



Shire of Busselton
Geographe Bay

Council Agenda

27 May 2009

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

SHIRE OF BUSSELTON

AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 27 MAY 2009

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SHIRE OF BUSSELTON

MEETING NOTICE AND AGENDA – 27 MAY 2009

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, 27 May 2009, commencing at 5:30 pm.

Your attendance is respectfully requested.

ANDREW MACNISH
CHIEF EXECUTIVE OFFICER

12 May 2009

A G E N D A

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

2. **OPENING PRAYER**

The Opening Prayer will be delivered by Reverend Dr Stuart McPherson of St George's Anglican Church, Dunsborough.

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 13 May 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**12.1 NOTICE OF MOTION - POLICY 218/2 - INVESTMENT MARCH 2008**

NoM NO: 08/09: 27

Councillor David Reid had previously given notice of his intention to move the following motion at the Council Meeting on 22 April 2009. At that meeting, the Council resolved (C0904/129) to refer this matter for consideration by the Council at its meeting on 27 May 2009. Councillor Reid's original proposed Motion and Reason are reproduced below for information, along with the Staff Comment in relation to the Motion as provided in the Agenda for the 22 April 2009 Council Meeting.

MOTION

That the Council restructure its Policy 218/2 Investment March 2008 (Part of Policy 1.4 and 1.8.1) to remove all references to Diversified Funds (non-credit-rates) and that future investments be restricted to fixed interest rate, capital guaranteed term deposits in (a minimum) AA rated institutions.

REASON

As the world financial crisis spreads, the Council's financial safeguards need to be reappraised. The motion is in accordance with the Shire Policy manual 1.11 (ii).

STAFF COMMENT (Systems and Information Directorate)**BACKGROUND**

Prior to 2007, the Council's Investment Policy had last been reviewed in 1999, at approximately the same time that the Shire chose to commence diversifying its investment portfolio (i.e. investing in Managed Funds). It was also at about this time that the Shire contracted Grove Financial Services (Grove) to commence providing the Shire with ongoing investment advice.

In 2007, a review of the existing Investment Policy was undertaken. Subsequent to that review, other matters have also required consideration by the Council. A synopsis of the more recent occasions on which matters pertaining to the Council's Investment Policy have been before the Council are summarised as follows:

28 February 2007

At this time, Council's consideration was sought to revoke the existing Investment Policy in favour of a new Policy document. The revised Policy was compiled with the assistance of the Shires appointed Investment Advisory firm (Grove), and in consideration of the NSW Local Government Investment Best Practice Guide and also a similar guide produced by the South Australian Local Government Financial Management Group.

The key differences between the existing and revised policies were:

- * The revised policy determined that all investment decisions were to be based upon an approved investment matrix, with set limits established based on a number of factors including investment risk, expected returns, investment term, investment size and the nature of the investment.
- * The revised policy specifically widened the permitted investment types and risk profiles, whilst establishing clear guidelines to determine the amount and term of any investment.

At that meeting, the Council resolved (C0702/040) that the revised Investment Policy be adopted.

12 March 2008

In the knowledge that world investment markets were in decline (albeit the extent of this could not have been foreseen at the time) and that certain investments were performing below expectations, the Council was requested to consider an amendment to the currently adopted Investment Policy at this time.

As had been identified by staff as a result of continued and diligent monitoring of financial markets, it was viewed that the transfer of monies from managed funds to simple fixed rate bank term deposits was a viable and prudent option, pending a return to market stability. Unfortunately, the investment limits as set out in the prevailing Investment Policy limited the value of funds that could be placed in to term deposits. As such, the Council was requested to amend a clause in the current Investment Policy that essentially excluded short term bank interest bearing deposits (less than 6 month in duration) from the investment portfolio mix restrictions, albeit the approved 'credit rating' requirements were still enforceable.

At that meeting, the Council resolved (C0803/085) that the Investment Policy be amended to incorporate the proposed amendment.

10 December 2008

Resulting from the establishment of the Federal Government's Guarantee Scheme (the 'Scheme') in mid November 2008, a report was presented to the Council that; outlined the Scheme, provided an overview on the affect on the Shire's investment earnings should the Deposit Guarantee be accepted, and recommended that the Council choose not to participate in the Scheme (albeit the Chief Executive Officer be encouraged to utilise discretion in having eligible deposits guaranteed where the rate of return is competitive with similar non-guaranteed deposits).

At that meeting, the Council resolved (C0812/382) that it would not specifically participate in the Scheme, but also resolved that the Chief Executive Officer be encouraged to utilise discretion in having eligible deposits guaranteed where the rate of return is competitive with similar non-guaranteed deposits.

CLARIFICATION ON NOTICE OF MOTION INTENT

Unfortunately, the Notice of Motion as proposed may require further clarification in respect of two matters. The Motion states that all references to Diversified Funds (non credit rated) be removed and that future investments be restricted to fixed rate capital guaranteed deposits.

Firstly, in terms of the Investment Policy (clause 1.4), managed investments include not only diversified funds, but also cash funds and cash plus/ enhanced funds. As these funds are not subject to any capital guarantee (including the Federal Government Deposit Guarantee), nor do they attract a fixed rate of interest, clarification is required as to whether these additional managed investments are also proposed to be excluded from the Investment Policy.

Secondly, clarification is also required as to the intent of the Motion in respect of the term 'capital guaranteed', as it is not clear as to whether this is referring to actual capital guaranteed investments, or full utilisation (via the payment of a deposit fee) of the Federal Government's Deposit Guarantee Scheme, whilst still in existence.

Whilst there are a number of investments that may provide a capital guarantee (exclusive from the Deposit Guarantee Scheme), these are generally limited to specific Government issued instruments. As has been recently advised by the ANZ's Associate Director, Equity & Wealth Distribution, Global Markets; the capital guarantee generally only applies at maturity of the deposit (which may be a number of years from deposit date), and if funds were required prior to maturity, then the Shire would be required to accept the 'market price' at that time, that may be considerably less than the fund value. Cognisant of the above, it would be recommended that the Investment Policy not be amended should this be the intent.

Conversely, if the intent of the Motion is referring to the Federal Government Deposit Guarantee Scheme, then this could be accommodated. However, the following would need to be noted:

- * Any Council decision to proceed in this manner would be contrary to the Council's previous resolution (C0812/382) in respect of this matter
- * The deposit fee payable by the Shire would be may be significant in comparison to the rate of return presently being offered. For example, the ANZ Bank (AA rated) is presently offering 3.3% on fixed term deposits, and if all funds were to be guaranteed (under the Scheme), then the fee payable would equate to 0.7% of the deposit amount (essentially reducing the effective interest rate to only 2.6% - a reduction of 20%)
- * Cognisant of the above, the Council would be required to identify additional funding sources, or reduce existing/ planned projects or services to offset the reduction in interest revenue

- * As managed funds are not able to be guaranteed under the Scheme, then these funds would need to be closed (excepting the BlackRock fund that is presently not accessible), and cognisant of the current economic climate, the Shire would essentially be selling out at the bottom end of the market. Notwithstanding this, several managed funds, and in particular the NSW Local Government Financial Services Fixed Out-performance Fund, are presently returning well above term deposit rates

FINANCIAL IMPLICATIONS

In addition to any financial implications as mentioned above, it is also noted that the Motion is seeking that all future investments be made only with institutions with a credit rating of AA or above. Unfortunately, if adopted, this would result in further adverse financial implications for the Shire.

In reference to term deposit holdings only (as at 28 February 2009), the Shire had 15 individual deposits totalling \$15.8M. Of these, 9 were held with institutions with a credit rating of AA (totalling \$9.8M), with the remainder held with institutions with a credit rating of BBB (totalling \$6.0M). The average interest rate payable on the AA deposits was 4.60% as compared with 5.35% on the BBB rated deposits. For comparative purposes, and based on the term deposit holding of \$15.8M as at 28 February 2009, this differential would equate to approximately \$118K per annum.

It should also be noted that, in respect of the BBB rated term deposits as at 28 February 2009, \$4.0M of the \$6.0M was automatically guaranteed by the Federal Government under the Deposit Guarantee Scheme. The reason that the remaining \$2.0M was not guaranteed was due to the fact that \$3.0M was held with the Bank of Queensland (of which only the first \$1.0M was guaranteed). Whilst the Bank of Queensland was offering competitive rates, the Shire could have deposited \$2.0M of the \$3.0M held with the Bank of Queensland in other BBB rates funds (albeit more than likely at a lower rate), but in the knowledge that these funds were all guaranteed under the Scheme. It should be noted that this \$2.0M has subsequently withdrawn to fund ongoing cash-flow requirements.

As a consequence of the above, it is considered that the Motion's proposal of restricting investments to term deposits with a credit rating of AA or above is not in the best financial interests of the Shire, as with sufficient diversification, all BBB term deposits can be structured to comply with the Scheme's Guarantee threshold of \$1.0M, albeit interest returns may be slightly compromised in some instances.

OFFICER COMMENT

It is considered that the Shire of Busselton's current Investment Policy is both robust and conservative. Additionally and as previously mentioned, in its compilation, the Policy was modelled on the best practice examples available from NSW and SA. Furthermore, the Policy specifically excludes the types of investments through which other local government authorities (in both WA and interstate) have suffered significant losses.

Whilst it is acknowledged that with hindsight, a different matrix of investments held over the past 12 months could have potentially resulted in a greater return, it must also be noted that the current financial market is suffering from pressures not experienced since the Great Depression of the 1920's. In this market however, investments made in accordance with the current Investment Policy returned approximately \$1.6M in 2007/08 (or 97% of the annual budget estimate). Furthermore, whilst it is anticipated that less than 50% of the 2008/09 annual budget estimate will be achieved, it must also be noted that the official cash rate has fallen by over 55% since the commencement of the current financial year.

The intent of a proper Investment Policy should be to manage investments for the longer term, as opposed to the short term. Furthermore, it should not be reactive to prevailing conditions, but sufficiently flexible to enable prudent investment decisions to be made as and when opportunities arise and financial markets permit (clearly within the constraints of the Policy).

As an example of the above, at the commencement of the 2007/08 financial year, the Shire's invested funds amounted to approximately \$28.0M, with all but \$0.6M being held in managed funds. As at the end of February 2009, total investments amounted to approximately \$31.1M, with over \$18.5M (or approximately 60% of the total) held in bank term deposits and 'on call' bank accounts. Apart from an amendment to the Policy to enable additional funds to be channelled to term deposits, the portfolio mix was able to be significantly altered, whilst remaining compliant with the Investment Policy.

Finally, it is important to highlight that the lower return on the Shire's investments during the current financial year (due to unprecedented economic conditions) must be weighed against the excellent investment performance in recent years that the Shire and its ratepayers have benefited from.

As has been discussed above, it is considered that the proposed Notice of Motion would be detrimental to the Shire's ongoing financial performance; from an investment earnings perspective. Under direction from the Chief Executive Officer, highly capable staff from within the Shire's Finance area continue to maintain the highest levels of vigilance and prudence in respect of the Shire's funds available for investment, with assistance and guidance provided by the Shire's appointed Investment Advisory Firm as and when required. Whilst the overall intent of the Notice of Motion is certainly acknowledged, staff have already made significant changes to the Shire's investment portfolio mix as a result of the current economic conditions, within the constraints of the existing Policy.

In summary, it is considered that further restrictions on the Investment Policy as proposed in the Notice of Motion are neither required nor warranted at this time. However, should the Council be of the majority view that the Notice of Motion be viewed favourably, then it may be appropriate that prior to making a formal decision, that a representative of the Shire's Investment Advisory Firm be invited to address the Council to further discuss this proposal.

13. LIFESTYLE DEVELOPMENT REPORT**13.1 VASSE TO DUNSBOROUGH ROUTE ALIGNMENT STUDY: ROUTE SELECTION**

SUBJECT INDEX:	Vasse to Dunsborough Route
APPLICATION NUMBER:	N/A
STRATEGIC INITIATIVE:	2.4.3 Continue to ensure safe transport infrastructure.
BUSINESS UNIT:	Strategic Planning and Sustainability
SERVICE:	Strategic Land Use Planning
DATE OF COMPLETION:	10/06/09
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	Vasse to Dunsborough Route Alignment Study: Route Selection
LOT SIZE:	N/A
ZONE:	N/A
POLICIES:	N/A
ATTACHMENT(S):	A. Details of the Council's Previous Route Consideration B. Vasse to Dunsborough Route Options Selection report March 2008 C. Route Options Plan

PRÉCIS

The determination of traffic management outcomes between Dunsborough and the Bussell Highway/Vasse has been the subject of a number of reports. Following 14 years of discussion and investigations the issue remains unresolved.

The Council resolved in 1997 and 1998 to recommend the more southerly 'orange/red route' following the Vasse Yallingup Road alignment as the preferred route for a future Vasse to Dunsborough road link (see Plan included in Attachment C).

In 2001 the Council resolved that if the Minister for Transport selected the general alignment of the 'orange-red' route this should be located within the existing rail reserve and that the Minister should consider upgrading existing roads as opposed to the development of a major highway.

The Department for Planning and Infrastructure (DPI) has recently written to the Shire requesting the Council to reconsider and/or confirm its position on the preferred alignment for the transport corridor, prior to DPI presenting a report to the Western Australian Planning Commission (WAPC). The various State Agencies still support the 'blue route' on the basis of Consultants reports.

The DPI has requested this review on the basis that it is over 10 years since the Council originally resolved its position on the preferred route. In addition it is seen as being a priority matter given the current preparation of the Local Settlement

Planning Strategy' and 'Local Planning Strategy' and the logic of reserving the selected route in the new scheme.

It is considered the Council's previous position in support of the 'orange/red route' on the alignment as proposed and evaluated has merit for a number of reasons including: better Shire wide connection and network to a number of destinations; reduced severance to agricultural properties; less land acquisition requirements; less impact on the environment.

Overall, the merits of the 'orange/red route' are considered to outweigh the 'blue route', **provided that vegetation alongside the existing Vasse-Yallingup Siding Road that is within the rail/road reserve is protected.** The route will also be required to be aligned around the north-western part of Vasse (which is reflected in the current Vasse Development Guide Plan).

A further issue that has been taken into consideration is that it has been a considerable time since any consultation has been conducted by the responsible agencies on the identified routes. It is considered that the Council may take the view that further consultation should be undertaken by the Department for Planning and Infrastructure regarding the proposed routes prior to recommending its preference on either route to the WAPC.

This report recommends that the Council:

- * reiterate its support for the 'orange/red route' on the proposed alignment as the preferred route for a future Vasse to Dunsborough road link. This is subject to detailed design considerations and conditions relating to protection of the remnant vegetation along the eastern portion of the alignment;
- * advise the DPI that further consultation should be undertaken by the DPI (as the responsible agency) regarding the proposed routes prior to recommending its preference on either route to the WAPC. In addition, that following the WAPC's adoption of a preferred route that an amendment to the Shire's Town Planning Scheme should be submitted to facilitate the detail associated with reserving and implementing a preferred route.

PROPOSAL / BACKGROUND

The identification of a route for a future road between Dunsborough and the Bussell Highway/Vasse has been the subject of numerous reports aimed at identifying a preferred route based on detailed planning, environmental and cost benefit analysis. This reflects the fact that population and traffic in the region will at some point exceed the carrying capacity of the existing road network. Following 14 years of discussion and investigations, the issue remains unresolved. Given the Shire is constructing a new Town Planning Scheme to position the district to accommodate a design population of 75,000 and this will take some 20 years to achieve, the land to be reserved for this future road ideally needs to be identified in the Town Planning Scheme. The following summarises key decisions by the Council since 1997.

