



COUNCIL MEETING 27 MAY 2009

En Bloc Council Resolution

RECOMMENDATION

That the Officer Recommendations for **Items 13.2 and 16.1** be adopted.

Items to be dealt with by separate resolution, without debate

Item No. and Title	Page No.	Reason for Separate Resolution
Item 15.1 - Tender Selection Criteria - TEN 05/09 Supply, Delivery and Laying of Turf for the New Dunsborough Oval	56 - 59	Absolute Majority Decision Required for Rec. 2
Item 15.2 - Community Infrastructure - Works Revision In Light of Economic Climate	Agenda Addendum No. 1	Absolute Majority Decision Required

Items Identified for Debate (Pulled Items)

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
<p>13.1 Vasse to Dunsborough Route Alignment Study: Route Selection</p>	<p>Cr Masters</p>	<p>10 - 20</p>	<p>The site inspection by four Councillors last Wednesday showed that both the orange-red and blue routes would cause significant impacts to a number of landowners. Claims were made that the two parts of some properties severed by either route would not be easily accessible and that farmers would need to truck their stock several kilometres in order to, in effect, move them 60 or 120 metres across the new road. Other landowners claimed Main Roads had suggested that the creation of additional property titles might be appropriate compensation for those properties being bisected by the new road.</p> <p>As well, many landowners questioned why a well designed upgrade of Caves Road could not meet at least short and medium term traffic volume increases, especially in light of several landowners having donated land to Main Roads in the 1970s or 1980s for widening of Caves Road.</p> <p>A delay of four to eight weeks is unlikely to cause problems to a project that has been on the drawing board for at least 12 years.</p>	<ol style="list-style-type: none"> 1. That the agenda item be deferred to a future meeting of the Council for resolution 2. 2. That the CEO arranges for a Council briefing to be attended by representatives of State Government agencies responsible for the planning and design of Vasse to Dunsborough route, including but not limited to Main Roads WA and the Department for Planning and Infrastructure.

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
<p>13.3 - Rezoning Lot 1 Nuttman Road, Chapman Hill, From 'Agriculture' to 'Bushland Protection' And Development Guide Plan - Consideration of Adoption for Advertising</p>	<p>Cr Masters</p>	<p>27-36</p>	<p>If the Council wishes to reduce the risk of significant loss of life and property under conditions similar to last February's Victorian bushfire tragedy, then one option open to it is to oblige the people wishing to build new buildings in bushland areas to meet Australian Standard's rules for Class 3 buildings (i.e., they are made from concrete or other non-combustible materials and are otherwise designed to withstand bushfires). However, this would be a major change of policy and would require considerable research by staff and community consultation.</p> <p>Alternatively, for all new subdivisions within bushfire prone areas, the Council could request the WAPC to include on the titles of each newly created lot a memorandum which provides each new owner with an appropriate level of detail about the building options available to the owner so as to increase the fire resistance built into the new building. This is seen as a far less intrusive option which places the responsibility for decision making where it should lie: with the private landowner.</p> <p style="text-align: right;"><i>Continued over page</i> ▶</p>	<p>Adoption of Officer Recommendation with inclusion of a new clause 4 as follows:</p> <p>4. That the Shire request the WA Planning Commission to include as a condition of subdivision a clause requiring a memorandum be placed on the title of each newly created lots which provides a detailed description of Australian Standard 3959-2009 for construction of buildings in bushfire-prone areas so that the purchasers of each lot are made aware of the building design options available under the Building Code of Australia Classes 1, 2 and 3 and the resulting reductions in size of Building Protection and Hazard Reduction Zones around each class of building.</p>

