



**Shire of Busselton**  
*Geographie Bay*

## **Council Agenda**

***24 June 2009***

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

## SHIRE OF BUSSELTON

### AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 24 JUNE 2009

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**SHIRE OF BUSSELTON****MEETING NOTICE AND AGENDA – 24 JUNE 2009**

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**TO: THE SHIRE PRESIDENT AND COUNCILLORS**

**NOTICE** is given that a Special Council Meeting will be held in the Council Chambers, Administration Building, Southern Drive, Busselton on Wednesday, 24 June 2009, commencing at 5:30 pm.

Your attendance is respectfully requested.

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**ANDREW MACNISH**  
**CHIEF EXECUTIVE OFFICER**

9 June 2009

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

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

2. **OPENING PRAYER**

The Opening Prayer will be delivered by Pastor Grant Hendry of the Busselton Baptist Church.

3. **PUBLIC QUESTION TIME**

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

5. **APPLICATIONS FOR LEAVE OF ABSENCE**

6. **CONFIRMATION OF MINUTES**

6.1 Minutes of an Ordinary Meeting of the Council held on 10 June 2009.

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

8. **PETITIONS AND MEMORIALS**

9. **DECLARATION OF DUE CONSIDERATION**

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

10. **DECLARATIONS OF INTERESTS**

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

12. **BUSINESS FROM PREVIOUS MEETING**

**13. LIFESTYLE DEVELOPMENT REPORT****13.1 PROPOSED REZONING OF LOT 801 LINDBERG ROAD, KALGUP FROM 'AGRICULTURE' TO BUSHLAND PROTECTION' ZONE**

<b>SUBJECT INDEX:</b>	Scheme Amendment: Rezoning submission and Development Guide Plan
<b>APPLICATION NUMBER:</b>	WAPC09/0001
<b>STRATEGIC INITIATIVE:</b>	4.3.1 Implement Environmental Strategy
<b>BUSINESS UNIT:</b>	Strategic Planning and Sustainability
<b>SERVICE:</b>	Strategic Land Use Planning
<b>DATE OF COMPLETION:</b>	24 July 2009
<b>VOTING REQUIREMENT:</b>	Simple
<b>PROPOSAL:</b>	Proposed rezoning of Lot 801 Lindberg Road, Kalgup from 'Agriculture' to 'Bushland Protection'
<b>LOT SIZE:</b>	26.6.0819 hectares
<b>ZONE:</b>	'Agriculture'
<b>POLICIES:</b>	1. Biodiversity Incentive Strategy 2002 2. Shire of Busselton Local Rural Planning Strategy 2006 3. Planning for Bushfire Protection 2001
<b>ATTACHMENT(S):</b>	A. Location Plan B. Development Guide Plan featuring extent of primary Fire Management provisions.

**PRÉCIS**

The Council has been requested to initiate an amendment to its District Town Planning Scheme No. 20 ('the Scheme') to rezone Lot 801 Lindberg Road, Kalgup from 'Agriculture' to 'Bushland Protection'.

The rezoning will facilitate subdivision of the subject land consistent with the voluntary subdivision incentive available under the Shire of Busselton Biodiversity Incentive Strategy ('the Strategy'). The subject land is one of several lots which was field assessed as part of the Strategy and identified as consistent with the biodiversity criteria for subdivision. The draft Development Guide Plan (DGP) for the subject land is consistent with the provisions of the Strategy.

On this basis it is recommended that the Council adopt draft Amendment No. 143 and the associated draft DGP for community consultation, subject to minor modifications and conditions.

**BACKGROUND**

The subject land is located approximately 6km south east of the Busselton Town Centre and to the east of the Busselton golf course. The site is accessed via Lindberg Road, which connects with the Vasse Highway (Attachment A).

Topographically, the site is generally flat (15m AHD) with the exception of the cleared north east section (approx. 30%) which slopes towards a drainage reserve at 10m AHD. This 'Public Purpose' (drainage) reserve is vested with the Shire and forms part of the integrated rural drainage network in the Shire.

The drainage reserve traverse the north eastern corner of the site resulting in a fairly extensive wet area covering half of the cleared portion of the site during winter. A soak well is located in this wet area in close proximity to where the drainage line exits the site.

Remnant vegetation covers approximately two thirds of the subject land, with cleared areas associated with the existing residence and outbuildings, fire protection zone and access tracks/firebreaks. A flora survey has concluded that the jarrah/marri and marri woodland vegetation type on the land is a representative of the Threatened Ecological Community 'Southern Corymbia Calophylla Woodlands on Heavy Soils'.

Land adjoining the subject land is primarily cleared of vegetation and being used for grazing/pasture farming. Some viticultural/horticultural land uses are also evident on surrounding land as well as an extractive industry to the north west.

## **PROPOSAL**

The proposal seeks to rezone the subject land from 'Agriculture' to 'Bushland Protection' and to incorporate a Development Guide Plan (DGP) to satisfy the requirements of Clause 90 of the Town Planning Scheme. A draft Fire Management Plan (FMP), Vegetation Survey and a Weed and Pest Management Plan have been prepared in support of the proposal.

### **Development Guide Plan**

The draft DGP proposes subdivision of the subject land to create one additional lot. Proposed Lot 1 (13.7ha) will incorporate the existing shed and water tank constructed in August 2008. Proposed Lot 2 (13.8ha) will contain the existing dwelling and ancillary outbuildings. Building envelopes with respective sizes of 2097m<sup>2</sup> (Lot 1) and 2111m<sup>2</sup> (Lot 2) are proposed for the two new lots. (Attachment B)

The building envelopes requested for both lots will exceed the general Scheme requirement of 1500m<sup>2</sup>.

Proposed Lot 1 will retain the existing access point from Lindberg Road with a new access road proposed along the northern boundary. The existing access track to the dwelling will be retained with a restricted use as an emergency egress. A new access road is proposed for Lot 2 along the southern boundary, which will double up as a fire break. Both new access roads will have a cleared width of 6m and a trafficable width of 4m to comply with bush fire requirements.

No internal fencing is proposed along the proposed common boundary within the remnant vegetation conservation area to minimise disturbance and to enable it to remain in one consolidated cell.

The draft DGP includes a number of conditions to guide future development of the site. The Applicant has referred to these as 'Planning Policy Statements'. It is recommended that this aspect be addressed and the wording on the DGP be changed to "Conditions" to align with the powers of 'Determination of Applications' clauses in the Scheme and to extend as conditions of subdivision approval at the subdivision stage.

The development guide plan and associated conditions that are to be introduced are considered to be appropriate and will provide the necessary statutory framework for the site under the new zoning.

### **Fire Management Plan**

A Bush Fire Hazard Assessment of the site has indicated the following three bush fire hazard classifications:

- \* 'High' – vegetated areas;
- \* 'Medium' – area proposed for Building Envelope 1; and
- \* 'Low' – cleared areas.

The Bush Fire Hazard Assessment for adjoining lots are rated as 'extreme' in remnant vegetation and 'low' in cleared areas.

The subdivision has been designed to take into account the following fire protection measures:

- \* Road systems;
- \* Fire break systems;
- \* Dwelling construction standards;
- \* Building Protection and hazard Separation Zones;
- \* Driveway standards; and
- \* Planting of trees.

Because of the proposed location of the building envelopes and to minimise vegetation clearing, all new habitable buildings will need to comply with the Australian Standard *AS3959 Construction of Buildings in Bush Fire prone Areas* – Level 2 or the equivalent in the revised edition AS3959 (due for publication in 2009). The prescribed 20m Building Protection Zone and a 20m Hazard Separation Zone (under the 'Performance Criteria' in *Planning for Bush Fire Protection*) have been incorporated for the existing and future dwellings into the FMP. These provisions reduce the setback requirement for habitable structures from 100m to 40m. (Attachment B)

The FMP further includes standard specifications for the Building Protection BPZ) and Hazard Separation Zone (HSZ) as well as a Hazard Reduction Program comprising maintenance tasks that are to be undertaken by owners on a seasonal and long term basis. The FMP concludes with required water storage specifications (min. 10 000 litres) for fire fighting purposes and a summary of the owners' responsibilities.

Further comment on the draft Fire Management Plan is provided below under the 'Policy Implications' / 'Planning for Bush Fire' section of the report.

### **STATEMENT OF IMPACT**

The 'Bushland Protection' zone, in general, is significantly more restrictive than the 'Agriculture' zone in terms of permitted uses under the Zoning Table ('Table 2') in the Scheme. Permissible uses under the 'Agriculture' zone includes 'Intensive Agriculture', 'Extractive Industries', 'Abattoirs', etc. Conversely, only general agricultural (raising of stock etc.) uses of a restricted type and lower impact uses such as 'Residential Enterprises' would generally be permissible in the 'Bushland Protection' zone.

Clause 90 of the Scheme will be applicable to development of the proposed 'Bushland Protection' lots. This clause introduces a framework to guide development and to restrict environmental impacts on the biodiversity values of the site. Specific provisions are highlighted under the Statutory Environment (TPS20) section further below.

It is a requirement of the Strategy that the landowner enters into a conservation covenant with a recognised covenanting organisation to secure the conservation benefit. The conservation covenant will impose numerous duties and 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 considered that the proposal will not have a detrimental impact on the amenity of the surrounding landowners.

### **CONSULTATION**

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

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

### **STATUTORY ENVIRONMENT**

#### **Shire of Busselton District Town Planning Scheme No. 20 (TPS20)**

Under Table 1 - Zone Objectives and Policies of the Scheme, the objectives of the 'Bushland Protection' zone are:

*'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 general intent of the provisions of the 'Bushland Protection' zone is targeted towards the preservation of remnant vegetation, whilst at the same time providing an opportunity for rural living.

The policies of the zone include:

*'1. To support subdivision only where –*

*(b) For lots less than 40ha, subdivision of one additional lot.'*

Clause 90 of the Scheme sets out provisions relating to subdivision and development within the 'Bushland Protection' zone that incorporate provisions including the requirement for a DGP, FMP and vegetation survey; criteria relating to the size and siting of building envelopes; restriction on the number of dwelling houses to be erected; preservation of remnant vegetation and wetland areas; restrictions/criteria for the development of dams; and the management of liquid and solid waste. The following provisions are of particular relevance to the proposal:

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

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

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

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

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

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

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

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

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

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

*(12) 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.*

The intended building envelopes have been positioned to take into account the location of existing structures and to take advantage of a degraded area of the site for building envelope No.1. Comment in relation to the proposed building envelope sizes is provided under the 'Officer Comment' section of the report.

Any road upgrade contributions likely to be required to be paid to the Shire by the landowner will be determined and assessed at the subdivision referral stage and included as a recommendation for subdivisional approval to the WAPC.

The draft amendment and accompanying documentation provides for a development framework that will satisfy the objectives of the 'Bushland Protection' zone and comply with provisions contained within Clause 90 of the Scheme.

## **POLICY IMPLICATIONS**

### **Biodiversity Incentive Strategy**

The April 2002 Biodiversity Incentive Strategy for Private Land in the Busselton Shire ('the Strategy') was adopted by the Council and thereafter endorsed by the WA Planning Commission on 3 October 2002 as a mechanism to consider subdivision applications that provides for the voluntary conservation of private land with conservation values. The Strategy offers a range of incentives in exchange for conservation covenants and inclusion of the land in an appropriate zone within the Shire's Scheme to further protect such values.

The assessment of the botanical values undertaken has confirmed that the vegetation (approximately 15.5ha) to be classified as a new occurrence 'vulnerable' Threatened Ecological Community – 'Southern Corymbia Calophylla Woodlands on heavy soils'. This satisfies the criteria outlined in Step One of the Strategy.

The flora and vegetation survey that was undertaken for the subject land identified weeds and pests that may pose a threat to the maintenance of biodiversity values of the remnant vegetation on the site. To address this a Weed and Pest Management Plan will be required.

The Department of Environment and Conservation have recently indicated that it will not formally comment on the acceptability of proposals for inclusion into their Nature Conservation Covenant Program until the proposal is submitted for subdivision. A general indication of the suitability of the site will however need to be obtained prior to final adoption of the amendment. It is therefore necessary to ensure that a suitable condition be included on the DGP to ensure appropriate covenanting of the site pursuant to the Strategy.

The proposal is considered to be generally consistent with the Strategy.

#### **Local Rural Planning Strategy**

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

The subject land is located within 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 Bush Fire Protection**

Planning for Bush Fire Protection is a policy document prepared and maintained by the Fire and Emergency Services Authority (FESA) and the Western Australian Planning Commission (WAPC) and is the relevant standard against which proposals should be assessed.

One of the first steps in using the document is to identify fire hazard assessment levels to determine the appropriate level of protection measures to apply. The subject land is identified with three fire hazard assessment levels, being 'extreme', 'medium' and 'low'.

The inclusion of the proposed 20m BPZ and 20m HSZ in combination with the AS 3959 Level 2 construction standard for future habitable buildings for Lot 1 in the FMP satisfy the Planning for Bush Fire Protection requirements as well as the objectives of the Strategy to minimise environmental impacts on vegetation associated with fuel reduction requirements.

The inclusion of the same provisions for Lot 2 will, however, need to be endorsed by FESA as the existing structure appears to be constructed to a Level 1 standard. If these provisions are not endorsed by FESA during advertising then the HSZ will default to an 80m HSZ and the DGP need to be modified accordingly. The proposal would still meet the minimum conservation value requirements of 10ha to be considered under the subdivision incentive program.

The FMP will need to be modified to include a second emergency exit to provide for an escape route from a fire approaching from the west. Passing bays will also need to be provided according to the required standards and specifications.

Given the above, the draft Fire Management Plan is considered to be generally acceptable subject to minor modification and endorsement by FESA.

### **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 bushfire protection and community facilities monetary contributions.

In accordance with the Strategy, 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**

The Shire of Busselton Strategic Plan 2006 - 2011 ("Strategic Plan") has adopted five key strategic focus areas which include 'Natural and Environmental Wellbeing'. A strategic objective of this focus area is to promote an environmental awareness, ownership and action within the community and the organisation.

The Shire's 'Biodiversity Incentive Strategy for Private Land' is recognised as an important contributing mechanism to meet this strategic objective. Its primary goal is to secure the long-term preservation of areas of remnant vegetation featuring significant biodiversity values through the application of necessary statutory controls.

### **OFFICER COMMENT**

The Vegetation and Flora survey submitted with the proposal demonstrates that the subject lot meets the Strategies 'biodiversity value' criteria and is eligible for consideration of an incentive to a total of 2 lots. This is considered to be the first step towards meeting the all of the Assessment and Operational Guidelines specified in steps 3 and 4 of the Strategy. An assessment of the balance of the guidelines is presented below.

**Development Guide Plan**

The development guide plan layout and conditions that are to be introduced are considered to be appropriate and will generally satisfy the future statutory framework for the site under the new zoning. The lot configuration and location of the new building envelopes satisfies the general operational guidelines. The building envelopes requested for both lots will exceed the general Scheme requirement of 1500m<sup>2</sup>. The proposal does, however, comply with variation criteria contained under clause 90 (2a) of the Scheme whereby the proposed envelopes covers existing buildings and areas which are relatively cleared or degraded. Both new access roads will be required to have a cleared width of 6m and a trafficable width of 4m with passing bays to comply with bush fire requirements.

**Fire Management Plan**

The draft fire management plan propose 20m building protection zones (BPZ) and 20m hazard separation zones (HSZ) for the proposed envelopes; access roads; emergency egress and firebreaks.

The FMP will need to be modified to provide for a mechanism(s) to allow for fuel reduction maintenance work associated with the implementation of the Fire Management Plan (as a result of encroaching fire management zones from Lot 2 on proposed Lot 1) to be undertaken to maintain fire protection measures and to comply with the requirements of the Fire Management Plan. A recommendation has been included under the 'Officer Recommendation' section further below requesting this modification.

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

A condition is included on the DGP requiring compliance with the endorsed Fire Management Plan. A memorial is to be placed on the Certificate of Title of proposed lots advising of the requirement to comply with the approved Fire Management Plan for the site and advising of the owner's responsibility to maintain fire protection measures and emergency access.

**Biodiversity Incentive Strategy**

The Vegetation and Flora survey submitted with the proposal demonstrates that the subject lot meets the Strategies 'biodiversity value' criteria. The proponent included a Weed and Pest Management Plan in accordance with the operational guidelines of the Strategy. The weed and pest management plan 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 content of the plan will be developed over time and become an ongoing management plan, which will need to satisfy the requirements of the relevant covenanting agency. The Department of Environment and Conservation will also be required to endorse the plan at subdivision clearance stage.

The Applicant has included a suitable condition on the DGP that requires implementation of the endorsed Weed and Pest Management Plan.

The Operational guidelines introduced a requirement for the need of protective mechanism to ensure the long term preservation of the conservation values of a site. A condition has been included on the DGP that requires 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.

The proponent has indicated that they will liaise with the agencies to determine which authority will ultimately commit to being the covenanting authority. This issue will need to be advanced to the extent where reasonable certainty exists over the covenanting of the site prior to the Council considering the draft amendment for adoption for final approval. A recommendation has been included under the 'Officer Recommendation' section further below requesting this modification.

### **CONCLUSION**

The draft amendment meets the biodiversity assessment criteria and operational guidelines of the Strategy for consideration of a two lot subdivision incentive. The floristic assessment submitted with the draft amendment confirms the subject land's special conservation significance attributed to being identified as a Threatened Ecological Community "Southern *Corymbria calophylla* woodlands on heavy soils".

Support for the proposal from an appropriate covenanting authority is integral to the amendment. Adoption of the amendment for final approval by the Council should be conditional on written evidence from a suitable authority agreeing to become the covenanting authority.

It is recommended, based on the proposal's general consistency with the Scheme provisions and the Strategy, that Council adopt draft Amendment No. 143 and the associated draft DGP for community consultation, subject to minor modifications relating to the DGP conditions and FMP outlined above and appropriate conditions.

