



## **Council Agenda**

***27 June 2018***

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

[city@busselton.wa.gov.au](mailto:city@busselton.wa.gov.au)

**CITY OF BUSSELTON**

**MEETING NOTICE AND AGENDA – 27 JUNE 2018**

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**TO: THE MAYOR AND COUNCILLORS**

**NOTICE** is given that a meeting of the Council will be held in the Council Chambers, Administration Building, Southern Drive, Busselton on Wednesday, 27 June 2018, commencing at 5.30pm.

Your attendance is respectfully requested.

**Disclaimer**

Statements or decisions made at Council meetings or briefings should not be relied on (or acted upon) by an applicant or any other person or entity until subsequent written notification has been given by or received from the City of Busselton. Without derogating from the generality of the above, approval of planning applications and building permits and acceptance of tenders and quotations will only become effective once written notice to that effect has been given to relevant parties. The City of Busselton expressly disclaims any liability for any loss arising from any person or body relying on any statement or decision made during a Council meeting or briefing.



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**MIKE ARCHER**

**CHIEF EXECUTIVE OFFICER**

15 June 2018

**CITY OF BUSSELTON**

**AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 27 JUNE 2018**

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1. **DECLARATION OF OPENING/ACKNOWLEDGEMENT OF COUNTRY/ACKNOWLEDGEMENT OF VISITORS/DISCLAIMER**

2. **ATTENDANCE**

**Apologies**

**Approved Leave of Absence**

3. **PRAYER**

4. **APPLICATION FOR LEAVE OF ABSENCE**

5. **DISCLOSURE OF INTERESTS**

6. **ANNOUNCEMENTS BY THE PRESIDING MEMBER**

7. **QUESTION TIME FOR PUBLIC**

**Previous Questions Taken on Notice**

7.1 **Mr Ian Stubbs**

The following questions were asked of Council at the 13 June 2018 Ordinary Council Meeting and were taken on notice.

**Question 1**

Are you aware that the 2002 conditional approval of the Environmental Appeal Committee on Ford Road was binding on the Minister?

**Question 2**

When the City was promoting the Eastern Link proposal, its website and all the printed material clearly showed the roundabout at the intersection of Peel Terrace and Brown Street was part of the project. I later heard that the roundabout was not part of the Eastern Link. When asked about this, the CEO confirmed it was not part of the Eastern Link. Obviously, the website and all the printed material was very misleading. Two questions:

1. Why was this roundabout clearly shown as part of the Eastern Link and why was it later removed?
2. Does the City plan to construct the roundabout at the intersection of Peel Terrace and Brown Street? If so, when and how much will it cost and how will it be funded?

**Question 3**

Can I just follow up, is the construction of this roundabout listed on next year's budget?

**Question 4**

You mentioned the relocation of services, there has been a lot of activity in that area in the northern end of the Eastern Link. Has any of that work been the relocation of services for the Eastern Link? And can you advise how much this has cost the rate payers? If the services haven't been relocated how much has been listed for this on next year's budget?

**Question 5**

Has the Council considered a left in-left out intersection at Strelly Street and the duplicated Causeway Road, saving the enormous cost of a roundabout?

**Question 6**

Mr Mayor, can I ask why that intersection is a higher priority than any other demand for road works within the City? And are you aware that I've driven past that intersection or used it every day for the last 28 years and I don't think that I've seen more than one vehicle waiting on Brown Street to enter Peel terrace?

**Public Question Time For Public****8. CONFIRMATION AND RECEIPT OF MINUTES****Previous Council Meetings****8.1 Minutes of the Council Meeting held 13 June 2018****RECOMMENDATION**

That the Minutes of the Council Meeting held 13 June 2018 be confirmed as a true and correct record.

**9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS****Petitions****Presentations****Deputations****10. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (WITHOUT DISCUSSION)****11. ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY****12. REPORTS OF COMMITTEE MEETINGS**

Nil

### **13. PLANNING AND DEVELOPMENT SERVICES REPORT**

#### **13.1 APPLICATION FOR A RECREATION FACILITY AND PROFESSIONAL CONSULTING ROOMS - LOT 175 (HSE NO 53) PRINCE REGENT DRIVE WEST BUSSELTON**

<b>SUBJECT INDEX:</b>	Development/Planning Applications
<b>STRATEGIC OBJECTIVE:</b>	Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
<b>BUSINESS UNIT:</b>	Development Services and Policy
<b>ACTIVITY UNIT:</b>	Statutory Planning
<b>REPORTING OFFICER:</b>	Statutory Planning Coordinator - Joanna Wilson
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachments included under separate cover

#### **PRÉCIS**

The Council is asked to consider a development (planning) application seeking approval for a Recreation Facility and Professional Consulting Rooms (Gym and Physiotherapy) at 53 Prince Regent Drive, West Busselton. The proposal is located within the 'West Street Development' along the boundary with the residential properties accessed from Seymour Street.

The proposal is placed before the Council due to the nature of the issues requiring consideration and the level of community interest.

As originally submitted the proposed building comprised of a parapet wall, five metres in height along the boundary with the adjoining residential properties. Officers have been liaising with the applicant to achieve changes to the design of the building and the submission of an acoustic assessment, which also resulted in further design changes.

It is considered that the proposal is consistent with the relevant planning framework and is recommended for approval subject to conditions.

#### **BACKGROUND**

Lot 175 (Hse No 53) Prince Regent Drive is located within the 'West Street Development'. The lot is located on the western side of the development and is bound by properties mostly accessed from Seymour Street to the west, a vacant lot with approval for a Childcare Centre to the south, internal access road to the east and another lot yet to be developed to the northern boundary. A location plan is provided in **Attachment A**.

The site is zoned "Restricted Business" under Local Planning Scheme No.21. A Recreation Facility is a 'D' (i.e. discretionary) use and Professional Consulting Rooms is a 'P' (permitted) use in the Restricted Business zone.

The original development plans are provided at **Attachment B**

The development would comprise of a single storey building measuring 26m in width and 25.8m in length. The building comprises of 645m<sup>2</sup> in floor area, 195m<sup>2</sup> for the Physiotherapy and 450m<sup>2</sup> for the Gym. The building would be sited between 1.5-2m to the western boundary and at its lowest point would be 3.5m raising up to 5.75m in height. A bin store would be located between the building and the rear boundary; this would be enclosed and would not extend above the existing fence. The amended development plans are provided in **Attachment C**.

This unit has 6 car parking spaces in front of the building, however there are easements in place across the development for reciprocal parking for the entire car parking areas within the West Street Development. As such, parking supply and demand does not need to be addressed on a site by site basis.

An acoustic assessment has been submitted, which has resulted in some design changes both internal and external to the building as reflected in the amended plans. A copy of the report is at **Attachment D**

## STATUTORY ENVIRONMENT

The key elements of the statutory environment that relate to the proposal are set out in Local Planning Scheme No.21 ('The Scheme').

The site is zoned 'Restricted Business', the Objectives of the Restricted Business zone are:

*"To make adequate provision for other commercial needs and opportunities not ideally located in the town centres of Busselton and Dunsborough whilst having regard to the strategic importance and need to maintain the commercial primacy of the town centres".*

The Policies of the Restricted Business Zone are:

- (a) *To provide for development having relatively low traffic-generating characteristics, but not high turnover shops and offices that might more properly be located in the Business zone.*
- (b) *To provide for relatively low intensity commercial and retail uses with extensive floor space requirements which, by the nature of the activity conducted, require relatively direct and easy access to motor vehicle parking areas for loading purposes.*
- (c) *To provide for development which will not result in a detrimental impact on surrounding commercial centres or an overall adverse impact on commercial centres.*
- (d) *To restrict development which is likely to contribute to ribbon development, the spread of town centres, or otherwise detrimentally impact the efficiency of main or arterial roads.*

In considering the application, the Council needs to consider the 'Matters to be considered' set out in clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, particularly relevant considerations in relation to this application are the following –

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following –*
  - (i) *environmental impacts of the development;*
  - (ii) *the character of the locality;*
  - (iii) *social impacts of the development;*

- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (zb) *any other planning consideration the local government considers appropriate.*

## **RELEVANT PLANS AND POLICIES**

### ***Land-use Concept Plan***

The Land-use Concept Plan (LUCP) guides subdivision and development within the site. The relevant provisions that apply to this application are:

- 7 *Development adjacent to residential zoned land shall be:*
  - *Restricted to single storey,*
  - *Incorporate measures to avoid light spill into the adjacent residential area, and*
  - *Provide service areas that are enclosed and located to minimise noise and disturbance to the adjacent residential area.*

*to ensure an appropriate level of amenity and privacy to residential properties.*
- 8. *Building envelopes and car parks shall be constructed in the location as generally shown on the Land-use Concept Plan to maintain sightlines to buildings.*

A copy of the LUCP is at **Attachment E**

## **FINANCIAL IMPLICATIONS**

The recommendation of this report is a planning determination. It does not impose any direct financial implications upon the City.

### **Long-term Financial Plan Implications**

Nil.

## **STRATEGIC COMMUNITY OBJECTIVES**

The recommendations in this report reflect Community Objective 2.1 of the City's Strategic Community Plan 2017 – 'Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow'.

## **RISK ASSESSMENT**

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City's risk assessment framework. The assessment identifies 'downside' risks only, rather than 'upside' risks as well. Risks are only identified where the residual risk, once controls are identified, is medium or greater. No such risks have been identified.

## CONSULTATION

The proposal was referred to all landowners within the strata complex to the west of the proposed development site for a period of 21 days. As a result of the advertising a letter from the Strata Manager and one further submission has been received, raising the following concerns/contentions:

- Insufficient consultation on applications;
- No regard to the LUCP, in particular the site was identified as Bulky Goods/Showroom and the proposal does not fit with the definition and furthermore a 'X' in the Scheme;
- Detrimental impact on the adjoining properties from the height of the building and does not have an interface that is sensitive to residential development; and
- The LUCP shows car parking to the rear of the building to act as a buffer zone, how can this be ignored?

A copy of the Schedule of Submissions is at **Attachment F**.

## OFFICER COMMENT

The main items which need to be considered as part of this proposal are the provisions of the LUCP, acoustic assessment and the amenity of neighbouring residents, and the scale of the building.

### Acoustic Assessment and Amenity of Neighbouring Properties

There are two properties accessed from Seymour Street that would be adjacent to the proposed development. The neighbouring properties are orientated so that their garden areas are adjacent to the eastern boundary and their main habitable room windows are located on the eastern elevation of the dwellings, 4m from the rear boundary.

The application was originally submitted without an acoustic assessment. Officers raised concerns that the proposed design/use could result in noise and disturbance to the closest noise sensitive premises, in particular from music. The acoustic assessment that has been submitted has resulted in some design changes both internally and externally, including reducing the amount of glass on the northern elevation. The acoustic assessment has been considered by the City's Environmental Health Officers who are of the opinion that the report still lacks sufficient information in terms of the management of the building, in particular the extent to which music will be audible from the adjoining noise sensitive premises.

It is, however, considered that music can be controlled by an appropriate noise management plan, which would apply measures to limit the times that music can be played, in addition to the volume of the music and classes etc. Officers are recommending that a condition be imposed for the submission of a noise management plan prior to the commencement of development; the recommendations of the plan should then be met throughout the life of the development.

### Scale of the building

As discussed above, there are two properties that would be the most affected by the proposed development, as their main habitable room windows would only be approximately 4m from the rear boundary. As originally submitted the proposed building was unacceptable and comprised of a parapet wall, five metres in height. It was considered by officers that the bulk and scale of the building would have resulted in a detrimental impact on the adjoining residents.

Revised plans have been submitted reducing the height of the building adjacent the rear boundary to 3.5 metres and increasing the separation to the boundary from 1.5m to 2m. In order to consider the impact from the built form on the residential amenity of the neighbouring properties, it was considered appropriate to use the Residential Design Codes (R-Codes) as a guide. On the basis of the proposed length and height of the wall, the boundary setback required by the R-codes would be 1.5m; as a result it is considered that an appropriate level of amenity would be retained for the residential properties (as the built form would be similar to what would be permissible if it was residential development).

### **Land-use Concept Plan**

The LUCP is a guide for development and subdivision at the West Street site, the relevant provisions which shall be given due regard are that development adjacent to residential zoned land shall be:

- Restricted to single storey;
- Incorporate measures to avoid light spill into the adjacent residential area; and
- Provide service areas that are enclosed and located to minimise noise and disturbance to the adjacent residential area.

As discussed above, the building design has now been amended and the section of the building adjacent to the neighbouring properties has been reduced in height to single storey. There will be no vehicular service areas to the rear of the building, only an enclosed bin store and a condition can be imposed to ensure that light spill is contained within the site. It is considered that even though the buildings are not sited within the indicative building envelopes as shown on the concept plan; the proposal would comply with the intent of the provisions to ensure that residential amenity of neighbouring properties is maintained. It is considered that the built form now proposed is in fact in some respects less likely to impact on neighbouring properties than the form shown on the concept plan, which results in parking, loading and storage areas adjacent to the boundary of the adjoining residential properties.

Concerns have been raised that the proposal does not strictly comply with the landuse concept plan; the plan is a guide to development and applicants have the opportunity to submit development applications that vary from the plan, these proposals are required to be assessed on their merits taking into account the Scheme and the plan.

### **CONCLUSION**

It is recommended that the Council grant approval to the development subject to conditions.

### **OPTIONS**

The Council could:

1. Determine that the application is inconsistent with the objectives and policies of the zone in which development is proposed, and refuse the proposal subject to reasons; or
2. Apply additional or different conditions.

If any Councillor is minded to support either of the above options, officers can assist in the drafting of a suitable alternative motion.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The applicant will be notified of the Council's decision within two weeks of a decision consistent with the officer recommendation.

**OFFICER RECOMMENDATION**

That the Council resolve:

That application DA17/0971 submitted for a Recreation Facility and Professional Consulting Room at Lot 175 (HSE 53) Prince Regent Drive, West Busselton, is considered by the Council to be consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.

That Development Approval is issued for the proposal referred to above subject to the following conditions:

**GENERAL CONDITIONS**

1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) including any notes placed thereon in red by the City, and except as may be modified by the following conditions.

**PRIOR TO THE COMMENCEMENT OF ANY WORKS CONDITIONS:**

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing:
  - 3.1 Details of stormwater and surface water drainage (Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 65m<sup>2</sup> of impervious area);
  - 3.2 Details of the proposed bin storage areas including, but not limited to, the design and the materials to be used in their construction;
  - 3.3 Noise Management Plan, which is to incorporate measures including structural mitigation options and management practices to ensure that noise is contained within the built form and does not result in an unacceptable impact on residential amenity;
  - 3.4 Details of the bicycle parking facilities, including the design and materials;
  - 3.5 Details of external materials, incorporating design features on the rear elevation and hard surfaced areas; and
  - 3.6 Details of lighting of external areas to avoid unacceptable light spill to adjoining residences.



**PRIOR TO THE OCCUPATION/USE OF THE DEVELOPMENT:**







4. The development hereby approval shall not be occupied or used until all plans, details of works required by Condition(s) 2 and 3 have been implemented:

**ONGOING CONDITIONS:**

5. The works undertaken to satisfy Condition(s) 2, 3 and 4 shall be subsequently maintained for the life of the development and the following conditions complied with.

- 5.1 The approved Noise Management Plan shall be implemented and carried out in accordance with the approval details, including any notes placed thereon in red by the City.

13.2 RE-VESTING AND MANAGEMENT ORDER RESERVE 31005, COMMONAGE ROAD, YALLINGUP SIDING

<b>SUBJECT INDEX:</b>	Crown Land Administration
<b>STRATEGIC OBJECTIVE:</b>	Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.
<b>BUSINESS UNIT:</b>	Strategic Planning and Development Services
<b>ACTIVITY UNIT:</b>	Strategic Planning and Development
<b>REPORTING OFFICER:</b>	Senior Strategic Planner - Helen Foulds
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Location Plan  
	Attachment B Aerial Photo  
	Attachment C Site Inspection Photos  

## PRÉCIS

Reserve 31005 is currently set aside for the purpose of 'Quarry and Drainage' with a Management Order issued in favour of the Water Corporation. The Water Corporation has identified that this Reserve is no longer required for operational purposes and has approached the City as part of investigations regarding the future use and management of this land.

In response to a request from the Water Corporation, the City advised that the land is not considered suitable for rezoning to Rural Residential, for a number of reasons. Alternatively, the inclusion of this reservation into a contiguous conservation/recreation corridor with nearby reservations already under the City's management control would appear to be a more rational and desirable outcome.

The re-vesting of Reserve 31005 with the City would be a desirable outcome, enabling the City to better meet community expectations for the management and protection of landscape values in the area and creating a contiguous conservation/recreation corridor with the adjacent Reserves. Also, it is unlikely that another authority would take on the management of Reserve 31005.

Officers recommend that the Department of Planning, Lands and Heritage be advised that the Council supports the re-vesting/re-issuing of the Management Order for Reserve 31005 from the Water Corporation to the City of Busselton for the purposes of 'Landscape Protection and Quarry'.

## BACKGROUND

Reserve 31005 Commonage Road, Yallingup Siding, being Lot 4531 on Deposited Plan 211719, is currently set aside for the purpose of 'Quarry and Drainage' under management by the Water Corporation. The parcel is a 4.1 hectare 'C' class reserve, which is largely vegetated with a well-constructed fire break within the boundary. Fencing around the boundary is largely intact and a gate is in place, although broken, along the frontage to Commonage Road.

Located to the north is Reserve 25889 for 'Quarry Shire and Public Use' and to the south is Reserve 29522 for 'Quarry Sand Grit' both under management of the City. Located directly east and surrounding Reserves 31005, 25889 and 29522 are private freehold properties zoned 'Rural Residential'. A location plan and aerial photo is provided at **Attachments A and B**, respectively.

The Water Corporation has identified that this Reserve is no longer required for operational purposes and has been investigating the future of this land.

In November 2017, the City was approached by the Department of Planning, Lands and Heritage – Land Asset Management Unit (DPLH) investigating divestment options on behalf of the Water Corporation.

Whilst initially the DPLH was considering divestment of the Reserve and possible rezoning of the land to Rural Residential, the City advised that this would not be supported for a number of reasons, but partly due to the significant environmental values, bushfire risk and expectation of the local community. The City advised its preference would be for the Management Order for the Reserve to be re-issued to the City and the Reserve designated for 'Landscape Protection and Quarry', provided confirmation is given in writing by the Water Corporation that there are no site contamination issues it is currently aware of, or that might otherwise be likely, or feasibly possible.

The Water Corporation responded that no evidence of contamination was found following a site inspection and that the site "appears to be remarkably intact and free from fly-tipping" ('fly-tipping' being the act of illegally dumping rubbish by the public). Further, the DPLH relinquishment process requires the Water Corporation to make a statutory declaration that should the site be found to be contaminated, it will be required to fulfil its obligations under the *Contaminated Sites Act* including full remediation of the subject site. This should provide another level of security for the City.

Officers are now formally seeking support from the Council to submit to the DPLH a request to proceed with the re-vesting of Reserve 31005 to the City of Busselton, for use as "Landscape Protection & Quarry", and with a subsequent Management Order issued in favour of the City for that Reserve.

## STATUTORY ENVIRONMENT

The following legislation is relevant with respect to this matter:

- The *Land Administration Act 1997* – provides for the creation and administration of reserves in Crown land.
- The *Local Government Act 1995* – provides at section 3.54 that "*the local government may do anything for the purpose of controlling and managing that land that it could do under section 5 of the Parks and Reserves Act 1895 if it were a Board appointed under that Act*".

The City of Busselton *Local Planning Scheme No. 21* identifies the parcel as 'Recreation Reserve' and located within the 'Landscape Value Area'.

## RELEVANT PLANS AND POLICIES

The key policy implications with respect to the proposal are set out as follows:

- *State Planning Policy 2.5: Rural Planning, State Planning Policy 6.1: Leeuwin-Naturaliste Ridge* and the *Draft Leeuwin-Naturaliste Sub-Regional Strategy* – in that the policies seek the preservation of landscape values.
- *Commonage Policy Area Consolidated Structure Plan* – identifies the land as "Public Open Space".

## FINANCIAL IMPLICATIONS

Costs to the City for the vesting and acceptance of a Management Order over this parcel would be limited to managing bushfire risk. There is no City infrastructure currently located within the parcel, nor is there a proposal for this to take place. Minimal maintenance of the land parcel is anticipated.

The parcel is located within the Toby Inlet Catchment area and as such there is potential for the Toby Inlet Catchment Group to assist in revegetation programs. Opportunity for a 'Friends Group' also exists for residents in the area who might seek to contribute to the management and enhancement of the Reserves.

