



COUNCIL MEETING 28 JANUARY 2009

En Bloc Council Resolution

RECOMMENDATION

That the Officer Recommendations for **Items 14.5, 14.6 and 14.7** be adopted.

Items to be dealt with by separate resolution, without debate

Item No. and Title	Page No.	Reason for Separate Resolution
Item 16.1 - Small Local Projects Fund 2008/09 - Nos. 9 and 10		Councillor Bromell will declare an Interest Affecting Impartiality in relation to SLP Request No. 10.

Items Identified for Debate (Pulled Items)

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
13.1 - Dunsborough Foreshore Management Plan (Consideration for Final Adoption)	Staff	5-10	To clarify intention of modification (g) to plan in respect to Dual Use Path Location.	<p>Cr Emery will declare an Interest Affecting Impartiality in relation to this Item.</p> <p>Adopt Officer Recommendation subject to modification (g) being amended to read as follows:</p> <p>(g) Modify text under 3.31 Pedestrian and Bicycle Access, recommendation R1 and maps 3C and 3D to reflect that the DUP will not be extended from Vincent Street into Bayview Crescent.</p>

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
<p>13.2 - The Coffee Shed - Trading in Public Places Approval for Lot 90 Strelly Street, Busselton</p>	<p>Cr Ryan</p>	<p>11-15</p>	<p>The applicant would like the opportunity to move to meet the market (whilst acting within the guidelines). They have found that the West Street location has been the best received site with good visibility with improved safety for passing traffic has easy access and no parking hassles and children in vehicles can be supervised.</p> <p>According to verbal feedback from the proponent's customers, they are indicating strong support for the proponent to operate for longer than the two hours (that has been fastidiously managed) at the West Street site. The amendment would allow sufficient time to properly evaluate the receptiveness of people to the two sites with extended operating times at each location until the best option is determined for this service. The proponent is more than happy to work with Shire staff in assessing the value of the service and any potential impact on surrounding businesses.</p>	<ol style="list-style-type: none"> 1. That the Council approve the Trading in Public Places Application to operate at currently approved operating sites on West Street and at Lot 90 Strelly Street between the times of 7am to 3pm, Monday to Friday for a period of 12 months subject to compliance with the Local Laws Relating to Trading in Public Places and the Trading in Public Places Standard Conditions of Approval Policy as amended by this resolution. <p><u>Absolute Majority Decision Required</u></p> <ol style="list-style-type: none"> 2. That the Council grant delegated authority to the Co-ordinator, Health Services to approve further applications to operate at West Street and at Lot 90 Strelly Street subject to the Trading in Public Places Standard Conditions of Approval, however should any <i>major</i> objections be received the matter be referred back to the Council for determination at the completion of the 12 month period. 3. That the "Trading in Public Places Standard Conditions of Approval Policy" be referred to a workshop for the Councillors within 3 months of Resolution. Prior to the workshop being convened, a ruling is obtained by the Shire's Solicitor and presented to the Council workshop regarding anti-competitive behaviour and any possible implications therein with regard to the above policy and any other matters which may be of concern regarding the current policy.

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<p>13.2 - The Coffee Shed - Trading in Public Places Approval for Lot 90 Strelly Street, Busselton</p>	<p>Staff</p>	<p>11-15</p>	<p>Rec. 1. To clarify that the reference is to the "shortest possible" travel distance.</p> <p>Rec. 3. To clarify the intent and scope of delegation under recommendation 3 and note the requirement for an absolute majority.</p>	<p>Adopt Officer Recommendation subject to amendment to Clauses 1 and 3 as follows:</p> <p>1. That clause 1f of the <i>Trading in Public Places Standard Conditions of Approval</i> be amended to read as follows:</p> <p>1.f) <i>"A mobile food van shall not conduct business within the shortest possible travel distance of 300m of any retail premises or permanent place of business that has for sale any goods or services of the kind offered for sale by the mobile trader."</i></p> <p>Absolute Majority Decision Required</p> <p>3. That the Council grant delegated authority to the Coordinator, Health Services to approve a further application from "The Coffee Shed" to operate at Lot 90 Strelly Street between the hours of 7am and 3pm Monday to Friday subject to the Trading in Public Places Standard Conditions of Approval and taking into account any public comment received on the matter.</p>

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
14.1 - List of Accounts Paid - August 2008	Cr Emery	16	<p>Under the Local Government (Financial Management) Regulations 1996, Part 2 - General financial management - s 10, number 13, it states</p> <p>(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared -</p> <p>(a) the payee's name: (b) the amount of the payment: (c) the date of the payment: (d) sufficient information to identify the transaction.</p> <p>The Council has previously delegated the CEO to make these payments, and I believe this new report does not comply with this Regulation. It is lacking in essential detail. I would like the Council to vote to request that the system report be amended to comply with the Local Government Regulations.</p>	That the Council defer acceptance of the Officer Recommendation until such time as the Council has had the opportunity to discuss and decide if the new payment listing report needs to be amended.