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

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

### **OFFICER RECOMMENDATION**

1. That the Council, in pursuance of Part V of the *Planning and Development Act 2005* ("Act"), adopt draft Amendment No. 143 ("Amendment") to *Shire of Busselton District Town Planning Scheme No. 20* ("Scheme") for community consultation which proposes to rezone Lot 801, Lindberg Road, Kalgup from 'Agriculture' to 'Bushland Protection'.

2. That advertising of the draft Amendment referred to in 1 above be subject to the following modifications being made:
  - (a) The Fire Management Plan being modified to provide for:
    - i) A mechanism(s) to allow for fuel reduction maintenance work associated with the implementation of the Fire Management Plan (as a result of encroaching fire management zones from Lot 2 on proposed Lot 1) to be undertaken to maintain fire protection measures and to comply with the requirements of the Fire Management Plan; and
    - ii) An additional emergency exit and passing bays for the proposed lots to be created in accordance with '*Planning for Bush Fire Protection*'
3. That as the draft Amendment is in the opinion of the Council consistent with Part V of the Act and regulations made pursuant to the Act, that upon preparation of the necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by Part V of the Act, and on receipt of a response from the EPA indicating that the draft Amendment is not subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the *Town Planning Regulations 1967*. In the event that the EPA determines that the draft Amendment is to be subject to formal environmental assessment, this assessment is to be prepared by the proponent prior to advertising of the draft Amendment.
4. That the Council adopt for community consultation the draft development guide plan (DGP) for Lot 801, Lindberg Road, Kalgup pursuant to clause 25 of the Scheme, subject to the modifications referred to in 2 above being undertaken to the satisfaction of the Shire.
5. That prior to the Council considering the draft amendment for final approval, the applicant is to provide written confirmation from the Department of Environment and Conservation, National Trust or another appropriate covenanting authority that:
  - (i) the authority has viewed the draft Development Guide Plan attached to draft Amendment No. 143 to District Town Planning Scheme No. 20; and
  - (ii) the authority is prepared to take on the responsibility of covenanting authority following subdivision of the site.

**14. SYSTEMS AND INFORMATION REPORT****14.1 WA LOCAL GOVERNMENT GRANTS COMMISSION FINANCIAL ASSISTANCE GRANT - TRANSFER OF UNTIED GRANT MONIES TO RESERVE**

<b>SUBJECT INDEX:</b>	Financial Operations
<b>STRATEGIC INITIATIVE:</b>	5.1.3: Ensure regulatory requirements are met
<b>BUSINESS UNIT:</b>	Finance
<b>SERVICE:</b>	Financial Management and Control
<b>DATE OF COMPLETION:</b>	Consequent to the Council's determination, the recommended transfer of funds will be processed on or prior to 30 June 2009.
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENT(S):</b>	Nil

**PRECIS**

Local government authorities in WA receive a financial assistance grant from the Western Australian Local Government Grants Commission (WALGGC) each financial year. Historically, the grant is paid in four equal (quarterly) instalments, with the first payment generally being received in August of each year.

Advice has now been received that the Federal Government is proposing to amend the current payment cycle such that the first instalment payable in respect of the 2009/10 financial year is to be paid to local governments by 30 June 2009.

This report recommends to the Council that should the initial payment for the 2009/10 financial year be received by the Shire prior to 01 July 2009, that these funds are transferred to a reserve account, and then transferred back to general revenue after the commencement of the 2009/10 financial year.

**BACKGROUND**

Notification has recently been received of a proposed amendment to the existing payment cycle in respect of the annual WALGGC financial assistance grant payment to local government authorities in WA. Whilst no formal advice has been received from WALGGC at this time, it is understood that this proposal emanates as an outcome from the recent Federal Budget, and as part of ongoing economic stimulus measures.

Whilst the value of the grant payment to the Shire (attributable to the 2009/10 financial year) will not be affected, the amended payment cycle will have ramifications for the Shire, primarily from a financial reporting/ budgeting perspective.

The Shire has now received its total budgeted untied grant funding from the WALGGC in respect of the 2008/09 financial year (approx \$1.6M). Should the initial payment for 2009/10 (approx \$0.4M) be received prior to 30 June 2009, then the Shire's closing position for 2008/09 will be overstated by this amount (either the deficit will be reduced or any surplus position increased).

Additionally, the Shire's 2009/10 draft annual budget has been developed thus far on the assumption of a zero dollar carry forward position (fully stand alone basis). Should the initial grant payment for 2009/10 be received and accounted for this financial year, then a \$0.4M shortfall in the 2009/10 financial year's draft budget will occur.

Whilst the overall effect of this matter is limited in its magnitude, it is the view of staff that quarantining the initial instalment payment (attributable to the 2009/10 financial year) is a preferred option; from both the 2008/09 financial reporting perspective and also the 2009/10 annual budget development perspective.

As the financial assistance grant paid by WALGGC is 'untied' in nature, the Shire is not in a position to simply 'restrict' these funds at year end. However, it is considered that transferring these funds to an appropriate reserve account prior to 30 June 2009, and then recalling the funds consequent to 01 July 2009, will allow this short term 'quarantining' to occur. To this end, it is considered that the "Salaries and Wages Contingency Reserve" would be the most appropriate reserve account to utilise for this transfer, as its purpose is quite broad, and the grant payment received certainly assists in funding expenditures of an operational nature, including salaries and wages.

#### **CONSULTATION**

Nil

#### **STATUTORY ENVIRONMENT**

Sections 6.2 and 6.8 of the Local Government Act detail the requirements for a local government to prepare and adopt an annual budget and also how expenditure from the municipal fund (that is not included in the annual budget), is to be administered.

#### **POLICY IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Whilst the total value of the financial assistance grant to be received from the WALGGC (attributable to the 2009/10 financial year) is not being altered, the amended payment cycle will result in the 2008/09 end of financial year closing position being overstated by the amount of the earlier instalment payment, whilst the 2009/10 draft annual budget (on a stand alone basis) will be deficient to the same value.

## **STRATEGIC IMPLICATIONS**

This matter aligns with the Council's Strategic Plan 2006-2011 and principally the following Strategic Objective:

\* *Organisational Well Being*

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

## **OFFICER COMMENT**

Whilst no formal notification has been received from the WALGGC that the initial instalment payment for 2009/10 is to be received prior to 30 June 2009, this matter was briefly covered in a WALGA Economic Briefing (May 2009) and was also discussed as part of a recent Local Government Financial Reporting workshop. It was also at that workshop that a representative from Haines Norton Chartered Accountants (the single largest provider of Audit services to local government authorities in WA) advised that the early instalment payment could not be restricted by local governments (due to its untied nature). However, subsequent discussions with that firm confirm that having the funds transferred to an appropriate reserve account, then recalling the funds once sufficient expenditure had occurred in 2009/10, was a viable option should the Shire be desirous in quarantining the funds temporarily.

As has been previously detailed in this report, it is the recommendation of staff that the earlier than anticipated grant payment be quarantined until the 2009/10 financial year. The overarching reason for this is to ensure that the 2008/09 financial performance of the Shire is not overstated by the early receipt of these funds and also that the 2009/10 draft annual budget can continue to progress based on the assumed zero based carry forward position. Notwithstanding the above, it is acknowledged that, should the Officer recommendation not be supported by the Council, the ramifications will not be of a significant magnitude.

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

Consequent to the Council's determination in respect of this matter, the recommended transfer of funds will be processed on or prior to 30 June 2009.

## **VOTING REQUIREMENT**

Absolute Majority decision required.

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

That should the initial Western Australian Local Government Grants Commission untied grant payment, attributable to the 2009/10 financial year, be received on or before 30 June 2009, that this amount be transferred from general revenue to the Salaries and Wages Contingency Reserve in the 2008/09 financial year; and that the 2009/10 draft annual budget reflects an equivalent transfer out of this same reserve to general revenue subsequent to the first salary payment date in July 2009.

**15. COMMUNITY INFRASTRUCTURE REPORT****15.1 BUSSELTON AIRPORT (NORTH) YALYALUP - PART ROAD CLOSURE OF LYDDY ROAD**

<b>SUBJECT INDEX:</b>	Land Administration.
<b>STRATEGIC INITIATIVE:</b>	2.1.3 Work with developers to ensure community sensitive townsite and neighbourhood layouts and functionality.
<b>BUSINESS UNIT:</b>	Infrastructure Development.
<b>SERVICE:</b>	Development Control.
<b>DATE OF COMPLETION:</b>	24 June 2010 (indicative).
<b>VOTING REQUIREMENT:</b>	Simple Majority.
<b>ATTACHMENT(S):</b>	A. -Development Guide Plan - Busselton Airport North. B. -Proposed Road Closure Diagram. C. -Detailed Area Plan 5.

**PRÉCIS**

East Busselton Estate Pty Ltd, as owner of land forming the Provence Subdivision within the Busselton Airport North, Yalyalup Development Guide Plan (DGP) area, is seeking the Shire's support to progress the part road closure of Lyddy Road in accordance with the Development Guide Plan and as depicted in Agenda Attachment "B", support is recommended.

**BACKGROUND**

A Development Guide Plan (DGP) entitled Busselton Airport (North) Bussell Highway, Yalyalup, was endorsed by the Western Australian Planning Commission on 21<sup>st</sup> April 2006. The endorsed DGP (Attachment A) consists of six Detailed Area Plan (DAP) areas and the Village Centre for which the Provence Subdivision incorporates DAP 1, 2, 3, 6 and the Village Centre. DAP 4 and DAP 5 are areas under separate ownership to the Provence Subdivision. The DGP makes the following specific reference to Lyddy Road;

*The new proposed access road to the "village centre" can only be established upon the closure of Lyddy Road. Also, Cable Sands Road is to be closed upon the Tuart Drive connection being established*

The need for the Planning Policy Statement on the DGP has arisen from Main Roads WA (MRWA) concern for the continued functionality of the Bussell Highway as a Controlled Access Highway. The Management of access onto the Bussell Highway and the need to manage internal traffic flows within the Airport North residential node has been one of the overriding objectives in the framing of this DGP. The intent of the notation is to provide for the staged and orderly implementation of planning proposals for the area. Importantly the notation does not determine when Lyddy Road is to be closed, only that the new road to the

Village Centre can only be established upon closure of Lyddy Road. The determination of when it is appropriate for Lyddy Road to be closed is a matter to be determined by the Council on advice from staff at the appropriate time, having regard for the status and progression of the statutory planning processes and subdivision construction works.

The Shire of Busselton is the relevant authority for which road closure matters are to be considered and initiated under the Land Administration Act 1997.

The area of land that is Part Lot 31 forms the planning area of DAP 5 and has frontage to Lyddy Road and Cable Sands Road, both with direct access to Bussell Highway. DAP 5 and the associated Scheme Amendment were adopted by the Council in April 2008 and have been referred to the Western Australian Planning Commission (WAPC) and the Minister for endorsement and approval. To date DAP 5 has not been approved by the WAPC. DAP 5 (Attachment C) makes specific reference to the closure of Lyddy Road prior to the establishment of the new "village centre" road and that in the interim the intersection of Lyddy Road with Bussell Highway will need to be upgraded at the subdivision stage. MRWA have advised that they do not support the upgrade of the Lyddy Road intersection as notated on DAP 5.

Four Detailed Area Plans have been endorsed by the Shire for the Provence estate. Subdivision approvals and clearances of various stages of this residential area have resulted in approximately 510 residential lots being created for the Provence estate to date. The staged approvals have progressively moved eastward toward the proposed "Village Centre" and Lot 31. Planning for the DAP Village Centre has progressed over the last 12 months and is nearing the point where a Draft DAP can be presented to the Council for advertising and determination.

Subdivision application WAPC 136597 for DAP 3, which incorporates the areas immediately east and south of the "Village Centre" area, was granted conditional approval by the WAPC on 26 March 2009. Importantly MRWA has insisted that this subdivision approval would only be supported on the condition that the subdivider constructs the new "Village Centre" access road and intersection to Bussell Highway. WAPC 136597 for DAP 3 includes the following condition for which MRWA and the Shire of Busselton are joint clearing authorities;

*27. Suitable arrangements being made with Main Roads WA to adequately locate, design and construct an additional road connection to the approved subdivision area, from Bussell Highway. Arrangements are also to be made, prior to establishing this additional road connection, for the formal closure of the existing Lyddy Road reserve where it connects to Bussell Highway.*

As a consequence of this subdivision approval, a decision on the closure of Lyddy Road can be made with a reasonable degree of confidence that the timing of the closure is now appropriate.

The proposal to close a 40m (nominal) section of Lyddy Road (Attachment B) from Bussell Highway under Section 58 of the Land Administration Act and vest the closed road reserve area with the Shire as a reserve for 'Landscape Buffer' (or similar) for future amalgamation into the larger reserve to be created from

subdivision development of DAP 5, was presented to the Council at the meeting held on 8 October 2008.

The following Council decision was made;

*CO810/301 Councillor Hastie, Councillor Hanran-Smith (En Bloc):*

- 1. That the proposed part road closure of a 40m (nominal) section of Lyddy Road from the Bussell Highway intersection be subject to consultation with relevant authorities and affected landowners and be advertised in a locally circulating newspaper for a period of 35 days inviting comment on the proposal.*
- 2. That any objections received to the proposed part road closure be referred back to the Council for consideration.*
- 3. That providing no objections are received to the part road closure, the Minister for Lands shall be requested to close the 40m (nominal) section of Lyddy Road, subject to the proponent arranging to indemnify and keep indemnified the Shire of Busselton in respect of any loss or damage suffered by the Shire in relation to the closure of the road.*
- 4. That providing no objections are received to the road closures, the Council approves temporary vehicular access to service existing land uses over the proposed reserve to be created from the closed portion of road reserve to landholders of Part Lot 31 and Lot 32, with such temporary use ceasing at that time when the subdivision road system has been constructed to provide connection to Lyddy Road. Also that in the event a subdivision application for DAP 5 is referred to the Shire for comment that the response to the WAPC reflects the intended outcome of this resolution and furthermore that upgrading of the Lyddy Rd intersection not be supported in the subdivision response for the reasons outlined above.*

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## **CONSULTATION**

### Preliminary Consultation (Prior to Advertising)

The preferred option for progressing the proposed road closure was determined in consultation with MRWA.

Preliminary comments were sought from the landowners of Part Lot 31 (DAP 5) through their consulting planner. At that time they objected to the proposed road closure on the grounds that it seemed unreasonable that their rights should be compromised and an unfair impost to be borne by them given that the closure is for benefit of another party.

The proponent provided preliminary comments supporting the proposed road closure however objected to incurring any costs associated with the management of continuing traffic access for existing users to Lyddy Road over the reserve for Landscape Protection, should these be required by MRWA. The proponent believes that such costs should be borne by the Shire or MRWA.

### Consultation as per Council Decision (Advertising)

In accordance with the Council's decision and the Land Administration Act 1997 the proposed road closure was advertised in a locally circulating newspaper for a period of 35 days and consultation undertaken with relevant authorities and affected land owners. Notifications were provided to affected landowners through a mail out of letters to rating addresses for the properties.

A total of 5 submissions were received at the close of the consultation period, all being from government authorities. All submitters raised no objections to the part closure of Lyddy Road.

A late submission was received from the landowners of Part Lot 31 through their Consulting Planner objecting to the part closure of Lyddy Road. Further discussion is provided on this late submission in the Officer Comments section of this report.

### **STATUTORY ENVIRONMENT**

*Land Administration Act 1997 - Sect 58* is relevant to the proposed closure of Bovell Road and the unnamed road. Section 58 requires:

*"(1) When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road."...*

And

*(3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice."*

### **POLICY IMPLICATIONS**

NIL.

### **FINANCIAL IMPLICATIONS**

The Councils adopted 2008/09 Fees and Charges include a road closure fee of \$590 including GST to be paid by the proponent to cover nominal staff and advertising expenses. The proponent will be required to advance the road closure fee prior to a road closure request being delivered to the Minister.

A diagram of survey to facilitate the closure shall be prepared by the proponent at the proponents cost.

If the road closure is supported by the Council then the proponent will be required to indemnify and keep indemnified the Shire of Busselton in respect of any loss or damage suffered by the Shire in relation to the closure of the road. This would be formalised via a Deed of Covenant between East Busselton Estate Pty Ltd and the Shire of Busselton.

## 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 Initiative: Work with developers to ensure community sensitive townsite and neighbourhood layouts and functionality.

## OFFICER COMMENT

In accordance with the Council's decision C0810/301 consultation was undertaken. A total of five submissions were received at the close of the consultation period and one late submission was received after the close of advertising. The five submissions were from government authorities with no objections raised to the part road closure.

Given that the landowners of Part Lot 31 (DAP5) had previously raised objections to the part road closure, and that no further communications had been undertaken that indicated a change in this position, it was deemed unusual that a submission from the landowners of Part Lot 31 was not received. The Shire was subsequently advised by the landowners Consulting Planner during a courteous follow up by the Shire, that they did not receive the Shires consultation letter. A review of the Shires records indicates that the letter was sent. The landowners, through their Consulting Planner, reiterated their previous objections to the proposed road closure as submitted in their letter of 10 July 2008. This advice was deemed to be a late submission.

In respect to dealing with a late submission the following comments are provided;

- \* Section 58 of the Land Administration Act provides for the closure of roads. The local government cannot resolve to make a request to the Minister for the closure of a road until after 35 days from the date of publication of the notice of motion and the local government has considered any submissions received during this period. However, this is only a minimum requirement and there is no prohibition on receiving submissions after this period.
- \* The Council's resolution C0810/301 does not specify this time period with reference to Point 2 of the resolution and simply states that any objections received be referred back to the Council.

Given the reasons behind the late submission, and that there is no prohibition on accepting the submission for the purposes of the Council decision and legislation, it has been deemed appropriate in this situation to accept the submission and in accordance with Point 2 of the decision report the objections back to the Council for further consideration.

The planning framework and road closure scenarios have been previously discussed in detail in the report to the Council meeting held on 8 October 2008. This detailed information has not been duplicated in this report except where such information is relevant to the response to the late submission.

