

Please note: These minutes are yet to be confirmed as a true record of proceedings

SHIRE OF BUSSELTON

**MINUTES OF A MEETING OF THE BUSSELTON SHIRE COUNCIL
HELD ON 22 JULY 2009**

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SHIRE OF BUSSELTON**MINUTES OF A MEETING OF THE BUSSELTON SHIRE COUNCIL HELD IN COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON WEDNESDAY, 22 JULY 2009 AT 5:30 PM**

The Presiding Member opened the meeting at 5.46 p.m.

1. ATTENDANCE, APOLOGIES & LEAVE OF ABSENCE

Presiding Member: Cr Wes Hartley Shire President

Members: Cr Bethwyn Hastie
Cr David Binks
Cr Ian Stubbs
Cr Anne Ryan
Cr Tom Tuffin
Cr Jackie Emery
Cr Bernie Masters
Cr Rob Underdown
Cr Bev Clarke
Cr Don Hanran-Smith
Cr David Reid

Officers: Mr Nigel Bancroft Acting Chief Executive Officer
Mr Oliver Darby Director, Community Infrastructure
Ms Jenny Mathies Admin. Officer - Governance

Apologies: Cr Ross Bromell

Leave of Absence: Nil

Media: "Busselton-Dunsborough Times"
"Busselton-Dunsborough Mail"

Public: 7

2. OPENING PRAYER

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

3. PUBLIC QUESTION TIME

Nil.

4. SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Two questions were asked by Councillor Reid and taken on notice during Questions from Members Without Notice at the Council Meeting on 8 July 2009. The Presiding Member advised that Officers had prepared detailed

responses to the questions and these would be provided in the Minutes of this Meeting. He asked Councillor Reid if he wished the responses to be read out in full at this juncture. Councillor Reid indicated that he did not wish to have the responses read out and was happy for them to appear in the Minutes.

The questions and responses are as follows:

4.1 Councillor David Reid:

As a result of significant Local Government losses revealed in the ABC programme, "The 7.30 Report" on Monday, 6 July 2009, could the Acting CEO confirm the Council's financial consultant Grove's claim that Busselton Shire has no exposure to CDOs.

Response:

The Shire of Busselton has no direct investments in Collateralised Debts Obligations (CDOs). Furthermore, the Council's Investment Policy excludes CDOs from its list of "Authorised Investments".

It should also be noted that representatives from Counterpoint Grove (formerly Grove Financial Services) have never suggested that the Shire of Busselton consider investing in CDOs.

4.2 Councillor David Reid:

Would the Director of Infrastructure provide a report to the next Council Meeting in respect to the effectiveness of the new Queen Street/ Prince Street roundabout, with particular reference to potential traffic jams in southbound Queen Street traffic, now obliged to give way to eastbound Prince Street traffic?

Response:

A site inspection carried out by Shire officers during both morning and afternoon peak periods has shown that traffic flows at the intersection of Prince Street and Queen Street are being given equal opportunities from all three approaches to the newly-constructed roundabout.

As with any roundabout, there is a small volume of vehicles stacking when giving way to vehicles within the roundabout.

Shire officers agree with Cr Reid's comments; the roundabout's capacity will be seasonally exceeded however the proximity of the lights and the existing raised crossing (to be removed) provide breaks in the northbound traffic flows. Overall, the roundabout allows for a semi-continuous flow with Prince Street venting consistently with minimal queuing. However the issue of traffic jams should be lessened overall as it now has right of way when turning across northbound traffic.

Shire officers will arrange for traffic counts on Queen Street and additionally on neighbouring streets as required. Following the collection of this traffic data, Shire officers will determine if further action can be recommended.

The most suitable (Officer Recommendation) out of the three options had to be considered including the statement below from the Uloth Traffic Study 2001. The roundabout was the Shire's recommendation considering the other options had more negative effects on traffic congestion, potential for vehicle accidents and pedestrian movement. As part of the Agenda report (Item 15.4, Council Meeting 13 May 2009) the following background information was provided for the Council to understand that traffic patterns would change dependent on each design treatment:

'Intersection treatments such as the provision of a roundabout or traffic signals are also unacceptable as this would encourage traffic to travel west-east through the CBD via Prince Street. A roundabout would also further reduce the level of safety for pedestrians.'

Further information in the abovementioned Agenda report included the following:

'In understanding this, in the provision of a preferred intersection it must be accepted that Queen Street cannot continue to provide easy access for traffic, as in the past, and the construction of any type of intersection will not solve a traffic issue in isolation.

As Busselton grows it should be part of that growth process to explore alternative routes to the CBD through West Street and Brown/Camilleri Street."

"The Shire has a budget allocation to upgrade the section of Queen Street between Prince Street and Kent Street in the 2008/09 financial year to improve traffic flow and pedestrian accessibility as part of the CBD revitalisation. This report seeks the Council's endorsement of one of three options for the intersection at the junction of Prince Street and Queen Street. All three options provide varying levels of vehicle and pedestrian amenity."

The Council's unanimous decision in relation to this matter (C0905/136) was as follows:

"That the Council endorses the construction of Option 1 (raised roundabout) as the preferred intersection treatment to the Queen Street and Prince Street intersection."

5. **APPLICATIONS FOR LEAVE OF ABSENCE**

C0907/255 Moved Councillor Hastie, seconded Councillor Hanran-Smith:

That Leave of Absence be approved for Councillor Reid on 26 August 2009.

CARRIED 12/0

6. **CONFIRMATION OF MINUTES**

6.1 Minutes of an Ordinary Meeting of the Council held on 8 July 2009.

C0907/256 Moved Councillor Hastie, seconded Councillor Masters:

That the minutes of an Ordinary Council Meeting held at 5.30 p.m. on Wednesday, 8 July 2009, be confirmed as a true and correct record.

