



**Shire of Busselton**  
*Geographe Bay*

## **Council Agenda**

*25 February 2009*

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

## SHIRE OF BUSSELTON

### AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 25 FEBRUARY 2009

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**SHIRE OF BUSSELTON**

**MEETING NOTICE AND AGENDA – 25 FEBRUARY 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, 25 February 2009, commencing at 5:30 pm.

Your attendance is respectfully requested.

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**MATTHEW SMITH**  
**(FOR) CHIEF EXECUTIVE OFFICER**

10 February 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 Noel Kara of the Down South Gospel Church.

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 Meeting of the Council held on 11 February 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 LOCAL SETTLEMENT PLANNING STRATEGY: CONSULTATION STRATEGY - COMMUNICATION PROGRAMME**

<b>FILE No:</b>	PSC61
<b>PROPOSAL:</b>	Endorsement of Local Settlement Planning Strategy - Communication Programme
<b>WARD:</b>	Shire wide
<b>LOT SIZE:</b>	N/A
<b>ZONE:</b>	N/A
<b>RELEVANT STRATEGIES AND POLICIES:</b>	Scheme Review Communications Strategy 2007 Shire of Busselton Strategic Plan 2006/2011 Shire of Busselton Corporate Plan Shire of Busselton Stakeholder Management and Relationships Strategy (March 2007) Communications Framework 2007

**PRÉCIS**

The Shire commenced preparation of a Local Settlement Planning Strategy (LSPS) to provide a long term strategic planning framework of 30 years to 2038 for future settlement patterns and growth of the Shire. A Consultation Strategy has been prepared as part of the LSPS project. The consultation programme contained in the Consultation Strategy is consistent with the guidance provided in the Scheme Review Communications Strategy 2007. A full copy of the LSPS Consultation Strategy is available on the Shire web site and the Councillors' portal, and Council endorsement is sought on the Communication Programme.

The purpose of the Consultation Strategy is to provide certainty to all stakeholders that views will be sought at various stages of the process as outlined, and with the goal to finalise the LSPS in a timely manner. The effective implementation of this Communication Programme will avoid confusion of roles and the risk of delays to the project because stakeholders feel they have been inadequately consulted with.

**BACKGROUND****Scheme Review Process**

The Shire of Busselton is undertaking a strategic planning process to develop comprehensive strategic land use planning outcomes to inform a review of District Town Planning Scheme No. 20. The Shire is making significant progress in this regard and is developing a series of strategies to form the basis of its Local Planning Strategy (LPS) as required by the Planning Regulations. These include:

- \* Scheme Review Communications Strategy (adopted by the Council in 2007)
- \* Local Rural Planning Strategy (endorsed by WAPC in 2008)
- \* Local Tourism Planning Strategy (underway)

- \* Local Commercial Planning Strategy (underway)
- \* Local Environmental Planning Strategy (underway)
- \* Local Settlement Planning Strategy including Housing, Transport and Infrastructure (commenced)
- \* Local Cultural/Heritage Planning Strategy (commenced)

These strategies will form the basis of the Shire's LPS. This is the most intensive phase of the Scheme Review process. The LPS will make recommendations which will have significant influence on the land use planning outcomes and lifestyle that will be available to the Shire community into the future pursuant to the Shire's Strategic Plan 2006-11, the LPS will plan for a long term population of up to 75,000 persons in the Shire. Each of these strategies has or will involve consultation with stakeholders during preparation and formal consultation as draft documents.

### **Scheme Review Communications Strategy**

The Shire of Busselton recognises the importance of effective communication. The Shire endorsed a *Communications Framework 2007* that outlines its strategic objective to "*create harmony and unity within the community through open communication, participation and accurate representation*". The Shire recognises that involving stakeholders, the community and industry in its strategic planning processes is about exchanging information, ideas and views between planners and stakeholders and the community on planning issues as well as compliance with the statutory requirements for consultation. It should lead to a climate of understanding of the basis for proposals, and maintain trust and integrity throughout the planning process.

The *Scheme Review Communications Strategy 2007* (SRCS) outlines the combination of consultation methods, messages and approaches to (1) consult and inform stakeholders, the community and industry about the Scheme Review project, (2) allow for their input and build community engagement in both the process and its outcomes. This is consistent with the Shire's *Strategic Plan 2006-2011*, *Communications Framework 2007* and State Government's statutory requirements.

### **Local Settlement Planning Strategy**

A Local Settlement Planning Strategy (LSPS) is being prepared as part of the Scheme Review process to provide a long term strategic planning framework of 30 years to 2038 for future settlement patterns and growth in the Shire.

Consultants, Landinsights, were appointed in December 2008 to prepare the LSPS. An expanded consultation programme was required as part of the contract finalisation. The consultation programme is required to reflect the Shire's Communications Strategy and to increase engagement with the community, including workshops as part of the Busselton and Dunsborough Growth Strategies and Consolidated Settlement Planning Strategy.

The programme is also consistent with the Scheme Review Communications Strategy (SRCS) adopted by the Council in November 2007. The SRCS was prepared to guide the process of community involvement in the preparation of the new Local Planning Strategy and Local Planning Scheme.

The strategy process is summarised to include the following components:

#### Background/Technical

- \* Data collection and analysis
- \* Review existing strategic, statutory and policy requirement
- \* Identify constraints, issues, opportunities, planning principles, vision and objectives

#### Analysis

- \* Strategic Vision
- \* Housing Strategy
- \* Infrastructure Strategy
- \* Transport Strategy
- \* Consolidated Settlement Planning Strategy
- \* Growth Strategy for Busselton and Dunsborough

#### Recommendation

- \* Final Strategy – Consolidated Strategy

### **PROPOSAL**

#### **LSPS Consultation Strategy**

The Communication Programme prepared for the LSPS Consultation Strategy has been prepared as a working document to provide guidance through the process on:

- \* communication methods;
- \* consultation timeframes;
- \* protocols and developing recommendations/conclusions;
- \* feeding this back to the community.

The Communication Programme is to assist the project, to provide certainty to all stakeholders that views will be sought at various stages of the process as outlined, and with the goal to finalise the LSPS in a timely manner. The effective implementation of this Communication Programme will avoid confusion of roles and the risk of delays to the project because stakeholders feel they have been inadequately consulted with.

Consultation will consist of the following:

- \* **Visioning** – to be undertaken incrementally with community groups/focus groups, target groups and working groups. Build on visioning undertaken to date as part of strategy development component of Scheme Review process and the vision set out in the Shire's Strategic Plan (it should be noted, however, that the Scheme Review process has a longer time horizon than does the Strategic Plan). Community Reference Group to provide input and review. On-line forum to reach broader community. Possible visioning workshop with high school students.
- \* **Building Awareness** – building awareness of the planning process will be undertaken through use of an on-line forum for discussion, Council for the Community page and the Shires website. This will provide information and ongoing updates to the broader community.
- \* **Community Representative Group** (Community Reference Group) (refer comments below). To provide input to the consolidation of LSPS and as a precursor to providing community input into the local planning strategy and scheme review.
- \* **The Council** – has the role of primary decision-maker in the process. Important that the Council is informed of the processes, issues, outcomes through the process. Individual councillors may elect to be involved in focus group meetings or workshops depending on their area of interest.
- \* **Shire Officers** - Officers should be involved in the preliminary phase of each project stage and have the opportunity to provide input and involvement in plan preparation.
- \* **Technical Advisory Group** – technical stakeholder's role is of high value and influence on the process and a significant reporting role to decision-makers.
- \* **Community stakeholders** - begin with meetings/contact with community focus groups, until the community representative group, and targeted groups have been formed.
- \* **Community focus groups** - The core 'community focus groups' include:
  - Bush Fires Management Committee
  - Heritage Advisory Committee
  - Dunsborough Townscape Advisory Committee
  - Busselton 2020
  - Cultural Partners Reference Group
  - Dunsborough Progress Association
  - Environment Reference Group
  - Chambers of Commerce and Industry
  - Access and Inclusion Committee
  - Leisure Services Committee

Through the visioning/values review at the commencement of LSPS, it is recommended that along with the broader stakeholder information newsletters and media release, that each of these nominated focus groups be specifically addressed through meetings seeking feedback using inform/education, gather/view methods.

- \* **Targeted groups** – it is recommended the ‘place based’ components of developing the LSPS, particularly in preparing the Growth Strategy for Busselton and Dunsborough that specific groups are formed to be part of the plan preparation process e.g. Busselton Growth Focus Group, Dunsborough Growth Focus Group, Settlement Focus Group(s) (rural and coastal settlements).
- \* **Developing key messages** is an important component of managing potential risk in delivering the strategy objectives successfully. At each stage it is important that the messages are developed to ensure information being distributed to the community is consistent, and also is an important step for project managers to review the process and the purpose for consultation, and expected feedback at each stage. This will ensure that mixed messages, confusion, and irrelevant feedback are kept to a minimum, and does not slow down or hinder clarity of the process.

The emphasis of the proposed communications programme is for the preparation of the three component strategies of the LSPS (i.e. housing, infrastructure and transport). The consultation programme for each strategy is to address recognised stakeholder groups and include:

- \* Technical groups
- \* Community groups
- \* Broad community
- \* Targeted interest groups

In addition it is recommended that the following guidelines apply:

- \* Request members from the broad technical group and Scheme Review process group to provide technical input up front;
- \* Review Issues papers and planning needs for places with established “community focus groups”;

#### Community Representative Group

A community representative group (CRG) is to be formed to consolidate consultation efforts in latter stages of preparing the Local Planning Strategy. In adopting the SRCS in 2007, Council endorsed the establishment of a Scheme Review community representative group to have input to the final Local Planning Strategy with final membership to be determined by the Council.

As the LSPS is one of the final strategies to be prepared it is now proposed to establish the CRG as a precursor to providing community input the LSPS and scheme review. The suggested representation was outlined in the SRCS endorsed by the Council in 2007. Representation of the CRG has been refined and criteria for selection included below. As outlined above, the Council's endorsement of the CRG membership will be required.

The CRG is intended to operate for a time frame of approximately 12 to 18 months from early 2009 to late 2010. It may be asked to reconvene towards the final approval stages of the Scheme Review to obtain feedback on the decision-making process.

Nominations will be called for members to join a CRG, to work with Shire staff, a facilitator and appointed planning consultants of the Local Settlement Planning Strategy and other sector based strategies to provide input to the development of the LPS. The group will be a broad based issues group and the aim is to cover broad range of sectors of the community. A total of approximately 15 representative(s) will be sought generally from the following:

- Youth
- Indigenous
- Environment
- Surfer/Recreational Fisherman
- Cultural interest
- Sporting interest
- Commercial business
- Farm business
- Tourism Operator
- Local industry representative
- Busselton locality
- Dunsborough locality
- Rural

In regard to youth the Shires Public Relations Officer and Scheme Review Project Manager will meet with High School and possibly TAFE representatives to encourage them to be part of the LSPS. Options for how this may occur will be explored.

Expressions of interest for the CRG will be called in February 2009 with membership then being confirmed by the Council.

#### **STATEMENT OF IMPACT**

There are not considered to be any adverse impacts to the Shire or community from the endorsement of the Communication Programme. The Programme will guide the process of community involvement in the preparation of the new LSPS and Scheme. It proposes a framework for effective community consultation that will: promote and build awareness of the planning process; identify community values and attitudes to key planning issues; test these are effectively represented in the process and ensure transparency and accountability of the outcomes.

## CONSULTATION

Internal liaison has occurred on the strategy to ensure it can be integrated with and become a part of the overall Shire approach to communication with the community. In communication terms the LSPS process will be a key element in the promotion of a future vision for the Shire.

## FINANCIAL IMPLICATIONS

The budgetary requirements to support Shire officers in undertaking the Consultation Strategy recommendations are incorporated in the LSPS budget.

The communications programme has been prepared in keeping with resources available to ensure effective implementation. Human resources to implement the strategy include the project working group which primarily includes appointed consultants and shire officers. The Communication Programme prepared provides a realistic approach in view of budgets, officer time and project timeframes. All these factors are critical in considering the approach, and successful project management. Section 6.0 of the SRCS identifies that the key risks to the process relate to timeframes not being met, and issues not being adequately addressed. The Communication Programme proposed seeks to provide realistic timeframes, and forums to address key issues. There is always scope to provide additional methods, or target additional groups that have not been identified if the need arises. However, these methods will need to respond to budget and resources available

There is scope in the current financial year Scheme review budget to implement the aspects of the Consultation Strategy recommendations proposed to occur this financial year.

## STRATEGIC IMPLICATIONS

The LSPS Consultation Strategy and Scheme Review process supports the intent of the *Shire's Strategic Plan 2006-2011*, and is guided by its vision, principles and strategic priorities. The Guiding principles of Leadership, Partnership, Community Matters and Integrity underpin the Strategy, and its recommendations. The strategic priorities and initiatives of the Shire will guide the key messages presented to the community throughout this process, these priorities are:

### *Strategic Priorities*

- \* We will be truthful, honest and available to listen to our community to ensure we have an informed decision making process.
- \* We will protect our environment by managing and proactively planning safe and healthy facilities for this generation and future generations.

- \* We will have a vision for the Shire that reflects our lifestyle and ever changing demographics through education and consultation with the community on projects that will be of great benefit to all

#### *Strategic Initiatives*

- \* Ensure that the Town planning Scheme allows for sufficient densities of development within the identified population nodes to cater for a design population level of 75,000 (thus guiding the next 30 years of development/population growth).
- \* Support development that is contained in identified nodes with defined hard edged boundaries.
- \* Develop a new Town Planning Scheme to provide for the lifestyle we cherish and protect.

The Shire of Busselton *Stakeholder Management and Relationships Strategy (March 2007)* addresses the value of stakeholders and effective communication between stakeholders in achieving the Shire's goals. Protocols in managing administrative tasks are clearly established and provide the necessary basis and channels for implementing the LSPS Consultation Strategy.

The Communication Programme will play an important role in guiding the process of development of the Scheme Review.

As part of the consultation, the LSPS and broader scheme review process will be presented as a component of implementing the Shire's overarching Strategic Plan. In addition, whilst not a specific objective, the LSPS consultation is likely to raise issues and provide information that will assist in the next review of the Shire's Strategic Plan.

#### **STATUTORY ENVIRONMENT**

This Communication Programme provides for and extends beyond the statutory consultation requirements of the Scheme Review with the intention of developing a planning framework that best reflects the community views and reduces the risk to the process. The statutory advertising process will commence with the finalisation of the LPS.

#### **POLICY IMPLICATIONS**

There are approximately 50 existing or proposed local town planning policies that are subject to a current review/development programme. Each policy is to be dealt with in accordance with Clause 103 of the Shire of Busselton District Planning Scheme.

Review of a number of the policies will be incorporated in the Local Planning Strategy preparation process. Reviewing the implementation issues with current policies will help to identify issues to focus on, in strategy preparation.

There are no specific Shire policies that affect the undertaking of the LPS consultation process.

### **SUMMARY**

The Strategy will guide the process of community involvement in the preparation of the new LSPS. It provides a framework for effective community consultation that will: promote and build awareness of the planning process; identify community values and attitudes to key planning issues; test these are effectively represented in the process and ensure transparency and accountability of the outcomes. The preparation of the LPS is a significant project providing for the accommodation of a future population of up to 75,000 people, and as such, warrants a specific consultation strategy. The Communication Programme has been prepared in keeping with resources available to ensure effective implementation

The Strategy will be used as a leadership document for the Project Manager, Shire Staff, core technical stakeholders and Shire appointed consultants to facilitate effective communication and consultation for the LSPS.

