavilion and Ram Pavilion. He explained that to increase the overall power supply would require a substantial upgrade back to the main switch board. This could also be dependent on an increased supply from Western Power at substantial cost. Alternatively on big days generator sets could be used to augment the supply or the use of gas heaters etc could be encouraged. Mr Sherry offered to explain the power distribution to members of the Expo Committee and Stud Breeders Committee.

8.5 COUNCILLORS

8.5.1 CR G COWCHER

File Reference: Nil
Author & Date: Cr J Cowcher 9th April 2006

Background:

I have concerns with Councillors making public comment to the media criticizing other Councillors and Council decisions. This has been represented recently by Cr Gary Cowcher's article in *The Williams* issue of 20th March 2006. I believe this incident needs to be discussed further at Council level. I believe this incident undermines Council to the wider community resulting in unnecessary misgivings in Councillor's to be able to make appropriate and unbiased decisions.

Recommendation:

For Council's consideration.

Cr J Cowcher, G Cowcher and R Johnstone declared an interest in this matter and left the meeting.

Cr G Cowcher retired from the meeting at 6.30pm

Cr Stone assumed the chair and presided over the meeting.

Council discussed the report and resolved to remind Councilors of their obligations under Council's Code of Conduct

Cr J Cowcher and Johnstone returned to the meeting at 6.55pm

Cr J Cowcher assumed the chair and presided over the meeting.

8.5.2 Central Zone Conference

Cr Stone advised that Council's motion on proximity interests was unanimously carried at the Central Zone Conference held in Brookton.

8.5.3 Williams Art Committee

Cr Prowse advised that the Williams Art Committee met on 7th April 2006 at Millbrook to view the Williams Gateway Expo art prize. The Committee worked individually to view all art and then met to compare notes. The quality of art work presented was outstanding and many paintings were of interest to the Committee, however one painting stood out over all the others and the Committee agreed that painting No. 6 – "Three Grains of Rice" by Merle Bardwell be purchased from the asking price of \$600.00. A venue for the hanging of the painting has yet to be decided and the Committee and Council will be meeting as soon as possible to make that decision.

9.0 ELECTED MEMBERS MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

Nil

10.0 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

10.1 ELECTED MEMBERS

10.2 STAFF

Nil

11.0 INFORMATION SESSION

Cr Prowse advised that the Williams Lions Club and Williams Police will conduct an ANZAC service on Tuesday 25th April 2006. The ceremony will commence at 8.00am at the roundabout in Brooking Street. It will take the form of a welcome, student address, revelly, wreath laying, presentation of Volunteer Defence Corps Honor Board and a blessing by Reverend Ian McKay followed by morning tea in the RSL Hall.

12.0 MEETING CLOSURE

There being no further business for discussion the President declared the meeting closed at 7.07pm