CARRIED 12/0

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

It is with pleasure that I advise that Councillor Bev Clarke has received a Distinguished Service Award (Awarded by the Panel) from the West Australian Local Government Association (WALGA) in recognition of her sterling service to local government. The Award will be presented to Councillor Clarke during the Annual General Meeting of WALGA at the Local Government Convention in Perth on Saturday, 8 August.

I am also pleased to advise that Councillor David Binks will receive a framed certificate of achievement at the Local Government Convention for his completion of the Elected Member Training Framework. I wish to note and have placed on record the effort made by Councillor Binks, along with a number of our other elected members, to undertake the professional development framework available to all elected members.

8. **PETITIONS AND MEMORIALS**

Nil

9. **DECLARATION OF DUE CONSIDERATION**

The Presiding Member requested 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.

Declared Due Consideration	No Declaration
Councillor Wes Hartley	
Councillor Bethwyn Hastie	
Councillor David Binks	
Councillor Ian Stubbs	

Declared Due Consideration	No Declaration
Councillor Anne Ryan	
Councillor Tom Tuffin	
Councillor Jackie Emery	
Councillor Bernie Masters	
Councillor Rob Underdown	
Councillor Bev Clarke	
Councillor Don Hanran-Smith	
Councillor David Reid	

10. DECLARATIONS OF INTERESTS

10.1

DECLARATION OF INTEREST	
Name / Position	Councillor Wes Hartley
Item No. / Subject	Item 13.2, Draft Environmental Management Plan for Locke Estate (Consideration to Adopt the Plan for Community Consultation Purposes)
Type of Interest	Interest Affecting Impartiality

11. PRESENTATIONS BY PARTIES WITH AN INTEREST

Nil.

12. BUSINESS FROM PREVIOUS MEETING

Nil.

EN BLOC COUNCIL RESOLUTION

At this juncture Items 13.1, 15.1 and 15.4 were considered in accordance with Clause 11.1 of the Standing Orders via an En Bloc resolution of Council.

C0907/257

Moved Councillor Hastie, seconded Councillor Masters:

That the Officer Recommendations for Items 13.1, 15.1 and 15.4 be adopted.

CARRIED 12/0

13.1 REVIEW OF THE BIODIVERSITY INCENTIVES STRATEGY FOR PRIVATE LAND IN THE BUSSELTON SHIRE

SUBJECT INDEX:	Local Planning Policies
APPLICATION NUMBER:	NA
STRATEGIC INITIATIVE:	4.1.1 Create opportunities for community involvement in the maintenance of, and the improvement to, the natural environment.
BUSINESS UNIT:	Strategic Planning and Sustainability
SERVICE:	Strategic Land Use Planning
DATE OF COMPLETION:	28 August 2009
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	Adoption of the Draft Revised Biodiversity Incentives Strategy for Community Consultation.
LOT SIZE:	NA
ZONE:	NA
POLICIES:	SPP No. 6.1 - Leeuwin Naturaliste Ridge Policy Local Rural Planning Strategy WAPC DC Policy 3.4 Subdivision of Rural Land WAPC DC Policy 3.7 Fire Planning Busselton Wetlands Conservation Strategy

PRÉCIS

This report presents for the Council's consideration a draft revised *Biodiversity Incentives Strategy*. The review provides for an updated policy framework through consideration of changes to better align the Strategy with: related legislation and local policy framework; state agency reporting models; and to introduce improvements to the layout, wording and specific provisions of the Strategy. Development of the draft involved extensive consultation with key stakeholders.

It is recommended that the Council adopt the draft revised Strategy for community consultation for a period of 42 days. The full revised strategy is available on the Shire's website and the Councillors' Portal as part of the Agenda Attachments. Hard copies are available on request.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0907/258 Councillor Hastie, Councillor Masters (En Bloc):

That the Council adopts the draft revised *Biodiversity Incentive Strategy for Private Land in the Busselton Shire* at Attachment A to this report for community consultation pursuant to Clause 103 of District Town Planning Scheme No. 20 with the comment period being a minimum of 42 days.

CARRIED 12/0
EN BLOC

15.1 ROAD DEDICATION - BUSSELL HIGHWAY, YALYALUP (LUDLOW DEVIATION)

SUBJECT INDEX:	Thoroughfares
STRATEGIC INITIATIVE:	5.1.3 Ensure regulatory requirements are met.
BUSINESS UNIT:	Infrastructure Development
SERVICE:	Land matters
DATE OF COMPLETION:	21 days from Council resolution
VOTING REQUIREMENT:	Simple majority

PRÉCIS

This report seeks the concurrence of the Council for the dedication of the land contained in Deposited Plans 18908 and 19312 as road, pursuant to section 56 of the Land Administration Act 1997. This is to meet Main Roads WA's proposal to formalise the excision and dedication of the land contained in the plans.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0907/259 Councillor Hastie, Councillor Masters (En Bloc):

That the Council concurs to the dedication of the land contained in Deposited Plans 18908 and 19312 (as Agenda Attachments A and B to this item) as road under section 56 of the *Land Administration Act 1997*.

CARRIED 12/0
EN BLOC

15.4 MONAGHANS ROUNDABOUT - RENAMING PORTION OF DOWNGRADED BUSSELL HIGHWAY

SUBJECT INDEX:	Land Administration
STRATEGIC INITIATIVE:	2.1.3 Work with developers to ensure community sensitive townsite and neighbourhood layouts and functionality
BUSINESS UNIT:	Infrastructure Development
SERVICE:	Development Control
DATE OF COMPLETION:	20 January 2010
VOTING REQUIREMENT:	Simple Majority

PRÉCIS

This report seeks the Council's approval to rename the portion of the downgraded Bussell Highway following the construction of a roundabout on the corner of Bussell Highway and Caves Road (known as Monaghans corner) to Monaghans Way.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0907/260 Councillor Hastie, Councillor Masters (En Bloc):

1. That the proposal to rename portion of downgraded Bussell Highway to Monaghans Way, as supported by Geographic Names Committee, be advertised in a locally circulating newspaper for a period of 35 days inviting public comment.
2. That affected landowners, residents and emergency services be advised in writing of the proposal and invited to comment.
3. That providing no objections are received from the public for the change of road name, the CEO request the Minister for Lands, approval to rename portion of downgraded Bussell Highway to Monaghans Way.