Implementing the Communication Programme effectively will reduce the risk of failing to achieve the desired strategy objectives.

### **OFFICER COMMENT**

It is recommended the Council endorse the Shire of Busselton LSPS Communication Programme. The programme will be implemented as guidance for the LSPS process and will be available on the Shire website for viewing.

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

During 2009-2010, while the LSPS is under preparation.

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

That the Council endorse the Shire of Busselton Local Settlement Planning Strategy Communication Programme for implementation as presented below to be guided by the Council's endorsed strategic priorities and initiatives:

### Communication Programme

Priorities - Timeframes for action (preparation)	Action / Recommendations
MANEX to endorse Communication Framework recommendations, for circulation to key stakeholders and broader community consultation. (January 2009)	Brief MANEX on the key recommendations of the strategy, and seek support for the strategy recommendations.
Establish Technical Advisory Group (February 2009)	<ol style="list-style-type: none"> <li>1. Write to all technical stakeholders listed on Page 16 if the SCRS to advise. Advise of process, and request information. Provide a copy of Communication Framework confirm, key agency support to Shire officers in preparation of the strategy.</li> <li>2. Separate letter to agencies listed in section 5.2.1 of Communication Programme requesting involvement on TAG at two meetings, informal meetings with consultant, provide feedback on papers at other times and participation in growth strategy workshops – Prepare terms of reference.</li> </ol>
Plan initial consultation (January 2009) Commence initial consultation (February 2009)	<ol style="list-style-type: none"> <li>1. Identify programme of community focus groups meetings and request item on agenda of next meeting. Where meetings aren't held, request a special meeting, or report to be referred to the group.</li> <li>2. Request item on agenda at other workshops as described in section 5.2.21.</li> <li>3. Prepare key messages – based mainly on key process messages.</li> <li>4. Prepare visioning/values lists and submission form for feedback.</li> <li>5. Confirm Terms of Reference of Community Representative Group/ process of establishment.</li> <li>6. Prepare newsletter/media statement. Newsletters to be available at libraries,</li> </ol>

Priorities - Timeframes for action (preparation)	Action / Recommendations
	<p>Shire offices, and distributed to sport centres/cafe's etc. Detail mailing list.</p> <p>7. Reports for agendas</p> <p>8. Ensure that consultation occur during February 2009 to tie in with other workshops planned with other strategies as described in the Communication Programme.</p> <p>9. Media release website and newsletters to be circulating prior to Community Focus group meetings.</p>
Opportunities/Constraints/Visioning (March 2009)	<p>1. Visit/discuss issues with Technical Stakeholders – individual</p> <p>2. Develop key messages</p> <p>3. Plan second round of Community focus group meetings/reports (date to be confirmed at previous meetings)</p> <p>4. Review nominations for Community Representative Group and establish Group</p> <p>5. Ensure above is ready to be implemented in March 2009 and as described in the Communication Programme.</p> <p>6. Prepare inaugural meeting for Community Representative Group and visioning workshop to be held in April 2009.</p>
Housing/Infrastructure and Transport Strategies (May 2009)	<p>1. Develop key messages for each strategy.</p> <p>2. Confirm Terms of reference of Target focus groups for the Growth Strategy. Confirm memberships, and process of establishing the group</p> <p>3. Carry out process as described in the Communication Programme.</p>
Growth Strategy (July 2009)	<p>1. Organise the workshops</p> <p>2. Invite Target focus group members</p> <p>3. Develop key messages for both strategies</p>

Priorities - Timeframes for action (preparation)	Action / Recommendations
	4. Carry out process as described in the Communication Programme during July 2009
Consolidated Strategy (August 2009)	<ol style="list-style-type: none"> <li>1. Develop Key Messages</li> <li>2. Review and confirm role of the Coastal Settlements Focus Groups</li> <li>3. Ensure meetings and the process described in Communication Programme are implemented in August 2009.</li> </ol>
Final Strategy (December 2009)	<ol style="list-style-type: none"> <li>1. Prepare a consultation mailing list.</li> <li>2. Key Messages</li> <li>3. Prepare Newsletter and Submission form to be mailed out</li> <li>4. Community Focus and Target Groups to be advised however meetings are not necessary.</li> <li>5. Carry out process as outline in Communication Programme to be implemented in September 2009.</li> </ol>

13.2 DRAFT TOWN PLANNING SCHEME AMENDMENT NO. 134 & DEVELOPMENT GUIDE PLAN - LOC. 4367 NUTTMAN ROAD, CHAPMAN HILL (CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL)

<b>FILE NO:</b>	6718AMD
<b>PROPOSAL:</b>	Rezoning Loc. 4367 Nuttman Road, Chapman Hill from 'Agriculture' to 'Bushland Protection', and Development Guide Plan - Consideration for Adoption for Final Approval
<b>LOT SIZE</b>	87.5765 ha
<b>ZONE:</b>	Agriculture
<b>POLICIES:</b>	Local Rural Planning Strategy Biodiversity Incentive Strategy for Private Land in the Busselton Shire Shire of Busselton Municipal Heritage Inventory Planning for Bushfire Protection
<b>ATTACHMENT(S)</b>	A - Location Plan B - Aerial Photograph C - Draft Development Guide Plan D - Draft Fire Management Plan E - Schedule of Submissions

### PRÉCIS

On 23 July 2008, the Council resolved (C0807/212) to initiate Amendment 134 to the Shire of Busselton District Town Planning Scheme No. 20 (the Scheme) to rezone Location 4367 Nuttman Road, Chapman Hill (the subject land) from 'Agriculture' to 'Bushland Protection'. A draft Development Guide Plan (DGP) was also adopted for community consultation, proposing four bushland protection lots.

The rezoning will facilitate subdivision of the subject land in accordance with the *Biodiversity Incentive Strategy for Private Land in the Busselton Shire* (BIS) and policies of the 'Bushland Protection' zone. In conjunction with a conservation covenant this will achieve the long term protection of the biodiversity values of the site.

The Amendment and draft DGP were advertised for 42 days. The Environmental Protection Authority, Department for Planning and Infrastructure (Resource Protection and Management) and GeoCatch recommended that the building envelope on proposed Lot 2 be relocated to avoid remnant vegetation and the need for clearing to implement fire protection measures. A site inspection with officers from the Department of Environment and Conservation confirmed that the location of the building envelope would not require clearing of remnant vegetation to implement fire protection measures.

Three objections were received from nearby landowners, raising concerns regarding bushfire protection, weed and pest control, potential land use conflicts and access.

An objection was received from the Department of Industry and Resources (DoIR) on the basis that a portion of the subject land is located within 1000m of a Strategic Mineral Resource Protection Area and approximately 1500m north of the Whicher Range gas field and that the covenant may sterilise Crown minerals and petroleum. Given the conservation values of the bushland, the draft Amendment, DGP and conservation covenant are still supported.

It is recommended that the Council adopt Amendment No. 134 and the associated DGP for final approval, subject to minor modifications to the DGP to address minor issues raised during the advertising period.

## **PROPOSAL / BACKGROUND**

### **Background**

10 MARCH 1999

Planning consent was granted for the establishment of a tree plantation under Town Planning Scheme No.5 comprising 21 ha of Tasmanian Blue gums on existing cleared areas on the subject land. This planning consent did not encompass harvesting of the plantation which will require a separate planning consent.

7 SEPTEMBER 1999

The Shire of Busselton District Town Planning Scheme No. 20 was published in the Government Gazette zoning the subject land 'Agriculture' on the Scheme Map.

12 AUGUST 2003

Amendment No. 42 was published in the Government Gazette, introducing the 'Bushland Protection' zone and the specific subdivision and development requirements for this zone as outlined under clause 90 of the Scheme. This provided for the implementation of the BIS.

13 AUGUST 2007

An application to subdivide the subject land into two agricultural lots (47.11 ha and 40.47 ha) was refused by the Western Australian Planning Commission (WAPC). The key reason for refusal was that the proposal did not comply with the policies and objectives of the 'Agriculture' zone which allow for subdivision into 40 ha lots only where 'environmental conditions allow'. It was noted that the large amount of remnant vegetation on the land reduces the amount of land available for agricultural production and the proposed subdivision would require the removal of significant areas of remnant vegetation to allow for agricultural pursuits to be undertaken. The WAPC determined that approval of the subdivision would create an undesirable precedent for further subdivision of other lots in the Shire of Busselton where it cannot be demonstrated that proposed lots are physically capable of supporting sustainable agricultural use.

## Subject Land

Location 4367 Nuttman Road, Chapman Hill is 87.5765 ha in area and has frontage to Nuttman Road to the east and Chapman Hill Road to the west. Nuttman Road and Chapman Hill Road both have sealed carriageways. A gravel crossover from each of these roads provides access to the subject land. There are no dwellings or major structures on the subject land.

The site contains approximately 45 ha of remnant vegetation and 21 ha of Tasmanian Bluegums located in the eastern and western areas. The Tasmanian Bluegums were planted in 1999. Approximately 8ha of land is cleared in three distinct areas, two on the northern boundary and another on the south eastern boundary.

Approximately 90% of the remnant vegetation is comprised of Jarrah-Marri-*Allocasuarina fraseriana* open forest. Approximately 10% of the remnant vegetation is Jarrah-*Corymbia haematoxylon* woodland. No Declared Rare Flora (DRF) were identified, but one priority species, *Stylidium barleii* F. Muell., is distributed at the eastern end of the property. Approximately two thirds of the remnant vegetation is in 'degraded' or 'good' condition and about a third is in 'very good' condition.

The surrounding land is zoned 'Agriculture', is predominately cleared and is utilised for various forms of agriculture. To the north of the subject land lies Lot 4012 Nuttman Road, which contains significant remnant vegetation and is currently the subject of draft Scheme Amendment No. 113 to rezone the lot from 'Agriculture' to 'Conservation' in recognition of these values.

The 'Chapman Hill Communication Station' is listed in the Shire's Municipal Heritage Inventory (management category 5) and is identified on the subject land. This consists of remnant stone footings, a survey datum and timber fragments and the location of these has been identified on the draft DGP.

## Proposal

The proposal is to rezone the whole of the subject land from 'Agriculture' to 'Bushland Protection'.

The draft DGP proposes the creation of four lots ranging in size from 5.44 ha to 49.16 ha. Proposed Lots 1, 2, and 4 contain remnant vegetation and plantation Blue gums and proposed Lot 3 contains remnant vegetation.

Proposed Lots 1 and 2 have access from Chapman Road in the west and proposed Lots 3 and 4 have access from Nuttman Road in the east.

Building envelopes of 1500m<sup>2</sup> are proposed for Lots 2 and 3 and 2000m<sup>2</sup> building envelopes for proposed Lots 1 and 4 which are located within existing cleared or plantation areas.

The existing plantation is proposed to be harvested in 2009/2010.

## STATEMENT OF IMPACT

The 'Bushland Protection' zone is more restrictive than the 'Agriculture' zone as there are fewer permitted uses and more prohibited uses under the Zoning Table (Table 2) in the Scheme. Therefore the proposed lots will have reduced development potential than Lot 4367 has currently under the 'Agriculture' zoning. For example 'Intensive Agriculture', which includes commercial vineyards, is not a permitted use in the 'Bushland Protection' zone.

Clause 90 of the Scheme will be applicable to development of the proposed 'Bushland Protection' lots which restricts development to a greater extent than the provisions of the 'Agriculture' zone. For example, only one dwelling can be constructed on any allotment and all development is to be contained within approved building envelopes.

It is a requirement of the BIS that the landowner enters into a conservation covenant with a recognised covenanting organisation. The conservation covenant will impose numerous other restrictions on the proposed lots and will require management of the conservation values of the bushland.

Notwithstanding the above, the landowners have sought the rezoning, therefore it is understood that the impact will be beneficial and ultimately facilitate the subdivision of the subject land into four lots.

Under the 'Bushland Protection' zone 'forestry' is not a permitted use and the existing plantation will have non-conforming use rights pursuant to the Scheme upon gazettal of the Amendment. To ensure that there is scope for the Shire to consider a planning application for harvesting of the plantation, the draft DGP includes a planning policy statement specifying that harvesting of the plantation is to be deemed an 'AA' use pursuant to the Scheme, which can only be undertaken with planning consent.

It is not considered that the proposal will have a detrimental impact on the amenity of the surrounding landowners given that all development is to be contained within proposed building envelopes which are setback a minimum of 35m from the boundary with neighbouring lots.

## CONSULTATION

Subsequent to the draft Amendment and DGP being initiated by the Council the relevant documentation was referred to the Environmental Protection Authority (EPA) for consideration of the need for formal assessment under Part IV of the *Environmental Protection Act 1986*. The EPA resolved that the draft Amendment did not require formal assessment, however advice and recommendations pertaining to dieback management and building envelopes were provided.

The draft Amendment and DGP were advertised for 42 days in accordance with the *Town Planning Regulation 1967*. Five government agency and three public submissions were received. Objections were received from the Department of Industry and Resources (DoIR) and each of the public submissions. The remaining submissions indicated support subject to modifications/advice.

DoIR objected to the proposed rezoning on the basis that a portion of the site is located within 1000m of a Strategic Mineral Resource Protection Area for titanium-zircon mineralisation and the whole site is within 1500m of the Whicher Range gas field. DoIR have concerns with the proposed conservation covenants that have the potential to effectively sterilise Crown minerals and petroleum.

Public submission objections related to a perceived increase in bushfire risk, pest and weed control, potential land use conflicts between bushland protection lots and ongoing nearby agricultural activities, and access. Other minor adjustments needed to the draft DGP were also raised.

Issues raised in the submissions are discussed further under officer comment.

#### **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 paid by the proponent.

Following the gazettal of the draft Amendment the subsequent subdivision would attract the standard road upgrade and bushfire protection and community facilities monetary contributions.

In accordance with the BIS any additional rates generated from the proposed lots should be set aside and utilised to fund rate rebate incentives for bushland protection on other sites.

#### **STRATEGIC IMPLICATIONS**

One of the strategic initiatives of the Shire of Busselton *Strategic Plan 2006 - 2011* is to maintain appropriate bushland. This proposal is considered to be consistent with this strategic initiative as it seeks to ensure the remnant vegetation on the site will be protected in perpetuity under covenant.

#### **STATUTORY ENVIRONMENT**

##### **District Town Planning Scheme No. 20**

The provisions of the 'Bushland Protection' zone govern subdivision and development as a means of controlling land use and development within the zone. The intent of the provision is to preserve remnant vegetation with special biodiversity values whilst also allowing for rural living.