#### **Late submission**

##### Objection

*"Lot 31 abuts Lyddy Road on the east side and Dodd & Dodd depend upon access from Lyddy Road for their day to day activities.*

*While it is possible to re-orient their access to Cable Sands Road on the eastern side of their property, this represents considerable inconvenience and expense to them which we submit is an unfair impost for them to accept given that the proposed closure has not been necessitated by them or their activities which they have been lawfully carrying out for the past 30 years."*

##### Comment

It is proposed to close a 40m (nominal) section of Lyddy Road reserve under Section 58 of the Land Administration Act 1997, vest the closed road reserve land with the Shire as a reserve for 'Landscape Buffer' (or similar) and provide approval to the landowners of Part Lot 31 and Lot 32 for temporary vehicular access for current land uses over the newly created 'Landscape Buffer' (or similar) reserve. Approval to landowners is proposed by way of MRWA support and a Council decision. MRWA provided the following written advice to the Shire on 23 February 2009;

*"Following the road closure of Lyddy Road Main Roads is supportive of allowing temporary access to Pt Lot 31 and Lot 32 to service existing land uses."*

The existing Lyddy Road / Bussell Highway intersection shall remain in its current form, in essence acting as a private crossover.

At that future time when the internal subdivision road system has been constructed to provide connection to Lyddy Road in accordance with the DGP, then approval for the temporary vehicular access over the Landscape Protection reserve shall be withdrawn and the intersection treatment with Bussell Highway removed.

In summary current vehicle access arrangements for Part Lot 31 and Lot 32 can continue unencumbered for existing land uses.

##### Objection

*"Lot 31 is the subject to an Amendment to the Council's Town Planning Scheme which will in due course allow the land to be developed for residential purposes. As part of the Amendment provisions, it was agreed that Lyddy Road would be closed upon a replacement connection to the village centre. In the interim and at the time of subdivision, the provision of the amendment required the intersection*

*with Bussell Highway to be upgraded. We believe this provision should be adhered to.*

*Notwithstanding and in the spirit of co-operation we have liaised with the major developer's planning consultants who advise that an alternative connection to Bussell Highway via the village centre will be some time away. In view of this we believe that Lyddy Road should remain open and our client's right to access maintained until adequate alternative access is arranged."*

#### Comment

The objectors understanding of the progress of the access road to the village centre is inconsistent with the current situation. As stated above a subdivision approval has been issued for the land which incorporates the access road to the village centre (East Busselton Estates). There is an expectation that this approval will continue to be implemented by the subdivider and that the closure of Lyddy Road can coincide with this approval and the construction of the intersection.

In the event the subdivider chose not to implement the approval and that approval lapsed, then an argument could be mounted that the need for the road closure would not arise as the closure is tied to the "establishment" of the access road to the village centre. It will be important therefore for the closure to coincide with the actual construction of the road and not just the approval to construct the road. The timing implication has been investigated with State Land Services to ensure that the formal road closure process includes a mechanism that enables management of the lengthy land tenure and road closure process such that, from a timing perspective, it is actually possible to align closure of Lyddy Road to establishment of the new access road. The following advice was received from State Land Services on 11 March 2009;

*"This matter (Lyddy Road closure) can be progressed by the Shire resolving to close the road and meeting section 58 of the Land Administration Act 1997 (LAA), sending the resolution and supporting documents to State Land Services – South West requesting that following the closure of the road, the land be set aside as a Reserve for the purpose of 'Landscape Buffer'. In accordance with State Land Services procedures/policies, approval will be sought from the Department of Mines and Petroleum and South West Planning. If approval is granted for the closure, survey instructions will then be issued to the Shire of Busselton's nominated surveyor. When the survey is in order for dealing, State Land Services can proceed to prepare the necessary documentation including the road closure and creation of a Reserve document. State Land Services can hold the documents (once ready for lodgement) until advice from the Shire or its representative is received and lodgement of the documents is requested."*

The advice received from State Land Services confirms that their internal processes can facilitate management of the road closure timing to align to the creation of the new access road. The Officer's Recommendation contains a condition that the closure and disposal of the Lyddy Road reserve is tied to the completion of the road to protect the interests of other land owners in the area and to respond to the objection received.

DAP 5 was adopted by the Council in April 2008 and is currently before the WAPC and the Minister for endorsement and approval. The following planning notation is provided on DAP 5:

- \* *“The new proposed access road to the “village centre” can only be established upon the closure of Lyddy Road. Until the new intersections are constructed the intersection of Lyddy Road with Bussell Highway will need to be upgraded at the subdivision stage.”*

MRWA have advised that they do not support the upgrade of the Lyddy Road intersection as detailed in the above planning notation and it is therefore anticipated that MRWA's position on this matter will be further considered during assessment of DAP 5 by the WAPC and the Minister. Further more a recent subdivision approval has specifically required the closure of Lyddy Road to be aligned to the opening of the new access road to the village centre.

Notwithstanding the final outcome of the existing planning notation on DAP 5, the planning notation has been framed to encompass the different timing scenarios for subdivision of the DAP areas but at full development both accesses will be closed.

The DAP 5 planning notation provides no preferences in respect to timing of various subdivision areas, but rather can be inferred as broadly setting the planning requirements for the differing scenarios. MRWA ultimate intent and the intent provided by the DAP 5 and DGP Planning Policy Statements, is that at full development there will only be three access points from Bussell Highway namely, Joseph Drive, the new village centre access and a new Tuart Drive extension further east of Cable Sands Road. Therefore all access to DAP 5 from Bussell Highway will be closed and only internal access to the subdivision will be provided. The proposed closure of Lyddy Road at this stage is seen as an orderly and proper planning response to manage access onto Bussell Highway as per the planning intent.

It is noted that closure of Lyddy Road does not preclude interim access to Bussell Highway from future subdivision of DAP 5. Access can be provided from Cable Sands Road in accordance with DAP 5 until such a time as the Tuart Drive connection is established. It is further noted that the existing intersection of Cable Sands Road and Bussell Highway provides both east and west turns onto Bussell Highway and accordingly, in its current form, is a higher level intersection than that of Lyddy Road to Bussell Highway which provides for west turns only.

### **Conclusions**

Progressing the road closure is in accordance with the DGP and various DAPs and represents orderly and proper planning. Any potential impacts on Part Lot 31 and Lot 32 for existing vehicle access arrangements as a result of the part road closure would be mitigated by the proposed temporary access arrangements. Future subdivision of DAP 5 is not precluded by the part closure of Lyddy Road in that vehicle access to Bussell Highway can be provided from Cable Sands Road.

Should the part road closure of Lyddy Road not proceed now then the new proposed access road to the "village centre" would be delayed with the resulting impact being potential road conflicts and high traffic loading on Joseph Drive for which the Council will have management responsibility.

It would also be more difficult for the Council to close Lyddy Road if the closure is delayed and subdivider of Lot 31 was able to obtain approval for two access points onto Bussell Highway. If this eventuated and the intersections were constructed, a significant investment in the Lyddy Road intersection would already have been made and it could be expected that the objection to the closure would be much stronger.

A subdivision approval condition relating to the closure of Lyddy Road and the construction of the village centre access road has recently been issued for the residential areas adjoining the village centre under the ownership of East Busselton Estate Pty Ltd. Given that the WAPC has now issued this approval it is considered necessary and appropriate for closure of Lyddy Road to progress in order to fulfil the requirements of the approval.

The timing aspect for the part closure of Lyddy Road can be satisfactorily managed through the State Land Services processes thereby ensuring that the timing for closure is tied to the opening of the new access road.

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

Can be commenced approximately one month after the Council's decision (receipt of indemnification and fees from proponent are required before commencement). Timeline for final implementation is governed by East Busselton Estate Pty Ltd subdivision works timings.

#### **OFFICER RECOMMENDATION**

1. That the Minister for Lands be requested to proceed with the road closure of that portion of Lyddy Road (shown at Agenda Attachment B) under Section 58 of the Land Administration Act 1997.
2. That East Busselton Estate Pty Ltd are required to indemnify, and keep indemnified, the Shire of Busselton via a legal agreement prepared by the Shire at the cost of the developer, in respect to any loss or damage suffered by the Shire in relation to the closure of a portion of Lyddy Road and that such indemnification, and associated road closure fees, be advanced to the Shire prior to a road closure request being delivered to the Minister.
3. That the road closure and disposal of the land be finalised at a time that coincides with the fulfilment and clearance of subdivision condition 27 of WAPC 136597 relating to the construction of the access road to the village centre.

4. Temporary vehicular access be given to service existing land uses over the proposed 'Landscape Buffer' reserve to be created from the closed portion of road reserve to landholders of Part Lot 31 and Lot 32, with such temporary use ceasing at that time when the internal subdivision road system has been constructed to provide connection to Lyddy Road.
5. That in the event a subdivision application for DAP 5 is referred to the Shire for comment, the response to the WAPC reflects the intended outcome of this resolution and furthermore that upgrading of the Lyddy Rd intersection not be supported in the subdivision response for the reasons outlined in this report.

15.2 PARKS AND GARDENS TARGET SERVICE LEVELS REPORT

<b>SUBJECT INDEX:</b>	Asset Management.
<b>STRATEGIC INITIATIVE:</b>	2.1.4 Ensure community assets are effectively managed and maintained to capture both short term requirements and whole of life costs.
<b>BUSINESS UNIT:</b>	Infrastructure Services.
<b>SERVICE:</b>	Parks & Gardens Maintenance.
<b>DATE OF COMPLETION:</b>	29 May 2009.
<b>VOTING REQUIREMENT:</b>	Simple Majority.
<b>ATTACHMENT(S):</b>	A. Passive Reserve Maintenance Standard Schedule and an Active Reserves Maintenance Standard Schedule. B. Target Service Levels.

**PRECIS**

In accordance with the Organisational KPI 2.1.2.7.3 'Establish Service Levels for Parks and Gardens to further determine budget allocations in the future" Shire Parks and Gardens staff have produced the following report.

Staff recognised the need to reset the current adopted service levels applied to all Shire reserves. The purpose of this report is to propose a new set of Parks and Gardens Target Service levels; with the intent to introduce them over a period of three years; during which time there will be a staged review of the existing Parks and Gardens team structure, available labour and skills, and plant.

**BACKGROUND**

A Parks Works Organisation Study Team (WOST) was formed in 1998 to make recommendations for the establishment of minimum service levels for Public Open Space (POS) within the Shire of Busselton along with recommendations for an internal structural change to the Parks and Gardens workforce. The objective was to improve overall maintenance standards of Public Open Space (POS) and ensure that the Parks and Gardens team was well resourced.

The first WOST report was presented to the Executive Committee on 17 December 1999 and recommended that the Council adopt a Passive Reserve Maintenance Standard Schedule and an Active Reserves Maintenance Standard Schedule (Attachment A) - commonly known as "Service levels". Both documents were supported by the Council.

The service levels adopted in 1999 were considered by the staff and the Council at the time, as those the best to meet community expectations. Whilst the WOST initiative was well intentioned; the adopted levels of service were poorly communicated to staff and inadequately resourced; thus the full intended benefits of this exercise were never realised.

Following the adoption of the 1999 service levels, the WOST reviewed the capacity of the Parks and Gardens team to deliver on these new service levels. In 2001 a report was prepared with recommendations to change the structure of the Parks and Gardens workforce; effectively splitting one large team into six smaller task-focussed teams and recommendations for the recruitment of four additional staff members. At this time the Chief Executive Officer endorsed the recruitment of two additional staff members and approved the internal structural change of the Parks and Gardens workforce.

In 1999 the Shire's population was 20,000 people. The Shire's current population is estimated at over 29,000 which is an increase of 42% over the last 10 years. This average growth rate is not projected to decrease significantly.

In the same period the total number of staff in the Parks and Gardens work area has increased by 30% from 21 FTE's to 28 FTE's. The total area of Public Open Space (POS) the Shire now maintains has increased by 30% from 1,355,072 m<sup>2</sup> to 1,763,436 m<sup>2</sup>. **Refer Table 1.**

It is evident that the Parks and Gardens resources have simply increased linearly in line with the total area to be maintained, but no major review or change has been made to allow for population growth, the types of POS inherited i.e. numerous small reserves in residential developments (eg, Port Geographe and Abbey Waters) or the changing (increased) usage rates and changing community expectations.

**Table 1**

	1999 / 2000	2003 / 2004	2008 / 2009	Annual % Growth Rate	Growth over 10 Years
Number of P & G Employees	21	23	28	1.70%	17%
Population of Busselton	20,200	24,000	28,700	5%	42%
Area of Reserves	1,355,072 m <sup>2</sup>	1,400,000 m <sup>2</sup>	1,763,436 m <sup>2</sup>	3%	30%

#### **Why change is needed**

Parks and Gardens staff have identified the need to review and establish a current and relevant base line level of service to be applied to all POS in the Shire of Busselton. Once established this can be used for continual review of future plant and labour requirements and for annual budget setting purposes.

Even though the Council previously adopted the Passive Reserve Maintenance Standard Schedule and an Active Reserves Maintenance Standard Schedule (Attachment A) these standards are now out of date given the change in reserve numbers and community expectations.

The current trend of maintaining POS *"the way it has always been done"* may result in a steady decline in overall condition if the current service levels remain unachievable and the Parks and Gardens workforce remains under-resourced; and the Shire continues to grow at such a fast rate.

It is important to note that the introduction of a new set of *"Parks & Gardens - Target Service Levels"* (Attachment B) is just the first step in a process which will kick-start a full review of labour and plant required to achieve the proposed levels of service; and will require a level of increased financial commitment from the Council over a three year period.

### **Proposed Change**

Parks and Gardens staff have reviewed the previously adopted Passive Reserve Maintenance Standard Schedule and an Active Reserves Maintenance Standard Schedule (Attachment A) and determined that these documents are no longer relevant. Parks and Gardens staff have reviewed current level of service documents from similar sized Local Governments, with reference to the Auspec Standards and internal consultation and have developed a new document titled *"Parks & Gardens - Target Service Levels"* (Attachment B).

The document titled *"Parks & Gardens - Target Service Levels"* (Attachment B) sets out three specific maintenance levels that POS will fall into. Parks and Gardens staff will determine the maintenance level of each reserve pending adoption of this report by the Council by developing and implementing an assessment check list and score card approach. In addition all reserves will be categorised into an 'Area Class' i.e. District Park (Active Sports Venue), Local Park, Foreshore Park, Wildlife Corridor, Streetscape Area, etc. This will ensure that consistency is achieved in the assessment across the service levels and area classes.

The document shows a break down of each possible maintenance activity undertaken within each reserve; and provides a brief description of the task and target visitation rates for each task. Each task will be different dependent on the maintenance level applied to a particular reserve. Some flexibility has been built into the target visitation rates to allow for the different maintenance requirements of reserves which may fall into the same maintenance category eg, Busselton Beachfront Reserve will be a Maintenance Level 1. This reserve has a large amount of street furniture, numerous rubbish bins, garden beds, and paved areas. It has very different maintenance demands when compared to Sir Stewart Bovell Park which is also a Maintenance Level 1 but is an active sports oval with little furniture.

Importantly the document has been developed in a format that aligns the tasks to the Shires existing finance system *"Task Codes"*. This will allow the detailed outcomes of the Business Plan to integrate into the Shires finance system and budget framework. It will also allow review and monitoring of future performance against the Target Service Levels by interrogation and reporting through the finance system.

Once adopted the "*Parks & Gardens – Target Service Levels*" (Attachment B) will require adequate resourcing to fully implement. It is proposed that a phased review of all Parks and Gardens resources commence soon, pending the adoption of this document in the form of a detailed Resource Plan. As part of this review structural and resourcing recommendations will be generated and changes proposed to be phased in over a period of three years commencing in 2010/11 (based on the Council's resolution of future draft budgets).

The document "*Parks & Gardens - Target Service Levels*" (Attachment B) will be reviewed annually by senior Parks and Gardens staff and all new reserves will be incorporated into the document, leading to greater accuracy in future budget forecasting.

**Full implementation of this proposal will deliver:**

- \* A documented level of service applied to each individual reserve.
- \* The opportunity to review suitability and rationalisation of all Parks & Garden plant.
- \* Provide staff with a clear understanding and direction of what needs to be done in each reserve.
- \* Provide staff with a clear future direction for planning and resourcing.
- \* Greater control of the Parks and Gardens budget planning process.
- \* Increased level of reserve specific maintenance information available to the public.
- \* A review of all specialist activities to ensure our internal skills match our requirements.
- \* Maximised value through "economies of scale" by grouping the different service level POS into individual maintenance programs (i.e. Port Geographe's own Maintenance Program).
- \* Increased focus on team ownership of areas and service levels, promoting quality and competition.
- \* Consistency in the delivery of service across the Shire.

**CONSULTATION**

This report has been prepared by the Manager of Infrastructure Services in consultation with senior Parks and Gardens staff and the Director of Community Infrastructure.

Other Local Governments that were consulted in the preparation of this report included:

- \* City of Wanneroo;
- \* City of Joondalup;
- \* City of Melville;
- \* City of Canning; and
- \* City of Armadale.

## STATUTORY ENVIRONMENT

There are no statutory requirements for this report.

## POLICY IMPLICATIONS

Nil at this stage but review of related policies will be required during preparation and submission of the Business Plan.

## FINANCIAL IMPLICATIONS

The cost of adopting the proposed *"Parks & Gardens - Target Service Levels"* document (Attachment B) does not in itself contain any financial implications. However if adopted it will kick-start a process of review of all Parks and Gardens plant and labour resources which is likely to require increased funding in the Parks and Gardens operating budget.

Preliminary investigations have been undertaken to assess the existing service levels provided in the financial year ending 2007 against those proposed in the document *"Parks & Gardens – Target Service Levels"* Table 1: Existing Parks & Gardens – Gap in Service Levels below provides an overview of the preliminary investigations and the resources required to bridge the gap.