**CARRIED 12/0
EN BLOC**

13. LIFESTYLE DEVELOPMENT REPORT**13.1 REVIEW OF THE BIODIVERSITY INCENTIVES STRATEGY FOR PRIVATE LAND IN THE BUSSELTON SHIRE**

This matter was considered earlier in the meeting, as part of the En Bloc resolution of the Council ([C0907/258](#), page 6).

13.2 DRAFT ENVIRONMENTAL MANAGEMENT PLAN FOR LOCKE ESTATE (CONSIDERATION TO ADOPT THE PLAN FOR COMMUNITY CONSULTATION PURPOSES)

SUBJECT INDEX:	Environmental Management Plans, Impacts Studies and Reports
STRATEGIC INITIATIVE:	4.1.2.1 Ensure adequate framework of reserve and foreshore management plans.
BUSINESS UNIT:	Strategic Planning
SERVICE:	Environmental Planning
DATE OF COMPLETION:	1/10/2009
VOTING REQUIREMENT:	Simple Majority

DECLARATION OF INTEREST	
Name / Position	Councillor Wes Hartley
Item No. / Subject	Item 13.2, Draft Environmental Management Plan for Locke Estate (Consideration to Adopt the Plan for Community Consultation Purposes)
Type of Interest	Interest Affecting Impartiality
Declaration	<p>With regard to this item, I disclose that I am a Minister of the Uniting Church in Australia with particular responsibilities for the Busselton Parish and within such bounds the Locke Estate falls. The Uniting Church in Australia, Western Australia Synod, presently holds a lease over portion of the Locke Estate. My interest is that of an interest in common with any member of the Uniting Church in Australia or of any other church grouping presently holding a lease. I have no direct financial or other interest beyond this interest in common with respect to the Locke Estate.</p> <p>As a consequence there may be a perception that my impartiality on the matter may be affected. I declare that I will consider the item solely on its merits and vote or act accordingly.</p>

PRÉCIS

In August 2008, the Council requested the preparation of an Environmental Management Plan (EMP) for Locke Estate. Responses were sought to prepare a plan in accordance with the project brief. The successful respondent was Ecological Australia Pty Ltd who commenced work on the plan in December 2008.

The Draft EMP for Locke Estate has now been prepared and is recommended to the Council for adoption for community consultation purposes.

OFFICER RECOMMENDATION

1. That the draft Environmental Management Plan for Locke Estate be adopted under Clause 3.54 of the Local Government Act for the purposes of formal consultation of 28 days involving advertising and inviting public comment on the document, subject to the inclusion of advice in the report on the current Shire position in respect to Coastal Management Works.
2. That, the Draft Plan be referred back for the Council's consideration following consultation with any recommendation in respect to Coastal Management Works subject to a whole of life cost/benefit analysis.

Note: A preliminary draft of the EMP was made available to participants of the Locke Estate EMP workshop. This was not intended to be a separate opportunity to comment on the substance of the plan, but was an opportunity for parties that may be affected by the Plan to identify any factual errors. The workshop participants identified a number of issues that they believed required changing prior to advertising of the EMP for community consultation, however these were received after publication of the Agenda for this Council Meeting. As a result, staff provided a Revised Officer Recommendation for the Council's consideration, incorporating the suggestions made by the Workshop participants

COUNCIL DECISION / REVISED OFFICER RECOMMENDATION

C0907/261 Moved Councillor Hanran-Smith, seconded Councillor Masters:

1. That the draft Environmental Management Plan for Locke Estate be adopted under Clause 3.54 of the Local Government Act for the purposes of formal consultation of 28 days involving advertising and inviting public comment on the document subject to the following changes;
 - (a) deleting the words "close to water extraction bore" from the caption on Page 18, and

- (b) within Appendix D;
 - (i) the features, values and opportunities under 4.1.1 and 4.1.3 be represented as a combined list of items without attributing individual contributors.
 - (ii) a notation be placed below the chart under 4.1.2 to state "the information above is only intended to give a general indication of perceived threats to the Locke Estate", and
 - (iii) at 4.1.4; add the qualifying statement - "Some of the views expressed in this section were not shared by all who were in attendance at the workshop."
 - (c) inclusion of advice in the report on the current Shire position (C0802/075) in respect to Coastal Management works at the site.
2. That, the Draft Plan be referred back for the Council's consideration following consultation.

CARRIED 12/0

13.3 YALLINGUP BEACH CARAVAN PARK - BOUNDARY ENCROACHMENTS

SUBJECT INDEX:	Planning Enquiries / Crown Land Admin
APPLICATION NUMBER:	N/A
STRATEGIC INITIATIVE:	5.1.3 Ensure regulatory requirements are met
BUSINESS UNIT:	Lifestyle Development
SERVICE:	Statutory Planning
DATE OF COMPLETION:	22 August 2009
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	To resolve encroachments of Yallingup Beach Caravan Park development and use in adjoining reserves
LOT SIZE:	1.44 ha
ZONE:	Special Purpose – Caravan Park – Roads, Recreation, Public Purpose
POLICIES:	N/A

PRÉCIS

Yallingup Beach Caravan Park is located on Lot 4567 Yallingup Beach Road. The site is zoned Special Purpose – Caravan Park. There have been long standing issues involved with boundary encroachments into the adjoining reserves, the resolution of which has been ongoing since 1996.