The objective of the 'Bushland Protection' zone is:

*'To restrict the land uses and type and scale of development that will be considered on lands possessing special biodiversity values to those that will not adversely affect those values, and to provide opportunity for the creation of a subdivision incentive for the protection of those values in perpetuity.'*

The policies of the zone are:

*'1. To support subdivision only where –*

*(d) For lots 40ha and greater and with a remnant vegetation cover of 50% or more of the total area of the lot, subdivision based on a ratio of one lot per 20ha with a maximum of 4 lots in total.'*

Clause 90 of the Scheme sets out provisions related to subdivision and development within the 'Bushland Protection' zone and the following provisions are of particular relevance to the proposal:

*'(1) All development shall be contained within the approved building envelope designated for each lot on a Development Guide Plan endorsed pursuant to Clause 25. Each building envelope is to be located to the satisfaction of Council which shall, in determining such, ensure –*

*(a) Where available, a cleared area be used for the location of the building envelope;*

*(b) The preservation of remnant vegetation is maximised;*

*(c) That the envelope is not located within an area of poorly represented vegetation and will not impact on any declared rare flora and fauna.*

*(d) There is no adverse or potential impacts on watercourses, wetlands, river or estuary systems or groundwater; and*

*(e) Maintenance of landscape values of the site and the general area;*

*(2) The buildings envelope shall be a maximum of 1,500m<sup>2</sup>. This building envelope area may be increased marginally subject to Council and WAPC approval where –*

*(a) An existing cleared area is present that could be incorporated into the building envelope; or*

*(b) Existing structures on the lot are located in such a way that the total building envelope area already exceeds the maximum.'*

*'(10) An approved Bush Fire Management Plan shall be submitted and implemented to the satisfaction of Council and the Fire and Emergency Services Authority (FESA). The Bush Fire Management Plan must ensure minimal disturbance to vegetation, wetlands and fauna; generally be consistent with the conservation values of the land and meet any relevant state government policies pertaining to bush fire protection.'*

#### **Clause 91 Non-Conforming Use Permitted**

'Forestry' is not a permitted use in the 'Bushland Protection' zone and the existing plantation will therefore attract non-conforming use status pursuant to clause 91 of the Scheme, as follows:

- '(1) If, at the gazettal date, any land, building or structure is being lawfully used for a purpose not permitted by the provisions of the Scheme (hereinafter called a "non-conforming use") or if any land is built on or any building or structure is built in a manner not permitted by the Scheme, such land, building or structure may continue to be used for that purpose or in that manner.*
- (2) No provision of the Scheme shall prevent the carrying out of any development on land for which, immediately prior to the gazettal date, a permit or permits required under the Act, the Shire of Busselton Town Planning Scheme No. 5 (revoked by the Scheme) or any other law authorising the development to be carried out, have been duly obtained and are current.'*

However, the planning consent granted on 10 March 1999 for a plantation on the subject land does not include harvesting. This use will fall within the definition of 'forestry' which is not permitted in the 'Bushland Protection' zone and the DGP does address this issue through its planning policy statements. Clause 25(13) of the Scheme stipulates that nothing in the Scheme prevents the Council from approving development of land in accordance with the provisions of a DGP formally adopted.

#### **Clause 106 Designated Bushfire Prone Areas**

Clause 106 of the Scheme is relevant given that much of the subject land is identified as an 'extreme' bush fire hazard.

- '(1) A Designated Bushfire Prone Area is any area identified on the Bush Fire Hazard Assessment maps with a bush fire hazard level of medium, high or extreme. Dwelling construction within a Bushfire Prone Area will be subject to the relevant bushfire prone area building requirements pursuant to the Building Code of Australia and Australian Standard 3959 - 1999.'*

## **POLICY IMPLICATIONS**

### **Biodiversity Incentive Strategy (BIS)**

The BIS sets out 'biodiversity value' criteria that lots must fulfil in order for a subdivision incentive to be considered (in addition to other relevant statutory and strategic planning considerations).

The subject land was assessed as part of the formulation of the BIS, however it was determined at that time of assessment (2001) that the overall general condition of the remnant vegetation was only 'fair' and that it therefore did not meet the relevant criteria for a subdivision incentive. The assessment did note that grazing of stock had only ceased for two years at that time, and that the understorey was regenerating steadily since the exclusion of stock. A vegetation and flora survey undertaken in 2007 demonstrates that the conservation values of the subject land have substantially improved due to regeneration and that the subject land now satisfies the following criteria:

- \* *Lots that contain at least 20 ha of remnant vegetation that is classified as being in good or better condition.*

In this regard, the potential lot yield is as follows:

- \* *For lots 40 ha and greater and with remnant vegetation cover of 50% or more of the total area, subdivision based on a ratio of one lot per 20 ha with a maximum of 4 lots in total.*

The operational guidelines of the BIS set out the general requirements and regulations that applicants must meet in addition to the covenant and zoning requirements. These include design considerations for the DGP such as lot configuration, location of building envelopes and access.

### **Local Rural Planning Strategy (2006)**

The Local Rural Planning Strategy (LRPS) was endorsed by the WAPC on 26 March 2007 and comprises the Shire's current policy framework for rural land use, zoning, subdivision and development along with the Scheme.

The subject land is located within Precinct 1 'Primary Rural'. The LRPS identifies that this precinct contains areas of significant remnant vegetation that need to be conserved wherever possible. It also identifies that pockets of remnant vegetation need to be conserved to benefit groundwater and landscape outcomes.

Precinct objectives include protection of the biodiversity values of remnant vegetation with an emphasis on poorly represented vegetation, priority flora and declared rare flora and riparian/creek line vegetation.

The LRPS identifies that subdivision should be in accordance with the Shire's Biodiversity Incentive Strategy (2002).

### **Planning for Bushfire Protection (WAPC/FESA)**

'Planning for Bushfire Protection' is a policy document prepared and maintained by the Fire and Emergency Services Authority (FESA) and the Western Australian Planning Commission (WAPC).

The subject land is identified as a 'high' and 'extreme' fire hazard.

In bushfire prone areas a building protection zone is required of between 20 - 40m (depending on the slope of the land), with fuels below 100m in height. In addition, a hazard separation zone is required with fuel levels of 8 tonnes per ha for Jarrah/Marri forest. This should combine to achieve a separation distance of 100m (in accordance with AS 3.6) or an outcome that meets the performance criteria as follows:

*'PC 3.6.1 Subdivision and development design to incorporate hazard separation zones to separate habitable buildings from extreme bush fire hazards in order to protect them from burning debris (spotting, airborne embers), radiant heat and direct flame control.'*

Other provisions (acceptable solutions) of 'Planning for Bushfire Protection' that are relevant to the proposal include the requirement for two different routes of access to be available to residents in bushfire prone areas.

Constructed driveways are required where house sites are more than 50m from a public road, with a minimum trafficable surface of 4m, passing bays every 200m and turn around areas every 500m and within 50m of a dwelling.

### **Shire of Busselton Municipal Heritage Inventory**

The 'Chapman Hill Communication Station' is listed in the Shire's Municipal Heritage Inventory, and is located on the subject land. The MHI identifies that there are timber fragments/remnants on the subject land. The site has significance as part of the overall historical network of WWII defence signal stations along the coast of Western Australia.

There are no photographs of the site included in the MHI.

The 'Chapman Hill Communication Station' is identified as a 'Management Category 5' place, which are defined in the MHI as follows:

*'Category 5 places are places of historic or social value with few or no built features in the ownership of private owners or State agencies. Actions required are few and may, according to circumstance, be limited to recognition by way of interpretation or signage.'*

## OFFICER COMMENT

The Vegetation and Flora survey submitted with the proposal demonstrates that the subject lot meets the BIS 'biodiversity value' criteria and is eligible for consideration of an incentive to a total of 4 lots.

### Lot Configuration & Building Envelopes

#### *Proposed Lot 1*

Proposed Lot 1 is 9.35 ha in area and contains an area of plantation as well as some degraded vegetation.

The building envelope for proposed Lot 1 is 2000m<sup>2</sup> in area. Clause 90(2) of the Scheme stipulates that building envelopes are to be a maximum of 1500m<sup>2</sup>, but may be marginally increased subject to Council and WAPC approval where an existing cleared area is present that can be incorporated into the building envelope. The proposed building envelope site for proposed Lot 1 is located within an existing plantation area that is planned to be harvested in 2009/2010. The building envelope and the building protection zone do not impact on any native vegetation and the hazard separation zone only extends slightly within an area of degraded vegetation. The proposed 2000m<sup>2</sup> building envelope is therefore considered acceptable as it does not have a detrimental impact on the conservation or landscape values of the subject land and is consistent with the policies and objectives of the Scheme and the BIS.

#### *Proposed Lot 2*

Proposed Lot 2 is 49.16 ha in area and contains the majority of the remnant vegetation, with approximately 29 ha classed as being in 'good' and 'very good' condition. Consolidation of the majority of vegetation on proposed Lot 2 will assist in the management of the bushland and is preferable to the dissection of bushland by proposed lot boundaries.

The proposed building envelope is 1500m<sup>2</sup> in area and only impacts on a very small area of the 'good' bushland. The proposed building protection zone and hazard separation zone extend slightly into a small area of 'good' vegetation, however this is not considered to have a significant impact on the remnant vegetation.

#### *Proposed Lot 3*

Proposed Lot 3 is 5.44 ha in area with approximately 1ha of cleared land in the north-west corner. The remaining area contains 'good' and 'very good' remnant vegetation. The proposed 1500m<sup>2</sup> building envelope is located in the existing cleared area and the combined building protection zone and hazard separation zone are mostly accommodated within the existing cleared area. It is therefore not considered that the proposed building envelope will have a negative impact on the remnant vegetation on proposed Lot 3.

*Proposed Lot 4*

Proposed Lot 4 is 20.59 ha in area and contains approximately 12 ha of plantation and 3.6 ha of cleared land. The remaining area contains mostly 'good' and 'very good' remnant vegetation and a small area of 'degraded' vegetation. All of the priority species are located on this proposed lot which will assist with the management of this flora.

The proposed building envelope is 2000m<sup>2</sup> in area and is located mostly on the existing cleared area and within the plantation. The corresponding building protection zone (25m) and hazard separation zone (75m) are contained within the existing cleared area and the plantation. Given that the 2000m<sup>2</sup> building envelope and the proposed fire management do not impact on the remnant bushland it is considered that the larger building envelope is acceptable.

The Environmental Protection Authority, GeoCatch and Department for Planning and Infrastructure recommended that the building envelope on proposed Lot 2 be relocated to a cleared area. In response to this issue a site inspection was carried out by Shire planning staff and covenanting/planning officers from the Department of Environment and Conservation. The proposed building envelope is located in an area of cleared pasture containing a few scattered trees. The building and hazard protection zones will extend marginally into the remnant vegetation, however the site inspection confirmed that the vegetation is open forest on laterite outcropping with sparse understorey. DEC officers confirmed that current fuel levels will not require additional clearing to meet the requirements of the fire management plan and that a building envelope in this location will not result in clearing of 'good' remnant vegetation. It is therefore recommended that the location of the building envelope on proposed Lot 2 be supported.

*Access*

Existing access tracks are proposed to be utilised for vehicular access, which is consistent with the operational guidelines of the BIS.

Access for proposed Lots 1 and 2 is from Chapman Hill Road along existing access tracks to the proposed building envelopes. A proposed battleaxe leg from Nuttman Road provides access to proposed Lot 3 and access to the building envelope for proposed Lot 4 is along an existing track from Nuttman Road on the southern boundary. Where proposed vehicle access to proposed lots and building envelopes crosses lot boundaries, an easement or cross-access agreements will be required at subdivision stage. The DGP should be annotated with an additional planning policy statement to this effect.

A blue dotted line indicates existing vehicle tracks within the subject land but is not referenced on the DGP legend. The DGP should be modified in this regard.

Access arrangements for proposed Lots 3 and 4 satisfy a public submission objection and a condition of subdivision will require a road upgrading contribution.

## Fire Management Plan

The applicant has submitted a draft Fire Management Plan which includes a plan identifying building protection zones, hazard separation zones, access, firebreaks and passing bays.

Dwelling construction for proposed Lots 2 and 3 is proposed to be subject to 'Level 2 construction' pursuant to the Building Code of Australia and AS 3959-1999. Building to 'Level 2 construction' will enable a reduction in the required hazard separation zone to minimise the impact of fire management on remnant bushland that is in 'good' condition and to ensure that the hazard separation zone does not extend outside of the proposed lot boundaries. This will ensure that management of the building protection zone and hazard separation zone is within the control of each future landowner.

The draft Fire Management Plan indicates 20m building protection zones and 75m hazard separation zones for proposed Lots 1 and 4. This meets the acceptable solution criteria of 'Planning for Bushfire Protection' (AS 3.6).

Alternative access is identified for all proposed building envelopes by way of a firebreak/emergency access around the perimeter of the site. This ensures consistency with 'Planning for Bushfire Protection' which requires two different routes of access to be available to residents (AS 3.4.1).

Firebreaks and access ways are proposed along existing tracks, which is consistent with the operational guidelines of the BIS, and serves to minimise the impact of the proposal on the remnant bushland. Passing bays have been proposed, consistent with the requirements of 'Planning for Bushfire Protection' and these are located within existing cleared areas where possible.

One public submission objected to the proposed Fire Management Plan on the basis that the plan is inadequate to protect a nearby home. Another public submission objected to the proposed rezoning on the basis that the site, as it exists, is a fire hazard due to lack of development and no water.

The draft Fire Management Plan is consistent with both the 'Planning for Bushfire Protection' policy and the operational guidelines of the BIS. The draft plan proposes the provision of 135,000 litre water tanks within the building envelope of each lot, with emergency access and fittings compatible with fire fighting vehicles and equipment. The DGP includes a planning policy statement requiring future landowners to comply with the Fire Management Plan and implement fire protection and emergency access in perpetuity. The draft Fire Management Plan, as it relates to the DGP, is supported.

### Weed, Pest and Dieback Management

The operational guidelines of the BIS stipulate that a fire, weed and pest management plan should be prepared consistent with the conservation values of the lot, to be presented with the rezoning application for consideration. The applicant has submitted a draft Fire Management Plan which is imperative to enable an assessment of the impact that fire management requirements will have on the remnant vegetation. However, it is not considered that a weed and pest management plan is crucial to progress the rezoning, given that the flora and vegetation survey has evaluated the condition of the remnant bushland taking into consideration the impact of weeds.

It is therefore considered acceptable that a weed and pest management plan is required as a condition of subdivision and a planning policy statement is included on the DGP to reflect this requirement.

The flora and vegetation survey that was undertaken for the subject land identified that dieback is an issue in the eastern portion of the site. It also identifies that the potential spread of dieback is probably the greatest threat to the maintenance of biodiversity values of the remnant vegetation.

GeoCatch raised the issue of the potential introduction and spread of dieback through the use of gravel to upgrade tracks in accordance with the draft fire management plan.

Harvesting the plantation may also have the potential to spread dieback, given that some of the areas where symptoms of dieback were identified are located within close proximity to the plantation and close to existing access ways which may be utilised during harvesting. Harvesting of the plantation may occur prior to the subdivision and a planning policy statement has been included on the DGP requiring any development application for harvesting of the plantation to include dieback control procedures for the proposed harvesting activities.

The DGP has also been annotated with a similar planning policy statement to the effect that a dieback management plan is required as a condition of subdivision, to ensure that earthworks, drainage, fill and fire management activities do not result in the spread of dieback.

### Plantation Harvesting

A public submission objection was raised concerning the existing tree plantation being incorporated within a 'Bushland Protection' zone. Under the 'Bushland Protection' zone 'forestry' is not a permitted use, however the existing plantation will have non-conforming use rights pursuant to the Scheme from the gazettal of the Amendment.

Planning consent will be required prior to commencement of any harvesting of the existing plantation. This use will fall within the definition of 'forestry' which is not permitted in the 'Bushland Protection' zone. This means that ordinarily the Council would not have discretion to consider such use. However, clause 25(13) of the Scheme stipulates that nothing in the Scheme prevents the Council from approving development of land in accordance with the provisions of a DGP formally adopted.

To ensure that the Council has the discretion to consider a development application for harvesting the DGP includes a planning policy statement to the effect that harvesting of the existing plantation is to be deemed an 'AA' use pursuant to the Scheme (which it is currently under the 'Agriculture' zone) which can be carried out with planning consent. Notwithstanding, the applicant will be invited to apply for planning consent for harvesting of the plantation under the 'Agriculture' zone prior to the Amendment being gazetted.

