

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

SHIRE OF BUSSELTON

MINUTES OF A MEETING OF THE BUSSELTON SHIRE COUNCIL
HELD ON 26 OCTOBER 2011

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SHIRE OF BUSSELTON**MINUTES OF A MEETING OF THE BUSSELTON SHIRE COUNCIL HELD IN COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON WEDNESDAY, 26 OCTOBER 2011 AT 5:30 PM****1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

The Presiding Member opened the meeting at 5.30 p.m.

2. ATTENDANCE

Presiding Member: Cr Ian Stubbs Shire President

Members:

- Cr Tom Tuffin
- Cr John McCallum
- Cr Debra Kurmann
- Cr Coralie Tarbotton
- Cr Jenny Green
- Cr Gordon Bleechmore
- Cr Terry Best
- Cr David Reid
- Cr Grant Henley
- Cr David Binks

Officers:

- Mr Mike Archer Chief Executive Officer
- Mr Matthew Smith Director, Finance & Corporate Services
- Mr Greg Simpson A/Director, Planning & Development Services
- Mr Oliver Darby Director, Engineering & Works Services
- Mrs Naomi Searle Director, Community & Commercial Services
- Miss Lynley Rich Manager, Governance Services
- Miss Lisa Cole Executive Support Officer (From 5.32pm)

2.1 Apologies: Nil

2.2 Leave of Absence: Nil

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

Public: 5

3. PRAYER

The Prayer was delivered by Pastor Craig Roger of the Dunsborough Church of Christ.

5.32pm At this time the Executive Support Officer entered the meeting.

4. PUBLIC QUESTION TIME

4.1 Response to Previous Questions Taken on Notice

Nil

4.2 Public Question Time

Nil

5. ANNOUNCEMENTS WITHOUT DISCUSSION

5.1 Announcements by the Presiding Member

The Shire President informed Councillors of the letter received from the Minister for Local Government advising that the Shire meets the requirements of section 2.4 of the Local Government Act to become a City. The Department of Local Government will now commence drafting the Executive Council papers and initiate the gazettal process.

The Shire President also wished Councillor Henley a happy birthday.

5.2 Announcements by other Members at the Invitation of the Presiding Member

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. PRESENTATIONS

7.1 Petitions

Nil

7.2 Presentations by Parties with an Interest

Nil

8. DISCLOSURE OF INTERESTS

Nil

9. CONFIRMATION AND RECEIPT OF MINUTES

9.1 Minutes of an Ordinary Meeting of Council held on 12 October 2011.

C1110/320 Moved Councillor Henley, seconded Councillor Bleechmore:

That the minutes of the Ordinary Meeting of Council held on 12 October 2011 be confirmed as a true and correct record.

CARRIED 11/0

9.2 Minutes of a Special Meeting of Council held on 5 October 2011.

C1110/321 Moved Councillor Binks, seconded Councillor Best:

That the minutes of the Special Council meeting held on 5 October 2011 be confirmed as a true and correct record.

CARRIED 11/0

9.3 Minutes of the Finance Committee Meeting held on 6 October 2011.

C1110/322 Moved Councillor Henley, seconded Councillor Bleechmore:

- 1) That the minutes from the Finance Committee meeting held on 6 October 2011 be received.
- 2) That Council notes the outcomes from the Finance Committee meeting held on 6 October 2011 being:
 - a) The List of Payments Made Item is presented for Council's consideration at Item 10.1 of this agenda.
 - b) The Financial Activity Statements Item is presented for Council's consideration at Item 10.2 of this agenda.
 - c) The Committee noted the Finance Information Bulletin.
 - d) The Committee noted and approved the applications for payment Item and included an additional recommendation in relation to this which is presented for Council's consideration at Item 10.3 of this agenda.

CARRIED 11/0

ADOPTION BY EXCEPTION RESOLUTION

At this juncture Items 10.1, 10.2, 11.1, 11.3, 11.4, 11.7, 11.8, 13.1 and 15.1 were considered in accordance with Clause 5.6 (2) of the Standing Orders via an Adoption by Exception resolution of Council.

C1110/323 Moved Councillor Reid, seconded Councillor Henley:

That the Committee Recommendations for Items 10.1 and 10.2 and the Officer Recommendations for Items 11.1, 11.3, 11.4, 11.7, 11.8, 13.1 and 15.1 be adopted.

CARRIED 11/0

10. REPORTS OF COMMITTEES

10.1 FINANCE COMMITTEE RECOMMENDATION - LIST OF PAYMENTS MADE - AUGUST 2011

SUBJECT INDEX:	Financial Operations
STRATEGIC PRIORITY:	Manage the Shire's resources to provide optimum benefit to the community
BUSINESS UNIT:	Finance
SERVICE:	Financial management and control
REPORTING OFFICER:	Manager, Finance & Information Technology – Darren Whitby
AUTHORISING OFFICER:	Director, Finance and Corporate Services – Matthew Smith
DATE OF COMPLETION:	Not Applicable
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	List of Payments Made – August 2011

This report was considered by the Finance Committee at its meeting on 6 October 2011, the recommendations from which require Council consideration. The Committee Recommendations have been included in this report.

PRÉCIS

This report provides details of payments made from the Shire's bank accounts for the month of August 2011, for noting by the Council and recording in the Council Minutes.

BACKGROUND

The Local Government (Financial Management) Regulations, and more specifically Regulation 13, requires that when the Council has delegated authority to the Chief Executive Officer to make payments from the Shire's bank accounts, that a list of payments made is prepared each month for presentation to, and noting by, the Council.

CONSULTATION

Not applicable.

STATUTORY ENVIRONMENT

Section 6.10 of the Local Government Act and more specifically, Regulation 13 of the Local Government (Financial Management) Regulations; refer to the requirement for a listing of payments made each month to be presented to the Council.

POLICY IMPLICATIONS

Where applicable, payments are made in accordance with relevant Council policies.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC IMPLICATIONS

Not applicable.

OFFICER COMMENT

Not applicable.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable.

COUNCIL DECISION / COMMITTEE RECOMMENDATION / OFFICER RECOMMENDATION

C1110/324 Moved Councillor Reid, seconded Councillor Henley:

That voucher numbers M101121 – M101320, EF016085 – EF016470, T006697 – T006702 and DD001548 – DD001564, together totalling \$8,068,307.56 be noted.

CARRIED 11/0
EN BLOC

10.2 FINANCE COMMITTEE RECOMMENDATION - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 AUGUST 2011

SUBJECT INDEX:	Financial Operations
STRATEGIC PRIORITY:	Manage the Shire's resources to provide optimum benefit to the community
BUSINESS UNIT:	Finance
SERVICE:	Financial management and control
REPORTING OFFICER:	Manager, Finance & Information Technology - Darren Whitby
AUTHORISING OFFICER:	Director, Finance & Corporate Services – Matthew Smith
DATE OF COMPLETION:	Not Applicable
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	Financial Activity Statements for period ending 31 August 2011

This Item was considered by the Finance Committee at its meeting on 6 October 2011, the recommendations from which require Council consideration. The Committee Recommendations have been included in this report.

PRÉCIS

A local government is to prepare, on a monthly basis, a statement of financial activity that reports on the Shire's financial performance in relation to its adopted budget. The report is to include details of budget estimates and financial performance against those estimates to the end of the month to which the statement relates, is to disclose any material variances identified as a result of the above, and is also required to detail the net current asset position for the reporting period.

This report has been compiled to fulfil the statutory reporting requirements of the Local Government Act and associated Regulations and also to provide the Council with an overview of the Shire's financial performance on a year to date basis for the period ending 31 August 2011.

BACKGROUND

The Local Government (Financial Management) Regulations detail the form and manner in which financial activity statements are to be presented to the Council. Financial activity statements are to be presented to the Council on a monthly basis and are to include the following:

- Annual budget estimates
- Budget estimates to the end of the month in which the report relates
- Actual amounts of revenue and expenditure to the end of the month in which the statement relates
- Material variances between budget estimates and actual revenue/ expenditure/ (including an explanation of any material variances)

- The net current assets at the end of the month to which the statement relates (including an explanation of the composition of the net current position)

Additionally, and pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations, a local government is required to adopt a material variance reporting threshold in each financial year. At its meeting of 19 July 2011, the Council adopted (C1107/222) the following material variance reporting threshold for the 2011/12 financial year:

That pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations, the Council adopts a material variance reporting threshold with respect to financial activity statement reporting for the 2011/12 financial year to comprise variances equal to or greater than 10% of the year to date budget amount as detailed in the Income Statement by Nature and Type/ Statement of Financial Activity report, however variances due to timing differences and/ or seasonal adjustments are to be reported on a quarterly basis.

CONSULTATION

Not applicable.

STATUTORY ENVIRONMENT

Section 6.4 of the Local Government Act and Regulation 34 of the Local Government (Financial Management) Regulations detail the form and manner in which a local government is to prepare financial activity statements.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Any financial implications are detailed within the context of this report.

STRATEGIC IMPLICATIONS

This matter aligns with the Council's Strategic Plan 2010-2020 and principally the following Strategic Priority:

- *Organisational Well Being*
Manage the Shire's resources to provide optimum benefit to the community.

OFFICER COMMENT

In order to fulfil statutory reporting requirements, the following reports are attached:

▶ Income Statement by Nature and Type/ Financial Activity Statement

This report provides details of the Shire's operating revenues and expenditures on a year to date basis, by nature and type (i.e. description). This report has been further extrapolated to include details of non-cash adjustments and capital revenues and expenditures; that were formerly included in the Statement of Financial Activity. The resultant net current position as detailed in this report reconciles with that reflected in the Net Current Position report.

▶ Net Current Position

This report provides details of the composition of the net current asset position on a year to date basis, and reconciles with the net current position as per the Income Statement by Nature and Type/ Financial Activity Statement.

▶ Capital Acquisitions Report

This report provides year to date budget performance (by line item) in respect of the following capital expenditure activities:

- Land and Buildings
- Plant and Equipment
- Furniture and Equipment
- Infrastructure

▶ Reserve Movements Report

This report provides summary details of transfers to and from reserve funds, and also associated interest earnings on reserve funds, on a financial year to date basis. An additional report is also provided that further details the budgeted, and actual, transfers from reserves.

COMMENTS ON FINANCIAL ACTIVITY TO 31 AUGUST 2011

Operating Activity

▪ Operating Revenue

As at 31 August 2011, there is a variance of some -2% in total operating revenue. The following revenue categories exceed the 10% material variance threshold as at the reporting date:

Description	Variance
Operating Grants, Subsidies & Contributions	+ 39%
Other Revenue	-31%
Non-operating Grants, Subsidies & Contributions	-50%

At this early stage in the financial year, the above variances are primarily attributable to timing differences, with the major contributor being in relation to the timing of non-operating grant funding for the Community Resource Centre.

