



**Shire of Busselton**  
*Geographe Bay*

## **Council Agenda**

***28 October 2009***

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

## SHIRE OF BUSSELTON

### AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 28 OCTOBER 2009

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**SHIRE OF BUSSELTON****MEETING NOTICE AND AGENDA – 28 OCTOBER 2009**

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**TO: THE SHIRE PRESIDENT AND COUNCILLORS**

**NOTICE** is given that a meeting of the Council will be held in the Council Chambers, Administration Building, Southern Drive, Busselton on Wednesday, 28 October 2009, commencing at 5:30 pm.

Your attendance is respectfully requested.

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**MATTHEW SMITH**  
**A/CHIEF EXECUTIVE OFFICER**

13 October 2009

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## **A G E N D A**

1. **ATTENDANCE, APOLOGIES & LEAVE OF ABSENCE**

2. **OPENING PRAYER**

The Opening Prayer will be delivered by Pastor Alan George of the Abundant Life Centre.

3. **PUBLIC QUESTION TIME**

4. **SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE**

5. **APPLICATIONS FOR LEAVE OF ABSENCE**

6. **CONFIRMATION OF MINUTES**

6.1 Minutes of an Ordinary Council Meeting held on 14 October 2009.

7. **ANNOUNCEMENTS** by the Presiding Member without discussion

8. **PETITIONS AND MEMORIALS**

9. **DECLARATION OF DUE CONSIDERATION**

The Presiding Member will request Councillors to acknowledge, in accordance with Clause 8.1 of the Standing Orders, that they have given due consideration to the matters contained within the Agenda.

10. **DECLARATIONS OF INTERESTS**

11. **PRESENTATIONS BY PARTIES WITH AN INTEREST**

12. **BUSINESS FROM PREVIOUS MEETING**

### 13. LIFESTYLE DEVELOPMENT REPORT

#### 13.1 PROPOSED SCHEME AMENDMENT (ADOPTION FOR ADVERTISING) TO SCHEDULE 4 OF THE SCHEME TO INSERT ADDITIONAL USE RIGHT ('RESTAURANT'): LOT 143 EAGLE BAY ROAD, EAGLE BAY

<b>SUBJECT INDEX:</b>	Town Planning Schemes and Amendments:
<b>APPLICATION NUMBER:</b>	853/6/6/21pt150
<b>STRATEGIC INITIATIVE:</b>	2.4 Review Town Planning to reflect emerging diversity whilst retaining identity and character.
<b>BUSINESS UNIT:</b>	Strategic Planning and Sustainability
<b>SERVICE:</b>	Strategic Land Use Planning
<b>DATE OF COMPLETION:</b>	30 November 2009
<b>VOTING REQUIREMENT:</b>	Simple
<b>PROPOSAL:</b>	Proposed Scheme Amendment (adoption for advertising) to Schedule 4 of the Scheme to insert Additional Use right ('Restaurant') provision for Lot 143 Eagle Bay Road, Eagle Bay
<b>LOT SIZE:</b>	230ha
<b>ZONE:</b>	Rural
<b>POLICIES:</b>	<ol style="list-style-type: none"> <li>1. <i>Local Rural Planning Strategy 2006</i></li> <li>2. <i>WAPC SPP 6.1 - Leeuwin-Naturaliste Ridge Statement of Planning Policy</i></li> </ol>
<b>ATTACHMENT(S):</b>	<ol style="list-style-type: none"> <li>A. Location Plan</li> <li>B. Extract from Zoning Map</li> </ol>

#### PRÉCIS

This report is asking the Council to initiate an amendment to the Shire of Busselton District Town Planning Scheme No. 20 ("the Scheme") to insert an 'Additional Use' right provision for Lot 143, Eagle bay Road, Eagle Bay ('the Site')

Pursuant to the Scheme, a 'restaurant' use is normally prohibited within the Agriculture zone within which the site is located.

In this instance, the proposed restaurant use would form part of and be physically integrated into a building containing a number of other land uses previously approved for the site. It is therefore recommended that the draft Scheme amendment be initiated to allow public consultation to be undertaken.

#### PROPOSAL / BACKGROUND

##### Subject land

The subject land, 230ha in extent, is located approximately 1km south of the Eagle Bay town site and fronts onto Eagle Bay Road and Cape Naturaliste Road (see Attachment A). Eagle Bay Road provides access to the site and is an

important tourist link between Dunsborough and Eagle Bay via Cape Naturaliste Road.

The topography of the site is undulating and provides prominent views to the north due to the land descending in height from the top of the ridge line south of the subject land.

A vineyard exists in the north western portion of the site. Two temperature controlled storage sheds exists on the site and are used for wine storage purposes. The site is also being used for barley production. A number of soaks exist on the property for live stock watering.