**Table 1: Existing Parks & Gardens – Gap in Service Levels**

RESOURCE	RATE PER YEAR	GAP
Additional Cost - Operating		\$1,550,000
Additional Labour (FTE)	1,700 hrs per FTE	10 FTE's
Additional Plant	800 hrs per mower	5 mowers & trailers, 6 trucks and 6 small plant

The gap cost is the total additional operating expenditure required per annum based on today's dollars and the *"Parks & Gardens – Target Service Levels"* (Attachment B). Implementing a Business Plan over three years would have operating budgets increased progressively each year to ultimately reach this value.

In addition to the existing Parks and Gardens currently under the care and control of the Shire there will be a high number of new Parks and Gardens to be progressively handed over in the future as a result of major subdivision development. There are no existing or forecasted budget provisions for maintenance of these Parks and Gardens at this point in time. Details of these new Parks and Gardens, including their target date for handover and associated maintenance costs, will be included within the proposed Business Plan.

Table 2: New Parks & Gardens, below provides an indication of Parks and Gardens associated with subdivisions expected to be handed over within the next five years.

**Table 2: New Parks & Gardens**

SUBDIVISION	MAINTENANCE COST
Vasse - Birchfield	\$230,000
Provence	\$500,000
Dunsborough Lakes	\$250,000
Port Geographe	\$40,000
Others	\$30,000
	<b>\$1,050,000</b>

		NEW
Additional Cost - Operating		\$1,050,000
Additional Labour	1,700 hrs per FTE	6 FTE's
Additional Plant	800 hrs per mower	3 mowers & trailers, 4 trucks and 4 small plant

A preliminary forecast of the total operating costs and labour needs for existing and new Parks and Gardens is summarised at Table 3: Parks and Gardens – Total Projected Labour Needs and Operating Costs, below.

**Table 3: Parks & Gardens – Total Projected Labour Needs and Operating Costs**

RESOURCE	EXISTING P&G	NEW P&G	TOTAL
Additional Cost - Operating	\$1,550,000	\$1,050,000	\$2,600,000
Additional Labour (FTE)	10	6	16

A preliminary forecast of possible Capital costs required over the three (3) year Business Plan implementation period for both existing and new Parks & Gardens are summarised below in Table 4: Parks and Gardens – Total Projected Plant Needs and Capital Costs. These costs may be spread over the three years and are in addition to operating costs detailed at Table 3 above. Once the initial Capital purchases have been made future plant replacement will be funded through the plant replacement reserve.

**Table 4: Parks & Gardens – Total Projected Plant Needs and Capital Costs**

Item	Rate	Number	Cost
Mower	\$50,000	8	\$400,000
Truck	\$70,000	10	\$700,000
Trailer	\$15,000	8	\$120,000
Small Plant	\$10,000	10	\$100,000
<b>Total</b>			<b>\$1,320,000</b>

These costs may be spread over the three years and are in addition to operating costs detailed at Table 3 above. Once the initial capital purchases have been made future plant replacement will be funded through the plant replacement reserve.

## STRATEGIC IMPLICATIONS

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

- 1. Strategic Focus:** **Build 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.
  - Strategic Initiatives: Ensure community assets are effectively managed and maintained to capture both short term requirements and whole of life costs.
- 2. Strategic Focus:** **Natural and Environmental Well Being:**
  - Strategic Objective: Ensure that communities are provided with a balance of active and passive open space.
  - Strategic Initiatives: Ensure maintained open space in current and future urban areas.
- 3. Strategic Focus:** **Organisational Well Being:**
  - Strategic Objective: To manage the business of the Shire in a responsible and accountable manner utilising organisational sustainability principles.
  - Strategic Initiatives: Build organisational capacity through continuous service review and improvement.

## OFFICER COMMENT

The Shire of Busselton has grown rapidly in recent times. Although the Shire does have adopted maintenance standards in place; they have not been well resourced and upon review it has been found that these standards are now out of date. Community expectations have changed, as has technology and methods of service delivery.

Over time, Parks and Gardens staff have up-skilled and changed operational practices and plant in a somewhat reactive manner in an attempt to "keep up" with our fast-growing Shire. Whilst this approach has achieved results, staff recognise that over time there has been some resource slippage and the time has come to improve our planning processes. The first step in achieving this is to establish exactly what it is that we do; clearly identify what maintenance activities occur; and when they happen on an individual reserve basis.

Following the establishment of this baseline level of service; staff will undertake a full and thorough review of our capacity to deliver Parks and Gardens related services throughout the Shire of Busselton.

It is particularly evident that with the additional areas of POS Parks and Gardens now has to service in terms of core functions i.e. Horticulture , mowing, and reticulation; far greater demands have been placed on staff resourcing and facilities for maintenance of the following:

- \* An increase in special events held throughout the Shire of Busselton including Ironman, Half Ironman, Forrest Rally, Southbound Festival and Anaconda - to name a few.
- \* The erection of banners for various festivals and during the Christmas period which has grown from a minimal number to an all year round program.
- \* A significant increase in the number of playgrounds in the Shire and with current Australian Standards yearly audits, the required maintenance levels now exceed those of 10 years ago. These 'Standards' must be adhered to and meet all audit recommendations. Staff have been trained to implement these recommendations to reduce the Shire's Public Liability. This is an additional task that has had to be absorbed by current staffing levels.
- \* An ageing population placing greater demand on Cemetery services. Staff are now preparing up to 53 graves per year for the Busselton Cemetery and the standard of presentation expected at the Cemeteries has increased.

Many new areas of POS have been taken over by the Parks & Gardens staff ie, Port Geographe, Abbey Waters and Ibis Gardens. With this trend set to continue, it is imperative that the Shire's Parks and Gardens resources are bolstered and keep pace with ongoing maintenance demands. The growth of the team needs to be directly linked to the growing area to be maintained, the increasing community usage rates and the changing type of reserves.

#### **Acceptance of Target Service levels**

Subject to the above being adopted the preparation of a Business Plan for presentation back to the Council may include;

- \* An implementation timeframe of 3 years with a commencement date of 2010/2011.
- \* Plant, labour and material needs.
- \* Analysis of all existing parks and reserves and determination of a service level ranking.
- \* Determination of future parks and reserves to be handed over, target dates and associated maintenance costs.
- \* Determination of a parks and reserves classification system.
- \* Determination of priorities of all parks and reserves.
- \* An efficiency review on current practices, plant and equipment.

- \* Recruitment and capital purchases and their alignment to current and future needs.
- \* Standard unit rates for servicing.
- \* Submission back to the Council prior to the commencement of the 2010/11 budget cycle.

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

Upon acceptance of the "*Parks & Gardens – Target Service Levels*" document (Attachment B); staff will undertake a full review of the Parks and Gardens operations within 12 months and introduce structural and resourcing changes over a period of three (3) years to meet the targets established in the "*Parks & Gardens – Target Service Levels*" (Attachment B).

#### **OFFICER RECOMMENDATION**

1. That the Council adopt the "*Parks & Gardens – Target Service Levels*" (Agenda Attachment B) to replace the previously endorsed Passive Reserve Maintenance Standard Schedule and Active Reserves Standard Schedule (Agenda Attachment A).
2. That over the next three years, the "draft budgets" reflect that the service levels implicit in the Parks and Gardens - Target Service Levels will be attained.

15.3 PANEL CONTRACT - TEN 09/08 SUPPLY AND DELIVERY OF CONSULTING SERVICES

<b>SUBJECT INDEX:</b>	Asset Management
<b>STRATEGIC INITIATIVE:</b>	2.1.4 Ensure community assets are effectively managed and maintained to capture both short term requirements and whole of life costs.
<b>BUSINESS UNIT:</b>	Infrastructure Development
<b>SERVICE:</b>	Development Control
<b>DATE OF COMPLETION:</b>	As soon as this report is endorsed.
<b>VOTING REQUIREMENT:</b>	Absolute Majority.
<b>ATTACHMENT(S):</b>	A: Ranking Based on Compliance Assessment. - CONFIDENTIAL B: Individual Discipline Assessments i.t.o. "Project Work".- CONFIDENTIAL C: Individual Discipline Assessments i.t.o. "Schedule of Rates" - CONFIDENTIAL

*Attachment A, B and C are confidential under section 5.23 - 2 (c) of the Local Government Act 1995 in that they deal with "a contract entered into or which may be entered into, by the local government". Copies have been provided to Councillors, the Chief Executive Officer and Directors Only.*

#### **PRECIS**

Tenders were called for the supply of Consulting Services to the Shire.

Tender responses have been received and reviewed, this report summarises these responses and seeks Council approval for the selection of tenderers to be recommended to be placed on the Consultancy Services Panel (CSP).

#### **BACKGROUND**

Contract 09/08 "Supply and Delivery of Consulting Services" was advertised at the beginning of March 2009. The original advert had tenders closing on 24 March 2009. However an addendum to the original tender was sent out as the original tender did not allow for all the possible Consulting Services that might be required by the Shire. The revised closing date was 2 April 2009 at 14:00hrs.

This report is being brought to the Council on this occasion as in accordance with Section 5.43(b) of the Local Government Act 1995, no set amount (that can not be exceeded as determined by the Council) has been set therefore, the Council is required to award this Panel Contract.

In total forty three (43) tenders were received on the due date and time, two (2) tenders were received after the closing date and therefore weren't considered.

The tender called for the appointment of consultants to form a panel from which consultancy services can be provided. The Panel Contract was produced to assist the Community Infrastructure Directorate to achieve its responsibilities under the Shire's Strategic Plan (2006/2011).

The purpose of the Panel Contract is to meet regulatory requirements for the engagement of consultants, to provide an ability to respond quickly to short term peak demands and to provide specialist expertise when required.

The Council resolved (C0602/027) to adopt the selection criteria for the panel and tenders were subsequently sought from consultants experienced in a range of consultancy services and associated specialist expertise.

The appointment is to a Panel of Consultants from the date of award of the contract for a three year period, with an option to extend for 12 months, exercisable at the Shire of Busselton's absolute discretion.

The tender was structured so that a list of up to four (4) Consultants would be appointed to the Panel of Consultants for each type of Consultancy. The duties to be undertaken by the Consultant would be classified as either "Project Specific" or "Schedule of Rates Work". These two classifications allow the Shire to choose a Consultant on the basis of a project specific, where the estimate of the total project is well known and/or to choose a Consultant on an hourly rate under the Schedule of Rate Works where the scope of work is not clearly identified, such as investigative work. These will be judged at merit and appointments made accordingly.

Where the work was deemed to be Project work the Consultant would provide services for a fixed percentage fee of the total project. For example if the cost of a new building project was estimated to be \$100,000 and the architect nominated a fee of 5% then they would receive a fixed fee of \$5,000 for their services on the project. The tenderers were required to submit a percentage fee for service based on a range of total project fees. Where the work was deemed to be Schedule of Rates Work the Consultant would provide services as per tender, for the nominated fixed hourly rate plus disbursements.

The Panel of Consultants was ranked one (1) to four (4) for suitability and best value to the Shire of Busselton, according to the selection criteria, for each consultancy discipline. Where consultancy work is needed the Principal is to engage the Consultant listed first in the ranking. Should that Consultant be unable, in the opinion of the Principal, to meet the availability, or specialist requirements of the task, the Principal, may, at his sole discretion, select the next ranked Consultant at the rates nominated in this contract, and so on to the fourth ranked Consultant. The Principal may elect, if he considers it expedient, suitable, or best value to the Shire of Busselton, to select a Consultant not on the Panel of Consultants, subject to normal quotation and tendering requirements of the Local Government Act 1995.

The tender also provided for the Shire to obtain quotations from the Panel for specific projects should it consider it necessary. Upon completion of the Tender Opening process individual tender submissions were assessed by Shire staff.

During the assessment process deficiencies with several submissions were identified. These deficiencies were in relation to Compliance Criteria where the tenderer failed to provide information relating to reference reports, details of current litigations, sufficient public liability insurance (\$10m), workers compensation or professional indemnity insurance (\$5m), but generally indicated that if successful they would make details available and ensure that all insurances to comply. These companies will be required to provide evidence of complying insurances prior to commencing any consulting services to the Shire.

No	CONSULTANCY SERVICE	COMPANY NAME
1.	Architecture	James Christou + Partners
		DnA Architects
		Bateman Grundmann Architects
		Maunsell AECOM
		Rob Anson Architect Pty Ltd
		Holton Connor
		MCG Architects
		Bollig Design Group Pty Ltd
		Gresley Abas
		SIA Architects Pty Ltd
		Hodge & Collard Architects
2.	Landscape Architecture	Maunsell AECOM
		Gresley Abas
3.	Project Management	Thomas McRobert Edgeloe
		Zacor Design Pty Ltd
		Ascent Engineering
		MAK JaP
		Maunsell AECOM
		Shawmac
		URS
		SJSibbald
		Steve Disley
		OPUS
		Calibre Projects
		Worley Parsons
		JOI Projects Pty Ltd
		Hartley Consulting Services
		Hodge & Collard Architects
4.	Drafting	ARUP PTY LTD
		WML CONSULTANTS
		Harley Survey Group
		Berkman International Pty Ltd Australia
		Thomas McRobert Edgeloe
		Zacor Design Pty Ltd
Ascent Engineering		
Bateman Grundmann Architects		

		BCE Surveying
		MAK JaP
		Maunsell AECOM
		Wood & Grieve Engineers
		Shawmac
		URS
		OPUS ( Neg)
		Calibre Projects
		Worley Parsons
		GHD
		Hodge & Collard Architects
		WML CONSULTANTS
<b>5.</b>	<b>Civil Engineering</b>	Thomas McRobert Edgeloe
		Zacor Design Pty Ltd
		Ascent Engineering
		MAK JaP
		Maunsell AECOM
		Wood & Grieve Engineers
		Shawmac
		Steve Disley
		OPUS
		Worley Parsons
		E-Tec Consultants
		GHD
		Porter Consulting Engineers
		Hartley Consulting Services
		ARUP PTY LTD
		WML CONSULTANTS
<b>6.</b>	<b>Engineering Management Support</b>	Ascent Engineering
		MAK JaP
		Maunsell AECOM
		Shawmac
		URS
		Steve Disley
		OPUS
		Calibre Projects
		Worley Parsons
<b>7.</b>	<b>Structural Engineering</b>	Berkman International Pty Ltd Australia
		Maunsell AECOM
		GHD
		Wood & Grieve Engineers
		URS
		Worley Parsons
		E-Tec Consultants
		B G & E Limited
		ARUP PTY LTD
		WML CONSULTANTS
<b>8.</b>	<b>Surveying General</b>	Survcon Pty Ltd
		Harley Survey Group
		McMullen Nolan
		BCE Surveying

		MAK JaP
		Maunsell AECOM
		Asphar Survey Pty Ltd
9.	Surveying Licensed	Survcon Pty Ltd
		Harley Survey Group
		McMullen Nolan
		BCE Surveying
		MAK JaP
		Maunsell AECOM
		Asphar Survey Pty Ltd
10.	Coastal Engineering	Shore Coastal Pty Ltd
		Zacor Design Pty Ltd
		Maunsell AECOM
		URS
		Worley Parsons
		GHD
11.	Hydraulic Engineering	Steve Paul & Partners
		Maunsell AECOM
		URS
		Worley Parsons
12.	Electrical Engineering	Maunsell AECOM
		URS
		GHD
13.	Mechanical Engineering	Maunsell AECOM
		dsa (\$5000-\$50000)
		URS
		Worley Parsons
14.	Environmental Engineering	URS
		MHW
		Heggies
		OPUS
		Worley Parsons
		GHD
15.	Geotechnical Engineering	URS
		Worley Parsons
		GHD
		ARUP PTY LTD
		WML CONSULTANTS
16.	Transport & Urban Planning	ARUP PTY LTD

Several tenderers also failed to supply financial position statements for confidentiality reasons, but indicated that provided they were successful they would be forthcoming with the required information. Again these companies will be required to provide financial details prior to commencing any consulting services to the Shire.

Tender analysis results are attached.

## **CONSULTATION**

Staff involved in the supervision of supply/service have provided input for the preparation of tender documentation for this service contract.

## **STATUTORY ENVIRONMENT**

Section 3.57 of the Local Government Act 1995 requires "*A local government... to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services*".

Part 4 (Tenders) of the Local Government (Functions and General 1996) Regulation require that tenders be publicly invited for such contracts where the estimated cost of providing the total service exceeds \$100,000.

## **POLICY IMPLICATIONS**

The Tender Documents included details of the Council Regional Price Preference Policy (Policy No. 049/1). Application of the Regional Price Preference Policy has been considered for this Tender and is considered applicable to the forty three (43) Tenderers with their offices located within the Shire of Busselton. Those tenderers to whom the Regional Price Preference Policy applies have been identified in the tender analysis.

## **FINANCIAL IMPLICATIONS**

There are no financial implications in respect to Council accepting a tender(s) as the costs of the services are adequately provided for in the estimated cost of the works and maintenance programmes for the Year 2009/2010. For any following year(s), it is assumed that similar budgetary processes will apply.

The pricing structure for the contract is based on a Day –Works rate made up of:

- \* Percentage Fee per Project; and
- \* Schedule of Hourly Rates plus disbursements.

Details of the pricing are contained within the confidential attachments.

With respect to price adjustments over the term of the contract the Fixed Percentage Project Fee will remain fixed for the first two years of the Contract Period, after which time the Principal and Contractor will review the rates. The Schedule of Hourly rates will be increased once in each year of the Contract Period by any percentage increase in the CPI for the quarter which occurs after completing one year of the contract as compared to the equivalent quarter in the previous calendar year.

## STRATEGIC IMPLICATIONS

Council's acceptance of this Panel Contract is in keeping with the Strategic Focus of Built and Physical (Infrastructure) Wellbeing. It will help to develop and maintain the Shire's assets and built environment to maximize public benefit now and into the future.

## OFFICER COMMENT

The tender was assessed on the average of the functionality, compliance and price weighted cost method. This method is used where functional considerations such as experience, capacity, quality, resources and adaptability are seen to be crucial to the outcome of the contract and weighted out of hundred (100).

The price tendered was also scored out of hundred (100) by using the lowest price scored and comparing it to the price tendered as a fraction.

The overall score is based on the average of the functionality points scored and the points scored in terms of price.