- Operating Expenditure

As at 31 August 2011, there is a variance of some -17% in total operating expenditure. The following expenditure categories exceed the 10% material variance threshold as at the reporting date:

Description	Variance
Employee Costs	-14%
Materials & Contracts	-24%
Utilities	-45%
Insurance Expenses	-10%
Other Expenditure	-80%
Allocations Transferred to Capital	-73%

As with the operating revenue performance, the current variance in operating expenditure is primarily attributable to timing differences only at this stage.

Capital Activity

- Capital Revenue

As at 31 August 2011, there is a variance of some -31% in total capital revenue. The following capital revenue categories exceed the 10% material variance threshold as at the reporting date.

Description	Variance
Self-supporting Loans – Repayment of Principal	+ 895%
Transfers from Restricted Assets	-77%
Transfers from Reserves	+ 75%

Whilst the self- supporting loan principal repayments variance is significant (in percentage terms), in dollar terms the variance is only in the order of \$62K. This variance is attributable to the early repayment of a self-supporting loan by the Busselton Jetty Environment and Conservation Association (Inc); and the associated reimbursement to the Shire.

The major contributor to the overall adverse variance in this revenue category is due to timing matters associated with transfers from restricted assets (from a budget perspective), and more particularly grants associated with major projects.

- Capital Expenditure

As at 31 August 2011, there is a variance of some -47% in total capital expenditure. The following expenditure categories exceed the 10% material variance threshold as at the reporting date:

Description	Variance
Land and Buildings	-89%

Plant and Equipment	+ 160%
Furniture and Equipment	-63%
Infrastructure	-82%
Total Loan Repayments - Principal	+ 139%
Transfers to Restricted Assets	+ 76%

The attachments to this report include detailed listings of the following capital expenditure items, to assist in reviewing specific variances:

- Land and Buildings
- Plant and Equipment
- Furniture and Equipment
- Infrastructure

As with the current operating activity performance, variances in respect of the above are predominantly due to timing differences at this stage. Notwithstanding this, the variance in principal loan repayments is attributable to the early repayment of the Busselton Jetty Environment and Conservation Association (Inc) self-supporting loan facility.

CONCLUSION

With only two months of the financial year having passed, it is too early for any specific financial trends to be apparent. Performance to the end of August is relatively consistent with previous years, with the majority of variances being attributable to budget timing differences. In terms of the Council's resolution regarding financial activity statement reporting in 2011/12, further detail will be provided in respect of all material variances as part of the September 2011 (quarterly) report.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable.

COUNCIL DECISION / COMMITTEE RECOMMENDATION / OFFICER RECOMMENDATION

C1110/325 Moved Councillor Reid, seconded Councillor Henley:

That the statutory financial reports for the period ending 31 August 2011 be received by the Council pursuant to Regulation 34(4) of the Local Government (Financial Management) Regulations.

CARRIED 11/0
EN BLOC

11.1 AMENDMENT NO. 163 PROPOSED REZONING OF A PORTION OF LOT 22 CAVES ROAD, WILYABRUP FROM 'VITICULTURE/TOURISM' TO 'CONSERVATION' - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL

SUBJECT INDEX:	Town Planning Schemes and Amendments
APPLICATION NUMBER:	853/6/6/21pt163
STRATEGIC PRIORITY:	8: Provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district
BUSINESS UNIT:	Planning and Development Services
SERVICE:	Strategic Planning
REPORTING OFFICER:	Senior Land Use Planner – Louise Korovesi
AUTHORISING OFFICER:	A/Director Planning and Development Services – Paul Needham
DATE OF COMPLETION:	26 November 2011
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	To consider finally adopting: <ol style="list-style-type: none"> Scheme Amendment No. 163 to District Town Planning Scheme No. 20 to: <ol style="list-style-type: none"> rezone a portion of Lot 22 Caves Road, Wilyabrup from 'Viticulture/Tourism' to 'Conservation'; and include the whole of Lot 22 Caves Road, Wilyabrup within a new 'Special Provision Area' Draft Development Guide Plan
LOT SIZE:	29.3 hectares
ZONE:	'Viticulture/Tourism', 'Landscape Value Area'
POLICIES:	<ol style="list-style-type: none"> WAPC <i>State Planning Policy 6.1 – Leeuwin Naturaliste Ridge</i> <i>Local Rural Planning Strategy</i> <i>Planning for Bush Fire Protection Guidelines (2010)</i> <i>Local Planning Policy 3G – Caves Road Visual Management Provisions</i>
ATTACHMENT(S):	<ol style="list-style-type: none"> Location Plan Scheme Amendment Map Draft Development Guide Plan Schedule of Submissions

PRÉCIS

The Council is requested to consider adopting for final approval Amendment No. 163 (amendment) to the Scheme to rezone a portion of Lot 22 Caves Road, Wilyabrup from 'Viticulture/Tourism' to 'Conservation' and to include the whole of the subject land within a new 'Special Provision Area', pursuant to Schedule 7 of the Scheme.

The intent of the amendment is to retain and protect remnant vegetation in the western portion of the subject land for conservation purposes, whilst facilitating the continued use of the balance of the landholding for rural land uses consistent with the Viticulture/Tourism zone.

The amendment includes an associated draft Development Guide Plan (DGP) which would facilitate the future subdivision of the land into two lots, consistent with the voluntary conservation and landscape value subdivision incentive afforded by the WA Planning Commission's *State Planning Policy 6.1 – Leeuwin Naturaliste Ridge* (LNRSP).

The amendment was advertised for 42 days and no objections or substantive issues were raised.

Officers are recommending that Amendment No. 163 and the associated draft DGP be adopted for final approval.

PROPOSAL / BACKGROUND

The proposal comprises a scheme amendment and a draft DGP that relate to Lot 22 Caves Road, Wilyabrup. The subject land is located on the western side of Caves Road, within the locality of Wilyabrup (Attachment A). Two dwellings, outbuildings, dams and an olive grove have been developed on the property. The subject land is predominantly used for rural purposes (grazing and olive production) and, topographically, is gently sloping.

The two elements of the proposal are discussed below under appropriate subheadings.

Scheme Amendment

The amendment proposes to rezone the western portion of the land from Viticulture/Tourism to Conservation and place the whole of Lot 22 into a Special Provision Area, pursuant to Schedule 7 of the Scheme.

Attachment B illustrates the scheme amendment proposal. The intent of the amendment is to retain and protect remnant vegetation in the western portion of the subject land for conservation purposes, whilst facilitating the continued use of the balance of the landholding for rural land uses consistent with the Viticulture/Tourism zone.

The proposed zoning framework generally reflects the split land use designation that the land has under LNRSP. The proposal also reflects the support of the WA Planning Commission for the applicant to seek the Council's consideration of an amendment to rezone the subject land to Conservation under District Town Planning Scheme No. 20.

Development Guide Plan

The draft DGP would facilitate the future subdivision of the land into two lots, with lot boundaries reflecting the proposed zoning framework (Attachment C). Proposed Lot 223 (to remain zoned Viticulture/Tourism) will be 20.21ha in area and will contain an existing dwelling, shed, dam and olive grove. The proposed conservation lot (Lot 224) will be 9.13ha in area and will contain an existing dwelling, dam and remnant vegetation.

Access to both lots from Caves Road will continue via the existing driveway and crossover, with a reciprocal access arrangement to be implemented as a condition of future subdivision.

An environmental assessment of the subject land confirmed that the remnant vegetation has conservation values because it is in good to very good condition and provides habitat for the Western Ringtail Possum. It also has connectivity to remnant vegetation on the adjoining land to the west and forms an ecological link.

The draft DGP is accompanied by a fire management plan that sets out commitments to upgrading existing firebreaks, provision of two emergency access routes, emergency water supplies, 60m combined building and hazard separation zones (BPZ & HSZ) and reduction of fuel loads.

The FMP also outlines property owners' responsibilities to reduce the fire risk by maintaining driveways, emergency access and firebreaks and implementing BPZs, HSZs and hazard reduction (fuel loads) outside of these zones.

STATEMENT OF IMPACT

The proponent has submitted the proposal for the Council's consideration and it is therefore assumed that they consider that the proposal would have a net benefit in terms of their objectives for their land.

CONSULTATION

The amendment was referred to the Environmental Protection Authority who determined that it should not be assessed under Part IV of the *Environmental Protection Act 1986*. The amendment was subsequently advertised for 42 days (advertising closed 24 August 2011).

As a result of advertising, two government agency/servicing authority submissions and one public submission were received (Attachment D). No objections to the amendment were raised.

STATUTORY ENVIRONMENT

The key elements of the statutory environment with respect to the proposal are set out in the *Shire of Busselton District Town Planning Scheme No.20*.

The proposal was previously assessed as generally meeting the requirements of the Scheme (refer to agenda item 13.1 of the 27 April 2011 Council meeting).

POLICY IMPLICATIONS

The key policy implications for the consideration of the amendment are set out in the WAPC *State Planning Policy 6.1 Leeuwin – Naturaliste Ridge, Local Rural Planning Strategy, Planning for Bush Fire Protection Guidelines 2010* and *Local Planning Policy – Caves Road Visual Management Provisions*.

The amendment was previously assessed against the relevant policy provisions and found to be consistent with policy outcomes (refer to the agenda item referenced under the 'Statutory Environment' section).

It is noted that since the amendment was advertised, the Shire has adopted a new Local Planning Policy for managing bushfire risk. Given that the subject land is already developed with two residential dwellings, the fire management plan broadly meets the policy provisions as far as is reasonably practicable.

FINANCIAL IMPLICATIONS

There are no direct financial implications of the recommendations of this report.

STRATEGIC IMPLICATIONS

The proposal as recommended is considered to be consistent with Strategic Priority 8: *'provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district'*.

OFFICER COMMENT

The proposed zoning framework generally reflects the split land use designation that the land has under the LNRSP and would facilitate the subdivision of the land in accordance with the voluntary conservation and landscape value incentive available under the LNRSP for land within the Ridge Landscape Amenity Area.

The proposal also reflects the support of the WA Planning Commission for the landowner to seek the Council's consideration of an amendment to rezone the subject land to Conservation under District Town Planning Scheme No. 20.

Assessment of the proposal against the relevant State and local planning policy framework indicates broad consistency.

CONCLUSION

It is recommended that Amendment 163 and the associated draft DGP be adopted for final approval.