A Development Application seeking approval for a 'Proposed Rural Industry' (Brewery), 'Winery' (Production and Cellar Door) and 'Rural Enterprise' (Sale of Beer) was approved for the site in March 2007. A subsequent application was submitted and approved in December 2008 for an extension of this approval by one year.

The locality is characterized by a range of mixed uses including the residential settlement at Eagle Bay, livestock farming, viticulture, Wise Winery and restaurant and the Eagle Bay Olives olive oil and sales outlet.

### **Proposal**

The draft Amendment proposes to introduce an 'Additional Use' right (No. 70 – 'Restaurant') provision under Schedule 4 of the Scheme for the site. The area of the site containing the additional use would be confined to a fixed location on the Scheme zoning map and set back an appropriate distance from the road. (It should be noted that the location of the additional use is based on the approved facilities on the site which was subjected to formal assessment under the relevant planning framework.)

The proponent has stated that the use would generally be contained within the recently approved cellar door sales and micro-brewery facility with some level of outdoor (deck and lawn) servicing envisaged, weather permitting. The restaurant use would generally be conducted within normal business hours of the day with the exception of some after hours functions, should and interest arise.

It is the applicant's view that a restaurant on the subject land will provide an additional tourist experience for visitors to the area and provide much needed restaurant options for residents of Eagle Bay, Dunsborough and surrounds.

It is also the applicant's view that the provision of an additional use of 'restaurant' to the subject land would compliment the existing approved uses and fall within the definition of a 'low impact tourism development', thus being acceptable development in rural locations. In this regard the applicant considers that the provisions of the Scheme (clause 23) relating to additional uses are designed to accommodate special circumstances, which in their opinion are applicable to the subject land.

The proposal, being an integrated use within the recently approved cellar door and micro-brewery facility, is considered, from an officer perspective, to have non-substantive impacts and is discussed in detail under the Officer Comment section of the report.

### **STATEMENT OF IMPACT**

The applicant has submitted the proposal for the Shire's consideration and it is therefore assumed that they consider that the proposal will have a net benefit in terms of their objectives for the land. Officers are recommending support for the proposal as currently presented and justified under the, 'Officer Comment' section of the report.

It is considered that the proposal will not have a detrimental impact on the amenity of the surrounding landowners.

### **CONSULTATION**

There is no requirement under the *Planning and Development Act 2005* to advertise a draft scheme amendment prior to it being initiated by the Council.

If the Council resolves to initiate the draft amendment, the relevant documentation would be referred to the Environmental Protection Authority (EPA) for consideration of the need for formal assessment under Part IV of the *Environmental Protection Act 1986*. Should the EPA resolve that the draft amendment does not require formal assessment it will be advertised for a period of 42 days in accordance with the *Town Planning Regulations 1967*. This will include referral to relevant government agencies for comments.

### **STATUTORY ENVIRONMENT**

The key elements of the statutory environment with respect to the proposal are set out in the *Shire of Busselton District Town Planning Scheme No. 20* ('the Scheme'), the *Planning and Development Act 2005* and the *Town Planning Regulations 1967*.

#### **Shire of Busselton District Town Planning Scheme No. 20**

The Scheme identifies the subject land as being within the 'Agriculture' zone. The far north eastern portion of the subject land is also identified as a reserve set aside for 'Recreation' purposes. The affected portion of the site is indicated on the Scheme map (see attached extract from the Scheme Map included as Attachment B).

The Zoning Table of the Scheme prohibits a restaurant use in the Agriculture zone. Clause 23 of the Scheme, however, allows for additional use rights (via an amendment to the Scheme) to the zoning table for a particular lot of which the permissible use(s) and any associated conditions or specific development standards are specified in Schedule 4 of the Scheme. Land uses specified in the Schedule can only be undertaken with the consent of the Council.

An adjustment to the Scheme zoning map will also occur to depict the 'Additional Use' area that is linked to the site in Schedule 4 of the Scheme.

Table 1 of the Scheme identifies objectives and policies for the various zones, including the Agriculture zone, the objectives and policies of which are summarised as follows -

1. Objectives of the zone include, amongst other things; "To conserve the productive potential of rural land... To enable the development of land for other purposes where it can be demonstrated... that suitable land or buildings... are not available elsewhere and that such purposes will not detrimentally affect the amenity of any existing or nearby development... To encourage low-key rural tourism associated with traditional forms of agriculture... as a contributor to the overall rural economy of the Shire."
2. Policies of the zone include, amongst other things; "To permit land included within the zone and shown... not to be prime agricultural land to be utilised for other purposes not incompatible with adjacent uses... To permit rural tourist facilities where these will not conflict or detrimentally impact on established farming pursuits and/or associated with rural activities."