At the Council meeting of 26 November 1997, the Council resolved:

That:

- (1) Halpern Glick Maunsell Pty Ltd, as the consultants to the Main Roads WA (MRWA) on the Vasse to Dunsborough future road link study, be advised that Council recommends the 'Orange/Red Route' based on the Vasse Yallingup Road alignment as the preferred route; and*
- (2) That it be used as the basis for further detailed planning and analysis; and that the report to Council be forwarded to Halpern Glick Maunsell Pty Ltd as supporting information to Council's submission.*

In response to a request from Main Roads WA to review its decision, the Council resolved at its meeting on 22 April 1998 –

That Council reiterate its support for the 'Orange/Red Route' as the preferred route for a future Vasse to Dunsborough road link; and to advise that it does not consider it necessary to meet again with the MRWA or study consultants and that MRWA should make a decision on the preferred route for further study based on the information available and submissions received to date.

The most recent decision of the Council on the preferred route was made on 24 January 2001. The Council resolved to -

advise MRWA that in the event that the Minister for Transport ultimately selects the Orange/Red Route as the preferred alignment that road construction should occur within the existing corridor/reserves of the Vasse-Yallingup Siding Road and adjoining railway reserve so as to minimise the loss of high quality agricultural land from adjoining farming properties; and that rather than build a major highway along Vasse-Yallingup Siding Road, consider the option of spreading that expenditure to upgrading Caves, Wildwood, Vasse-Yallingup Siding and Metricup Roads to high quality feeder roads on the basis that this would meet the needs of the district for the foreseeable future, whilst maintaining good agricultural land and preserving remnant vegetation.

The Council's preferred general alignment has therefore previously been established as the 'orange/red route'. It is also important to note that the 2001 resolution referred to construction within the rail reserve which is contrary to the orange route proposal as contained in previous alignment option reports, if that was the option chosen by the MRWA.

In 2002, BSD consultants were appointed by MRWA to carry out a desktop review of the studies that have been undertaken for determining the preferred Vasse-Dunsborough route. The principal stakeholders involved in this process were MRWA, DPI and the Shire of Busselton. Other stakeholders such as the Dunsborough/Yallingup Chamber of Commerce and Industry, affected landowners, local members of parliament were also consulted with. The BSD report concluded

that the 'blue route' is the recommended option on the basis of its environmental, land use and engineering advantages over the 'orange/red route'.

In regard to the Council's 2001 resolution, the BSD report states the following with regard to impact on flora and fauna. 'The orange/red route has the potential to significantly impact a remnant vegetation corridor associated with the Vasse-Yallingup Siding Road and the rail reserves. Overall it has potential for more significant impacts on vegetation and flora compared to the blue route. In addition there is a greater potential for impacts on the movement of ground-based fauna and habitat ranges because it severs the corridor of remnant vegetation associated with the Vasse-Yallingup Siding Road and the railway reserve in two locations.

'In terms of impacts on wetlands, hydrology and drainage the blue route is expected to impose more significant impacts when compared to the orange/red route.'

In regard to land resumption requirements, the BSD Report states: 'The blue route will excise land generally from the centre of the landholding. The orange/red route may incorporate the Vasse-Yallingup Siding Road reserve. Due to its location on the southern boundary of the majority of affected properties, the land resumption requirement is therefore likely to have a reduced impact.' The orange red route was identified as having lesser impact if it incorporates the existing Vasse-Yallingup Siding Road.

In January 2003 the Shire received correspondence from MRWA indicating that the objective of the report (to determine the preferred alignment) was not achieved with any conviction and that the progression of planning for a preferred alignment be deferred in view of the long time span anticipated before the road would be required. Notwithstanding this, MRWA supported the protection of both routes via the Shire's town planning scheme, but did not present the Shire with a formal proposal to do so.

In 2008, DPI reviewed the existing studies and proposed options for the Vasse to Dunsborough link. The review was prepared by the DPI to resolve the planning issues for the Vasse Dunsborough link and recommend adoption of a preferred route alignment to the WAPC. The catalyst for resolving this issue is:

- * The need to define how the western end of the Busselton Outer Bypass should be connected at Vasse on to Bussell Highway;
- * Land development at both Vasse and Dunsborough;
- * The need to alleviate traffic pressure on the existing section of Caves Road between Abbey and Dunsborough; and
- * The resolution of the WAPC to adopt the South West/Vasse Primary Road Network Strategic Analysis recommendations which cite, amongst others, that work be undertaken for the Busselton to Dunsborough Link in the short term.

DPI reviewed the two options (the blue route option – Option A and the orange/red route option – Option B). Following DPI's review, they have concluded that Option A is the most suitable alignment based on previous studies commissioned by MRWA. This conclusion is based on the BSD (2002) report *Vasse-Dunsborough route determination study*.

The DPI wrote to the Shire in March 2009 requesting further consideration of its position on the preferred alignment for the transport corridor, prior to the preparation of a report to the WAPC. The purpose of the report to the WAPC will be to request adoption of a preferred alignment.

The intention is that the preferred route will then be recognised as an indicative alignment in the Shire's 'Local Settlement Planning Strategy' and 'Local Planning Strategy' and reflected in the new 'Local Planning Scheme'.

Further details on consideration of the routes by the Council are outlined in Attachment A.

STATEMENT OF IMPACT

There are a number of potential impacts to the community, individual property owners and visitors to the region as a result of implementation of any of the preferred routes. The most focused impacts of the route selection process, though, are on potentially affected landowners. Landowners may, at some time, be affected by restrictions on where they can develop on their properties and/or by State Government land purchase including, potentially, compulsory acquisition. Whilst not avoiding such impacts, the orange/red route results in less such impacts overall than the blue route. The identification and reservation in the Scheme of a preferred route by the WAPC will also create greater certainty for potentially affected landowners.

CONSULTATION

Internal consultation regarding this issue has occurred between the Shire's Community Infrastructure and Lifestyle Development Directorates.

It should be noted that previous consultation on the proposed routes was conducted by MRWA through the advertising of the Halpern Glick Maunsell Consultants Study (1997) and their assessment of submissions received.

A total of 133 submissions from 112 landowners were received. The following is a simple breakdown of the submissions received:

Preference for a specific route:

*	Blue Route	77
*	Orange Route	15
*	Red Variation	1
*	Caves Road Route	12
*	Any inland route	4
*	Purple Route	3

It should be noted that 47 of the 77 submissions supporting the 'Blue Route' were clearly on the basis that they were opposed to a 'Caves Road Route' and supported the consultants recommendation for the 'blue route'.

Further consultation with landowners was also carried out by BSD in 2002. The Shire has not undertaken specific consultation with the community in the preparation of this report as it is providing a response to a DPI proposal which has been subject to consultation.

The Shire would undertake further consultation through advertising of an indicative, once agreed, route through the LSPS and LPS which would involve the following:

- * Depiction of an 'indicative alignment';
- * A minimum 60 day advertising of the LSPS and LPS to the broader community;
- * Information provided on the Shire website regarding the LSPS and LPS;
- * Inform all stakeholders of the advertising period;
- * Press releases and updates to be advertised in the local papers and Shire website; and
- * Facilitated information session during the advertising period to provide information and encourage informed submissions.

A more detailed alignment would be proposed by State Government following detailed analysis and consultation with affected stakeholders. Depending on timing that could then be reflected in the new draft planning scheme which would also be subject to consultation.

FINANCIAL IMPLICATIONS

There are no direct financial implications to the Shire of the recommendations of this report.

STRATEGIC IMPLICATIONS

The *Leeuwin-Naturaliste Ridge Statement of Planning Policy* identifies the Vasse-Yallingup Siding Road as a 'travel route corridor' and portion of the route is within 'travel route corridors within Rural Landscape Significance'. It states these are 'key areas which allow people opportunities to access and experience adjoining areas along the Primary Transport Network. These corridors may include areas where rural or natural significance have been identified.'

It recommends the following actions:

`LUS AS 5.2 MRWA should take landscape, social, environmental and agricultural values identified in the LNRSP into consideration when identifying a suitable alignment for the Vasse-Dunsborough transport corridor; and

LUS AS 5.4 The proposed road link between Vasse-Dunsborough will be planned in consultation with relevant government authorities and the community and include consideration of its landscape, environmental, agricultural land and social impacts.'

The recommendation for the `orange/red route' is based on protection of significant vegetation within the Vasse-Yallingup Siding Road and Railway Reserve.

The LSPS 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 Strategic Focus of Built and Physical (Infrastructure) Well Being are relevant:

Strategic Objectives: Review town planning to reflect emerging diversity whilst retaining identity and character.

Strategic Initiative: Support development that is contained in identified nodes with well defined boundaries. Develop a new Town Planning Scheme to reflect strategic requirements.

Strategic Initiative: Establish policy on the timing of provision of facilities and services with levels of growth.

Preparation of an LSPS including a Transport Strategy and Infrastructure Strategy, will provide the Shire with a decision-making framework for land use and development based on the appropriate location and provision of transport and infrastructure.

The planning for the route is also consistent with the strategic initiative to ensure safe transport infrastructure.

STATUTORY ENVIRONMENT

The proposal is at the strategic level and there are no statutory implications at this stage. The identification of a preferred route in the LSPS and LPS will provide a strategic planning framework for future land use and provision of transport and infrastructure. It would then be reflected in the Statutory Town Planning Scheme, but that is not proposed at this time.

POLICY IMPLICATIONS

There are no policy implications of the recommendations of this report. There are also no existing policies that require consideration with respect to this matter not dealt with elsewhere.

OFFICER COMMENT

It is considered there are no planning reasons that have emerged for the Council to amend its original support for the 'orange/red route' in preference to the 'blue route'. The 'orange/red route' is still considered to have greater merit for the following reasons:

- * It generally provides greater potential for a connection to the western parts of the Shire and the land south and south west of Dunsborough. This land may become further developed with the future Light Industrial Area on Commonage Road and possible further intensification of use of land within Dunsborough Lakes. Whilst the 'blue route' is a shorter route to Dunsborough, it would make for a longer route to any location south of Dunsborough when compared to Vasse Yallingup Siding Road based route. The use of Vasse-Yallingup Siding Road is likely to continue to increase if the 'blue route' is constructed.
- * It affects less property owners and results in reduced severance of agricultural properties compared to the 'blue route'. It provides greater potential for the road to be aligned to property boundaries. By utilising the already cleared part of the Vasse-Yallingup Siding Railway Reserve and road reserve, the total area of land that needs to be purchased is proportionally less.
- * Of the two routes, the 'blue route' will have the greatest impact on the fragmentation of agricultural land. Most, if not all of the resultant lots will be less than the desirable minimum 40 ha if the 'blue route' is followed. Mitigation of this will require a number of stock crossings at convenient intervals.
- * The 'orange/red route' is less expensive overall, potentially allowing it to be built earlier.
- * The 'orange/red route' is considered to out perform the 'blue route' which is considered to be poor in respect of hydrological issues. In addition, the vegetation along the Vasse-Yallingup Siding Road should be protected if the 'orange/red route is adopted' as indicated on mapping provided. On this issue it is also advised that if the Council is inclined to support the route within the Vasse-Yallingup road and rail reserves, with significant vegetation loss, the 'blue route' would then be the preferred route.

Whilst there are no planning reasons that have emerged, it is noted that it has been a considerable time (7 years) since any community consultation has been conducted by the responsible agencies regarding the identified routes. It is

considered that the Council may take the view that further community consultation should be undertaken by the DPI prior to the WAPC determining its preference for either route. In this regard the Council may take the option of advising the DPI:

- * that it has been at least seven years since any community consultation has been conducted on the proposed routes and a clearer understanding of the community views is required before proceeding further with a preferred route;
- * that further consultation with the community should be undertaken by the DPI as the responsible agency on the proposed routes before recommending a preferred route to the WAPC; and
- * that following the WAPC's adoption of a preferred route that an Amendment to the Shire's Town Planning Scheme should be submitted to facilitate detailed consideration, formal consultations, and implementation of a preferred route.

There are two further issues regarding which it is recommended the Council advise DPI it expects will be addressed as part of more detailed alignment definition studies -

- * The need to redesign the route at its eastern end to be consistent with planned development at Vasse, as set out in the Vasse Development Guide Plan; and
- * The need to minimise vegetation impact within the Vasse-Yallingup Siding Road and Railway Reserve given its very high landscape tourism value, with the road following the original designated 'orange route' which largely paralleled the rail reserve avoiding vegetation impact.

TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Implementation will involve the sending of correspondence to DPI advising of the Council's resolution. That will occur within five working days of the meeting.

OFFICER RECOMMENDATION

That the Council -

1. Reiterates its support for the 'orange/red route' as set out on WAPC Plan 26/10/2007 "Proposed Road options Busselton to Dunsborough" as the preferred route for a future Vasse to Dunsborough road link.
2. Advise the Department for Planning and Infrastructure that the Shire did not consider there were any reasons to depart from its previous position, and that its preference for the 'orange/red route' is for the following reasons -

- a. It generally provides greater potential for a connection to the western parts of the Shire and the land south and south-west of Dunsborough. This land may become further developed with the future Light Industrial Area on Commonage Road and possible further intensification of land uses within Dunsborough Lakes. Whilst the blue route is a shorter route to Dunsborough, it would make for a longer route to any location south of Dunsborough when compared to orange/red route. The use of Vasse-Yallingup Siding Road is also likely to continue to increase if the 'blue route' is constructed.
 - b. It affects less property owners and results in reduced severance of agricultural properties compared to the 'blue route'. It provides greater potential for the road to be aligned to property boundaries. By utilising cleared areas of the Vass-Yallingup Siding Railway and road reserve, the total area of land that needs to be purchased is proportionally less.
 - c. Of the two routes, the 'blue route' will have the greatest impact on the fragmentation of agricultural land. Most, if not all of the resultant lots will be less than the desirable minimum 40 ha if the 'blue route' is followed. Mitigation of this will require a number of stock crossings at convenient intervals.
 - d. The 'orange/red route' is less expensive.
 - e. The 'orange/red route' out performs the 'blue route' in respect to hydrological issues/impact. In addition, the vegetation along the Vasse-Yallingup Siding Road within the road and rail reserve will be largely protected if the 'orange/red route' is adopted as indicated on mapping provided and contained in the various consultants' inputs.
3. Advise the Department for Planning and Infrastructure that the Shire expects that the following issues will be addressed as part of more detailed alignment definition studies -
- a. The need to redesign the route at its eastern end to be consistent with planned development at Vasse, as set out in the Vasse Development Guide Plan.
 - b. The need to ensure protection of significant vegetation within the Vasse-Yallingup Siding Road and Railway Reserve and the associated environmental functions of the corridor.
 - c. Minimise the impact on priority agricultural land and agricultural use as may result from land severance.
4. Advise the Department for Planning and Infrastructure that given it has been at least seven years since any community consultation has been conducted on the proposed routes, a clearer understanding of the community views should be established before proceeding further with a preferred route. Further consultation should be undertaken by the DPI (as the responsible

agency) regarding the proposed routes prior to recommending its preference on either route to the WAPC.

5. Advise the Department for Planning and Infrastructure that following the WAPC's adoption of a preferred route that an application for an amendment to the Shire's Town Planning Scheme should be submitted to facilitate detailed consideration, formal advertising and implementation of a preferred route.