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
14.2 - List of Accounts Paid - September 2008	Cr Emery	17	<p>Under the Local Government (Financial Management) Regulations 1996, Part 2 - General financial management - s 10, number 13, it states</p> <p>(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared -</p> <p>(a) the payee's name: (b) the amount of the payment: (c) the date of the payment: (d) sufficient information to identify the transaction.</p> <p>The Council has previously delegated the CEO to make these payments, and I believe this new report does not comply with this Regulation. It is lacking in essential detail. I would like the Council to vote to request that the system report be amended to comply with the Local Government Regulations.</p>	That the Council defer acceptance of the Officer Recommendation until such time as the Council has had the opportunity to discuss and decide if the new payment listing report needs to be amended.

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14.3 - List of Accounts Paid - October 2008	Cr Emery	18	<p>Under the Local Government (Financial Management) Regulations 1996, Part 2 - General financial management - s 10, number 13, it states</p> <p>(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared -</p> <p>(a) the payee's name: (b) the amount of the payment: (c) the date of the payment: (d) sufficient information to identify the transaction.</p> <p>The Council has previously delegated the CEO to make these payments, and I believe this new report does not comply with this Regulation. It is lacking in essential detail. I would like the Council to vote to request that the system report be amended to comply with the Local Government Regulations.</p>	That the Council defer acceptance of the Officer Recommendation until such time as the Council has had the opportunity to discuss and decide if the new payment listing report needs to be amended.

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14.4 - List of Accounts Paid - November 2008	Cr Emery	19	<p>Under the Local Government (Financial Management) Regulations 1996, Part 2 - General financial management - s 10, number 13, it states</p> <p>(1) If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared -</p> <p>(a) the payee's name: (b) the amount of the payment: (c) the date of the payment: (d) sufficient information to identify the transaction.</p> <p>The Council has previously delegated the CEO to make these payments, and I believe this new report does not comply with this Regulation. It is lacking in essential detail. I would like the Council to vote to request that the system report be amended to comply with the Local Government Regulations.</p>	That the Council defer acceptance of the Officer Recommendation until such time as the Council has had the opportunity to discuss and decide if the new payment listing report needs to be amended.

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
<p>14.8 - Busselton Central Business District Specified Area Rate - Report of 2007/08 Financial Year Activities</p>	Cr Stubbs	47-51	<p>The intention of this motion is to give early notice of the Council's intention to the Chamber. It seeks to ensure a funding arrangement is in place for the 500 room nights required for the staging of the Ironman. It also achieves what the Chamber has publicly sought, that is, funding of events from a specific rate. It also ensures the level of the Specified Area rate is maintained at about current levels.</p>	<p>That the <u>Officer Recommendation</u> be numbered 1. and that the following be added::</p> <p>2. That the Busselton Chamber of Commerce be advised that when the Council reviews the MOU, which expires as at the 30th June 2009, the Council will require the Chamber to fund any future cost shortfalls in providing the 500 room nights required as part of the overall cost of staging the annual Busselton Ironman events, from within the existing level of funds raised from the Specified Area Rate.</p>
<p>14.8 - Busselton Central Business District Specified Area Rate - Report of 2007/08 Financial Year Activities</p>	Cr Ryan	47-51	<p>This would give the Council the opportunity to discuss the matter in unison with Item 19.1 if required.</p>	<p>That the report on the financial activities of the Busselton Chamber of Commerce (inc) and in respect of the Busselton CBD Specified Area Rate, for the financial year ending 30th June, 2008 be deferred by the Council until the next general meeting of the Council.</p>