The lessee of the Yallingup Beach Caravan Park requested the Council to consider requesting the then Department of Land Administration (DOLA) to initiate amalgamation of those portions of the Yallingup Beach Road Reserve (that have various building and barbeque encroachments constructed) with Lot 4567 in the late '90s.

The Shire has previously dealt with the issue in May 2002 however implementation was delayed due to the "Hammond Claim" over Reserve 24622.

There are further encroachments into Lots 4338 and 4120 (Reserve 24622), which is vested in the Shire for public recreation. There is also an encroachment post 1999 into Reserve 37300 which is vested in the Shire for the bush fire brigade depot.

The Council has previously agreed to the preparation and implementation of a licence over the 'encroachments' in the road reserve. However, the lessee at the time had advised that due to management and liability issues, 'exclusivity' over the encroachments is required.

The Yallingup Progress Association has previously expressed concerns on the encroachments. The Council has previously considered their concerns but has generally supported changing the lease/lot boundaries to resolve the matter.

The Department for Regional Development and Lands (DRDL) leases Lot 4567 to the current operator of the caravan park and following settlement of the "Hammond Claim" in 2007, has requested the consideration of various issues by the Council to progress resolution of the encroachments.

It is recommended that the Council request DRDL to undertake the appropriate steps to amalgamate those portions of the Yallingup Beach Road Reserve, that have various building and other encroachments constructed on it, with Reserve 31917. Further, that the Council support the access easement over Lot 4906 (Reserve 31917), as previously resolved by the Council and that the amalgamation of those portions of Lots 4338 and 4120 (Reserve 24622) that have buildings and associated infrastructure with Lot 4567 and also support a boundary adjustment with Lot 4720 (Reserve 37300).

A retrospective planning approval for the development in the encroachment areas should be required to resolve outstanding development issues. Any support for a realignment of any of the boundaries would require the establishment and maintenance of an ongoing firebreak, rehabilitation and revegetation of the adjoining reserves and possibly the relocation of existing buildings and infrastructure.

Once the encroachments have been resolved, it is recommended that the Council supports Reserve 24622 being included into the adjoining Leeuwin – Naturaliste Ridge national park.

OFFICER RECOMMENDATION

1. That Menelle Holdings Pty Ltd be advised that the Shire accepts an offer of \$2,500 subject to CPI increases from 2003, as an ex-gratia payment to the Shire in relation to the matter of encroachments onto the Yallingup Beach Road Reserve and commits to spend these funds in improvements to the local reserves, Yallingup Hall or its precinct. Should no payment be received within two months of this resolution then the Shire will commence proceedings to have any development within the Yallingup Beach Road Reserve removed.
2. That, once the ex-gratia payment is received, the Council advise the Department of Regional Development and Lands that it supports the closure of the road reserve shown on the attached plan and its amalgamation with the Reserve 31917 or other reserve as advised by the Department of Regional Development and Lands subject to:
 - (a) there being no further or additional development in the area to be closed, and this area to be used for recreation purposes only, subject to point (b) with restriction to be referred to in the lease document for the site;

- (b) the house located on the "to be closed" area being demolished at the end of its life or as part of any redevelopment of the Caravan Park, whichever is the sooner. It is not to be renovated or replaced in that location. This requirement to be addressed in the extended lease;
 - (c) all costs of the amalgamation, lease amendments, survey and incidentals being met by the applicant (Menelle Holdings) and further that the Shire be indemnified against any other related costs; and
 - (d) the lessee being bound to maintain the vegetation buffer where it exists on the land in question.
3. That Menelle Holdings Pty Ltd be advised that they are required to lodge a retrospective development application for the development on the encroachments into the Yallingup Beach Road Reserve, Lot 4906, Lot 4338, Lot 4120 and Lot 4720 within three months from the date of this resolution.
 4. That the boundary adjustment between Lot 4567 and Lot 4720 (83.05m²) where there will be no change to either lot areas (as shown on Agenda Attachment 'E') be supported. The Department for Regional Development and Lands is to be notified of this resolution and request that the boundary realignment be undertaken as soon as possible.
 5. That the DRDL be advised that the amalgamation of various portions of Reserve 24622 (as identified on Agenda Attachment 'E') and including approximately 990m² on the SW boundary and 420m² on the Southern Boundary of Lot 4567 with Lot 4567, is supported.
 6. That the Council endorse that Reserve 24622 be included into the Leeuwin Naturaliste National Park once the encroachments have been resolved and further that the Department for Regional Development and Lands be notified accordingly.
 7. That submitters and the applicant be advised of the above.
 8. That should Menelle Holdings Pty Ltd not be prepared to pursue the relevant conditions above within the allocated timeline, then the Council will require that Menelle Holdings Pty Ltd remove all buildings and infrastructure from the Yallingup Beach Road reserve, Lots 4338, 4120 and 4906 at their expense within three months, rehabilitate and revegetate all reserves where affected by the encroachments to the satisfaction of the Shire of Busselton.

Note: Councillor Hanran-Smith had provided an Alternative Motion for the Council's consideration, proposing amendment to Clauses 1, 2 and 3 of the Officer Recommendation and inclusion of a new Clause 9.