In this case the specialist nature of the work to be carried out, the use of the combination of functionality and price as a yardstick is critical to the selection of the consultant.

The contract still allows the Shire to determine cost implications for each consultant on a project by project basis.

## OFFICER RECOMMENDATION

1. That the Council adopt the Panel Consultants ranked as shown below for each of the identified consulting disciplines based on project specific items where the cost of the project can be quantified, and
2. That the Council adopt the entire list of Consultants that submitted "Schedule of Rates" for projects that are not project specific (i.e. projects that can not be quantified due their nature).

No	CONSULTANCY SERVICE	COMPANY NAME	RANKING
1.	Architecture	Bateman Grundmann Architects	1
		James Christou + Partners	2
		DnA Architects	3
		Holton Connor	4
2.	Landscape Architecture	Gresley Abas	1
3.	Project Management	Shawmac	1
		Zacor Design Pty Ltd	2
		Worley Parsons	3
4.	Drafting	Berkman International Pty Ltd Australia	1
		Shawmac	2

5.	<b>Civil Engineering</b>	E-Tec Consultants	1
		Zacor Design Pty Ltd	
		Ascent Engineering	
6.	<b>Engineering Management Support</b>	Shawmac	1
		Worley Parsons	2
7.	<b>Structural Engineering</b>	Berkman International Pty Ltd Australia	1
		ARUP PTY LTD	2
8.	<b>Surveying General</b>	Asphar Survey Pty Ltd	1
9.	<b>Surveying Licensed</b>	Asphar Survey Pty Ltd	1
10.	<b>Coastal Engineering</b>	Zacor Design Pty Ltd	1
11.	<b>Hydraulic Engineering</b>	Steve Paul & Partners	1
		Worley Parsons	2
		Maunsell AECOM	3
		URS	4
12.	<b>Electrical Engineering</b>	Maunsell AECOM	1
		URS	2
13.	<b>Mechanical Engineering</b>	dsa (\$5000-\$50000)	1
		Worley Parsons	2
		Maunsell AECOM	3
		URS	4
14.	<b>Environmental Engineering</b>	MHW	1
		OPUS	2
		Worley Parsons	3
15.	<b>Geotechnical Engineering</b>	WML CONSULTANTS	1
		URS	2
16.	<b>Transport &amp; Urban Planning</b>	ARUP PTY LTD	1

## 16. COMMUNITY AND ORGANISATIONAL DEVELOPMENT REPORT

### 16.1 SMALL LOCAL PROJECTS FUND 2008/09 - NOS. 23 - 26

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

*Note: Councillor Emery has advised that as a member of the Busselton Dunsborough Environment Centre, she has an Interest Affecting Impartiality in this matter.*

### PRÉCIS

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

No	Councillor Making Request	Amount	Recipient	Purpose for which funds will be used
23	Cr Emery	\$258	Busselton Dunsborough Environment Centre	Purchase of replacement printer and cartridges
24	Cr Clarke	\$200	Art Group of Novacare Village	To supply painting materials (eg paint, easels, paper, brushes) for use by the residents.
25	Cr Hartley	\$500	"Give Me Five for Kids" program	Assist to fund services provided outside Princess Margaret Hospital's normal budget, specifically designated to assist non-metropolitan families in need
26	Cr Hartley	\$360	Busselton Community Garden	Assist to fund provision of a bore water filtration system so that it can be effectively used for irrigation purposes.

### 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. (NB: Any allocations made at the Council Meeting on 27 May 2009 are not included).

<b>Councillor</b>	<b>Amount Available</b> <b>\$</b>
Cr Hartley	860.00
Cr Hastie	16.00
Cr Binks	Nil
Cr Stubbs	400.00
Cr Bromell	Nil
Cr Ryan	Nil
Cr Tuffin	16.65
Cr Emery	850.00
Cr Masters	Nil
Cr Underdown	950.00
Cr Clarke	420.00
Cr Hanran-Smith	180.00
Cr Reid	Nil
<b>TOTAL FUNDS REMAINING</b>	<b>3692.65</b>

There are sufficient funds available within the portions allocated in the 2008/09 financial year for recommendation for disbursement by Crs Emery, Clarke and Hartley.

### **STRATEGIC IMPLICATIONS**

Nil

### **OFFICER COMMENT**

Nil

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

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

### **OFFICER RECOMMENDATION**

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

<b>No</b>	<b>Councillor Making Request</b>	<b>Amount</b>	<b>Recipient</b>	<b>Purpose for which funds will be used</b>
23	Cr Emery	\$258	Busselton Dunsborough Environment Centre	Purchase of replacement printer and cartridges
24	Cr Clarke	\$200	Art Group of Novacare Village	To supply painting materials (eg paint, easels, paper, brushes) for use by the residents.
25	Cr Hartley	\$500	"Give Me Five for Kids" program	Assist to fund services provided outside Princess Margaret Hospital's normal budget, specifically designated to assist non-metropolitan families in need
26	Cr Hartley	\$360	Busselton Community Garden	Assist to fund provision of a bore water filtration system so that it can be effectively used for irrigation purposes.

16.2 SHIRE PROPERTY LOCAL LAW - EXTENSION OF OPERATION OF LAW OUTSIDE OF DISTRICT

<b>SUBJECT INDEX:</b>	Local Laws
<b>STRATEGIC INITIATIVE:</b>	5.1.3 Ensure regulatory requirements are met
<b>BUSINESS UNIT:</b>	Legal
<b>SERVICE:</b>	Legal Services
<b>DATE OF COMPLETION:</b>	24 July 2009
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENT(S):</b>	Nil

### **PRÉCIS**

The Council has previously resolved to commence the law-making process in relation to the proposed Shire of Busselton Local Government Property Local Law "Shire Property Local Law".

The purpose of this report is for the Council to consider whether to request the Governor's approval under section 3.6(1) of the Local Government Act 1995 to extend the application of the proposed local law beyond the boundaries of the Shire of Busselton. It is recommended that the Council request the Governor to permit the making of a local law that applies outside the district into the Indian Ocean to a distance of 200 metres seawards from the high water mark.

### **BACKGROUND**

On 22 April 2009 the Council resolved, inter alia, to commence the law-making process in relation to the Shire Property Local Law. It was drafted such that the local law will apply to areas for which the Governor's approval has been obtained. The Shire is now seeking the consent of the Council to request the Governor's approval for the proposed local law to extend 200 metres seawards from the high water mark.

Although unclear from historical records obtained from the Government Gazette, it is considered that the Shire's boundaries extend only to the high water mark, with the exception of the Busselton Jetty which is included within the boundaries of the Shire. Under the previous Local Government Act 1960 similar applications to the Governor have been made to extend the application of local laws seaward and beyond the boundaries of the Shire of Busselton.

### **CONSULTATION**

The proposed Shire Property Local Law is currently being advertised publicly for a minimum of 6 weeks in accordance with the requirements of section 3.12(3)(a) of the *Local Government Act 1995* ("LGA").

The request to the Governor will not be subject to any consultation procedures, however the Local Law being advertised includes a reference to the law applying to areas for which the Governor's approval has been obtained.

## **STATUTORY ENVIRONMENT**

The procedure for making local laws is set out in Section 3.12 of the LGA and regulation 3 of the *Local Government (Functions and General) Regulations 1996*. The local law is being advertised in accordance with Section 3.12(3) of the LGA.

The ability to make a local law outside of the district of the Shire arises from section 3.6 (1) of the LGA.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

One of the Shire's strategic objectives is "to manage the business of the Shire in a responsible and accountable manner utilising organisational sustainability principles". To achieve this, the Shire has a strategic initiative to "ensure regulatory requirements are met". The Shire is required under the Local Government Act 1995 to review its local laws every 8 years.

## **OFFICER COMMENT**

In drafting the proposed Shire Property Local Law it was anticipated that the law would apply beyond the high water mark of the ocean. The application to the Governor is necessary to achieve this application of the local law.

Many other local governments have made similar applications to the Governor to make their local laws apply outside of their district and the Department of Local Government advise that 200 metres is the standard application to the Governor. The Shire contains a number of popular beaches in its district and the extended application is necessary to regulate activities below the high water mark. For example, without the Governor's approval, cars driving below the high water mark at low tide would not be subject to the provisions of the local law relating to driving on reserves, animals in the shallows of the beach would not be subject to the provisions of the local law relating to animals on local government property, and the provisions relating to beaches and the ability to enforce those provisions where people were below the high water mark would not apply.

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

A formal application will be made within four weeks of the Council decision.

**OFFICER RECOMMENDATION**

That the Council require the CEO to seek the Governor's approval under section 3.6(1) of the Local Government Act 1995 to extend the application of the proposed local law beyond the boundaries of the Shire of Busselton into the Indian Ocean to a distance of 200 metres seawards from the high water mark.

**16.3 ESTABLISHMENT OF BUSSELTON FORESHORE WORKING GROUP**

<b>SUBJECT INDEX:</b>	Busselton Jetty Rebuild and Foreshore Revitalisation
<b>STRATEGIC INITIATIVE:</b>	3.2.4 Build partnerships to promote and help fund our environmental and other assets to attract national and international tourism.
<b>BUSINESS UNIT:</b>	Economic Development
<b>SERVICE:</b>	Major community projects
<b>DATE OF COMPLETION:</b>	30 June 2010
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENT(S):</b>	<ol style="list-style-type: none"><li>1. Correspondence from South West Development Commission</li><li>2. Busselton Foreshore Working Group Terms of Reference</li><li>3. Community Foreshore Reference Group Discussion Paper</li><li>4. Valuation Lots 43 and 44 Queen Street Busselton (CONFIDENTIAL)</li></ol>

*This report is provided to the Council accompanied by a declaration in accordance with Section 5.70(2) of the Local Government Act 1995, that one of the Officers providing input into the report (Paul Martin) owns a residential property in the CBD. This property is his place of residence.*

**PRÉCIS**

This report seeks the Council's endorsement of the terms of reference for the proposed Busselton Foreshore Working Group. The proposed Busselton Foreshore Working Group and its terms of reference are the result of negotiations with the State Government addressing issues raised by Councillors about the Busselton Foreshore Steering Committee.

It is proposed that the Busselton Foreshore Working Group, in consultation with the community and stakeholders, will prepare a staged plan for the redevelopment of the Busselton foreshore. It is recommended that the working group is established by and will report to the Shire of Busselton.

It is also recommended that the Council request the State Government to gift Lots 43 and 44 Queen Street, Busselton, to the Shire in fee simple to assist with implementing this plan.

**BACKGROUND**

In the lead up to the State Election in 2008 the Member for Vasse committed, in part, to:

- \* Ensure the Busselton foreshore was subject to a major upgrade and modernisation. This upgrade would be a community driven planning process that would see the (then) current Landcorp plans for the Busselton foreshore subject to review.
- \* Provide four additional leasehold footprints in the foreshore precinct that would, under the control of the Shire of Busselton be available for lease by the shire to provide an ongoing cash flow to support the maintenance of the jetty.

In December 2008, the Member for Vasse wrote to the Shire outlining his proposal to create the Busselton Foreshore Steering Committee. The committee was designed to address the first election commitment outlined above. This proposed committee and its associated terms of reference were considered by the Council at its meeting on 25 February 2009, where it resolved (C0902/066) the following:

*That consideration of this matter be deferred until the Shire has resolved with the Member for Vasse, a range of issues raised by Councillors.*

Subsequent to this resolution, Councillors were asked to provide a list of the issues they wanted addressed in accordance with the above decision. The following is the list:

1. Define the southern boundary of the Committee's jurisdiction.
2. Define the actual meaning of "cost neutral"
3. Generally tighten up other the wording of the Terms of Reference
4. If the Committee was to be enlarged consider adding a representative from Busselton and Districts Residents Association and Busselton Jetty Environment and Conservation Association.
5. Correction of grammatical errors in Terms of Reference.
6. Definition of the beachfront/foreshore area that is to be subject to the Committee's deliberations.
7. Obtain a clear understanding of uncertain phrases within the Terms of Reference, including but not limited to "cost neutral funding model" and "certain scale commercial development"
8. Membership of the Committee could include a representative nominated by the Busselton Shire Council and a representative nominated by the Busselton Chamber of Commerce and Industry.
9. The Council should have more say in the members of the steering committee.
10. The group shall elect their own chairperson.

11. The Council member should be elected by the Council and report back to the Council.
12. The Committee include a representative from the Busselton Chamber of Commerce.
13. Explain term "cost neutral"

These issues were communicated to the Member for Vasse, the South West Development Commission and the Chair of the proposed Busselton Foreshore Steering Committee. Negotiations have taken place to address these issues, the outcomes of which are outlined later in this report.

### **CONSULTATION**

In preparing this item, extensive consultation has occurred with the South West Development Commission as the lead agency for the State Government for this project.

Consultation has also occurred with the Community Foreshore Reference Group and it has prepared a Discussion Paper regarding the Busselton foreshore (Attachment 3). The proposed Busselton Foreshore Working Group could be seen as an amalgamation of the Busselton Foreshore Steering Committee proposed by the Member for Vasse and the Community Foreshore Reference Group.

The Busselton Foreshore Working Group will be required to design and implement a consultation program to gain the community and stakeholder views into the future development of the Busselton foreshore.

### **STATUTORY ENVIRONMENT**

Any development on the foreshore would be subject to the standard statutory approval processes.

If the Shire expects to receive more than \$1 million from the disposal of Lots 43 and 44 Queen Street, Busselton, a business plan in accordance with Section 3.9 of the Local Government Act 1995 will be required to be produced prior to disposal.

It is proposed to refer to the new group as Busselton Foreshore Working Group rather than Busselton Foreshore Steering Committee to avoid any confusion in respect to formation of a committee of the Council in accordance with Section 5.8 of the Local Government Act 1995.

### **POLICY IMPLICATIONS**

Nil.

## FINANCIAL IMPLICATIONS

The Council has previously resolved to allocate \$50,000 towards consultation on the redevelopment of the Busselton Foreshore from the Strategic Projects Reserve. These funds are allocated in the 2009/2010 draft financial year budget. The South West Development Commission has recently committed to also contribute \$50,000 towards this process. These funds will be administered by the Shire.

A valuation has been obtained for Lots 43 and 44 Queen Street, Busselton. This valuation is confidential so it has been provided to Councillors as a confidential attachment (Attachment 4). It is proposed that the Council request these lots be provided to the Shire in fee simple which can then be disposed of and the proceeds used to implement the plan when developed.

The Busselton Foreshore Working Group may develop a plan which costs more to implement than the proceeds from the sale of Lots 43 and 44 Queen Street. If this is the case, these funds will need to be found from other sources such as grant funding or a Shire contribution.

## STRATEGIC IMPLICATIONS

One of the Shire's strategic initiatives is to:

*Build partnerships to promote and help fund our environmental and other assets to attract national and international tourism.*

## OFFICER COMMENT

Attached (Attachment 1) is correspondence from the South West Development Commission summarising the negotiations between the Shire and the State to resolve the issues raised by Councillors. The following table summarises the changes which are proposed to the previous Busselton Foreshore Steering Committee for the Council's consideration:

Issues to resolve	How being addressed
Clarity in terms of reference	The terms of have been changed to provide greater clarity in respect to the role and tasks of the proposed working group. Grammatical errors have also been corrected.
Geographic boundary	In the revised terms of reference the southern boundary is defined as Marine Terrace. The eastern and western boundaries remain as before.
Define the term Cost Neutral	Cost neutral means no net cost to the State or the Shire. A cost neutral development is not supported by the State. In exchange for a cost neutral development and to honour the election commitment made by the Member for Vasse it is recommended the Shire request the State to provide Lots 43 and 44 Queen Street,

	Busselton, to the Shire in fee simple title. The proceeds from these lots would be directed to the foreshore redevelopment.
Membership	<p>It is proposed to increase the size of the committee proposed by the Member for Vasse to include representation from:</p> <ul style="list-style-type: none"> <li>* One BJECA representative</li> <li>* One BADRA representative</li> <li>* One Busselton Chamber of Commerce representative</li> <li>* One Councillor of the Shire of Busselton</li> <li>* The CEO South West Development Commission</li> <li>* The CEO of the Shire of Busselton or his representative.</li> </ul> <p>This expanded membership will ensure that all key stakeholders in the foreshore have representation on the working group. Landcorp is to be removed from the group as they are no longer involved in the project.</p>
Reporting	The group will be established by and report to the Shire of Busselton.

The changes proposed above address the issues raised by Councillors and have been reflected in the Terms of Reference for the proposed Busselton Foreshore Working Group (Attachment 2). These terms of reference provide greater clarity on the previous Busselton Foreshore Steering Committee but retain that group's intended role.

These terms of reference will enable the proposed Busselton Foreshore Working Group to develop a staged plan for the foreshore redevelopment with input from stakeholders and the community. Stage 1 of the plan can be implemented with the proceeds from the disposal of Lots 43 and 44 Queen Street, Busselton. This sees the honouring of one of the Member for Vasse's election commitments as outlined earlier in the report.

The final election commitment in respect to the Busselton Jetty Rebuild and Foreshore Revitalisation to be honoured is the creation of an additional four serviced ground leases to sustain the Jetty Maintenance Fund. Officers are currently repopulating the maintenance plan with costings based upon unit costs received in recent the Jetty tender. It is proposed once this occurs, a new financial model be developed by AMD Chartered Accounts which will identify what (if any) shortfall exists between the annual contribution from BJECA of \$650,000 pa together with the income from the foreshore leases of Nautical Lady, Goose and the Equinox. It is recommended that once this occurs, a report be presented to the Council identifying how any shortfall might be addressed. The Council can then determine what (if any) request it will make of the State to honour this election commitment.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The Foreshore Working Group would commence as soon as practicable. It is recommended that the Working Group have 12 months from its establishment to consult with the community and prepare a plan in accordance with their terms of reference.