It is conceivable that, in the future, changes imposed by the State (such as changes that increase land managers' obligations to manage bush fire risk) may have financial implications for the City. Overall, though, it is considered that the financial implications of the recommendation will be minimal, and are more than outweighed by the benefits arising from the obtaining of a Management Order over the land in question (such as the protection of landscape values and management of the site in line with community expectations).

#### **Long-term Financial Plan Implications**

Nil.

#### **STRATEGIC COMMUNITY OBJECTIVES**

The Officer Recommendation is consistent with Key Goal Area 3 of the *City of Busselton Strategic Community Plan 2017* and specifically the following community objective:

3.2 *"Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations."*

#### **RISK ASSESSMENT**

The only risks that have been identified are the financial risk that has already been described above, or the increased additional public liability risk should the land not be managed adequately and that results in an injury or loss that the City could reasonably be determined in having some responsibility for. Within the broader context of the City's operations, those risks are not considered to be significant.

#### **CONSULTATION**

Initial correspondence in relation to this property from the Land Asset Management Unit of the DPLH, sought comments from the City in relation to the divestment of Reserve 31005, particularly regarding the possible rezoning of the land to support Rural Residential use.

The City advised that it did not support the proposed disposal of Reserve 31005 for the development for rural residential purposes and instead requested that the DPLH progresses changes to the vesting, management and purpose of Reserve 31005 in order that management is assigned to the City of Busselton and the Reserve newly vested for 'Landscape Protection & Quarry'.

The DPLH then requested the Water Corporation to liaise directly with the City to consider the alternative management arrangement moving forward.

#### **OFFICER COMMENT**

Reserve 31005 was historically used as a 'quarry for water filter medium' and the remnant vegetation appears to be in reasonably good condition and relatively intact. Photos from a site inspection undertaken in May 2018 are provided at **Attachment C**.

A Reserve Ecological Assessment conducted in 2008 identified much of the vegetation on the site to be in 'Very Good' or 'Excellent' condition, with two areas near the road that were 'Degraded', being the previously mined sand and gravel pits where natural regeneration is occurring. The 'Common Bunny Orchid' was in flower on site during the site inspection (May 2018).

The site inspection indicated the presence of dieback, evidenced by signage, poor vegetation health and tree deaths, predominately within the western portion of the site. The City's mapping software also confirms the presence of "Fire Break Dieback Infestation" over Reserve 31005 and Reserve 29522 to the south.

A well maintained firebreak exists around the site boundary and a prescribed burn was undertaken in winter 2017.

Very little rubbish was present, likely due to the fencing around the boundary, providing limited access to the site other than on foot.

Rezoning of the land, as initially considered by DPLH, was considered to be fundamentally at odds with the established strategic direction for the Commonage area, generally summarised (but not exhaustively outlined) as follows:

1. The identification of additional land for rural residential development is not supported.

This is a position of the WAPC expressed variously through the State Planning Framework, including the recently advertised Draft Leeuwin-Naturaliste Sub-Regional Planning Strategy. One of the key principles of this document outlined at Part 1.6 is:

*"Confirmation there will be no further rezoning of land to rural residential or special rural type lifestyle lots, other than those already identified in local planning strategies."*

The Commonage Policy Area Consolidated Structure Plan (CPACSP) identifies this reserve (and those adjoining) as 'Public Open Space' and the City does not generally support ad-hoc and unplanned departures from the Structure Plan.

While the City's Draft Local Planning Strategy identifies that some consolidation of rural residential land may be desirable, it is generally expected that this will only occur on existing zoned and predominantly cleared land, where there is a demonstrable community benefit, and where bushfire risk can be adequately mitigated.

2. The retention of this and adjoining reserves for the purpose of 'Landscape Protection' is warranted.

These reserves exist at a high point in the landscape and the retention of this remnant vegetation preserves views of the Leeuwin-Naturaliste Ridge. This includes both Commonage Road (immediately west) and Vasse-Yallingup Siding Road (2-2.5km east) that are identified as 'Travel Route Corridors with Rural Landscape Significance' in State Planning Policy 6.1 – Leeuwin-Naturaliste Ridge. Existing rural residential land to the east is downslope and will also be sensitive to the loss of views that are maintained on this site at present.

The preservation of landscape values is also supported by relevant principles and policies within the Draft Leeuwin-Naturaliste Sub Regional Planning Strategy, State Planning Policy 2.5 – Rural Planning, and the designation of a Landscape Value Area within the City's Local Planning Scheme No. 21.

3. The site may have significant environmental values and/or purpose with ecological linkages through the area.

Given that the Reserve is heavily vegetated, the City cannot indicate support for a proposed change in land use without a detailed assessment of the environmental attributes of the site. This assessment should further consider the function of this vegetation as part of an extended ecological linkage with adjoining reserves and bushland areas.

Development and consolidation should generally be targeted to cleared (and secondarily degraded) areas – a position reflected in the Draft Leeuwin-Naturaliste Sub Regional Planning Strategy (Part 7.1.2 – 3a), where it states that the WAPC will:

*“adopt a primary position for no further clearing of native vegetation within the sub-region, and a strong preference for development to occur on cleared land”*

Further, the drainage function of the site needs to be identified, and managed appropriately.

4. Any development of the site would be essentially incompatible with planning requirements for bushfire protection.

With the vegetation, slope and broader fire risk evident within the adjoining and surrounding areas, any proposal to develop this reserve for rural residential purposes would have the potential to introduce vulnerable uses into a designated bushfire prone area and would need to go to significant lengths in order to mitigate the bushfire risks to future built assets and residents (as per State Planning Policy 3.7 – Planning for Bushfire Protection, and the Planning for Bushfire Protection Guidelines). City officers are very doubtful that this could in fact be achieved without severely compromising other planning framework objectives relating to biodiversity, landscape values, proper and orderly planning etc.

5. The City expects that the disposal and development of Reserve 31005 would not be supported by surrounding landowners.

When considering the setbacks to development that are required in the CPACSP (ie. 70 - 100m from Commonage Road), development and cleared asset protection zones would have to be located in such a way that it is likely that neighbours would feel adversely affected. It is noted that already existing building envelopes have been established towards the rear of adjoining lots to the east, closest to the subject land.

There may also be a level of expectation that this reserve will remain as ‘public open space’ on account of it being identified for this purpose in the CPACSP and zoned accordingly in the City’s Local Planning Scheme No. 21. This designation in the CPACSP reflects the retention of reserves to provide low key public recreational opportunities (where appropriate), preserve remnant vegetation and ecological linkages, and protect significant landscape views. It is clear that the Reserve is currently in use for recreational purposes given the presence of footprints (human, dog and horse) during the site inspection.

It is recommended the City seek to preserve the opportunity to extract sand from Reserve 31005 if this resource was required at some point in future. In other forums the City has highlighted with the DPLH its concerns about the availability of basic raw materials within the district. For this reason, the City considers that the retention of ‘Quarry’ within the vested reserve purpose is necessary to allow for the availability of sand resources in the western portion of Reserve 31005 to be further investigated. If a viable resource is ultimately located, the licensed extraction of same would be considered a ‘temporary use’ of the site and subsequent rehabilitation would be required in order to restore the broader purpose and function of ‘Landscape Protection’.

Having a Management Order over the land in question will better enable the City to meet community expectations in relation to the management of the land. For example, some or all of the powers that the City is able to exercise under the *Property Local Law* and *Dog Act* only apply where the land is City managed or owned. The inclusion of this reservation into an effectively contiguous conservation/recreation corridor together with those nearby reservations already under the City's management control would appear to be a rational and desirable outcome.

## **CONCLUSION**

Officers recommend that the DPLH be advised that the Council supports the re-vesting of Reserve 31005 for the purposes of 'Landscape Protection and Quarry' with a Management Order issued in favour of the City of Busselton over that reserve.

## **OPTIONS**

Should the Council not support the Officer Recommendation the Council could instead resolve –

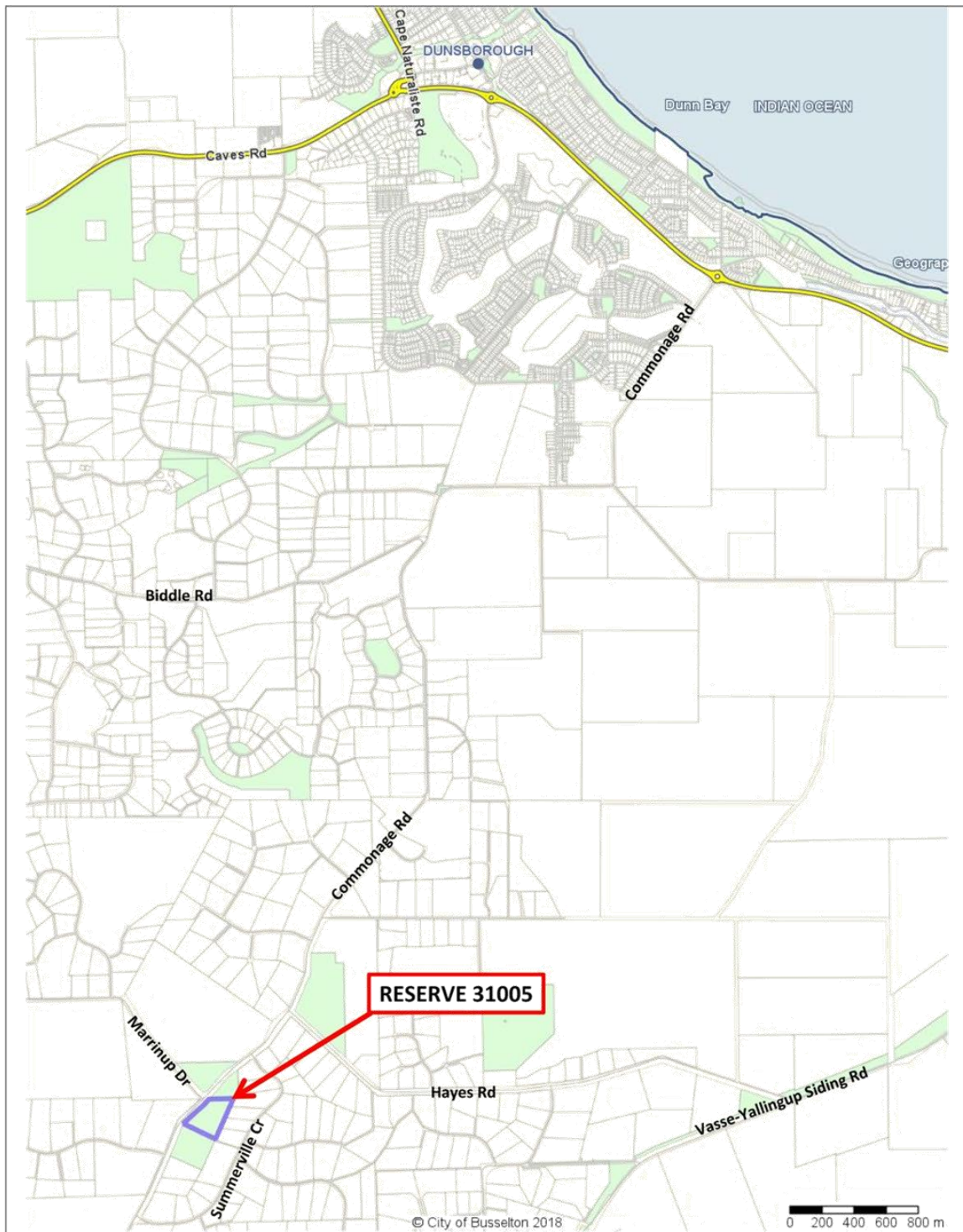
1. To seek the land to be re-vested, and issued with a Management Order in favour of the City of Busselton for an alternative purpose; or
2. To not support the re-vesting and re-issuing of the Management Order for Reserve 31005 to the City of Busselton, requiring the DPLH to seek an alternative authority to manage the land, although it would be unlikely that another authority would be prepared to take on management of the Reserve.

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

Implementation of the Officer Recommendation will involve providing advice of the Council resolution to the Department of Planning, Lands and Heritage and the Water Corporation. This will occur within one month of the resolution made by the Council.

## **OFFICER RECOMMENDATION**

That the Council advise the Department of Planning, Lands and Heritage and the Water Corporation that the City of Busselton supports the re-vesting of Reserve 31005 for the purposes of 'Landscape Protection and Quarry' with a Management Order issued in favour of the City of Busselton over that reserve.



Disclaimer: Every effort has been made to make the information displayed here as accurate as possible. This process is ongoing and the information is therefore ever changing and cannot be disseminated as accurate. Care must be taken not to use this information as correct or legally binding. To verify information contact the City of Busselton office.

Reserve 31005  
Location Plan

23/05/2018

1:30000 @ A4P







Disclaimer: Every effort has been made to make the information displayed here as accurate as possible. This process is ongoing and the information is therefore ever changing and cannot be disseminated as accurate. Care must be taken not to use this information as correct or legally binding. To verify information contact the City of Busselton office.

Reserve 31005  
Commonage Road,  
Yallingup Siding

22/02/2018

1:2500  
@ A3P





**Reserve 31005 Commonage Road – Site inspection photos, May 2018**



**Image 1, above:** Broken gate at entry into Reserve, signage indicating dieback risk.

**Image 2, below:** Degraded vegetation at entry of site (western portion).





**Image 3, above:** Previous gravel extraction in central area, with evidence of rubbish (abandoned camp chair).

**Image 4, below:** Previous sand extraction at south-west corner of site.







**Image 5, above:** Firebreak along northern boundary (looking west from north-east corner).


**Image 6, below:** Boundary at south-east corner where fence has been damaged by falling tree.







13.3 PROPOSED DEVELOPMENT OF A FUEL SALES AND CONVENIENCE RETAIL OUTLET ON LAND AT THE CORNER OF DUNN BAY ROAD AND CYRILLEAN WAY, DUNSBOROUGH - REPORT ADDRESSING COUNCIL RESOLUTION OF 9 MAY 2018

<b>SUBJECT INDEX:</b>	Development / Planning Applications
<b>STRATEGIC OBJECTIVE:</b>	Council engages broadly and proactively with the community.
<b>BUSINESS UNIT:</b>	Planning and Development Services
<b>ACTIVITY UNIT:</b>	Planning & Development Services
<b>REPORTING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A SAT approval and related plans 

## PRÉCIS

At its 9 May 2018 meeting, Council resolved to request that some further investigation and communication be undertaken in relation to the proposed development of a fuel sales and convenience retail outlet on land at the corner of Dunn Bay Road and Cyrillean Way, Dunsborough, and that a report be presented to the Council setting out the work undertaken and the outcomes, for the Council's further consideration. The tasks required by the resolution have now been completed, as set out in the report. It is recommended that the Council note the report.

## BACKGROUND

At its ordinary meeting of 9 May 2018, the Council resolved as follows –

*With respect to the proposed development of a fuel sales and convenience retail outlet on land at the corner of Dunn Bay Road and Cyrillean Way Dunsborough -*

1. *The Council requests that the CEO bring a report to Council, as a matter of priority, enumerating the actions and outcomes undertaken to date in relation to the following:*
  - (i) *negotiating with the developers and other landowners in Dunsborough to find an alternative site for the proposed convenience store or service station;*
  - (ii) *discussions with the landowner of the subject land possible alternative uses of the land; and*
  - (iii) *persuading the developers that the development will be contrary to the good planning of the Dunsborough town centre.*
2. *The Council requests that the CEO explores further options (including the obtaining of external legal advice) to facilitate the community wishes including:*
  - (i) *the enforcement of the 'Convenience Store' definition applied by the SAT which limits fuel sales to petrol only, thereby excluding the sale of diesel at convenience stores;*
  - (ii) *at a State Government level, prohibiting a fuel retailer at the proposed location based on health and environmental concerns;*
  - (iii) *further investigations of possible alternative locations for the Puma service station/convenience store and alternative uses and/or the rezoning of the land at the corner of Dunn Bay Rd and Cyrillean Way Dunsborough; and*



- (iv) *The Council requests that the CEO presents a report for Council consideration as soon as practicable, but no later than three months from resolution, on the outcomes arising from 2(i), (ii) and (iii) above.*

This report is presented to the Council in pursuance of the above resolution.

At the time the above resolution was made, the City was awaiting the outcome of a Southern Joint Development Assessment Panel (DAP) appeal in the Supreme Court. That appeal related to a State Administrative Tribunal (SAT) decision to grant planning approval to the proposed development. The Supreme Court in fact handed down their decision, which was to dismiss the appeal, on 10 May 2018. The DAP essentially had 21 days in which to lodge a further appeal, and have not done so. Given that, unless some other regulatory impediment can be identified, or the proponents make a decision not to proceed with the proposed development, it can be assumed that the proposed development will proceed.

The following are key events and dates related to the proposed development –

1. **Various pre-application enquiries related to the proposed development between late 2014 and September 2015**, with the City consistently advising that the development was not considered appropriate in the context of the relevant planning framework (note there has been a suggestion of earlier pre-application advice which was different, but no evidence of that has been found within City records).
2. **Application received by the City on 8 September 2015**, with the applicants electing to have the application determined by the DAP, rather than by the City (the estimated cost of development was within the range in which applications can either be determined by the local government or relevant DAP, at the discretion of the applicant).
3. **Application considered by the DAP on 14 December 2015**, with the DAP refusing to approve the proposed development, consistent with the City's recommendation. The agenda and minutes of the DAP meeting, which include the City's report and recommendation to the DAP, can be viewed at –

[Agenda](#)

[Minutes](#)

4. **Application for SAT review lodged by the applicant on 4 January 2016.**
5. **First SAT hearing held 26 May 2016**, which at the agreement of the parties (i.e. applicant and DAP), dealt with a preliminary issue only, namely what the correct land-use classification was.
6. **First SAT decision delivered 25 August 2016**; which found that the correct classification was 'Convenience Store', which was a 'P' (or 'permitted') use in the Zone in which development was proposed. The SAT decision can viewed at –

[First SAT Decision](#)

7. **SAT Mediation in October 2016**, which involved discussion of potential design changes (the City was not a party to the mediation, but was represented, at the invitation of the DAP).
8. **Application reconsidered by the DAP on 14 November 2016**, with the DAP refusing to approve the proposed development, consistent with the City's recommendation. The agenda and minutes of the DAP meeting, which include the City's report and recommendation to the DAP, can be viewed at -

[Agenda](#)

[Minutes](#)

9. **Second SAT hearing held 1 and 2 February 2017**, which assumed the land-use classification as per the first SAT decision, and otherwise addressed the full range of relevant planning issues (as identified by the DAP, SAT and the applicants). The author of this report acted as one of two planning witnesses, on behalf of and at the invitation of the DAP.
10. **Second SAT decision delivered 23 August 2017**, which found that the development was appropriate and resulted in approval for the development (the SAT decision can be viewed at –

[Second SAT Decision](#)

11. **Supreme Court appeal lodged by DAP against the SAT decision In September 2017.**
12. **Supreme Court hearings held 12 February 2018.**
13. **Supreme Court decision delivered 10 May 2018**, which was to dismiss the appeal. The Supreme Court decision can be found at –

[Supreme Court Decision](#)

A copy of the SAT approval and related plans is included as **Attachment A**.

## **STATUTORY ENVIRONMENT**

The key statutory environment with respect to this matter is set out in the *Planning and Development Act 2005* and subsidiary legislation, especially the City's town planning scheme, and the *Planning and Development (Local Planning Schemes) Regulations 2015*, which are incorporated into the City's town planning scheme. That statutory environment has been considered in the drafting of this report, and has also been considered more broadly in implementing Council's 9 May 2018 resolution. In the Officer Comment section of this report, where an additional understanding of the relevant statutory environment is necessary to understand the issue and the officer advice, the relevant statutory environment is also briefly explained.

## **RELEVANT PLANS AND POLICIES**

The outcome of the processes associated with this proposal, in that there is an approval for the proposed development, will need to be considered in the planned development of an Activity Centre Plan for the Dunsborough Town Centre, noting that work on that project has commenced.

## **FINANCIAL IMPLICATIONS**

There are no financial implications of the recommendations of this report. The cost associated with obtaining independent legal advice in pursuance of Part 2 (i) of the Council resolution was \$2,500.

### **Long-Term Financial Plan Implications**

There are no Long-Term Financial Plan Implications of the recommendations of this report.

## **STRATEGIC COMMUNITY OBJECTIVES**

The recommendations of this report reflect Objective 6.2 of the City's Strategic Community Plan, that is 'Council engages broadly and proactively with the community'.