MOTION

Moved Councillor Hanran-Smith, seconded Councillor Clarke:

1. That the Shire accepts an offer of \$5,000 as an ex-gratia payment to the Shire in relation to the matter of encroachments onto the Yallingup Beach Road Reserve and commits to spend these funds in improvements to the local reserves, Yallingup Hall or its precinct. Should no payment be received within two months of this resolution then the Shire will commence proceedings to have any development within the Yallingup Beach Road Reserve removed.
2. That the CEO advise the Department of Regional Development and Lands that the Council supports the closure of that portion of Yallingup Beach Road reserve occupied by the existing dwelling only as shown on Agenda Attachment E (85.69m²) and its amalgamation with Reserve 31917 or any other reserve, as advised by the Department of Regional Development and Lands subject to:
 - (a) There to be no further or additional development in the area to be closed and this area to be used for the existing dwelling only, subject to point (b) with this restriction to be referred to in the lease document for the site;
 - (b) That the existing dwelling located on the "to be closed" area be demolished at the end of its life or as part of any redevelopment of the Caravan Park, whichever is the sooner and the lease to terminate at that time. i.e. it is not to be renovated or replaced in that location. This requirement to be addressed in the lease;
 - (c) All costs of the amalgamation, lease amendments, survey and incidentals be met by the applicant (Menelle Holdings) and further that the Shire be indemnified against any other related costs;
 - (d) That the lessee be bound to maintain the vegetation buffer where it exists on the land in question; and
 - (e) That any infrastructure, excepting the house mentioned in clause (a), be removed from the Road Reserve within two months of the date of this resolution.
3. That Menelle Holdings Pty Ltd be advised that they are required to lodge a retrospective Development Application for the development on the encroachments into lot 4906 ,lot 4338 and lot 4120, within three months from the date of this resolution.

4. That the boundary adjustment between Lot 4567 and Lot 4720 (83.05m²) where there will be no change to either lot areas (as shown on Agenda Attachment 'E') be supported. The Department for Regional Development and Lands is to be notified of this resolution and request that the boundary realignment be undertaken as soon as possible.
5. That the DRDL be advised that the amalgamation of various portions of Reserve 24622 (as identified on Agenda Attachment 'E') and including approximately 990m² on the SW boundary and 420m² on the Southern Boundary of Lot 4567 with Lot 4567, is supported.
6. That the Council endorse that Reserve 24622 be included into the Leeuwin Naturaliste National Park once the encroachments have been resolved and further that the Department for Regional Development and Lands be notified accordingly.
7. That submitters and the applicant be advised of the above.
8. That should Menelle Holdings Pty Ltd not be prepared to pursue the relevant conditions above within the allocated timeline, then the Council will require that Menelle Holdings Pty Ltd remove all buildings and infrastructure from the Yallingup Beach Road reserve, Lots 4338, 4120 and 4906 at their expense within three months, rehabilitate and revegetate all reserves where affected by the encroachments to the satisfaction of the Shire of Busselton.
9. That any lease between the Shire and any lessee of the caravan park site be for five years with any renewal to occur in the Shire's usual fashion.

FORESHADOWED MOTION

During debate on this matter, Councillor Ryan foreshadowed her intention to move the Officer Recommendation.

AMENDMENT

Moved Councillor Binks:

That Clause 1 of the Motion be amended by deletion of the amount "\$5,000" and replacement with the amount "\$2,500".

**AMENDMENT LAPSED
FOR WANT OF A SECONDER**

COUNCIL DECISION

C0907/262 Moved Councillor Hanran-Smith, seconded Councillor Clarke:

1. That the Shire accepts an offer of \$5,000 as an ex-gratia payment to the Shire in relation to the matter of encroachments onto the Yallingup Beach Road Reserve and commits to spend these funds in improvements to the local reserves, Yallingup Hall or its precinct. Should no payment be received within two months of this resolution then the Shire will commence proceedings to have any development within the Yallingup Beach Road Reserve removed.
2. That the CEO advise the Department of Regional Development and Lands that the Council supports the closure of that portion of Yallingup Beach Road reserve occupied by the existing dwelling only as shown on Agenda Attachment E (85.69m²) and its amalgamation with Reserve 31917 or any other reserve, as advised by the Department of Regional Development and Lands subject to:
 - (a) There to be no further or additional development in the area to be closed and this area to be used for the existing dwelling only, subject to point (b) with this restriction to be referred to in the lease document for the site;
 - (b) That the existing dwelling located on the "to be closed" area be demolished at the end of its life or as part of any redevelopment of the Caravan Park, whichever is the sooner and the lease to terminate at that time. i.e. it is not to be renovated or replaced in that location. This requirement to be addressed in the lease;
 - (c) All costs of the amalgamation, lease amendments, survey and incidentals be met by the applicant (Menelle Holdings) and further that the Shire be indemnified against any other related costs;
 - (d) That the lessee be bound to maintain the vegetation buffer where it exists on the land in question; and
 - (e) That any infrastructure, excepting the house mentioned in clause (a), be removed from the Road Reserve within two months of the date of this resolution.
3. That Menelle Holdings Pty Ltd be advised that they are required to lodge a retrospective Development Application for the development on the encroachments into lot 4906 ,lot 4338 and lot 4120, within three months from the date of this resolution.
4. That the boundary adjustment between Lot 4567 and Lot 4720 (83.05m²) where there will be no change to either lot areas (as shown on Agenda Attachment 'E') be supported. The Department for Regional Development and Lands is to be notified of this resolution and request that the boundary realignment be undertaken as soon as possible.

5. That the DRDL be advised that the amalgamation of various portions of Reserve 24622 (as identified on Agenda Attachment 'E') and including approximately 990m² on the SW boundary and 420m² on the Southern Boundary of Lot 4567 with Lot 4567, is supported.
6. That the Council endorse that Reserve 24622 be included into the Leeuwin Naturaliste National Park once the encroachments have been resolved and further that the Department for Regional Development and Lands be notified accordingly.
7. That submitters and the applicant be advised of the above.
8. That should Menelle Holdings Pty Ltd not be prepared to pursue the relevant conditions above within the allocated timeline, then the Council will require that Menelle Holdings Pty Ltd remove all buildings and infrastructure from the Yallingup Beach Road reserve, Lots 4338, 4120 and 4906 at their expense within three months, rehabilitate and revegetate all reserves where affected by the encroachments to the satisfaction of the Shire of Busselton.
9. That any lease between the Shire and any lessee of the caravan park site be for five years with any renewal to occur in the Shire's usual fashion.