Option

Should the Council not support the Officer Recommendation, the Council could resolve to:

1. Decline to finally adopt the amendment (and provide a reason for such a decision), it should be noted that under the relevant legislation there is no right of appeal against a Council decision not to finally adopt an amendment, however, final decision making authority rests with the WAPC and Planning Minister.
2. Seek further information before making a decision.
3. Finally adopt the amendment and DGP subject to further modification(s) as required.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will involve the provision of advice of the Council resolution to the applicant and this will occur within one month of the resolution.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1110/326 Moved Councillor Reid, seconded Councillor Henley:

That the Council:

1. In pursuance of Part V of the *Planning and Development Act 2005* adopts draft Amendment 163 to the Shire of Busselton District Town Planning Scheme No. 20 for community consultation, which proposes to:
 - (a) rezone a portion of Lot 22 Caves Road, Wilyabrup from 'Viticulture/Tourism' to 'Conservation';
 - (b) insert the following particulars into Schedule 7 – Special Provision Areas of the Scheme as follows:

No	Particulars of Land	Zone	Special Provisions
38	Lot 22 Caves Road, Wilyabrup	Viticulture/ Tourism Conservation	1. Subdivision and development is to be generally in accordance with a Development Guide Plan for the site as adopted

		<p>by the Council and approved by the Western Australian Planning Commission.</p> <p>2. No existing vegetation shall be removed from the 'Conservation' zoned lot, other than for the purposes of compliance with an approved Fire Management Plan, vehicle access to buildings in association with approved development, clearing for approved development within a building envelope and provision of service infrastructure.</p> <p>3. Remnant vegetation within the 'Conservation' zoned lot shall be the subject of a conservation covenant to be implemented at the time of subdivision, to the satisfaction of the relevant administering authority.</p> <p>4. As a condition of subdivision, the subdivider is to prepare and implement to the satisfaction of the covenanting authority:</p> <p>a) a regeneration, rehabilitation and revegetation plan which addresses Western Grey Kangaroo management/exclusion; and</p> <p>b) a weed and pest management plan for the 'Conservation' zoned lot.</p>
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(c) amend the Scheme Map accordingly.

2. Adopts for final the draft Development Guide Plan (Revision B, dated 6 May 2011) for Lot 22 Caves Road, Wilyabrup pursuant to clause 25 of the Scheme
3. Endorses the Schedule of Submissions prepared in response to the community consultation undertaken in relation to draft Amendment 163.
4. That, on receipt of the scheme amendment documentation and Development Guide Plan, the Council refers draft Amendment 163 to the Shire of Busselton District Town Planning Scheme No. 20, so adopted for final approval, to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
5. That, where notification is received from the Western Australian Planning Commission that a modification of the Amendment is required prior to approval of the Amendment by the Minister, this modification is to be undertaken in accordance with the requirements of the Town Planning Regulations 1967, unless the modification affects the intent of the Amendment, in which case it shall be referred to the Council for consideration.

CARRIED 11/0
EN BLOC

11.3 AMENDMENT NO 164: REZONING OF LOT 6 FORREST BEACH ROAD, WONNERUP FROM 'AGRICULTURE' TO 'CONSERVATION' AND 'RESERVE FOR RECREATION' - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL

SUBJECT INDEX:	Town Planning Schemes and Amendments
APPLICATION NUMBER:	AMD20/164
STRATEGIC PRIORITY:	8: Provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district
BUSINESS UNIT:	Planning and Development Services
SERVICE:	Strategic Planning
REPORTING OFFICER:	Senior Land Use Planner – Louise Korovesi
AUTHORISING OFFICER:	Acting Director Planning and Development Services - Paul Needham
DATE OF COMPLETION:	26 November 2011
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	To consider finally adopting: (a) Scheme Amendment No. 164 to District Town Planning Scheme No. 20 which proposes to rezone Lot 6 Forrest Beach Road, Wonnerup from 'Agriculture' to 'Conservation' and 'Reserve for Recreation'; and (b) the associated draft Development Guide Plan
LOT SIZE:	80.6 hectares
ZONE:	'Agriculture', 'Reserve for Recreation', 'Landscape Value Area', 'Wetland Area', 'Floodway'
POLICIES:	1. <i>Busselton Wetlands Conservation Strategy 2005</i> 2. <i>Local Rural Planning Strategy 2007</i> 3. <i>Coastal Adaption Planning – Interim Coastal Erosion Modelling</i> 4. <i>WAPC Position Statement – SPP 2.6 State Coastal Planning Policy Schedule 1 Sea Level Rise</i>
ATTACHMENT(S):	A. Location Plan B. Draft Development Guide Plan C. Scheme Amendment Map D. Coastal Adaptation Planning - Coastal Setback Line E. Schedule of Submissions

PRÉCIS

The Council is requested to consider adopting for final approval Amendment No. 164 (amendment) that would facilitate the rezoning of Lot 6 Forrest Beach, Wonnerup from 'Agriculture' to 'Conservation' and 'Reserve for Recreation'.

The amendment includes an associated draft Development Guide Plan (DGP) which would facilitate the future subdivision of the land into five lots, being broadly consistent with the voluntary conservation subdivision incentive afforded by the WA Planning Commission's *Busseton Wetlands Conservation Strategy* (BWCS).

The amendment was advertised for 42 days and no objections or substantive issues were raised.

Officers are recommending that Amendment No. 164 and the associated draft DGP be adopted for final approval.

PROPOSAL / BACKGROUND

Proposal

The proposal comprises a scheme amendment and a draft DGP that relate to the rezoning of Lot 6 Forrest Beach Road, Wonnerup from Agriculture to Conservation and Reserve for Recreation. The proposal would facilitate the future subdivision of the subject land into five lots, with the balance of the original landholding reserved for recreation, consistent with the voluntary subdivision incentive available under the BWCS.

The draft DGP illustrates the proposed lot layout, access and building envelopes (Attachment B). A cluster of four lots, ranging in size from 5,531m² to 8,317m², is located in the northwest portion of the subject land. Access from Forrest Beach Road will be via a cul-de-sac. The fifth lot will be 57.14ha and will contain the existing residence, outbuildings, sheds and stables.

The area of the subject land that is classified as the Quindalup Very Saline Flats soil type, plus a minimum 30m buffer (incorporating the Quindalup Flats soil type), is designated for conservation purposes and will be ceded to the Crown as part of the subdivision process. The purpose of the 30m buffer is to include a soil type that will provide a degree of nutrient absorption for more nutrient intensive land uses adjacent to the Quindalup Wet or Very Wet soil types. The reserve will be fenced and managed in the future by the Department of Environment and Conservation (DEC). DEC has provided written agreement for the alignment of the proposed reserve. This boundary alignment is illustrated by the scheme amendment map that forms Attachment C.

A pedestrian access way (PAW) is proposed along the northeast boundary to provide DEC with access to the reserve as well as fire protection and emergency vehicle access. The proposed PAW includes a 21m diameter turning head at the boundary of the reserve which is sufficient turnaround area for fire fighting vehicles. The proposed PAW extends around the perimeter of the clustered lots with access back to the access road.

Subject Land

The subject land is located approximately 7km east of the Busselton townsite and is 80.6026 hectares in area (Attachment A). The site is bound by Forrest Beach Road to the north, agricultural land to the east and west and the existing Wonnerup Estuary foreshore reserve to the south. Topographically, the site ranges in height from below 0.4m AHD in the southeast area near the foreshore reserve to over 3m AHD in the northeast portion.

An existing dwelling, outbuildings and water tanks are located in proximity to Forrest Beach Road, along with numerous stables and sheds. The land is fenced into a number of paddocks connected by internal driveways. The property is utilised as a horse stud.

Access to the subject land is via several gravel crossovers from Forrest Beach Road, which is constructed to a bitumen seal standard. Existing perimeter firebreaks are generally kept in a mineral earth state and trafficable by two wheel drive vehicle in most parts.

STATEMENT OF IMPACT

The applicant has submitted the proposal on behalf of the developer and it is therefore assumed that the developer considers that the proposal would have a net benefit in terms of their objectives for the land.

The proposal has important environmental benefits and would facilitate an enlargement of the existing wetland foreshore reserve and the protection and rehabilitation of a WA Peppermint tree corridor.

CONSULTATION

The amendment was referred to the Environmental Protection Authority who determined that it should not be assessed under Part IV of the *Environmental Protection Act 1986*. The amendment was subsequently advertised for 42 days (advertising closed 17 August 2011).

As a result of advertising four government agency submissions were received (Attachment C). No objections to the amendment were raised.

STATUTORY ENVIRONMENT

The key elements of the statutory environment with respect to the proposal are set out in the *Shire of Busselton District Town Planning Scheme No.20*. The proposal was previously assessed as generally meeting the requirements of the Scheme (refer to agenda item 13.2 of the 27 April 2011 Council meeting).

POLICY IMPLICATIONS

The key policy implications for consideration are set out in the *Busselton Wetlands Conservation Strategy, Local Rural Planning Strategy, Coastal Adaptation Planning – Interim Coastal Erosion Modelling* and the WAPC *Position Statement on SPP 2.6 State Coastal Planning Policy Schedule 1 Sea Level Rise*.

The amendment was previously assessed against the relevant policy provisions and found to be consistent with policy outcomes (refer to the agenda item referenced under the 'Statutory Environment' section).

FINANCIAL IMPLICATIONS

There are no direct financial implications for the Shire from the proposal.

STRATEGIC IMPLICATIONS

The proposal is considered to be consistent with Strategic Priority 8 of the Shire's 2010-20 Strategic Plan: *'provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district'*.

OFFICER COMMENT

The proposed rezoning framework would facilitate the subdivision of the land generally in accordance with the voluntary conservation incentive available under the BWCS. The proposal has been assessed as being generally consistent with the relevant State and local planning policy and statutory framework. The proposal would deliver significant environmental benefits consistent with the objectives and outcomes of the BWCS and the Local Rural Planning Strategy.

CONCLUSION

It is recommended that the amendment and the associated draft DGP be adopted for final.

Option

Should the Council not support the officer's recommendation, the Council could resolve to:

1. decline to finally adopt the amendment in its entirety (and provide a reason for such a decision). It should be noted that under the relevant legislation there is no right of appeal against a Council decision not to finally adopt an amendment.
2. seek further information before making a decision.
3. finally adopt the amendment subject to further modification(s) as required.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will involve the provision of advice of the Council resolution to the applicant and this will occur within one month of the resolution.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1110/327 Moved Councillor Reid, seconded Councillor Henley:

That the Council:

1. in pursuance of Part V of the *Planning and Development Act 2005* adopts draft Amendment 164 to the Shire of Busselton District Town Planning Scheme No. 20 for final approval, which proposes to:
 - (a) rezone Lot 6 Forrest Beach Road, Wonnerup from 'Agriculture' to 'Conservation' and 'Reserve for Recreation; and
 - (b) amend the Scheme Map accordingly.
2. Adopts for final approval the draft Development Guide Plan (Revision 2 dated 9/11/2010) for Lot 6 Forrest Beach Road, Wonnerup, pursuant to clause 25 of the Scheme.
3. Endorses the Schedule of Submissions prepared in response to the community consultation undertaken in relation to draft Amendment 164.
4. That, on receipt of the scheme amendment documentation and Development Guide Plan, the Council refers draft Amendment 164 to the Shire of Busselton District Town Planning Scheme No. 20, so adopted for final approval, to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
5. That, where notification is received from the Western Australian Planning Commission that a modification of the Amendment is required prior to approval of the Amendment by the Minister, this modification is to be undertaken in accordance with the requirements of the Town Planning Regulations 1967, unless the modification affects the intent of the Amendment, in which case it shall be referred to the Council for consideration.