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
<p>15.1 - Meelup Regional Park Management Plan (Consideration for Final Adoption)</p>	<p>Cr Stubbs</p>	<p>52-55</p>	<p>The alterations to Officer Recommendations 2 and 3 are simply making the Council's intentions clearer. The addition of item 4 aims to have the Council fully informed before discussions go any further with the Department. It may be that the Council does not wish to hand over control. The Council should be steering the direction on this issue.</p>	<p>Cr Emery will declare an Interest Affecting Impartiality in relation to this Item.</p> <p>(a) Delete the word 'request' in item 2 and insert the word 'that'.</p> <p>(b) Delete the words 'That the Council request the CEO to' in item 3 and insert the words 'That the CEO'.</p> <p>(c) Add new item 4 as follows:</p> <p>4. That the CEO present a report to the Council on the implications of handing over of management responsibility of Meelup Regional Park to the Department of Environment and Conservation before any further discussions are held with the Department.</p>

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
15.1 - Meelup Regional Park Management Plan (Consideration for Final Adoption)	Staff	52-55	<p>(a) Correction of typographical error. Under PRECIS (Page 52) third paragraph, incorrect reference to title of Meelup Regional Park Management Committee.</p> <p>(b) Correction of typographical error. Under STATUTORY ENVIRONMENT (Page 53 first paragraph, incorrect title for Minister.</p> <p>(c) Correction of typographical error. Under OFFICER COMMENT (Page 54) fourth paragraph, incorrect for Minister.</p> <p>(d) Correction of typographical error. Under OFFICER RECOMMENDATION (Page 55) Recommendation 3, incorrect title for Minister.</p> <p>(e) Part B Management Framework Plan (Table) - Management Strategy (Page 9) second paragraph. Insert additional wording to strengthen strategy.</p>	<p>Adoption of <u>Officer Recommendation</u> subject to:</p> <p>(a) Page 52 of Agenda Report Amend title of Meelup Regional Park <i>Advisory</i> Committee to Meelup Regional Park Management Committee.</p> <p>(b) Page 53 of Agenda Report Amend title of Minister for <i>Planning and Infrastructure</i> to Minister for Lands</p> <p>(c) Page 54 of Agenda Report Amend title of Minister for <i>the Environment</i> to Minister for Lands</p> <p>(d) Page 55 of Agenda Report Amend title of Minister for <i>the Environment</i> to Minister for Lands</p> <p>(e) Management Plan (Agenda Attachment A) Insert wording "As a minimum" before the words <i>Ensure that Park management is consistent with....</i></p>

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
<p>15.2 - Busselton Regional Airport - Draft Noise Management Plan - Section 46 (Changes to Environmental Conditions)</p>	<p>Cr Tuffin</p>	<p>56-62</p>	<p>Preamble:</p> <p>There is widespread acceptance of the vision for Busselton to have a highly developed, modern and well managed airport, and one that causes minimum disruption to any resident. It is the intent of this motion to help bring this about.</p> <p>1. To achieve the vision it is unquestionable that a workable and widely accepted Noise Management Plan is needed. The particular Plan being proposed is different from that presented at the community meeting on June 11th, 2008 and no further communication with the public has been made since then. To endorse the Draft Management Plan when there has been absolutely no public consultation on this particular Plan is not only poor governance but is also an excellent way to ensure that there is little or no future external interest in developing the airport. The precedence set in Bunbury is an excellent example.</p>	<p>That the Council defers consideration of the Section 46 Application and endorsement of the Draft Noise Management Plan until</p> <p>(a) all important details of the Application and the Plan are available;</p> <p>(b) there is public consultation on the actual NMP proposed, preferably through a Noise Management Advisory Group;</p> <p>(c) in light of most recent publications from the Federal Dept. of Transport the use of ANEP is reviewed by the Council;</p> <p>(d) the cost of implementation of the proposed changes by both a Section 46 Application and the NMP (e.g. sound insulation of houses or relocation of residents, recording equipment etc.) have been established and provided to the Council;</p> <p>(e) CASA has been able to advise on the safety implications of all proposed “flight paths” especially those arising from the FNA (Fly Neighbourly Agreement); and</p> <p>(f) a review has been carried out of the number of flyovers conducted by the nine training companies that use BRA.</p>