CARRIED 6/6
ON THE CASTING VOTE OF THE PRESIDING MEMBER

Dissenting Voters:

Councillor Anne Ryan
Councillor Ian Stubbs
Councillor Tom Tuffin
Councillor Jackie Emery
Councillor Bernie Masters
Councillor David Reid

Note 1: The Council amended the Officer Recommendation as it was considered that the encroachments had been a constant cause of friction between the lessee and the local community for many years, especially with the encroachment and destruction of native vegetation on the Road Reserve between the roadway and the present south-west encroaching corner of the Caravan Park.

The lessee has had the benefit of using the Road Reserve for seven years since the \$2500 offer was resolved by the Council and it was considered the \$2500 amount was just a symbolic gesture which does not take into account the value of that use of the Shire's Road Reserve by the lessee.

Note 2: As the Motion was carried, Councillor Ryan was unable to move the Officer Recommendation that she had previously foreshadowed.

14. SYSTEMS AND INFORMATION REPORT**14.1 INTERIM ACCOMMODATION STRATEGY FOR THE BUSSELTON PUBLIC LIBRARY AND CONSTRUCTION OF COMMUNITY RESOURCE CENTRE (LOTTERIES HOUSE)**

This report had not been finalised at the time of Agenda preparation on 7 July 2009, because of the possibility that it may have required refocussing as a consequence of a Councillor briefing/presentation on this matter, held on 8 July 2009. The report was to have been circulated via an Addendum to this Agenda prior to the Council Meeting on 22 July, however was not distributed for this meeting such that officers can incorporate additional information provided at the Councillor Briefing Session on 15 July into the final report.

COUNCIL DECISION

C0907/263 Moved Councillor Hanran-Smith, seconded Councillor Masters:

That Council note that the report relating to Item 14.1, Interim Accommodation Strategy for the Busselton Public Library and Construction of Community Resource Centre (Lotteries House) was not presented for this meeting and that consideration of this matter will be referred to a future Council Meeting.

CARRIED 12/0

15. COMMUNITY INFRASTRUCTURE REPORT**15.1 ROAD DEDICATION - BUSSELL HIGHWAY, YALYALUP (LUDLOW DEVIATION)**

This matter was considered earlier in the meeting, as part of the En Bloc resolution of the Council ([C0907/259](#), page 7).

15.2 LAYMAN ROAD - VERGE/ENTRY STATEMENT UPGRADE

SUBJECT INDEX:	Asset Management
STRATEGIC INITIATIVE:	2.1.4 Ensure community assets are effectively managed and maintained to capture both short term requirements and whole of life costs
BUSINESS UNIT:	Infrastructure Development
SERVICE:	Development Control
DATE OF COMPLETION:	Dependant on the Council Resolution
VOTING REQUIREMENT:	Simple Majority

PRÉCIS

This report identifies the requirements, approximate costs and program for the potential upgrading of the road verges of Layman Road between Peel Terrace (Ford Road intersection) and Navigation Way (formerly Armitage Drive).

OFFICER RECOMMENDATION

1. That the Council does not endorse the proposal to upgrade the road verges, Layman Road between Navigation Way and Peel Terrace.
2. That the Council support the long term staged building of a dual use path (as detailed in the five year capital plan) as a strategic link between Busselton and Wonnerup and that this be considered for funding as part of the outcome of the preparation of a Bike Plan pursuant to Council Resolution C0905/187.

Note: Councillor Stubbs had provided an Alternative Motion for the Council's consideration, proposing adoption of the Officer Recommendation with inclusion of an additional Clause 3.

COUNCIL DECISION

C0907/264 Moved Councillor Stubbs, seconded Councillor Hanran-Smith:

1. That the Council does not endorse the proposal to upgrade the road verges, Layman Road between Navigation Way and Peel Terrace.

2. That the Council support the long term staged building of a dual use path (as detailed in the five year capital plan) as a strategic link between Busselton and Wonnerup and that this be considered for funding as part of the outcome of the preparation of a Bike Plan pursuant to Council Resolution C0905/187.
3. That the works program for Layman Road be submitted again for the Council's consideration in March 2013.

CARRIED 12/0

Note: The Council amended the Officer Recommendation as it considered that although the works are not of a high priority, the matter needs re-consideration at a later date.

15.3 FIVE YEAR CAPITAL PROJECTS PLAN 2010 - 2015

SUBJECT INDEX:	Financial Management
STRATEGIC INITIATIVE:	2.1.2 Manage and maintain the Shire's assets for the amenity of the Community.
BUSINESS UNIT:	Infrastructure Development.
SERVICE:	Infrastructure Development.
DATE OF COMPLETION:	29 July 2009
VOTING REQUIREMENT:	Simple Majority.

A revised version of the report that was issued in the meeting agenda for 22 July 2009 was published in Agenda Addendum No. 1 and issued on 15 July 2009. The report that was published in the original meeting agenda was an incorrect version of "Five Year Capital Projects Plan 2010 - 2015".

PRÉCIS

The purpose of this report is to inform the Council of the annual review of the Five Year Capital Projects Plan for the periods from FY 2010/11 – 2014/15 inclusive. The report reflects the five year strategic objectives of the Council and allows continual development of annual budgets, corporate plan and business plans.

OFFICER RECOMMENDATION

1. That the Council endorse the FY2010/11 – 2014/15 Five Year Capital Project Plan (as attached to the Agenda for this meeting) as a general reference for planning of the future capital works within the Shire.
2. That the Five Year Capital Projects Plan is to be reviewed annually to accommodate changes in project priorities.

Note: Councillor Stubbs had provided an Alternative Motion for the Council's consideration, proposing adoption of the Officer Recommendation with inclusion of an additional Clause 3. Councillor Reid had provided an Alternative Motion for the Council's consideration, proposing that the matter be deferred to the first Council meeting after the rate modelling workshop has concluded.