13.2 DRAFT MANAGEMENT PLAN FOR CENTRAL EAST BUSSELTON FORESHORE - SCOUT ROAD TO FORD ROAD (CONSIDERATION OF ADOPTION TO PROCEED WITH COMMUNITY CONSULTATION)

SUBJECT INDEX:	Environmental Management Plans, Impacts Studies and Reports
STRATEGIC INITIATIVE:	4.1.2.1 Ensure Adequate Framework of Reserve and Foreshore Management Plans.
BUSINESS UNIT:	Strategic Planning
SERVICE:	Environmental Planning
DATE OF COMPLETION:	30/06/2011
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	A Draft Central East Busselton Foreshore Management Plan B Appendix 1 Shoreline And Vegetation Line Comparisons 1941- 1993 C Appendix 2 Information On Coastal Protection Project D Figure 1 Study Area E Figure 2a Site Features And Recommendations (Scout Rd To Milne St) F Figure 2b Site Features And Recommendations (Milne St To Georgette St) G Figure 2c Site Features and Recommendations (Georgette St to Ford Rd)

PRÉCIS

A draft management plan for the foreshore reserve area between Scout Road and Ford Road, Busselton, has been prepared following broad consultation with the local community and Shire staff.

The management plan outlines management recommendations to maintain and improve the key qualities of the reserves, primarily the recreational, conservation and social values. The plan outlines the current values of the reserves and details management actions to maintain and enhance these. It also provides a mechanism by which the Shire can engage the community for co-operative management in accordance with the Shire's 'Friends of Reserves' policy.

This report recommends adoption of the draft foreshore management plan for the purpose of a formal consultation period of 28 days.

BACKGROUND

April, 9, 2008, the Council resolved (C0804/111):-

1. *That Council supports the DPI State Land Services proposal that, under the Land Administration Act 1997, Lots 500 and 501 on Deposited Plan 55319 (subject to survey):*

...be created as a reserve for 'Recreation and Foreshore Management' with a Management Order in favour of the Shire of Busselton with power to lease Lot 501 for any term up to 21 years.

2. *That Council approves a budget allocation of \$10,000 in the 2008/09 budget for the preparation of a "Foreshore reserve management plan – Scout Rd to Ford Rd" with the objective of ensuring that the reserve is managed for the purpose of "recreation and foreshore management" and is managed to Council policy.*

The Shire of Busselton has a large area of coastal foreshore which it manages. These areas require active management to ensure that important social and environmental values are maintained and enhanced. To help manage these areas, the Shire, in conjunction with the community develops foreshore management plans. These plans outline the current values of the area, threats to these values, and management actions to address these threats. Once a management plan has been developed, it is adopted by the Council and guides management of that area. Often, a community based 'friends of' group voluntarily helps the Shire maintain and manage the reserve through implementation of the plan.

The Shire of Busselton Environment Strategy (2004) supports the project (see *policy implications*) as the area in question is under high risk of degradation due to recreational activities and natural processes. This part of the foreshore was identified as requiring improved management as part of the on-going implementation of the Shire Environment Strategy. The development of an adequate framework of foreshore management plans is also a corporate plan action.

This plan, developed by an external consultant, identifies the significant recreational and visual amenity values of the area and ensures these values are maintained while preserving and enhancing the foreshore's environmental values.

CONSULTATION

The development of the management plan has involved a significant consultation effort including:

- * 'one-on-one' conversations with key stakeholders who were identified as having a specific interest in the area;
- * input from discussions with locals and visitors encountered during site work;
- * submissions received by the Shire during the preparation of the plan; and

- * individual and group comments received during three consultation sessions held on-site on Thursday January 29, Sunday February 1 and Thursday February 5. The consultation sessions were promoted through the 'Council for Community' page of the *Busselton - Dunsborough Mail*, signage at key locations throughout the study area and media releases distributed to a range of local media outlets.

Representatives from the following organisations were contacted for input into the plan:

- * Geocatch;
- * Busselton Dunsborough Environment Centre;
- * Ironman and Half Ironman organisers;
- * Forest Rally;
- * Volunteer Marine Rescue;
- * Commercial hire site licensees; and
- * Sea Scouts.

- * Indigenous representatives

Input from these discussions was considered in preparation of the draft management plan.

Adoption for community consultation

The purpose of this report is to request the draft plan be adopted for formal community consultation for a period of 28 days. This will include a notice being placed in the Council for Community page and a copy of the plan being sent to previously identified stakeholders, including government agencies.

STATUTORY ENVIRONMENT

The management plan will be adopted by the Council pursuant to Clause 3.54 of the Local Government Act which provides the Shire with powers to control and manage land vested in the Shire.

The Shire of Busselton District Town Planning Scheme No 20 identifies the subject land, as reserved for Recreation, and the draft management plan is in accordance with this zoning.

POLICY IMPLICATIONS

This draft management plan is supported by the following Shire of Busselton Policies and Strategies:

- * Shire of Busselton Environment Strategy (2004) – Action 1.12 "Continue to prepare and implement reserve management plans" clearly supports the development and implementation of this plan. Actions 2.1 "Identify high risk and degraded foreshore areas" and 2.3 "Progressively prepare and implement coastal rehabilitation and management plans" also provide support to this plan.
- * Shire of Busselton Geographe Bay Foreshore Management Plan (2001) – This overarching document covers the Geographe Bay Foreshore area from Dunsborough to Port Geographe and in addition to generic recommendations on foreshore management throughout Geographe Bay; it provides a number of management recommendations for each foreshore 'precinct', including the 'Busselton' precinct.
- * Friends of Reserves Strategy (1999) – The draft plan has been developed in accordance with the Friends of Reserves Strategy.

FINANCIAL IMPLICATIONS

Works funding requirements for implementation are more significant early on but when priority issues have been addressed in the first two to three years of the plan, ongoing maintenance requirements and subsequent funding needs are reduced.

It is expected that most of these proposed works can be accommodated within the existing overall management plan implementation budget. Additional funding would also be available in the existing Community Infrastructure budget for maintenance of reserves. Implementation of some recommendations, in particular formalisation of existing carparks and minor modifications to the Georgette Street carpark, establishment of a parkland area between Milne Street and the Volunteer Marine Rescue building and future widening of the Shared-Used Path (SUP) would be more costly and would need to be built into the ten year financial plan, together with applications to source external funding. Timing of the works in the 10 year plan will also be dependent on the outcomes of the Busselton Foreshore Re-development project and works that may alternatively be done as part of that project.

STRATEGIC IMPLICATIONS

Development and implementation of this management plan supports multiple Natural and Environmental Well Being objectives under the Shire of Busselton's Strategic Plan 2006-2011 including:

- * 'Foster a culture of environmental awareness, ownership and action within the community and the organisation';
- * 'Ensure that communities are provided with a balance of active and passive open space'; and

- * 'To minimise the adverse environmental impact of the activities of the Shire of Busselton and to encourage local businesses and the community to adopt practices that reduce their ecological footprint'.

OFFICER COMMENT

This foreshore area has a very central location, being adjacent to the Busselton CBD. While it is reasonably well used by local residents for various recreational pursuits, it currently lacks the necessary amenities to sustainably support the anticipated increase in use due to proposed development and urban intensification occurring to the south. It is also anticipated that by providing additional amenities, it may relieve some of the pressure that is currently experienced by the foreshore area in front of the Jetty and attract more people to use this stretch of foreshore. The amenity of the area could also be improved as some of the existing infrastructure is run down and unrestricted parking of vehicles has prevented good grass and/or vegetation establishment.

It is recognised that there are special management requirements for this foreshore as it supports large crowds during sporting events such as the Iron Man and Half Iron Man. This was taken into consideration during the preparation of the management plan.

This proposed management plan will allow a better allocation of resources according to identified priorities and build on existing management, to maintain and improve the key qualities of the foreshore, namely:

- * Recreation values;
- * Social values;
- * Conservation values; and
- * Erosion buffer function.

Some of the key recommendations are:

- * Establish a 'parkland' area between Milne St and the Volunteer Marine Rescue (VMR) building incorporating lawn areas, native garden beds, fencing, picnic/BBQ facilities, seating, rubbish bins and covered areas. This was consistently requested during the preliminary public consultation process. There is an opportunity to create a consolidated coastal node, with the necessary infrastructure west of the VMR building. There are already public toilets and significant carpark available on site. Limited water could be allocated from Barnard Park irrigated area to establish the parkland. At least 25% of the parkland will be made up of native garden beds to reduce water requirements.
- * Revegetation of specific areas using native local species. There has already been a significant revegetation effort undertaken in this area by local schools under the direction of Geocatch and Ribbons of Blue. There is still a significant scope to re-establish native vegetation throughout much of the foreshore area in order to improve the amenity of the area and the stability of the dunes during future storm events, especially in light of the potential

for sea level rise in the coming decades and habitat value for native wildlife, in particular the endangered Western Ringtail Possum.

- * Protection of vegetated areas with post and wire fencing to prevent trampling of vegetation. Post and wire fencing is recommended as it is less intrusive on the environment and blends in well with the vegetation. Bollarding of the newly created parkland to prevent vehicle access and parking on the lawn. The proposed fencing has taken into account that use of this foreshore is likely to increase due to urban development and intensification occurring to the south. Well used access ways already exist from carparks and end-of-streets to the beach which will remain. It is proposed to create two more access ways from the proposed parkland to the beach.
- * Planting of native trees along carparks for shade and amenity.

Busselton Foreshore Redevelopment

It is important to note that at the time of preparation, a separate planning and consultation process was being undertaken regarding the broader Busselton Foreshore Redevelopment (BFR). This State Government-led process is focused on the 'foreshore' area bounded by Marine Terrace, Brown Street and West Street and as such, overlaps with the western 100 metres (approximately) of the foreshore area covered by this management plan.

At this preliminary stage, it is understood that any redevelopment within the study area to occur as a result of the BFR is likely to be focused south of Geographe Bay Road. The BFR process is due to be finalised in early 2010. As such, it is advised that the implementation of the management plan recommendations relevant to this western portion of the site be delayed until such time as the BFR planning process is complete to ensure consistency and that the direct impacts and requirements of any BFR proposals are reflected in the foreshore works.

It is also considered appropriate that the outcome of the FMP process be communicated to those involved in the BFR process.

TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The draft plan will be advertised for community consultation within 21 days of the Council decision.

OFFICER RECOMMENDATION

That the draft Central East Busselton Foreshore Management Plan be adopted under Clause 3.54 of the Local Government Act for the purposes of formal consultation for 28 days involving advertising and inviting public comment on the document.

13.3 REZONING LOT 1 NUTTMAN ROAD, CHAPMAN HILL FROM 'AGRICULTURE' TO 'BUSHLAND PROTECTION', AND DEVELOPMENT GUIDE PLAN - CONSIDERATION OF ADOPTION FOR ADVERTISING

SUBJECT INDEX:	Development Guide Plans
APPLICATION NUMBER:	959 AMD
STRATEGIC INITIATIVE:	4.3.1 Implement Environmental Strategy
BUSINESS UNIT:	Statutory Planning
SERVICE:	Statutory Planning
DATE OF COMPLETION:	10/06/2009
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	Rezoning Lot 1 Nuttman Rd, Chapman Hill From 'Agriculture' To 'Bushland Protection', And Development Guide Plan - Consideration Of Adoption For Advertising
LOT SIZE:	40.472 ha
ZONE:	Agriculture
POLICIES:	Local Rural Planning Strategy Biodiversity Incentive Strategy for Private Land in the Busselton Shire Shire of Busselton Municipal Heritage Inventory Planning for Bushfire Protection
ATTACHMENT(S):	A. Location Plan B. Draft Development Guide Plan C. Draft Fire Management Plan D. Draft Weed and Pest Management Plan

PRÉCIS

The Council has been requested to initiate an amendment to the Shire of Busselton District Town Planning Scheme No. 20 ('the Scheme') to rezone Lot 1 Nuttman Rd, Chapman Hill ('the subject land') from 'Agriculture' to 'Bushland Protection'. The primary intent of the rezoning is to facilitate subdivision of the subject land consistent with the voluntary subdivision incentive available under the Shire of Busselton Biodiversity Incentive Strategy (BIS).

A flora and vegetation survey (Ecosystem Solutions Report) has been undertaken which indicates the subject land meets the 'biodiversity value' criteria set out in the BIS. A draft Development Guide Plan (DGP) has been submitted for the subject land proposing the creation of two 'Bushland Protection' lots, with lot sizes of 17.85 ha and 22.63 ha respectively.

The draft DGP is considered to meet the operational guidelines of the BIS, and the provisions of the Scheme, subject to minor textual and mapping modifications to clarify issues of building envelopes, covenanting arrangements and fire management. It is therefore recommended that the proposal be supported, and that Amendment No. 142 and the associated DGP be adopted for the purposes of community consultation, subject to the modifications being made.

PROPOSAL / BACKGROUND

Background

Amendment No. 42 was published in the Government Gazette on 12 August 2003, 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 Biodiversity Incentives Strategy.

Subject and Surrounding Land

Lot 1 Nuttman Rd, Chapman Hill is 40.472 ha in area, has frontage to both Nuttman Rd and Chapman Hill East Rd and both are unsealed carriageways. A gravel crossover to Nuttman Rd and emergency access to Chapman Hill East Rd will provide services to both of the proposed lots. There are no existing dwellings but there is an outbuilding in the northwest corner where the proposed building envelope is identified for proposed Lot 1. There is no other infrastructure on the subject land.

The site is generally vegetated and the Ecosystem Solutions report concludes that the property has high conservation value. This assessment identifies that it provides an important refuge for rare plant species and a vegetated link between remnant vegetation amongst the mainly cleared land of this part of the northern Blackwood Plateau and the state forest to the south. The proposed subdivision will have minimal impact on the quality of the habitats available, and the resulting conservation covenant and stewardship/management program are designed to enhance the conservation values within the location.

The subject land was the only lot in the area that was identified as being one of the "ground truthed lots fitting criteria" in the BIS (figure 9).

Proposal

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

The draft DGP proposes the creation of two lots, with areas of 17.85 ha (proposed Lot 1) and 22.63 ha (proposed Lot 2), and both contain significant conservation areas (vegetation), cleared land, a dwelling and associated infrastructure. The DGP indicates the provision of a new access into Chapman Hill East Road to provide joint access to both proposed lots and provide fire emergency access.

The building envelopes requested for both lots will exceed the Scheme requirement of 1500m². The proponent has provided a fire management and a weed and pest management plan to support the proposal.

STATEMENT OF IMPACT

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

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, ultimately facilitating the subdivision of the subject land into two lots.

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

CONSULTATION

There is no requirement under the *Planning and Development Act 2005* to advertise a draft Scheme amendment, nor any requirement under clause 25 of the Scheme to advertise a draft DGP prior to it being initiated by the Council. Accordingly, no advertising has been undertaken to date.

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

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 'Bushland Protection' 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 1,500m². 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 108 of the Scheme is also relevant, given that a portion of the subject land is identified as a 'high' bush fire hazard.

Clause 108 of the Scheme reads as follows:

'(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

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 and has been identified in Figure 9 as one of the ground truthed lots fitting the BIS assessment criteria.

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.

Although the proposed subdivision/development is not strictly clustered because the proposed building envelopes are separated, the proposed building envelopes reflect the position of existing structures and clearings on the lot and subject to limitation are not seen as causing further detriment to the environmental qualities of the subject land.

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 to protect 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' fire hazard. A fire management plan has been prepared and is included as an appendix to the report.

In bushfire prone areas a building protection zone is required of between 20 - 40m (depending on the slope of the land), with fuels below 10cm 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.