**OFFICER RECOMMENDATION**

1. That the Council establishes the Busselton Foreshore Working Group with the terms of reference and membership as outlined at Agenda Attachment 2.
2. That the Busselton Chamber of Commerce, Busselton and District Residents Association and Busselton Jetty Environment and Conservation Association be invited to nominate a member to the Busselton Foreshore Working Group.
3. That Cr \_\_\_\_\_ be appointed to the Busselton Foreshore Working Group.
4. That the CEO provide a report of the Busselton Foreshore Working Group's outcomes to the Council at key milestones or in any event no later than January 2010.
5. That the CEO write to the Member for Vasse and the South West Development Commission requesting the Shire be gifted Lots 43 and 44 Queen Street, Busselton, to offset some of the costs of the potential foreshore redevelopment addressing, in part, the election commitment made by the Member for Vasse in the lead up to the last election.
6. That the CEO prepare a financial model for the revised Busselton Jetty Maintenance Plan and provide a report to the Council by December 2009, in relation to the Jetty Maintenance Fund.

16.4 CAPES REGIONAL ECONOMIC DEVELOPMENT STRATEGY - CORPORATE PLAN  
TIMELINE AMENDMENT

<b>SUBJECT INDEX:</b>	ECONOMIC DEVELOPMENT
<b>STRATEGIC INITIATIVE:</b>	3.1 ORG KPI - Finalise Regional Economic Development Strategy
<b>BUSINESS UNIT:</b>	Economic Development
<b>SERVICE:</b>	Economic Development Strategy
<b>DATE OF COMPLETION:</b>	30 <sup>th</sup> June 2009
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENT(S):</b>	<ol style="list-style-type: none"><li>1. Working Paper 1 – Regional Economic Profile (Progress Report)</li><li>2. Working Paper 2 – Vision, Focus Areas and Growth Projections (Progress Report)</li><li>3. Terms of Reference</li></ol>

### **PRÉCIS**

This report requests that the Council note the level of completion of the Capes Regional Economic Development Strategy and agree to a revised date to deliver the final report to the Council.

Significant work has been undertaken in the development of this strategy as can be seen in the documents attached to this report. However because of non completion of the project within agreed timeframes the Steering Group has recommended to the Shire of Augusta Margaret River (the Contract Principal) that the contract with the consultants be terminated.

The Consultants have agreed that should the issues surrounding the completion of the contract not be met that they would agree to a mutual termination of the contract. The Shire of Augusta Margaret River are currently negotiating the terms of termination of the contract with the Consultants.

This strategy forms part of the Corporate Plan 2008/9 – 2011/12 Action 3.1.3.1 to be undertaken between 01/06/2007 and 30/06/2009 to “Finalise Regional Economic Development Strategy”. The strategy was to be developed in partnership and jointly funded with the Shire of Augusta Margaret River.

Quotes have been obtained to complete the Strategy by other consultants and implement the development and clusters program. However, Officers are advising that this Corporate Plan action cannot be achieved within the timeframe outlined and are therefore requesting an extension till 31 August 2009.

### **BACKGROUND**

On 31 January 2007 the Council endorsed (C0701/018) the Terms of Reference (see Attachment 3) for the Capes Regional Economic Development Strategy (the Strategy). The Council also authorised the Shire President and the Chief Executive Officer (CEO) to sign the Memorandum of Understanding (MOU) with the Augusta Margaret River Shire Council (AMRSC) for the project.

A Steering Group was set up with two members from both Shires to manage the process of selecting and recommending the consultant, manage the project and act as a reference group to the consultant.

Members of the Chambers of Commerce, State and Federal government agencies and industry representatives made up the Reference Group along with an elected member from each Shire who acted as a Reference Group to both the Steering Group and the Consultant.

In accordance with the tendering process of the *Local Government (Functions and General) Regulations 1996* and the conditions of the MOU, the Steering Group recommended the selection of a Consultant (ACIL Tasman) to the Shire of Augusta Margaret River who was then appointed by their Council. The project commenced on the 7<sup>th</sup> June 2007 with an inception meeting.

### **CONSULTATION**

Although incomplete, the Strategy has been developed in consultation with a broad range of stakeholders – business, residents, education and training providers, community service providers, Shire staff, Councillors and State Government.

The process has included:

- \* Establishment of a Reference Group
- \* Workshops to determine the specific clusters to be developed
- \* Industry surveys and a business confidence survey
- \* Public forums and individual consultation interviews with key stakeholders and industry representatives

### **STATUTORY ENVIRONMENT**

The Augusta Margaret River Shire Council advertised a Request For Tender RFT 02/07 for the Strategy. The tender submitted by ACIL Tasman dated 24<sup>th</sup> April 2007 for the amount of \$149,853.00 was accepted by the Council of the Shire of Augusta Margaret River.

The clauses of the contract between the Shire of Augusta Margaret River and ACIL Tasman which are the basis for termination are "Termination Other than Due to Default" and "Frustration".

### **POLICY IMPLICATIONS**

The Strategy will contribute to the Shire's planning policies particularly in the formation of a new Town Planning Scheme.

## **FINANCIAL IMPLICATIONS**

The Capes Regional Economic Development Strategy was jointly funded by the Shires of Augusta-Margaret River and Busselton with each Shire agreeing to contribute \$75,000.

The AMRSC holds the balance of funds of \$62,790.42 (50% each from the Shires of Augusta Margaret River and Busselton). The AMRSC are negotiating with ACIL Tasman on the final payment for agreed completion of works.

This balance of funds will be directed to the consultants to be engaged to complete the project.

To date the Shire of Busselton has contributed \$63,662 to the Shire of Augusta Margaret River for this project. In attempting to ensure achievement of the Corporate Plan timeframe Officers engaged AEC Group (the company the Steering Group wishes to finalise the project) to review the documentation produced to date.

## **STRATEGIC IMPLICATIONS**

The aim of this strategy is to strengthen and grow business and attract new business and investment into the region

The Strategy achieves the Shire's Strategic Objectives identified in the 2006-2011 Strategic Plan that states that:

*"To promote an environment that supports and encourages business that contributes to the community and is in keeping with the environmental and cultural aspirations of the region";*

*"Facilitate and support the broadening industry base that focuses on knowledge interchange and education building a smart industry base";*

*"Establish partnerships with key agencies to build economic development";*

*"Build partnerships to promote and help fund our environmental and other assets to attract national and international tourism";*

*"Ensure development of the Shire recognises the unique character of the region and successfully balances".*

## **OFFICER COMMENT**

The purpose of the Strategy is to foster the creation of sustained levels of jobs growth and economic development in the region. The Terms of Reference (see Attachment 3) for the Strategy identified five broad stages in the scope of works including:

1. The production of a regional profile

2. The development of vision and focus areas for sustainable development of the region
3. An identification of priority clusters by means of a cluster mapping technique
4. The development of industry plans for agreed industry sectors
5. To facilitate the integration of the strategies into each local government authority

The current situation of the Strategy is outlined in the table below:

Reports	Stage of completion	Future actions
Regional economic profile (working paper 1)	Near completion	Review final draft and report to the Consultant to deliver Final Working Paper
Vision and focus areas (working paper 2)	Near Completion	Review final draft and report to the Consultant to deliver Final Working Paper
Industry plans (working paper 3)	In progress	Review the level of completion by the Consultant for completion
Clusters	Some initial work has been done on two industries	Work with the Consultant to produce cluster plans for remaining industries
Local Government Action plans	Outline draft only	Develop Action Plans and work with the Consultant to facilitate the integration of the strategies into each local government authority.

The project was to commence in May 2007 with stage one. Further stages were to be implemented through to December 2007 with a final meeting in February 2008. ACIL Tasman indicated in their tender that the project was planned for completion in 20 weeks.

Initially a potential conflict of interest with a member of the consultant's project team caused ACIL Tasman to change the project team at the request of the Steering Group. This delay allowed the inclusion of the newly released 2006 Census data which allowed for the calculations to be incorporated into the Regional Economic Profile.

As a result of the adjustment in the project team, the Steering Group agreed to a new timeframe of 20 weeks to be completed by 24<sup>th</sup> July 2008. This new timeline included a schedule of delivery dates for key milestones of the project.

The initial working papers and the business confidence survey were not completed in accordance with the schedule. At the Steering Group meeting on the 10<sup>th</sup> July it was agreed to establish a new timeline for the completion of the project to be due by 10<sup>th</sup> October 2008.

The Steering Group met with the Consultant on 15<sup>th</sup> August 2008 to discuss the activities and the timing of the deliverables to complete the project as per the schedule. At this stage the Regional Economic Profile and Vision Focus Areas were claimed to be complete (with some figures needing to be checked). The remaining plans were discussed and another timetable and process for delivery was tabled.

The draft Strategy was presented to the Reference Group on 28 August 2008 and comments were noted by the Consultant. The draft document was agreed to be prepared to a substantial level by early November 2008.

In October 2008 the Consultants agreed that progress had been slow and again timelines were extended with the final Strategy aiming to be completed in November 2008. Officers expressed disappointment that set milestones were being pushed back with very little feedback being given as to the reasons why.

The Steering Group met again on the 6<sup>th</sup> November 2008 as the Consultants had not delivered on the agreed timelines and there was some concern about the completion of the project in accordance with the agreed schedule.

In an attempt to finalise the strategy as soon as possible the Steering Group invited the Consultants to a workshop session in Busselton on the 1<sup>st</sup> and 2<sup>nd</sup> December 2008. At this two day session the Steering Group worked through the draft working papers with the consultants and discussed and agreed upon actions required to complete the project.

During December 2008 and January 2009, the Consultants apologised for staff changes and interruptions that affected the progress of the project. The Shire was advised that little progress was being made due to the Consultant's staff being away on sick leave or moving house. A key staff member was terminated at the end of January and the Executive Director advised that he would be personally completing the documents in progress. In mid February 2009 the Executive Director assured Officers of his high awareness of their poor delivery performance on the project.

As little progress had been made on the documents by 3<sup>rd</sup> March 2009, the Consultants were advised by email that the Steering Group were disappointed in the delays and would begin discussions regarding a termination of the contract. The Steering Group held a teleconference with the CEO of ACIL Tasman to explain the situation. They agreed to allocate additional personnel resources for completion of the project and for mutual termination if the issues could not be resolved.

A draft of Working Paper three was received on 24 April 2009 however this is incomplete. As the Industry Plans are only 50% completed, and the remaining portion of the contract being the Clusters and Implementation Program are incomplete or not started, the Steering Group resolved to request a termination of the contract.

On the 29 April 2009 the Steering Group agreed that an overall 60% of the contract had been completed in line with the required outcomes of both Shires, as per the table below.

Working Paper	Item	Total price	Total price	Progress Payment	Progress
		(excl GST)	(incl GST)	(incl GST)	Percentage
	Project Management & Disbursements	\$ 8,945	\$ 9,839	\$ 9,839	100%
1	Regional Profile	\$ 40,738	\$ 44,811	\$ 35,849	80%
2	Vision and Focus Areas	\$ 20,288	\$ 22,316	\$ 20,085	90%
3	Industry Plans	\$ 18,680	\$ 20,697	\$ 10,348	50%
4	Action Plan	\$ 28,630	\$ 31,493	\$ 7,873	25%
5	Cluster Plans	\$ 18,680	\$ 20,697	\$ 5,174	25%
	<b>Total</b>	<b>\$ 135,961</b>	<b>\$ 149,853</b>	<b>\$ 89,168</b>	<b>60%</b>

A formal letter requesting mutual termination of the contract was forwarded to the Consultants by the Shire of Augusta Margaret River on the 6<sup>th</sup> May 2009. The Consultants have responded with a counter proposal claiming more work has been undertaken than the Steering Group believe is the case. This matter is currently being negotiated.

The Steering Group further agreed that to complete the Strategy an experienced consultant would need to be engaged. Quotes were called to complete the contract to be kept in line with the remaining budget. The quotes were assessed and the Steering Group has recommended to the Shire of Augusta Margaret River that the AEC Group be appointed to finalise the Strategy. The timeframe proposed by the AEC Group will see the Strategy finalised and presented to the Council for consideration by 30 September 2009.

AEC Group recognises the significant amount of time and energy that has contributed to the development of the current documentation and has confirmed that the information supplied will be useful in the completion of the Strategy.

Considerable effort has been allocated to this project by officers from both Shires in an endeavour to have the Strategy finalised in the given time; ie by 30 June 2009. However despite continuous requests by Officers to meet deadlines, these have not been met.

Officers have been pro-active in determining a way forward and are requesting that the Council approve an extension of two months to allow for the termination of the existing contract and to engage a Consultant to complete the project.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The AEC Group has provided a detailed methodology to complete the project and supply draft documents to the Steering Group for review by 30 July 2009.

Officers expect a report will be presented to the Council for the entire Strategy by 30 September 2009.

**OFFICER RECOMMENDATION**

1. That the Council note the level of completion of the Capes Regional Economic Development and receive the draft reports of the:
  - (a) Regional Economic Profile ; and
  - (b) Vision, Focus areas and Growth Projections.
2. That the CEO present the final Capes Regional Economic Development Strategy to the Council when completed.

**16.5 BUSSELTON PISTOL CLUB - AMBERGATE HALL, RESERVE 28419**

<b>SUBJECT INDEX:</b>	Agreements / Contracts Buildings – Maintenance & Minor Works / Repairs
<b>STRATEGIC INITIATIVE:</b>	2.1.2 Manage and maintain the Shire's assets for the amenity of the community
<b>BUSINESS UNIT:</b>	Property Services
<b>SERVICE:</b>	Community Development and Property Management
<b>DATE OF COMPLETION:</b>	8 July 2009
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENT(S):</b>	1. Aerial Photograph 2. Structural Report – Ambergate Hall

**PRÉCIS**

The Busselton Pistol Club's (BPC) occupation under a lease agreement of Reserve 28419, Queen Elizabeth Avenue, Ambergate, and the Club's operations has been subject of several Council reports over the past five years.

The Shire's lease with the BPC expired in February 2009 and the Club has remained in occupation on a temporary month to month basis since that date with the Council resolving not to grant the club a further lease of the site.

This report details to the Council the matters relevant to the BPC's vacation of the leased site and makes recommendations in respect to the future of the reserve and the Ambergate Hall.

**BACKGROUND**

The Busselton Pistol Club has enjoyed occupation of Reserve 28419 under lease arrangements with the Shire of Busselton since 1975. The most recent lease expired on 23 February 2009.

In December 2001, a report in relation to the Pistol Club lease and noise complaints associated with the Pistol Club's activities was presented to Council. At that meeting, the Council resolved (C0112/579) in part, to issue a breach notice against the BPC due to noise emissions from the premises and advise the Club that the Council considered that the continued use of the premises would become untenable due to the future encroachment of residential areas and therefore the Club's co-operation with the Shire in seeking an alternative site was sought.

In 2002 / 2003 the Shire in co-operation with the BPC investigated measures to reduce the noise impacts of the Pistol Club activities as well as seek potential sites for relocation of the Club. Following a report from Police firearms experts concluding that the BPC range did not meet regulatory requirements, a formal Notice was imposed on the Pistol Club on 27 May 2004, closing the outdoor firing range and preventing any discharge of firearms.

Over the following years the BPC attempted to redesign their outdoor firing ranges to comply with the Firearms regulations; while considering any alternative sites suggested by Shire staff.

In October 2007, with the lease term nearing expiry, the Council resolved (C0710/249);

1. *That the Busselton Pistol Club be advised that a new lease of Reserve 28419 will not be granted following the expiration of the current term.*
2. *That the CEO provide the Busselton Pistol Club with assistance in respect to possible relocation sites.*
3. *That prior to the expiration of the Pistol Clubs lease over Reserve 28419, a structural report be undertaken on the hall building to ascertain its viability for renovation and community use.*
4. *That the CEO advise the Pistol Club that while any application made for facilities on the site consistent with its lease will be considered on its merits, there are a number of land use constraints to the use of the site for the lease purposes that would make compliance with necessary standards difficult and on that basis, it is encouraged to work with the Shire and other interested parties on selection and establishment of a new Pistol Club site.*
5. *That Council resolve to request the CEO as a matter of urgency to consult with, but not be restricted to, the Shires of Capel, Augusta-Margaret River and Nannup, to ascertain if a suitable site can be located for a regional pistol club facility, shared by those within the region, so as to facilitate the relocation of the Busselton Pistol Club prior to the expiry of their existing lease and for Staff to report back to Council on their findings.*

Further to this resolution, the Club was advised that a new lease would not be granted and efforts again focused on relocation. In October 2007, a letter was sent to all the surrounding Shires and the Department of Sport and Recreation (South West). This letter requested the feasibility of either the BPC merging with an existing regional pistol club or the existence of land that could be developed into a facility. Unfortunately no Shire could accommodate this request. However, over the years several sites have been considered by the Shire with two prominent in consideration. This matter will be addressed in a future report to the Council should an application to lease another site be submitted by the BPC.

Recently, in readiness for the BPC's vacation of the site, an inspection was undertaken of the leased area including the hall premises. The condition of the land and buildings raised several concerns in respect to hygiene, maintenance and repairs, debris and safety.

A Structural Report on the hall, additions and outbuildings as per Part 3 of the aforementioned resolution (excluding firing ranges) was undertaken in April and is included as Attachment 2 to the report.

Additionally, Reserve 28419 was assessed in 2007 as a potentially contaminated site under the Contaminated Sites Act 2003 due to the likelihood of lead contamination in the soil as a result of the use of the land under the lease.

### **CONSULTATION**

The BPC has been consulted on many occasions in respect to relocation and more recently over vacating and reinstating the current site.

A qualified building engineer was contracted to professionally assess the structural integrity of the Ambergate Hall and the additions and outbuildings.

### **STATUTORY ENVIRONMENT**

Section 11 of the Contaminated Sites Act 2003 requires the owner or occupier of a known or suspected contaminated site to report that site to the DEC.

Under the Land Administration Act 1997, Reserve 28419 was placed under the control of the Shire of Busselton under a Vesting Order on 20 November 1973.