The Shire should consider and give significant weight to the objectives and policies of the Agriculture zone in considering proposals for land within that zone. The proposal is considered to be consistent with the objectives and policies.

The site is also located within the Landscape Value Area and the subject of provisions contained within clause 27 of the Scheme. This designation ensures that development proposals (and change of use) do not impact on the scenic values and rural character of the locality, and aims to limit disturbance to vegetation and habitat.

The proposal is generally considered to be consistent with the objectives and policies of the zone and the statutory framework of the Scheme. A detailed discussion is presented under the Officer Comment section of the report.

#### **Planning and Development Act 2005/Town Planning Regulations 1967**

The process associated with the amending of a town planning scheme is set out in the *Planning and Development Act 2005* and the *Town Planning Regulations 1967* and may be summarised as follows –

1. The Council considers a town planning scheme amendment proposal in the context of the relevant planning framework and determines whether or not to 'initiate' an amendment - note that once an amendment is initiated it cannot be 'uninitiated';
2. The amendment is referred to the Environmental Protection Authority (EPA) for environmental impact assessment;

3. If the amendment is consistent with the relevant State Planning Policy framework, the amendment must be advertised for consultation purposes for a minimum period of 42 days (if an amendment is not consistent with the relevant State Planning Policy framework then it must first be referred to the WAPC for consent to advertise);
4. The Council must further consider the amendment in light of any submissions received and make a recommendation to the WAPC regarding the amendment;
5. The WAPC must consider the amendment and make a recommendation to the Minister for Planning;
6. The Minister must consider the amendment and, if supportive, agree to the Gazettal of the amendment; and
7. The amendment is gazetted and comes into effect. Decisions relating to the amendment process are not subject of a right of application for review to the State Administrative Tribunal.

#### **POLICY IMPLICATIONS**

The key policy implications with respect to the proposal are set out in the following policy documents –

1. *Western Australian Planning Commission Statement of Planning Policy 6.1 - Leeuwin-Naturaliste Ridge Policy; and*
2. *Shire of Busselton Local Rural Planning Strategy;*

The relevant aspects of each of the above documents are outlined below under appropriate sub-headings.

#### **Western Australian Planning Commission (WAPC) State Planning Policy 6.1 - Leeuwin-Naturaliste Ridge Statement of Planning Policy (LNRSP/SP 6.1)**

SPP 6.1 provides overall State-level guidance for the Leeuwin-Naturaliste Ridge area, as defined in the policy (i.e. essentially those parts of the Shires of Busselton and Augusta-Margaret River to the west of the Bussell Highway). As it has been adopted as a State Planning Policy pursuant to what is now Section 26 of the *Planning and Development Act 2005*, SPP 6.1 has a status, so far as discretion is being exercised pursuant to the Scheme, broadly equivalent to the provisions of the Scheme itself. SPP 6.1 also needs to be given due consideration in the development or amendment of any town planning scheme relating to the Leeuwin-Naturaliste Ridge area.

SPP 6.1 is, however, over ten years old and most of its provisions have been considered and addressed in the development of lower order planning policy documents, including those outlined below. There is, however, one aspect of SPP 6.1 of particular relevance to the current proposal -

Section 4.3.3 of SPP 6.1, which relates to 'Landscape' values and character associated with the locality, sets out in:

- \* Policy Statement 3.4 that:

In areas of Natural Landscape Significance, including where they are in Travel Route Corridors (note – the site is classed as a an area with 'Rural Landscape Significance' and Eagle Bay Road and Cape Naturaliste Road are identified as a 'Travel Route Corridor with Rural Landscape Significance'), the significant natural characteristics will be protected and provide adequate development setbacks. In these areas development will be screened from Travel Route.

- \* Policy Statement 3.4 that:

In areas of 'Rural Landscape Significance', as identified in Figure 3, development or change of use should protect the rural character of the land.

Section 3.4.4 of SPP 6.1, which relates to 'Agriculture' in the policy area, sets out the following in relation to 'Non-agricultural Use/Development' in:

- \* Policy Statement 3.4 that:

... non-agricultural use of the land will be considered where... any approval will; "... be compatible with the agricultural use of adjoining or nearby land... Maintain the long term viability of the land for agricultural use... establish and enhance the role and function of the agricultural land as a component of landscape significance... Be ancillary to agricultural production and complementary to the agricultural use.

Section 3.5.4 of SPP 6.1, which relates to 'Agriculture Protection' in the policy area, sets out in:

- \* Land Use Strategy 4.10 that:

In areas designated Agriculture and Rural Landscape, conserving productive agricultural potential and rural landscape values will be the primary criterion used in assessing ... proposed changes of land use, to ensure that these values continue to predominate.