## RISK ASSESSMENT

An assessment of the risks associated with implementing the officer recommendation has been undertaken using the City's risk assessment framework. No significant risks have been identified.

## CONSULTATION

The City has not undertaken community consultation specifically relating to implementation of the Council's 9 May 2018 resolution. It should be noted that the original application was the subject of consultation, and there were a number of submissions received that raised concerns about the proposed development. Whilst there will be a diversity of opinion in most communities on most issues, and there is a diversity of opinion on the proposed development, there is clearly a significant level of community concern about the proposed development.

In preparing this report, the City has sought advice from the State Departments of Water & Environmental Regulation (DWER) and Mines, Industry Regulation & Safety (DMIRS).

## OFFICER COMMENT

Action undertaken and the resultant outcomes, with respect to the implementation of the Council's 9 May 2018 resolution, is outlined and discussed below under appropriate sub-headings.

### ***Part 1 of the Council resolution***

This part of the resolution required that -

*The Council requests that the CEO bring a report to Council, as a matter of priority, enumerating the actions and outcomes undertaken to date in relation to the following:*

- (i) negotiating with the developers and other landowners in Dunsborough to find an alternative site for the proposed convenience store or service station;*
- (ii) discussions with the landowner of the subject land possible alternative uses of the land; and*
- (iii) persuading the developers that the development will be contrary to the good planning of the Dunsborough town centre;*

Noting that this relates to actions undertaken prior to the Council's resolution, the City had sent numerous letters to both the landowners and the proposed operators with respect to these matters. There had also been several attempts to discuss the matter with the proposed operators over the telephone. Further, discussions of this kind had occurred with the landowners prior to the lodging of the application. It is also known that members of the community have had multiple conversations with the landowners to the same end. The City had also, on several occasions, assisted interested community members in identifying potential alternative sites. Since the lodging of the application, neither the landowners nor the proposed operators have indicated any interest to the City in actually considering alternative forms of development and/or alternative sites.

Since the Council's 9 May resolution, the City has advised the community, through media, social media and the *Bay-to-Bay* newsletter, with respect to the seeking and considering of the legal advice that has been obtained. The City has also provided advice, through the same channels, of communication with the landowners and proposed operators with respect to identifying alternative uses for the site and alternative sites for the proposed development.

The City has spent a considerable amount of time liaising with community members and seeking to communicate with the landowners and proposed operators in relation to the proposed development, as well as in relation to alternative forms of development on the site and alternative locations for the proposed development.

***Part 2 (i) of the Council resolution***

This part of the resolution required that the City consider –

*The enforcement of the ‘Convenience Store’ definition applied by the SAT which limits fuel sales to petrol only, thereby excluding the sale of diesel at convenience stores.*

The background to this part of the resolution was that the SAT had determined, through their first decision, that the land use classification was ‘Convenience Store’, as defined in the City’s town planning scheme at the time the decision was made. That definition made specific reference to the sale of petrol, but made no mention of the sale of diesel, LPG or any more generic reference, such as ‘fuel’ or ‘petroleum products’, and was as follows –

*Convenience store means any land and buildings used for the retail sale of convenience goods being those goods commonly sold in supermarkets, delicatessens and newsagents, but including the sale of **petrol** and operated during hours which include, but which may extend beyond, normal trading hours and providing associated parking. The buildings associated with a convenience store shall not exceed 300m<sup>2</sup> net lettable area.*

The City has obtained independent legal advice with respect to this matter. That advice has been provided to Councillors separately and confidentially. The City has given extensive consideration to its legal position following the receipt of that advice and is satisfied that it is not in a position to require that the proposed development sells petrol fuel only.

***Part 2 (ii) of the Council resolution***

This part of the resolution required that the City investigate -

*At a State Government level, prohibiting a fuel retailer at the proposed location based on health and environmental concerns.*

The background to this part of the resolution is thought to be that the location of the proposed development, relative to potential, future residential development on adjoining lots (noting that the zoning of those adjoining lots would allow residential development up to the lot boundary) may not comply with environmental guidance or standards, and that some in the community may contend that the proposed development may be prevented from proceeding on that basis. Similar contentions have been made with respect to the location of the proposed development relative to Dugalup Brook, and that required environmental ‘buffer’ or ‘setback’ distances would not be met.

It is understood that the contentions may relate, at least in part, to guidance statements issued by the Environmental Protection Authority (EPA). The proposed development, though, in terms of potential impact, is well below the threshold that might require formal assessment by the EPA. As such, those EPA guidance statements could only be considered if some other necessary administrative process allowed and/or required them to be considered. Potentially, that can occur as part of the development application process, but as there is now a development approval in place, that issue cannot be further considered as part of the development application process, unless the proponents lodge an application to amend the approval. It should also be noted that the DAP and State Solicitor’s Office (SSO), which acted on behalf of the DAP in both SAT and the Supreme Court, were aware of these contentions in developing their case for the second SAT hearings.

The City has sought advice from DWER and DMIRS with respect to this matter. DWER have advised that the proposed development does not require an approval under any legislation implemented by that agency. The Dangerous Goods branch of DMIRS have confirmed that the proposed development does require their approval, pursuant the *Dangerous Goods Safety Act 2004*. They have also advised that they would not seek advice of DWER in assessing the application (which, at the time the advice was provided, had not been lodged with DMIRS), and would assess the application against *AS1940: The storage and handling of flammable and combustible liquids*.

Given the above, there is not considered to be any trigger or basis for the assessment of the proposed development against any guidance statements issued by the Environmental Protection Authority, and nor has any power been identified that might allow the State Government to prohibit or prevent the development on the basis of health or environmental concerns.

***Part 2 (iii) of the Council resolution***

This part of the resolution required that the City undertake -

*Further investigations of possible alternative locations for the Puma service station/convenience store and alternative uses and/or the rezoning of the land at the corner of Dunn Bay Rd and Cyrillea Way, Dunsborough.*

At the time the Council made the resolution, the Supreme Court decision had not been delivered, and there was also no clear timeframe as to when a decision may be delivered, and/or whether the decision may be appealed (and therefore whether there may be a further period of uncertainty). As set out with respect to Part 1 of the resolution, however, the City had already undertaken comprehensive investigations identifying alternative uses for the site and alternative sites for the proposed development. The City had also made a number of attempts to engage with the landowners and proposed operators with respect to those options, without success. Communication from the proponents since that time, whilst limited, indicates there remains no interest in engaging with the City. As such, there is not seen to be any benefit in undertaking further investigations.

***Part 2 (iv) of the Council resolution***

This part of the resolution requires that a report be brought to the Council within three months setting out actions and outcomes with respect to the resolution – this part of the resolution is therefore implemented through the presentation of this report to the Council.

**CONCLUSION**

At this stage, unless the proponents make a commercial decision to not proceed with the proposed development, there does not appear to be any means to prevent the development occurring. A major contributor to that situation is the wording of the ‘Convenience Store’ definition in the City’s town planning scheme at the time the first SAT decision was made, the SAT’s interpretation of that definition, and the fact that the land use was a ‘P’ (or ‘permitted’) use at the time. The Council has progressed subsequent changes to the City’s town planning scheme that should prevent the same or similar issues arising again in future. Those changes, though, would not change the outcome retrospectively.

As noted in the ‘Consultation’ section of this report, whilst there is a diversity of opinion on the proposed development, there is clearly a significant level of community concern about the proposed development. City officers share many of those concerns, as has been consistently reflected in City advice to the proponents and recommendations to the DAP. Given the situation that now exists, however, it is considered best to accept that the development is likely to proceed, and to then consider and address the implications in terms of future planning and development of the Dunsborough Town Centre. The Activity Centre Plan process, that has already commenced, is an appropriate means of doing that.

There may be some in the community who would like the City to do more to prevent the development, or to provide more detail to describe what has already been done, especially in terms of identifying alternatives and communicating with the proponents. There is not, however, seen to be anything more that the City can reasonably do, and it is not appropriate for the City to provide a detailed summary of communication with the proponents, or potential alternative sites. To do so would involve the identification of sites owned by third parties, who may well have no interest in making their sites available for development.

Finally, it is perhaps worth specifically addressing what seems to be an expectation of some in the community that the City should actively participate in what has become a quite significant public campaign opposed to the proposed development, under the banner 'Puma2Go'. Whilst the City can provide information to the community, as it can to the proponents, the City, especially the senior officers in the planning team and Councillors that may need to make decisions about the matter, cannot involve itself in a public campaign in relation to a matter where it has a role in statutory decision-making.

### **OPTIONS**

The Council could require further work to be undertaken with respect to this matter.

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

The officer recommendation would not require any implementation.

### **OFFICER RECOMMENDATION**

That the Council note the report with respect to the proposed development of a fuel sales and convenience retail outlet on land at the corner of Dunn Bay Road and Cyrilleen Way, Dunsborough.

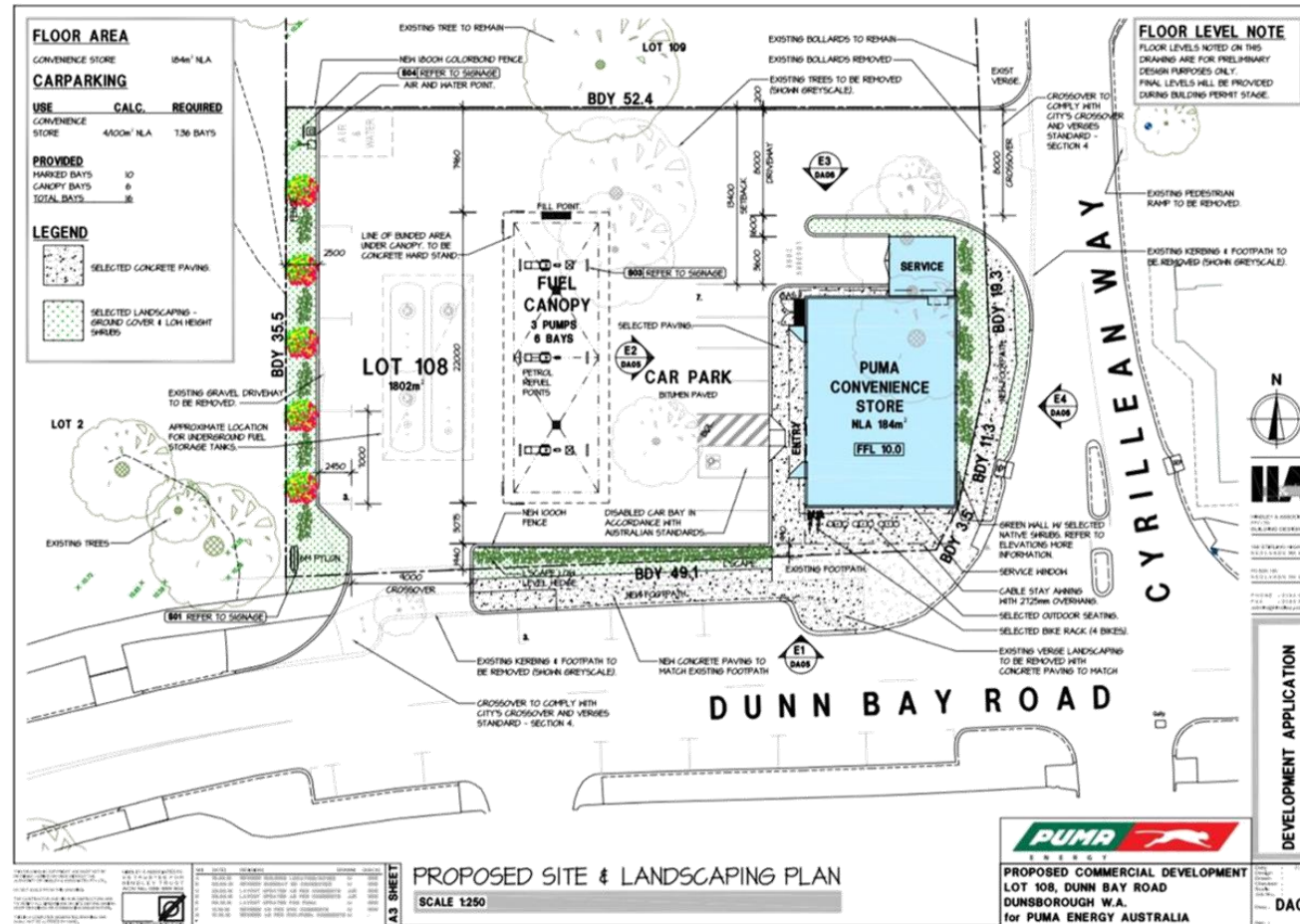
2. Upon review, the applicant's application for planning approval made 28 August 2015 and revised on 16 October 2016 in respect of application number DAP/15/00888 is approved subject to the following conditions:
  - (i) The development hereby approved shall be substantially commenced within two years of the date of this decision.
  - (ii) The development hereby approved shall be in accordance with Hadley and Associates Pty Ltd Building Designers plan DA02 (Revision G) and Puma Energy (Australia) Holdings Pty Ltd plans DUNS-L-0005 (Revision DA), DUNS-L-0008 (Revision DA) and DUNS-L-0009 (Revision DA) as considered by the SJDA at its meeting 14 November 2016, unless otherwise varied by the following conditions.
  - (iii) The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City of Busselton and have been approved in writing and such plans and details include:
    - (a) A Construction Management Plan.
    - (b) A Drainage Management Plan setting out details of stormwater and surface water drainage works. The Plan shall include but not be limited to the following:
      - (i) Stormwater to be retained for use and/or infiltration within the lot at a rate of  $1\text{m}^3$  per  $40\text{m}^2$  of impervious area.
      - (ii) Kerbing or grade changes for paved areas.
      - (iii) Installing and maintaining stormwater collection systems, such as bio-retention gardens and

soak wells to intercept roof and general runoff that would otherwise enter the forecourt.

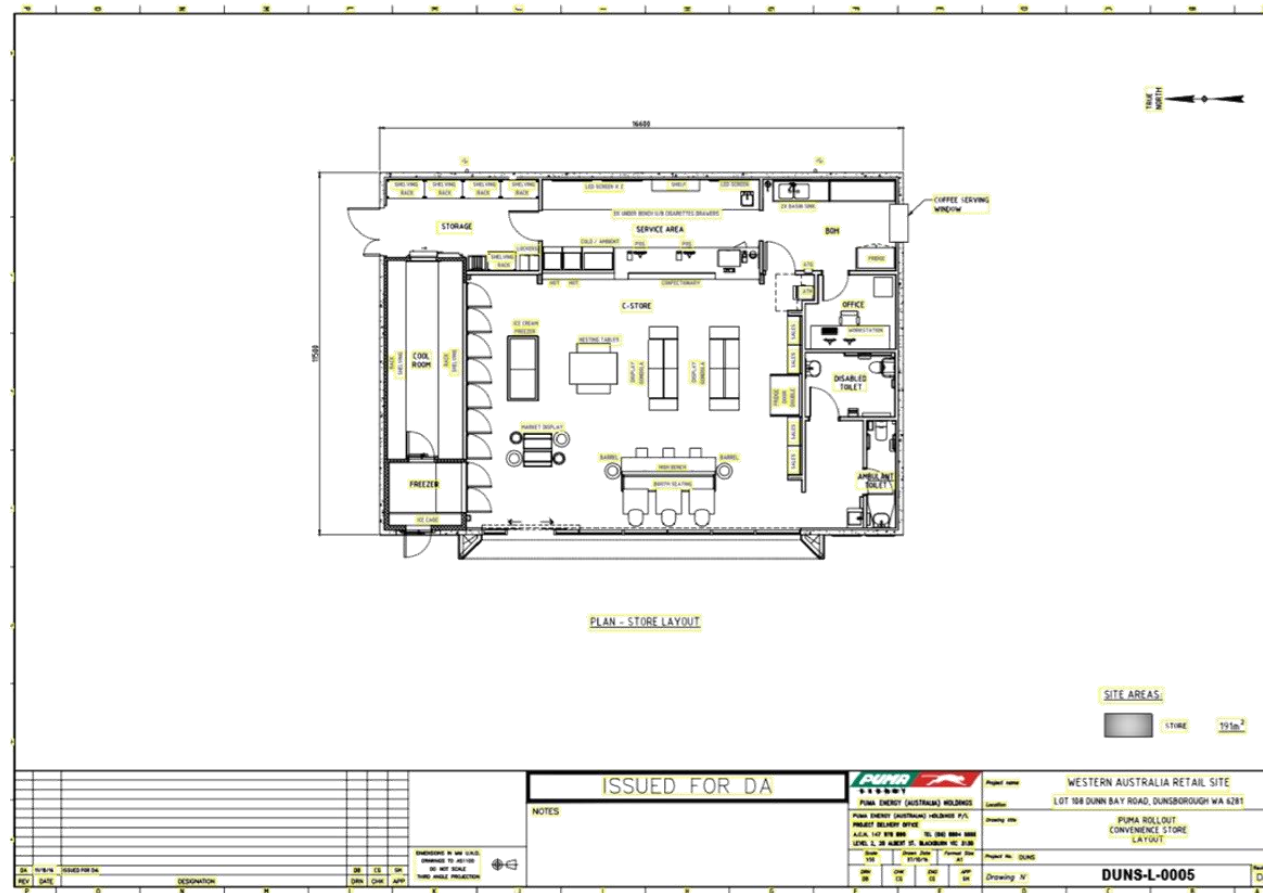
- (iv) Establishing soaks that collect and permit infiltration of stormwater.
  - (c) Details of the finished treatment of all hard surfaced areas to be used for the construction of the parking and manoeuvring areas and pedestrian footpaths as shown on the Approved Development Plans.
  - (d) A Landscape Plan, which shall include the adjoining Dunn Bay Road and Cyrilleau Way verges.
  - (e) An Emergency Chemical Spill Response Plan and specifying how the Plan is to be implemented and carried out.
  - (f) Details for connection to the district drainage system.
  - (g) Satisfactory arrangements shall be made with the City to provide public art works. This entails compliance with the Percent for Art provisions of the City's Development Contribution Policy via appropriate works up to a minimum value of 1% of the Estimated Costs of Development (ECD). Where the value of on-site works is less than 1% of the ECD, a payment sufficient to bring the total contribution to 1% of the ECD is required.
- (iv) The development hereby approved shall not be occupied, or used, until the following conditions have been implemented:
- (a) Landscaping and reticulation shall be implemented in accordance with the approved Landscape Plan and shall thereafter be maintained to the satisfaction

of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, as assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

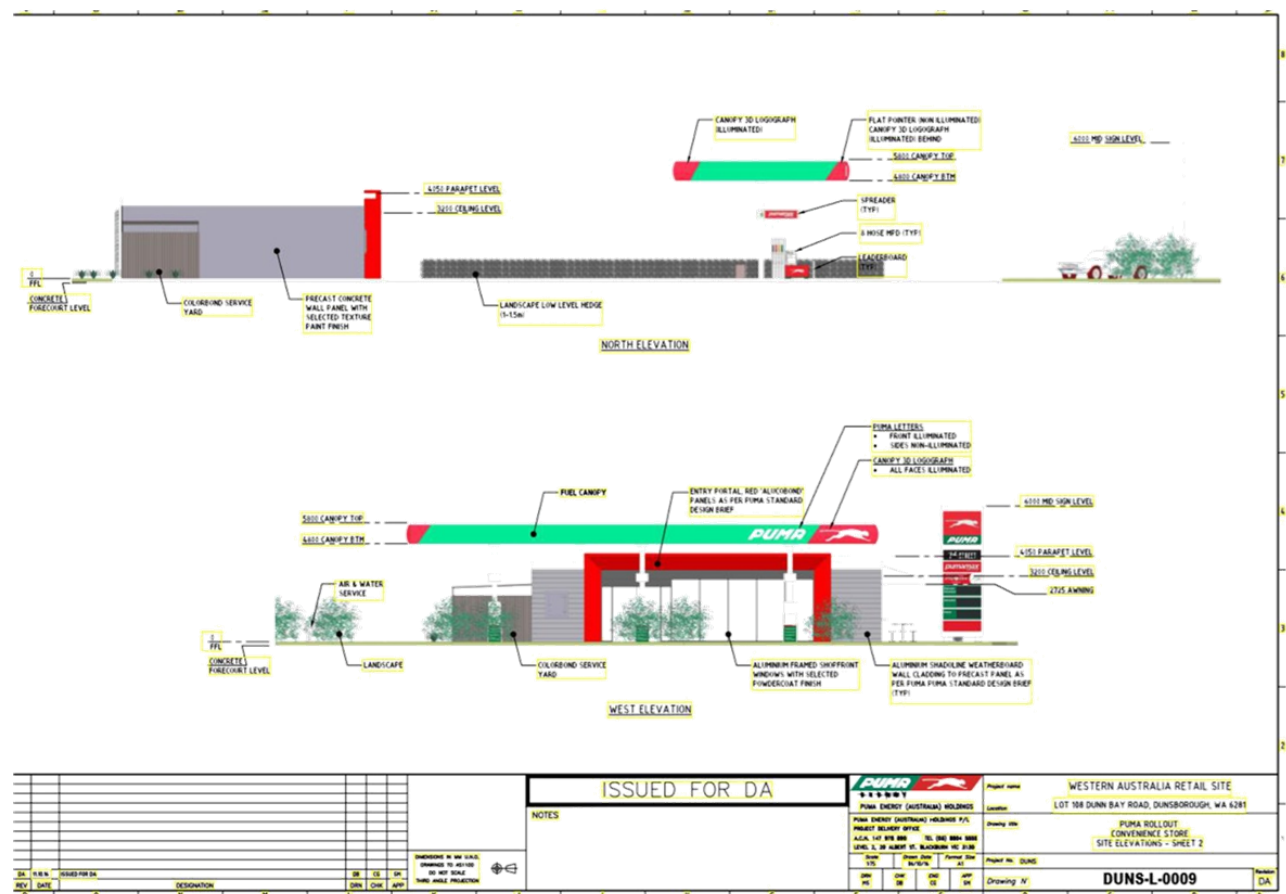
- (b) All parking area(s) (including disabled bay), driveway(s) and point(s) of ingress and egress (including crossover(s)) shall be designed, constructed, sealed, drained and marked.
- (v) Fuel tankers and other trucks servicing the development are only to access the site via left turn into Cyrilleean Way and right turn out to Dunn Bay Road unless a written approval is granted by the City of Busselton to vary those access and egress routes.
- (vi) Tanker deliveries of fuel, deliveries of goods to the store by truck and collection of waste are to occur only between the hours of 7am and 7pm Monday to Saturday or 9am and 7pm Sunday and public holidays.
- (vii) A 1.8 metre high solid fence shall be erected along the western and northern boundaries of Lot 108.





