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 proposed Amendment, the subsequent subdivision would attract the standard road upgrade and community facilities monetary contributions. It is not considered that there will be any additional ongoing costs to the Shire from the proposal.

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 ('Strategic Plan') 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.

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 a subdivision incentive to a total of two lots.

Lot Configuration & Building Envelopes

The DGP proposes the subdivision of Lot 1 to create two lots, with the new boundary running east – west through the middle of the property. The northern lot (i.e. proposed Lot 1) is 17.85ha in area, while the southern lot (i.e. proposed Lot 2) is 22.63ha in area.

The intended building envelopes have been positioned to take advantage of the two main disturbed areas of the site. The northern building covers the existing outbuilding and associated clearing, while the southern building envelope covers an area disturbed by past milling operations. The size of the building envelopes has been shown on the DGP as 2,000m², this is considered to comply with clause 90 (2a) of the Scheme whereby the proposed areas are relatively cleared.

Access

The proposed joint-use internal access track follows the route of an existing vehicle access track, which is proposed to be upgraded as part of eventual subdivision. Shared (reciprocal) access over this track is proposed to be formalised via right-of-way carriageway easement(s).

The DGP includes a proposed joint access to Chapman Hill East Rd via an emergency access gate so as create separate access points for the proposed new lots and emergency fire access escape.

Fire Management Plan

The applicant has submitted a draft fire management plan which includes a plan identifying building protection zones (BPZ), hazard separation zones (HSZ), access, and firebreaks.

The fire management plan will need to be referred to FESA for endorsement as part of the advertising process. The boundary firebreaks, BPZ and HSZ in both lots will be maintained as per the Shire's fire notice.

Weed and Pest 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 described above which is required to enable an assessment of the impact that fire management requirements will have on the remnant vegetation. Also, the flora and vegetation survey that was undertaken for the subject land identified weeds and pests that were the greatest threat to the maintenance of biodiversity values of the remnant vegetation on the site.

The weed and pest management plan is incorporated as an appendix to the amendment report, and was developed to guide the landowner in the management of weeds and pests that are considered to be invasive and/or pose a threat to the biodiversity values of the property. The weed and pest management plan will need to be endorsed by the Department of Environment and Conservation.

Given that this has already been provided with the rezoning documentation it is recommended that a condition be included on the DGP that requires as a condition of subdivision that the subdivider is to implement a Weed Management Plan which has been approved by the relevant authority.

Conservation Covenant

Clause 90(12) of the Scheme states:

Prior to rezoning and subdivision, subdividers shall undertake a vegetation survey to identify rare, endangered or otherwise significant vegetation in the proposed building envelope and vehicle access way areas, in addition to any other area of the lot as deemed appropriate by Council; and provide for its appropriate conservation to the satisfaction of the Department of Conservation and Land Management and Council.

Section 6.1 of the BIS provides assessment criteria to achieve the criteria for subdivision incentives. Step 3 relates to the vegetation condition criteria. The subject proposal complies with the guidelines for presenting the vegetation assessment with the exception of the last dot point which states:

Comments from the Department of Conservation and Land Management and/or the Department of Environmental Protection will be required to verify and ground truth vegetation assessment reports and assessment undertaken as part of this strategy preparation.

Step 4 of section 6.1 of the BIS includes the requirement that:

the owner entering into a conservation covenant with the National Trust, CALM or any other recognised covenanting organisation with an established stewardship program, to provide for the effective protection and management of all portions of the subject lot proposed to be

incorporated into a Conservation Lot, in accordance with the covenanting requirements of this strategy.

The proponent sought advice on this proposal from the Department of Environment and Conservation that essentially stated that they could not confirm that the site met the criteria for inclusion in the Nature Conservation Covenant Program until the proposal is submitted for subdivision. It is recommended that a condition be included on the DGP that requires that the owner enter into a conservation covenant with National Trust, Department of Environment and Conservation or any other recognised organisation with an established stewardship program, to provide for the effective protection and management of the conservation values on the subject lots.

CONCLUSION

A flora and vegetation survey demonstrates that the subject land meets the criteria under the BIS for consideration for a two lot subdivision incentive. The proposed lot configuration generally ensures minimal impact on remnant vegetation by the proposed lot boundaries and conservation area following the natural boundaries of remnant vegetation.

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. 142 and the associated draft DGP for community consultation, subject to minor modifications.

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.

OFFICER RECOMMENDATION

1. That the Council, in pursuance of Part V of the *Planning and Development Act 2005*, adopt draft Amendment No. 142 ('Amendment') to Shire of Busselton District Town Planning Scheme No. 20 for community consultation for the purposes of rezoning Lot 1 Nuttman Road, Chapman Hill from 'Agriculture' to 'Bushland Protection', subject to the modifications required to the draft Development Guide Plan and Fire Management Plan as per 2 below.
2. That the Council adopt for community consultation the draft Development Guide Plan for Lot 1 Nuttman Road, Chapman Hill, pursuant to clause 25 of the Shire of Busselton District Town Planning Scheme No. 20 subject to the following modifications to the relevant documents being undertaken prior to advertising:

- (a) Replace the words "Planning Policy Statements" with the word "Conditions".
 - (b) The following Development Guide Plan Conditions be added:
 - (i) The owner shall enter into a conservation covenant with the National Trust, Department of Environment and Conservation or any other recognised organisation with an established stewardship program, to provide for the effective protection and management of the conservation values on the subject lots prior to subdivision clearance and this shall be required as a condition of subdivision approval.
 - (ii) The subdivider shall implement a Weed Management Plan, which has been approved by the relevant authority prior to subdivision clearance, and this shall be required as a condition of subdivision approval.
 - (c) That the wording of the DGP conditions be reviewed to ensure consistency in respect to conditions of subdivision required to be imposed.
3. That as the draft Amendment is in the opinion of the Council consistent with Part 5 of the Act and regulations made pursuant to the Act, that upon modification of the draft Development Guide Plan, Fire Management Plan and amendment report in accordance with 2 above, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by Part 5 of the Act and on receipt of a response from the EPA indicating that the draft Amendment is not subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the *Town Planning Regulations 1967*.

13.4 PROSECUTION – USE OF 16 GEORGETTE STREET, BUSSELTON. BREACH OF SCHEME – TOURIST ACCOMMODATION IN RESIDENTIAL ZONE

SUBJECT INDEX:	Legal Action Initiated by the Shire
APPLICATION NUMBER:	NA
STRATEGIC INITIATIVE:	5.1.3 Ensure Regulatory Requirements Are Met
BUSINESS UNIT:	Statutory Planning
SERVICE:	Compliance
DATE OF COMPLETION:	27/11/2009
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	Prosecution – Use Of 16 Georgette Street, Busselton. Breach Of Scheme – Tourist Accommodation In Residential Zone
LOT SIZE:	NA
ZONE:	Residential
POLICIES:	NA
ATTACHMENT(S)	'A' COPY OF STANDARD LETTER – Tourist Accommodation in Residential Areas. 'B' 'CONFIDENTIAL' COPY OF LEGAL ADVICE FROM McLEODS BARRISTERS AND SOLICITORS

PRÉCIS

The use of a dwelling (single house) for “tourist accommodation” purposes on residential zoned land is not permitted under the Shire Town Planning Scheme No.20 (‘the Scheme’). “Tourist Accommodation” is a use that is prohibited in the Residential zone.

The Shire has received ongoing complaints regarding the use of the subject property in a manner that is considered to be “tourist accommodation” and despite numerous approaches to the owner to cease the use, it has continued. The approach recommended in this report is supported by legal advice specific to this issue.

Clause 97 of the Scheme indicates that an offence is committed under the Planning and Development Act, 2005 (‘the Act’) when a landuse is in contravention of the Scheme and the Act identifies applicable penalties.

Draft Amendment No. 46 to the Scheme, as adopted for final approval on the 8th June 2005, proposes to permit the use of a single house for tourist accommodation in the ‘Residential’ zone in certain circumstances. This amendment has been before the Minister for consideration since the 20th June 2005. At the time of referral for final approval the Minister expressed concern with the intent of the amendment and set up a holiday home working group to review the matter. This group are still to provide a final report and the amendment has not progressed to final approval. Until an amendment to the Scheme is gazetted the provisions of the Scheme are still in force.

The outcomes of the Holiday Home working group as available to the Shire to date are being used in preparing a separate report to the Council on the matter in general. This is scheduled to be provided to the Council within the next 4 months. Any change to the current planning framework will then require a combination of 1 or more of; a Scheme amendment, Policy of the Council pursuant to the Scheme or a local law. This is likely to take a minimum of 18 months and is not considered a valid basis for not proceeding with enforcement of the scheme as it currently stands. The other alternative to this is that this prosecution fails as the use is considered a use that can be undertaken within the definition of a dwelling. In this scenario a policy and local law response is considered as also likely to be required of the Council.

This report recommends that the Council initiate prosecution action over the alleged breach of the Scheme.

PROPOSAL / BACKGROUND

In November, 2007 the Shire received written complaints from 6 residents relating to the use of 16 Georgette Street, Busselton as "tourist accommodation". The complainants were concerned over the noise and anti-social behaviour that regularly occurred when the house was occupied by tourists. The complainants felt that the use of the property as "tourist accommodation" was affecting the amenity of the area.

In response, a letter outlining the requirements of the Scheme was forwarded to the owner of 16 Georgette Street, on 3 December, 2007. A follow up letter was sent to the owner on 7 January, 2008.

The owner responded in writing on 30 January, 2008. No assurance that the Scheme would be adhered to was given.

On 24 March, 2008 a letter signed by 13 residents was received in relation to loss of amenity caused by the holiday rental at 16 Georgette Street, Busselton and requesting that some action be taken.

Approximately 20 individual complaints by various people have been received regarding short term holiday accommodation at this site and it is evident to Shire Officers that the use as "tourist accommodation" has been ongoing.

STATEMENT OF IMPACT

Should the Council proceed with prosecution action and is successful, the following impacts are anticipated. The magnitude of impact is, however, difficult to determine and in this regard it is emphasised that this prosecution is proposed as the use has been ongoing in spite of Shire advice to the owner that it is contrary to the Scheme and has caused a demonstrated impact on adjoining residents. Practice and history demonstrates that this is not a common situation.

* improvements to the residential amenity of permanent residential areas currently impacted by tourist accommodation;

- * negative impact on businesses promoting/offering Residential zoned properties within the Shire for short term holiday rental (in conflict with the zoning);
- * potential impact on availability of self contained tourist accommodation in the shire in peak periods;
- * probable improvement in availability and cost of long term rental properties;
- * potential improvements in occupancy and investment in legitimate tourist operations; and
- * possible additional resources required for compliance action.

CONSULTATION

There has been numerous discussions and correspondence with the owner of the property over a period of more than a year. This has not resulted in any improvement to the issues that have been raised by the surrounding residents or any change in the use /availability of the premises for "tourist accommodation".

Further enquiries have indicated that despite repeated requests to cease letting the property for short term holiday accommodation, the property is still listed on the 'Stayz.com.au' website as available at between \$214 and \$220 per night (at the time of compilation of this report – 23 April, 2009). In conjunction with other information it is considered that there is sufficient evidence to proceed to prosecution.

There has also been extensive consultation with the complainants.

Both the GBTA and TWA have been consulted on the issue of the use of residential properties for tourist accommodation and both support the application of standards to these operations as are applicable to Bed & Breakfast establishments/Guest houses to improve the tourism experience, provide increased customer service and customer protection. This objective will not be achieved if use of residential properties for tourist accommodation is allowed to continue unfettered.

STATUTORY ENVIRONMENT

The subject property is zoned 'Residential' under District Town Planning Scheme No.20. 'Tourist Accommodation' is not a permitted use in this zone. Refer to legal advice (confidential Attachment B) for further information on the detail of the statutory arrangements. Clause 97 of the Scheme states that an offence is committed under Planning and Development Act 2005 when a breach of the Scheme occurs.

The Building Code of Australia also provides that a building used for the purposes of tourist accommodation of greater than 6 persons that are not a family shall meet specific fire prevention and mitigation requirements. It is understood that this property accommodates more than 6 persons and has not been subject to issue of a building licence that demonstrates compliance with these standards.

POLICY IMPLICATIONS

Not Applicable

FINANCIAL IMPLICATIONS

The costs of a prosecution can vary greatly depending on the complexity of the matter and whether the matter proceeds to a defended hearing.

If successful, the reasonable legal costs associated with a prosecution can be recouped by the Shire. However, this may not always cover all costs. Additionally, if the accused is successful in defending the matter, they can obtain an order from the court that the Shire pay their reasonable legal expenses in defending the matter. Legal costs if the matter proceeds to a defended hearing and if it was briefed externally could reach several thousand dollars.

STRATEGIC IMPLICATIONS

Community and social well-being is identified in the Shire of Busselton's Strategic Plan as an important issue. There is also a Strategic Objective to work with the community to enhance safety and security in a healthy environment. The residents adjacent to the subject property currently believe that their environment is being adversely affected.

Strategic objective 3.2 also states *"To promote the Shire of Busselton as the preferred destination within Western Australia for visitors seeking to experience food and wine, recreation culture, heritage and nature based attractions"*.

Strategic objective 5.1 states *"To manage the business of the Shire of Busselton in a responsible and accountable manner utilising organisational sustainability principles"* and an initiative under this is 5.1.3 which states *"Ensure regulatory requirements are met"*.

CONCLUSION

As stated, the practice of using Residential zoned property as "tourist accommodation" is in breach of the Scheme. It is acknowledged that there is legitimate use of residential properties for family/friends accommodation on a non-commercial basis. However, the commercial letting of residential properties as "tourist accommodation" warrants some level of control as provided for by the Scheme, particularly when these activities are causing significant amenity problems for permanent residents.

Whilst there may be other residential properties being let as "tourist accommodation" in the Shire there is a general cooperation by owners to comply with requests to remove the property from the market, and/or modify behaviours, if the Shire is required to investigate/respond to a complaint. In this case there has not been any cooperation by the owner and the surrounding residents have become significantly aggrieved by the situation. Given the circumstances of this case it is recommended that the Council seek to uphold the requirements of the Scheme.

A legal opinion has been obtained from McLeods Barristers and Solicitors, who have advised that the substantial use of a house in a Residential Zone for the temporary accommodation of tourists, visitors and travellers would be an offence under section 218 of the *Planning and Development Act, 2005* (refer Attachment B).

It should also be noted that previously when attempts have been made to amend the Scheme, to bring a greater level of control to residential based tourism, this has, in part been opposed by some operators and members of the real estate sector on the grounds that the Scheme does not currently prohibit the use. It is considered that this uncertainty needs to be resolved so that all parties can look at future proposals with a clear understanding of the current situation.

OFFICER COMMENT

The matter is referred for the Council to determine whether prosecution action should commence as recommended.

TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Prosecution will be commenced within 4 weeks.

OFFICER RECOMMENDATION

That prosecution action, under the provisions of the *Planning and Development Act 2005*, be commenced in relation to the use of 16 Georgette Street, Busselton for tourist accommodation purposes which is a prohibited use in the Residential zone under the Scheme.