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<p>15.2 <i>(Continued)</i></p>	<p>Cr Tuffin</p>		<p>2 Inconsistencies with ASA2021 need much further discussion – in most cases these standards should provide an excellent benchmark for BRA. However, basing the Plan on a 20 ANEF standard needs considerably more caution, consideration and accurate data.</p> <p>As stated in ASA 2021 (p4)</p> <p><u>“Exposure prediction below 25 ANEF may be significantly inaccurate, and therefore caution should be exercised in the evaluation of locations outside the 25 ANEF contour”.</u></p> <p>On page 5 of ASA2021 it states:</p> <p><u>“However, it should be noted that the effects of noise from aircraft are not confined to areas where the noise exposure exceeds 20 ANEF and may occur at or below 20ANEF.”</u> (emphases added)</p> <p>The SKM report commissioned by the Shire states; <u>“A commonly expressed problem with AS2021 is that ANEF limit that is defined as acceptable for residential usage is too high for rural areas.”</u> (Page 23)</p>	

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15.2 <i>(Continued)</i>	Cr Tuffin		<p>3. The costs of implementing the Plan or the recommendation in the Section 46 Application have not been made available (if they are available) to the Councillors. Significant costs can be anticipated. Sound insulating a single house is about \$57 000 and of course re-location of a residence would be several times higher. We should have an informed estimate of this cost before endorsing the Plan and thus committing significant amounts.</p> <p>4. Use of ANEF, at least for some purposes is currently considered inadequate. A publication from the Depart of Transport in September, 2008 states:</p> <p>“The broad thesis being proposed by the Department is that it would be to the advantage of all parties – airports industry and the community – <u>to move beyond the use of ANEFs ...</u>” (ref available) (underlining added)</p>	

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<p>15.2 <i>(Continued)</i></p>	<p>Cr Tuffin</p>		<p>5. It has to be emphasised that the root cause of the entire problem as far as the residents is concerned is the flying training. BRA receives a hugely disproportionate amount of the training carried out in the state. Not only are our charges very low but we charge only on the basis of radio calls made from aircraft, BRA is a CTAF non-R airport meaning that radio calls are not mandatory. It is perfectly legal to land or take-off without making a call. Use of our airport for say two hours circuit training can be several hundred dollars cheaper than at other airports. As a result we are inundated with twin engine jet and piston aircraft for training purposes.</p>	
<p>15.2 - Busselton Regional Airport - Draft Noise Management Plan - Section 46 (Changes to Environmental Conditions)</p>	<p>Cr Stubbs</p>	<p>56-62</p>	<p>The Councillors have been seriously compromised by learning that Rio Tinto has contributed \$65,000 towards the cost of preparing the documents that are being considered by the Council. We should reject the documents. A way forward may be for the Councillors to workshop the issue at a later date.</p>	<p>That the Council decline to adopt the Officer Recommendations.</p>

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<p>15.2 - Busselton Regional Airport - Draft Noise Management Plan - Section 46 (Changes to Environmental Conditions)</p>	<p>Staff</p>	<p>56-62</p>	<p>(a) Clarification of process.</p> <p>(b) Inaccuracies or mistakes have been identified in the NMP (Draft) and corrected. These errors are not material to the alternative recommendations made for item 15.2.</p> <p>(c) Inaccuracies or mistakes have been identified in the NMP (Draft) and corrected. These errors are not material to the alternative recommendations made for item 15.2</p>	<p>(a) <u>Page 62 of Agenda Report - REVISED OFFICER RECOMMENDATION</u></p> <p>1. That the Council endorse the Draft Noise Management Plan for public comment prior to submission to the Minister for Environment and EPA.</p> <p>2. That the Council endorse the Draft Section 46 for public comment prior to submission to the Minister for Environment and EPA.</p> <p>(b) <u>Draft NMP, Page 1, Table 3</u></p> <p>* House 1 / Obs > 80db(A) equals 6</p> <p>* House 3 / Obs > 80db(A) equals 3</p> <p>* Runway / Obs > 80db(A) equals 27</p> <p>(c) <u>Draft NMP, Page 6, Figure 5 and Page 7, Figure 6</u></p> <p>* House 4, 10 > 80db (A)</p>

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
Item 16.2 - Expressions of Interest for Local Environmental Planning Strategy Community and Industry Reference Group and Small Business Centre - Vasse	Staff	65-66	To provide an opportunity for interested Councillors to express their interest in taking on the role on the Local Environmental Planning Strategy Community and Industry Reference Group and the Small Business Centre - Vasse.	To be determined by the Council, following receipt of any expressions of interest from the Councillors in either of the roles outlined in the Officer's Report.