### **Heritage**

The stone and timber remains of the 'Chapman Hill Communication Station' will be located within bushland on private land (proposed Lot 2) and will not be visible from any public area. Therefore on-site interpretation is not considered relevant.

The site has been identified on the DGP within proposed Lot 2. The proposed building envelope for proposed Lot 2 is located approximately 550m from the site. The site is also identified on the draft fire management plan and no firebreaks, passing bays or other fire management mechanisms impact on the site. Notwithstanding that, it is considered that the increased level of development proposed on the subject land is likely to result in an increased level of activity, increasing the risk of disturbance/loss of remaining fragments over time.

The applicant proposes to accurately record the location of the site and to photographically record in detail any surviving evidence. This information could then be attached to the MHI datasheet. This is considered particularly useful as the MHI does not include any photographic record of this former World War II defence signal station. To ensure that this occurs, a planning policy statement has been included on the DGP stipulating that a condition of subdivision shall require this information to be provided prior to issue of subdivision clearances. It is recommended that this planning policy statement be amended to ensure provision of this information prior to issue of subdivision clearances and development approval. This is because development could occur on the subject land prior to subdivision.

## Potential Land Use Conflict

### *Agricultural Operations*

Two public submission objections raised concern that future landowners of lots within the Bushland Protection zone may attempt to restrict rural activities on neighbouring agricultural properties as a result of noise, odour and spray drift. The site is surrounded by partly vegetated broad acre agricultural properties. The property to the south of the subject site accommodates an olive grove adjoining the southern boundary of proposed Lot 2. The balance of this property is cleared pasture and remnant vegetation. The building envelope for proposed Lot 2 is located a considerable distance from the olive grove on the northern slope of Chapman Hill (the olive grove is located on the southern slope of Chapman Hill). Remnant vegetation and a portion of the Tasmanian Bluegum plantation separate the building envelope for proposed Lot 2 from the olive grove. Furthermore, the building envelopes for proposed Lots 1, 3 and 4 are not located in close proximity to any intensive agricultural activity with which noise, odour and spray drift are more likely to be associated. The amenity of future landowners is therefore unlikely to be detrimentally impacted upon by surrounding broad acre agricultural activities and the olive grove.

### *Extractive Industry*

One public submission objection requested that future landowners be restricted from lobbying against neighbouring landowners applying for, or carrying out, extractive industry. In the 'Agriculture' zone extractive industry is an 'SA' use pursuant to the Scheme whereby such activity may only be carried out with planning consent issued following public advertising. This gives affected landowners the right to lodge a submission in response to the advertising of a proposed extractive industry.

The Shire of Busselton *Extractive Industry Policy 1999* aims to facilitate extractive industry in areas of the Shire where existing and proposed land uses are not incompatible, whilst minimising and controlling impacts in these areas and acknowledging the ongoing need to extract resources from priority areas. The site is located within Policy Area 3, the objective of which is:

*"To ensure the long term protection of agricultural production and extractive industry potential by the consideration of potentially restrictive outcomes in assessment of certain land uses. To allow extractive industry where it can be determined that visual, environmental, social and other impacts are minimised".*

Any application for an extractive industry near the proposed 'Bushland Protection' lots would be assessed on its merits against the requirements of the Shire's *Extractive Industry Policy* and any submissions received given consideration. The policy contains provisions that may enable extractive industry to occur within the surrounding 'Agriculture' zone whilst ensuring that the amenity of nearby landowners will not be affected.

### *Mineral and Petroleum Exploration*

Portions of proposed Lots 1 and 2 are located within 1000m of a Strategic Mineral Resource Protection Area for titanium-zircon mineralisation. The whole of the subject land is located approximately 1500m north of the Whicher Range gas field and has moderate potential for coal and hydrocarbons.

The Department of Industry and Resources (DoIR) has objected to the proposal on the basis that the proposed conservation covenants have the potential to sterilise Crown minerals and petroleum.

DoIR's position is not supported as 82% of the remnant vegetation has been assessed as being in a "Good" and "Very Good" condition and includes a priority species *Stylidium barleii*. The remnant vegetation has a high conservation value and is considered worthy of protection in perpetuity by the Department of Environment and Conservation. The conservation covenant will only apply to the remnant vegetation. Therefore the existing cleared and tree plantation areas could potentially be available for future mineral and petroleum exploration.

### *Development Guide Plan*

Minor modifications are required for the DGP in response to advice from the Department for Planning and Infrastructure and review by Shire planning staff;

- (i) Planning Policy Statement 4 is to be reworded as follows:

*"Boundary fences between the proposed lots will not be permitted".*

- (ii) An additional Planning Policy Statement that states:

*"Where access is proposed to be shared between lots and/or to building envelopes, an easement or cross-access agreement shall be created as a condition of subdivision, to facilitate legal access to those lots/building envelopes".*

- (iii) The DGP shows a blue dotted line representing existing vehicle access tracks. This should be referenced on the legend of the DGP.
- (iv) The DPI recommended that PPS 5 should specify either the Department of Environment and Conservation or National Trust of WA as the covenanting agency. The DEC has expressed support for entering into a covenanting agreement for the bushland within the four lots and this can be finalised as a condition of subdivision.
- (v) Planning Policy Statement 10 being amended to include the words *"and development approval"* following the words *"clearance of subdivision"* and the correction of a typographic error.
- (vi) The DGP should include an endorsement signature box for the Western Australian Planning Commission.

- (vii) The condition of a portion of remnant vegetation within proposed Lot 2 not currently shown on the DGP should be shaded orange (indicating "Good" condition) in accordance with the findings of the Vegetation and Rare Flora survey.

## **CONCLUSION**

A flora and vegetation survey demonstrates that the subject land meets the criteria under the BIS for consideration of a four lot subdivision incentive. The proposed lot configuration generally ensures minimal impact on remnant vegetation by utilising existing access tracks and by minimising the dissection of consolidated areas of vegetation by proposed lot boundaries.

Given that the proposed rezoning and DGP are considered to be consistent with the provisions of the BIS, the Scheme, LRPS and 'Planning for Bushfire Protection', it is recommended that the Council adopt draft Amendment No. 134 and the associated draft DGP for final approval, subject to minor modifications to the planning policy statements and the legend of the DGP.

## **TIMELINE/S 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 five working days of the resolution. The Amendment and DGP will then be progressed on receipt of required documentation.

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER RECOMMENDATION**

1. That Council, in pursuance of Part V of the Planning and Development Act 2005, adopt draft Amendment No. 134 ("Amendment") to Shire of Busselton District Town Planning Scheme No. 20 for final approval for the purposes of rezoning Location 4367 Chapman Hill Road, Chapman Hill from 'Agriculture' to 'Bushland Protection' subject to the modifications required to the draft Development Guide Plan as per 2 below.
2. That Council adopt for final approval the draft Development Guide Plan for Location 4367 Nuttman Road, Chapman Hill at Attachment C, pursuant to clause 25 of the Shire of Busselton District Town Planning Scheme No. 20, subject to the following modifications being undertaken:
  - a. Planning Policy Statement 4 being reworded as follows:

*"Boundary fences between the proposed lots will not be permitted".*

- b. An additional Planning Policy Statement on the draft DGP that states:

*“Where access is proposed to be shared between lots and/or to building envelopes, an easement or cross-access agreement shall be created as a condition of subdivision, to facilitate legal access to those lots/building envelopes”.*
  - c. Planning Policy Statement 10 being amended to include the words *“and development approval”* following the words *“clearance of subdivision”* and the correction of a typographic error.
  - d. Inclusion of an endorsement signature box for the Western Australian Planning Commission.
  - e. The condition of a portion of remnant vegetation within proposed Lot 2 not currently shown on the DGP to be shaded orange (indicating “Good” condition) in accordance with the findings of the Vegetation and Rare Flora survey.
3. That the Council endorse the Schedule of Submissions prepared in response to the community consultation undertaken in relation to Scheme Amendment No. 134 and the Development Guide Plan.
  4. That the Council, upon receipt of the modified Amendment documentation and Development Guide Plan, refer Amendment No. 134 to the Shire of Busselton District Town Planning Scheme No. 20 and the Development Guide Plan, so adopted for final approval, to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
  5. That, where notification is received from the Western Australian Planning Commission that a modification of the Amendment is required prior to approval of the Amendment by the Minister, this modification is to be undertaken in accordance with the requirements of the *Town Planning Regulations 1967*, unless it is considered by the Shire of Busselton that the modification affects the intent of the Amendment, in which case it shall be referred to the Council for consideration.

13.3 PROPOSED 'YACHT STORAGE SHED' - PART LOT 4539, RESERVE 17319 KING STREET, BUSSELTON

<b>FILE NO:</b>	8666
<b>PROPOSAL:</b>	Yacht Storage Shed Extensions (approx. 150m <sup>2</sup> )
<b>LOT SIZE</b>	Reserve 17319
<b>ZONE:</b>	Recreation Reserve
<b>POLICIES:</b>	Shire of Busselton Policy on Works and Development 134/3 - 'Foreshore Reserves', State Coastal Planning Policy No. 2.6
<b>ATTACHMENT(S)</b>	A – Location Plan B – Site Plan C – Elevations

**PRECIS**

The application is seeking approval for the development of a boat storage shed on Sussex Location 4539 (Reserve 17319) King Street, Busselton, to the west of the existing Geographe Bay Yacht Club building.

The applicant has requested approval to extend the existing yacht storage sheds so that sail boats and other light marine craft can be cleaned and stored on site. The building is to be used for storage of a number of small water craft including 13m outrigger canoes, single/double kayaks and surf skis. The proposed internal floor area is to be extended by 150m<sup>2</sup>.

The application was referred to the Coastal Planning division of Department for Planning and Infrastructure (DPI) for comment. The DPI advised that the proposal is supported, subject to recommended conditions to ensure public safety and maintain beach access.

The proposal is consistent with District Town Planning Scheme No. 20 and it is recommended that approval be granted subject to conditions including revegetation and public safety and beach access requirements being met satisfactorily.

**PROPOSAL / BACKGROUND**

The proposal is to construct a 10m x 15m (150m<sup>2</sup>) boat storage shed to accommodate a number of small water craft including 13m outrigger canoes, single and double kayaks and surf skis.

It is proposed to construct the building of galvanised steel with a pitched roof to a height of 4.27 metres above natural ground level. The proposed building will abut the existing Yacht Club building along the western elevation. No details of colours/finishing have been provided, however a condition requiring materials to be consistent with the Shire of Busselton 'Use of Reflective Building Materials Policy' is recommended.

The Yacht Club has been used for storing marine and sailboat craft for many years. The proposed shed will have internal storage racks and be positioned to allow for practical access to the adjoining beach. In addition to this, the proposed storage shed will have access to the existing Yacht Club boat ramp to the east and an informal beach access situated directly in front of the proposed shed extension.

The proposed location of the storage shed will require the removal of approximately 80m<sup>2</sup> of vegetation, including two (2) mature WA Peppermint Trees (*Agonis flexuosa*) and some sword sedge that has regrown on a mound of topsoil.

### **STATEMENT OF IMPACT**

There is not considered to be any impacts upon the amenity of surrounding landowners, considering the extensions are considered minor and any potential impacts can be ameliorated through conditions of approval. Impacts on existing vegetation can be offset by revegetation of dune areas in close proximity to the proposed shed. The proposal is not visible from surrounding residences.

### **CONSULTATION**

Given the minor nature of the proposed extensions, the application was not considered to have a detrimental impact on surrounding residences and the general public, therefore the application was not subject to formal consultation.

The proposal was referred to the Department for Planning and Infrastructure Coastal Assets Branch (DPI) given the close proximity to the foreshore and potential risk of exposure to physical coastal processes. Written support has been received from the DPI and the following comments were made:

1. The proposed extension of the existing shed is in an area void of native vegetation.
2. The proposal may be regarded as development that is temporary, easily relocatable that is demonstrably coastally dependent, therefore reasonable to consider this proposal as being exempt from the coastal development setback guidelines for physical processes.
3. The proposal will not cause discharge of waste and storm-water that would be likely to degrade the coastal environment, including coastal foreshore reserve, coastal waters and marine ecosystems, as long as the development contains all drainage on site during and after construction.
4. Some erosion has taken place on the beach and dune on either side of the Yacht Club launching ramp. Sand nourishment should be provided to both sides of the launching ramp and the dune should be brushed and replanted with native coastal species.

5. This proposal should not result in further erosion of the beach and/or dune. The proponent should contribute to the implementation of the (Geographe Bay) Foreshore Management Plan recommendations where applicable to the adjacent coast.

### **FINANCIAL IMPLICATIONS**

There are no identifiable financial implications to the Shire arising from this proposal.

The proposed extensions are within the lease boundary and as a consequence, maintenance of buildings within the lease boundary are the responsibility of the lessee.

### **STRATEGIC IMPLICATIONS**

In achieving the ultimate purpose of the Busselton Strategic Plan, the Council needs to ensure that use and development can occur in a manner that takes into account the statutory provisions and objectives of its planning scheme.

As already outlined, the proposal is considered appropriate on this reserve and will not detrimentally impact on use of the reserve, boat ramp and the beach.

### **STATUTORY ENVIRONMENT**

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

#### Clause 13

In determining an application for Planning Consent, the Shire is to take into consideration all matters listed under Sub-Clause (1) of Clause 13 of the Scheme.

Following assessment against this sub-clause the following matters are considered relevant:

- (b) the impact on that development on the environment and, where harm to the environment is likely to be caused, any means that may be employed to protect the environment or to mitigate that harm;
- (m) whether adequate provision has been made for the landscaping of the land to which that application relates and whether any trees or other vegetation on the land should be preserved;

In relation to items (b) and (m), the proposed building and access tracks will take advantage of already cleared areas and informal track and will result in removal of approximately two 3m high WA Peppermint trees and some understorey. A condition to revegetate an area to the west of the proposed extensions may be applied to reduce the impacts of clearing this vegetation.

- (c) the effect of that development on the landscape or scenic quality of the locality;
- (e) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of that development;
- (f) the size and shape of the land to which that development application relates, the siting of any building works thereon and the area to be occupied by that development;

In relation to items (c), (e) and (f), the building is well setback from King Street and other public roads. It is not considered the proposed building will have a detrimental impact upon the landscape when viewed from the beach, nearby car park or adjacent recreation reserve and as stated above only a minimal number of trees need removal to accommodate the extensions. The shed additions will be required to meet the criteria outlined in the Shire Planning Policy ' Use of Reflective Building Materials', whereby the use of zincalume and light colour (i.e. surfmist) colourbond is not permitted.

- (d) the social effect and the economic effect of that development in the locality;
- (j) the amount of traffic likely to be generated by that development, particularly in relation to the capacity of the road system in the locality and the probable effect of that traffic on the movement of traffic on that road system;
- (q) the existing and likely future amenity of the neighbourhood;

In relation to item (d), (j) and (q) the boats and equipment will not require transportation to and from the site, any access to the beach. This may marginally reduce traffic along neighbouring streets and within the car park area and will subsequently improve the amenity of the immediate area.

- (g) whether the land to which that application relates is unsuitable for that development by reason of its being, or being likely to be, subject to flooding, tidal inundation, subsidence, slip or bush fire or to any other risk.

In relation to item (g), the proposed building will be setback approximately 30 metres from the Horizontal Setback Datum (HSD). The building may be subject to impact from future coastal processes, however, has been supported by the DPI as it is regarded as development that is easily relocatable and is demonstrably coastal dependent.