The proposed restaurant use will be integrated into a recently approved facility, which has been assessed against all the relevant SPP 6.1 provisions. In this instance the location of the proposed use and any subsequent requests for an alternative location would be confined to the fixed location/envelope proposed on the Scheme map (see Attachment B).

The key issue relates to the proposed land use to be introduced. In this instance the proposed use is considered to be complimentary to the recently approved 'low-impact development' uses and as such considered to be generally consistent with the SPP 6.1.

### **Local Rural Planning Strategy (LRPS)**

The LRPS has been endorsed by the Shire of Busselton and the WAPC as a guide to planning and development within the rural areas of the Shire. As such, it must be given consideration and significant weight with respect to the assessment of proposals within the rural areas of the Shire.

The subject land is located within 'Precinct 7 - Naturaliste' in the LRPS. There are several aspects of the Precinct 7 'Vision', 'Objectives' and 'Land Use Allocation' that are particularly relevant to the current proposal - those aspects may be summarised as follows –

1. The Precinct Vision is to; “Retain and conserve the natural environment, landscape values and character of the area in balance with limited tourist development”;
2. The Precinct Objective is to; “To ensure that planning in the precinct is consistent with the LNRSP (SPP 6.1) and Scheme provisions.” ... and provide for the following, amongst things; “... (Economic) To support limited tourist development ... consistent with the LNRSP...”; and
3. The Land Use Allocation provides for, amongst things; “... (Desirable) Agriculture, Rural Enterprise, (Conditional) Rural Industry, (Undesirable) Commercial uses and uses of an urban or residential character.”

The proposed amendment appears to be inconsistent with the Land Use Allocation provisions of the LRSP in that commercial uses of an urban character should, in general, not be supported in the precinct. However, the introduction of a restaurant use on the basis of an additional use right where it can be demonstrated that it would serve as an ancillary and complimentary use to approved rural industries or enterprises, is considered to be consistent with the LNRSP and therefore the LRPS.

Further discussion is presented under the 'Officer Comment' section of the report. The proposal is otherwise considered to be consistent with the LRPS.

### **FINANCIAL IMPLICATIONS**

All relevant fees associated with the assessment and advertising of the draft Amendment and DGP have been calculated in accordance with the Town Planning (Local Government Planning Fees) Regulations 2000 and will be born by the proponent.

There are not considered to be any new long term direct financial implications for the Shire from adoption of the revised policy or amendment.

## STRATEGIC IMPLICATIONS

This draft amendment supports the following strategic objective and initiative –

- \* Strategic objective 'review town planning scheme to reflect emerging diversity whilst retaining identity and character' and related strategic initiative 'develop a new town planning scheme to provide for the lifestyle we cherish and protect'.

## OFFICER COMMENT

The statutory and policy framework referred to in the report is generally seeking to achieve a common set of interdependent statutory and policy objectives for this specific locality. These can be summarised as-

- \* Protecting agricultural potential and viability of the locality;
- \* Ensuring that natural elements, associated landscape values and the agricultural character of the policy area, is conserved and not compromised.
- \* Allowing for alternative non-agricultural and/or low-impact tourist uses for this locality to be considered, where it can be demonstrated that these uses are ancillary and unlikely to adversely impact on adjoining or nearby land with established agricultural pursuits.

The Zoning Table indicates that a restaurant use as an individual land use entity is prohibited in the Agriculture zone. However, an Additional Use right afforded by clause 23 of the Scheme provides for the use to be considered on a discretionary basis via a Scheme amendment request.

The key issue to consider with such a request vary on a case-by-case basis. In this instance the matter does not raise any substantive planning issues based on the fact that the proposed use would be complementary to approved uses in the Agriculture zone, which are associated with the agricultural industry of the region. Furthermore, the additional level of intensification introduced by the new use is considered to be within acceptable standards and consistent with similar agri-tourist related enterprises approved in the Shire in suitable locations.

In this instance the proposed use would be physically integrated within approved facilities and be restricted to a particular area of the site.

The level of additional traffic generated by the use would not attract any additional road maintenance or the upgrading of the existing road infrastructure. This opinion is based on the fact that the lot is serviced by a road designed to serve as the main access route to the Eagle Bay settlement.

It is recommended, given the above, that the draft amendment be initiated for consultation purposes as the proposal is considered to be consistent with the relevant planning framework.

## **CONCLUSION**

The draft amendment, by reason of its constrained location and integration with uses in an approved facility, is considered to be consistent with the provision of the Scheme, the objectives for Precinct 7 of the *Shire of Busselton Rural Strategy* and the relevant provisions of the *Leeuwin-Naturaliste Ridge Statement of Planning Policy 6.1*.