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13.3 (Continued)	Cr Masters	27-36	In land zoned for Bushland Protection, an added bonus resulting from owners choosing to build to a Class 3 design is the reduced size of Building Protection and Hazard Reduction Zones surrounding each building envelope. This will result in less clearing of vegetation during construction and a smaller area of bushland to be managed in perpetuity by the landowner so as to comply with the Bushfire Management Plan requirements of reducing the amount of combustible material occurring within each zone.	
13.4 - Prosecution – Use of 16 Georgette Street, Busselton. Breach of Scheme – Tourist Accommodation in Residential Zone	Cr Ryan	37 - 41	The Council made a decision in 2005 (9/1) to allow short stay letting with Amendment 46, which, due to the change in Government, has never been progressed. We are now being asked to take action contrary to that Resolution.	<p>Cr Hastie will declare an Interest Affecting Impartiality in this item.</p> <ol style="list-style-type: none"> 1. That the CEO write to the Minister for Planning and request final approval of Draft Amendment No. 46 of the Town Planning Scheme as per the Council's resolution of 8 June 2005. 2. That no prosecution action is taken in relation to the use of 16 Georgette Street, Busselton until such time that a decision has been made by the Minister.

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
13.5 - Review Of The 'Use Of Reflective Building Materials Policy'	Cr Masters	42 - 55	Refer Appendix A	<p>That the Council:</p> <ol style="list-style-type: none"> 1. withdraws its "Use of Reflective Building Materials Policy" 2. resolves either that <ol style="list-style-type: none"> a. the objective of 'preserving the visual amenity and rural/scenic character of areas of landscape value' is not a legitimate policy goal of a local government body, or b. such an objective is a reasonable goal for local government. 3. directs the CEO to report to the Council on the costs, level of staff involvement, timing and other relevant issues required to prepare a new policy that relates to: <ol style="list-style-type: none"> a. if the Council resolves to accept clause 2 a above, then the new policy will only address the issues described in clause 4 below, and b. if the Council resolves to accept clause 2 b above, then the new policy will address the issue of visual amenity protection from highly reflective building materials through a new mechanism described in clause 5 below in addition to addressing the issues described in clause 4 below.. 4. agrees that the new policy will have as its objectives the use of 'cool roof' technology - a roof with high solar reflectance and high infrared emittance to reduce summer heat flow into the building and to maximise the return of heat to the outer atmosphere. <p style="text-align: right;"><i>Continued over page</i> ▶</p>

Item No and Title	Pulled By	Page No	Reason	Alternative Motion
13.5 (Continued)	Cr Masters	42 - 55		5. agrees that building materials may be used within the shire without any conditions imposed on their reflectivity, provided that, should an adjoining or nearby neighbour complain about reflected glare from the new building affecting their reasonable enjoyment and use of their property and that such claim is verified by staff inspection of the properties involved, then the Shire is able to require the highly reflective materials on the new building to be treated (e.g. glass to be covered in a non-reflective film, all other materials to be painted or clad) to reduce their solar reflectance level to below 50%

REASON

The existing "Reflective Building Materials Policy" has two primary goals:

- * to preserve visual amenity in areas of landscape value by attempting to 'hide' buildings so that they are effectively invisible to the human eye, and
- * to reduce or eliminate situations where the use of highly reflective building materials reflects light and/or heat onto neighbouring properties such that the neighbour's enjoyment of the property is unreasonably impaired.

PROTECTION OF VISUAL SCENIC AMENITY

I believe that to attempt to create the impression that an area of attractive landscape does not also contain people, their homes, other buildings, roadways, cars, etc, is fraudulent and deceptive and is an inappropriate distraction away from more important issues which deserve to be controlled or managed by the Council's policies. Claims that 'people' want the Leeuwin Naturaliste ridge area to look natural by not having light coloured roofs seen by a distant viewer are unsubstantiated hearsay. While it may be an aspirational goal of people in the tourism industry to want such areas to appear natural when in fact they contain a large number of private dwellings, the reasonable ability of people to choose their preferred building materials without the constraints as forced on them by the existing Shire's Policy should be given greater respect in a free society such as ours.