- (i) whether the proposed means of entrance to and exit from that development and the land to which that application relates are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles within that development or on that land;

In relation to item (i), an informal access track already exists between the current boat shed and the beach. Access to the beach is also provided by the existing boat ramp to the east of the boat shed and the bitumised area in between. Parking and access of vehicles will not be affected by the proposal and all vehicles must be stored in the existing car park to the east of the existing and proposed boat shed(s).

- (p) any representations made by a public authority in relation to that application, or to the development of the area, and the rights and powers of that public authority;
- (r) any submission made under Clause 12.

In relation to items (p) and (r), please refer to the Public Consultation section of this report.

### Part 3 – Reserves

Clause 17 (a) allows Scheme Reserves to be used *'for the purpose for which the land is reserved under the Scheme.'* Furthermore, Clause 18 (2)(b) provides that *'where an application for Planning Consent is made with respect to the land within a Reserve, the Council shall have regard to the ultimate purposes intended for the Reserve...'*

Reserve 17319 is vested in the Shire of Busselton for the purpose of 'Recreation'. The proposed building and associated sailing activity will be utilised by members of the yacht club for training, competitions and demonstrations and is therefore to the public benefit. It is considered that the proposal complies with Part 4 of the Scheme and has regard for the purpose of the Reserve.

## **POLICY IMPLICATIONS**

### Statement of Planning Policy No. 2.6 - State Coastal Planning Policy (SPP 2.6)

The objectives of SPP 2.6 are to:

- \* *"protect, conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance;*
- \* *provide for public foreshore areas and access to these on the coast;*
- \* *ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities; and*
- \* *ensure that the location of coastal facilities and development takes into account coastal process including erosion, accretion, storm surge, tides, wave conditions, sea level change and biophysical criteria."*

The specific objectives of 'Schedule One - Coastal Development Setback Guidelines for Physical Processes' are to provide a setback that protects development from coastal processes by:

- \* *"Absorbing the impact of a severe storm sequence;*
- \* *Allowing for shorelines movement;*
- \* *Allowing for global sea level rise; and*
- \* *Allowing for the fluctuation of natural coastal processes."*

The DPI stated that proposals may be exempt from the coastal development setback guidelines for physical processes under schedule one of SPP 2.6, if the proposal is considered to accommodate varying physical circumstances and desirable, essential or practical community development outcomes. The proposal is considered to be temporary, easily relocatable that is demonstrably coastally dependent therefore reasonably considered to be exempt from the coastal development setback guidelines for physical processes under schedule one, section G(b) of SPP 2.6.

Comments were received from the DPI stating no objection to the proposal subject to the following:

- \* Should the structure or associated infrastructure be impacted or damaged by erosion, or be the cause of erosion, it shall be relocated landwards to a safe site; and
- \* The proposed works should not result in public safety and access to the beach being compromised.

It is considered the proposed development will satisfy the general and specific objectives of SPP 2.6 Policy and approval is recommended.

#### **OFFICER COMMENT**

1. The proposed development site and access tracks will take advantage of mostly cleared areas and will only result in the removal of two WA Peppermint Trees and sword sedge understorey. Due assessment must be given to the current proposal and should not be precluded by the possibility of any future expansion. A revegetation/landscaping plan will be required as a condition of Planning Approval.
2. Users of the facility can access the facilities within the Geographe Bay Yacht Club building located to the east. No kitchen or toilet facilities have been proposed for the boatshed and as such effluent disposal is not required.
3. The DPI has indicated support for the proposal subject to a condition that should the structure or associated infrastructure be impacted by erosion, or be the cause of erosion, it shall be relocated landwards to a safe site.
4. It is considered the proposed development will not have a significant impact upon the amenity of the beach or general locality.

## **SUMMARY**

Whilst noting the comments made in submissions received, the proposed building will enable onsite storage of boats and equipment that would normally require transportation to and from the site. All boating activity will continue to occur as per normal and will not likely impact on other users of the beach or surrounding recreation areas.

The building and access tracks take advantage of already cleared areas and will not result in removal of significant vegetation. It is therefore recommended that the proposed extensions to the boat storage shed be approved subject to appropriate conditions including revegetation and colours, materials and the standard of development being consistent with the existing building.

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

The officer recommendation if adopted will be implemented within two weeks of the Council resolution.

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER RECOMMENDATION**

1. That the application dated 12 June, 2008 for the proposed 'Boat Storage Shed' on Lot 4539, Reserve 17319 King Street, Busselton is considered by the Council to be consistent with District Town Planning Scheme No. 20 and the objectives and policies of the zone within which it is located.
2. That Planning Consent be issued for the development referred to in 1. above and subject to the following conditions:
  - (a) All development is to be in accordance with the approved Development Plan dated 11 February, 2008 (attached), including any amendments placed thereon by the Shire of Busselton and except as may be modified by the following conditions.
  - (b) A building licence application under the provisions of the Local Government Miscellaneous Provisions Act must be submitted to and approved by the Shire of Busselton prior to the commencement of any on-site works whatsoever.
  - (c) A building licence for the development should be obtained prior to 11 February, 2011. This Planning Consent lapses if a building licence for the development has not been obtained by 11 February, 2011. Further to this, if the development is not substantially commenced in accordance with the building licence by 11 February, 2011, then this Planning Consent lapses at that date. With the permission of the Shire of Busselton, this Planning Consent may be extended.

- (d) Occupation or use of the development shall not occur until the Shire of Busselton has issued, to the owner, a written Permit to Use for the development.
- (e) The colour of the roofing material being in accordance with the Shire's adopted policy on "The Use of Reflective Building Materials" (copy attached). In this regard, the Shire of Busselton actively discourages the use of building materials that have a solar radiation or reflective value greater than 50% (i.e. zincalume, off-white). Colour(s) should complement the locality and not be of undesirable impact. Details to be submitted with the building licence application.
- (f) The design, materials and colours of both the existing and proposed development are to be matched to the satisfaction of the Shire of Busselton. Details to be submitted prior to or with the building licence application.
- (g) All equipment including boats, rigging and racing equipment, is to be removed from the beach/foreshore area each day and wholly contained within the building to the satisfaction of the Shire of Busselton.
- (h) Plans submitted with the building licence are to show natural ground levels and finished floor levels to the satisfaction of the Shire of Busselton.
- (i) The submission of a landscape plan to the satisfaction of the Shire of Busselton. The Plan should indicate the location and species of all trees to be removed and / or retained. The Plan should also include a plant schedule nominating each species, the spacing of each species, the numbers of plants required; and the size of each plant to be used at the time of planting, together with the anticipated height of each plant at maturity. All landscaping is to comprise of relevant locally native species and coastal shrubs endemic to the surrounding area. A minimum of two (2) mature Peppermint trees (45 or 100 litre bag stock) are to be provided in proximity of the proposed shed extension to offset the removal of trees required for this development. The Plan must be submitted and approved prior to the issue of a building licence.
- (j) Apart from the vegetation required to be removed for construction of the building and works approved under this Planning Consent, all other on-site vegetation is to be retained to the satisfaction of the Shire of Busselton. Details to be provided with the building licence application.
- (k) Should the structure or associated infrastructure be impacted or damaged by erosion, or be the cause of erosion, it shall be relocated landwards to a safe site to the satisfaction of the Shire of Busselton.
- (l) The proposed works should not result in public safety and access to the beach being compromised to the satisfaction of the Shire of Busselton.

- (m) Prior to the issue of a building licence, the applicant shall provide a bond in accordance with the Council Policy to the value of \$1,500 to the Shire of Busselton. The bond may be in the form of cash, cheque or bank guarantee and is a performance guarantee against satisfactory completion of conditions of this approval. The performance guarantee will be refunded in full immediately the outstanding works are completed/established as appropriate to the condition(s). Any such bond is to be accompanied by a written authorisation from the owner of the land that the Shire may enter the site to complete or rectify any outstanding work. The Shire will recover the bond, or part of the bond, as appropriate, the cost to the Shire, including administrative costs, of completing or rectifying any outstanding works.

13.4 PROPOSED TOWN PLANNING SCHEME AMENDMENT AND DEVELOPMENT  
GUIDE PLAN - PT LOT 4208, BIDDLE ROAD, QUINDALUP

This report had not been completed at the time of Agenda finalisation and therefore will need to be circulated via an addendum to the Agenda, prior to the Council Meeting on 25 February 2009.

13.5 DRAFT DEVELOPMENT GUIDE PLAN - LOT 177 RENDEZVOUS ROAD, VASSE  
(ADOPTION FOR FINAL APPROVAL)

<b>FILE NO:</b>	6154
<b>PROPOSAL:</b>	Adoption of a DGP for Lot 177 Rendezvous Road, Vasse for final approval
<b>LOT SIZE</b>	4.523 ha
<b>ZONE:</b>	'Rural Residential' 'Special Provision' Area 'Development Investigation' Area
<b>POLICIES:</b>	
<b>ATTACHMENT(S)</b>	A. Structure Plan B. Location Plan C. Draft Development Guide Plan East Vasse D. Schedule of Submissions E. Development Concept Plan from DGP report

### **PRÉCIS**

A draft Development Guide Plan (DGP) was adopted for Lot 177 Rendezvous Road, Vasse, proposing the creation of 9 rural residential lots ranging in size from 2001m<sup>2</sup> to 1.0169 ha, with an average size of 5026m<sup>2</sup>. A 2212m<sup>2</sup> area of POS is proposed adjacent to the wetlands in the north of the site.

The proposed lot yield is consistent with the intent of the East Vasse Structure Plan, and the objectives of the Busselton Urban Growth Strategy (BUGS) and Local Rural Planning Strategy (LRPS). The design of the DGP is considered to adequately respond to the conservation and rural landscape values of the land, consistent with the provisions of the Scheme and the objectives of the LRPS. It is therefore recommended that the draft DGP be adopted for final approval pursuant to clause 25 of the Scheme.

### **PROPOSAL / BACKGROUND**

#### Subject Land

The subject land is 4.52 ha in area and is located 8.5km west southwest of the Busselton town centre.

The land is flat and predominately cleared, although there are a number of paddock trees, and small stands of Marri and WA Peppermint Trees along the northern, eastern and western boundaries.

There is an existing dwelling and outbuildings located approximately in the centre of the subject land.

The land is zoned 'Rural Residential' pursuant to the Scheme, and is wholly contained within a 'Development Investigation' area, and 'Special Provision' area. It is also partly included within a 'Wetland' area (along the northern boundary, corresponding with the 'Multiple Use Wetland').

Land to the east and west is zoned 'Rural Residential', and land to the south of Rendezvous Road is zoned 'Agriculture'. North of the subject land is the 'Vasse Development' zone.

### The Proposal

The draft DGP proposes the creation of 9 rural residential lots, ranging in size from 2001m<sup>2</sup> to 1.0169 ha, achieving an average lot size of 5026m<sup>2</sup>.

An area of 2212m<sup>2</sup> in the north of the site is identified as future POS. This incorporates the 'Wetland' area (which coincides with the 'Multiple Use Wetland') identified in the north-eastern corner of the lot. A 10m building setback to the POS is identified on proposed Lots 1 and 2 which are located adjacent to the proposed POS.

An east west road connection is proposed through the centre of the subject land, which reflects the east west road connection shown on the East Vasse Structure Plan.

Smaller lots are proposed on the northern side of the proposed road (2001m<sup>2</sup> - 5000m<sup>2</sup>), and larger lots (1 ha) south of this road.

The DGP is proposed to be staged, with proposed Lot 8 (1 ha) to be released in the first stage of subdivision. The adjoining area identified as Lot 9 will provide battleaxe access to the balance of Lot 177 until later subdivision of the remaining lots can occur. This land will be held as a balance of title lot. Reciprocal access for proposed Lot 8 and the balance of the land would be achieved via an easement over the existing driveway and crossover to Rendezvous Road (shown on the DGP). An instrument is proposed to be registered on the title of proposed Lot 8 terminating access to Rendezvous Road once the internal road is constructed and created. Subdivision of the remaining lots (Lots 1-7 and Lot 9) is reliant on road access and services being provided from the east or west.

Proposed Lots 1-7 and 9 are proposed to be connected to reticulated water and sewer which will be available in the future. Lot 8 (stage 1) is proposed initially without connection to reticulated water or sewerage, with instruments to be placed on the title of Lot 8 requiring connection to sewer and water when it becomes available.

The development of stage two lots will not be able to proceed until development occurs on the adjoining land to allow the linking of a new road into the existing road network.

### **STATEMENT OF IMPACT**

The adoption of the DGP will, once it is endorsed by the WAPC, provide for the subdivision of the land.

The alignment of the road proposed on the DGP indicates connection through adjoining land and will effectively require that subsequent subdivision of those properties occur in a manner consistent with the proposed DGP. One of the affected landowners has objected to the proposed layout, however, the proposed layout is consistent with the East Vasse Structure Plan (the stated reasons for the objection and officer comment on those reasons is set out under the 'Consultation' heading below).

## **CONSULTATION**

Subsequent to the draft DGP being adopted under delegated authority it was advertised for a period of 28 days in accordance with clause 25(4) of the Scheme.

One objection was received from the adjoining landowner to the east, with the following key concerns raised:

- \* A loss of potable water supply (due to the proposed road alignment crossing the location of the existing water tanks and filter equipment).
- \* The creation of awkward and irregular shaped lots (because of road curve) which will be difficult to sell.

The Department of Environment and Conservation raised concerns regarding the setback to the EPP Wetland located to the north of the subject land.

The issues raised in the submissions are addressed in the 'Officer Comment' section below and a Schedule of Submissions is included as Attachment D.

## **FINANCIAL IMPLICATIONS**

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

If the DGP is endorsed, the subsequent subdivision and development would attract monetary contributions for bushfire protection, infrastructure, and community facilities in accordance with the Community Facilities Implementation Policy.

## **STRATEGIC IMPLICATIONS**

The proposed DGP is generally consistent with Council's Strategic Plan, including the Strategic Foci of 'Business and Economic Wellbeing', 'Community and Social Well Being' and 'Built and Physical Wellbeing'.

## **STATUTORY ENVIRONMENT**

The subject site is currently zoned 'Rural Residential' under the Shire of Busselton District Town Planning Scheme No. 20 (the Scheme), as is land to the east and west.

Relevant objectives of the Rural Residential zone include the following:

- '(i) To encourage development for the purpose of closer rural settlement on land which is suitable for such a purpose, and is in reasonable proximity to existing town sites;*
- '(ii) To ensure that development maintains the rural character of the locality, maintains a high level of residential amenity and minimises disturbance to the landscape through construction of buildings and structures, clearing, earthworks and access roads;'*
- '(vii) To promote and encourage cluster subdivision and other innovative rural residential designs, having consideration for conservation values.'*

Relevant policies of the zone include the following:

- '(a) To encourage rural residential subdivision by permitting a range of lot sizes in conventional subdivision subject to a general minimum lot size of 1 hectare with an average minimum lot size of approximately 2 hectares and providing greater flexibility for lots created within appropriate cluster subdivisions or by strata title subdivision, dependent upon the special physical characteristics of the land;'*
- '(e) To encourage generally, and require specifically in rural residential subdivision, the provision of vegetation and fauna corridors and the revegetation of the land;'*
- '(f) To adequately protect any areas or sites of conservation value within the design of any development (including subdivision);'*

#### Clause 85 - Rural Residential Subdivision & Development Requirements

Clause 85 of the Scheme requires that subdivision and development within the 'Rural Residential' zone shall generally be in accordance with a DGP adopted by the Shire and endorsed by the Western Australian Planning Commission (WAPC).