It is therefore recommended that the Council initiate the draft amendment for public consultation as outlined below.

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the officer recommendation will involve provision of advice of the Council resolution to the applicant and this will occur within fourteen working days of the resolution.

Upon receipt of the finalized scheme amendment documentation from the applicant, the documentation would be referred to the EPA for consideration and comment.

## **OFFICER RECOMMENDATION**

1. That the Council, in pursuance of Part V of the *Planning and Development Act 2005* ("Act"), adopt draft Amendment No. 150 (Amendment") to *Shire of Busselton District Town Planning Scheme No. 20* ("Scheme") for community consultation, which proposes to amend Schedule 4 of the Scheme to insert an 'Additional Use' (No. 70 – 'Restaurant') provision for Lot 143, Eagle Bay Road, Eagle Bay.
2. That as the draft Amendment is in the opinion of the Council consistent with Part V of the Act and regulations made pursuant to the Act, that upon preparation of the necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by Part V of the Act, and on receipt of a response from the EPA indicating that the draft Amendment is not subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the *Town Planning Regulations 1967*. In the event that the EPA determines that the draft Amendment is to be subject to formal environmental assessment, this assessment is to be prepared by the proponent prior to advertising of the draft Amendment.

14. **SYSTEMS AND INFORMATION REPORT**

Nil.

15. **COMMUNITY INFRASTRUCTURE REPORT**

Nil.

## 16. COMMUNITY AND ORGANISATIONAL DEVELOPMENT REPORT

### 16.1 SMALL LOCAL PROJECTS FUND 2009/10 - NOs 8 and 9

<b>SUBJECT INDEX:</b>	Sponsorship and Grant Applications
<b>STRATEGIC INITIATIVE:</b>	1.1.1 Encourage and Support Cultural Activities and Events
<b>BUSINESS UNIT:</b>	Finance
<b>SERVICE:</b>	Financial Management and Control
<b>DATE OF COMPLETION:</b>	Subject to receipt of all necessary information, funds will be provided as soon as practicable following this Council Meeting
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENT(S):</b>	Sponsorship request letter from Cody Murdoch U3A Information and Explanation Busselton Dunsborough U3A newsletter

### PRÉCIS

The following allocations of funds for expenditure from the Small Local Projects Budget allocation have been proposed. Funds are available and expenditure is permissible under the Local Government Act 1995.

No	Councillor Making Request	Amount	Recipient	Purpose for which funds will be used
8.	Cr Stubbs	\$500	Southern Rip / TAFE	"Stacks 'n' Stunts" event (to plan and run a Skate/BMX/Scooter festival as a leadership exercise) *See attachment
9.	Cr Stubbs	\$250	Busselton Dunsborough U3A	Start up assistance * See attachments

### BACKGROUND

Council's Policy No. 202/1 is applicable.

### CONSULTATION

Not applicable.

### STATUTORY ENVIRONMENT

Nil.

## POLICY IMPLICATIONS

Council's Policy No. 202/1 is applicable.

The intent of the Small Local Projects Fund is to provide the Council with the ability to facilitate small local improvements and/or assist community groups to provide facilities/services or to carry out activities that are felt to be a positive contribution to their local area or the district as a whole. It is not intended that allocations be contributed to single projects or single associations/causes, especially on a continuing basis, but that the funds be spread across a variety of purposes.

## FINANCIAL IMPLICATIONS

On 13 August 2008, the Council resolved (C0808/237) to amend Policy 202/1 to facilitate an equal portion of any monies budgeted for small local projects to be available to each Councillor.

At the time of preparation of this report, available funds for each Councillor's recommendation are listed below. It is noted that this does not include any proposals to be considered by the Council at its meeting on 14 October 2009.

<b>Councillor</b>	<b>Amount Available</b> <b>\$</b>
Cr Hartley	1,600
Cr Hastie	900
Cr Binks	2,100
Cr Stubbs	2,500
Cr Bromell	2,500
Cr Ryan	2,500
Cr Tuffin	2,500
Cr Emery	2,100
Cr Masters	2,100
Cr Underdown	2,000
Cr Clarke	1,500
Cr Hanran-Smith	1,535
Cr Reid	2,500
<b>TOTAL FUNDS REMAINING</b>	<b>26,335</b>

There are sufficient funds available within the portion allocated in the 2009/10 financial year for recommendation for disbursement by Cr Stubbs.

## STRATEGIC IMPLICATIONS

Nil.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Subject to receipt of all necessary information, funds will be provided as soon as practicable following this Council Meeting.