## 14. Engineering and Works Services Report

### 14.1 CHIEFTAIN CRESCENT/CHESTER WAY INTERSECTION

<b>SUBJECT INDEX:</b>	Roads
<b>STRATEGIC OBJECTIVE:</b>	Road networks that provide for a growing population and the safe movement of all users through the District.
<b>BUSINESS UNIT:</b>	Engineering and Facilities Services
<b>ACTIVITY UNIT:</b>	Design and Survey
<b>REPORTING OFFICER:</b>	Design and Survey Coordinator - Justin Smith
<b>AUTHORISING OFFICER:</b>	Director, Engineering and Works Services - Oliver Darby
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Properties Received Consultation Letter  
	Attachment B Properties Received Consultation Letter  
	Attachment C Townscape - Option 1  
	Attachment D Townscape - Option 2  
	Attachment E Dunsborough Townscape Conceptual Plan  

### **PRÉCIS**

The purpose of this report is to seek resolution from Council for the retention of the road to remain open at the Chieftain Crescent and Chester Way intersection, Dunsborough.

### **BACKGROUND**

The Dunsborough Town Centre Conceptual Plan (Attachment E) and streetscape improvement program was developed over a number of years as a holistic approach to achieve the following within the Dunsborough Central Business District:

- upgrade the road network;
- improve pedestrian flow;
- provide additional greenspace and improve aesthetics; and
- increase the overall parking supply for both timed bays and all-day users.

Comprehensive public consultation was undertaken between 2013 and 2015 as part of developing the Conceptual Plan and streetscape program.

The plan first advertised included, as part of the reconfiguration of Seymour Boulevard and Chieftain Crescent, the opening of Chieftain Crescent to allow access to the town centre from residential areas to the east. This reflected the preferred outcome of City planning officers, as it allowed for the expansion of low-key commercial land uses (facilitated by rezoning) and improved vehicle access and permeability in the local street network.

After receiving feedback and submissions from residents in Chieftain Crescent and Chester Way in opposition, the Conceptual Plan adopted by the Council included cul-de-sac heads to allow limited access to Chieftain Crescent from the town centre and removed through-access to surrounding streets.

The Seymour Boulevard/Chieftain Crescent realignment works were part of Stage 3 of the Dunsborough Town Centre upgrade, delivered during the 2016/17 period. The roadway realignment was completed prior to Leavers in 2016 however due to the duration of the works the road closure components were only partially implemented through use of traffic control devices. As a result, through-access from Chieftain Crescent to Chester Way and Lorna Street was available for approximately six weeks during the 2016/17 peak summer visitation period.

As a further result, residents / landowners to the east of the town centre presented a petition to Council seeking retention of the through-access. In response, the Council agreed to undertake a trial to assess the impacts of traffic flow and community response over a minimum six month period.

The purpose of this report is to gain a final Council decision on whether through-access from Chieftain Crescent to Chester Way is retained or closed as adopted in the Dunsborough Town Centre Conceptual Plan with the construction of a 'hammer-head' cul-de-sac.

## **STATUTORY ENVIRONMENT**

The managing of the roads by the City is undertaken through:

- Land Administration Act 1997:  
Section 55 states *“(2) Subject to the Main Roads Act 1930 and the Public Works Act 1902, the local government within the district of which a road is situated has the care, control and management of the road.”*

## **RELEVANT PLANS AND POLICIES**

The Dunsborough Town Centre Conceptual Plan is of relevance, as outlined in this report. There are no other applicable plans or policies.

## **FINANCIAL IMPLICATIONS**

On the basis that the Council endorses the Officers recommendation and resolves not to close Chieftain Crescent, there are no immediate financial implications to keep the road open. The current intersections work appropriately. Officers would however budget in the future for minor improvements as noted in the attached drawing (Attachment D – Townscape Option 2). These works are estimated at approximately \$8,000.

Should the Council resolve to close Chieftain Crescent the cost to construct the turnaround would be approximately \$20,000, see the attached drawing (Attachment C – Townscape Option 1). This would need to be included in the 18/19 budget as part of its adoption.

Concerns have been raised as to how pedestrians and cyclists are to safely access the Central Business District as there is no shared path along Chester Way. The construction of a footpath along Chester Way will cost in the region of \$90,000 and will be considered as part of the forward capital works plan to be prioritised in conjunction with other projects in the bike plan.

### **Long-term Financial Plan Implications**

Nil.

## **STRATEGIC COMMUNITY OBJECTIVES**

The Officer's recommendation aligns with the following Key goal areas and community Objective of the Strategic Community Plan 2017.

### ***Key Goal Area 2 –Places and Spaces: vibrant, attractive, affordable***

2.3: Creative urban design that produces vibrant, mixed-use town centres and public spaces.

**Key Goal Area 5 – Transport; smart, connective, accessible**

5.2: Road networks that provide for a growing population and the safe movement of all users through the District.

5.3: Cycleways that connect our communities and provide alternative transport choices.

**RISK ASSESSMENT**

There are no identified risks associated with the officer's recommendation of a medium or greater level.

**CONSULTATION**

The Dunsborough Town Centre Conceptual Plan and streetscape improvement program was developed over several years and involved comprehensive consultation with town centre landowners and the broader Dunsborough community. This included several public events, multiple mail-outs to landowners and residents, presentations to business and residents groups, and newspaper and internet posts.

Throughout there has been both support for and objections against the reconfiguration of Seymour Boulevard and Chieftain Crescent and/or the opening of access via Chieftain Crescent.

In 2015 Councillors were briefed on this matter following an individual landowner submission to move the proposed northern cul-de-sac to adjoin Seymour Boulevard. Officers did not recommend making this change as it did not accord with adopted rezoning, and Councillors supported no changes to the proposed streetscape designs.

In January 2017, prior to the completion of works to close the remaining partial access, a petition by 98 residents was presented to the Council in support of retaining Chieftain Crescent (north) open to through-access. In February a trial was commenced, with temporary improvements made to support the retention of through-access.

In follow-up to the trial the City undertook consultation with all affected property owners, being all localised properties within the western area of the estate bounded by Chieftain Crescent/Peron Avenue/Chester Way. This bisect of the estate was considered the point at which all previous traffic vented through Chester Way onto Geographe Bay Road. Traffic to the east of this bisect and the broader Dunsborough community generally only access the western area to attend medical appointments or to utilise the informal parking on the edge of the Central Business District.

The City also engaged with all residents that had previously expressed an interest either through the petition or individual correspondence. Written submissions were sought to determine the level of interest in the proposal to retain the intersection of Chieftain Crescent and Chester Way open to through traffic.

The submissions were completed over two periods, as follows:

Consultation of 14<sup>th</sup> February 2017. A total of 48 letters were issued to residents as shown on Attachment A. Of the 48 letters issued the City received 11 responses, see details below:

<b>Total Submissions 11</b>	
Open	Closed
10	1

Consultation of 6<sup>th</sup> September 2017. A total of 160 letters were issued to residents as shown on Attachment "B". Of the 160 letters issued the City received 130 responses, see details below:

<b>Total Submissions 130</b>	
Open	Closed
114	16

The outcomes of the consultation indicate support to retain the road link through the Chieftain Crescent and Chester Way intersection. There was strong feedback however from owners in the immediate area wanting the road closed, as per the adopted town centre conceptual plan.

#### **OFFICER COMMENT**

There are two options available - to open or close the through-access. The retention of the road open received significantly more support during the subsequent post trial submission.

The opportunity for a compromise, being for example, retaining the road open in one direction is not considered achievable. For a period immediately after the main section of the streetscape was completed, the road was retained open in a one-way easterly direction. During this period however the City received numerous reports of non-compliance with vehicles travelling contra-flow or removing the physical barriers to gain additional access.

The main change to the expected traffic flow (as compared to the adopted town centre conceptual plan) would be the impact on a section of Chieftain Crescent and a section of Chester Way which are fronted by 21 properties. Additional traffic flow could also be expected on Lorna Street. The residents in these road sections, although mostly aggrieved by the potential permanent change, have been patient in their approach by allowing the City to complete the trial period and undertake further traffic counts.

The City does not have pre-works traffic data for either Chieftain Crescent (Seymour Boulevard to Chester) or Chester Way (Peron Avenue to Chieftain Crescent) however traffic counts have been taken in these 2 locations during April 2017 and April 2018. These counts were taken outside of school holiday periods to minimise the potential distortion caused by holiday makers, therefore reflecting a base line traffic volume.

The data below is a summary of the traffic flow changes during this period however we do not have the ability to compare with pre-works traffic flows.

<b>Chieftain Crescent</b>	Vehicles per Day	% Heavy	85 <sup>th</sup> % speed (km/h)
April 2017	215.3**	1.7	37.8
April 2018	864.4	4.1	41.8
Change	+ 649.1 (301.4%)	+ 2.4	+ 4.0
<b>Chester Way</b>			
April 2017	476.1	4.0	49.7
April 2018	685.1	4.3	47.9
Change	+ 209 (43.9%)	+ 0.3	- 1.8

\*\* There is no evidence that this data was corrupted however it does appear 'low' when compared to Chester Way.

The following works proposals are considered to be appropriate for the permanent treatment, dependant on the option resolved by Council:

**Option 1 - Closure**

- Construct a suitable cul-de-sac head at the Chieftain Crescent/Chester Way intersection;
- Provide signage and line marking delineation at the Chester Way/Peron Avenue/Chester Way intersection;
- Include the provision of a Shared Path in the Forward Capital Works Plan.

**Option 2 - Open**

- Construct a median island and deflector island Chieftain Crescent/Chester Way intersection to reinforce the give way controls and reduce the potential for vehicle speed and/or corner cutting;
- Provide signage and line marking delineation at the Chester Way/Peron Avenue/Chester Way intersection;
- Include the provision of a Shared Path in the Forward Capital Works Plan.

During the consultation, concerns were raised by both sides that the change of traffic flow would impact on how pedestrians and cyclists are to safely access the Central Business District as there is no shared path along Chester Way. Additionally the intersection of Chester Way/Peron Avenue/Chester Way is unclear as to the priority legs; this uncertainty has been exacerbated further with the change in traffic flow patterns. City staff have assessed this intersection and believe that the provision of line marking and signage would greatly assist in reducing confusion. A final determination of this however this should be made post deliberation of this report as it will need to be developed to be consistent with the final traffic movements.

**CONCLUSION**

The majority of submissions received from the broader community through the consultation sought to retain the Chieftain Crescent and Chester Way open to traffic. Several property owners that front both Chieftain Crescent and Chester Way and who sought its closure through their submissions have expressed strong disappointment in the potential variation to the original Conceptual Plan.

With either recommendation there is likely to be a level of disappointment from the community and/or residents. Retaining Chieftain Crescent open to traffic flow is considered however to have broad community benefit and as such it is recommended by officers.

**OPTIONS**

Council may elect not to support the Officer's recommendation and instead close Chieftain Crescent to traffic.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The officer recommendation requires no immediate physical works to enable the retention of the road open.

**OFFICER RECOMMENDATION**

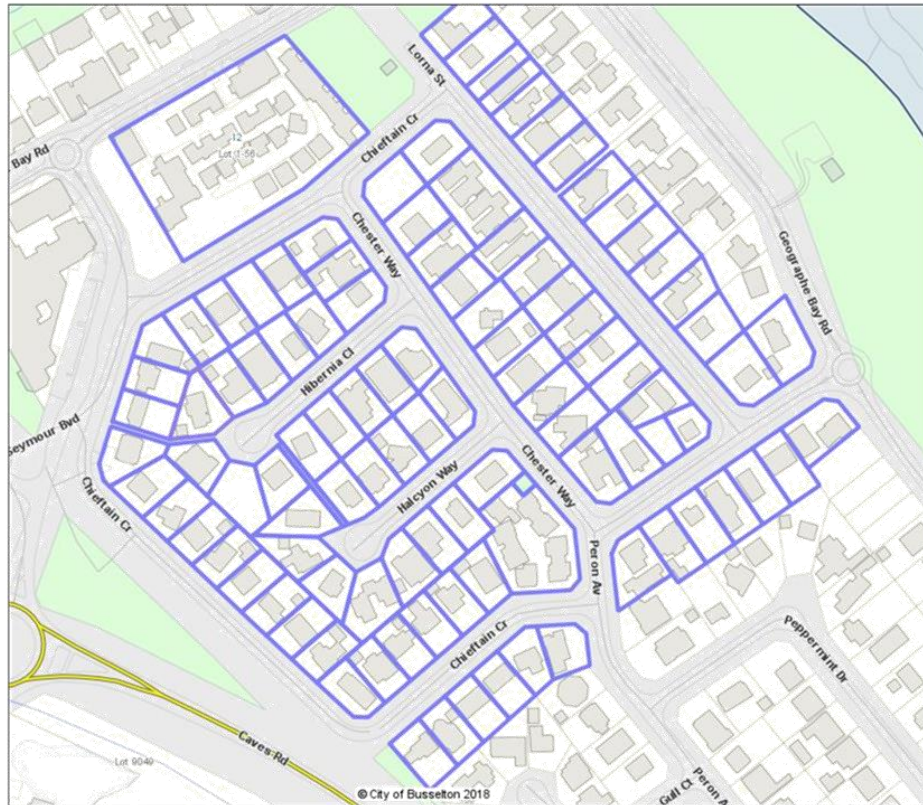
That the Council endorses the retention of the road open at the Chieftain Crescent and Chester Way junction, Dunsborough.



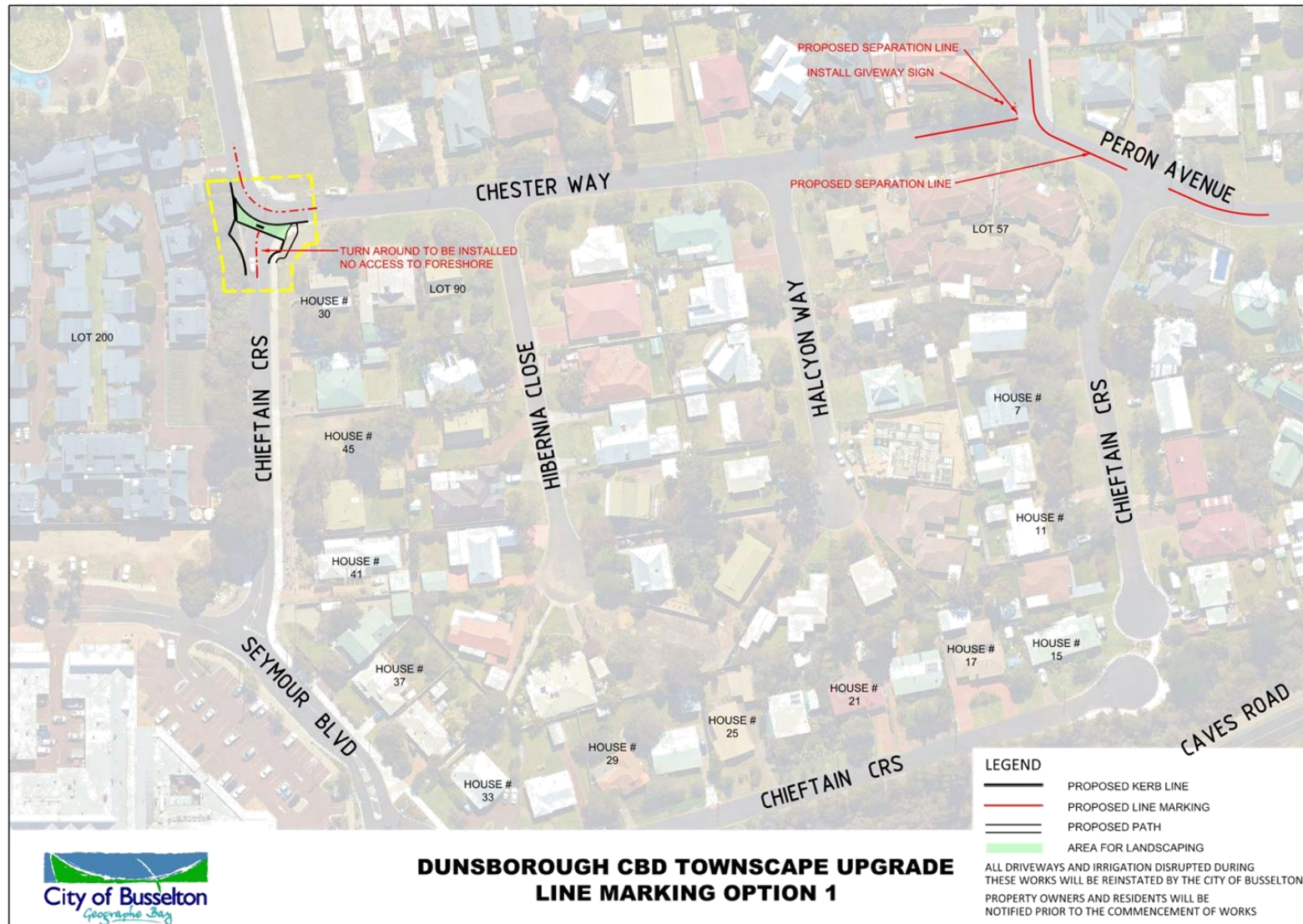


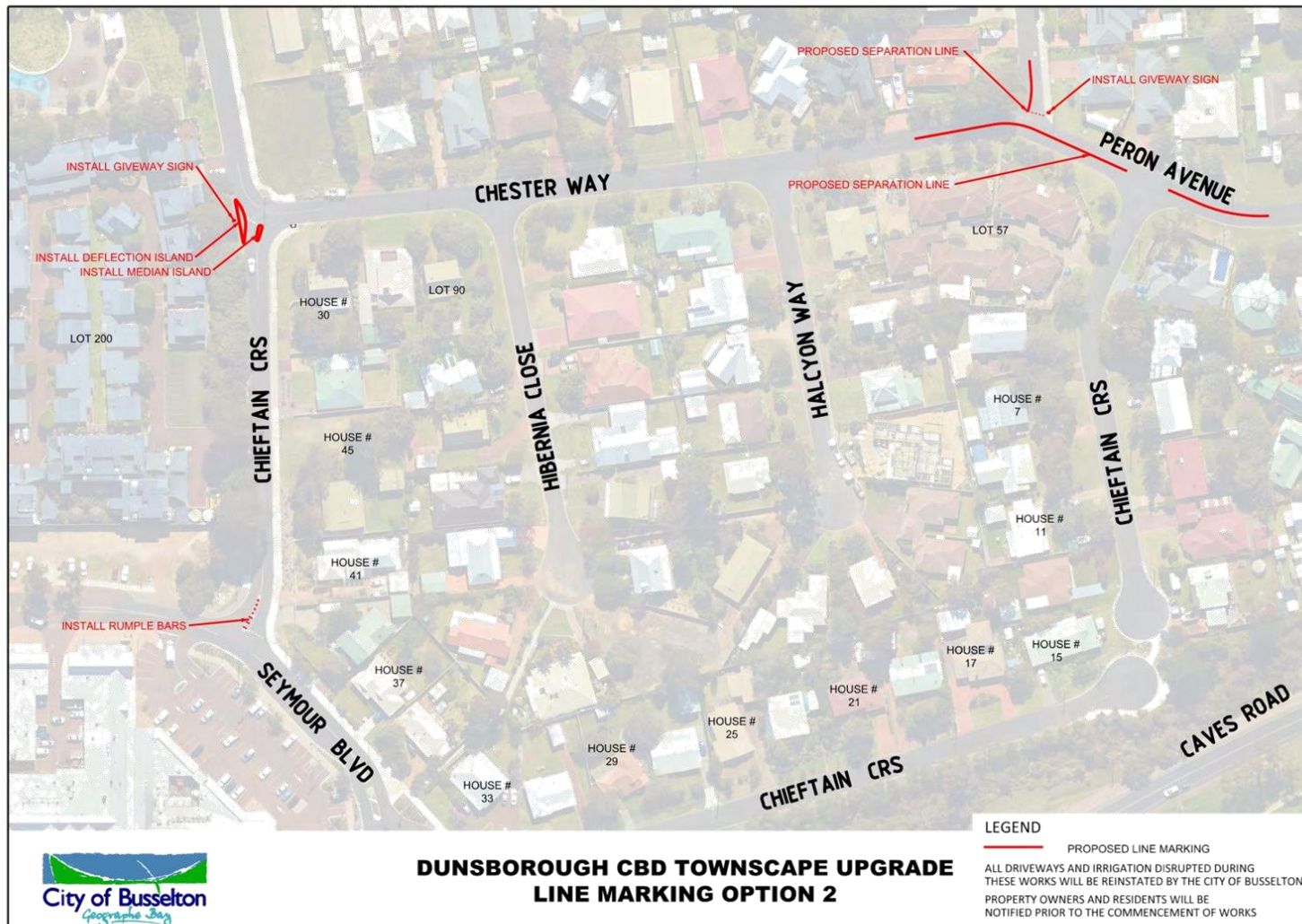
Chester / Chieftain request for submissions