Clause 85 defines development setbacks, however the DGP proposes lots that are smaller than the minimum and average outlined in the Scheme, therefore the proposed setbacks set out in clause 85 are not appropriate for some of the proposed lots. To address this issue the draft DGP proposes to vary these and sets out guidelines derived from the Residential Design Codes for front and rear setbacks.

#### Special Provision Area

The subject land is located within a 'Special Provision' area to which the following apply:

*'At the time of subdivision, Council will recommend to the Western Australian Planning Commission that the subdivider be required to submit, to the satisfaction of the Department of Environmental Protection, Water and Rivers Commission and the Health Department of Western Australia, a drainage and effluent disposal management plan indicating -*

- 1. That all lots can achieve a minimum 500mm vertical separation between the winter water table and aerobic treatment unit irrigation areas;*
- 2. That the aerobic treatment units will not adversely impact on surface water quality; and*
- 3. Site works required to achieve 1 and 2 above.*

Where individual lots cannot meet the requirements of 1 and 2 above, a minimum lot size of 4000 square metres shall apply.'

Given that the land can be connected to reticulated water and sewer services, and that proposed lot 8 (stage 1 subdivision) exceeds a minimum 4000m<sup>2</sup> land area, the Special Provisions of the Scheme will be met.

## **POLICY IMPLICATIONS**

### Local Rural Planning Strategy

The Local Rural Planning Strategy (LRPS) was endorsed by the WAPC on 26 March 2007, and comprises the Shire's current policy framework for rural land use, zoning, subdivision and development, along with the Scheme.

The subject land is located within the 'Primary Rural' precinct, and the subdivision criteria for the precinct identify that rural residential subdivision is limited to existing 'Rural Residential' zones and is to be in accordance with adopted Structure and Development Guide Plans.

The following environmental and social objectives are of particular relevance to the proposal:

- \* To protect watercourses, streamlines and groundwater, and to protect environmental flows in watercourses by restriction of dams, particularly on-stream dams, and the control of dam sizes.*
- \* To protect and re-establish environmental corridors and buffers and to protect habitat and vegetation corridors relied on by the threatened Western Ringtail Possum.*
- \* To promote weed and feral animal management.*
- \* To promote nutrient management and the use of nutrient management plans.*
- \* To ensure an adequate level of fire management and protection.*

### Busselton Urban Growth Strategy (1999)

The Busselton Urban Growth Strategy 1999 (BUGS) is a local planning policy adopted pursuant to clause 103 of the Scheme and is listed in Schedule 10. The BUGS is the principal guide for Council in considering the form and timing of development and has been endorsed by the WAPC.

The subject land is identified as 'Rural Living' under the 'Short Term Development' (0-5 years) category.

### East Vasse Structure Plan (1996)

The East Vasse Structure Plan shows an east west major link road through the centre of the subject land.

North of the link road the Structure Plan indicates 2000m<sup>2</sup> – 1 ha lots (including 'cluster development'), and 1 – 3 ha lots south of the link road.

To the north of the lot it indicates 'Conservation, Recreation & Drainage Reserve' which continues east west through the Structure Plan area.

The Structure Plan also shows vegetation to be protected along the eastern boundary of the subject land.

### State Planning Policy 3 Urban Growth and Settlements

SPP 3 'Urban Growth and Settlements' is relevant to the proposal, and relevant objectives of this policy are:

- \* *To promote a sustainable and well planned pattern of settlement across the State, with sufficient and suitable land to provide for a wide variety of housing, employment, recreation facilities and open space.*
- \* *To coordinate new development with the efficient, economic and timely provision of infrastructure and services.*

SPP 3 outlines that proposals for future urban growth will be determined having regard to the following:

- \* *the State Planning Strategy, relevant statements of planning policy, and regional and subregional strategies in the State Planning Framework;*
- \* *local planning strategies prepared by local government and endorsed by the Commission.*

Planning for rural residential development should—

- \* *avoid productive agricultural land, important natural resources, areas of high bush fire risk or environmental sensitivity;*

- \* *give preference to locations near existing settlements with available services and facilities in order to support the local community and avoid locations where services are not available or costly extensions are necessary.*

#### OFFICER COMMENT

##### Lot Size & Lot Yield

The draft DGP proposes 9 rural residential lots, with an average lot size of 5026m<sup>2</sup>. North of the link road the East Vasse Structure Plan indicates 2000m<sup>2</sup> – 1 ha lots (including 'cluster development'), and 1 - 3ha lots south of the link road. However, these lot areas were predicated on the absence of reticulated water and sewer. The DGP proposes closer settlement and a more efficient use of land while maintaining lot sizes consistent with rural residential settlement character. This is consistent with SPP No. 3. Lots below 1 ha in the 'Rural Residential' zone have been supported previously in the East Vasse rural residential area on the basis of availability of services, and the maintenance of a rural residential settlement character.

The proposed 1 ha lots adjacent to Rendezvous Road are consistent with the intent of the East Vasse Structure Plan, and will ensure a rural character is retained when viewed from Rendezvous Road.

The proposed lot yield is considered to be consistent with SPP No. 3, in that the land is identified in the Urban Growth Strategy for 'Rural Living' under the 'Short Term Development' (0-5 years) category.

##### Access

Access to the site is proposed temporarily from Rendezvous Road for proposed Lot 8 and the balance of the land (stage 1), via a joint crossover with an easement. This is considered acceptable, as an existing crossover will be utilised, and planning policy statement No. 4.1 stipulates that an instrument is to be placed on the title of proposed Lot 8 terminating access to Rendezvous Road once the internal road is constructed and created.

Subdivision of the remaining proposed lots (Lots 1-7 and Lot 9) is reliant on road access and services being provided from the east or west. The owner of the land to the east has raised concern about the proposed road alignment, specifically concerns regarding -

- \* A loss of potable water supply (due to the proposed road alignment crossing the location of the existing water tanks and filter equipment).
- \* The creation of awkward and irregular shaped lots (because of road curve) which will be difficult to sell.

With respect to the first issue, when the road is developed, reticulated, potable water supplies will need to be provided, rendering the existing water tanks unnecessary. Furthermore any decision to subdivide lot 179 will rest with the owner and the relocation of the water tank could be undertaken and part of the subdivision works if desired. With respect to the second issue, the amendment documents contain an indicative layout for the subdivision of the adjoining land and indicate that the land can be subdivided without the creation of awkwardly shaped lots (see attachment E).

The road layout as indicated in the Draft DGP does, however, show the road somewhat to the south of the location shown on the Structure Plan this is supported due to the following:

- \* It will prevent the need for battleaxe lots or very narrow lots that would be needed if the Structure Plan recommendation was followed.
- \* It does not unduly compromise the development of the adjoining sites (including in terms of lot yield).

#### Environmental Issues

The drainage area north of the subject land is a 'Multiple Use Wetland', as identified on the DEC wetland mapping. A small area on the north east tip of the subject land is identified as a 'Multiple Use Wetland'. This area is proposed to be retained within POS.

Planning policy statement No. 8.1 of the draft DGP requires the submission and implementation of a landscaping and revegetation plan for the POS as a condition of subdivision, which is to include weed management. In addition, planning policy statement No. 9 requires the preparation and implementation of a Wetland and Drainage Management Plan and Nutrient Management Plan. These requirements will result in the conservation values of the wetland being enhanced through revegetation, rehabilitation and weed management within the area of proposed POS adjacent to the wetlands.

There are trees along the western boundary of the lot which are proposed to be retained within the road reserve of the proposed cul-de-sac. Stands of remnant vegetation are not proposed to be disturbed, and planning policy statement No. 8.2 requires that measures are taken to the satisfaction of the Shire to ensure identification and protection of any vegetation on the site worthy of retention prior to commencement of site works.

It is considered that the design of the DGP, proposed POS and the measures outlined above adequately respond to conservation values of the land, and will ensure consistency with policies (e) and (f) of the 'Rural Residential' zone, and with the relevant environmental objectives of the LRPS.

### General Site Requirements

Clause 85 of the Scheme sets out subdivision and development requirements for the 'Rural Residential' zone. Clause 85(14) sets out setbacks for dwellings and outbuildings as being 20m from any road or front boundary, and 15m from a side boundary, unless otherwise specified on a DGP. However these setbacks are not appropriate for the lots that are less than 1 ha. Therefore to address this issue planning policy statement No. 2 has identified setbacks dependent upon the proposed lot sizes, derived from the setbacks set out in the Residential Design Codes for equivalent lot sizes. This will ensure that the required setbacks are appropriate to the lot sizes.

A 10m building setback is identified to the proposed POS on proposed Lots 1 and 2. This will ensure protection of the amenity of the POS.

### Servicing

Planning policy statement No. 3.1 outlines that proposed Lots 1-7 and 9 must be connected to reticulated services (sewer and water). It is considered acceptable that Lot 8 is proposed initially without connection to reticulated water or sewerage, with instruments proposed to be placed on the title of Lot 8 requiring connection to sewer and water when it becomes available (planning policy statement No. 3.2). Lot 8 will be sufficiently served by on-site effluent and rainwater until services become available. This is consistent with Policy (b) of the 'Rural Residential' zone.

### Fire Management

Planning policy statement No. 5 stipulates that a fire management plan is proposed to be submitted prior to subdivision for stage 2 (proposed Lots 1-7 and 9). It is not considered necessary that a fire management plan be submitted upfront, as only the north-eastern corner of the site is identified as an 'extreme' fire hazard, there is little remnant vegetation on the remaining area of the site, and each proposed lot is mostly cleared. In addition, reticulated water will be available. It is therefore considered that appropriate fire management in accordance with 'Planning for Bushfire Protection' will be achievable without requiring modifications to the lot configuration, and submission of a fire management plan at subdivision is acceptable.

## **CONCLUSION**

The design of the DGP is considered to adequately respond to the conservation and rural landscape values of the land, consistent with the provisions of the Scheme and the objectives of the LRPS. The proposed lot yield is consistent with the intent of the East Vasse Structure Plan, and the objectives of the Urban Growth Strategy and LRPS. It is therefore recommended that the DGP be adopted for final approval, and referred to the WAPC with a request for endorsement.

**TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the officer recommendation would involve advising the applicant of the Council resolution, and this will occur within five working days of the resolution. The amendment will then be progressed on receipt of required documentation.

**VOTING REQUIREMENT**

Simple Majority.

**OFFICER RECOMMENDATION**

1. That the Council adopt for final approval the draft Development Guide Plan for Lot 177 Rendezvous Road, Vasse pursuant to clause 25(5) of the Shire of Busselton District Town Planning Scheme No. 20 without modification.
2. That the Council endorse the Schedule of Submissions prepared in response to the community consultation undertaken in relation to the Development Guide Plan.
3. That the Council refer the Development Guide Plan to the Western Australian Planning Commission with a request for endorsement.

**14. SYSTEMS AND INFORMATION REPORT****14.1 AUDIT COMMITTEE - AMENDMENT TO INSTRUMENT OF APPOINTMENT**

**FILE NO:** FIN6  
**ATTACHMENT(S):** Nil

**PRÉCIS**

Pursuant to Section 7.1A of the Local Government Act, a local government is required to establish an audit committee.

At its meeting of 28 September 2005, the Council established (C0509/311) its Audit Committee and at that time also adopted an Instrument of Appointment for the Committee.

This report seeks that the Instrument of Appointment be amended such that the minimum number of meetings to be held annually is reduced from four to three.

**BACKGROUND**

During 2005, local governments were required to establish an audit committee for the purpose of providing guidance and assistance in respect of numerous audit related matters. The Shire of Busselton Audit Committee was established in October 2005 at which time an Instrument of Appointment was also adopted.

Subsequent to its initial adoption, the Instrument of Appointment has been amended on several occasions, with these amendments relating primarily to membership numbers.

The Instrument of Appointment states that the Committee shall meet at least four times annually. However, since its establishment, the Committee has not complied with this requirement. It is considered that this is primarily due to the number of 'audit' related activities that generally occur each year that require Audit Committee consideration.

Based on current practices, it is considered that the minimum number of meetings to be held annually be reduced to three. This would ensure that the Audit Committee met to consider the outcomes of the interim financial audit, the annual financial audit and also the annual compliance audit at a minimum.

Clearly, where other audit related matters arose (e.g. Financial Management Systems Review, Appointment of Auditor) then additional meetings would be convened.

## **CONSULTATION**

This matter was considered by the Shires Audit Committee at its meeting of 23 January 2009. At that meeting it was resolved (AU0901/003) that the Audit Committee recommends to the Council that the Instrument of Appointment for the Shire of Busselton Audit Committee be amended such that the minimum number of meetings to be held annually is reduced from four to three.

## **STATUTORY ENVIRONMENT**

Section 7.1 of the Local Government Act and Regulation 16 of the Local Government (Audit) Regulations refer specifically to the establishment and functions of audit committees.

Sections 5.8 - 5.25 of the Local Government Act refer to the functions of committees more generally.

## **POLICY IMPLICATIONS**

Not applicable

## **FINANCIAL IMPLICATIONS**

Not applicable

## **STRATEGIC IMPLICATIONS**

Matters relating to the Shire's Audit Committee align with the Council's Strategic Plan 2006-2011 and principally the following Strategic Objective:

### *Organisational Well Being*

To manage the business of the Shire in a responsible and accountable manner utilising organisational sustainability principles

## **STAFF COMMENT**

As detailed within the context of this report, it is recommended that the Instrument of Appointment for the Shire of Busselton Audit Committee be amended such that the minimum number of meetings to be held each year is reduced from four to three. This will result in the minimum number of meetings more closely aligning with the number of 'audit' related activities that occur in an average year.

It should be noted that this proposal only relates to the minimum number of meetings and does not preclude the ability for the Audit Committee to convene any number of additional meetings that it may require to be held during the course of any year.

**TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Dependant upon the Council's determination, the Instrument of Appointment for the Shire of Busselton Audit Committee will be amended forthwith.

**VOTING REQUIREMENT**

Simple Majority

**AUDIT COMMITTEE/ OFFICER RECOMMENDATION**

That the Council endorses that the Instrument of Appointment for the Shire of Busselton Audit Committee be amended such that the minimum number of meetings to be held annually is reduced from four to three.

**14.2 2007/08 FINANCIAL AUDIT - AUDITOR'S MANAGEMENT REPORT**

**FILE NO:** FIN6  
**ATTACHMENT(S):** A. Copy of Auditor's Management Report

**PRÉCIS**

Pursuant to Section 7.9 of the Local Government Act, an Auditor is required to examine the accounts and annual financial report submitted by a local government for audit, and by 31 December next following the financial year to which the accounts and report relate, to prepare a report thereon and forward a copy of that report to:

- (a) The Mayor or President
- (b) The Chief Executive Officer; and
- (c) The Minister

Furthermore, pursuant to Regulation 10 of the Local Government (Audit) Regulations, where it is considered appropriate to do so, the Auditor may prepare a Management Report to accompany the Auditor's Report, which is to also be forwarded to the persons specified in Section 7.9 of the Act.

Consequent to the finalisation of the Shire's 2007/08 annual financial audit, it is considered appropriate that the Auditor's Management Report be presented to the Audit Committee and subsequently the Council for consideration and noting.

**BACKGROUND**

As detailed in Regulation 10 of the Local Government (Audit) Regulations, where it is considered appropriate, an Auditor may prepare a Management Report to accompany the formal Auditor's Report.