MOTION

Moved Councillor Stubbs, seconded Councillor Reid:

1. That the Council endorse the FY2010/11 – 2014/15 Five Year Capital Project Plan (as attached to the Agenda for this meeting) as a general reference for planning of the future capital works within the Shire.
2. That the Five Year Capital Projects Plan is to be reviewed annually to accommodate changes in project priorities.

3. That the Five Year Capital Projects Plan be advertised for public comment for a period of 35 days and the submissions received be reported to the Council with Officer Recommendations relating to each submission.

FORESHADOWED MOTION

During debate on this matter Councillor Hanran-Smith foreshadowed his intention to move the Officer Recommendation.

MOTION PUT

Moved Councillor Stubbs, seconded Councillor Reid:

1. That the Council endorse the FY2010/11 – 2014/15 Five Year Capital Project Plan (as attached to the Agenda for this meeting) as a general reference for planning of the future capital works within the Shire.
2. That the Five Year Capital Projects Plan is to be reviewed annually to accommodate changes in project priorities.
3. That the Five Year Capital Projects Plan be advertised for public comment for a period of 35 days and the submissions received be reported to the Council with Officer recommendations relating to each submission.

LOST 6/6

ON THE CASTING VOTE OF THE PRESIDING MEMBER

Dissenting Voters:

Councillor Bethwyn Hastie
Councillor Bev Clarke
Councillor Don Hanran-Smith
Councillor David Binks
Councillor Rob Underdown
Councillor Wes Hartley

Note: At this juncture, Councillor Reid advised that he did not wish to proceed with the Alternative Motion that he had previously provided for the Council's consideration.

MOTION (PROCEDURAL)

Moved Councillor Reid, seconded Councillor Hanran-Smith:

That the Council agree to Councillor Reid not moving his Alternative Motion.

CARRIED 12/0

Note: As Councillor Stubbs' Alternative Motion was lost and Councillor Reid did not wish to move his Alternative Motion, Councillor Hanran-Smith was able to move the Officer Recommendation that he had previously foreshadowed.

COUNCIL DECISION / OFFICER RECOMMENDATION

C0907/265 Moved Councillor Hanran-Smith, seconded Councillor Hartley:

1. That the Council endorse the FY2010/11 – 2014/15 Five Year Capital Project Plan (as attached to the Agenda for this meeting) as a general reference for planning of the future capital works within the Shire.
2. That the Five Year Capital Projects Plan is to be reviewed annually to accommodate changes in project priorities.

CARRIED 11/1

Dissenting Voter:
Councillor Tom Tuffin

15.4 MONAGHANS ROUNDABOUT - RENAMING PORTION OF DOWNGRADED BUSSELL HIGHWAY

This matter was considered earlier in the meeting, as part of the En Bloc resolution of the Council ([C0907/260](#), page 8).

15.5 REVIEW OF COMMUNITY INFRASTRUCTURE TECHNICAL SPECIFICATIONS

SUBJECT INDEX:	Corporate Management - Policy Procedures and Manuals
STRATEGIC INITIATIVE:	2.1.2 Manage and maintain the Shire's roads for the amenity of the community
BUSINESS UNIT:	Infrastructure Development
SERVICE:	Development
DATE OF COMPLETION:	22 August 2009
VOTING REQUIREMENT:	Simple majority

PRÉCIS

The purpose of this report is to seek the Council's endorsement of the review of the Community Infrastructure Technical Specifications and related Policy 179/3 which has been updated.

OFFICER RECOMMENDATION

1. That the Council endorse the amended technical specifications 1, 2, 3, 4, 5, 6, 7, 9a, 9b, 9c, 9d, 9e and 9f (Agenda Attachment "A").
2. That the Council endorse the changes to Policy 179/3. (Agenda Attachment "B").

Note: Councillor Binks had provided an Alternative Motion for the Council's consideration, proposing deferral of consideration of this matter. Councillor Masters had provided an Alternative Motion for the Council's consideration, proposing adoption of the Officer Recommendation with inclusion of additional Clauses 3 and 4.

MOTION

Moved Councillor Binks, seconded Councillor Emery:

That Item 15.5 Review of Community Infrastructure Technical Specifications is deferred until such time as the Shire is able to provide the Council with an executive summary detailing those technical specifications that are proposed to change along with details of the specifications in their current form, in a manner that is easier to understand.

**LOST 6/6
ON THE CASTING VOTE OF THE PRESIDING MEMBER**

Dissenting Voter:
Councillor Ian Stubbs
Councillor Bethwyn Hastie
Councillor Tom Tuffin
Councillor Bev Clarke
Councillor David Reid
Councillor Wes Hartley

Note: As Councillor Binks' Alternative Motion was lost, Councillor Masters was able to move the Alternative Motion that he had provided,

COUNCIL DECISION

C0907/266 Moved Councillor Masters, seconded Councillor Tuffin:

1. That the Council endorse the amended technical specifications 1, 2, 3, 4, 5, 6, 7, 9a, 9b, 9c, 9d, 9e and 9f (Agenda Attachment A).
2. That the Council endorse the changes to Policy 179/3. (Agenda Attachment B).
3. That the CEO distribute copies of the amended Standards and Specifications to a representative number of non-government individuals and organisations who operate within the Shire and who implement the Standards and Specifications in the course of their normal day-to-day work, with a request for feed-back to be provided to the Shire on the technical accuracy and relevance of the Standards and Specifications.
4. That, prior to any future review of the Standards and Specifications, the CEO contact a range of non-government individuals and organisations who operate within the Shire and who implement the Standards and Specifications in the course of their normal day-to-day work, requesting their advice on any recommended changes to the Standards and Specifications.