Letter dated 6/9/2017 with option form – 160 sent

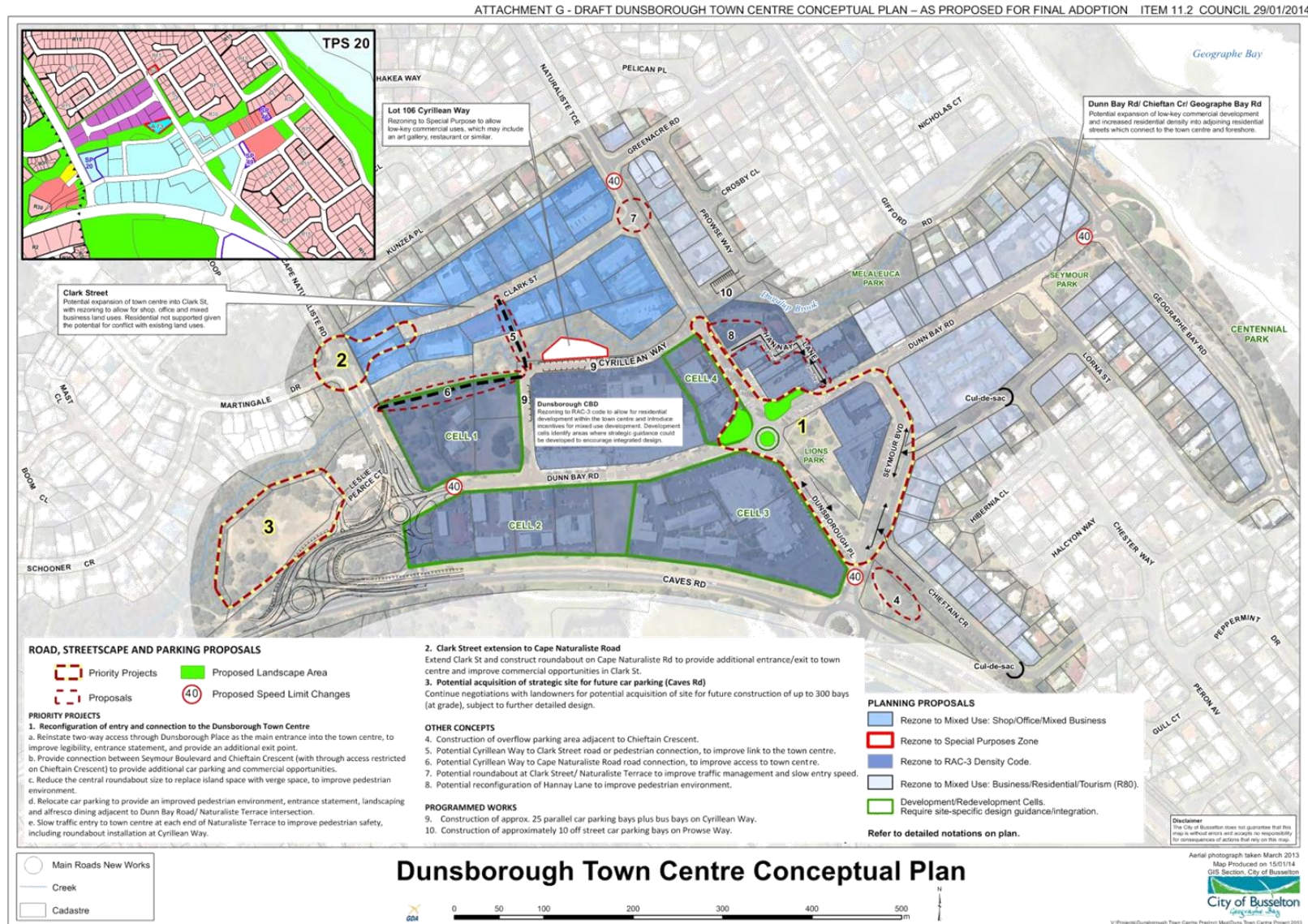














## 15. COMMUNITY AND COMMERCIAL SERVICES REPORT

### 15.1 PROPOSED DUNSBOROUGH FORESHORE CAFE/KIOSK (A CLASS RESERVE R22965): LEASE OF LAND TO MARGARET RIVER HOSPITALITY GROUP FOR THE PURPOSES OF A CAFÉ DEVELOPMENT

<b>SUBJECT INDEX:</b>	Tourism Development
<b>STRATEGIC OBJECTIVE:</b>	Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities.
<b>BUSINESS UNIT:</b>	Commercial Services
<b>ACTIVITY UNIT:</b>	Property and Business Development
<b>REPORTING OFFICER:</b>	Manager, Commercial Services - Jennifer May
<b>AUTHORISING OFFICER:</b>	Director, Community and Commercial Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Council report & Attachments - Item15.1 May 2018   Attachment B Proposed Plan of Site  

## PRÉCIS

This report presents an update on the Council resolution adopted at the meeting held on 9 May 2018. At that meeting Council considered report item 15.1 (Attachment A) and resolved as follows:

*That the Council defers for a month so councillors can have a fully briefed onsite inspection.*

The deferral was also to allow further information in relation to the proposed site (and its impact on the vegetation), operational issues (opening hours and number of afterhours events) and the extent of the contributions by the City and proponent towards public infrastructure costs.

The site inspection referred to in the resolution was held as part of the pre-budget tour of the district on Tuesday 22 May 2018. The general consensus of opinion of Councillors present was that the location of the proposed café development was satisfactory but could be the subject of minor adjustment.

Following the site inspection, a further on site visit was held with the proponent of the café development proposal when the following issues were discussed:

- The location of the proposed café as designated by the area that had been pegged; and
- The desire to retain as much of the vegetation on site as possible.

At this meeting it was agreed that a 'Feature Plan' would be provided which would show the location of the proposed building on the site. This plan has now been received and is shown at Attachment B.

This report addresses the issues identified above in relation to the deferral decision. Having regard for the information provided in this and previous reports, it is recommended that Council approve the development 'in principle' and authorise the CEO to take the necessary steps to proceed to finalise all legal requirements.

## BACKGROUND

The proposal to develop a café on the Dunsborough foreshore has been the subject of numerous Council reports and briefings over a long period of time as follows:

2008 - The need for a waterfront café / restaurant was identified as part of master planning for redevelopment of the Dunsborough foreshore.

2010 - Master plan for the Dunsborough Foreshore Concept Plan was endorsed by Council.

2012 (June) - Council supported calling for expressions of Interest for two sites on the Dunsborough foreshore and adopted Design Guidelines for the development of a beach café.

2014 (March) - Council resolved, following extensive consultation to conduct further community consultation on a specific proposal for the development of a café and/or kiosk on the Dunsborough foreshore 'A Class' Reserve Number R22965 (the Reserve).

2014 (June) - Council resolved to acknowledge public submissions received on the proposed café/kiosk and to write to the Minister for Lands requesting an amendment to the management order to provide the City with the power to lease. Council also resolved to seek preliminary Registrations of Interest (Rol) from the private sector to lease a portion of the Reserve.

2014 (September) – Rol's closed and the three applicants were invited to submit a more detailed proposal by 20 February 2015.

2015 (April) - Council resolved to nominate the Margaret River Hospitality Group (MRHG) as the potential future lessee of a portion of the Reserve for the development of a café and kiosk and for staff to negotiate a non-binding Heads of Agreement.

2015 (October) - Officers wrote to the Department of Lands (DoL) advising that MRHG was the preferred proponent and requested the Management Order over the Reserve be amended to reflect a change in purpose from 'Camping and Recreation' to 'Recreation and Foreshore Management' and sought power to lease/licence a portion of the Reserve for a period of up to 30 years to facilitate the preferred proponent's proposal.

DoL advised that due to policy changes, the land would be required to be excised from the Reserve for a head lease between the State of WA and the City, and a sub-lease agreement prepared between the City and the proponent.

2016 (June) - DoL advertised its intention to amend the purpose of the Reserve and excise out the land for the café/kiosk and invited public comment. DoL received objections from several of the landowners on Geographe Bay Road and in the vicinity of the proposed site. DoL subsequently advised the City the advertising process it had conducted did not adequately address the statutory requirements, in that Ministerial approval to advertise had not been sought. Accordingly, DoL indicated they would need to readvertise.

2017 - MRHG advised the City it would be interested in reviewing the concept and functionality design as previously approved to try and resolve some of the community concerns, in particular visibility of the building from Geographe Bay Road, parking issues and the environmental sustainability of the building.

The revised design concept integrated a commercial development area with new public/community facilities and, while the new design resulted in a larger total building area of 400m<sup>2</sup>, a commercial area of 200m<sup>2</sup> (as originally supported by Council) had been retained.

2017 (August) - Council endorsed inviting of community comment on the revised design concept.

2017 (November) - Results of the community consultation (undertaken in September and October) were presented to a Council briefing where Council requested Officers to work with MRHG regarding functions (weddings) as a key component of their business operations, as well as concerns regarding parking and removal of vegetation.

2018 (March) – Revised proposal submitted to Council briefing on 21 March 2018 which involved:

- Lease area (200m<sup>2</sup>) consisting of:
  - commercial space - kitchen/kiosk (50m<sup>2</sup>), dining space (80m<sup>2</sup>) and al-fresco (70m<sup>2</sup>)
- Licensed public deck area 100m<sup>2</sup>;
- Public amenity area to (123m<sup>2</sup>) consisting of:
  - community circle area (67m<sup>2</sup>), outdoor showers (20m<sup>2</sup>) and ablutions (36m<sup>2</sup>)
- Toilet facilities to be a shared responsibility
- Additional car parking area to be determined with no clearing of vegetation (formalisation of existing car park line marking to be addressed)
- Realignment / relocation of the cycle/footpath – up to 100m in length
- Existing public toilet block to be converted to store and leased to proponent
- Café/kiosk offering including breakfast, lunch & afternoon tea
- Other details
  - Opening hours reduced to day trade only (ie something like 7am – 3pm)
  - 12 ‘Business type’ Functions each year
  - No weddings, 21<sup>st</sup> or 18<sup>th</sup> birthday parties

At this briefing Councillors were of the general view that the hours of use should be increased up to 8pm and that the number of “business type” events be increased to 24 per year.

2018 May – As a result of a Council report being contained on the Council Agenda for the meeting to be held on 9 May, which reflected the revised conditions as referred to above, a further Council briefing was called for. This was held on 2 May.

At the meeting held on 9 May, the matter was deferred pending a site inspection (which was held on 22 May 2018).

In addition to those meetings listed above there have also been many other Councillor briefings over the life of this project.

## **STATUTORY ENVIRONMENT**

The statutory requirements were detailed in the report item 15.1 (9 May Council meeting) as shown in Attachment A to this report.

## **RELEVANT PLANS AND POLICIES**

The relevant Plans and Policies were detailed in the report item 15.1 (9 May Council meeting) as shown in Attachment A to this report.

## **FINANCIAL IMPLICATIONS**

Given the lengthy statutory processes related to this proposal, which involve State government advertising and Parliamentary approval followed by local City advertising in accordance with S3.58 of the Local government Act, it is unlikely that, apart from minor costs such as surveying etc there will be any impact on the City’s 2018/19 budget.

The Officer recommendation includes authorising the CEO to enter into a Heads of Agreement (HoA) with the proponent for the café/kiosk. It is expected that a lease arrangement will be executed with MRHG in the future which will have positive financial result in that future revenue will be generated from this agreement.



Financial implications are therefore unlikely to be realised before the 2019/20 financial year and as a result are considered in the Long term Financial Plan section below.

#### **Long-term Financial Plan Implications**

The proposal includes expenditure on new public facilities (public toilets), relocation of existing infrastructure (footpath / cycleway) and upgrading of existing infrastructure (parking area).

#### **Public toilets**

The proponent requires the use of the existing public ablution block as a storage area. New public toilets will be built as part of this proposal within the new building. While the specific details have not been agreed, a major refurbishment of the public ablution block is scheduled for 2022/23 at a value of \$200,000; an amount up to this allocation could be included as the City's contribution to the project. This is considered a reasonable contribution and is consistent with other contributions the City has made in the past such as to Busselton foreshore businesses toilet facilities and the proposed contribution to the microbrewery toilet facilities.

#### **Footpath / Cycleway**

The plan proposes the construction of re-aligned footpath / cycleway at an estimated length of 220 metres. The existing footpath / cycleway conflicts with the driveway to the existing car park and this would be an opportune time to resolve this conflict. The proposed plan shows the footpath / cycleway relocated closer to the beach to provide a safer environment and also easier access to the café / kiosk.

The cost of a new footpath / cycleway is estimated at \$57,000. The City's contribution will need to be budgeted in the 2019/20 financial year when the café / kiosk is expected to be completed. The proponent is willing to contribute towards the cost of relocation of the footpath / cycleway when final costs are known following design and location issues being finalised.

#### **Parking areas**

The proponent has agreed to provide additional car bays necessary to comply with the planning assessment to support a net lettable area of 150m<sup>2</sup> (dining room and alfresco area). The bays would need to be provided at a location to be determined by the City.

The existing car park has a capacity of 15 bays but needs to be re-surfaced and re-marked. The estimated cost of this work is \$18,000. There are no funds for this work identified in the Long term Financial Plan but in the ordinary course of business, the City would normally bear the cost of this work.

It should be noted that the above cost estimates have been provided from a desk top analysis and will need to be verified as the proposal is progressed. The figures should therefore be viewed as indicative and not actual. The details of the proposed financial contribution towards car park provision would also be negotiated whilst the statutory processes were being progressed.

### **STRATEGIC COMMUNITY OBJECTIVES**

This report aligns with the following City of Busselton Key Goal Areas identified in the City's 2017 Strategic Community Plan:

#### **Key Goal Area 2: Places and Spaces**

- 2.2 Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities.

**Key Goal Area 4: Economy**

- 4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.
- 4.2 A community where local business is supported and in turn drives our economy.
- 4.3 Events and unique tourism experiences that attract visitors and investment.

**RISK ASSESSMENT**

The Risk Assessment was detailed in the report item 15.1 (9 May Council meeting) as shown in Attachment A to this report.

**CONSULTATION**

A detailed schedule of consultation conducted was detailed in the report item 15.1 (9 May Council meeting) as shown in Attachment A to this report.

**OFFICER COMMENT**

Following the decision of Council to defer consideration of the recommendation to progress the development of the café on the Reserve, a site inspection was conducted on 22 May 2018. Subsequent to this inspection, a further meeting was held on site with the proponent and it was agreed that a 'Feature Plan' would be prepared. This Plan is shown on Attachment B.

The Plan shows that the location of the proposed development has changed slightly from the information provided in the 9 May 2018 report to reflect Council's concerns in relation to the vegetation on the site. The impact of the development as shown on the Plan on mature growth is minimal.

The environmentally sustainable design of the building is sympathetic to the environment and its curved shape takes advantage of Geographe Bay to allow maximum exposure.

Coastal issues

The City has previously commissioned a Coastal Engineering Assessment of the Dunsborough foreshore for an earlier version of this proposal. The assessment report considered the location proposed for the café/kiosk is unlikely to be affected by erosion over the 30 year lease term, however may be subject to inundation in a severe weather event. Risk from such an event is proposed to be mitigated by the proponent by elevating the building 1m above ground level using dry screw piles.

A new report has been commissioned and if the assessment is different, the report will be made available when received.

Use and operating hours

As mentioned in the 9 May 2018 report, community concerns were raised over the original proposed uses of the building which included wedding functions as a core component of the proponents business. The proponent has since agreed to exclude weddings, 18<sup>th</sup> and 21<sup>st</sup> birthday functions with a small number of business related functions to be held during the year. The opening hours were also reduced from the initial proposal.

The hours of use (open to 8pm) and the number of 'business type' events were increased (to 24) by Councillors at the briefing session in March (from what was contained in the proponents submission) to reflect expected popularity of a café on the Dunsborough foreshore.

### Infrastructure / financial issues

Financial arrangements relating to the provision and/or upgrading of infrastructure have been included in the Long Term Financial Plan section of this report. The arrangements identified are considered equitable and in line with other contributions made by developers on the Busselton foreshore.

Should Council adopt the Officer recommendation, Officers will commence the lengthy statutory process to excise the land from the Reserve and negotiate a draft Heads of Agreement that is mutually acceptable to both Council and the proponent.

The revised concept potentially provides the following benefits to the local area:

- Community: Improved facilities and amenity; upgraded public ablutions; strengthens the sense of place; enjoyment of the beach year round; positive local economic/tourism benefits and the development of community pride in sustainability;
- Environment: Touches the earth lightly (uses screw piles with no concrete pads) and is elevated off the ground to protect vegetation and prevent inundation in a major storm event; 100% sustainable energy production is proposed with a 200 panel solar array on the roof; renewable construction materials; pre-fabricated modular construction to reduce on-site impact; simple decommissioning of structure at the end of the life; all existing trees to remain with reintroduction of native vegetation;
- Public facility upgrades: Relocation of public ablutions within the proposed development; re-direction of existing bicycle path to improve cyclists, car and pedestrian flow;
- Eliminates car / pedestrian / cyclist clash points on-site; car-park redesign to improve traffic flow onto Geographe Bay Road.

### **CONCLUSION**

Council is requested to consider the revised concept and operating terms for the Dunsborough foreshore Café/kiosk proposal submitted by MRHG following further community consultation in late 2017. The concept and building plan for a commercial café/kiosk combined with community facilities (community seating; outdoor showers; new public ablutions; public viewing deck) on the Dunsborough foreshore has been recently revised in an effort to improve social, economic and environmental outcomes and incorporate both community and Council concerns.

Two separate areas will be required to be excised from the Reserve at Dunsborough foreshore:

- The proposed new building; and
- The existing toilet block which will be renovated to become a storeroom for the commercial space.

A Lease will be required to be entered into for that part of the building that contains the Café / kiosk, kitchen, dining room and alfresco areas totalling 200m<sup>2</sup> and the existing toilet block. A Licence will be required to be entered into for the common area which occupies an area of 100m<sup>2</sup>.