The Shire of Busselton has historically sought a Management Report as part of its annual financial audit process. The Management Report provides an overview of the audit process and outcomes, whilst also identifying any matters that, whilst generally not material in relation to the overall audit of the financial report, are considered relevant to the day to day operations of the Shire.

As previously mentioned, it is considered appropriate that the Management Report be presented to the Audit Committee for consideration and deliberation (with the appointed Auditor or his representative in attendance) prior to being presented to the Council for noting.

**CONSULTATION**

This matter was considered by the Shires Audit Committee at its meeting of 23 January 2009. At that meeting it was resolved (AU0901/002) that the Audit Committee recommends to the Council that it notes the Auditor's Management Report in respect of the annual financial audit for the financial year ended 30 June 2008.

## STATUTORY ENVIRONMENT

Matters relating to the financial audit of a local government authority are specifically detailed within:

Part 7 of the Local Government Act and;  
The Local Government (Audit) Regulations

## POLICY IMPLICATIONS

Not applicable

## FINANCIAL IMPLICATIONS

Not applicable

## STRATEGIC IMPLICATIONS

Matters relating to the Shire's annual financial audit align with the Council's Strategic Plan 2006-2011 and principally the following Strategic Objective:

\* *Organisational Well Being*

To manage the business of the Shire in a responsible and accountable manner utilising organisational sustainability principles

## STAFF COMMENT

During the course of the 2007/08 financial audit, the Shire's auditors identified a number of specific matters considered relevant for inclusion in the Management Report. These matters related to the following items:

1. Unrecorded Creditors
2. Sundry Debtors
3. Deposits and Bonds
4. Stock-takes
5. Introduction of new Software System

In respect of each of the above items, the Management Report includes a summary of each issue identified and a subsequent recommendation (both completed by the Auditor), in addition to a management comment (completed by Shire staff). Consequently, it is not considered necessary to further comment on each item specifically within the body of this report.

Notwithstanding the above, and subsequent to consultation with the Audit Committee, each of the identified matters will be dealt with as detailed in the relevant recommendation and management comment.

**SUMMARY**

As detailed within the Management Report, the Auditor has stated that, "as in prior years, our 2008 audit indicated that the accounting processes and internal controls within the Shire of Busselton's accounting function have continued to operate to high standards, and have continued to operate effectively throughout the 2007/08 year."

As such, it is considered that the specific items identified within the Management Report are generally minor in nature and, as noted in the management comments, are able to be readily resolved in most cases.

**TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Not applicable

**VOTING REQUIREMENT**

Simple Majority

**AUDIT COMMITTEE/ OFFICER RECOMMENDATION**

That the Council notes the Auditor's Management Report in respect of the annual financial audit for the financial year ended 30 June 2008.

**15. COMMUNITY INFRASTRUCTURE REPORT****15.1 AMENDED BUDGET FOR THE PROVISION OF PLAYGROUND TO CLOISTERS ESTATE AND BUSSELTON LIFESTYLE VILLAGE PUBLIC OPEN SPACE**

<b>FILE NO:</b>	719
<b>ATTACHMENT(S):</b>	A. Shire request letter to WAPC B. WAPC approval letter to Shire C. Option 4 sketch of playground D. 2008/09 Works budget summary E. Aerial maps of the POS site

**PRECIS**

This report seeks to amend the allocated budget (2008/09) for the construction of a playground and associated landscaping at Cloisters estate Public Open Space (POS) with an additional amount of funding provided as a one off 'cash in lieu' payment for the shortfall in POS allocation from the adjacent Busselton Lifestyle Village.

**BACKGROUND**

Cloisters estate is confined on 4 sides with Queen Elizabeth Avenue to the west, Barlee St east, Vasse diversion drain south and DEC conservation land north. The estate was developed in approximately 1996; however the development was hindered with little to no Public Open Space (POS) for recreation. The allocated POS was required mainly for drainage and visual amenity of the area.

Over a period of time, members of the community residing in Cloisters have approached the Shire to provide a playground and suitable recreation area for children to play; this has been constrained by limited space to provide such a facility.

In more recent times the Busselton Lifestyle Village (BLV) adjoining Cloisters estate has been developed with land ceded for POS abutting a portion of Cloisters estate POS and has formed a POS of reasonable size for recreation.

A shortfall in land allocation for POS was identified by the Western Australian Planning Commission (WAPC) in the planning process for the BLV and a 'cash in lieu' contribution to make up the shortfall in land (155m<sup>2</sup>) was required. A mutual legal agreement between the Shire of Busselton and BLV was then drawn up for a sum of \$72,500.00 to be paid to the Shire of Busselton by an agreed date.

The Shire of Busselton at the time of setting the budget for the financial year 2008/09 allocated \$40,000.00 for the supply of a playground with the intention of adding the 'cash in lieu' to provide a playground and associated landscaping of suitable proportion. The agreed 'cash in lieu' funding could not be added to the budgeted item for the following reasons:

- \* The Shire of Busselton initially agreed for the BLV to design the POS area but was dismissed through higher development costs and unsuitable design for the adjoining Cloisters community
- \* The payment was not received by the agreed time (prior to finalising budget).
- \* Correspondence between the BLV and the Shire of Busselton regarding other development matters delayed payment further.
- \* Further correspondence required with WAPC for approval of 'cash in lieu' to be spent on POS once the Shire of Busselton received funds from the BLV.

## CONSULTATION

The Cloisters estate community has had a desire for the development of suitable recreational facilities for children and residents in the area and have lobbied the Council and staff over a long period of time.

In developing the design of the playground facility, Shire staff sought quotations from companies specialising in playgrounds that meet OHS and Australian Standards in design. Three options from two companies (Megatoy & Kompan) were submitted to the Cloisters community to ensure feedback into the final design was provided. The Community responded with the preferred design as option 3 (Megatoy) with some minor changes. This was then assessed by Shire staff and most changes were accepted (some changes required further funds and were not acceptable).

The amended design has now been sent out to the community as option 4 as the preferred design. The sketch of the proposed playground (Option 4) is shown as Attachment C.

## STATUTORY ENVIRONMENT

Local Government Act 1995

Financial Management Part 6

Division 4 - General financial provisions

6.8 Expenditure from municipal fund not included in annual budget states:

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure -
  - (b) Is authorised in advance by resolution \* *absolute majority required*.

1(a) In subsection (1) -

'additional purpose' means a purpose for which no expenditure estimate is included in the local government's annual budget.

## POLICY IMPLICATIONS

Nil.

## FINANCIAL IMPLICATIONS

The 'cash in lieu' funds for POS relate directly to the shortfall in the required public open space allocation within a subdivision as set by the Western Australian Planning Commission (WAPC) and are a condition of subdivision.

The 'cash in lieu' funds can only be allocated subject to the approval of the WAPC and unless stated otherwise by the WAPC must be spent within the POS that relates to the shortfall.

Attachment A - Is the Shire letter sent to the WAPC providing the costs required to improve the POS and seeking approval to spend the funds within the Cloisters / BLV POS.

Attachment B - Is the letter from the WAPC accepting the Shire recommendation of 'cash in lieu' funds to be spent on upgrading the POS.

### Funds proposed:

Allocated budget 08/09 Works Budget Summary (page 25 Job RC71 NEW C3000) - \$40,000.00

Additional 'cash in lieu' funds from NLV POS - \$72,500.00

**Total - \$112,500.00**

### Estimated Costs:

Playground - Option 4 - \$60,700.00

Initial BLV landscape design works - \$2,500.00

Sand and perimeter walls to playground - \$10,000.00

Planting/mulching and seasonal grass establishment - \$6,000.00

Seating, bins, bollards and associated furniture - \$8,000.00

Construction of compacted limestone paths and bridge - \$25,300.00

**Total - \$112,500.00**

### Future Maintenance Costs:

Estimated budget for future maintenance is based on seasonal slashing of grassed areas and herbicide treatment as required. Initial establishment costs for the first 2 years are estimated at \$10,000 per annum.

## STRATEGIC IMPLICATIONS

This proposal is considered relevant to the Shire's Strategic Plan 2006 - 2011:

- |                            |  |
|----------------------------|--|
| <b>1. Strategic Focus:</b> | <b>Community and Social Well Being:</b>  |
| Strategic Objective:       | Facilitate and assist in the development of quality community facilities and services. |

Strategic Initiative: Build community vitality and a sense of place through nodal design and development.

Strategic Objective: Support the provision of a range of healthy recreation, entertainment and lifestyle opportunities

Strategic Initiative: Support and facilitate leisure information and sporting activities

**2. Strategic Focus: Built and Physical (Infrastructure) Well Being:**

Strategic Objective: To develop and ensure the provision of universally accessible and socially inclusive services, facilities and functions for all people within the community.

Strategic Initiative: Ensure equitable access and inclusion to Shire facilities and services through the embedding of Access and Inclusion principles within Shire operations.

**3. Strategic Focus: Natural and Environmental Well Being:**

Strategic Objective: Ensure that communities are provided with a balance of active and passive space

Strategic Initiative: Ensure maintained open space in current and future urban areas

**OFFICER COMMENT**

As one of the few new land developments at the time (1996), Cloisters estate attracted younger families particularly for land affordability and the proximity to schools. Although the area is adjacent to school sites and natural environmental areas, the provision of a maintained active space for recreation has not been available to the community as a whole.

Since the establishment of Busselton Lifestyle Village, an opportunity to amalgamate BLV POS with a smaller Cloisters POS into a sizable portion of land is now possible. The amalgamated POS provides an attractive site for recreation including a playground area with established natural vegetation, an active kickabout area and links to a strategic cycle route along conservation land to the north.

It is also important to note there are considerable benefits provided for the BLV residents with the opportunity for the residents to utilise the extended POS and the proposed facilities for their family and friends.

The WAPC also provided verbal advice to the Shire of Busselton that whilst vesting and amalgamating the POS Lots are required; the implementation of playground equipment and associated landscaping will not interfere with the process.

The amalgamation of the lots and subsequent management orders for the POS will form a separate Council report.

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

Based on the Council's approval, the works are scheduled for late April 2009 with the implementation of the playground equipment (by contractors). Once the playground is installed, further works in providing limestone edge walls and filling of the playground area with sand will follow prior to use. Additional works with the remaining budget will be to form pathways for connection to key entry and exit points, planting and furniture.

#### **VOTING REQUIREMENT**

Absolute majority.

#### **OFFICER RECOMMENDATION**

#### **ABSOLUTE MAJORITY DECISION REQUIRED**

That the Council endorse the amended budget for the Cloisters Playground and surrounding landscape works for an additional \$72,500.00 taken as 'cash in lieu' funds from the shortfall in POS allocation from Busselton Lifestyle Village (BLV).

## 16. COMMUNITY AND ORGANISATIONAL DEVELOPMENT REPORT

### 16.1 SMALL LOCAL PROJECTS FUND 2008/09 - NOS. 12 AND 13

**FILE NO:** GRT8  
**ATTACHMENT(S):** A. Copy of Council Policy 202/1, Small Local Projects Fund  
 B. Request from St George's Anglican Church, Dunsborough

#### 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
12.	Cr Hastie	\$124.00	Busselton Senior Citizens' Centre	Building Licence Fee for Storeroom Extension - BSCC Building
13	Cr Binks	\$107.50	St George's Anglican Church, Dunsborough	Shire Event Application Fee of \$52.50 plus further fee of \$55

#### 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 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.

There are sufficient funds available within the portion allocated in the 2008/09 financial year for recommendation for disbursement by Councillor Hastie.

As previously advised (refer Item 16.1 of the Agenda for the Council's Meeting on 11 February 2009) although there are sufficient funds available in the total 2008/09 SLP Budget Allocation, sufficient funds are not available within the portion nominally allocated in the current financial year for recommendation for disbursement by Councillor Binks.

## STRATEGIC IMPLICATIONS

Nil

## STAFF COMMENT

Nil

## TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

## VOTING REQUIREMENT

Simple majority.

## OFFICER RECOMMENDATION

1. That the following amount be allocated from the Council's Small Local Projects Budget Allocation:

No	Councillor Making Request	Amount	Recipient	Purpose for which funds will be used
12.	Cr Hastie	\$124.00	Busselton Senior Citizens' Centre	Building Licence Fee for Storeroom Extension - BSCC Building

2. That the Council determines whether there is sufficient merit in Cr Binks' proposal to approve the funds recommended by Cr Binks, although outside of the money available for him to recommend for disbursement in accordance with Council policy 202/1.

**16.2 PROPOSED LEASE FOR THE BUSSELTON WOODTURNERS' GROUP**

**FILE NO:** ART8 / 14565  
**ATTACHMENT(S):** ArtGeo Gallery Site Plan

**PRÉCIS**

This report provides the Council with information and recommendations regarding the Busselton Woodturners' Group (BWG) proposed tenure of a portion of the premises at the new ArtGeo Gallery in Queen Street.

**BACKGROUND**

The Busselton Woodturners Group was formed in 1986 and is part of the larger West Australian Woodturners Association. The group has operated in various locations; the Busselton Senior High School, a studio workroom in the Old Courthouse Centre and more recently in an area at the rear of the new ArtGeo Gallery. The club currently has 33 members and supports the art of woodturning through demonstrations and social opportunities.

**CONSULTATION**

Shire staff met with representatives of the BWG and discussed terms and conditions of tenancy and the Shires ability to meet the BWG needs in terms of space and security.

**STATUTORY ENVIRONMENT**

Under Regulation 30(2)(b)(i) & (ii) of the Local Government (Functions & General) Regulations, disposal of land to incorporated bodies with objects of benevolent, cultural, educational or similar nature and the members of which are not entitled to receive any pecuniary profit from the body's transactions, are exempt from the advertising and tender requirements of section 3.58 of the Local Government Act.

The constitution of the Busselton Woodturners Group is such that this exemption applies.

**POLICY IMPLICATIONS**

No Shire policy exists guiding the leasing of property to community groups.

**FINANCIAL IMPLICATIONS**

The Shire of Busselton Fees and Charges schedule lists the annual lease fee for community and sporting groups as \$150.00 plus GST. This will be a reduction in revenue for the ArtGeo Gallery as the group was previously paying approximately \$170.00 per month inclusive of outgoings to hire the space. As the BWG is a 'not for profit' community group it would create disparity to continue to charge the current hire rate. Outgoings will be separately charged to the group as will a service fee covering the use of shared facilities i.e. kitchen and toilets.

## **STRATEGIC IMPLICATIONS**

The Shire's Strategic Plan 2006 - 2011 states; *"To develop and maintain the Shire's assets and built environment to maximize public benefit now and into the future."* The recommendations of this report support this statement.

## **OFFICER COMMENT**

The BWG has co-existed with the ArtGeo Gallery and its functions, well over the past three years. The premises they propose to occupy is well suited to the groups activities and has the ability to attract tourists and local visitors to the site. The group does not compete with the gallery but supports the arts and tourism by adding value to the location and providing an additional visitor attraction.

The proposed term of lease is for five years with a further five year term subject to compliance, at the current lease fee of \$150.00 per annum plus outgoings.

In the past the only concern regarding the close proximity of the BWG to the gallery and art storage areas, is the potentially damaging effect of sawdust on original artwork. The failure to control this aspect of the groups activities would render the gallery incapable of ever attaining an A classification; i.e. the ability to hold certain exhibitions and displays. Therefore a special condition of the lease would be that the group must install and operate dust extractors to the satisfaction of the Shire. The BWG is in agreement with this requirement.

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

A draft lease would be provided to the BWG within six weeks of the Council resolution.