13.5 DIRECTION PAPER - REVIEW OF THE 'USE OF REFLECTIVE BUILDING MATERIALS POLICY'

SUBJECT INDEX:	Local Planning Policies
APPLICATION NUMBER:	NA
STRATEGIC INITIATIVE:	2.4.5 Develop a new Town Planning Scheme To Provide For The Lifestyle We Cherish And Protect
BUSINESS UNIT:	Strategic Planning and Sustainability
SERVICE:	Strategic Planning
DATE OF COMPLETION:	27 August, 2009
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	Direction Paper – Review of the Use of Reflective Building Materials Policy
LOT SIZE:	NA
ZONE:	All
POLICIES:	Use of Reflective Building Materials
ATTACHMENT(S):	A - Use of Reflective Building Materials Policy

PRÉCIS

This report represents the first stage of a two stage approach to the review of the above-mentioned policy.

This direction paper is intended to provide a focus for a review of the current policy. A further report and draft reviewed policy will be presented following direction from the Council on the conclusions from this paper.

In short, the conclusions reached from the review of literature and practices in other jurisdictions is that the current policy should be retained largely intact due to the beneficial amenity and landscape outcomes, and that conclusions on the thermal efficiency of light coloured steel roofs and cost issues show that they are of minor significance.

PROPOSAL / BACKGROUND

The *Use of Reflective Buildings Materials Policy* (the policy) was first adopted by the Council in April 1993 and was last reviewed in 2003. The policy seeks to limit the use of highly reflective building materials in certain areas of the Shire due to the nuisance effects of visible glare and in areas of the Shire with identified landscape value.

The review of the policy is being undertaken as part of the ongoing review of the Shire's policy framework leading up to the Scheme review.

Prior to presenting a reviewed policy to the Council for consideration, it was considered appropriate to prepare a direction paper to provide a focus for the matters to be addressed in the draft policy. Issues for research have thermal efficiency and sustainability issues which have arisen more prominently since the policy was last reviewed and cost implications.

Accordingly, officers have prepared a direction paper, which is included as part of the recommendation. Endorsement of the direction paper will guide the preparation of a draft reviewed policy for consideration by the Council for consultation purposes.

The direction paper uses a 'question and answer' format, and identifies and discusses the following key issues:

- * The control of specular glare;
- * Orderly and proper planning;
- * Sustainability and thermal efficiency; and
- * Housing affordability.

STATEMENT OF IMPACT

The officer recommendation is to undertake a review update of the policy predicated upon the conclusions reached in the direction paper. As the conclusions support that the current policy should be retained largely intact there should not be any substantive impacts above the existing policy.

CONSULTATION

No community consultation has been undertaken in the preparation of this report. This will occur once a reviewed policy has been endorsed by the Council for advertising. Officers undertook considerable research in the development of the direction paper which included research into the practices in other jurisdictions and with the knowledge of issues that have arisen in recent years with the current policy.

The key findings of the research are summarised below -

- * The housing energy efficiency gains from the use of highly reflective roofing products would not be significant within climatic zone 5 (Shire of Busselton) and on balance do not outweigh the public benefit deriving from reducing specular glare.
- * The benefits of prohibiting the use of highly reflective materials in terms of reducing the amenity impacts are widely recognised.
- * As the tools required for planners to assess applications on a 'deemed to comply' case by case basis do not currently exist, a broad policy approach to preclude certain materials in the light and very light product range under the BCA is a valid planning response.

FINANCIAL IMPLICATIONS

The direct financial implications of the recommendations of this report are limited to the costs associated with undertaking the review of the policy and presenting

that reviewed document to the Council for consideration for adoption. Those costs will be able to be met using existing, budgeted resources.

STRATEGIC IMPLICATIONS

The proposal is considered to be consistent with the relevant Strategic Objectives of the Shire of Busselton's Strategic Plan 2006-2011:

- 2.1 To develop and maintain the Shire's assets and built environment to maximize public benefit now and into the future.*
- 2.3 Ensure development of the Shire recognises the unique character of the region and successfully balances the pressures of development and the protection of our rural and coastal amenities.*
- 4.3 To minimise the adverse environmental impact of the activities of the Shire of Busselton and to encourage local businesses and the community to adopt practices that reduce their ecological footprint.*

Other outcomes of the Strategic plan are not considered to be compromised by the proposal.

STATUTORY ENVIRONMENT

Clause 27 – Landscape Value Area of the District Town Planning (Scheme) provides a statutory basis for the control of the exterior finish and colour of materials within the Landscape Value Area as one element of a wider set of powers. Use of building materials is also controlled in the Rural landscape and Conservation zones.

The *Leeuwin Naturaliste Ridge Statement of Planning Policy 6.1 (LNRSP)* includes a number of land use policies (particularly PS 3.1 – 3.8) which seek to control the development of land in areas visible from key vantage points and along travel route corridors to reduce the landscape impact.

The review and adoption of new local planning policies must be carried out in accordance with the provisions of Clause 103 of the Scheme which requires draft policies (including reviews to draft policies) to be advertised for public comment prior to final adoption and inclusion within Schedule 10 of the Scheme. The Council shall review the draft Policy in the light of any submissions made and advice received and shall then resolve either to finally adopt the draft Policy with or without modification, or not to proceed with the draft Policy.

The statutory provisions governing the adoption of a reviewed draft policy does not preclude the preparation of a direction paper to inform and guide that process.

The benefit of preparing a direction paper to guide that process is an improved decision making process and more efficient and targeted use of officer resources.

POLICY IMPLICATIONS

The currently policy is included as Attachment A. The Policy indicates that the Council considers that Zinalume®, 'off-white' Colorbond® and other building materials of highly reflective qualities create potential amenity problems in terms of their visual detracting and nuisance arising from sunlight reflection and glare.

The policy attempts to balance these potential problems in the context of objective assessment that examines the relative impacts in the particular circumstance and the broader community perception of reflective building materials.

The policy seeks to prohibit the use of highly reflective materials in specific areas of the Shire, however, a specific proposal for the use of these materials will be merit assessed and determined in accordance with specific criteria if requested.

OFFICER COMMENT

The direction paper is considered to provide a sound basis for the review of the current policy, and it is therefore recommended that it be adopted by the Council to inform and guide staff in the review process.

CONCLUSION

The conclusion of this direction paper is that in preparing a review of the policy, the current objectives and provisions should be retained and enhanced to encourage the use of reflective building materials in the light range but not those with a solar reflectance value greater than 50% i.e. bare metal and off white.

TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

It is expected that a revised policy can be prepared and placed before Council for consideration of community consultation within 12 weeks of the endorsement of the direction paper.

OFFICER RECOMMENDATION

That the Council endorses the conclusions reached in the following *Direction Paper – Review of the Use of Reflective Building Materials Policy* for the purposes of guiding a review/update of its current planning policy on this matter.

DIRECTION PAPER – REVIEW OF THE USE OF REFLECTIVE BUILDING MATERIALS POLICY

Background

The Shire currently has a policy entitled 'The Use of reflective Building Materials Policy'. The Policy indicates that the Council considers that Zinalume®, 'off-white' Colorbond® and other building materials of highly reflective qualities create potential amenity problems in terms of their visual detracting and nuisance arising

from sunlight reflection and glare and as such should not be used in specific circumstances.

The policy attempts to balance these potential problems in the context of objective assessment that examines the relative impacts in the particular circumstance and the broader community perception of reflective building materials.

The policy effectively prohibits the use of those materials in areas of the Shire, however, if requested a specific proposal for the use of these materials will be assessed and determined in accordance with specific criteria. The materials excluded are essentially the metal roofing products Zinalume® and 'off white' Colorbond®.

The current policy was first adopted by the Council on 14 April 1993. The policy was subsequently reviewed and amended by Council on 9 June 2003.

In reviewing this policy it was considered beneficial to provide a detailed background on the issues for which the policy was originally constructed as well as introducing sustainability and thermal/energy efficiency issues of metal roofing which require further consideration since the policy was last reviewed. In preparing this paper considerable research has been undertaken, including identifying the regulations/policies relating to control of reflective materials in some other local government areas of Western Australia and the eastern states, as well as case law on applicability and resolution of these issues by administrative tribunals. A Bibliography is included as an attachment.

The paper follows a 'question and answer' format, organised around the following questions:

- * What causes reflectance and glare?
- * Which areas of the Shire are controlled?
- * What approaches have other shires and jurisdictions taken?
- * Does a policy to restrict reflective materials constitute orderly and proper planning?
- * Do darker roof colours contribute to heat loading for buildings?
- * Is there a conflict between thermal performance required by the BCA and the current reflective building materials policy?
- * Will restricting materials affect housing affordability?

What causes reflectance and glare?

Visual reflectance is caused by white light being reflected. If large amounts of white light are reflected in a concentrated manner this is called glare. All surfaces reflect light but:

- * Light colours reflect more light than dark colours. This visual reflectance has a correlation to solar reflectivity. The reflectivity value listed by, for example, metal roof manufacturers can be used to judge how reflective a particular colour or product is.
- * Smooth surfaces reflect white light directly whereas textured surfaces (such as tiles and shingles) scatter the light causing it to be less bright in any one spot. The concentrated glare from smooth surfaces is known as 'specular glare' because the properties of the surface resemble an optical lens or mirror.

The problem of specular glare is more acute and problematic in built up urban areas, particularly where there is vertical elevation of one home relative to another, such as in multi storey developments and/or single dwellings on a sloping site.

Visual reflectance from highly reflective surfaces is also problematic within visually prominent landscape areas such as scenic areas and views from key tourist routes.

All roofs and building materials reflect visible light. It is the measure of reflectance of visible light known as the solar reflectance value of a material that is important. The characteristics of a material to reflect solar radiation is represented by a solar reflectance value ranging between 0 and 1 and is normally expressed as a percentage (with 0 being no reflectance and 1 or 100% meaning that all light is reflected). The solar reflectance values of some BlueScope steel building products are shown as an attachment to the current policy (Refer Attachment A).

Which areas of the Shire are controlled?

The current policy limits the use of highly reflective building materials (those which exceed a solar reflectance value of 50%) in the areas identified in the current policy (Refer Map at Attachment A).

The majority of the rural areas of the Shire are exempt from the policy provisions as the use of these materials in these areas is not considered to create significant issues.

Also, the policy does not apply to development of land zoned 'Conservation' or 'Rural Landscape' as the Scheme includes specific clauses to preclude the use of reflective materials within these zones. These areas are mainly in the western extent of the Shire and affected by the *Leeuwin Naturaliste Ridge State Planning Policy* and specific zoning controls. To this extent these areas do not figure in this discussion as they are covered outside these policy provisions.

What approaches have other shires and jurisdictions taken?

Controlling reflective building surfaces to minimise glare and amenity impacts within the Australian landscape as a planning consideration has been affirmed by the development of extensive policy and statutory planning controls over the last two decades.

Outside of Australia the control of reflective building materials through the land use planning framework occurs within Europe, the UK, U.S.A and Bermuda along with many other countries. Arguably, Australia has the most developed approach to the control of highly reflective building materials given the solar intensity of the Australian climate and the well developed and integrated planning system applicable within state and local government.

For example the Shire of Chittering (W.A.) controls glare and amenity for:

- * Rural aesthetics
- * RAAF Aircraft safety
- * Traffic safety adjoining highways and main roads from glare

The City of Melville precludes the use of Zinalume® and 'off white' Colorbond® building products across the municipality.

In the U.K, including Wales and England, local governments have used their planning powers to exempt artworks from policy control, however many highly reflective or even brightly coloured materials in rural locations are discouraged or prohibited.

The Bermuda city planning scheme prohibits the use of reflective glass and other surfaces which exceed 20% reflectivity in the rural areas.

The Queenstown Lakes District Council of New Zealand has a policy to protect the natural resource character of the region from the problems caused by glare and reflective building materials through a preference for matt or non shiny surfaces and prohibits:

- * Zinalume®
- * reflectance value greater than 35%
- * large expanses of glass
- * large smooth surfaces

While a number of the policy approaches identified relate to urban impact and amenity issues, the Queenstown approach parallel that in the Shire which is also linked to the protection of the very high landscape values in the identified areas.

There are scientific methods that can accurately determine the glare impact of buildings on a receiving environment. However, these recognised methods of solar reflectivity analysis are costly and are undertaken by only a handful of consultancies in Australia. The minimum cost to prepare such a study for a large residence is estimated to be \$1500 and for larger commercial projects, between

\$2500 and \$3500. Such studies are usually only warranted for major building and stadium developments in sensitive urban and landscape areas. It is therefore not seen as practical for such studies to be undertaken for building development in the Shire, therefore a more practical policy based approach needs to be employed.

Often the primary focus of these studies concerns glare in relation to:

- * pedestrian safety,
- * road user safety, inconvenience; and
- * amenity within the urban context.

For instance the *Wollongong Central Retail Development Reflectivity Study (2007)* prepared by VIPAC Engineers and Scientists Ltd for the proponent of a major district level retail redevelopment, recommended a reflectivity co-efficient of less than 15% for the exterior glazing and reflective components of the building. Other similar studies have recommended a reflectivity co-efficient no greater than 20%.

In New South Wales the Department of Planning regularly includes approval conditions requiring a reflectivity report for significant land use and development proposals.

The difficulty with trying to quantify the extent to which a proposal will trigger a problem of specular glare on an adjoining area (other than through controlling the reflectivity of the material or requiring an expensive study) is that each property/proposal is different in terms of its context, height, adjoining development, elevation in the landscape, degree of risk of glare due to orientation, roof pitch, shading, vegetation etc.

For this reason it is not possible to codify a set of parameters/assessment criteria which if met would enable a 'deemed to comply' application to be approved. This is why most policies across Australia which seek to control the problem rely upon controlling the product by its reflectivity index as opposed to codifying a 'deemed to comply' set of parameters. Also, as will be discussed below, vegetation screening alone (which has the potential to screen out specular glare and reflectivity) has limited potential in removing the problem.

Does a policy to restrict reflective materials represent orderly and proper planning?

Administrative law tests the merit of planning decisions through reconsideration of the original planning decisions by a tribunal.

The New South Wales Land and Environment Court (LEC) has consistently recognised and applied conditions of approval to minimize specular glare and visibility from metal and highly reflective building surfaces such as-

- * Glass pool enclosures
- * Exterior face of pergola enclosures
- * Zinalume® and very light tone metal Colorbond® roofing
- * Translucent skylight covers and skylights
- * Reflective air-conditioning ducts

In *Trenwith & Ors v Sutherland Shire Council & Anor (No 2)* [2006] NSWLEC 491 at [4], the LEC held that the glare from a curved roof is generally recognised as more penetrating and intensive than the glare from a flat roof.

In *Trenwith & Ors v Sutherland Shire Council & Anor* [2005] NSWLEC 143 at [61] the LEC determined the use of landscaping on its own is generally seen as an ineffective means of ameliorating specular glare. This is because vegetation screening relies upon the continued maintenance of the screening vegetation by a land owner and successive land owners and this can never be guaranteed through normal planning controls.

In *Silkcan Pty Limited V. Woollahra Municipal Council* [1996] NSWLEC 208 the LEC held that there was a significant adverse impact and negative consequence on use and enjoyment of an adjoining property as a result of local authority approval of a highly reflective skylight and roof cover. The property overlooked the Sydney Harbour. The LEC accepted that the glare was unacceptable at certain times (notably at its brightest at approx 11.00 am) as the glare intrudes into the living area of the adjoining dwelling.