It will be desirable to excise an area from Reserve greater than the building footprint to allow some flexibility from a lease definition point of view. This does not alter the leased area footprint of the commercial area of 200m<sup>2</sup>.

**OPTIONS**

Council may elect to:

- Not support the revised design concept (Attachments A - D contained in the 9 May 2018 report attached) as modified by the Feature Plan (Attachment B);
- Modify any of the proposed terms or funding arrangements; or
- Discontinue facilitating the development of a café/kiosk on the Dunsborough foreshore.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Following Council adoption of the Officer Recommendation, Officers will finalise negotiations with MRHG for a mutually acceptable draft Heads of Agreement, which will inform the development of a future sub-lease (including funding of community facilities). The Heads of Agreement will address matters relating to lease term, ground rent and private/public contributions to infrastructure improvements such as parking, public toilets and other public facilities.

**OFFICER RECOMMENDATION****ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council:

1. Endorses the draft concept designs (as shown in Attachments A - D to the 9 May 2018 report as modified by the Feature Plan shown at Attachment B) as the guide for further design development of the proposed commercial café/kiosk;
2. Delegates authority for the CEO to enter into a Heads of Agreement with Margaret River Hospitality Group Pty Ltd containing the following features:
  - Lease for a period of 30 years
  - Opening hours be approved from 7am to 8pm and the number of "Business type after hours events" be set at no more than 24 each year;
  - No weddings, 21<sup>st</sup> or 18<sup>th</sup> birthday parties
  - Additional parking bays required to be provided in accordance with normal planning assessment
  - City infrastructure contributions to the project being :
    - \$200,000 towards the cost of provision of new public toilet facilities;
    - \$18,000 for upgrading the existing car park; and
    - An agreed contribution towards the cost of re-location of the footpath / cycleway when the design and location has been completed
3. Delegates to the CEO authority to progress statutory advertising and parliamentary approvals for the excision of portions of parts of the 'A' Class Reserve R22965 within 'Centennial Park' to accommodate the café/kiosk development and store proposed in this report;
4. Once the excision of the areas referred to above at Recommendation 3 has occurred authorises the CEO to advertise an intended disposition of the two parcels of land identified in this report being portions of Reserve R22965, by leasehold in accordance with Section 3.58 of the Local Government Act 1995 and presents a further report to Council following the closure for public submissions;

Council

1

9 May 2018

13.1 PROPOSED DUNSBOROUGH FORESHORE CAFE/KIOSK (A CLASS RESERVE R22965): REVISION OF CONCEPT DESIGN AND FUNCTION

<b>SUBJECT INDEX:</b>	Tourism Development
<b>STRATEGIC OBJECTIVE:</b>	Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities.
<b>BUSINESS UNIT:</b>	Commercial Services
<b>ACTIVITY UNIT:</b>	Property and Business Development
<b>REPORTING OFFICER:</b>	Manager, Commercial Services - Jennifer May
<b>AUTHORISING OFFICER:</b>	Director, Community and Commercial Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Proposed Site Plan
	Attachment B Proposed Built Form
	Attachment C Environmental Design and Construction Concept
	Attachment D View from Geographe Bay
	Attachment E View from Geographe Bay Rd
	Attachment F Acknowledgement of revised development concept: Department of Planning, Lands and Heritage
	Attachment G Original Concept Design (Cafe/Kiosk)

## PRÉCIS

This report presents revised design concepts for a commercial café/kiosk to be located on the Dunsborough foreshore on Crown land (a portion of 'A Class' Reserve Number R22965) known as 'Centennial Park', the results from community and stakeholder consultation carried out in late 2017 and recommends Council authorise the CEO to take the necessary steps to proceed with the proposed café/kiosk development.

## BACKGROUND

The genesis of this project goes back to at least 2008, with the need for a waterfront café / restaurant identified as part of master planning for redevelopment of the Dunsborough foreshore. This master planning, and the resultant Dunsborough Foreshore Concept Plan, endorsed by Council in 2010 (C1001/018), was initiated by the Dunsborough Yallingup Chamber of Commerce and Industry (DYCCI), with a key objective being to improve the pedestrian linkage and view corridor between the Dunsborough town centre and the foreshore and to rejuvenate and revitalise the landscape, parking and amenity of the foreshore itself. Significantly it was also noted, and remains the case today, that there is not a café / restaurant or similar where people can go and enjoy the waterfront experience anywhere in Dunsborough.

In March 2014, following extensive consultation on the location of a site for a café/kiosk (undertaken between 2011-2013) the Council resolved (C1403/055) to support, for the purposes of community consultation, a proposed containment zone on the Dunsborough foreshore ('A Class' Reserve Number R22965), for potential future commercial development of a café and/or kiosk up to 150m2 plus 50m2 alfresco area.

The resolution resulted from a strategic review of alternative sites for a café and/or kiosk conducted by the City of Busselton in consultation with the Dunsborough/Yallingup Chamber of Commerce (DYCCI Inc) and the Dunsborough and Districts Progress Association (DDPA Inc). The strategic review of sites was initiated following community concerns a café and/or kiosk was not appropriate within the redeveloped foreshore land at the juncture of Dunn Bay Road and Geographe Bay Road, the location previously endorsed by Council in January 2010 (C1001/018) and in June 2012 (C1206/144).

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On 25 June 2014, Council resolved (C1406/154) to acknowledge public submissions received on the proposed containment zone for the café/kiosk and to write to the Minister for Lands requesting an amendment to the management order to provide the City with the power to lease an area of approximately 200m<sup>2</sup>. Council also resolved to seek preliminary Registrations of Interest (RoI) from the private sector to lease a portion of the Reserve, within the containment zone for a café/kiosk development, while at the same time seeking power to lease the Reserve from the then Department of Lands (DoL).

Following the Council decision of 25 June 2014, City officers publicly sought RoIs and received three submissions by the closing date of 29 September 2014. All proponents were then invited to submit a more detailed proposal by 20 February 2015.

On 22 April 2015, Council resolved (C1504/106) to nominate the Margaret River Hospitality Group PL (MRHG) (formerly, White Elephant Gnarabup Beach Pty Ltd) as the potential future lessee of a portion of Reserve R22965 (Centennial Park, Dunsborough) for the development of a café and kiosk up to 150m<sup>2</sup> plus 50m<sup>2</sup> alfresco area and for staff to negotiate a non-binding Heads of Agreement.

The main components of the café proposal were:

- Seating: Café internal area (90 sqm) – 90 people and alfresco area (50 sqm – 50 people);
- Internal Toilets provided (25m<sup>2</sup>);
- Kitchen, cool room and dry store (35m<sup>2</sup>);
- Basic post and beam structure with a single pitch raked roof over the café area and another smaller single pitched roof over the alfresco area. The building will be elevated on concrete piles to protect against storm surge and proposed to sit about 1.0m above surrounding contours;
- Environmentally sustainable building design;
- Any vegetation loss will be replanted. No removal of peppermint trees;
- No external walls or fences (other than a roofed bin store) which will be screened with wall cladding;
- Roof is 5.0m above natural ground level at highest point;
- Proposed Lease Term: 20 Years with an option for a further 10 years;
- Landscaping maintenance requirements in licenced area around the curtilage of the building area to be by Lessee;
- Hospitality offering: Quality breakfast and lunch with a takeaway option;
- Liquor licencing: Preference for local beer and wine, and;
- Additional car-parking to be negotiated through the lease

Officers wrote to the DoL on 16 October 2015 advising of the MRHG as preferred proponent and reaffirming its previous request for the management order over Reserve R22965 to be amended to reflect a change in purpose from 'Camping and Recreation' to 'Recreation and Foreshore Management' and seeking power to lease/licence a portion of the Reserve for a period of up to 30 years to facilitate the preferred proponent's proposal.

This request was not progressed; rather DoL advised that due to policy changes, the land would be required to be excised from the Reserve for a head lease between the State of WA and the City, and a sub-lease agreement prepared between the City and the proponent.

On 8 June 2016, DoL advertised its intention to amend the purpose of the Reserve and excise out the land for the café/kiosk and invited public comment. DoL received objections from several of the landowners on Geographe Bay Road and in the vicinity of the proposed site. DoL subsequently advised the City the advertising process it had conducted did not adequately address the statutory requirements of the Land Administration Act 1997, in that Ministerial approval to advertise had not been sought. Accordingly, DoL indicated they would need to readvertise.

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In early 2017, the MRHG advised the City it would be interested in reviewing the concept and functionality design to try and resolve some of the community concerns previously expressed, in particular visibility of the building from Geographe Bay Road, parking issues and the environmental sustainability of the building.

The revised design concept integrates a commercial development area with new public/community facilities and, while it results in a larger total building area of 400m<sup>2</sup>, a commercial area of 200m<sup>2</sup> (as originally supported by Council) has been retained. The revised covered areas proposed are:

Commercial space (200m<sup>2</sup>) consisting:

- kitchen (30m<sup>2</sup>)
- dining space (105m<sup>2</sup>)
- kiosk (15m<sup>2</sup>)
- al-fresco (50m<sup>2</sup>)

Public (community) space (200m<sup>2</sup>) consisting:

- community circle area (50m<sup>2</sup>)
- outdoor showers (40m<sup>2</sup>)
- ablutions (50m<sup>2</sup>)
- public deck (60m<sup>2</sup>)

The revised concept potentially provides the following benefits to the local area:

- Community: improved facilities and amenity; upgraded public ablutions; strengthens the sense of place; enjoyment of the beach year round; positive local economic/tourism benefits and the development of community pride in sustainability;
- Environment: Touches the earth lightly (uses screw piles with no concrete pads) and is elevated off the ground to protect vegetation and prevent inundation in a major storm event; 100% sustainable energy production is proposed with a 200 panel solar array on the roof; renewable construction materials; pre-fabricated modular construction to reduce on-site impact; simple decommissioning of structure at the end of the life; all existing trees to remain with reintroduction of native vegetation;
- Public facility upgrades: Relocation of public ablutions within the proposed development; re-direction of existing bicycle path to improve cyclists, car and pedestrian flow;
- Eliminates car/pedestrian clash points on-site; car-park redesign to improve traffic flow onto Geographe Bay Road, and;
- Introduction of bike parking/repair stations and more bins for cleaner beaches

The revised concepts submitted by the MRHG are shown in Attachments A-E of this report.

At its meeting on 22 August 2017, Council endorsed (C1708/205) the inviting of community comment on the revised design concepts, prior to the progression of State and Local Government statutory processes relating to property disposition. Community consultation was undertaken in September and October 2017 through a variety of activities, a summary of which is provided in the Consultation section of this report.

City Officers presented the results of the community consultation to the Council at a briefing on 8 November 2017, whereby Council requested Officers to work with MRHG regarding community feedback received about the proposal and in particular the holding of functions (weddings) as a key component of their business operations, as well as concerns regarding parking and removal of vegetation.

City Officers met with MRHG in January 2018 to discuss community and Council feedback, with the below adjustments agreed to. These were subsequently presented to the Council at a briefing on 21 March 2018;

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- Lease area (200m<sup>2</sup>) consisting:
  - commercial space (150m<sup>2</sup>)
  - al-fresco (50m<sup>2</sup>)
- Reduced public amenity area (showers and decked community circle)
- Toilet facilities - with City of Busselton contribution
- Car parking area to remain unchanged with no clearing of vegetation (formalization of car park line marking to be addressed)
- Realignment / relocation of the cycle/footpath
- Café/kiosk offering including:
  - Breakfast and lunch
  - Small groups/business type functions up to 24 per year
  - No wedding, 18<sup>th</sup> and 21<sup>st</sup> functions
  - Serving of alcohol under liquor licence
  - Business hours from 7.00am until early evening (latest 8.00pm).

#### **STATUTORY ENVIRONMENT**

The following statutory requirements are relevant in considering this matter.

##### Land Administration Act 1997 ("LAA")

The café and kiosk concept proposed by the MRHG is located on Crown land being an 'A' Class reserve (Reserve 22965) which is vested with the City for the purposes of 'Camping and Recreation'. The City does not currently have the power to lease. DoL advice is that the land requires excision from the Reserve to facilitate a café development and approvals are required by both houses of the WA Parliament.

The Department of Planning, Lands and Heritage (DPLH), previously DoL, reviewed the revised draft concepts as presented to the Council in August 2017 and recommended further community consultation to occur prior to any further statutory processes progressing in accordance with the LAA. Attachment F of this report is the written response from the DPLH. The community consultation was completed in September and October 2017 and subject of this report.

##### Local Government Act 1995 ("LG Act")

A future café/kiosk development would require the City to sub-lease Crown land, which constitutes a 'disposal of property' under the LG Act.

Section 3.58 (2) states that a local government can dispose of property to the highest bidder at public auction, or to the person at public tender. Section 3.58 (3, 4) allows for the disposal of property other than by public auction or by tender. It requires Council to give local public notice of its intention to dispose of the property, and consider any submissions which are received within the specified period. Should Council resolve in the future to proceed with a café/kiosk, commercial areas would be excised from the Reserve by the Minister for Lands and leased to the City of Busselton who would then sub-lease the land to the MRHG. The sub-lease will require LG Act actions described above s3.58 (3, 4). The community areas would be licensed to the MRHG, affording non-exclusive use of the land and buildings.

#### **RELEVANT PLANS AND POLICIES**

The following plans and policies are relevant in considering this matter.



State Planning Policy 2.6, State Coastal Planning (SPP2.6) (Western Australian Planning Commission)

From a land use planning point of view, the Department of Planning (DoP: now the Department of Planning, Lands and Heritage) has previously advised that if the development is within the intent of the Reserve and within scale to the surroundings there would be no objection.

The revised development concepts (as outlined in Attachment A-E of this report) have attempted to address many of the points raised in feedback from DoP, including risks from coastal inundation. Attachment C illustrates the proposed dry screw pile foundations which mitigate risk of inundation.

Dunsborough Foreshore Management Plan (2009)

The Dunsborough Foreshore Management Plan (DFMP) documents both the current state and values for the Reserve and provides generic principles and specific actions and recommendations in order to guide future management of the Dunsborough foreshore reserves. Should Council resolve to proceed with a future lease of land for a café development, the management plan should be updated to reflect both the new foreshore improvements at the foot of Dunn Bay Road and proposed commercial development zone.

**FINANCIAL IMPLICATIONS**

The Officer recommendation includes authorising the CEO to enter into a Heads of Agreement (HoA) with the proponent for the café/kiosk. It is expected that a lease arrangement will be executed with MRHG in the future which will have positive financial result in that future revenue will be generated from this agreement.

Long-term Financial Plan Implications

The proposal includes new public facilities and the proponent utilising the existing public ablution block as a storage area. While the specific details have not been agreed, a major refurbishment of the public ablution block is scheduled for 2022/23 at a value of \$300k, this allocation or parts thereof could be included in the negotiations with the proponent as potential contributions to areas that have non-exclusive use by the future lessee such as parking or public toilets.

**STRATEGIC COMMUNITY OBJECTIVES**

This report aligns with the following City of Busselton Key Goal Areas identified in the City's 2017 Strategic Community Plan:

**Key Goal Area 2: Places and Spaces**

- 2.2 Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities.

**Key Goal Area 4: Economy**

- 4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.  
4.2 A community where local business is supported and in turn drives our economy.  
4.3 Events and unique tourism experiences that attract visitors and investment.

**RISK ASSESSMENT**

An assessment of the potential risks of implementing the Officers recommendation was undertaken, and as a result, risks rated as medium or above have been identified.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
<u>Reputational Risk</u> Adverse community response to the proposed revised concept with a larger building footprint.	Further advertising and public comment through statutory processes allowing residents and peak community groups including the Dunsborough/Yallingup Chamber of Commerce and Industry Inc, and the Dunsborough and Districts Progress Association Inc to provide submissions.	Moderate	Unlikely	Medium
<u>Reputational Risk</u> The Department of Planning, Lands and Heritage refuses the City's request to amend the management order with power to lease and/or State Parliament refuses the request to change the purpose of the Reserve	Regular engagement with the Regional Manager(s) of the Department of Planning, Lands and Heritage	Moderate	Possible	Medium

**CONSULTATION**

Community consultation was in regard to the revised concept plans was performed in September and October 2017. This included the following activities;

<b>Stakeholder/Community</b>	<b>Description</b>	<b>Consultation Dates</b>
Department of Lands	Briefing to Regional Manager Ron Pumphrey on 04 August 2017. Ron advised the Department of Planning, Lands and Heritage (DPLAH) will support the progress of the proposal to fruition subject to meeting necessary statutory and policy requirements.	04/08/17
Dunsborough and Districts Progress Association Inc	Board meeting presentation	31/08/217
Dunsborough Yallingup Chamber of Commerce and Industry Inc	Board meeting presentation	September meeting
Local Media: Council for Community Information Page	Invitation to comment and display of image. Further information and comments to be provided via the City's website over advertising period	13 and 20 September 2017

Stakeholder/Community	Description	Consultation Dates
Social Media - Facebook	Facebook posts pointing to Yoursay content for survey	13 September to 4 October
City of Busselton Media Release	Release media statement advising of process for comments and period	13 September
City of Busselton web page and Your Say Survey	Invitation to comment on the concept. Text and graphic information included site location, building materials, building area, building height, proposed services, artistic impression, tenure type	13 September to 4 October
Community direct mail to local residents	Letter describing the proposal along with text and graphics as shown on the website invite to attend focus group.	08 September
Invitation to other stakeholders for comment	Member for Vasse (Libby Mettam); Members for South West (email)  Traditional Owners (Josh Whiteland and Wayne Webb) – personal meeting invitation  Dunsborough Coast and Landcare – personal meeting	13 September to 4 October
Forums group meetings at Dunsborough and Districts Country Club	Presentation of concepts and question and answer sessions; Community concerns	18-27 September

The Your Say *Busselton Dunsborough Foreshore Café (Revised Concept Plan)* Public Comment was open to the community from 13 September 2017 – 18 October 2017 and provided the proposal and concept drawings for download as well as a survey for the community to complete. A total of 1487 unique visits were recorded during the comment period with 778 visitors downloading documents and 151 visitors participating in the survey. Visitors were asked if they supported the revised concept plan for the proposed Dunsborough Foreshore Café Development of which 60.9% responded Yes and 39.1% responded No.

When asked “You answered Yes to supporting the revised concept plan – what elements do you like most?” visitors responded in the following order (liked most to least);

- Environmentally Sustainable Design;
- Integration of public amenities, outdoor showers, public toilets, public deck;
- Family friendly hospitality offering;
- More parking on the reserve; and
- Other – general support of a Café.

When asked “You answered No that you do not support the revised concept plan – what elements do you not agree with?” visitors responded in the following order (agree with most to least);

- Other - comments ranged from concerns with removal of Peppermint Trees\* to not needing another Café in Dunsborough;
- Visual Impact;
- Impact on local residents; and
- Noise.

(\* Note: No peppermint Trees will be affected)

Consultation with key stakeholders included Dunsborough Yallingup Chamber of Commerce and Industry (DYCCI Inc.), Dunsborough Coast and Land Care Inc and Dunsborough and Districts Progress Association Inc (DDPA Inc.) and generally indicated support for a Café/kiosk however concerns relating to the potential for adverse environmental impacts, parking and traffic congestion, noise in the immediate vicinity and some community concern.

#### **OFFICER COMMENT**

Council has previously nominated the MRHG as the preferred proponents to develop a café and kiosk up to 150m<sup>2</sup> plus 50m<sup>2</sup> alfresco area on the Dunsborough foreshore. The original proposal supported by Council was a basic post and beam structure, with a single pitch raked roof over the café area and another smaller single pitched roof over the alfresco area. The building was proposed to be elevated on concrete piles to protect against storm surge and sit approximately 1.0m above surrounding contours. The original RoI design concept submitted by the MRHG (February 2015) is shown at Attachment G.

In response to community feedback a revised proposal was submitted by the MRHG in early 2017. The revised proposal included an integrated commercial development area with new public/community facilities and results in a larger total building area of 400m<sup>2</sup>. The location of the revised building concept remains within a 'containment zone' previously supported by Council advertised as part of the RoI process but is south east of the previously proposed MRHG site, behind a row of peppermint trees which will result in it having very low visibility from Geographe Bay Road.

The revised concept also includes community facilities and amenities in the form of upgraded public ablutions and adds to the Dunsborough foreshore experience by facilitating enjoyment of the beach year round and supporting the local economy. The revised building form is sensitive to the environment as it touches the earth lightly (uses screw piles with no concrete pads) and is elevated off the ground to protect vegetation and prevent inundation in a major storm event. The concept proposes a 100% sustainable energy production with a 200 panel solar array and renewable construction materials. Pre-fabricated modular construction to reduce the on-site impact will be used and allow for simple decommissioning of the structure at the end of the life. There is to be no removal of existing vegetation.