CARRIED 11/0
EN BLOC

11.4 AMENDMENT 162: INTRODUCTION OF A SPECIAL PROVISION AREA TO PERMIT AN UNRESTRICTED LENGTH OF STAY FOR SEVEN STRATA TOURIST LOTS WITHIN LOT 2 BUSSELL HIGHWAY, BROADWATER - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL

SUBJECT INDEX:	Town Planning Schemes and Amendments
APPLICATION NUMBER:	853/6/6/21pt162
STRATEGIC PRIORITY:	8: to provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district
BUSINESS UNIT:	Planning and Development Services
SERVICE:	Strategic Planning
REPORTING OFFICER:	Strategic Land Use Planner - Louise Korovesi
AUTHORISING OFFICER:	Acting Director Planning and Development Services - Paul Needham
DATE OF COMPLETION:	26 November 2011
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	To consider for final adoption Amendment 162 that proposes to amend Schedule 7 pursuant to the Scheme to introduce a special provision that permits an unrestricted length of stay for seven strata tourist lots within Lot 2 Bussell Highway, Broadwater.
LOT SIZE:	N/A
ZONE:	Tourist
POLICIES:	1. WAPC <i>Planning Bulletin 83/2009 – Planning for Tourism</i> 2. Shire of Busselton <i>Draft Local Tourism Planning Strategy 2010</i>
ATTACHMENT(S):	A. Location Plan B. Site Plan C. Schedule of Submissions

PRÉCIS

The Council is requested to consider adopting for final approval, Amendment 162 to the Scheme, to introduce a special provision into Schedule 7 that would permit an unrestricted length of stay for tourist strata lots 3, 5, 6, 7, 8, 9 and 10 within Lot 2 Bussell Highway, Broadwater (known as 'Broadwater Bungalows').

It is considered that the proposal is broadly consistent with some elements of the strategic planning framework applicable to the area, reflecting proposed changes in planning direction endorsed by the Council in its recent adoption of the draft Local Tourism Planning Strategy (LTPS) for final approval by the Western Australian Planning Commission. While there is some variance in the proposal from the specific criteria set out in the LTPS, consideration of such an application is on the basis of the history surrounding the issue.

The amendment was advertised for 42 days and one objection was received. Officers are recommending that Amendment 162 be adopted for final approval.

PROPOSAL / BACKGROUND

The proposal comprises a scheme amendment that seeks to introduce a special provision for seven strata titled tourist lots within Lot 2 (553) Bussell Highway, Broadwater to permit an unrestricted length of stay for what are currently units that may only be used for short stay purposes. To achieve the objectives of the amendment, it is proposed to include the whole of the subject land within a Special Provision Area pursuant to Schedule 7 of the Scheme, as outlined in the table below:

No	Particulars of Land	Zone	Special Provisions
37	Lot 2 (553) Bussell Highway, Broadwater	Tourist	Notwithstanding any other provision of the Scheme, an unrestricted length of stay is permissible for strata lots 3, 5, 6, 7, 8, 9 and 10 on strata plan 37864 (approved 17 April 2000)

The proposed amendment would facilitate a variation, for these seven strata lots, to the standard restriction of 3 months occupancy within a 12 month period that applies to tourist accommodation, to allow the tenants to occupy their unit for an unlimited period.

The subject land is located approximately 6km west of the Busselton town centre (Attachment A). The site is developed with 88 short stay accommodation units, of which 32 are strata titled bungalows. Facilities that support the tourist function of the overall development include indoor and outdoor pools, tennis and squash courts, gym, function room, children's activity centre, BBQ area and a reception/administration building. The northern boundary of the subject land has frontage to a coastal foreshore reserve.

At the time of initial development, the developer consulted with the Shire on the possibility of allowing a small number of the strata lots to contain residential accommodation. This request was never formally considered or determined and, in acknowledgement of this, the registered Strata Plan (No. 37864 Management Statement adopted by the Shire in 2000) included a clause that provided for a future amendment to the Scheme, if such were to occur, to vary the length of stay permitted for certain strata lots:

'20. Planning Restrictions

This By-Law has been made by the Strata Company at the request of the Western Australian Planning Commission under s42(2d) of the Act and as such

will require the consent of the Western Australian Planning Commission before any repeal of, or amendment to, this By-Law can take effect.

(b) Notwithstanding By-Law 20(1)(a), the Strata Company and each proprietor of a Lot acknowledges that the town planning scheme amendment referred to in the endorsement above relating to Lots 3, 5, 6, 7, 8, 9 and 10 may be subject to change to allow the use of the relevant Lots for greater periods than 3 months in any 12 month period. If this occurs, it is acknowledged by the Strata Company and each proprietor that Lots 3, 5, 6, 7, 8, 9 and 10 may be used by their proprietors accordingly.'

The location of the seven strata lots is illustrated in Attachment B.

STATEMENT OF IMPACT

The consultant, on behalf of the seven strata lot owners, has submitted the proposal for the Council's consideration and it is therefore assumed that the strata lot owners consider that the proposal would have a net benefit in terms of their objectives for their land.

The proposal may have a negative impact on the ongoing viability of the resort as it will result in less units in the rental pool and therefore less contribution to the operation of the resort. It may also have an impact on the tourist element of the development as the majority of the beachfront units could be kept out of the rental pool and remain vacant while tourists are located in lower amenity units towards the south of the site.

CONSULTATION

The amendment was referred to the Environmental Protection Authority who determined that it should not be assessed under Part IV of the *Environmental Protection Act 1986*. The amendment was subsequently advertised for 42 days (advertising closed 24 August 2011).

As a result of advertising, two government agency/servicing authority submissions and seven public submissions were received (Attachment C). A submission was received from the Department of Planning State Strategic Policy Branch indicating that the amendment is not supported because it conflicts with State policy (*Planning Bulletin 83 – Planning for Tourism* July 2011) that says the maximum length of stay provision of three months in any twelve month period should apply to tourism units on all developments. This is discussed further under the 'Officer Comment' section.

STATUTORY ENVIRONMENT

The key elements of the statutory environment with respect to the proposal are set out in the Shire of Busselton District Town Planning Scheme No. 20. The proposal was previously assessed against the Scheme (refer to agenda item 13.1 of the Council meeting held on 13 April 2011).

POLICY IMPLICATIONS

The key policy implications for consideration of the proposal are set out in the *Tourism Planning Taskforce Report 2006*, Western Australian Planning Commission *Planning Bulletin 83/2009 – Planning for Tourism* and the Shire of Busselton *Draft Local Tourism Planning Strategy* (LTPS).

The amendment was previously assessed against the relevant policy provisions and found to be broadly consistent with some of the assessment criteria of the LTPS and the state planning policy framework (refer to the agenda item referenced under the 'Statutory Environment' section).

FINANCIAL IMPLICATIONS

There are no direct financial implications of the recommendations of this report.

STRATEGIC IMPLICATIONS

The proposal is considered to be broadly consistent, in some respects, with Strategic Priority 8: *'provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district'*.

OFFICER COMMENT

The State Strategic Policy branch of the DoP has advised that it does not support the amendment because it is inconsistent with the length of stay policy provision outlined in *Planning Bulletin 83/2011- Planning for Tourism*. It should be noted that this is a departmental response from an internal branch of the DoP and the amendment will be formally assessed by the WAPC and determined by the Minister for Planning. It is also important to note that the state policy says that it should be given due regard where a local government does not have a local tourism planning strategy.

The decision of the Council to initiate Amendment 162 reflects changes in planning direction endorsed through the adoption, in December 2010, of the Local Tourism Planning Strategy for final approval (and subsequent referral to the WAPC for endorsement) and consideration of such an application on the basis of the history associated with it.

The history of the proposal is that, at the time of the initial development of the tourist resort, the developer consulted with the Shire on the possibility of a small number of the strata lots to contain accommodation with an unrestricted length of stay allowance. This request was never formally considered or determined and, in acknowledgement of this, the registered Strata Plan (No. 37864 Management Statement adopted by the Shire in 2000) included a clause that provided for a future amendment to the Scheme, if such were to occur, to vary the length of stay permitted for certain strata lots.

The LTPS identifies the subject land as a non-strategic tourist site to be retained for tourism purposes that may, subject to meeting assessment criteria and rezoning, incorporate an unrestricted length of stay component.

Officers are recommending final adoption of the amendment on the basis of the history and approved Strata Management Statement as they relate to the location of the units proposed for an unrestricted length of stay allowance.

CONCLUSION

It is recommended that Amendment 162 be adopted for final approval.

Option

Should the Council not support the Officer Recommendation, the Council could resolve:

1. to decline to finally adopt the amendment (and provide a reason for such a decision). It should be noted that under the relevant legislation there is no right of appeal against a Council decision not to finally adopt an amendment.
2. to seek further information before making a decision.
3. to finally adopt the amendment subject to further modification(s) as required.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will involve the provision of advice of the Council resolution to the applicant and this will occur within one month of the resolution.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1110/328 Moved Councillor Reid, seconded Councillor Henley:

That the Council,

1. in pursuance of Part V of the *Planning and Development Act 2005*, adopts draft Amendment No. 162 to the Shire of Busselton District Town Planning Scheme No. 20 for final approval for the purpose of:
 - (a) inserting the following particulars into Schedule 7 – Special Provision Areas of the Scheme:

No	Particulars of Land	Zone	Special Provisions

37	Lot 2 (553) Bussell Highway, Broadwater	Tourist	Notwithstanding any other provision of the Scheme, an unrestricted length of stay is permissible for strata lots 3, 5, 6, 7, 8, 9 and 10 on strata plan 37864 (approved 17 April 2000)
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(b) amending the Scheme Map accordingly.

2. Endorses the Schedule of Submissions prepared in response to the community consultation undertaken in relation to draft Amendment 162.
3. That, on receipt of the scheme amendment documentation the Council refers draft Amendment 162 to the Shire of Busselton District Town Planning Scheme No. 20, so adopted for final approval, to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
4. That, where notification is received from the Western Australian Planning Commission that a modification of the Amendment is required prior to approval of the Amendment by the Minister, this modification is to be undertaken in accordance with the requirements of the Town Planning Regulations 1967, unless the modification affects the intent of the Amendment, in which case it shall be referred to the Council for consideration.