**OFFICER RECOMMENDATION**

That the following amounts be allocated from the Council's Small Local Projects Budget Allocation:

No	Councillor Making Request	Amount	Recipient	Purpose for which funds will be used
8.	Cr Stubbs	\$500	Southern Rip / TAFE	"Stacks 'n' Stunts" event (to plan and run a Skate/BMX/Scooter festival as a leadership exercise)
9.	Cr Stubbs	\$250	Busselton Dunsborough U3A	Start up assistance

16.2 WINDERLUP VILLAS BOUNDARY WALL RE-BUILD

<b>SUBJECT INDEX:</b>	Winderlup Villas
<b>STRATEGIC INITIATIVE:</b>	Community and Social Wellbeing Built and Physical (Infrastructure) Wellbeing
<b>BUSINESS UNIT:</b>	Community And Organisational Development
<b>SERVICE:</b>	Property Services
<b>DATE OF COMPLETION:</b>	November 2009
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENT(S):</b>	Aerial map

**PRÉCIS**

This report is a request for the Council to approve the release of funds from the community housing programme Restricted Asset Account (RAA) for payment of an unforeseen expenditure. The expenditure was not evident at the time of developing the budget for the current 2009/2010 financial year.

The expenditure is required to re-build and repair a section of damaged brick boundary wall at the Winderlup Villa Complex, on the corner of Marine Terrace and West Street in Busselton (see Attachment).

**BACKGROUND**

Winderlup Villas is part of the Shire's community housing programme, a joint venture with Homeswest to provide affordable rental housing for low income seniors. The construction of the unit complex was completed in 1991.

There are 28 rental units at Winderlup Villas and a further 14 units at Kweelam Court, located at 26 Harris Road. The 42 rental properties are tenanted by seniors over the age of 55 years who have been assessed as eligible for community housing. The housing programme is fully self supporting from income generated by rent with the surplus funds journaled to the RAA each financial year.

Following an inspection of the boundary wall on Marine Terrace, there was evidence of damage to some sections of the wall. The damaged areas were found to be caused by a combination of general weather erosion of the mortar between the bricks; and from invasive roots from shrubs and trees growing too close to the wall. Where this has occurred cracks have appeared and in some areas the pillars are unstable. The instability is also attributed to there being no metal reinforcement put in place between the walls and the pillars or into the footings when the wall was erected.

To minimise risk the damaged sections have been stabilised and the tenants advised of the issue. A structural assessment of the condition of the boundary wall was undertaken and included recommendations on the work required.

## **CONSULTATION**

Margaret River Structural Engineering provided a structural assessment of the wall including recommendations on the work to be undertaken.

Several Building contractors have been approached and provided with the report details for quoting purposes. Each contractor was provided with the same information on which to base their quotations. The latest quotation was received in September 2009.

Tenants immediately adjacent to the boundary wall at Winderlup Villas were advised in writing of the condition of the wall and the proposed action to be taken.

## **STATUTORY ENVIRONMENT**

The Shire is bound by the Joint Venture Agreement with Homeswest and the Operational Guidelines for Community Housing Section 5. Maintenance -

*The community housing organisation is responsible for the full care and maintenance of the premises, outbuildings, common property, fences gates, gardens and landscaping.*

Compliance with the Residential Tenancy Act 1987 is also applicable with reference to Clause 42 - Owner's responsibility for cleanliness and repair section (1) (c) *shall comply with all requirements in respect of buildings, health and safety under any other written law in so far as they apply to the premises.*

## **POLICY IMPLICATIONS**

To comply with the Shire's Purchasing Policy the project requires three (3) written quotations.

## **FINANCIAL IMPLICATIONS**

As at 30 June 2009 the balance of the Restricted Asset Account (RAA) for the Joint Venture Housing Programme is \$227,223.

Since 2005 an average of \$45,000 annually is deposited into the RAA as surplus funds after all income and expenditure, including capital expenditure on annual projects.

The quotations received indicate the wall rebuild is estimated to cost between \$45,000 and \$55,000.

**STRATEGIC IMPLICATIONS**

*Community and Social Well Being – Facilitate and assist in the development of quality community facilities and service.*

*Built and Physical (Infrastructure) Wellbeing – to develop and maintain the Shire's assets and built environment to maximize public benefit now and into the future.*

**OFFICER COMMENT**

Winderlup Villas was established approximately 19 years ago. During the past five (5) years the units have been systematically refurbished including re-landscaping of the common area gardens.

In the past four (4) years to 30 June 2009 the total expenditure on refurbishing and upgrading the 42 rental units is \$289,891, an average of \$72,472 per year.

During an annual inspection of the unit complex it was identified that the brick wall surrounding the perimeter (section along Marine Terrace) was unstable in some areas. It was particularly noticeable where large shrubs and trees were planted. The trees and the shrubs are now removed to ensure no further damage occurs.