The LEC overturned the local authority decision to approve the skylight and dismissed opinion on the matter from the City of Woollahra on the basis that-

- * The Shire had no means of precisely measuring the degree of specular glare
- * The officers had no qualifications in the field of reflectivity
- * The Shire's opinion was based upon experience and belief rather than factual evidence of the impact of the glare which was not sufficient in this case
- * The glare was unacceptable and could strike at any time and therefore the Shire's means of ameliorating that glare lacked evidence

A 2006 decision of the State Administrative Tribunal (SAT) of Western Australia involved the restriction of Zinalume® on a building situated on the Darling Scarp southeast of Perth for landscape value reasons. In concluding *Hopkin and Shire of Serpentine-Jarrahdale* [2006] WASAT 317 at [53], the SAT states:

Although there are, and will continue to be, thousands of Zinalume roofs across the State, they are clearly the most reflective, when compared to Colorbond roofs. As such, it is an understandable and a legitimate planning aim that the respondent Shire should seek to control the use of Zinalume - almost to the point of prohibition - particularly in circumstances where they are attempting to minimise glare or inroads to visual amenity against the backdrop of a significant natural feature (namely the Darling Scarp) by way of planning policies.

The above indicates that even basic planning policies that seek to control the use of higher-end reflective materials have a legitimate planning aim of minimising glare and disruption to natural landscape features. The rationale for a planning policy to control the issue is therefore strong and particularly relevant to the

protection of the landscape values of the Leeuwin - Naturaliste ridge and travel route corridors.

Do darker roof colours contribute to heat loading for buildings?

In the United States the Department of Energy has tested this issue extensively through the Berkeley laboratories to determine the heat loading properties of different materials. This has given rise to the term 'cool roof' technology. However the energy efficiency of highly reflective and very light roofs is more than a black and white issue.

Emissivity is a measure of the thermal energy emittance of a surface. Its corollary is absorptance (the characteristics of a material to absorb and conduct solar radiation and convert this energy to heat). This characteristic is represented by a value ranging between 0 and 1 (zero representing "cooler" materials and 1 representing "hotter" materials when exposed to sunlight). While a number of studies refer to the emissivity of the material, it is absorptance which is a more meaningful measure of the heat conduction from a roof into the roof space.

The Building Code of Australia (BCA) lists the absorptance values of a range of metal roofs as follows:

Table 1 - Typical Absorptance values

Colour	Value
Slate (dark grey)	0.90
Red, green	0.75
Yellow, buff	0.60
Zinc aluminium – dull	0.55
Galvanised steel - dull	0.55
Light grey	0.45
Off white	0.35
Light cream	0.30

Source: Building Code of Australia (2009): 3.12.1(b)(i)

Importantly the table above indicates a poorer absorptive (thermal) performance of Zinalume® and galvanised metal roofing than one might expect. For instance light grey which is permissible under the Shire's policy, in most areas, has a better absorptive performance than Zinalume® despite the fact that Zinalume® is more reflective.

The organization ICLEI-Local Governments for Sustainability notes the poorer absorptive properties of non colour bonded metal roofs when it states:

It is important to note that metal – coated and bare metal roofing, while reflective, conducts heat and will not provide cooling benefits.

A good cool-roofing material for hot climates (or during summer months) should have a high solar reflectance and low typical absorptance value. The higher the absorptance value, the more heat the material retains. In cooler climates dark-coloured materials such as dark metal (non reflective) roofing are often the most beneficial.

BlueScope Steel Ltd has recently developed a new product called Thermatech Colorbond® to its range which improves further the thermal performance of the metal irrespective of the colour and reflectivity of the surface of the material.

Thermatech Colorbond®:

- * Absorbs less heat from the sun
- * Is a cooler roof
- * Reduced solar absorption across all colours by at least 5%
- * Has greatest improvement on the dark colour range

Further to this, the use of low absorptive roofing materials is an element but no substitute for a home which is designed for climate such that it is not reliant upon an increasing demand for electricity to cool and heat the home. This can be achieved through good design, orientation, thermal massing and proper insulation. This is discussed in detail under the next heading below.

Is there a conflict between thermal performance targets required by the BCA, and the current reflective building materials policy?

The BCA is the overall regulation mandating Building Thermal Performance Assessments of residential buildings within Australia. The BCA is applicable in all states except NSW which applies the Building Sustainability Index (BASIX) a similar but arguably higher standard of sustainability and thermal performance in residential buildings. The building thermal performance assessment under the BCA eliminates the worst energy performance practices through a national standard approach to minimum performance requirements for buildings.

Part 3.12 Energy Efficiency of the BCA was introduced in January 2003 to improve the thermal performance of the building fabric (including roofs), and the BCA has now been amended to include energy efficiency measures for all building classifications.

The BCA at 3.12.1.2 Roofs, requires:

- (a) a roof must achieve a total R Value for the direction of heat flow as specified in table 3.12.1.1,
- (b) in climate zones 1, 2 and 3 (the hot tropics and northern extremities of Australia) the total R Value specified may be reduced by R0.5 if the upper roof surface has a solar absorptance value of not more than 0.55, (Busselton lies within climate zone 5 and is therefore exempt from this criteria).

The effect of the energy efficiency provisions is that no credit is available for the use of metal roofing with an absorptive value of 0.55 or less within climate zone 5. This is because climate zone 5 is a temperate zone with cool winters, the main heat movement is an upward rather than downward movement and the thermal effects of insulating the home to achieve the overall thermal targets as required by the BCA is presumably regarded as sufficient without consideration of the absorptive value of the roof material.

The Commonwealth government published its report into adaptation and climate change responses for Local Government in May 2008. The report entitled *Climate Change Adaptations for Local Government* analyses and recommends adaptation and policy changes at a local level to combat CO₂ emissions and the effects of climate change. In relation to the use of cool roof technology the report does not make any recommendations in respect to roof materials, absorptive index or insulating properties other than to state that the use of wider roof eaves (as opposed to the predominant boxed gutter design) is to be encouraged and that the use of awnings and building design measures is also a preferred outcome.

Given the need to balance these issues and weigh up the potential benefits of thermal efficiency against possible glare and amenity issues, it is considered that the negative impacts from no control on the use of very light roofing products outweighs the relatively small energy and thermal efficiency advantage that could be gained by a 'no restriction' policy across the Shire. It is also arguable that because the BCA sets a thermal performance target for the whole building, the use of highly reflective building materials would not make any improvement to thermal efficiency gains other than in climate zones 1, 2 and 3.

Both the BCA, and BASIX recommend design features as the preferred outcome for new residential buildings, however, it is acknowledged that lighter roof colours can contribute to cooler homes during hot summer days where no or inadequate insulation is used. However, 'R3' insulation is now mandatory in the Shire.

Will restricting materials affect housing affordability?

The use of Colorbond® as a standard roofing material adds approximately \$500 to the average roof material supply cost of a single dwelling (200sqm standard roof area) over bare metal roofing such as Zinalume®. This is not considered to add significantly to housing construction costs.

In many newer estates, the use of Zinalume® and very light Colorbond® is excluded by restrictive covenant because developers see the merit in excluding certain highly reflective materials. However this is a matter between the developer and the land owners.

Conclusions

The above research and assessment of the issues surrounding the current policy concludes that the current policy should be retained to restrict the use of reflective building materials with a solar reflectance value greater than 50% (eg bare metal and off white) in specific areas the policy should however, be updated

and enhanced to encourage the use of 'light' building materials in suitable and other design practices to reduce the specular glare impact and impassive passive solar design for the reasons outlined below:

Specular Glare

- * It is in the public interest for the Shire to control glare through its planning Scheme controls within its built up areas. This is supported by conclusions reached by merit review tribunals.
- * It is probably impossible to adequately codify and enforce good design practice to avoid glare through 'deemed to comply' performance controls combining consideration of slope of site, roof pitch, reflectance value of the product, shading effects, elevation.
- * As the tools required for planners to assess applications on an individual basis do not currently exist, a broad policy approach to preclude certain materials in the light and very light product range under the BCA is a valid planning response.
- * The wholesale assessment of applications on their merits would have productivity impacts and result in approval delays and cost implications for applicants.
- * A reflectance value of 50% may not be sufficient in some instances to totally avoid specular glare where sloping sites would favour a lesser value, however, on balance 50% is appropriate as a broad policy response for the built up and other areas of the Shire covered by the policy.
- * The additional costs required to clad a roof in materials that are permissible under the policy does not contribute significantly to construction costs.

Solar Energy Absorption

- * The housing energy efficiency gains from highly reflective roofing product are marginal and on balance do not outweigh the public benefit deriving from reducing specular glare.
- * It is important to note that metal – coated and bare metal roofing, while reflective, conducts heat and will not provide cooling benefits.
- * Energy efficiency in housing construction is a higher level issue that should appropriately be addressed through enhancements to the BCA and by state sustainability measures.
- * Improvements in product technology may continue to lead to gains in the energy efficiency of conventional metal roofing products.
- * Notwithstanding this, some acknowledgement needs to be made of the benefits of roofing materials in lighter range of contemporary products and

the emerging considerations of the need for improving energy efficiency in buildings on hot summer days.

Visual Impact in the 'Landscape Value' areas

- * The control of visible reflected light in the rural and landscape character areas of the Shire is a valid planning approach adopted by many other jurisdictions within Australia and overseas.
- * Within the landscape value areas of the Scheme and areas identified under the Leeuwin Naturaliste Ridge State Planning Policy, control of visible reflected light from highly reflective surfaces is particularly warranted.
- * The control of reflective materials (including in some instances large expanses of reflective glass) should be investigated in the review.

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14. SYSTEMS AND INFORMATION REPORT

Nil.

15. COMMUNITY INFRASTRUCTURE REPORT**15.1 TENDER SELECTION CRITERIA - TEN 05/09 SUPPLY, DELIVERY AND LAYING OF TURF FOR THE NEW DUNSBOROUGH OVAL**

SUBJECT INDEX:	Corporate Business
STRATEGIC INITIATIVE:	2.1.2 - Manage and maintain the Shire's assets for the amenity of the Community.
BUSINESS UNIT:	Infrastructure Services
SERVICE:	Capital Works Construction Program
DATE OF COMPLETION:	Immediate
VOTING REQUIREMENT:	Rec. 1 - Simple Majority; Rec. 2 - Absolute Majority.
ATTACHMENT(S):	Nil

PRECIS

This report seeks approval from the Council for the adoption of the selection criteria in order to call for tenders for the Supply, Delivery and Laying of Turf at the New Dunsborough Oval.

BACKGROUND

The Shire will require turf for the construction of a new oval at the Dunsborough Playing Fields.

It is proposed that this contract will be for the one off supply, delivery and laying of approximately 22,000m² of turf required to construct a new sports oval immediately south of the current playing fields in Dunsborough.

CONSULTATION

Shire staff have been consulted in regard to the preparation of this document.

STATUTORY ENVIRONMENT

Part 4 (Tenders) of the Local Government (Functions and General) Regulations 1996 apply. In particular, Regulation 14 (2a).

"If a local government -

- (a) is required to invite a tender; or
- (b) not being required to invite a tender, decides to invite a tender.

The local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted."

POLICY IMPLICATIONS

There are no policy implications in respect to the Council approving the selection criteria for operational tender evaluation. The Regional Price Preference Policy will be included in the tender specification.

FINANCIAL IMPLICATIONS

Application of appropriate selection criteria to the tender will assist in ensuring that tenderers offering the "best value" with respect to the supply of goods and services are highlighted via the tender assessment process.

All costs associated with awarding this contract have been allowed for in the draft Dunsborough Oval construction budget, which is funded through a \$1.265 million Royalties for Regions grant.

STRATEGIC IMPLICATIONS

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

- 1. Strategic Focus:** **Community and Social Well Being:**

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

Strategic Initiatives: Support and facilitate leisure information and sporting activities.
- 2. Strategic Focus:** **Built and Physical (Infrastructure) Well Being:**

Strategic Objective: To develop and maintain the Shire's assets and built environment to maximise public benefit now and into the future.

Strategic Initiatives: Manage and maintain the Shire's assets for the amenity of the Community.

OFFICER COMMENT

In order to comply with the statutory requirement for the calling of tenders, the Council is required to approve the selection criteria used to evaluate these tenders.

The selection criteria used in the tender documentation for this Tender are very similar to previous supply contracts approved by the Council. Variations to wording or methodology are intended to highlight the major deliverables associated with this contract.

TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Implementation may occur immediately after the adoption of this report.

VOTING REQUIREMENT

1. Simple majority is required for Officer Recommendation 1.
2. Absolute majority is required for Officer Recommendation 2.

OFFICER RECOMMENDATION

1. That the Council adopts the following selection criteria and approve the calling of tenders for Tender TEN05/09 - Supply, Delivery and Laying of Turf for the New Dunsborough Oval:

SELECTION CRITERIA

The Principal has adopted a best value for money approach to this Tender. The Contract will be awarded to a Sole Tenderer who best demonstrates the ability to provide quality goods or services at a competitive price. Tendered prices will be assessed using the average based scoring method, along with the following qualitative and compliance criteria to determine the most advantageous outcome to the Shire of Busselton. This means that, although price is considered, the Tender containing the lowest price will not necessarily be accepted, nor will the Tender ranking the highest on the qualitative criteria.

COMPLIANCE CRITERIA

These criteria will not be point scored. Each Tender will be assessed on a Yes/No basis as to whether the criterion is satisfactorily met. An assessment of "No" against any criterion may eliminate the Tender from consideration.

Description of Compliance Criteria	
(a) Compliance with the Specification contained in the Request.	Yes/No
(b) Compliance with the Conditions of Tendering in the Request.	Yes/No
(c) Compliance with the Request for Tender Closing Date.	Yes/No
(d) Compliance with and completion of the Price Schedule(s).	Yes/No

QUALITATIVE CRITERIA

In determining the most advantageous Tender, the Principal will score each Tenderer against the qualitative criteria. It is essential that Tenderers address each qualitative criterion. The Tenders will be used to select the chosen Tenderer, and failure to provide the specified information may result in elimination from the Tender evaluation process. The qualitative criteria for this Request are as follows:

Description of Qualitative Criteria	Weighting
<p>A. RELEVANT EXPERIENCE</p> <p>Describe your experience in completing/ supplying similar requirements. Tenderers must, as a minimum, address the following information in an attachment and label it "Relevant Experience":</p> <p>(a) Provide details of similar work;</p> <p>(b) Provide the scope of the Tenderer's involvement including details of outcomes;</p> <p>(c) Provide details of issues that arose during the project and how these were managed by the Tenderer;</p> <p>(d) Demonstrate sound judgement and discretion; and</p> <p>(e) Demonstrate competency and proven track record of achieving outcomes.</p>	10%
<p>B. ABILITY TO DELIVER SERVICES WITHIN THE STIPULATED TIME FRAME(S) - A brief written statement detailing the Tenderer's ability to supply the services in accordance with the Principal's requested timeframe(s).</p>	30%

PRICE CONSIDERATIONS

Criteria	Weighting
Tendered price	60%

Tender prices will be assessed using the average based scoring method contained in the WA Local Government Purchasing and Tender Guide. Unit Rate Prices along with related factors affecting the total cost to the Principal, including the Principal's contract management costs, may also be considered in assessing the best value for money outcome.

The average base scoring method will be used by applying the tendered rates to the estimated annual quantities of a representative mix of work, as determined by the Principal.

ABSOLUTE MAJORITY DECISION REQUIRED

2. That the Council delegate authority to the CEO to award the tender for Tender TEN 05/09 - Supply, Delivery and Laying of Turf for the New Dunsborough Oval, subject to the tender contract not exceeding \$350,000.