CARRIED 11/0
EN BLOC

11.7 AMENDMENT 168 - REZONING PORTION LOT 6 & 8 CAUSEWAY ROAD, BUSSELTON FROM 'TOURIST' TO 'RESIDENTIAL R40/R60 AND RECREATION RESERVE' - CONSIDERATION FOR FINAL APPROVAL

SUBJECT INDEX:	Town Planning Scheme Amendments
APPLICATION NUMBER:	AMD20/168
STRATEGIC INITIATIVE:	8: Provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district.
BUSINESS UNIT:	Planning and Development Services
SERVICE:	Strategic Planning
REPORTING OFFICER:	Strategic Planning Officer – Dane Gaunt
AUTHORISING OFFICER:	A/Director, Planning and Development Services – Paul Needham
DATE OF COMPLETION:	26 November 2011
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	The proposed amendment would facilitate the following in relation to Lots 6 and 8 Causeway Road, Busselton: * rezoning of portions of the subject land from 'Tourist' zone to 'Residential R60' and placing the land in a 'Special Provisions Area'; and * rezoning the balance of land to 'Reserve' for 'Recreation' purposes.
LOT SIZE:	1.023ha
ZONE:	'Tourist'
POLICIES:	<i>A - State Planning Policy No.3 Urban Growth and Settlement</i> <i>B - Local Tourism Planning Strategy</i> <i>C - Local Planning Policy 1 - Residential Development Policy</i>
ATTACHMENT(S):	A. Location Plan B. Site Aerial Photograph C. Summary of Submissions

PRÉCIS

The Council is asked to consider draft Amendment 168 ('the proposal') to District Town Planning Scheme No. 20 ('the Scheme') for adoption for final approval.

The intent of the proposal is to facilitate the redevelopment of the site for residential purposes and to set foreshore land aside for recreation purposes.

The proposal was advertised for public consultation and attracted two (2) submissions from nearby landowners and three (3) submissions from government departments.

It is recommended that the amendment be adopted by the Council for final approval.

PROPOSAL / BACKGROUND

At its meeting of 27 April 2010, the Council resolved to initiate and adopt for community consultation draft amendment 168 (C1104/140). This amendment proposed to rezone the site, with the exception of a 20 metre wide strip along the Vasse River, to 'Residential R40/R60' and to place the residential zoned land in a 'Special Provisions Area'. The strip of land adjoining the river is to be reserved for 'Recreation'. A number of special provisions are proposed to control future subdivision and development of the site. This includes a requirement for a Development Guide Plan to be prepared to control the future built form on the site. The provisions as adopted by Council at the meeting dated 27 April 2011 (C1104/140) are as follows -

No.	Particulars of Land	Zone	Special Provisions
40.	Lots 6 and 8 Causeway Road, Busselton	Residential R40/R60	<ol style="list-style-type: none"> 1. As a condition of subdivision or development approval, whichever occurs first, the Recreation Reserve shall be ceded to the Crown free of cost and without any payment of compensation by the Crown. 2. At the time of subdivision or development, whichever occurs first, an east - west dual use path link being constructed within the Recreation Reserve to the south, for the whole length of the frontage of Lots 6 and 8, with connectivity to Causeway Road to the satisfaction of the Shire of Busselton. 3. At the time of subdivision or development, whichever occurs first, a Revegetation Plan being prepared for the Recreation Reserve and implemented to the satisfaction of the Shire of Busselton. 4. Subdivision or development at a density less than R40 shall not be permitted. 5. Prior to submission of an application for subdivision or planning consent, a Development Guide Plan shall be prepared, assessed and if considered acceptable, adopted pursuant to clause 25 of the Scheme, except that it will not require endorsement by the Western Australian Planning Commission. 6. In addition to the matters set out in clause 25 of the Scheme, the DGP shall address the

			<p>following:</p> <ul style="list-style-type: none"> * Design measures to minimise the visual impact of the development on Causeway Road and the adjoining park to the southeast; * Appropriate setbacks to Causeway Road and the adjoining park, given the prominent location of the site to the main entry to town; * Building mass and height, noting that low rise development is to be achieved for buildings immediately abutting Causeway Road and the adjoining park; * controls in relation to building appearance, including exterior finish of buildings; consolidation and integration of vehicle access; and appropriate fencing treatment; * Building design is to address and allow for visual surveillance of the park to the east and the Recreation Reserve; and * Appropriate landscaping, including landscaping improvements for the adjoining park to the satisfaction of the Shire of Busselton. <p>7. Development at a density of R60 will only be supported where the land is amalgamated to enable an integrated development of the whole site.</p>
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STATEMENT OF IMPACT

Whilst the proposal will change the planning framework as it relates to the land, the proposal is requested by the landowner and it is therefore assumed that the landowner believes the proposal to be consistent with their interest.

CONSULTATION

The proposed amendment was advertised for public consultation for 42 days, with the public submission period closing on 17 August 2011. There were 2 submissions from adjoining land owners and 3 submissions from government agencies.

The main issues include –

- The provision of sufficient land to be set aside for the protection of life and infrastructure as well as the treatment, protection and management of water;

- The provision of an adequate setback of development from the waterway;
- The impact of the proposed rezoning on traffic movements associated with Causeway Road; and
- The impact on the privacy of the residents of 2 Isaacs Street, Busselton, located on the opposite side of the Lower Vasse River;

A discussion of these issues is provided under the 'Officer Comment' section of the report.

A schedule of submissions is at Attachment C.

STATUTORY ENVIRONMENT

The Planning and Development Act 2005 outlines the relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been taken into account in preparing this amendment.

POLICY IMPLICATIONS

The proposed amendment is consistent with relevant State and Local Planning Policies as have been outlined in detail in the amendment initiation report.

FINANCIAL IMPLICATIONS

There are no direct financial implications of the recommendations of this report.

STRATEGIC IMPLICATIONS

The staff recommendation is consistent with Strategic Priority 8 of the Shire's 2010-20 Strategic Plan, which is to - *'provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district'*.

OFFICER COMMENT

The following key issues require further consideration in response to comments made by government agencies and adjoining land owners.

Waterway Buffer

The Department of Water (DoW) raised an issue with the timing of the provision of information on the management of water and the setback of development from the Vasse River. The DoW supports a change to the Amendment to include a Local Water Management Strategy (LWMS) to be prepared at the DGP stage and approved by the DoW. The LWMS is required to identify water supply, wastewater management, water sensitive urban design features, buffers from waterways, flood management, water reuse

and recycling, design strategy and objectives, POS, water monitoring and stormwater management. A change as requested by DoW is supported as it serves to reinforce existing elements of the planning framework.

In regards to the setback requirements, considering the provision of a 20m wide recreation reserve and future setbacks and site levels, a 30m setback can largely be met in this case. Given the proposed rezoning to "Residential R40/R60" would facilitate a reduction in land use intensity in the vicinity of the river by comparison to the development potential of the current "Tourist" zoning. It is considered that the site has adequate capacity to accommodate development without a requirement for biophysical assessment, particularly given the proposed Vasse River foreshore reservation buffer; and revegetation measures proposed within the future reserve and future development setbacks.

Traffic Management

An issue was raised in regards to the increase of traffic along Causeway Road. The development of Yalyalup and the general population growth of the Shire have resulted in increased traffic volumes along Causeway Road going in and out of the Busselton CBD. There is concern that the future residential development on this site will exacerbate this issue.

While access to the site would predominately be by car, the area is also serviced by the local bus system with pick-up/drop-off points nearby in Strelly Street. The site is also within reasonable walking distance (900 metres) from the town centre.

At the DGP stage a Traffic Assessment (TA) will be provided. Furthermore the Shire may require a Road Safety Audit at this stage of the planning process depending upon the likely traffic arrangements to be made for the future development of the site.

Privacy

An issue was raised in the submissions in regards to visual privacy concerns from the nearby residents of 2 Isaacs Street (located on the opposite side of Vasse River). Should multi-storey residential development be approved on the site it will result in a clear view from the development into the backyard of 2 Isaacs Street, unless additional screen planting can be implemented in conjunctions with or ahead of the future development of the site.

It is considered that the setback of any development proposed on site as well as the proposed river foreshore revegetation will significantly reduce privacy issues arising from multi-storey development. The specific parameters of these measures are to be developed at the DGP stage. Given the site's context though, it is seen as likely that there will be a degree of overlooking – albeit at a distance of 30 metres plus. Removal of any potential overlooking, though, is not considered a reasonable expectation.

CONCLUSION

The draft amendment generally provides for a statutory planning framework that would accommodate the future development objectives for the site. Furthermore there are no outstanding issues that are required to be addressed at this stage of the land use planning process.

As a result of consultation, minor adjustments to the amendment are recommended to specifically require a LWMS in conjunction with a DGP.

Should the Council not support the officer recommendation, the Council could consider the following alternative options.

Options

Option 1

Resolve to dismiss the submissions and to adopt the amendment for final approval, unchanged.

Option 2

A second option would be for the recommended special provisions to be modified further in the light of submissions received, having considered officer comment and government agency response.

Neither of the above options is supported by officers for reasons outlined in the report.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will involve provision of advice of the Council resolution to the applicant, finalization of amendment documents and submission of these to the WAPC.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1110/329 Moved Councillor Reid, seconded Councillor Henley:

That the Council resolves as follows -

1. Pursuant to Part V of the Planning and Development Act 2005 ("Act"), and having considered the submissions lodged during the advertising period, adopts Amendment No. 168 (Amendment") to Shire of Busselton District Town Planning Scheme No. 20 ("Scheme") for final approval, for the purposes of:
 - (i) Rezoning portions of Lots 6 and 8 from "Tourist" to 'Residential R40/R60' and the balance of the land to Reserve for 'Recreation'.