Even if protection of visual scenic amenity is considered to be a core business responsibility of the Council, the existing policy does not address equally important sources of high solar reflectance from:

- * the glass on solar hot water systems;
- * the glass on solar photovoltaic systems;
- * when the sun is low in the sky, sunlight reflected from the surface of farm dams light coloured motor vehicles (almost 50% of all passenger cars on our roads are white) the glass windscreens and windows of motor vehicles.

If the Council wants to properly address the issue of highly reflectance materials impacting upon visual scenic amenity and road users as the current policy seeks to address, then a new, comprehensive, complex and far more restrictive policy is required to address all the sources of high solar reflection that exist in our modern world.

It is far better in my view to agree that protection of visual scenic amenity is beyond the Council's area of responsibility and should no longer be subject to a Council policy.

PROTECTION AGAINST VISUAL DETRACTION AND NUISANCE IN URBAN AREAS

Problems in urban areas caused by highly reflective surfaces (not just roofs) can be serious. Light and heat from a glass wall or a highly reflective roof can seriously impair a neighbour's enjoyment of their property and dwelling. As such, it is entirely appropriate that the Council have a policy that can address these types of problems.

There are two ways of attempting to ensure that solar reflectivity problems can be addressed by the Shire via the use of a Council Policy. The first is to continue to do what the current policy requires: every building plan must be assessed as to its use of highly reflective building materials and, where the Shire staff believe that a problem may occur, to invoke the Policy and require the use of alternative building materials. This is excellent way of encouraging disputation with people who are told they cannot build in the materials of their choice and it fails to address the

issue of what power the Shire has to resolve solar reflectance problems if the problems are found to exist after construction has been completed.

The alternative way is to remove the Shire staff from having to carry out a formal assessment of the solar reflectivity of every proposed building and instead to advise applicants for building licenses that the Shire has the power to force the owner of a new building to undertake remedial action if a problem of solar reflectance occurs once the new building is completed (provided that Shire staff verify the existence of the problem). Such a process would reduce staff day-to-day work loads, maximise the freedom of people to make their own choices rather than being forced to comply with a Shire edict, and provide a mechanism whereby problems can be resolved.

THE NEED FOR A COOL ROOF POLICY

In our modern world, technologies now exist to design buildings with greatly reduced energy consumption and, if solar PV systems are installed, to generate more energy than is consumed by many buildings. (Similar technologies and design improvements allow major reductions in water usage but this issue should be left for another day.)

Most people would prefer to live in a house that doesn't need air conditioning to cool the house in summer and heat the house in winter and which is generally highly efficient in its use of energy. If this was an easy goal to achieve, however, state or federal governments would have passed laws years ago to enforce passive solar design, the use of thermal mass to trap the heat from winter sun, good cross-through ventilation in summer and so on. For a local government body such as Busselton Shire to seek to achieve something that state and federal governments are still trying to decide how best to achieve suggests that we should keep well clear of imposing such requirements on new buildings.

However, every journey begins with the first step. The Council has an opportunity to modify the existing "Reflective Building Materials Policy" such that it becomes a "Cool Roof Policy" with the promise of worthwhile environmental and economic benefits. A Cool Roof is defined as one that has a high solar (i.e. light) reflectance as well as a high infrared (i.e. heat) emittance. Research has shown that a roofing material that has both of these properties will remain cool on a hot summer day while also emitting heat back to outer space through the atmosphere, thereby reducing heat build-up within the Earth's atmosphere. The Berkeley Laboratories of the University of California state that, with most of the world's population now living in urban areas, the use of cool roofs and cool pavements (which cover 60% of urban areas) could offset 120% of the world's carbon dioxide emissions.

The State of California now mandates that all residential and commercial buildings must install heat reflecting roofing as part of its energy efficiency building code.

The development of a Council policy to require all new buildings to install Cool Roofs is an opportunity to make a simple, easy to apply first step on a journey that the entire world is likely to be forced to take by global climate change in the not too distant future.