CARRIED 12/0

Note: The Council amended the Officer Recommendation for the following reasons:

Engineers, planners and other technical and professional individuals and businesses/organisations who operate within the Shire are the people who have to implement the Standards and Specifications that are being adopted by the Council. While the Shire staff have considered the feedback provided informally by developers and others in preparing these Technical Specifications, a more formal process inviting advice from the engineering, planning and other practitioners who have to implement the specifications on a day-by-day basis is considered desirable if the Standards and Specifications are to be kept relevant and up to date to meet local needs.

Hypothetically, a consulting engineer working in adjoining shires could know from experience that a certain diameter drainage pipe is excessive and unnecessary in certain situations. Similarly, changes to water sensitive design criteria within a planning context may be standard practice in other parts of WA but may not be reflected in the current Standards and Specifications.

A two year review of the Shire's technical standards is to be applauded and the suggested changes to the Officer Recommendation, if adopted, will assist in ensuring that the reviews include up to date changes as applied by industry practitioners.

16. **COMMUNITY AND ORGANISATIONAL DEVELOPMENT REPORT**

Nil

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

Nil

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

Nil

19. **CONFIDENTIAL REPORTS**

Nil

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

Nil

21. **QUESTIONS FROM MEMBERS WITHOUT NOTICE**

21.1 **Councillor Anne Ryan:**

When is the Council going to be presented with the Commercial Strategy?

Response – Acting Chief Executive Officer:

At the next Council Meeting on 12 August 2009.

21.2 **Councillor Anne Ryan:**

At a meeting of staff with representatives of the car industry, one representative requested that the minutes be sent to him. This has not been done. When will it happen?

Response – Acting Chief Executive Officer:

I am not aware of the discussions, but if it was agreed to then it will happen. I will take the matter up with the relevant Manager, who is away at present, as soon as he is back on deck.

21.3 **Councillor Ian Stubbs:**

Can you tell me, in relation to planning delegations, when they were last reviewed by the Council and when the next review is likely to take place?

Response – Acting Chief Executive Officer:

I think it would be a couple of years ago, but I will take the question on notice. There is no statutory requirement for review of these delegations, however if you believe that there is a need for them to be reviewed, I suggest you put up a Notice of Motion.

21.4 Councillor David Binks:

Could you please answer these questions, which are prefaced with the following information as background.

Recently three Councillors were invited to make presentations at the Dunsborough Yallingup Chamber of Commerce. One of the Councillors, after explaining their particularly heavy workload, was asked the question "How do you do all the reading?" to which they replied "I surround myself with a number of advisors who do the reading and then advise me."

- (a) What are the statutory requirements and other implications for Councillors who seek or receive advice from third parties regarding agenda items, with respect to the nature and identify of those advisors?

Response – Presiding Member:

The Local Government Act is very clear on this matter but specific details of the request for information will be taken on notice.

- (b) What are the statutory requirements and other implications for Councillors who seek or receive advice from third parties in the preparation of Alternative Motions or Notices of Motion or their presentations given during debate?

Response – Presiding Member:

Again, the Local Government Act is explicitly clear on this matter and if it was identified that this advice was given and not identified, it would be in breach of the Act, as I understand it.

- (c) What are the statutory requirements and other implications for Councillors who wish to follow this practice with respect to Items 9 and 10 of the Council's Agenda entitled "Declaration of Due Consideration" and "Declaration of Interest"?

Response – Presiding Member:

Items 9 and 10 of the Council Agenda are very clear in terms of declarations. The Local Government Act is also very clear and I will undertake that the matter will be spelled out for you in writing, referring to the relevant sections of the Act.

21.5 Councillor Rob Underdown:

Regarding the big thick wads of paper (i.e. the technical specifications referred to in Item 15.5 of these Minutes) that are being handed out to Councillors, has that been printed out for a particular Councillor and would it need to be printed out separately for everyone?

Response – Director, Community Infrastructure:

If you read at the top of the Agenda Report, it says that the documents are available on-line and if people wanted copies, we would do that. I understand that Councillors' Binks and Hastie were sharing a copy.

21.6 Councillor David Reid:

Can you inform me when the next Budget Workshop will take place?

Response – Presiding Member:

We have agreed earlier this afternoon to call a Special Meeting for setting of rates next Monday at 5.00 p.m. In relation to any further workshops, I will defer to the Acting Chief Executive Officer, as I am not aware that any have been arranged.

Response – Acting Chief Executive Officer:

I am not aware that any further workshops have been organised. The process is that the rate setting meeting will be held on Monday, followed by a budget setting meeting early in August. This will be followed by another budget meeting after closure of the submission period, to adopt the budget.

21.7 Councillor Anne Ryan:

Can I ask how many Councillors read those technical documents? (i.e. the technical specifications referred to in Item 15.5 of these Minutes.)

Response – Presiding Member:

You can ask the question and if other Councillors wish to respond, they can. I personally did not read them all. I am not an Engineer or a technical expert and in this instance I was happy to defer to those that are and take the advice that was provided by staff.

21.8 Councillor Anne Ryan:

Did you read them?

Response – Presiding Member:

No, I did not. I have just said that I did not.

22. NEXT MEETING

A Special Council Meeting will be held at 5.00 p.m. on Monday, 27 July 2009, to consider the endorsement in principle of differential rates for the 2009/10 financial year for the purposes of advertising.

The next Ordinary Council Meeting will be held on Wednesday, 12 August 2009, commencing at 5.30 p.m.

The Councillors Briefing Session scheduled for Wednesday, 5 August 2009, has been rescheduled to Tuesday, 4 August, due to a number of Councillors' commitments at the Local Government Convention in Perth that week.

23. CLOSURE

The meeting closed at 7.19 p.m.

THESE MINUTES CONSISTING OF PAGES 1 TO 30 WERE CONFIRMED AS A TRUE	
AND CORRECT RECORD ON	_____
DATE: _____	PRESIDING MEMBER: _____