As the cost to re-build the wall was an unforeseen expense the cost was not included in the current budget for 2009/2010. However there are sufficient funds in the RAA to cover the cost of the re-build. On the basis of the quotations received up to September 2009, it is anticipated to cost between \$45,000 to \$55,000.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

It is anticipated the project will be completed by December 2009.

**OFFICER RECOMMENDATION****ABSOLUTE MAJORITY REQUIRED**

That Council approve the release of funds up to a maximum of \$55,000 for the purpose of rebuilding the boundary wall at Winderlup Villa Complex, by undertaking a transfer from available funds restricted by the Shire (and held as part of its Restricted Asset Monies) for purposes specifically associated with the maintenance of the Community Housing properties.

**17. CHIEF EXECUTIVE OFFICER'S REPORT**

Nil.

**18. MOTIONS of which notice has been given****18.1 DONATION OF FEE - ERECTION OF BANNERS - QUEEN STREET**

NoM NO: 09/10: 19

*Councillor Don Hanran-Smith has given notice of his intention to move the following motion at the Council Meeting on 28 October 2009.*

**MOTION**

That the Shire donates all fees, normally raised to erect 32 banners for Queen Street, to the Geographe Bay Yacht Club Inc.

**REASONS**

The GBYC are endeavouring to lift the profile of the Geographe Bay Race Week with a major social event "Full Sail Fiesta" and will be erecting 32 new banners in Queen Street to build excitement and create a strong event presence in Busselton. Please see attachment.

**OFFICER COMMENT (Community Infrastructure Directorate)**

The fee for erection of banners, as detailed below, has been established by Shire staff who regularly perform this service and is an accurate cost for this job function to cover real costs of undertaking this service.

Shire staff are of the belief that the fee is in keeping with established Shire practice and therefore should be imposed.

The cost of \$2368 is an accurate figure as to what it would cost for the Shire staff to erect these banners.

The cost is calculated as follows:

1. The labour costs associated with erection of the banners (\$800);
2. Hiring the EWP (work platform) to erect and drop the banners (\$500);
3. Costs associated with traffic management whilst erecting the banners (\$1100).



Consequently, the variance in rates levied on individual properties within these sectors (as compared to the previous year) is primarily due to the valuations as provided by Landgate Valuation Services (that the Shire has no direct influence/control over).

With respect to the Councillor's Notice of Motion, the following matters must be noted:

- 1. In light of this year's widely varying rate increases, the CEO investigate alternative rating models that more accurately reflect the percentage rate increases set by the Council each year.*

As previously mentioned, a general valuation was undertaken in the district in 2009. Whilst UV valuations are updated each year, the GRV valuation has historically been undertaken every four years (with this last being conducted in 2005).

Cognisant of the time elapsed since the last GRV valuation, it is reasonable to accept that valuations have, in many cases, changed considerably from those previously provided. This matter was discussed in a letter from Landgate Valuation Services dated 09 June 2009 (of which a copy was provided to all Elected Members) wherein general increases by locality were provided. To offset the higher valuation figures, it must be noted that all general and differential rates were reduced in 2009/10. However, due to the fact that the Shire was required to rate properties based on newly provided valuations, it was known, and was communicated to the Council, that the percentage increase in rates levied against individual properties would be highly dependant upon the newly provided valuation.

Notwithstanding the above, the GRV's now assigned to individual properties will not be amended for a further 3 years, (unless improvements are made to the property that necessitates a revaluation to be undertaken or the frequency of the GRV valuation is amended). Consequently, the rates in the dollar adopted by the Council will be the determining factor in respect of individual rate increases in the GRV sector. For example, if the Council determines to increase the GRV general and differential rates in the dollar by 3.5%, then this will essentially reflect a 3.5% increase in rates levied on individual properties (exclusive of associated charges – e.g. refuse & ESL).

With respect to the UV sector, Landgate Valuation Services provides updated valuations on an annual basis. Whilst this information is not generally available until May in each year, due to the regularity of the revaluations, significant changes in valuations on a yearly basis are uncommon.

In summary of the above, it is not considered appropriate that point 1 of the Notice of Motion is required. In respect of the GRV sector (and excepting amended valuations due to owner initiated activities), the rates in the dollar set by the Council will be directly reflected in the rates levied against individual GRV properties for the next 3 years (thus satisfying the intent of that component of the Notice of Motion). Whilst the UV sector will be revalued later this financial year, it

is not anticipated that valuations will change significantly enough to warrant any specific actions to be taken in advance of the valuation data.

2. *That the models be presented to the Council at the first Council Meeting in February 2010.*

As stated above, it is considered that the intent of this Notice of Motion will be indirectly satisfied as a result of the frequency of the general valuation (and particularly the GRV valuation). However, should the Council determine to endorse this Notice of Motion, the Council would need to provide staff with guidance as to the form and manner of any 'alternative rating models' that are different from the methodology currently endorsed.