## **VOTING REQUIREMENT**

Simple Majority

## **OFFICER RECOMMENDATION**

1. That the Busselton Woodturners Group be offered a five year lease with a further five year term over Workshop 1 at the rear of the ArtGeo Gallery commencing on the date of this resolution.
2. That an Annual Rent of \$150.00 pa plus outgoings and service fees as applicable be payable by the lessee.
3. That all costs associated with the development of the lease be paid by the Lessee.
4. That the lease contain a special condition requiring the lessee to install and operate dust extraction units and use every endeavour to prevent the escape of sawdust from the premises with other lease conditions being consistent with those in the Shire's Standard Community Groups and Associations Lease.

16.3 BUSSELTON FORESHORE CONSULTATION

**FILE NO:** DEV3  
**ATTACHMENT(S):** Nil

This report had not been completed at the time of Agenda finalisation and therefore will need to be circulated via an addendum to the Agenda, prior to the Council Meeting on 25 February 2009.

16.4 MEMBERSHIP OF MEELUP REGIONAL PARK MANAGEMENT COMMITTEE AND COUNCILLOR'S RESIGNATION FROM THE KEEP BUSSELTON BEAUTIFUL COMMITTEE

**FILE NO:** COM22 / COM1

**ATTACHMENT(S):** Nil

**PRECIS**

A request for the appointment of two committee members to the Meelup Regional Park Management Committee has been received from the Committee. The Committee recommends the appointment of Mr Rod Brown and Mr Bob Jarvis to fill two vacant positions.

Separately, Cr Anne Ryan has advised of her resignation from the Keep Busselton Beautiful Committee. This report seeks expressions of interest from any Councillor/s who would be willing to join the Committee to provide Councillor representation.

**BACKGROUND**

The Instrument of Appointment for the Meelup Regional Park Management Committee allows for eight members and two deputy members. Two of the positions for member are currently vacant. This Committee has had a long association with the Shire and given the nature of the work undertaken by the Committee, which includes hands-on restoration and maintenance, the Committee welcomes involvement from any interested community members. This report recommends the appointment of Mr Rod Brown and Mr Bob Jarvis.

Council has also had a long history of its members joining community groups (where a request has been received from the group) to provide Councillor representation on the various groups. Cr Ryan was on the Keep Busselton Beautiful Committee for a significant period of time and has now advised of her resignation.

**CONSULTATION**

The Meelup Regional Park Management Committee has sought from community members expressions of interest in becoming a member of the Committee to assist with the significant body of work that it undertakes on the Council's behalf.

The Keep Busselton Beautiful Committee, at the last review of representation on various external committees, indicated its desire for a Councillor to be a member of the group.

## **STATUTORY ENVIRONMENT**

In accordance with Section 5.10 of the Local Government Act 1995, appointment of members to Committees is a decision of the Council that requires an absolute majority. Nominating a representative for an external committee only requires a simple majority.

## **POLICY IMPLICATIONS**

Committees constituted by the Council under the Local Government Act operate in accordance with Council Policy 220.

## **FINANCIAL IMPLICATIONS**

Nil.

## **STRATEGIC IMPLICATIONS**

The Meelup Regional Park Management Committee was appointed, among other things, to develop a strategic plan for the regional park that ties into Council's Strategic Plan, to be endorsed by Council.

## **OFFICER COMMENT**

The request from the Meelup Regional Park Management Committee and advice of Cr Ryan's resignation from the Keep Busselton Beautiful Committee are presented for Council's consideration.

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

Immediate.

## **VOTING REQUIREMENT**

Absolute Majority for Officer Recommendation 1 and Simple Majority for Officer Recommendation 2.

## **OFFICER RECOMMENDATION**

### **ABSOLUTE MAJORITY REQUIRED**

1. That the Council appoint Mr Rod Brown and Mr Bob Jarvis as members of the Meelup Regional Park Management Committee.

### **SIMPLE MAJORITY REQUIRED**

2. That the Council considers the expressions of interest from any Councillors wishing to take on the role of member of the Keep Busselton Beautiful Committee.

16.5 DECISIONS FROM THE GENERAL MEETING OF ELECTORS CONDUCTED ON 4 FEBRUARY 2009

**FILE NO:** COM1  
**ATTACHMENT(S):**

The Local Government Act requires any decisions made at Electors' meetings to be considered at the next ordinary Council meeting (which would have been 11 February) or if that is not practicable, at the first ordinary meeting after that meeting or at a special meeting called for that purpose, whichever happens first.

It is therefore a requirement for the decisions to be presented to the Council for consideration at the February 25 meeting if a Special meeting is not called. The matter is listed for consideration at this meeting and a report will be provided under separate cover upon finalisation of the minutes for that meeting, including details of any decisions made.

**17. CHIEF EXECUTIVE OFFICER'S REPORT****17.1 ROYALTIES FOR REGIONS - COUNTRY LOCAL GOVERNMENT FUND - SHIRE OF BUSSELTON ALLOCATION 2008/2009**

<b>FILE NO:</b>	GRT2
<b>ATTACHMENT(S):</b>	1. Letter from the Department of Local Government and Regional Development 2. South West Services Network (SWSN) Project Plan

**PRÉCIS**

This item alerts the Council to the existence of a newly announced funding avenue from the State Government. Under its Royalties for Regions platform, the Country Local Government Fund (CLGF) was launched on 16 December 2008. The Shire of Busselton has been allocated \$1,263,255 (excluding GST) from the fund for the current financial year.

The Shire needs to advise the Department of Local Government and Regional Development (DLGRD) which project the funding is being allocated towards. This item suggests different projects that the Council may decide to direct the funding towards.

There are two items currently before the Council which may impact upon this item being Item 17.1 on the 11 February Council Meeting Agenda regarding Dunsborough Playing Fields and an item on a Special Council Meeting Agenda (a date for which had not been set at the time of writing this report) regarding the appointment of the successful contractor for the Jetty Rebuild.

**BACKGROUND**

DLGRD recently wrote to the Shire President advising of the funding allocation. A copy of the letter received on 19 January 2009 is appended (refer Attachment 1). This correspondence also includes the guidelines of what can and cannot be funded under the program.

**CONSULTATION**

Officers have been in consultation with DLGRD Officers in respect to details relating to the funding which has confirmed that the projects proposed in this item are inline with the funding parameters.

**STATUTORY ENVIRONMENT**

By virtue of Clause 6.8 of the Local Government Act 1995, a resolution of the Council passed by absolute majority is required to authorise the Royalties for Regions expenditure in this financial year as it does not form part of the 2008/2009 financial year budget.

## **POLICY IMPLICATIONS**

Nil.

## **FINANCIAL IMPLICATIONS**

As the Royalties for Regions platform was the result of an election result that was unforeseeable, no allowance was made in the Shire's budget to accommodate the application of this new funding amount. Therefore the direction of funds will need to be accompanied by a budget amendment requiring an absolute majority decision of the Council.

Payment of the funds will be made in two parts; March and June 2009 however the funds do not need to be expended this financial year.

The Shire will be required to submit a detailed acquittal of the funds once expended. As with other funding programs, failure to expend the funds in an approved manner will impact upon the future ability to secure funds from this program.

## **STRATEGIC IMPLICATIONS**

The CLGF has been established to:

- \* Improve the financial sustainability of regional local governments in WA through improved asset management; and
- \* Address infrastructure backlogs and support capacity building.

Where local governments can demonstrate expeditious and responsible expenditure of these funds, it will only enhance the chance that future governments maintain the Royalties for Regions platform and its funding stream.

On a local note, particularly when able to be planned for, this funding source will assist the Council achieve the organisation's strategic (infrastructure) objectives.

It is clear from the documentation provided that future funding allocations will encourage local governments working together on regional projects.

Both the Federal and State Governments have recently increased the funding provided to local governments for infrastructure projects. This looks set to continue for the coming years. Officers believe the Shire needs to become more strategic in how it identifies infrastructure priorities, how these projects are developed to a construction-ready stage and have approvals in place. This will ensure that the Shire is in a position to capitalise on funding opportunities as they arise with well-considered, planned projects. Officers intend on working with the Council over the coming months to progress this issue.

## OFFICER COMMENT

Three projects have been identified at this early juncture for consideration for endorsement by the Council. This does not preclude the Council determining any others worthy of funding or invoking an alternative process for arriving at the same. It has been represented to Officers that State approval for delaying the expending of funds could conceivably be expected, however the fund is also expected to deliver additional funds for the coming financial year(s).

The three projects are:

- \* Busselton Swim Jetties and Associated Jetty Works (Jetty Works)
- \* South West Services Network (SWSN), and
- \* Dunsborough Playing Fields.

Other projects considered but rejected due to various factors of logistics, timeframe for readiness, lower priority, lower strategic value included:

- \* Solar Power to Geographe Leisure Centre
- \* Various ArtGeo projects
- \* Busselton Regional Airport Upgrades

### Jetty Works

This was favoured given the Council has already supported an application to the Federal Government for these works and, if successful, the Council would have had to fund a significant portion against which the new State funding could be applied.

Council Resolution C0812/388 of 17 December 2008 indicated that the CEO make application for the Busselton Swimming Jetties and Associated Jetty Works project for funding of \$3,244,000 under the Regional and Local Community Infrastructure Program – Strategic Projects with Infrastructure Australia (noting that the total value of the project is \$4,571,000 and that the Shire will contribute an amount of \$1,327,000). Please also refer to Attachment A from Item 7.2 from the Special Council Meeting Agenda of 17 December, which outlines the Project Plan for these works.

### SWSN

SWSN is a proposed business oriented communications network that would connect all major Shire service points. The full report is appended (refer Attachment 2).

### Dunsborough Playing Fields

Background information to this project and options to move it forward was conveyed to the Council via Item 17.1 for its 11 February 2009 meeting.

For completeness sake, the following summarises two realistic options

- a) an additional oval is constructed immediately which would be located north of (and without having to fill) the dam.
- b) the existing oval is reconstructed immediately and submissions requested from the user groups as to how best they can be accommodated during the time the playing fields are not operational.

### **Conclusion**

Whilst all three projects are worthwhile and valid of consideration, Officers believe directing the funds towards improving Dunsborough Oval is most appropriate given the State Government funds which are already being directed towards the Jetty Rebuild and that the need to improve the playing fields in Dunsborough has been raised for some years by the community. This is also consistent with the Officer Recommendation for item 17.1 on the Council meeting agenda of 11<sup>th</sup> February 2009.

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

The implementation of this recommendation is dependent on the Council's decision at its meeting on 11 February 2009.

DLGRD requires advice from the Shire by the 29 May 2009 as to which project the funds are being directed towards.

### **VOTING REQUIREMENT**

Absolute Majority.

### **OFFICER RECOMMENDATION**

1. That the money allocated to the Shire of Busselton from the Country Local Government Fund be directed towards the Dunsborough Playing Fields project.

(As advised in the report Précis, this will depend on the Council's decision in relation to Item 17.1 of 11 February 2009 noting that immediate construction of the new additional oval at Dunsborough Lakes was recommended as part of that item).

2. That the 2008/09 budget be amended to reflect these changes in income and expenditure.

18. **MOTIONS** of which notice has been given

18.1 **COUNCILLOR REPRESENTATION ON BUSSELTON JETTY ENVIRONMENT AND CONSERVATION ASSOCIATION INC. (BJECA)**

NoM NO: 08/09: 17

FILE NO: COM67

*Councillor David Reid has given notice of his intention to move the following motion at the Council Meeting on 25 February 2009:*

**MOTION**

*That Council appoints a representative Councillor to the monthly meetings of the Busselton Jetty Environment and conservation Association Inc.*

**REASON:**

BJECA and the Busselton Shire face a busy and challenging year ahead with the restoration about to commence. Good communications between both parties is essential. BJECA fully supports this proposed appointment.

**STAFF COMMENT (Chief Executive Officer)**

A search of Shire records indicates that no formal request for a Councillor representative has been received from BJECA. As such the Shire would need to write to BJECA to ask if it wishes this to occur. Clarification also needs to be provided as to in what capacity the Councillor would be attending (observer or voting member) and if member, the direction given to the representative from the Council.

18.2 REPORTING OF ALL CONTRIBUTIONS MADE TO THE SHIRE OF BUSSELTON

NoM NO: 08/09: 18  
FILE NO: COM1

*Councillor Bernie Masters has given notice of his intention to move the following motion at the Council Meeting on 25 February 2009:*

**MOTION:**

*"That the Council be advised of all financial or in-kind contributions made to the Shire, other than contributions required to be made by persons or businesses submitting development applications under existing Shire development or planning policies and grants from State or Federal Government funding bodies. Notification is to be made as soon as is practical of such contributions being verbally promised or provided in a written offer."*

**REASON:**

At the Agenda Briefing Session on Wednesday, 21 January 2009, several Councillors expressed surprise that Rio Tinto had contributed \$65,000 to the Shire to allow the completion of the Airport's Noise Management Plan. I believe that any contributions made to the Shire MUST be reported to Councillors virtually immediately the money is promised - not when it is received, but when the letter of offer is first received or a verbal agreement is first made.

Clearly, my intent is not for Council to be told of every statutory or similar payment made by a land developer or person who submits a development application. However, any contribution made beyond statutory or similar requirements must be notified to Council.

**STAFF COMMENT (Chief Executive Officer):**

The Notice of Motion does not indicate the reason(s) why the Council needs to be informed of any contributions promised verbally or written. Given this, my comment is that a policy be drafted to reflect that the Council be informed in writing of such contributions prior to it making a determination on a matter directly relating to the purpose of the contribution. This includes the Council setting a budget (where subject contributions have been identified as revenue). Alternatively, the proposer of the Notice of Motion could redraft it to request that the Council endorse a list of donation/contribution types it would not want the organisation to accept. In this way, the ground rules would be known by all, up front and operations continue as normal on that (new) basis.

It should be noted that currently, where contributions are sourced (recalling alternative revenues sources are encouraged), their receipt does not affect the decision made relating to the subject matter. Typically, it does affect the timing of the decision as the new resource capability allows that particular matter to be focused on by an additional/dedicated resource.

**19. CONFIDENTIAL REPORTS****19.1 DISPOSAL OF LOTS 58 AND 59 CHAPMAN HILL ROAD AND LOT 60 QUEEN ELIZABETH AVENUE, AMBERGATE****FILE NO:** DEV4**ATTACHMENTS:**

A report, confidential under s.5.23(2)(c)(ii) of the Local Government Act 1995, being a matter that if disclosed would reveal information that has a commercial value to a person, will be provided under separate cover via an Addendum to this Agenda, prior to the Council Meeting on 25 February 2009, to Councillors, the Chief Executive Officer, Directors and the Executive Manager, Systems and Information only.

19.2 SETTLEMENT OFFER IN RELATION TO LEGAL COSTS CLAIM**FILE NO:** 17821**ATTACHMENTS:**

A report, confidential under s.5.23(2)(d) of the Local Government Act 1995, being a matter for which legal advice has been obtained, or may be obtained by the local government and which relates to a matter to be discussed at the meeting, will be provided under separate cover via an Addendum to this Agenda, prior to the Council Meeting on 25 February 2009, to Councillors, the Chief Executive Officer, Directors and the Executive Manager, Systems and Information only.

The report was not ready in time to circulate with the Meeting Agenda because correspondence from the YRA and other information was received by the Shire just a short time before the Meeting Agenda was finalised and there was insufficient time to finalise the report in time for publication with the Agenda.

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

21. QUESTIONS FROM MEMBERS WITHOUT NOTICE

22. NEXT MEETING

Wednesday, 11 March 2008, commencing at 5.30 p.m.

23. CLOSURE