- (ii) Amending the Scheme Text to insert the following particulars into Schedule 7 – Special Provision Areas of the Scheme as follows:

No.	Particulars of Land	Zone	Special Provisions
40.	Lots 6 and 8 Causeway Road, Busselton	Residential R40/R60	<ol style="list-style-type: none"> 1. As a condition of subdivision or development approval, whichever occurs first, the Recreation Reserve shall be ceded to the Crown free of cost and without any payment of compensation by the Crown. 2. At the time of subdivision or development, whichever occurs first, an east - west dual use path link being constructed within the Recreation Reserve to the south, for the whole length of the frontage of Lots 6 and 8, with connectivity to Causeway Road to the satisfaction of the Shire of Busselton. 3. Subdivision or development at a density less than R40 shall not be permitted. 4. Prior to submission of an application for subdivision or planning consent, a Development Guide Plan shall be prepared, assessed and if considered acceptable, adopted pursuant to clause 25 of the Scheme, except that it will not require endorsement by the Western Australian Planning Commission. 5. In addition to the matters set out in clause 25 of the Scheme, the DGP shall address the following: <ul style="list-style-type: none"> • Design measures to minimise the visual impact of the development on Causeway Road and the adjoining park to the southeast; • Appropriate setbacks to Causeway Road and the adjoining park, given the prominent location of the site to the main entry to town; • Building mass and height, noting that low rise development is to be achieved for buildings immediately abutting Causeway Road and the adjoining park; • controls in relation to building appearance, including exterior finish of buildings; consolidation and

			<p>integration of vehicle access; and appropriate fencing treatment;</p> <ul style="list-style-type: none">• Building design is to address and allow for visual surveillance of the park to the east and the Recreation Reserve;• Appropriate landscaping, including landscaping improvements for the adjoining park to the satisfaction of the Shire of Busselton; and• The provision of a Local Water Management Strategy. <p>6. Development at a density of R60 will only be supported where the land is amalgamated to enable an integrated development of the whole site.</p>
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CARRIED 11/0
EN BLOC

11.8 CONTROL OF THE LITTLE AND EASTERN LONG-BILLED CORELLA IN THE SHIRE OF BUSSELTON

SUBJECT INDEX:	Environmental operations – others (inland)
STRATEGIC INITIATIVE:	6. Manage and enhance our heritage and natural environment
BUSINESS UNIT:	Environmental Planning
SERVICE:	Environmental Services
REPORTING OFFICER:	Coordinator, Environmental Planning - Will Oldfield
AUTHORISING OFFICER:	Acting Director, Planning and Development - Paul Needham
DATE OF COMPLETION:	31/12/2011 and ongoing
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	Continuation of a Little and Eastern Long-Billed Corella control program within the Shire
POLICIES:	Nil
ATTACHMENT(S):	Attachment A. Fauna Note 20. Little Corella, Department of Environment and Conservation, December 2007.
	Attachment B. Fauna Note 15. Options for Corella, Galah and Cockatoo control Department of Environment and Conservation, December 2007.

PRÉCIS

A 12 month trial programme for control of the Little and Eastern Long Billed Corellas has been undertaken by the Shire in accordance with a previous Council decision. The trial program determined that feeding and netting of the birds is the most successful means of reducing the numbers and this report recommends that the Little and Eastern Long-Billed Corella control program be continued to manage the Corella population.

BACKGROUND

In July 2009 Council resolved:

1. *That the CEO request the Department of Environment and Conservation to determine whether the white cockatoos (corellas) frequently seen at the Busselton beachfront and whose numbers have been building up over the last 5 to 10 years are species native to the south west of Western Australia or whether they are exotic species likely to be escapees from aviaries.*

2. *That, if the species are identified as exotic to the south west of WA and providing they are not just range extensions of WA species which have naturally migrated to the Busselton area, the CEO request the Department of Environment and Conservation and the Department of Agriculture and Food to take appropriate action to humanely cull the birds so that they do not pose a threat to the natural environment of the region.*

The Department of Environment and Conservation (DEC) confirmed the corellas in Busselton were the Little and the Eastern Long Billed Corella, which are native to the south east of Australia and they are not just range extensions of WA species that have naturally migrated to the Busselton area. It is understood these birds bred up in the wild from birds that have escaped or been released from domestic aviaries.

Department of Agriculture and Food (DAFWA) advised they did not organise control programmes for corellas where they are not impacting on agricultural productivity and suggested we contact the Department of Environment and Conservation.

In June 2010, the Principal Zoologist with the Department of Environment and Conservation gave a presentation to Council on the origin of the corellas seen around Busselton, corella traits and control methods that have proven to be relatively effective and appropriate for use in urban areas.

On the 25th August 2010 Council resolved (resolution C1008/288) to support the undertaking of a trial corella control program on the following basis:

1. *That access is permitted to reserves identified as safe for culling of Little and Eastern Long-billed Corella with .177 air rifle and low velocity .22 rifle for a period of 12 months under the Property Local Law, in accordance with a DEC permit and subject to development of a shooting plan to ensure public safety, to determine the effectiveness and acceptability of this control method in Busselton.*
2. *Subject to obtaining the necessary funding, permit the use of cage trapping and cannon netting on a small trial basis to determine the effectiveness of these methods relative to the shooting method for the control of Corellas.*
3. *That the CEO provide information to the public through the local media on the reasons and projected benefits of undertaking the trial Corella control program.*
4. *That the CEO ensure adequate monitoring of the control programs are undertaking to enable effectiveness to be assessed over the trial period.*
5. *That the CEO report on the effectiveness and acceptability of the Corella control program at the end of the 12 month trial period.*

CONSULTATION

Information about the programme was published in the Bay to Bay newsletter and on the Shire's website. A notice of intent to commence the control programme was placed in the Council for Community page in the local newspaper on the 19th and 26th November 2010.

The requisite approvals were sought from DEC. Advice was also sought from DEC during the trial period to improve the control method and establish the feeding and netting operation.

The Shire has also liaised with other local governments in the Bunbury Region and the DEC, who have formed an Exotic Corella Working Group (ECWG). The ECWG developing appropriate actions for a combined response to the corella issue which is common to all local governments on the group.

STATUTORY ENVIRONMENT

Wildlife Conservation Act 1950 and Wildlife Conservation Regulations 1970

1.1.1.1.1. Under section 15 of the act the Minister may issue licences. Section 5 of the regulations describe the circumstances and the manner in which licences can be issued to take protected fauna causing damage to property.

Local Government Act

Section 3.54 of the local government act allows local government to do anything for the purpose of controlling and managing that land that it could do under section 5 of the Parks and Reserves Act. This includes the control of pest species on the land.

Local Government Property Local Law

Clause 1.7 of this Local Law provides overriding power to hire and enter into an agreement with any person regarding the use of any Local Government Property. In the context of this report the Council may be giving a registered wildlife control contractor the ability to use identified areas of Shire land to undertake corella control work.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Expenditure to implement the proposed corella control programme is approximately \$2500 which includes feeding and trapping operations, travel and accommodation expenses for DEC staff that come from Perth to undertake the trapping operation

It is proposed that, to complement the trapping that can be undertaken by DEC and to ensure that the Shire is not reliant on DEC, that Shire staff also

undertake trapping operations. That will require expenditure of \$3,800 to construct a trap and appropriate euthanizing equipment to undertake the operation. An alternative to euthanizing equipment is to use a licenced shooter which could cost up to \$1500. Each operation will also require two staff for approximately three hours to set up the net, euthanize and dispose of the birds. These costs will be able to be met out of the existing adopted budget.

STRATEGIC IMPLICATIONS

This proposal is considered relevant to the Shire's Strategic Plan 2010-2020 Key Result Area: Natural and Built Environment Wellbeing, specifically Strategic Priority 6 which is to 'Manage and enhance our heritage and natural environment'.

OFFICER COMMENT

Outcomes of the trial control programme:

Monitoring has revealed that the Busselton corellas tended to congregate into one flock during the summer season. At the beginning of the season the flock was estimated to be 250 corellas, increasing to an estimated 300 by the end of summer. A typical daily pattern for the flock was to leave the roost at sunrise to find water and food. By about 10:00am the birds would gather in the trees at the Busselton foreshore to rest and remain there until about 3:00pm. They would then go off to find more food and water before returning to the trees in the Shire offices car park at dusk to roost for the night.

Corella numbers appear to have reduced over the nesting season, July to November, as the mating pairs disperse to other areas inland. However, there are a number of birds that remain in town over the winter period. These birds are mostly the younger, non-breeding, birds which will become fertile and pair up with a mate in later seasons.

The corella control trial commenced November 2010. A professional shooter was engaged to implement the shooting method while the birds were at roost in trees near the Shire Offices. On at least six occasions over three months, attempts were made to shoot the birds however, there were a range of difficulties which prevented shooting. Not least amongst the difficulties was, that the birds were too flighty when even small disturbances occurred under their roost at night. Shooting the birds during the day was not practical, as they mostly frequent the trees at the foreshore where there is a high public presence.

Further advice was sought from DEC which had been trialling various methods of feeding and trapping to control Corella populations in other localities. The Shire commenced feeding in April 2011. After three to four weeks the Corellas had found the feed and were coming to the trap site regularly. DEC staff undertook the trapping operation during the trial control period, which resulted in the removal of 113 birds from the flock. The

control method as recommended by the DEC has proven to be a suitable method for the control of the corella population.

Proposed action:

Given the success of the feeding and netting operation, it is recommended that this method be continued at Churchill Park and the Foreshore Reserve 38558 if required, to keep the corella numbers in check. It is expected that the Shire will continue the education and awareness of the community and undertake feeding operations, and either the Shire or DEC will undertake the netting operations. As the Corella control program continues, further advice and support will be sought from DEC. The Shire has also commenced the process of obtaining DEC approval for the Shire's own trapping operations. As the numbers of birds are reduced the shooting method may be employed, in controlled locations, to cull the remaining birds.

Exotic Corella Working Group:

Other local governments in the South West region have been having similar problems to Busselton with the Little and Eastern Long Billed Corellas and have formed the Exotic Corella Working group (ECWG). The ECWG has been working with DEC to determine an appropriate combined response to the corella issue.

A recent development in discussions is that DEC have offered to extend their netting operations in the Metropolitan area, to shires in the ECWG. Under this arrangement the Shires would conduct their own community education and awareness raising, and run the feeding operations, and DEC staff would undertake the netting operation. Having a number of South West shires where control work needs to be done means that DEC is likely to be in the South West region more often to undertake netting and it also provides opportunities for cost sharing to cover travel and accommodation costs of the DEC. Maintaining involvement in the activities of the ECWG is recommended for this reason.

Should the availability of DEC staff to undertake the netting operation become limited, it is recommended that Shire staff be trained to undertake the Corella control program and in the techniques used to net and euthanize the birds so that if DEC staff are not available, the program can continue. DEC staff currently involved in the netting operation have indicated they would be prepared to train Shire staff in the netting operation.

Community information:

There will always be a range of views in the community on the control of the corellas. However, it has been determined that the corellas around Busselton are not native to the area, and the nuisance they cause and the threat they pose to other native fauna warrant the implementation of a programme control Little and Eastern Long Billed Corellas. A continued corella control program would therefore also include information for the community on the Shire's website and notices in the Council for Community page of the local newspaper. A basis for the community information is provided below.

Flocks of Little Corella (*Cacatua sanguine gymnopsis*) are also present in Perth but these birds originate from other parts of Australia because they escaped or were released from aviaries and have subsequently bred in the wild. These introduced species have also been confirmed to be present in Busselton. These birds could pose a threat to West Australian subspecies of corella through interbreeding and, in Perth, are the subject of control programs organised by DEC.