In addition to the above, and whilst it is certainly intended that a number of rating matters are proposed to be presented to the Council as part of the 2010/11 budget development (including rates modelling scenarios), current resourcing matters and other priorities will not allow the proposed timeframe of the first meeting in February 2010 to be achieved.

**18.3 BUSSELTON'S 175TH ANNIVERSARY MEMORIAL**

NoM NO: 09/10: 21

*Councillor David Reid has given notice of his intention to move the following motion at the 28 October 2009 meeting of Council.*

*Note: Cr Reid provided this notice of motion on the basis that he will move it if he is successfully re-elected at the 17 October election.*

**MOTION**

1. That the Council, the Community and the Shire of Busselton mark the 175<sup>th</sup> anniversary of the beginning of settlement in Busselton by the Bussell family with a memorial to John Garrett Bussell, recognised Bussell family leader who commenced settlement in Busselton on 14 April 1834.
2.
  - a. That the memorial take the form of a statue, bust or other appropriate options.
  - b. The CEO obtain costs in respect to the above and report to Council on or before the December Council meeting.
3. That the community, the Family History Group, tourist industry, Bussell family, BaDRA and the foreshore committee be invited to forward suggestions on the possible options such a memorial may take and also the location of the same.

**REASONS**

Busselton carries the Bussell family name. It is suggested that now it is the right time to publicly recognise and honour the contribution made by our earliest pioneers. The Bussell family led by John Garrett Bussell strived with great energy and persistence, against great adversity to build a home, establish a farm, build a church, a port and assisted in establishing a community in Busselton.

John Bussell was appointed to represent the region in WA's first governing Parliamentary body. He was highly educated, religious, a JP, a spokesperson for the family and a natural leader. Recognition of him in such a way would act as a focus of pride and endeavour for all residents of the Shire and enhance the enjoyment of tourists and visitors to our town (a deferment of 25 years could see many current family members with connections to the early days no longer with us).

**OFFICER COMMENT (Lifestyle Development Directorate)**

Development of public art initiatives should have regard for broad consultation and context in order to be embraced by the community, as they exist in shared spaces. Similarly, milestone years can bring communities together through shared planning and development of programs by stakeholder groups.

The Cultural Plan recommends that *'times and places for the coming together of indigenous history and migrant histories and culture need to become regular customs.'* The intent of this was the desire by participants of the consultation to provide a broad and inclusive view of Busselton's history, customs and development as opposed to a focus on single events or people. There is potential for acknowledgment of pioneering families to be incorporated in a wide range of interpretive programs and projects, which should also include acknowledgment of indigenous history.

Industry practice for the commissioning of public art requires that a brief, indicating such considerations as description and scale of the works, site identification, installation and themes, be developed in order for artists to provide submissions. Preparation of such and advertising, and also the consultation required on location and other forms of commemoration etc would preclude reporting the outcome to the December meeting. In terms of those components that can be undertaken immediately Officers have sought preliminary advice on a price range for Item 2a which indicates a scale between \$40,000 for a bust and \$120,000 for a statue. These prices are not inclusive of installation requirements such as plinths and plaques.

Given that there is no funding allocated for such a project in the current budget and that it is not a project specifically included in the corporate plan it is recommended that if the concept is supported the matter be deferred for consideration by the Council in the preparation of the next budget and corporate plan so that necessary funds and resources can be allocated.

**OFFICER COMMENT (Community & Organisational Development Directorate)**

There is no question the contribution the Bussells have made to Busselton, in particular that of John Garrett Bussell, should be recognised. However, settlement of the town may not be celebrated by all sectors of the community, in particular the Aboriginal community. The question therefore is how recognition of John Garrett Bussell can be achieved within the context of other history of the Shire.

A local historian and community member, Rob Breeden, is proposing a tourism/history centre within interactive installations documenting the history and development of the Shire and the region. This could be an appropriate project to incorporate recognition of John Garrett Bussell in conjunction with Aboriginal history of the area.

Similarly there are plans for a Local Studies collection display area as part of a rebuilt Busselton Library and Community Resource Centre. Such a facility could also provide an appropriate contextual means of interpretation of this part of our history.

Further investigation may identify other means of providing recognition. These options should be investigated prior to commitment by the Council of resources towards one particular interpretation mechanism.

19. **CONFIDENTIAL REPORTS**

Nil.

20. **NOTICES OF MOTION** proposed for consideration at a future Meeting

21. **QUESTIONS FROM MEMBERS WITHOUT NOTICE**

22. **NEXT MEETING**

Wednesday, 11 November 2009, commencing at 5.30pm.

23. **CLOSURE**