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

The Ambergate Hall and associated toilet block have a combined insured replacement value of \$572,000 (as effective from 1 July 2009). A recent structural integrity report suggested that to refurbish the hall and toilet block, and bring into line with Building Code standards, would either exceed or be near to the cost to construct new buildings. At this point quotes for demolition, refurbishment or the cost of building a replacement hall have not been sought until further requirements for a hall in this location and its community usage can be established. However, the Officer Recommendation will require funding for the safe closure of the hall and then once established either refurbishment or demolition and possible renewal of facilities on this site.

Funds are available in the 08/09 FY for assessment of the degree of contamination on the reserve. No funding has been allocated to the 09/10 FY for remediation works, pending the outcome of the assessment and determination of whether remedial works are required.

### **STRATEGIC IMPLICATIONS**

Reserve 28419 is adjacent to an area identified in the *Busselton Urban Growth Strategy* as 'Long-Term Urban Development (15+ years)'. The recommendations of that strategy will be further considered as part of the development of the Local Settlement Planning Strategy for the Shire and as part of subsequent planning processes. As such, it is possible, but not certain, that the site will be in proximity of additional residential development at some time in the future.

## OFFICER COMMENT

### The Hall

The BPC has occupied the Reserve 28419 since 1975. Over the ensuing years several additions and alterations were undertaken by the lessee in respect to the original Ambergate Hall.

The recent structural integrity report carried out by an independent consultant has highlighted a number of serious issues with the hall. Specifically the report states; *"The structural integrity of some components of the structure (i.e. the hall) has either been inadequate when initially installed or has now deteriorated to the point where they may no longer be able to support maximum design loads in accordance with the relevant Australian standards."*

The main areas of concern in relation to the hall from the report are the concrete floor which has been laid over the original timber flooring and timber structures. The timber floor structure is inadequate to provide structural support for the concrete floor plus public assembly hall loading. Other concerns are termite damage that has not been treated, rafters in the roof are significantly over spanned and do not comply with Australian standards, the internal ceilings are uneven and in poor condition and wall studs in the frame are unsuitable and do not comply with the Australian standards. There are similar concerns with the kitchen and toilet areas of the hall. In addition, an outside water tank and timber stand was identified as unsafe and likely to collapse. Access to this structure was immediately restricted and the tank and tank stand dismantled by the Shire.

Given the overall poor condition and unsupported loadings of the hall, the hall has now been closed to all public assembly gatherings and access restricted to a maximum number of people at one time (i.e. no more than 2-3 people).

Closure of the hall is recommended with a complete assessment of the requirements for a public hall / facilities in this location to be carried out, and costs for either refurbishment or replacement of the hall investigated.

### The Land - Likely Contamination

New legislation is in place to record and manage contaminated sites in Western Australia in order to protect people's health and the environment. The Contaminated Sites Act 2003, which came into effect on 1 December 2006, requires the Department of Environment and Conservation (DEC) to classify sites reported to it so informed decisions can be made about the site.

As such the Reserve 28419 (leased to the BPC) was reported to the Department of Environment and Conservation (DEC) as per reporting obligations under the Contaminated Sites Act. As the site was until recently used as an outdoor pistol shooting range, this land use has potential to cause contamination through the possible presence of contaminants (e.g. metals, lead shot) which may impact on soils and the underlying groundwater. The site has been classified as *'possibly contaminated - investigation required'*. This is due to the fact that at the time that

the site was reported to the DEC no soil or groundwater investigations have been carried out and the quality of the soil and groundwater beneath the site are unknown and as such further works are required to determine the contamination status of the site.

The investigation of hazardous materials-related (contamination) risks is typically performed in stages through to remediation (if required). Consistent with the DEC Contaminated Sites Management Series the first stage of environmental contaminated site assessment is an environmental Preliminary Site Investigation. This is then followed by a detailed site investigation phase (intrusive sampling) and then remediation if required.

The Shire recently engaged the services of an environmental consultancy to undertake a preliminary site investigation of the reserve. This investigation will reveal what further works are required in terms of intrusive sampling and give an indication of costs for these subsequent works. If the site is proven to be contaminated; remediation will be required, which will incur further costs.

#### The Land - Environmental Factors

Information relating to the character of the reserve and environmental management of the site will be addressed in a future report concerning possible use of the reserve and hall site.

#### The Lease

The recently expired lease between the Shire and the BPC places reasonable responsibility on the BPC to care for and maintain the premises they occupy. The club is obligated under the lease to return the premises to good order prior vacating the property. Clause 31 of the lease agreement requires the tenant *"to yield up the Leased Premises at the expiration of the term in good and substantial repair, order and condition in all respects and clean and free from rubbish etc"*. Additionally, the Shire is indemnified under clause 23 for the damage and the cost of rectification.

However, it is difficult to determine at what point the premises may have begun to deteriorate as there appear to be no written records of building or development applications from the BPC or approvals from the Shire which would have been a likely trigger for an inspection of the premises. This lack of written history is consistent with the clubs recollection that for a number of years, all approvals between the Shire and the club were verbal.

Under normal circumstances it would be recommended to enforce the clubs obligations to the full extent of the lease but the informal way the tenancy was managed may have contributed to some extent to the current situation.

The cost of remediation of the site and repairs to the building are likely to exceed the clubs ability to fund the works. An attempt has been made to ascertain from the club, the precise funds available but the club was reticent to disclose this information. Assuming that little funding exists, it may be preferable to require

contribution to the building repairs and removal of club owned building materials over the site contamination matters.

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

The timeline for closure of the hall for public assembly and group meetings is immediate.

Notice to vacate the premises as per Part 1 of the Officer Recommendation would be issued to the BPC within 14 days of the Council decision.

A complete assessment of the community requirements for this site and then appropriate action can be undertaken in the 09/10FY, so by 30 June 2010.

### **OFFICER RECOMMENDATION**

1. That one month notice be given to the Busselton Pistol Club to cease club recreational activities at the Reserve 28419 and advise the club that it is required to remove from the site all club belongings within 3 months.
2. That the Ambergate Hall be immediately closed to all with the exception of the Busselton Pistol Club members who may enter the building, under supervision of the Shire, for the purposes of removing club belongings.
3. That the Shire seeks a reasonable contribution, as determined by the CEO, from the Busselton Pistol Club towards the cost of rehabilitation of the leased premises based on the clubs capacity to pay.
4. That an assessment of the community requirements for a public hall / facilities in this locality be carried out, and costs for either refurbishment of the Ambergate Hall, replacement or removal be investigated and reported back to the Council by June 30 2010.

16.6 KOOKABURRA CARAVAN PARK FEES AND CHARGES 2009-2010

<b>SUBJECT INDEX:</b>	Caravan Operations/Financial Operations
<b>STRATEGIC INITIATIVE:</b>	2.1.2 Manage and maintain the Shire's assets for the amenity of the community.
<b>BUSINESS UNIT:</b>	Community Development
<b>SERVICE:</b>	Kookaburra Caravan Park
<b>DATE OF COMPLETION:</b>	1 July 2009
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENT(S):</b>	Nil

The recommendations in this report will require the revocation of a previous decision of the Council. The support of five Councillors is therefore required for the matter to be debated, in accordance with the requirements of Regulation 10 of the Local Government (Administration) Regulations. An absolute majority decision will also be required.

**PRÉCIS**

This report seeks to have three charges previously adopted by the Council pertaining to the usage of the Kookaburra Caravan Park during the 2009/10 financial year amended to more accurately reflect the operational needs of this facility.

**BACKGROUND**

At the Special Council on 20 May 2009, the Council resolved to adopt a wide range of fees and charges for the 2009/10 financial year. Within this extensive list were a number of fees and charges pertaining to the operations of the Kookaburra Caravan Park.

The staff of this facility have identified three specific charges that they believe need to be reconsidered in light of this decision. The three charges are as follows:

<b>DESCRIPTION</b>	<b>ADOPTED FEE 2008/09 (Exc GST)</b>	<b>DRAFT FEE 2009/10 (Exc GST)</b>	<b>DRAFT FEE 2009/10 (Inc GST)</b>
<b><u>Weekly Rates - Off Season</u></b>			
<b>Up to 27 Days:</b>			
Pensioner Rate (2 Adults per week)	127.27	127.27	140.00
Clubs - per site	New	140.91	155.00
<b><u>MISCELLANEOUS</u></b>			
Washing Machines	2.73	2.86	3.15

In the original staff recommendation, the following fees were proposed.

<b>DESCRIPTION</b>	<b>ADOPTED FEE 2008/09 (Exc GST)</b>	<b>DRAFT FEE 2009/10 (Exc GST)</b>	<b>DRAFT FEE 2009/10 (Inc GST)</b>
<b><u>Weekly Rates - Off Season</u></b>			
<b><u>Up to 27 Days:</u></b>			
Pensioner Rate (2 Adults per week)	127.27	145.44	160.00
Clubs - per site	New	140.89	155.00
<b><u>MISCELLANEOUS</u></b>			
Washing Machines	2.73	2.73	3.00

As stated in the Council Resolution at the time, the basis used by the Council for setting the fees for the 2009/10 was as follows:

### **COUNCIL DECISION 19**

*C0905/171 Moved Councillor Stubbs, seconded Councillor Ryan:*

*That the Kookaburra Caravan Park fees (Agenda pages 27 and 28) be adopted with the following variations:*

- (a) Off Season rates be only increased by 5%;*
- (b) Pensioner rates be left unchanged; and*
- (c) There be no increase greater than 10%.*

Prior to this decision being made, the staff recommended fee increase percentage over and above the existing 2008/09 adopted fees was as follows:

Pensioner Rate (2 Adults per week)	14.28%
Clubs - per site	New charge
Washing Machines	Nil change

### **CONSULTATION**

Nil other than the Manager and staff of the Kookaburra Caravan Park.

### **STATUTORY ENVIRONMENT**

The recommendations regarding the fees and charges that have already been deliberated on require the revocation of the previous decision, specifically C0905/171 part b where it was resolved that pensioner rates for the Kookaburra Caravan Park remain unchanged.

To revoke a previous decision, first the support of 1/3 of the Councillors (in this case 5) is required before the motion can be moved (in accordance with LG Admin Reg 10(1)).

The decision will then also require an absolute majority for two reasons. The first is that an absolute majority decision is required to revoke a previous decision (in accordance with LG Admin Reg 10(2)).

The second is that an absolute majority decision is required to impose a fee or charge or to amend a fee or charge (in accordance with section 6.16 of the LG Act).

### **POLICY IMPLICATIONS**

Nil.

### **FINANCIAL IMPLICATIONS**

The adoption of the Officer Recommendation, whilst generating only a minor increase in revenue as compared to maintaining the status of the current Council Decision, provides for a more practical application of those specific fees and charges referred to in this report.

### **STRATEGIC IMPLICATIONS**

Nil.

### **OFFICER COMMENT**

Pensioner Rate - The proposed 14.28% increase was recommended by staff in response to the ever increasing cost of consumables such as power, water and the ongoing maintenance of ageing facilities. These increases do not vary due to age of the facility users and as such, keeping the weekly rate at the 2008/09 level will place increased pressure on the operations of the Kookaburra Caravan Park. It was further considered that an increase of what amounts to approx. \$2.60 could be borne by this market sector.

However, in keeping with the expressed desire to keep increases to off season costs no greater than 5%, an alternative fee to be considered could be \$131.18, resulting in a GST inclusive total of \$145/week.

Clubs - per site - This new fee was proposed in response to the realisation that by actively marketing to caravan owners through their affiliation with Caravan Clubs, larger group bookings could be attracted to the Park and flow on business from satisfied customers and 'word of mouth' promotion would be experienced. However, many members of such clubs are in fact pensioners in their own right and as such, the setting of a 'club' fee in excess of the 'pensioner' fee will only result in the pensioner rate being predominantly applied when clubs book. It is therefore recommended that the adopted 'club' fee should be set at a rate of \$5.00 per week lower than the adopted 'pensioner' rate in recognition of the bulk business generated at the time that this rate is applicable. Given the 'pensioner' rate suggested above, an alternative 'club' fee to be considered could be \$127.27, resulting in a GST inclusive total of \$140/week.

Washing Machines - The application of Part (c) of Council Decision C0905/171 has resulted in an increase to the fee to be charged for the use of the washing machines that is untenable. As these machines are coin operated, only whole dollars can be charged without extremely expensive modifications to the infrastructure. As such, the original staff recommended fee of \$2.73 and the associated additional GST enables \$3.00 in coins to be required to operate each machine. Only a significantly higher increase to take the charge up to \$4.00 would be the next practical increase, however this is not recommended at this time.

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

The adopted fees and charges for the 2009/10 financial year would be introduced as 1st July 2009.

#### **OFFICER RECOMMENDATION**

#### **ABSOLUTE MAJORITY REQUIRED**

1. That part (b) of Council decision C0905/171 be revoked to enable the pensioner rates for weekly off season occupancy to be increased in accordance with clause 2 below.
2. That the following fees and charges to apply from 1 July 2009 relating to specific usage of the services or facilities defined at the Kookaburra Caravan Park be adopted:

<b>DESCRIPTION</b>	<b>ADOPTED FEE 2008/09 (Exc GST)</b>	<b>DRAFT FEE 2009/10 (Exc GST)</b>	<b>DRAFT FEE 2009/10 (Inc GST)</b>
<b><i>Weekly Rates - Off Season</i></b>			
<b><i>Up to 27 Days:</i></b>			
<i>Pensioner Rate (2 Adults per week)</i>	127.27	131.18	145.00
<i>Clubs - per site</i>	New	127.27	140.00
<b><u>MISCELLANEOUS</u></b>			
<i>Washing Machines</i>	2.73	2.73	3.00

**16.7 BUSSELTON HOCKEY STADIUM CLUB LEASE APPLICATION**

<b>SUBJECT INDEX:</b>	Agreements / Contracts
<b>STRATEGIC INITIATIVE:</b>	1.2.1 Support the provision of a range of healthy recreation, entertainment and lifestyle opportunities.
<b>BUSINESS UNIT:</b>	Community Development
<b>SERVICE:</b>	Property Management
<b>DATE OF COMPLETION:</b>	30 September 2009
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENT(S):</b>	1. Leased Area

**PRÉCIS**

The Shire of Busselton leases a portion of Sir Stewart Bovell Oval, Lot 20 Vasse Highway, to the Busselton Hockey Stadium Club (BHSC).

The Lease and subsequent Deed of Variation, for a term of 19 years expired on 30th September 2008 and this report presents the case for the council to grant a new lease to the BHSC for a similar term.

**BACKGROUND**

The BHSC has occupied a portion of Lot 20 Vasse Highway under a lease since 1989 with a variation and extension to that Deed commencing in October 1993 and expiring on the 30<sup>th</sup> September 2008.

The BHSC has a long history with the original two story clubrooms being built in 1986 and renovated and extended in 1995/1996. The first artificial turf playing surface was laid in 1993 and replaced in 2005 with the assistance of a loan guaranteed by the Shire of Busselton.

The club has a strong administration being run by a Board of Directors and a full time Stadium Manager. Additionally, during the winter season the club employs canteen, bar and grounds staff.

The BHSC has over 900 members from juniors to veterans in both men's and women's teams encompassing 12 separate clubs, plus on average 9 local schools submit teams each year to the junior competitions.

Over the years the Busselton Hockey Stadium has been host to many events, of state, national and international standard, specifically the Australian Country Champions, the international men's match between Australia and Netherlands, which attracted some 2,000 spectators and the annual Veterans Carnivals.

**CONSULTATION**

The Shire Property Manager has met with the BHSC to discuss this application.

## **STATUTORY ENVIRONMENT**

When disposing of property whether by sale, lease or other means a Local Government is bound by the requirements of section 3.58 of the Local Government Act. However 3.58 (5)(d) provides exclusions to this process under Regulation 30(2)(b)(i) & (ii) of the Local Government (Functions & General) Regulations. This section states "disposal of land to incorporated bodies with objects of benevolent, cultural, educational or similar nature and the members of which are not entitled to receive any pecuniary profit from the body's transactions, are exempt from the advertising and tender requirements of section 3.58 of the Local Government Act."

The constitution of the BHSC is such that this exemption applies.

## **POLICY IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

The annual rent charged for Shire land and/or buildings, under leases to community and sporting groups has for the last few years been \$150.00 plus GST. This amount neither recovers the costs nor reflects the resources applied to the management and administration of the lease however is considered by the council to be an appropriate amount for a sporting club to pay. The actual cost of administration of a tenancy is approximately \$1,250.00p.a, based on document preparation, property inspection, rent review and general correspondence.

The full maintenance costs of the building are borne by the club and the cost of the building insurance premium is reimbursed to the Shire.

## **STRATEGIC IMPLICATIONS**

The request for a lease renewal from the BHSC is consistent with fostering the following Shire of Busselton strategic objectives to:-

- \* Support the provision of a range of healthy recreation, entertainment and lifestyle opportunities, and
- \* Facilitate and assist in the development of quality community facilities and services

## **OFFICER COMMENT**

The BHSC is a model club with a history of strong growth and good management. Apart from the substantial community and sporting links the club has adopted a conscientious approach to ongoing programmed maintenance and replacement of their assets. A culture of sustainability and financial responsibility exists within the club as it actively seeks to fund its requirements through memberships, hiring of facilities, bar and canteen, sponsorships, grants and food stalls.

The club is keen to enter into a new lease arrangement with the Shire for a ten year term with a further ten year option.

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

A draft lease would be forwarded to the BHSC by 30 September 2009.

#### **OFFICER RECOMMENDATION**

The CEO be authorised to enter into a lease with the Busselton Hockey Stadium Club (Inc) on the following terms;

- (a) the lease shall be consistent with the Shire's standard community and sporting group lease agreement;
- (b) the term of the lease to be 10 years, commencing on the day following the expiry of the previous lease with a further 10 year option;
- (c) the annual rent to be \$150.00 plus GST;
- (d) all costs for the preparation of the lease to be met by the Lessee.