15.2 COMMUNITY INFRASTRUCTURE - WORKS REVISION IN LIGHT OF ECONOMIC CLIMATE

SUBJECT INDEX:	Asset Management
STRATEGIC INITIATIVE:	2.1.4 - Ensure community assets are effectively managed and maintained through improvement of asset base.
BUSINESS UNIT:	Infrastructure Development
SERVICE:	Civil Infrastructure Design
DATE OF COMPLETION:	Immediate
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENT(S):	Nil

PRECIS

The current economic climate and its effects on revenues and hence cash flow has necessitated a review of projects currently being delivered in the 2008/09 budget. The following report seeks to inform the Council of projects that might not be delivered or at least require re-consideration. This report raises the possibility of using the preserved funds as an offset for coastal asset works (new town beach groynes) or returned to general revenue assisting with the end of financial year position and hence the 2009/10 budget.

BACKGROUND

The 2008/09 Capital Works budget was adopted by the Council at its meeting of 13 August 2008. With the change in the economic climate it was viewed to be good financial management to review projects currently funded in the 2008/09 budget and determine whether these projects still remain a priority for completion. Projects identified for consideration include those where circumstances have changed (ability to deliver in full or requiring additional expenditure).

CONSULTATION

No external consultation has been undertaken regarding this report however the Shire's Community Infrastructure staff have discussed these issues at length.

STATUTORY ENVIRONMENT

Local Government Act 1995:

1. Section 6.2 (Local government to prepare annual budget) of the Local Government Act 1995, requires local governments to prepare annual budgets. This program will assist annual budget preparation.
2. Under Section 6.8(1)(b) of the Local Government Act 1995, a local government is not to incur expenditure from its municipal fund for any additional purpose except where the expenditure is authorised in advance by a resolution supported by an Absolute Majority of the Council.

Re-allocation of project funds already budgeted requires an absolute majority.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The financial implications of adoption of the officer recommendations are evident in the body of the report. In a global budget sense, staff are attempting to work towards a zero deficit end of year position and of the various elements that will affect this; these capital works projects represent a not insignificant affect.

STRATEGIC IMPLICATIONS

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

- 1. Strategic Focus:** **Built and Physical (Infrastructure) Well Being:**
Strategic Objective: To develop and maintain the Shire's assets and built environment to maximise public benefit now and into the future.
Strategic Initiatives: Ensure community assets are effectively managed and maintained through improvement of asset base.
- 2. Strategic Focus:** **Built and Physical (Infrastructure) Well Being:**
Strategic Objective: To develop and maintain the provision of universally accessible and socially inclusive services, facilities and functions for all people within the community.
Strategic Initiatives: Ensure equitable access and inclusion to Shire facilities and services through the embedding of Access and Inclusion principles within Shire operations.
- 3. Strategic Focus:** **Organisational Well Being:**
Strategic Objective: Create harmony and unity within the community through open communication, participation and accurate representation.
Strategic Initiatives: Continue to utilise community survey outcomes and focus groups to ensure alignment of Shire activity to community requirements.

OFFICER COMMENT

The following projects have been identified for the Council's consideration of their status in the existing budget. They have minimal labour components and hence their deletion/delay will not affect the employment of staff (whose wages are paid for from the jobs they perform):

Caves Road Lighting - LS08

This project was intended to provide street lighting to Caves Road, which is a Main Roads Western Australia (MRWA) controlled road, between Cape Naturaliste Road and Elmore Road. This project was listed with a budget of \$68,800 which was derived from historical values for street light upgrade works undertaken as minor infill lighting by Western Power.

This lighting would provide indirect overspill to the footpath constructed parallel to the roadway which was part of the initial impetus for the works as it addressed the needs of night usage, particularly during Leavers.

The delivery of this project hinged on the successful addressing of the Aboriginal Heritage issues in the western section, design approval from MRWA and overall construction costs.

A Section 18 application for 'Consent to certain uses' was applied for in October 2008 with the full support of the local Nyungar community to address the Aboriginal Heritage issues. This approval is yet to be received as an assessment of the proposal needs to be undertaken by the Environmental Protection Authority (EPA).

Staff secured MRWA approval for the final lighting design and commenced liaison of the possibility of contributions from MRWA towards the lighting of their asset by the Shire. The discussion proved fruitful with a potential contribution offer of 50% of the initial installation costs and 50% of the ongoing running costs being secured.

Staff sought quotation for the works through a 'Request for Quotation' (RFQ) process with the expectation that the works would be achievable for under \$100,000. The received quotations were within the vicinity of \$153,000 which exceeded the budget amount and the RFQ process limit.

The staging of the works to remove the section impacted by the Aboriginal Heritage issues, being Cape Naturaliste Road to Dunsborough Lakes Drive was investigated further. This reduced scope would still not be achievable within the current budget, including any MRWA contributions, or the RFQ process and tenders would need to be sought for the works. The tender process would not be achievable prior to the end of the financial year.

In view of the information above, Officers believe this project should not be proceeded with for the following reasons:

- * Despite MRWA potentially providing funding, Caves Road falls under the jurisdiction of MRWA and could be argued it is solely its responsibility to light this road.
- * Quotes received for the whole project and the revised scope project exceeded budget allowances, (by 50%).

- * On receipt of all approvals there has been insufficient time to deliver the project prior to 30 June 2009.
- * As the 'leavers function location' has changed the justification to light this road has reduced.

Dugalup Brook Reserve Management Plan Implementation and Dugalup Brook Stage 1 (Path works) - C1009 & C1010.

This area was subject to an Aboriginal Heritage report by the Shire which identified it as a listed Heritage site and confirmed its significance to the local Nyungar community. A Section 18 application for 'Consent to certain uses' was applied for in October 2008 with the full support of the local Nyungar community to address the Aboriginal Heritage issues, this approval is yet to be received as an assessment of the proposal needs to be undertaken by the Environmental Protection Authority (EPA).

Without this approval no works can be undertaken that knowingly impact on a heritage site under the Aboriginal Heritage Act or where there is reason to believe that the area is of significance.

Staff will continue to pursue the approvals by the Environmental Protection Authority (EPA) and the Department of Indigenous Affairs (DIA) however it is unlikely that the approvals will be received prior to the end of this financial year in order to facilitate the work.

In view of the information above, Officers believe this project should not be proceeded with and it should be rescheduled to next year or only put on the budget after all approvals have been secured, (if secured in 2009/10, then budgeted for in 2010/11).

Yallingup Brick Path, Boardwalk and Lookout – C3009

The impetus for this project was initially due to the Yallingup foreshore's lack of universal access, identified in October 2006. A consultative group was formed with membership from the Shire's Access and Inclusion Committee, Yallingup Resident Association, Dunsborough and Districts Progress Association, Yallingup Land Conservation District Committee and Shire Representatives. Invitation was also sent to the Department of Conservation and Land Management (now the Department of Environment and Conservation).

Due to the broad requirements of the various stakeholders, a consensus on the overall design, including accessibility proved an exceptionally timely and emotional issue to address. This consultation process has been extensive with several high quality concepts being produced.

Consensus on the final design was finally achieved in March 2009. Staff have engaged the services of a Structural Engineer to produce the required structural documentation which is expected in two weeks. The preliminary construction cost has been estimated at \$80,000 which exceeds the current budget balance

(of \$50,000). The estimated value of \$80,000 would require staff to call for a 'Request for Quotation (RFQ) which would further delay the project commencement until the mid June 2009 at the earliest. This would not allow for physical construction works to be completed and invoiced prior to the end of the financial year.

In recognition of the importance of this structure to the Yallingup Community, area tourism and proposed surfing events scheduled for later in the year and to ensure that the milestones achieved by the stakeholders group is maximised, it is considered paramount that this project be re-listed and completed as priority in the 2009/10 budget with an increase in contributions to \$37,000.

Busselton Beach Sea Wall Design C2501

The original purpose of the funds was to carry out design works for the town beach sea wall when the Jetty reconstruction was linked to the foreshore redevelopment. When the Government's funding arrangements changed, a redesign of the beach front was no longer a part of the project and its consideration is only envisaged as part of the future foreshore working group's deliberations.

In view of the information above, Officers believe this project should not proceed. This will save \$25,000.

Admin Building – Temporary Office accommodation B9000

Further to the economic downturn, MANEX have determined that no new (net) positions are to be created in the 2009/10 financial year. Office accommodation was reviewed on this basis and although working conditions are poor with minimal expenditure existing staff could be accommodated within the Shire's various locations. It was therefore deemed unnecessary to spend additional funds on the installation of a further mobile office awaiting the commencement of the new civic hub.

This will mean the (indexed) \$135,000 budgeted is likely to be required to be spent from 1 July 2010.

B9901 - Dance and Environmental Centre - Building Assets and Upgrade

The works planned for 08/09 consisted of the installation of new ceilings to bring them into compliance with current building regulations. There is no safety risk and this work is deemed unnecessary at this point in time as the future use of this building is unknown and could potentially be an inappropriate use of funds. A further difficulty is that the building is currently in use and the tenants would be required to be re located.

In view of the information above, Officers believe this project should not be proceeded with at present.

This project should be contemplated pursuant to the future use of the building being unknown. This will save \$ 98,000.

The town beach groyne construction and installation was originally a two part project, totalling five groynes. The initial three groynes were installed and prior to spending any additional funds, the beach profile was to be assessed over a one to two year period to determine whether or not the groynes were working correctly. The purpose of the groynes is to retain sand. Unfortunately, the complementary effect is erosion occurring on the 'down drift' side of the groyne.

Officers are concerned that there is increased erosion at the jetty abutment. A report is being prepared on the potential need to install a fourth groyne immediately east of the jetty. Given this realisation has come after the compilation of the 2009/10 financial capital budget, Officers wish to highlight the possibility that an additional \$200,000 will need to be placed on the 2009/10 budget in addition to what has already been included. This would take the form of \$400,000 cost and \$200,000 recoup (reserve) as it is expected that the \$200,000 will be matched by DPI CIBU (Department of Planning Infrastructure, Coastal Infrastructure Business Unit).

TIMELINE/S FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Officer recommendation can be implemented immediately.

VOTING REQUIREMENT

Absolute majority.

OFFICER RECOMMENDATION

ABSOLUTE MAJORITY DECISION REQUIRED

1. That the Council endorses the withdrawal of the following 2008/09 budget projects:
 - (a) Caves Road Lighting- \$68,800;
 - (b) Busselton Beach Sea Wall Design - \$25,000;
 - (c) Temporary Office accommodation - \$135,000; and
 - (d) Dance and Environment centre - \$98,000.
 - (e) Dugalup Brook Reserve Management Plan Implementation – C1009- \$25,000;
 - (f) Dugalup Brook Stage 1 (path works) – C1010 \$68,960.

2. That the Council list for inclusion in the draft 2009/10 financial year draft budget, an expenditure of \$400,000 and income of \$200,000 for foreshore groynes awaiting the groyne report currently being prepared.
3. That the Council acknowledges the re-listing of the following projects:
 - (a) Yallingup Boardwalk - \$37,000 in 2009/10 draft budget;
 - (b) Dugalup Brook Stage 1 - \$70,000 in 2010/11 draft budget; and
 - (c) Temporary office accommodation - \$135,000 (plus escalation) in 2010/11 budget.

16. COMMUNITY AND ORGANISATIONAL DEVELOPMENT REPORT**16.1 SMALL LOCAL PROJECTS FUND 2008/09 - NO. 22**

SUBJECT INDEX:	Sponsorship and Grant Applications
STRATEGIC INITIATIVE:	1.1.1 Encourage and Support Cultural Activities and Events
BUSINESS UNIT:	Finance
SERVICE:	Financial Management and Control
DATE OF COMPLETION:	Subject to receipt of all necessary information, funds will be provided as soon as practicable following this Council Meeting
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	A. Copy of request

PRÉCIS

The following allocation 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
22	Cr Ian Stubbs	\$800	Anglican Church's "Cliff's Kitchen"	Purchase of cooking equipment and utensils.

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.

At the time of preparation of this report, available funds for each Councillor's recommendation are as follows. (Note: Any funding allocations approved by the Council at its Meeting on 13 May 2009, have not been taken into account.)

Councillor	Amount Available \$
Cr Hartley	860
Cr Hastie	216
Cr Binks	Nil
Cr Stubbs	1,200
Cr Bromell	Nil
Cr Ryan	Nil
Cr Tuffin	776.65
Cr Emery	850
Cr Masters	40
Cr Underdown	420
Cr Clarke	950
Cr Hanran-Smith	180
Cr Reid	Nil
TOTAL FUNDS REMAINING	\$5,492.65

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

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

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
22	Cr Ian Stubbs	\$800	Anglican Church's "Cliff's Kitchen"	Purchase of cooking equipment and utensils.

17. CHIEF EXECUTIVE OFFICER'S REPORT

Nil.

18. MOTIONS of which notice has been given**18.1 PROTECTION OF CORE HABITAT OF WESTERN RINGTAIL POSSUMS**

NoM NO: 08/09: 30

Councillor Bethwyn Hastie has given notice of her intention to move the following motion at the Council Meeting on 27 May 2009:

MOTION

"That the Council requires the CEO to consider how protection can be provided for individual peppermint trees in the area designated as the core habitat for the Western Ringtail Possum as prescribed by the Federal Department of Environment, Water, Heritage and Arts. Consideration be given to the development of a policy and/or scheme amendment that would require where possible the retention of individual and/or groups of peppermint trees, particularly those that are not afforded protection under existing DEC controls."

REASONS:

To help combat the extensive removal of possum habitat that has occurred on a piecemeal basis over recent years in core habitat areas, being the Busselton urban area particularly. The Western Ringtail Possum is recognised as an endangered species and protection of habitat is important to its survival as is to further strengthen the existing and even extend the current habitat.

STAFF COMMENT**1. Lifestyle Directorate**

Shire staff are currently progressing through a consultancy a project that will provide the information on the distribution of Western Ringtail Possum (WRP) Habitat and propose planning mechanisms to influence the retention of WRP Habitat in residential areas. In addition this work will propose a series of procedures and protocols that will guide the Shire's regulatory / decision-making functions that potentially impact on WRP habitat.

The project is part funded by the Federal Department of Environment, Water, Heritage and Arts (DEWHA) and they have approved the proposed project outcomes. DEWHA, recognising the shortcomings of what can be achieved with the EPBC Act were keen to support the project so that the Shire could explore what contribution it could make towards conservation of habitat for this 'vulnerable' species.

This project is aiming to achieve Corporate Plan Strategic Initiative 4.2.1.1 – “Develop an agreement with state/federal agencies on habitat protection”. The agreement, which has not as yet been drawn up, will most likely relate to the Shire’s handling of Development Applications involving the removal of local native vegetation (mainly WA Peppermint trees and associated understorey). If the Shire can demonstrate through it’s proposed planning mechanisms that adequate areas of WRP habitat will be retained in future development approvals, then DEWHA will be reducing the number of referrals that trigger the EPBC Act. This will be a benefit for DEWHA and the industry as it will provide more certainty in the planning process. E.g. if a development application meets the requirements of the Shire in relation to protection and retention of WRP habitat then it would also meet the requirements of DEWHA.

The project is currently developing detailed mapping that will show existing and potential habitat areas and areas on private land that would provide linkages for movement of the WRP through continuous tree canopy. These areas would be a high priority for retention of tree canopy. Lots within these areas may be subject to mechanisms that would provide developers with additional requirements, and or, incentives that promote the retention of habitat on the subject land.

The WRP Habitat Protection Plan, including the planning mechanisms, will be the subject of a Council Report to be presented in July/August this year and at this time it would be appropriate for the Council to determine how it wishes to progress the matter.