Community consultation undertaken in September and October 2017 indicated that there is good support for a café / kiosk in the proposed location with the majority of community members completing the Your Say survey supporting the environmentally sustainable design, the family friendly hospitality offering and integration of the public amenities. Previous community consultation performed back in 2011 indicated strong support for a café/kiosk on the Dunsborough foreshore and Council has previously indicated support for MRHG café/kiosk proposal.

Community concerns were raised over the inclusion of wedding functions as a core component of the proponents business and the proponent has since agreed to exclude weddings, 18<sup>th</sup> and 21<sup>st</sup> birthday functions with a small number of business related functions to be held during the year. The business hours have also been reduced with the core offering being breakfast and lunch with opening hours from 7.00am to approximately 3.00pm. Other community concerns included the environmental impact and the proponent has revised plans to increase the car park so as to reduce the any impact on the native vegetation. The building form takes into account environmentally sustainable measures so as to reduce any environmental impacts on the foreshore area.

Funding of the public community spaces and facilities has not yet been quantified. Following Council adoption of the Officer recommendation, Officers will negotiate a draft Heads of Agreement that is mutually acceptable to both Council and the proponent.

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**CONCLUSION**

Council is being requested to consider the revised concepts and operating terms for the Dunsborough foreshore Café/kiosk proposal submitted by MRHG following further community consultation in late 2017. The revised concept and building plan for a commercial café/kiosk combined with community facilities (community seating; outdoor showers; new public ablutions; public viewing deck) on the Dunsborough foreshore has been recently revised in an effort to improve social, economic and environmental outcomes and incorporate both community and Council concerns.

**OPTIONS**

Council may elect to:

- Not support the revised design concept (Attachment A- E)
- Support the previously endorsed design concept (Attachment G)
- Discontinue facilitating a café/kiosk on the Dunsborough foreshore.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Following Council adoption of the Officer Recommendation, Officers will commence negotiations with MRHG for a mutually acceptable draft Heads of Agreement, which may inform the development of a future sub-lease (including funding of community facilities. The Heads of Agreement will address matters relating to lease term, ground rent and private/public contributions to infrastructure improvements such as parking, public toilets and other public facilities.

**OFFICER RECOMMENDATION**

That the Council:

1. Endorses the draft concept designs (as shown in Attachment A-B to the report) as the guide for further design development of the proposed commercial café/kiosk;
2. Delegates authority for the CEO to enter into a Heads of Agreement with Margaret River Hospitality Group Pty Ltd;
3. Authorises the CEO to advertise an intended disposition of property transaction, being a 200m<sup>2</sup> portion of Reserve 38588 (proposed Lot 561), by leasehold in accordance with Section 3.58 (and, if applicable Section 3.59) of the Local Government Act 1995 and presents a further report to Council following the closure for public submissions;
4. Delegates to the CEO to request Officers of the Department of Planning, Lands and Heritage to progress statutory advertising and parliamentary approvals for the excision of a portion of the 'A' Class reserve (Reserve Number R22965) known as 'Centennial Park' to accommodate the café/kiosk development proposed in this report;
5. Delegates to the CEO to enter into a new head lease with the Minister for Lands in relation to a portion of 'A Class' Reserve Number R22965 known as 'Centennial Park' to accommodate the café/kiosk development proposed in this report.



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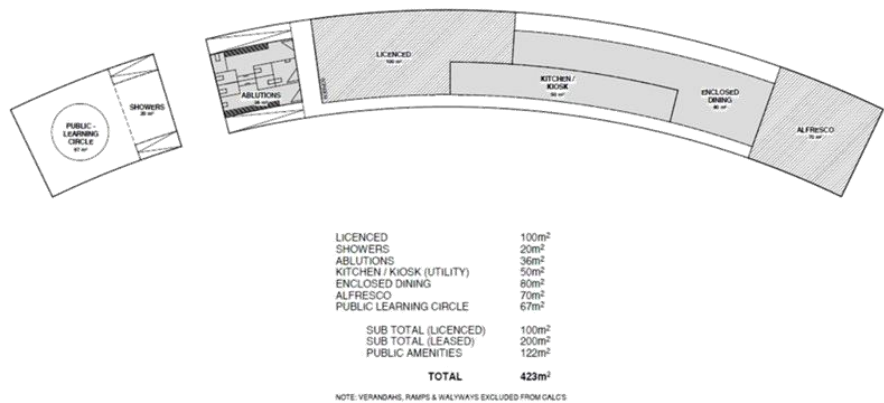
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9 May 2018

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Attachment B

Proposed Built Form



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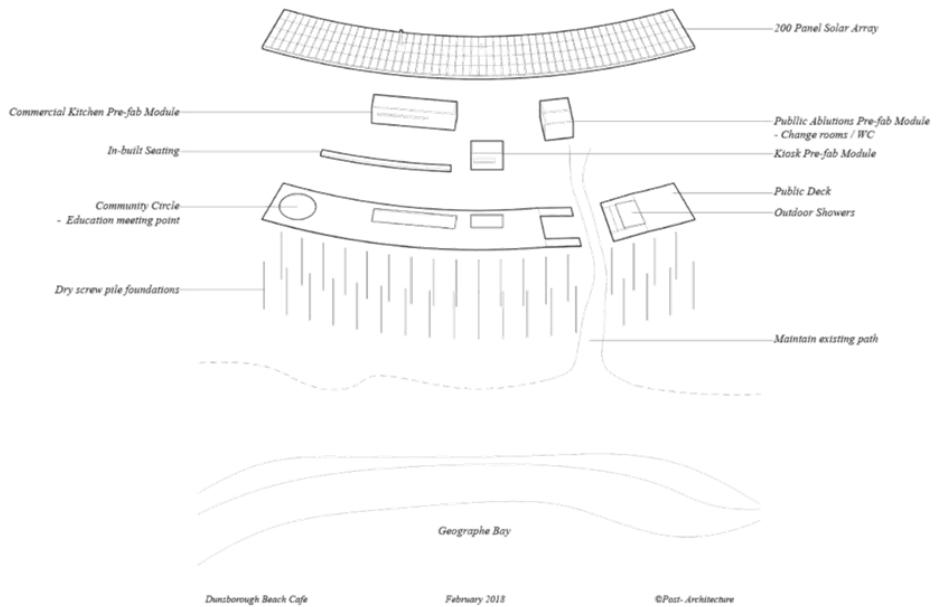
11

9 May 2018

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Attachment C

Environmental Design and Construction Concept





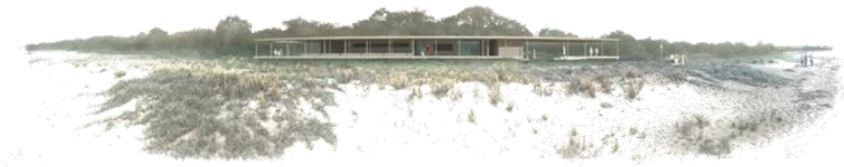
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Attachment D

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View from Geographe Bay

9 May 2018



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Attachment E

13  
View from Geographe Bay Rd

9 May 2018



View from Geographe Bay Road  
Proposed building not visible (shown dashed)

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Attachment F

Acknowledgement of revised development  
concept: Department of Planning, Lands and Heritage

**Jon Berry**

---

**From:** Pumphrey, Ron <Ron.Pumphrey@lands.wa.gov.au>  
**Sent:** Tuesday, 1 August 2017 9:58 AM  
**To:** Jon Berry  
**Subject:** RE: Reserve 22965 - Excision for Cafe/Restaurant - DoL File: 12578-1902

Jon Berry  
Economic and Business Development Coordinator  
City of Busselton

Good morning Jon

This email confirms the receipt of the current design proposal for Reserve 22965 which was attached to your email dated 26 July 2017.

Details of the amended proposal are noted. The Department of Planning, Lands and Heritage (DPLAH) will support the progress of the proposal to fruition subject to meeting necessary statutory and policy requirements. On that basis the proposal is consistent with the intended amended reserve purpose of "Recreation and Foreshore Management". Under current policy the proposed commercial aspect of the proposal will need to be excised from the 'A' Class reserve and be subject to separate leasing arrangements as proposed for the earlier version of the proposal.

In that case, prior to seeking any approval of the Minister for Lands in relation to amending the 'A' Class reserve, an appropriate level of public consultation on the proposal will be expected to have been undertaken. It is noted that the current proposal probably addresses some of the issues raised in comments this Department received last year when seeking to progress the then proposed advertising of the reserve amendments.

Given the integrated nature of the current proposal providing commercial, exclusive and non exclusive areas I have commenced preliminary discussion with our policy section and others within DPLAH on whether the proposed development could be accommodated without excision from the 'A' Class reserve while meeting the expectations of the State and City. I will discuss further with you on 4 August 2017.

Regards

**Ron Pumphrey** | Manager | Case Management - South West and Great Southern  
Level 2, 140 William Street, Perth WA 6000  
(08) 6552 4647 | 0438 851 230  
[ron.pumphrey@lands.wa.gov.au](mailto:ron.pumphrey@lands.wa.gov.au) | [www.dplh.wa.gov.au](http://www.dplh.wa.gov.au)



**Department of Planning,  
Lands and Heritage**

*The departments of Planning, Lands, State Heritage Office  
and the Aboriginal heritage and land functions of the  
Department of Aboriginal Affairs have been amalgamated  
to form the Department of Planning, Lands and Heritage.*

*The department acknowledges the Aboriginal peoples of Western Australia as the traditional custodians of this land and we pay our respects to their Elders, past and present.*

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Attachment G

Original Concept Design (Cafe/Kiosk)

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**DISCLAIMER**

These documents have been prepared for the client's use only. They are not to be used for any other purpose. The client is responsible for ensuring that the documents are used in accordance with the intended purpose. The client is responsible for ensuring that the documents are used in accordance with the intended purpose. The client is responsible for ensuring that the documents are used in accordance with the intended purpose.

revision	description	drawn	date

**SITE PLAN**

1:500



**POST-ARCHITECTURE**  
10, TULLOCH ST  
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info@post-arch.com  
www.post-arch.com

client -	-
address -	GEOGRAPHY BAY, DUNSBOROUGH
project title -	DUNSBOROUGH BEACH CAFE
drawing title -	SITE PLAN
date -	JUNE 2018
scale -	1:500 A3
project number -	097
drawing number -	001
verified by -	NB
drawn by -	CN
revision -	









**16. FINANCE AND CORPORATE SERVICES REPORT**

Nil

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

### **17.1 COUNCILLORS' INFORMATION BULLETIN**

<b>SUBJECT INDEX:</b>	Councillors' Information
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Governance Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Administration Officer - Governance - Katie Dudley
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Planning Applications received by the City between 16 May, 2018 and 31 May, 2018  
	Attachment B Planning Applications determined by the City between 16 May, 2018 and 31 May, 2018  
	Attachment C State Administrative Tribunal Appeals  

### **PRÉCIS**

This report provides an overview of a range of information that is considered appropriate to be formally presented to the Council for its receipt and noting. The information is provided in order to ensure that each Councillor, and the Council, is being kept fully informed, while also acknowledging that these are matters that will also be of interest to the community.

Any matter that is raised in this report as a result of incoming correspondence is to be dealt with as normal business correspondence, but is presented in this bulletin for the information of the Council and the community.

### **INFORMATION BULLETIN**

#### **17.1.1 Planning Applications**

Attachment A is a report detailing all Planning Applications received by the City between 16 May, 2018 and 31 May, 2018. A total of 48 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 16 May, 2018 and 31 May, 2018. A total of 35 applications (including subdivision referrals) were determined by the City during this period with 35 approved / supported and 0 refused / not supported.

#### **17.1.2 State Administrative Tribunal Appeals**

Attachment C is a list showing the current status of State Administrative Tribunal Appeals involving the City of Busselton as at 7 June, 2018.

### **OFFICER RECOMMENDATION**

That the items from the Councillors' Information Bulletin be noted:

- [17.1.1 Planning Applications](#)
- [17.1.2 State Administrative Tribunal Appeals](#)



Applications Received Report								
Application Number	Description	Primary Property Address	Primary Property Legal Desc	Application Received Date	Estimated Cost	Primary Property Owners	Applicant Name	Clock Days
Development Applications								
DA18/0268	Change of Use - Holiday Home (Single House) 6 people	17 Alan Street~BROADWATER WA 6280	Lot 171 PLAN 12770	28/05/2018	0	Heidi Jay Couch	David Arthur Couch	10
DA18/0327	Convert Existing Outbuilding to a Single House & New Over Height Outbuilding (Special Character Area)	2 Gaia Close~EAGLE BAY WA 6281	Lot 9 PLAN 12895	18/05/2018	90000	Tangram Pty Ltd	Mario Carlo Bernardi	13
DA18/0344	Proposed Dam (Landscape Value Area)	Moses Rock Road~WILYABRUP WA 6280	Lot 495 PLAN 117232	17/05/2018	225000	Moses Rock Ecology Pty Ltd	Slade AG Tech	17
DA18/0345	Classroom additions to existing educational establishment	1721 Wildwood Road~YALLINGUP WA 6282	Lot 40 PLAN 44272	17/05/2018	200000	Yallingup Steiner School	Fraser McAlpine Design	0
DA18/0348	Retaining Wall (Port Geographe Development Area)	11 Windward Green~GEOGRAPHE WA 6280	Lot 112 PLAN 59251	18/05/2018	8000	Raymond Neville Linwood & Helen June Linwood	Busselton Cement Products	15
DA18/0349	Alfresco Addition to Existing Single House (Port Geographe Development Area)	36 Lanyard Boulevard~GEOGRAPHE WA 6280	Lot 77 PLAN 59251	16/05/2018	14000	Neville Clive Vellacott	Pro Living Pty Ltd	21
DA18/0350	Change of Use - Holiday Home (Single House) 7 People	181 Harmans Mill Road~METRICUP WA 6280	Lot 4 DIAGRAM 91665	21/05/2018	0	Michael Edwin McKenna & Vivien Jones	Michael Edwin McKenna, Vivien Jones	14
DA18/0351	Single House (Landscape Value)	5 Morwong Street~KEALY WA 6280	Lot 1329 PLAN 407112	21/05/2018	0	Jo Anne Ryan, George Charles Lawson, Joan Lawson	Perron Developments Pty Ltd, Stawell Pty Ltd, Jo Anne Ryan, George Charles Lawson, Joan Lawson	1
DA18/0352	Increase Height of Outbuilding	6 Canola Grove~BUSSELTON WA 6280	Lot 73 PLAN 45193	21/05/2018	3000	Brian John Macauley & Annette Ivy Macauley	Brian John Macauley, Annette Ivy Macauley	15

Applications Received Report								
Application Number	Description	Primary Property Address	Primary Property Legal Desc	Application Received Date	Estimated Cost	Primary Property Owners	Applicant Name	Clock Days
Development Applications								
DA18/0353	Single House (Landscape Value)	84 Gribble Circuit~KEALY WA 6280	Lot 1391 PLAN 411918	21/05/2018	0	Lee-Anna Jo Langley	Perron Developments Pty Ltd, Stawell Pty Ltd, Lee-Anna Jo Langley	1
DA18/0354	Addition of Three Patio's to Existing Aged Persons Home	450 Bussell Highway~BROADWATER WA 6280	Lot 12 DIAGRAM 50279	18/05/2018	57563	Baptistcare Inc	Changing Spaces	3
DA18/0355	Single House (Reduced Front Setback)	50 Diamante Boulevard~DUNSBOROUGH WA 6281	Lot 1585 PLAN 412045	22/05/2018	349015	Andrew James Kelly & Charlene Lucy Margaret Spencer	Dale Alcock Homes South West Pty Ltd	15
DA18/0356	Dam on Rural Residential Lot (Landscape Value Area)	11 Karli Rise~YALLINGUP WA 6282	Lot 19 PLAN 21898	22/05/2018	10000	Dornoch Beach Pty Ltd ATF Dornoch Beach Trust	Julie Fiona Duncombe	2
DA18/0357	Pergola over Existing Deck Area (Rivendell Winery)	1/1172 Wildwood Road~YALLINGUP SIDING WA 6282	Lot 1 SSPLN 46398	22/05/2018	4000	Danny Julius Gruenthal, Corinne Edith Gruenthal, Darryn Langmaid Gruenthal	Danny Julius Gruenthal, Corinne Edith Gruenthal, Darryn Langmaid Gruenthal	15
DA18/0358	Group Dwelling	27 Capstan Place~GEOGRAPHE WA 6280	Lot 9 SSPLN 74194	22/05/2018	142467	Ozzieplant Pty Ltd	Tangent Nominees Pty Ltd	14
DA18/0359	Group Dwelling	29 Capstan Place~GEOGRAPHE WA 6280	Lot 10 SSPLN 74194	22/05/2018	142467	Ozzieplant Pty Ltd	Tangent Nominees Pty Ltd	14
DA18/0360	Self Storage Unit / Warehouse	34 Roe Terrace~BUSSELTON WA 6280	Lot 67 PLAN 222224	22/05/2018	1900000	Landworx Storage Pty Ltd	Paul Strickland	4
DA18/0361	Change of Use - Holiday Home (Single House) 8 people	60 Bignell Drive~WEST BUSSELTON WA 6280	Lot 304 PLAN 14516	23/05/2018	0	Lancelot Rupert Pereira & Sandra Anne Merrin	Lancelot Rupert Pereira, Sandra Anne Merrin	16

Applications Received Report								
Application Number	Description	Primary Property Address	Primary Property Legal Desc	Application Received Date	Estimated Cost	Primary Property Owners	Applicant Name	Clock Days
Development Applications								
DA18/0362	Change of Use - Holiday Home (Single House) 10 People	14 Marri Drive~DUNSBOROUGH WA 6281	Lot 172 DIAGRAM 87973	17/05/2018	0	Geoffrey Edward Mason, Susan Mason, Trent James Mason	Geoffrey Edward Mason, Susan Mason, Trent James Mason	7
DA18/0363	Proposed Outbuilding (Landscape Value Area)	49 Kinross Loop~QUINDALUP WA 6281	Lot 226 PLAN 68461	24/05/2018	36580	Clinton James Charles Rudd & Deidre Ann Rudd	Clinton James Charles Rudd	8
DA18/0364	Proposed Boat Lifting Structure (Port Geographe Development Area)	30 Burgee Cove~GEOGRAPHE WA 6280	Lot 3 PLAN 57392	24/05/2018	18000	Errol Arthur Carter & Lynette Margaret Carter	Errol Arthur Carter, Lynette Margaret Carter	13
DA18/0365	Single House with Reduced Setback (Port Geographe Development Area)	9 Keel Retreat~GEOGRAPHE WA 6280	Lot 504 PLAN 22448	17/05/2018	344360	Michael Snowdon Conlon & Lynette Shirley Conlon	WA Country Builders Pty Ltd - Busselton	16
DA18/0366	Single House (Reduced Setback)	14 Tortoise Rise~VASSE WA 6280	Lot 9 PLAN 407511	25/05/2018	210346	Sarah Frances Louise Millar & Peter Chalmers Millar	BGC Residential Pty Ltd	11
DA18/0367	Unauthorised Oversized Outbuilding	43 Kalgaritch Avenue~WEST BUSSELTON WA 6280	Lot 163 PLAN 18402	29/05/2018	10000	Terrence John Ealing & Berendina Johanna Maria Ealing	Terrence John Ealing, Berendina Johanna Maria Ealing	10
DA18/0368	Suspended Deck and Roof Extension (Special Character Area)	9 Seaview Rise~EAGLE BAY WA 6281	Lot 37 PLAN 21980	19/05/2018	150000	Cathy Anne Donaldson	Tom Godden	19
DA18/0370	Outbuilding (Landscape Value Area)	60 Kinross Loop~QUINDALUP WA 6281	Lot 248 PLAN 68461	24/05/2018	20000	Aln Schmidt	Busselton Sheds Plus	15
DA18/0371	Patio Addition to an Existing Grouped Dwelling	9/1 Lecaille Court~DUNSBOROUGH WA 6281	Lot 9 STPLN 34314	25/05/2018	5000	Sheila Veronica Quinn	CPR Outdoor Centre	14