16.8 REVIEW OF DELEGATIONS TO CHIEF EXECUTIVE OFFICER, OTHER OFFICERS AND COMMITTEES

<b>SUBJECT INDEX:</b>	Authorised Delegation of Power/Authority
<b>STRATEGIC INITIATIVE:</b>	5.1.3 Ensure regulatory requirements are met
<b>BUSINESS UNIT:</b>	Governance
<b>SERVICE:</b>	Council and Councillor Services
<b>DATE OF COMPLETION:</b>	30 June 2009
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENT(S):</b>	Current Instruments of Delegation

### PRÉCIS

The *Local Government Act 1995* requires delegations to be reviewed by the delegator at least once each financial year. The review in 2007/2008 was a significant overhaul of the organisation's system of delegation that was conducted in accordance with the Department of Local Government and Regional Development's guidelines. It is therefore recommended, with some minor changes, that the current delegations continue.

The changes that are recommended are as a result of some 'best practice' suggestions that were made by the Shire's external auditor during his conduct of the most recent Compliance Audit.

### BACKGROUND

The *Local Government Act 1995* provides the Council with the ability to delegate the exercise of powers and discharge of duties to its Chief Executive Officer. The provisions of the *Local Government (Miscellaneous Provisions) Act 1960* apply as if they are in the *Local Government Act 1995*. This Act covers specific duties of the Local Government, which are generally building, impoundment and pool related matters, and also provides the Council with the ability to delegate to its Chief Executive Officer or other (duly qualified) officers.

The Local Government Act requires that delegations are reviewed by the delegator (in this case the Council) at least once every financial year. Therefore, the delegations under both the *Local Government Act 1995* and *Local Government (Miscellaneous Provisions) Act 1960* are submitted for Council's consideration.

The organisation's planning delegations have not been reviewed at this time as the review of these delegations is undertaken on a different schedule that has no statutory requirement associated with it. However, one of the planning delegations is presented at this time simply for the purposes of updating the terminology.

## **CONSULTATION**

The recommendations in this report have been developed in accordance with the Department of Local Government and Regional Development's Delegations guidelines and also in response to recommendations made by the Shire's external auditor when the annual compliance audit was recently conducted.

## **STATUTORY ENVIRONMENT**

Section 5.42 of the *Local Government Act 1995* provides the Council with the ability to delegate powers and duties to its CEO. This review is to comply with the requirements of Section 5.46 of the Act. Some powers and duties cannot be delegated in accordance with Section 5.43 of the Act, such as matters that require an absolute majority decision of the Council.

All delegations must be contained in a register, which is a public document. Wherever a decision is made under delegated authority, records of the decision must be kept in accordance with the *Local Government (Administration) Regulations 1996*.

Another relevant matter is that some delegations made in accordance with the *Local Government (Miscellaneous Provisions) Act 1960* need to be made to an officer with specific qualifications (for example building surveyor).

## **POLICY IMPLICATIONS**

Nil.

## **FINANCIAL IMPLICATIONS**

Nil, other than utilising delegated authority creates significant organisational efficiencies. Without a system of delegated authority in place, a significant number of day-to-day local government decisions would have to come to Council as agenda reports and service levels/responsiveness would suffer accordingly.

## **STRATEGIC IMPLICATIONS**

Delegations enable an efficient framework for Shire officers to carry out operational tasks utilising some of the powers and duties of the local government. This reduces the volume of matters having to be referred to the Council for a decision. This can effectively reduce the turn around time for some matters and enables the Council to devote its time to its more strategic role, make the value-based judgements not within the province of the officers and deal with matters that cannot be delegated.

## **OFFICER COMMENT**

This section of the report will provide information regarding the powers and duties currently delegated to the CEO, Committees or other officers and whether the delegation is recommended to continue, continue with minor changes or be

revoked. Further information regarding the powers given by each delegation is available in the Instruments of Delegation attached to this report.

Current delegations 3A and 3B relating to enforcement of Local Laws and determining applications to access or use local government property are self explanatory and are recommended to continue in their current form.

Delegation 3C is a delegation made to a Committee established by the Council in accordance with Section 5.8 of the Local Government Act 1995. Section 5.8 provides that the local government may establish committees of 3 or more persons to assist the Council and to exercise the powers and discharge the duties of the local government that can be delegated to Committees.

*As identified by the compliance auditor, the Council has formed the Bush Fires committee by resolution. The formation of a committee under the Act incurs additional administration to comply with the requirements of the legislation.*

*The function of this committee is for day to day management. One of the functions of the CEO is to manage the day to day operation of the local government. These committees could therefore be formed and members appointed by the CEO to advise him on day to day management issues.*

*Formation by the CEO would not require the administrative process currently involved and committee members would not be subject to the financial interest requirements of the Local Government Act. Disclosure standards could be stipulated by the CEO in guidance notes by the CEO.*

It is therefore deemed that the Bush Fires Management Committee does not require delegated authority such as that currently granted to it under Delegation 3C. It is the recommendation of officers that the CEO be directed to establish a committee to manage the day to day requirements of management of bush fire risk in the Shire of Busselton and that delegation 3C be revoked.

Delegation 3D gives the CEO power to issue notices to owners or occupiers of land requiring certain things to be done. A schedule of the Act prescribes what these notices can relate to (as listed in the attached instruments of appointment), however, includes such things as varied as preventing or minimising sand drift, ensuring the enclosure of unsightly land or removing bees that are likely to endanger the safety of any person or create a serious public nuisance.

Delegation 3E gives the CEO the authority to authorise other local government officers to enter land or premises where necessary and where notice has been given.

Delegation 3F is also to give the CEO the authority to authorise other local government officers for specific purposes, such as removing and impounding goods and abandoned vehicle wrecks.

Delegation 3G relates to the disposal of uncollected goods, such as abandoned vehicles or other impounded goods.

Delegation 3H enables the CEO to close thoroughfares to vehicles and to partially close thoroughfares for repairs or maintenance as required.

Delegation 3I is another Committee delegation referred to by the compliance auditor in the same manner as the Bush Fires Management Committee. It is therefore also recommended that the CEO be directed to establish a committee to manage the day to day requirements of Meelup Regional Park in accordance with the Council's adopted management plan and that delegation 3I be revoked.

Delegation 3J enables the CEO to make minor variations to the requirements of a contract (with the successful tenderer) before entering into the contract.

Delegation 3K enables the CEO to acquire and dispose of local government property as long as that property is valued at less than \$100,000, for example the disposal of disused local government equipment.

Delegation 5A regarding the application of the Council's Legal Representation - Costs Indemnification policy is self explanatory and is recommended to continue in its current form.

Delegation 6A relates to payments being made by the CEO from the municipal and trust funds, which are then reported to Council as required by the regulations.

Delegation 6B enables the CEO to defer, grant discounts, waive or write off debts, subject to some stringent conditions imposed by the Council and recommended to continue. Any other application outside of these guidelines would need to be referred to the Council.

Delegation 6C relates to Rates and Service Charges and enables the CEO to do such things as enter into agreements for the payment of rates, determine due dates for rates and recover rates due (as detailed in the attached instrument of delegation).

Delegation 9A enables the CEO to authorise other local government officers to enforce the provisions of the Local Government Act.

Delegation 10A with regard to the processing of small claims against the Local Government is self explanatory and is recommended to continue.

All of the recommended *Local Government (Miscellaneous Provisions) Act 1960* delegations are self explanatory and are recommended to continue in their current form (delegations MP1 through MP10).

Some minor changes have been recommended to delegation TPD7 to update the delegation to reflect current terminology and practices. This delegation currently refers to the old Town Planning Appeals Tribunal which is now the State Administrative Tribunal. It also gives the same powers to a broad range of officers. It is the recommendation of officers that that power to initiate prosecutions is limited to the CEO, Directors and Legal Officer, while the authority to represent the Local Government in court can extend to other relevant officers.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Delegation Register will be updated in accordance with the Council's decision by the end of the financial year.

### OFFICER RECOMMENDATION

### ABSOLUTE MAJORITY REQUIRED

1. That the following powers or duties are delegated to the Chief Executive Officer:

#### **3A Legislative Function - Determining Applications Under Local Laws and Enforcement of Local Law Provisions**

To determine applications received by the Shire in accordance with a Local Law made by the Shire of Busselton in accordance with Subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* and to enforce the provisions of those local laws and to otherwise exercise the powers and discharge the duties of the local government under those local laws.

#### **3B Executive Function - Determining Applications in Relation to the Access or Use of Shire Property**

To determine applications received by the Shire to access, use or otherwise conduct activities on land or property that is owned by or vested with the Shire of Busselton.

#### **3D Notices Requiring Certain Things to be Done by Owner or Occupier of Land and Additional Powers When Notice is Given**

To exercise the powers and discharge the duties of the local government under Section 3.25(1), 3.26(2) and 3.26(3) of the *Local Government Act 1995*.

#### **3E General Procedure for Entering Property**

To exercise the powers and discharge the duties of the local government under Section 3.25(1), 3.26(2) and 3.26(3) of the *Local Government Act 1995*.

#### **3F Power to Remove and Impound Goods or Abandoned Vehicle Wrecks**

To authorise employees on behalf of the local government for the purposes of discharging the duties under Section 3.39 and 3.40A(1) of the *Local Government Act 1995*.

#### **3G Disposing of Uncollected Goods**

To exercise the powers and discharge the duties of the local government under Section 3.47(2) and 3.47(2a) of the *Local Government Act 1995*.

### **3H Closing Certain Thoroughfares to Vehicles and Partial Closure of Thoroughfare for Repairs or Maintenance**

To exercise the powers and discharge the duties of the local government under Section 3.50(1), 3.50(1a), 3.50(4), 3.50(6) and 3.50A of the *Local Government Act 1995* and regulation 6(3) of the *Local Government (Functions and General) Regulations 1996*.

### **3J Variation of Requirements Before Entry Into Contract**

To exercise the powers and discharge the duties of the local government under regulation 20, and specifically regulation 20(2) of the *Local Government (Functions and General) Regulations 1996*. The authority delegated in accordance with regulation 20(2) is conditional upon the CEO having delegated authority to accept the relevant tender.

### **3K Acquiring and Disposing of Property**

To exercise the powers and discharge the duties of the local government under Sections 3.58(2) and 3.58(3) of the *Local Government Act 1995*, and further to acquire property on the local government's behalf. The value of the property shall not exceed \$100,000 in accordance with Section 5.43(d) of the *Local Government Act 1995*.

### **5A Provision of Urgent Legal Services**

To provide authorisation in accordance with Council policy "Legal Representation - Costs Indemnification" for urgent legal services to a maximum of \$5,000. The determination must be made in accordance with the provisions of the Council policy "Legal Representation - Costs Indemnification".

### **6A Payments From Municipal Fund or Trust Fund**

To exercise the powers and discharge the duties of the local government in accordance with regulation 12 of the *Local Government (Financial Management) Regulations 1996*, in relation to Section 6.10 of the *Local Government Act 1995*.

### **6B Power to Defer, Grant Discounts, Waive or Write Off Debts**

To exercise the powers and discharge the duties of the local government under Sections 6.12(1)(b), 6.12(1)(c) and 6.12(3) of the *Local Government Act 1995*. Any waiver or granting of a concession shall only be available for a local not-for-profit organisation and considered solely on its merits; and any debt write off approved shall be less than \$1000 if it is more than 12 months old or less than \$200 if it is between 90 days and 12 months old.

## **6C Rates and Service Charges**

To exercise the powers and discharge the duties of the local government under Section 6.49, 6.50(1), 6.50(2), 6.56(1), 6.60(2), 6.60(3), 6.60(4), 6.64(1), 6.64(3), 6.71(1), 6.74(1), 6.76(4), 6.76(5), schedule 6.2 clause 1(1) and schedule 6.3 clauses 1(4) and 4(1) of the *Local Government Act 1995*. The delegation shall be exercised within the limitations identified in delegation LGA 3K regarding the value of property.

## **9A Appointment of Authorised Persons**

To authorise persons, or classes of persons, on behalf of the local government for the purposes of performing particular functions in accordance with Section 9.10(1) and 9.10(2) of the *Local Government Act 1995*.

## **10A Claims Against the Local Government**

To consider claims against the local government for damage to property and either accept or deny liability. The claim shall not exceed \$300. Payment up to \$300 is able to be made upon receipt of a release form.

## **MP1 Building Licences, Special**

In accordance with Section 399 of the *Local Government (Miscellaneous Provisions) Act 1960*, to determine applications for Special Building Licences and to impose appropriate conditions.

## **MP2 Notices, Issue of Section 401**

To issue notices pursuant to Section 401 of the *Local Government (Miscellaneous Provisions) Act 1960* where a breach of building requirements is considered by the Chief Executive Officer to be of a magnitude sufficient to warrant issue of a notice.

## **MP3 Buildings, Removal of Neglected and Dilapidated**

To serve upon the owners and occupiers of neglected and dilapidated buildings the written notices required by Sections 408 and 409 of the *Local Government (Miscellaneous Provisions) Act 1960*.

## **MP4 Works, Unlawful**

To issue stop work notices pursuant to Section 401A of the *Local Government (Miscellaneous Provisions) Act 1960* where a breach of building requirements is considered by the Chief Executive Officer to be of a magnitude sufficient to warrant issue of a notice. To withdraw stop work notices pursuant to Section 401A of the *Local Government (Miscellaneous Provisions) Act 1960* where the breach for which the notice has been issued is corrected to the satisfaction of the Chief Executive Officer.

**MP5 Buildings, Dangerous**

In accordance with Section 403 of the Local Government (Miscellaneous Provisions) Act 1960:

1. To issue a certificate which states that a subject building is in a dangerous state;
2. To shore up or otherwise secure the building, as well as providing a hoarding or fence around the building to protect the public from danger;
3. To serve written notice upon the owner or the occupier of the building requiring that the building be taken down, secured or repaired.

**MP6 Certificates of Classification**

To issue Certificates of Classification of Buildings.

**MP7 Licence to Deposit Materials on or Excavate Adjacent to a Street**

In accordance with Section 377 of the *Local Government (Miscellaneous Provisions) Act 1960*, to issue licences to deposit materials on a street, way or other public place and to excavate on land abutting or adjoining a street, way or other public place and to impose conditions detailed in Section 377 of the Act and other such conditions as considered relevant, subject to, prior to issuing a license, confirmation from the Director, Lifestyle Development and the Director, Community Infrastructure that the proposed activity will not create undue interference with the operation of the street, way or public place is to be obtained.

**MP8 Demolition Licences**

To approve the issue of a demolition licence (Section 374A) to take down a building or part of a building and impose such conditions as considered necessary for the safe and proper execution of the work.

**MP10 Swimming Pool Safety Fence Exemptions**

To determine applications for swimming pool safety fence exemptions in accordance with Regulation 38C of the *Building Regulations 1989*.

2. That the following powers or duties are delegated to the Coordinator, Building Services, Senior Building Surveyor and Building Surveyor:

**MP9 Building, Issue of Licences and R-Code Variations**

In Accordance with Section 374AAB of the *Local Government (Miscellaneous Provisions) Act 1960* to determine (approve or refuse) plans of buildings or unauthorised building work and to impose such conditions as are considered necessary and to approve or refuse, or approve with conditions, applications for R-Code variations for single dwellings, including

any extension, ancillary outbuilding, swimming pool, fence or the like, subject to the continuation of the existing conditions.

3. That delegations 3C and 3I to the Bush Fires Management Committee and the Meelup Regional Park Management Committee are revoked and the CEO is directed to establish a Committee to manage the bush fire risk in the Shire of Busselton in accordance with the Council's adopted Bush Fires Strategic Plan and a Committee to manage Meelup Regional Park in accordance with the Council's adopted management plan.
4. That the authority to represent the Local Government at State Administrative Tribunal hearings and mediations, and Court prosecutions be delegated to:
  - \* Chief Executive Officer;
  - \* Director, Community and Organisational Development;
  - \* Legal Officer;
  - \* Director, Community Infrastructure;
  - \* Director, Lifestyle Development;
  - \* Manager, Development Services;
  - \* Manager, Strategic Planning and Sustainability;
  - \* Coordinator, Statutory Planning;
  - \* Planning Officers;
  - \* Manager, Environmental Services;
  - \* Coordinator, Ranger and Fire Services;
  - \* Coordinator, Building Services.

Further, the Chief Executive Officer, Directors and Legal Officer be delegated the authority to initiate prosecution proceedings and issue notices under the Town Planning and Development Act 1928 in the Court in its summary jurisdiction and to determine negotiated outcomes for mediation processes associated with an appeal lodged with the State Administrative Tribunal.

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

Nil

**18. MOTIONS of which notice has been given****18.1 CONSTRUCTION OF NEW BUSSELTON HOSPITAL**

NoM NO: 08/09: 35

*Councillor Bethwyn Hastie has given notice of her intention to move the following motion at the Council Meeting on 24 June 2009:*

**MOTION**

That the Council adopt a position of supporting the immediate construction of the new Busselton Hospital in the 2009/2010 financial year. That Council requests the CEO to write to the Premier, the Treasurer, the Health Minister and the Minister for Regional Development expressing that position.

**REASON**

I am aware that in the State Budget handed down in May 2009, the Government announced the postponement of the much needed, much lobbied for new Busselton Hospital. With the Budget projections that have been made I have severe doubts that the new Busselton Hospital will be built at all..

Busselton is in the middle of the fastest growing regional area in Western Australia, I believe the delay in building the new Busselton Hospital may have severe implications for health provision in the area.

**STAFF COMMENT**

Whilst the CEO is able to write the letter, the protocol is that elected member (Shire President) corresponds with the counterpart State representative on matters that have a political (as opposed to operational) focus.

**19. CONFIDENTIAL REPORTS****19.1 FORMAL WRITE-OFF OF DEBTS FROM 2001 AND 2002**

A report, confidential under Clause 5.23(2)(e)(iii) of the Local Government Act 1995 in that it relates to a matter that if disclosed would reveal information about the business, professional, commercial or financial affairs of a person other than the Shire of Busselton, was provided to Councillors, the Chief Executive Officer, Directors and the Executive Manager, Systems and Information only.

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

21. **QUESTIONS FROM MEMBERS WITHOUT NOTICE**

22. **NEXT MEETING**

Wednesday, 8 July 2009, commencing at 5.30 p.m.

23. **CLOSURE**