2. **Community Infrastructure Directorate**

There is a strong need in Community Infrastructure (Infrastructure Development) for a vegetation enhancement policy in relation to local endemic native trees and shrubs in the case of subdivisions and proposed public open space. Currently landscape architects working for developers propose in many instances non local species in the design of public open space and emphasise form and texture over habitat enhancement for marketing purposes; It is also important to recognise habitat protection of other native fauna as part of policy development - the Shire is in need of a policy that will require only local endemic plant species for urban public open space including road reserves.

The policy could identify where alternative planting (other than local endemic plant species) could be used i.e. deciduous trees around a playground or similar solar benefit to adjacent building.

(Reasons) - The Shire is currently preparing a street tree initiative in the eastern portion of the Busselton area as part of the Nature Verge policy. The trees identified for planting are all Peppermint trees to help consolidate linkages between Geographe Bay and the Vasse Wonnerup wetlands. All trees are to be planted within the nature verge (road reserve). It is hoped to

continue strategic street tree planting of nature verges particularly where habitat is required from local endemic tree species within urban areas of the Shire with any unallocated funds from the 'free trees' to Shire residents.

The intent of protecting individual or small groves of trees within a road reserve must take into account the Shire's obligation to minimise risks to road users by providing a safe road environment. The provision of suitable road geometry or the construction of essential assets such as footpaths should not be unreasonably compromised due to the protection of the individual or small groves of trees.

It is recognised that clear zones recommended within Aust roads are not always achievable within a typical urban environment it is desirable to ensure that only non-rigid items are within 1.5m of the kerb line. Wooden objects or trees greater than 100mm in diameter are considered being rigid items. Consideration must be also placed on the tree size at full maturity not necessarily at the time of inspection.

The AASHTO Roadside Design Guide contains the following guidance in Section 4.8.

"Trees are potential obstructions by virtue of their size and their location relation to vehicular traffic. Generally, an existing tree with an expected mature size greater than 100mm (4") is considered a fixed object. When trees or shrubs with multiple trunks or groups of small trees are close together, they may be considered as having the effect of a single tree with their combined cross-sectional area.

The removal of individual trees should be considered when those trees are determined both to be obstructions and to be in a location where they are likely to be hit. Such trees can often be identified by past crash histories at similar sites, by scars indicating previous crashes, or by field reviews.

18.2 IMPROVING FACILITIES FOR CYCLISTS WITHIN THE SHIRE OF BUSSELTON

NoM NO: 08/09: 31

Councillor Bethwyn Hastie has given notice of her intention to move the following motion at the Council Meeting on 27 May 2009:

MOTION

"That the Council requires the CEO to prepare a report on how the Shire can be made more bicycle friendly with a particular focus on linking all existing bicycle paths, having appropriate bicycle parking in our towns, extending current bicycle paths and making our roads safer and more bicycle friendly. Consideration be given to the development of a policy/plan that would provide a time line for the above to be achieved. If necessary the engaging of a consultant may be required should the time and expertise not be available.

If it is not practical, for time or financial reasons, that this can be achieved in the financial Year 2008/09, then it is further required that this project be incorporated in any draft 2009/2010 Corporate Plan presented to the Council for consideration."

REASONS:

The Shire of Busselton would have the ability to be one of the most bicycle friendly Shires in WA based on climate and topographic reasons. Increased bicycle use will decrease car use and reduce CO2 emissions and pollution and reduce our dependence on fossil fuels.

STAFF COMMENT

1. **Community Infrastructure Directorate**

Officers are supportive of proceeding with improving the bicycle facilities throughout the Shire and this is a strategic focus.

There are certain aspects that will require further examination and assessment -

Bike parking in town can be initiated through the positioning of bike racks at various locations including existing public parks and replacement of car bays in strategic sites (to be determined).

Making roads more bicycle friendly may require further detailed analysis through the potential conflict of distributor roads being typically higher speed environment, road reserve widths may not accommodate additional bicycle lanes (1.5 metres required either side), no parking possible where bicycle lane situated. Distributor roads are not easily identified through the existing Shire and Main Road asset system and are dependent on vehicle volumes,

strategic links between main roads or town sites, light industrial areas, servicing and other governing factors.

It is envisaged that a detailed analysis designed specifically for the Shire would be required including creating a brief that encompassed where footpaths can be expanded into dual use path systems and may be dependent on restrictive issues i.e. power poles and other existing services, amount of crossover and intersection crossings (high risk).

The type of road surface treatments may require changes i.e. asphalt rather than chip seal or where dual use path system is unsealed i.e. "rails to trails" on Busselton bypass can accommodate foot traffic and mountain bikes but may not be suitable for road bicycles. Intersections can also provide complex problem solving particularly where roads are designed only to accommodate 2 lanes and surrounding infrastructure restricts widening.

Items that cannot be easily resolved at a Shire level include the Road Traffic Act may differ from bicycle friendly countries i.e. Amsterdam in the Netherlands requires cars and pedestrians give way to bicycles.

Unfortunately this work at this stage could not be done in house without being detrimental to other existing projects. The work could be completed but this would be consultancy based at an estimated cost of \$20,000 to complete a brief and potentially a further \$60,000 to complete a plan.

Grants are available from DPI for the purpose of developing bicycle plans etc. However further research would be required to confirm time lines and conditions.

The provision of funding for the strategic bicycle paths/linkages should compliment, not reduce the funding availability for the current footpath plan.

Distinction may need to be made for recreational linkages and commuting as this changes the basic geometrics etc.

Greenhouse Gas Emissions from the Transport sector have been estimated at 107,923 tonnes of Co2 for the Shire of Busselton. This represents 25% of our total greenhouse gas emissions. This figure is likely to be higher as it doesn't capture very well additional tourism traffic. There is therefore a strong justification for improving cycling infrastructure within the Shire. Some of the other justifications would be healthier communities (in particular children), less traffic congestion and better quality of life, better air quality and reducing reliance on fossil fuels (and financial liability with increased fuel costs).

2. Community and Organisational Development Directorate

As per the Community Infrastructure Directorate, Officers are supportive of proceeding with improving the bicycle facilities throughout the Shire and this is a strategic focus.

The '*Leisure Services Plan (2005)*' is a master planning document for the development of recreation services and the provision of facilities in the Shire of Busselton, with a future focus up to the year 2015. This plan makes a series of recommendation on Leisure related infrastructure projects and is one of the determinants by which the Shire, budget permitting, prioritise these infrastructure projects.

This plan identified a foreshore alignment of the dual use path system from Busselton to Dunsborough as a high priority. This project is progressing with new sections of the path being completed each financial year. One such section, potentially requiring land acquisition, requires a design brief for trail alignment along the ocean boundary of the Shire and is currently with the Community Infrastructure directorate awaiting design considerations.

The Shire of Busselton has also developed as a result of the Leisure Services Plan, a Physical Activity Plan called the 'Get Active Geographe' Physical Activity Plan. This plan has an emphasis on promoting cycling and walking strategies in the Shire, with a particular focus on promoting and increasing use of existing facilities.

Some of the strategies adopted or being by this plan include:

1. Produce and distribute a 'Walk/Cycle' Busselton Brochure map that identifies and provides a snap shot of some of the walking and cycling facilities throughout the Shire. A second and more comprehensive version of this brochure map is being developed as part of this plan;
2. Develop and implement a shared path stencilling project that provides an easily identifiable cycling route, through the 'Walk/Cycle' logo and other path stencils. These stencils correspond to the selected routes on the 'Walk/Cycle' Busselton Brochure map and also display safety symbols such as "give way" across cross over points. The Port Geographe to Abbey section of the Dual Use Path has been completed and the Dunsborough end of the Shared Path will be stencilled as part of this plan;
3. The provision of end of trip facilities for cycling. One such end of trip facility has just been installed at the Naturaliste Community Centre;
4. Provision of services and support for the development and support of cycling clubs such as Geographe Over 50's Cycling Club and the Bay to Cape Cycle Club;
5. Promotion of these cycling clubs as part of the Get Active Geographe Physical Activity Provider Brochure. 3000 copies of this brochure have been developed and will be distributed throughout the community to increase the profile of all physical activity including cycling. This brochure is also available on the Shire of Busselton website;

6. The promotion of cycling facilities and clubs at Get Active Geographe Smart Club Promotion days bi-annually. The inaugural event was held at Mitchell Park in February and it promoted to the community elements of the plan listed above.
7. The Shire of Busselton also sponsors and is actively involved with community events that promote cycling. Examples include national and international events such as the Half Ironman and Ironman WA.

The Community and Organisation Development directorate are also involved in ensuring that considerations for cycling is included as part of new developments' Developer Contribution Plans. This includes involvement in the early planning of these developments to ensure adequate cycling facilities, such as Dual Use Paths, are encouraged as well as linkages to existing networks.

3. **Lifestyle Development Directorate**

Broadly supportive of this initiative, but think that it needs to be considered in the context of available resources and other priorities.

It is considered that the completion of the Busselton to Dunsborough dual-use path link, which has previously been prioritised by the Council, should remain the first priority. The Shire's Local Settlement Planning Strategy, whilst not addressing this issue at a detailed level, will provide some broad guidance which would be useful background for looking in more detail at how the bicycle and pedestrian friendliness of existing urban areas might be improved.

In addition to identifying a policy/plan (as proposed) with respect to how the Shire might improve facilities directly, it is also considered that the Shire should consider the establishment of bicycle (and potentially 'gopher') parking standards for private developments.

18.3 LOCAL LAW RELATING TO OPERATION OF THE BUSSELTON REGIONAL AIRPORT

NoM NO: 08/09: 32

Councillor Tom Tuffin has given notice of his intention to move the following motion at the Council Meeting on 27 May 2009:

MOTION

That the CEO prepare a draft new Shire of Busselton local law relating to the operations of the Busselton Regional Airport. The local law is to provide for such matters as are generally provided for in local laws relating to airport facilities including, but not limited to, providing for the laws surrounding the operations of the Busselton Regional Airport to the extent that they are not already covered by other laws in force in Western Australian in relation to airports. Where appropriate, the draft local law should provide legal force to appropriate requirements in airport related documents such as the Busselton Regional Airport Aerodrome Manual, the schedule of fees and charges as they relate to the airport and the proposed noise management plan. The draft local law is to be the subject of a report to the Council no later than September 2009

REASONS:

The Busselton Regional Airport (BRA) has now been operating for a number of years without any Local Laws governing its operations. This is both unusual and undesirable – it leaves our staff in a somewhat weakened position when they are dealing with issues arising from the airport: these issues are often quite complex and generate a considerable amount of emotive argument. With a Local Law in place the situation is that the airport will be governed - as it should be in a democracy - by a set of laws drawn up in the properly constituted manner and with the full force of any state law. Staff can say, in effect, to members of the public, “This is a state law and everyone in WA, including you, have to obey it – now get your aircraft” It’s a considerably stronger argument than merely stating that it is Shire policy, particularly as the member of the public is probably from Perth or China or somewhere, and isn’t particularly interested in Shire policies or anything else to do with Busselton except how he can use our airport without paying for it.

The old proverb “the Devil is in the detail” applies here, and it is conceded that having local laws in place will not provide us with a popular Noise Management Plan or schedule of fees or anything else. However, when we do produce these documents in a proper, transparent and democratically sound fashion we will be doing so as determinations under a Local Law and this is something akin to the myriad of Regulations that are produced under state laws. (A good example is the Education Act and the regulations that that law has spawned). They will have teeth and will be easier to enforce.

In short, having a set of Local Laws governing our airport (regardless of the airport's final profile) means that its operations will be underpinned by a set of laws that are binding on all and for which penalties can be applied if they are ignored. I urge you to support this motion.

STAFF COMMENT (Community and Organisational Development Directorate)

There are various sources of legislation, regulations and guidelines which govern airports around Australia. Most of these sources deal with safety and noise control. There does not appear to be anything that excludes local governments from law-making in this area providing the local law is not inconsistent with any State or Commonwealth law which covers the same subject matter.

There are several other local governments in WA which have made local laws relating to the use of their airport. These include Katanning, Geraldton, Carnarvon, Leonora and Port Hedland. There are also numerous examples of airport local laws in local governments in other states of Australia. The main subjects of these local laws that I can glean are:

- * Closure of airports
- * Conduct of business at airports
- * Operation of hire vehicles at airports
- * Rights of Entry
- * Designation of specific areas
- * Use of Chemicals
- * Conduct of Persons on the airport
- * Fees and Charges
- * Parking of Vehicles
- * Offences

Some of the areas covered above are covered in a general sense by the local laws that currently exist or are proposed under the Local Government Property Local Law. Consideration would need to be given in drafting an Airport Local Law as to whether the matters should be repeated or the airport should be excluded from the general Local Government Property Local Law. There are, however, a number of more specific airport-related matters that are generally found in airport local laws that are not contained in the Property Local Law.

Costs

There is no model local law relating to airports so a new local law would need to be drafted (which could be based on another Shire's local law). The extent of any deviation from an established local law would determine the level of cost involved. I would estimate drafting costs, if done externally, could be around the \$10,000 - \$15,000 vicinity. Costs of advertising and gazettal would also need to be considered. In total I would estimate it may cost in the vicinity of \$15,000 - \$20,000.

18.4 ROADSIDE RUBBISH PICK-UP

NoM NO: 08/09: 33
ATTACHMENT(S) Schedule of Waste Disposal Charges

Councillor Ian Stubbs has given notice of his intention to move the following motion at the Council Meeting on 27 May 2009:

MOTION

That the CEO report to the Council prior to the end of July 2009 on the feasibility of introducing an annual, or bi-annual, roadside rubbish pick up for all residents that currently receive a weekly rubbish removal service.

COMMENT:

This has been mentioned on a number of times since my election to Council but nothing has ever eventuated. There are many residents that cannot dispose of rubbish that does not fit within the standard wheelie bin. This rubbish (e.g. tyres, timber, whitegoods, furniture, etc.) seems to accumulate within the properties posing a health hazard to the community. It is my opinion that the Council should receive a feasibility report on the issue to enable it to determine whether it wants to allocate resources to introduce such a service.

STAFF COMMENT (Community Infrastructure Directorate)

Verge side rubbish pick ups have been criticised in other Shires for spoiling the amenity of the suburbs. In Bunbury and other shires where verge side pick-ups have been implemented, many people put goods out for collection well ahead of the advertised times. This results in situations where street verges are littered with junk for months on end.

The annual rates for rubbish collection in the Busselton Shire, currently \$121 per residential property, would need to be raised by \$20 to \$30 in order to fully fund an annual collection of verge side rubbish and an annual collection of green waste. Appropriate costs to provide this service based on industry standards is in the region of \$400,000 to \$500,000.

A case exists for verge side rubbish pick-ups where there is no local rubbish disposal site (landfill) within easy reach of the suburbs. For example, the Stanley Road tip is more than 20km away from Bunbury. In the Busselton Shire we are fortunate to have two rubbish disposal sites within close proximity of Busselton and Dunsborough, making it much easier for people to dispose of their waste items. Currently rate payers wishing to dispose of white goods/green waste can go to either the Busselton or Dunsborough tip sites where the material can be disposed of correctly. Please see the attached schedule of charges.

Officers can provide a feasibility study for roadside rubbish pick ups however due to existing work commitment this could not be completed by July 2009. It is requested that this report if required be targeted for October 2009.

19. **CONFIDENTIAL REPORTS**

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

21. **QUESTIONS FROM MEMBERS WITHOUT NOTICE**

22. **NEXT MEETING**

Wednesday, 10 June 2009, commencing at 5.30 p.m.

23. **CLOSURE**