Little Corella nest in tree hollows and between 1 and 4 eggs are laid for each breeding pair between July and September. They are social animals and are found in pairs, small flocks, or aggregating in large flocks when roosting. Flock numbers can grow to 1,500 – 60,000. Corellas tend to have traditional roosting sites (usually dense timber), from which they leave to feed in the morning and return at night. The Shire Office carpark contains a number of Eucalypt trees, which are favoured by corellas, and large numbers roost there at night from November to May.

Corellas cause damage to agricultural crops, but also cause damage around settlements and are known to defoliate trees, dig up roots and rhizomes for food on ovals, golf courses, tennis courts, bowling greens and race tracks, chew wiring and other household fittings. They create a further nuisance with their loud calls and faecal contamination of paths, passive recreation areas and outdoor furniture.

A second species of Corella (Eastern Long-billed Corella *Cacatua tenuirostris*) also occurs in the Perth metropolitan area, Rockingham, Mandurah, Bunbury and Busselton. This species causes similar problems and often flocks with Little Corellas, with a greater emphasis on damage to grassed areas where they dig substantial holes in grassed areas.

Information about corellas is also included with this report at Attachment A and B.

In Busselton the most common complaints about the corellas include; defoliation of the Norfolk Island pines on the beachfront, and droppings and general loss of amenity in the outdoor eating area in front of the Beach front cafe.

In summary, the corella species that are building up in numbers and flocking around the Busselton Townsite are Little Corella (*Cacatua sanguine gymnopsis*) and Long-Billed Corella (*Cacatua tenuirostris*). Both are native to south-eastern Australia and thought to be made up from birds previously held in captivity and either escaped or been let free by owners who no longer wanted them, and progeny bred in the wild. They pose an environmental threat to other native birds and animals of the local area by out-competing them for nesting hollows and interbreeding with other West Australian sub-species of corella. Left uncontrolled they will create an increasing public amenity problem, impact on vegetation and have some direct impact on local government infrastructure. Issues of noise pollution

and public health matters arising from faecal contamination of public eating areas will continue and most likely become worse.

CONCLUSION

The trial Corella control program has been useful to determine an effective control method and has reduced the number of corellas significantly. However, it is expected that corella numbers will increase again unless they are kept in check by an ongoing control program. It is therefore recommended that corella control be continued on an as needs basis to keep corella numbers in check. Feeding and netting is the recommended method for control.

Option

The alternative is not to undertake any further control. However, it is expected that if no further measures are taken to control the numbers of Little and Eastern Long-billed Corellas, their numbers will build up again quite quickly and result in the same or worse nuisance levels as experienced in the past.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The appropriate approvals will be sought within 2 months of the Council decision and control activities will occur when and as required. Community information will be reviewed and released within 1 month of the Council resolution.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1110/330 Moved Councillor Reid, seconded Councillor Henley:

That the Council -

- a. Supports continuation of a trapping programme to manage Little and Eastern Long Billed Corella populations and that the appropriate approvals, staff training and assistance be obtained from the Department of Environment and Conservation to implement the control programme.
- b. Supports a community education programme to inform the community on the Corella control program via the Shire's website and Council for Community Notices.
- c. Maintains involvement in the Exotic Corella Working Group to improve availability of Department of Environment and Conservation services and opportunities for Corella control cost sharing with other Shires in the South West Region.

CARRIED 11/0
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13.1 COMMUNITY SPORT & RECREATION FACILITIES FUND - ANNUAL AND FORWARD GRANT ROUND APPLICATIONS - 2012/13 - 2014/15 TRIENNIUM

SUBJECT INDEX:	Leisure Services
STRATEGIC INITIATIVE:	Provide a range of quality leisure, cultural, recreational, and sporting facilities and services
BUSINESS UNIT:	Community Services
SERVICE:	Community Development and Leisure Services
REPORTING OFFICER:	Community Development Coordinator – Jeremy O’Neill
AUTHORISING OFFICER:	Director Community and Commercial Services – Naomi Searle
DATE OF COMPLETION:	15 th June 2015
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	<ol style="list-style-type: none"> 1. Stage 5, Phase 1 –Dunsborough Skate Park Upgrade 2. Stage 5, Phase 2 – Dunsborough Skate Park Upgrade 3. Proposed 5 stage ‘Active Sporting Precinct’ 4. Shire of Busselton Application – Stage 1 and Stage 2 of the proposed 5 stage ‘Active Sporting Precinct’ (Busselton Tennis and Croquet Complex) 5. Shire of Busselton Application – Stage 5 of the 5 stage upgrade to the Dunsborough Playing Fields (Dunsborough Skate Park Upgrade)

PRÉCIS

Each year Local Government Authorities are required to rate and prioritise the Annual and Forward Grant Community Sport and Recreation Facilities Fund (CSRFF) submissions received within their municipality.

The purpose of this report is to meet the CSRFF criteria by outlining the submissions received for projects within the Shire for this current funding round and request that Council rate and ranks the priority of each application prior to forwarding to DSR for final consideration.

BACKGROUND

DSR administers the CSRFF program, with the purpose of providing State Government financial assistance to Local Government Authorities and local community groups (up to one third of the total capital cost), to develop well-planned facilities for sport and recreation.

In order to assist with the evaluation of submissions and to ensure projects are viable and appropriate, DSR has developed "Key Principles of Facility Provision". Accordingly, each submission is to be assessed against those criteria.

Under the provision, Local Government Authorities are required to rate and prioritise local submissions using the following guide;

RATE	DESCRIPTION
A	Well planned and needed by the municipality
B	Well planned and needed by the applicant
C	Needed by the municipality, more planning required
D	Needed by the applicant, more planning required
E	Idea has merit, more preliminary work needed
F	Not recommended

Submissions for the current funding round closed on Friday, 30 September 2011. Following this date, each Local Government Authority is required to assess and prioritise applications before forwarding all documentation to the South West Office of DSR no later than 31 October 2011.

Following receipt by DSR in late October, local applications along with others received throughout the State, will be evaluated and ranked by relevant State Sporting Associations and the CSRFF Assessment Panel, prior to the outcome being announced by the Minister for Sport and Recreation in March 2012. Funds for successful applications will become available in July / August 2012.

There are two different grant categories being applied for in the current round of funding, they are as follows:

Annual Grants

\$50,000–\$166,666 may be allocated to projects with a planning and construction process that will be complete within 12 months. The total project cost for Annual Grants is between \$150,000–\$500,000. Grants given in this category must be claimed in the financial year following the date of approval.

Forward Planning Grants

\$166,667–\$4,000,000 may be allocated to the large scale projects where the total project cost exceeds \$500,000 and may require an implementation period of between one and three years. Grants approved in this category may be allocated in one or a combination of the years in the triennium (2012/13-2014/15).

Two submissions were received for the annual and forward grant round as follows:

1. *Shire of Busselton Forward Planning Grant Application – Stage 1 and Stage 2 of the proposed 5 stage 'Active Sporting Precinct' (Busselton Tennis and Croquet Complex)*

2. *Shire of Busselton Annual Grant Application – Stage 5 of the 5 stage upgrade to the Dunsborough Playing Fields (Dunsborough Skate Park Upgrade)*

CONSULTATION

Consultation has taken place between Officers of the Shire and staff from the South West Office of DSR in regard to the funding submissions received.

The application for Stage 1 and Stage 2 of the proposed 5 stage 'Active Sporting Precinct' (Busselton Tennis and Croquet Complex), the Regional Manager for the Department of Sport and Recreation met with the executive of the Shire of Busselton on several occasions and was a member Tennis Club Relocation Working Group (TCRWG); which was the steering committee for the advancement of this project.

The Busselton Tennis Club determined future needs by forming the Busselton Tennis Club Relocation Working Group (BTCRWG) with representation from the Shire of Busselton that included the Shire President, the Busselton Tennis Club, Tennis West and the South West's Regional Manager for the Department of Sport and Recreation. This included the following methodology:

- The development of Terms of Reference for the BTCRWG
- The inclusion of executive committee members from the Busselton Croquet Club
- Meetings of the BTCRWG to develop the needs assessment and feasibility study scope
- Internal consultation within the club membership to determine future direction
- Circulation and sharing of Information that could be used in the development of an architectural design brief for the development of concept designs and cost estimates for the future 'Busselton Tennis and Croquet Complex'
- Consultation with the project architect to develop preliminary design concepts and financial estimates

The development of the 'Dunsborough Skate Park Upgrade' was initiated by a community petition comprising of 540 signatures. A community working group was formed in December 2010. This group consisted of Shire officers, a number of community members, including students from the Dunsborough Primary School, a representative from Southern Rip (Youth Advisory Council) and a representative from the Dunsborough Police station. Six meetings were conducted with the working group over a nine month period from December 2010 to August 2011. In August 2011, the working

group comprised of key participants through a community consultation process conducted with the architects awarded for the project, Convic Design. These meetings assisted with the development of concept designs and construction estimates.

The development of the project proposal for the 'Busselton Tennis and Croquet Complex' included the following consultation strategies:

- A preliminary meeting with the Busselton Croquet Club;
- Combined user groups meetings with all user of the Churchill Park;
- Shire Councillor workshop on needs assessment for Churchill Park;
- Strategic direction from the Busselton Shire Council as to future planning recommendations for the Busselton Croquet Club.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Under the CSRFF guidelines, the Shire is eligible for up to 1/3 (one third) funding of the total project budget. The State government can however contribute up to a maximum of 2/3 (two thirds) to the total project cost for each project via a combination of funding programs.

Two (2) applications were received for consideration in the current round of funding:

1. *Shire of Busselton Forward Planning Grant Application - Stage 1 and Stage 2 of the proposed 5 stage 'Active Sporting Precinct' (Busselton Tennis and Croquet Complex)*

In June 2011 the Shire of Busselton secured funding from the State Government's Royalties for Region program for the development and construction of Stage 2 Phase 1 of the Busselton Foreshore redevelopment project. \$100,000 of this funding was allocated to the development of preliminary concept designs and cost estimates of the Busselton Tennis and Croquet Complex. In September 2011, Sport Dev Australia Pty Ltd were appointed to develop these concept designs and cost estimates, which formed the basis of the CSRFF grant application (see Attachment 4).

The request from the Shire of Busselton for the Busselton Tennis Club to consider relocation to Barnard Park reserve included an understanding that this would be undertaken at no cost to the Club. Therefore the detailed

design and capital cost of construction of the Busselton Tennis and Croquet Complex will need to be met by the Shire of Busselton using funds raised through funding applications to relevant State and Federal Government agencies and a contribution from its own resources. The Shire of Busselton will endeavour to construct stages 1 and 2 of proposed 5 stage 'Active Sporting Precinct' (Busselton Tennis and Croquet Complex) in a single construction project. This will be subject to the timing and amount of funding acquired for this project.