Applications Received Report								
Application Number	Description	Primary Property Address	Primary Property Legal Desc	Application Received Date	Estimated Cost	Primary Property Owners	Applicant Name	Clock Days
Development Applications								
DA18/0372	Single House- Additions (pool, gym and carport) within a Special Control Area	268 Wyadup Road~YALLINGUP WA 6282	Lot 12 DIAGRAM 99831	29/05/2018	150000	Landmark Holdings WA Pty Ltd	Holst Design	0
DA18/0373	Change of Use - Holiday Home (Grouped Dwelling) 6 People	10/3 Dunn Bay Road~DUNSBOROUGH WA 6281	Lot 10 STPLN 28592	29/05/2018	0	Tony Jackson Holdings Pty Ltd	Tony Jackson Holdings Pty Ltd	2
DA18/0374	Proposed Oversized Outbuilding	39 Spoonbill Road~VASSE WA 6280	Lot 1 PLAN 76953	29/05/2018	42000	Vasse Property Pty Ltd	Busseton Sheds Plus	7
DA18/0375	Building Envelope Modification to Accommodate a Proposed Outbuilding	20 Howson Rise~YALLINGUP WA 6282	Lot 222 PLAN 33315	29/05/2018	100000	Susan Valerie Smith & Nigel Gordon Smith	Tom Godden	0
DA18/0376	Tourist Accommodation	16/1172 Wildwood Road~YALLINGUP SIDING WA 6282	Lot 16 SSPLN 46398	23/05/2018	273297	Darryn Langmaid Gruenthal	BGC Residential Pty Ltd	16
DA18/0377	Over-height Outbuilding (Reduced Setback)	44 Moylan Way~GEOGRAPHE WA 6280	Lot 47 PLAN 10080	29/05/2018	5000	Simon Edgar Dean & Theresa Alice Ball	Simon Edgar Dean, Theresa Alice Ball	8
DA18/0378	Three Chalets	Piggott Road~SABINA RIVER WA 6280	Lot 61 PLAN 44298	29/05/2018	350000	Stuart Allen Smith	GN Construction (WA) Pty Ltd	10
DA18/0379	Single House (Special Character Area)	33 Wardanup Crescent~YALLINGUP WA 6282	Lot 129 PLAN 9022	30/05/2018	1800000	Paul Ward & Juliet Margaret Ann Ward	Dane Marshall Richardson	9

Applications Received Report								
Application Number	Description	Primary Property Address	Primary Property Legal Desc	Application Received Date	Estimated Cost	Primary Property Owners	Applicant Name	Clock Days
Development Applications								
DA18/0381	Convert Garage into Accessible Bedroom and Ensuite and Construct a New Double Garage	29 Keel Retreat~GEOGRAPHE WA 6280	Lot 648 DIAGRAM 98853	28/05/2018	120614	Johan Klaas Krikken & Lonnie Lai Kuen Krikken	Johan Klaas Krikken, Lonnie Lai Kuen Krikken	11
DA18/0384	Extension to Existing Dwelling (Special Control Area)	71 Siesta Park Road~SIESTA PARK WA 6280	Lot 51 DIAGRAM 47205	30/05/2018	900000	Robert Michael Zahtila & Karen Anne Hayne	Robert Michael Zahtila, Karen Anne Hayne	2
DA18/0386	Extension to Existing Outbuilding (Landscape Value Area)	24 Jarrah Knoll Place~QUINDALUP WA 6281	Lot 13 DIAGRAM 91884	29/05/2018	20000	Robert John Collins & Kim Angela Collins	Robert John Collins, Kim Angela Collins	3
DA18/0388	Over Height Outbuilding (Reduced Setbacks)	23 Daly Road~YALYALUP WA 6280	Lot 798 PLAN 401832	18/05/2018	4500	James Matier Black	James Matier Black	18
DA18/0389	Advertising Sign	94 Hayes Road~QUINDALUP WA 6281	Lot 39 DIAGRAM 100227	30/05/2018	400	John Geoffrey Marshall Bennett & Elizabeth Gillian Bennett	David Bennett	9
DA18/0390	Single House, Tennis Court and Outbuilding (Landscape Value Area)	232 Forrest Beach Road~WONNERUP WA 6280	Lot 107 PLAN 407525	30/05/2018	380000	Michael Anthony Abdo	Veens Design Group	9
DA18/0391	Pergola Addition over Existing Balcony (Special Character Area)	23B North Street~DUNSBOROUGH WA 6281	Lot 2 SSPLN 60661	31/05/2018	20000	Ian Henry Wright & Yuka Wright	Space Light Order	8
DA18/0392	Use Not Listed - Storage Units	980 Boallia Road~BOALLIA WA 6280	Lot 3119 PLAN 203197	31/05/2018	180000	Joseph Domenic Vincent Russo	Tim Koroveshi	8
DA18/0393	Single House (Landscape Value Area)	24 Tempest View~QUINDALUP WA 6281	Lot 208 PLAN 411208	31/05/2018	500000	Henry Kong Yan Chan	Plan Design Build	8

Applications Received Report								
Application Number	Description	Primary Property Address	Primary Property Legal Desc	Application Received Date	Estimated Cost	Primary Property Owners	Applicant Name	Clock Days
Development Applications								
DA18/0394	Demolish Existing House and Construct New Single House, Outbuilding and Water Tank (Landscape Value Area)	27 Sea Hill Crescent~QUINDALUP WA 6281	Lot 22 PLAN 13622	31/05/2018	552260	Carmel Joy Mclure	Dale Alcock Homes South West Pty Ltd	8
DA18/0395	Change of Use - Professional Consulting Rooms	2/28 Faure Lane~DUNSBOROUGH WA 6281	Lot 2 STPLN 53299	31/05/2018	100000	Louise Kristy Marques & Eduardo Vinicius Marques	Torquay Health Collective	8
WAPC18/0017	11 Lot Subdivision (Commercial)	Napoleon Promenade~VASSE WA 6280	Lot 9548 PLAN 409834	22/05/2018	0	Perron Developments Pty Ltd & Stawell Pty Ltd	Roberts Day Group - Town Planning and Design	17
WAPC18/0018	5 Lot Subdivision (4 Agriculture + 1 Conservation)	3599 Caves Road~WILYABRUP WA 6280	Lot 4 DIAGRAM 31188	22/05/2018	0	Ladyman, Honeycombs Beach Break Pty Ltd, Moses Rock Ventures Pty Ltd	Halsall & Associates	17

Applications Determined Report									
<i>Application Number</i>	<i>Description</i>	<i>Primary Property Address</i>	<i>Primary Property Legal Desc</i>	<i>Applic Determined Date</i>	<i>Decision</i>	<i>Clock Days</i>	<i>Estimated Cost</i>	<i>Primary Property Owners</i>	<i>Applicant Name</i>
Development Applications									
DA17/0471	Single House (reduced setback and visual privacy)	108 Adelaide Street~BUSSELTON WA 6280	Lot 2 SSPLN 74333	25/05/2018	Approved	29	455000	Emma Louise Scott	AK Homes Construction Pty Ltd
DA18/0034	3 x Sea Containers (Storage of Farm Produce and Equipment)	470 Chapman Hill Road~AMBERGATE WA 6280	Lot 9550 PLAN 57390	23/05/2018	Approved	14	0	John William Kruger & Jennifer Constance Kruger	John William Kruger
DA18/0043	Irrigation Storage Dam	575 Metricup Road~WILYABRUP WA 6280	Lot 1678 PLAN 201657	29/05/2018	Approved	121	150000	Alford Bay Pty Ltd	Ianto Ward
DA18/0065	Private Workshop and Workrooms, Storage, Swimming Pool and Fire Bunker (Landscape Value Area)	131 Western Cape Drive~NATURALISTE WA 6281	Lot 17 PLAN 22558	24/05/2018	Approved	34	350000	Peter Harold Cavanagh & Hillgrove Enterprises Pty Ltd	Dane Design Australia Pty Ltd
DA18/0079	Grouped Dwelling (Modified Building Envelope)	4/13 King Street~WEST BUSSELTON WA 6280	Lot 4 SSPLN 68630	21/05/2018	Approved	86	483535	Brian John Graham & Wendy Margaret Graham	WA Country Builders Pty Ltd - Busselton
DA18/0139	Childcare Centre and Educational Establishment	431 Rendezvous Road~VASSE WA 6280	Lot 21 PLAN 223170	28/05/2018	Approved	42	200000	Gillian Peta McAuliffe & Michael John McAuliffe	Darnum Nominees Super Fund
DA18/0169	Change of Use "Brewery & Tavern"	3314 Caves Road~WILYABRUP WA 6280	Lot 13 PLAN 12089	21/05/2018	Approved	76	0	Saruman Holdings Pty Ltd	Tim Korovesi (Town Planning Consultant)
DA18/0193	Single House (Landscape Value Area)	66 Caudalie Way~QUINDALUP WA 6281	Lot 31 PLAN 41369	17/05/2018	Approved	70	750000	Margaret Jane Robson & Graeme Neville Robson	Blue Water Building Co (SW) Pty Ltd



Applications Determined Report									
Application Number	Description	Primary Property Address	Primary Property Legal Desc	Applic Determined Date	Decision	Clock Days	Estimated Cost	Primary Property Owners	Applicant Name
Development Applications									
DA18/0198	Second Storey Addition to Tourist Unit	5/4 Lecaille Court~DUNSBOROUGH WA 6281	Lot 5 STPLN 34995	29/05/2018	Approved	4	250000	Crafamily Pty Ltd	Crafamily Pty Ltd
DA18/0212	Outbuilding within Common Property (Strata Lot 18)	3599 Caves Road~WILYABRUP WA 6280	Lot 29 SSPLN 54729	23/05/2018	Approved	63	170000	The Owners of Strata Plan 54729	Busselton Sheds Plus
DA18/0215	Gazebo (Landscape Value Area)	103 Green Park Road~QUINDALUP WA 6281	Lot 74 PLAN 37015	16/05/2018	Approved	62	8000	Philip James Porter Reid & Philippa Mary Reid	Philip James Porter Reid, Philippa Mary Reid
DA18/0223	Outbuilding within Common Property (Strata Lot 16)	3599 Caves Road~WILYABRUP WA 6280	Lot 29 SSPLN 54729	23/05/2018	Approved	59	170000	The Owners of Strata Plan 54729	Busselton Sheds Plus
DA18/0230	Ancillary Accommodation (Landscape Value Area)	63 Barracks Drive~REINSCOURT WA 6280	Lot 23 PLAN 11567	17/05/2018	Approved	59	149952	Michael Angelo Frisina & Averil Elizabeth Frisina	Fleetwood Pty Ltd
DA18/0231	Garage and Carport (Special Character Area)	10 Hammond Road~YALLINGUP WA 6282	Lot 50 PLAN 8037	16/05/2018	Approved	54	25000	Reef Property Investments Pty Ltd	Rhonda Gregor
DA18/0236	Additions to an Existing Single House (Landscape Value Area)	130 Sonning Loop~YALLINGUP WA 6282	Lot 55 PLAN 23569	30/05/2018	Approved	57	220000	Frank Jean Joseph Duffau	Frank Jean Joseph Duffau
DA18/0238	Additions to an Existing Single House (Special Character Area)	176 Geographe Bay Road~QUINDALUP WA 6281	Lot 2 DIAGRAM 44760	23/05/2018	Approved	53	20000	David Stuart Law	Patricia Ingrid Spelman

Applications Determined Report									
Application Number	Description	Primary Property Address	Primary Property Legal Desc	Applic Determined Date	Decision	Clock Days	Estimated Cost	Primary Property Owners	Applicant Name
Development Applications									
DA18/0247	Change of Use - Holiday Home (Single House) 6 People	3 Rainbird Place~DUNSBOROUGH WA 6281	Lot 159 PLAN 18379	17/05/2018	Approved	41	0	Natalie Ann Baker & Caleb Howard Baker	Natalie Ann Baker
DA18/0248	Spa & Barriers within Special Control Area (LSVA)	208 Yungarra Drive~QUEDJINUP WA 6281	Lot 11 PLAN 16138	16/05/2018	Approved	43	8000	Anthony John Graham Fisher	Anthony John Graham Fisher
DA18/0259	Change of Use - Holiday Home (Single House) 10 People	453 Commonage Road~QUINDALUP WA 6281	Lot 10 PLAN 22206	18/05/2018	Approved	22	0	James Fraser Macfarlane Barrie	James Fraser Macfarlane Barrie
DA18/0264	Awning Additions to Existing Industrial Unit	1/32 Faure Lane~DUNSBOROUGH WA 6281	Lot 1 STPLN 59674	22/05/2018	Approved	42	6000	Hooper Storage Co Pty Ltd	Kenneth Michael Hooper
DA18/0266	Patio Addition to Singe House (Landscape Value Area)	2 Bayfield Court~YALLINGUP WA 6282	Lot 22 PLAN 20905	24/05/2018	Approved	33	20000	Stephen Ross Webb & Erin Michelle Webb	Cape Shades
DA18/0269	Bed & Breakfast	36 Peron Avenue~DUNSBOROUGH WA 6281	Lot 164 DIAGRAM 83863	16/05/2018	Approved	27	0	Kim Bradley Beers & Ann-Sophie Gerarda Saint	Ann-Sophie Gerarda Saint, Kim Bradley Beers
DA18/0270	Additions and Alterations to an Existing Single House (Landscape Value Area)	78 Jones Road~QUEDJINUP WA 6281	Lot 12 PLAN 20129	30/05/2018	Approved	46	450000	Peter Robert Bruhn & Deidre Anne Bruhn	Richard David Norrish
DA18/0273	Patio Addition to an Existing Single House (Port Geographe Development Area)	1 Ostia Way~GEOGRAPHE WA 6280	Lot 242 PLAN 21424	16/05/2018	Approved	33	4500	Earle Ivan Chamberlain, Andries Pieter Labruyere, Paula Anne Labruyere	Cape Shades

Applications Determined Report									
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Development Applications									
DA18/0280	Over-height Outbuilding (reduced setbacks)	18 Cookworthy Street~GEOGRAPHE WA 6280	Lot 139 DIAGRAM 37097	17/05/2018	Approved	20	25000	Glen Edward Smith	Glen Edward Smith
DA18/0286	Patio Addition (Reduced Setbacks)	4 Phaeton Brace~WEST BUSSELTON WA 6280	Lot 640 PLAN 45235	23/05/2018	Approved	28	8360	Rhett Martin Green & Lisa Jane Green	CPR Outdoor Centre
DA18/0291	Caravan and Boat Port (Reduced Setback) in a Special Character Area	5 Ollis Street~QUINDALUP WA 6281	Lot 14 DIAGRAM 47394	17/05/2018	Approved	20	15000	Peter Leslie Carter & Susan Elizabeth Carter	Peter Leslie Carter, Susan Elizabeth Carter
DA18/0292	Water Tank (Landscape Value Area)	5 Lochinvar Place~QUINDALUP WA 6281	Lot 211 PLAN 68461	16/05/2018	Approved	16	8500	Erin Margaret Rummer & Louis John Rummer	Erin Margaret Rummer, Louis John Rummer
DA18/0296	Additions to Existing Commercial Building	1/62 Kent Street~BUSSELTON WA 6280	Lot 1 STPLN 8678	25/05/2018	Approved	25	480000	Brenada Nominees Pty Ltd	Cotan Pty Ltd
DA18/0303	Outbuildings (Two Caravan Ports)	44 Barracks Drive~REINSCOURT WA 6280	Lot 19 PLAN 11567	21/05/2018	Approved	19	9200	Roderick Swallow & Sara Elizabeth Swallow	Roderick Swallow, Sara Elizabeth Swallow
DA18/0308	Grouped Dwelling	2/81 Fairbairn Road~BUSSELTON WA 6280	Lot 2 SSPLN 71415	18/05/2018	Approved	12	194820	Natalie Faye Gordon	BGC Residential Pty Ltd
DA18/0322	Change of Use - Holiday Home (Single House) 8 People	8 Toddy Place~DUNSBOROUGH WA 6281	Lot 294 PLAN 219011	29/05/2018	Approved	3	0	Richard Jon Lester & Kathleen Robin Lester	Richard Jon Lester, Kathleen Robin Lester

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**As at 12 June 2018**

APPLICATION (Name, No. and Shire File Reference)	PROPERTY	DATE COMMENCED	DECISION APPEAL IS AGAINST	RESPONSIBLE OFFICER	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
<b>CITY OF BUSSELTON</b>							
<b>Forrest v City of Busselton</b>	Lots 3 and 237 Ludlow Park Road	October, 2017	Appeal against refusal of Development Application for Extractive Industry	Joanna Wilson	<ul style="list-style-type: none"> <li>• Notice of Directions Hearing on 3 November, 2017 against City of Busselton decision to refuse the application, the following orders were made: <ul style="list-style-type: none"> <li>- S.31 Reconsideration of the decision on or before 14 February 2017;</li> <li>- In the event that the parties are unlikely to agree Mediation on 18 December 2017.</li> </ul> </li> <li>• Mediation on 18 December 2017, where it was adjourned to a further Directions Hearing on 23 February 2018 in order to await the outcome of the reconsideration.</li> <li>• The directions hearing vacated on the applicants request and adjourned until 23 March 2018.</li> <li>• Directions Hearing on the 23 March 2018 is vacated on the City and applicants request. It is adjourned until the 8 June 2018.</li> <li>• Applicant finalised agreement with DBCA for the Theresa Road haul route and withdrew application for review prior to the 8 June, 2018 directions hearing.</li> <li>• Amended approval reflecting the Theresa Road haul route issued on the 12 June, 2018.</li> </ul>	Matter resolved. No further action.	
<b>Merfield v City of Busselton</b>	Lot 30 No 70 Millbrook Road	1 December 2017	Appeal against deemed refusal (Non- determination of Application)	Joanna Wilson/James Fletcher	<ul style="list-style-type: none"> <li>• Notice of Directions Hearing on 21 December, 2017 against City of Busselton decision to refuse the application, the following orders were made: <ul style="list-style-type: none"> <li>- Applicant is to provide additional information by 31 January 2018;</li> <li>- S.31 Reconsideration of the decision on or before 28 February 2018</li> </ul> </li> <li>• By mutual agreement the Directions Hearing listed for 9 March is vacated. The following orders have been made: <ul style="list-style-type: none"> <li>- Respondent is now invited to reconsider its</li> </ul> </li> </ul>	Council Reconsideration 13 June, 2018.	

APPLICATION (Name, No. and Shire File Reference)	PROPERTY	DATE COMMENCED	DECISION APPEAL IS AGAINST	RESPONSIBLE OFFICER	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
					<p>decision by S.31 Reconsideration by 28 March 2018.</p> <ul style="list-style-type: none"> <li>• Directions Hearing on 5 April 2018, the applicant requested the removal of Condition 8 of the Council's decision. The member ordered mediation for 17 April 2018 and to invite Councillors to attend.</li> <li>• Mediation on 17 April 2018 in respect of Condition 8 of the development approval. The following orders have been made: <ul style="list-style-type: none"> <li>- Respondent is to provide additional information by 11 May 2018;</li> <li>- Pursuant to S.31, the City is invited to reconsider its decision at its meeting on 13 June 2018;</li> <li>- Directions Hearing on 22 June 2018.</li> </ul> </li> </ul>		
<b>Threadgold &amp; Jackson vs City of Busselton</b>	Lot 75 No 157 Haag Road, Yelverton	4 May, 2018	Review of a decision under a local planning scheme as to the classification of a use or the permissibility of a nonlisted use	Anthony Rowe / Paul Needham	<ul style="list-style-type: none"> <li>• Directions hearing on the 25 May, 2018 against the City of Busselton decision to refuse the application, the following orders were made: <ul style="list-style-type: none"> <li>- Respondent is to provide additional information by 6 July, 2018;</li> <li>- Applicant to provide supporting documentation by 6 July, 2018</li> <li>- Mediation to commence 20 July, 2018.</li> </ul> </li> </ul>	Mediation to commence 20 July, 2018.	
<b>JOINT DEVELOPMENT ASSESSMENT PANEL</b>							
<b>DCSC vs Southern JDAP</b>	Lot 108 No 57 Dunn Bay Road, Dunsborough	January, 2016	Appeal against refusal of Development application for Service Station	State Solicitors Office / Anthony Rowe / Paul Needham	<ul style="list-style-type: none"> <li>• Determination – Appeal upheld</li> <li>• JDAP has formally requested a judicial review of the SAT determination at the Supreme Court.</li> <li>• On 10 May 2018, the Supreme Court dismissed the Judicial Review of the SAT determination.</li> </ul>	Matter resolved. No further action.	
<b>WESTERN AUSTRALIAN PLANNING COMMISSION</b>							
Nil							



18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
19. URGENT BUSINESS
20. CONFIDENTIAL MATTERS
21. CLOSURE