The Shire of Busselton has submitted an application to the current round of the State Government's Royalties to Regions grant program for 'Stage 2B Phase 2B' of the Busselton Foreshore Redevelopment project. This grant application was for a total of \$9,270,000 for the Inner Core Coastal Defences, Foreshore Promenade / Boardwalk Infrastructure, Nautical Lady Entertainment Park (balance of acquisition) and the Busselton Tennis Club relocation project. As a preliminary estimate, \$2,470,000 was allocated to the Tennis Club relocation project. It should be noted that the Busselton Tennis and Croquet Complex project would be ineligible for CSRFF funding should the Shire be successful in receiving the full budgeted amount of \$2,470,000 applied for as part of the 'Royalties for Regions grant application. The State Government may however contribute up to 2/3 (two thirds) of total project costs through a combination of funding programs (Royalties for Regions and CSRFF).

As the project has now progressed to the concept planning stage, preliminary cost estimates project a total budget of \$3,000,000, which is reflected in the CSRFF application. Under this funding program alone, the Busselton Tennis and Croquet Complex requires a cash commitment from the Shire to the maximum value of two thirds of the total project cost. Grants approved in this category may be allocated in one or a combination of years in the triennium (2012/13 – 2014/15) program. Based on this, it is estimated that \$1,000,000 of Council funding will need to be budgeted for in 2012/13 and \$1,000,000 in the 2013/14 budget.* This is based on the State government only contributing up to a maximum of 1/3 (one third) to the total project cost through the CSRFF funding.

The construction of stages 1 and 2 of proposed 5 stage 'Active Sporting Precinct' (Busselton Tennis and Croquet Complex) is also eligible for retrospective funding through Tennis Australia's 'National Court Rebate Scheme'. The Shire of Busselton can, retrospectively after construction, claim a rebate on facilities developed. This includes a rebate of up to \$6,000 per grass court developed and up to \$18,000 per plexipave court constructed (the full \$18,000 is subject to the plexipave surface being a plexicushion prestige 10 coat system). Tennis Australia's strategy with this scheme is to stimulate progressive facility development in line with the national court surface policy, 'Tennis 2020 – National facility and management framework for Australian tennis'.

2. Shire of Busselton Annual Grant Application – Stage 5 of the 5 stage upgrade to the Dunsborough Playing Fields (Dunsborough Skate Park Upgrade)

The CSRFF annual grant application from the Shire of Busselton for the Dunsborough Skate Park Upgrade requires a cash commitment from the Council to the maximum value of two thirds of the total project cost of \$302,715 to be included in the 2012/13 budget. This cash commitment was provisionally provided in the 2011/12 budget, but is requested to be deferred to the 2012/13 budget to meet the timelines required for the receipt and acquittal of the CSRFF grant funding.

A summary of the financial contributions of the Shire in respect to the capital costs of these two projects, should they proceed as planned with approved CSRFF funding, is as follows:

(i) Dunsborough Skate Park Upgrade	\$201,810
(ii) Busselton Tennis and Croquet Complex	\$2,000,000*

*Subject to final financial cost estimates

STRATEGIC IMPLICATIONS

This matter aligns with the Council's Strategic Plan 2010-2020, and principally with the following Strategic Priority:

- Community and Social Well Being: provide a range of quality leisure, cultural, recreation and sporting facilities and services

OFFICER COMMENT

Shire of Busselton - Stage 1 and Stage 2 of the proposed 5 stage 'Active Sporting Precinct' (Busselton Tennis and Croquet Complex) – Total cost \$3,000,000*

The Shire of Busselton's vision for the redevelopment of Busselton Foreshore is to be "a unique water's edge playground to be enjoyed by all". The scope of this development includes a wider foreshore area outside the Busselton Foreshore Working Group's original development zone that has, for many decades, been used as playing fields and public open space. This includes the location for the proposed Busselton Tennis and Croquet Complex. The increase in capacity that the new location offers all sports identified as part of the proposed 'Active Sporting Precinct' responds to population growth and changes in community demographics in the long term. It will also provide a sustainable and inclusive community facility contributing to the health and well being of Busselton residents as well as to the Shire's aim to be recognised as the "events capital of the Southwest".

This funding application is for detailed design and construction of stage 1 and stage 2 of the proposed 5 stage 'Active Sporting Precinct', which is an

upgrade to Lots 95, 325 and 338 of Barnard Park (Reserve 8485), Busselton (see Attachment 3). The 5 stages proposed are as follows:

- Stage 1 - Development of Tennis and Croquet courts and other playing facilities
- Stage 2 -Development of co-shared club room and other shared facilities such as change rooms, meeting rooms, spectator facilities, servery areas, storage facilities and equipment sheds
- Stage 3 – Relocation of the Busselton Fire and Rescue Service Running track and facilities
- Stage 4 – Development of District Open Space facilities for Cricket and Soccer
- Stage 5 – Development of change rooms, ablutions and facilities for the District Open Space

The Shire of Busselton will endeavour to construct stages 1 and 2 of the Busselton Tennis and Croquet Complex in a single construction project. This will be subject to the funding mix acquired for this project, as identified in financial implications section of this report. Should funding be sourced over a number of financial years construction could be staged as follows:

- Stage 1 - The development of Tennis and Croquet courts base preparation and development, sports lighting, surface development, fencing, and other playing and ancillary items. Stage 1 will provide for 14 x grass tennis courts and 12 x plexipave tennis courts and 2 x grass croquet courts. The 12 x plexipave tennis courts will have sports lighting (as per Australian Standards AS 2560).
- Stage 2 - the development of co-shared club room and other shared facilities such as change rooms, meeting rooms, spectator facilities, servery areas, storage facilities and equipment sheds.

A formal needs assessment was conducted for the detailed design and construction of the Busselton Tennis and Croquet Complex. All studies were assessed with consideration for current and future population projections, as well as local and national participation trends. The Busselton Tennis and Croquet Clubs were audited for facilities, programs and services and 'gaps' in their current provision levels. Consultation was conducted using a variety of approaches with the information obtained providing impetus for the development of the future recommendations. Based on this assessment, the demand for improved and expanded facilities for both tennis and croquet was reinforced, particularly when viewed in the context of population growth, and the aging population profile that Busselton is now demonstrating.

A formal feasibility study was conducted providing a detailed economic and social background enabling the Shire of Busselton to make an informed decision regarding the extent and future growth of tennis and croquet in Busselton, as well as the location, scope and timing of the relocation project. The document focussed on seven (7) areas of investigation:

- Population Profile;
- Participation trends;

- Existing Facilities;
- Community consultation;
- Proposed development;
- Management;
- Financial projections.

The change in location will permit more intensive development of foreshore land at the junction of Queen Street and Marine Terrace for public use and less structured leisure activities including a market promenade, youth community centre and skate park, water play park and adventure playground, performance spaces and potentially commercially operated short stay tourist accommodation. In moving to Barnard Park the Busselton Tennis and Croquet Clubs will become key stakeholders in the proposed Active Sporting Precinct.

The opportunity provided by the associated redevelopment of Busselton's foreshore will bring economic and social benefits to the local community while increasing the economic sustainability of the region and its attractiveness to visitors. It provides the impetus and the opportunity for a move that will allow further expansion in the future. The Busselton Tennis and Croquet Complex, as outlined in this feasibility study, provides the best way forward to meet community needs over the long term.

Under the guidelines for the CSRFF grant funding process, The Shire of Busselton is required to rank, in order of priority, all applications received from within its boundaries.

The Shire of Busselton ranks this application as High, well planned and needed by the Municipality. The regional significance of the 'Busselton Tennis and Croquet Complex' ensures that this application is ranked as the number one priority of the two applications received.

Shire of Busselton - Stage 5 of the 5 stage upgrade to the Dunsborough Playing Fields (Dunsborough Skate Park Upgrade) – Total cost \$302,715

According to the Australian Bureau of Statistics, the Shire of Busselton has an estimated resident population of 31,767, and an average annual growth rate over the past 20 years in excess of 4%, one of the highest sustained growth rates for a regional area in Australia. Approximately, 4, 200 people currently reside in Dunsborough. In addition it is estimated that the population doubles in peak holiday season each year.

In response to this population growth the Shire is in the process of undertaking a five stage infrastructure development project at the 'Dunsborough Playing Fields' recreation precinct. Stages 1 to 4 have been completed, with the construction of Stage 5 being the subject of this application. The 5 stages of this project are as follows:

- Stage 1- a new Southern oval, including a new children's playground, additional car parking and seating and new netball courts;
- Stage 2- a complete re-surfacing upgrade to existing northern oval;
- Stage 3- sports lighting installation for the existing northern oval

- Stage 4 - sports lighting installation for the new Southern oval and
- Stage 5 - upgrade of the Dunsborough Skate Park.

Stage 5, Phase 1 (see Attachment 1) will include the earth, metal, concrete and drainage works to develop extensions to the existing skate area. The Shire of Busselton's Parks and Gardens will provide (out of their 2012/13 operational budget for Dunsborough Playing Fields) initial soft landscaping, safety signage and seating to ensure that the facility is ready for use on construction handover.

Stage 5, Phase 2 (see Attachment 2) includes additional soft and hard landscaping, furniture (including drink fountains), information signage, additional seating and shelters. Phase 2 can be achieved in collaboration with Southern Rip, (the Shire's Youth Advisory Council), the Naturaliste Sportsman's club and members of the Dunsborough skate park working group. It is envisaged youth from Southern Rip will develop a project plan and work with the other groups to raise sufficient funds to purchase and install the remaining infrastructure. It is not anticipated that the Shire will be required to fund this.

The existing Dunsborough skate park facilities were developed by the members of the Dunsborough Community in 2003. The facilities have served their purpose but are now ageing and too rudimentary for the current and future population of Dunsborough and surrounds. Significant community need for the upgrade to these facilities has been demonstrated by a petition and the enthusiasm and commitment of the working group and input into the community consultation processes conducted to date.

The Dunsborough 'playing fields' recreation precinct is the major recreation area in the town and is used frequently by numerous members of the community for various recreational activities such as football, netball, soccer, rugby, softball, tee ball, cricket, skate boarding, BMX, scooter and roller blading.

On 23 March 2011 the Council resolved to provide \$10,000 for the concept design and \$200,000 towards the construction of the Dunsborough Skate Park upgrade in the 2011/12 financial budget. This construction amount now needs to be deferred to the 2012/13 financial budget to meet the requirements of the CRSFF grant funding rounds.

The implementation of stage 5 at the 'Dunsborough Playing Fields' recreation precinct will complete the revitalisation and redevelopment of this area of Dunsborough for existing and future Dunsborough residents and neighbouring communities.

The Stage 5 – 'Upgrade of the Dunsborough Skate Park' aligns with three of the key challenges identified in the SD5 (Strategic Directions for Western Australian Sport and Recreation Industry 2011-15) planning document. The first key challenge Participation; challenge 2b relates to *"be more inclusive of low participation and new populations" (e.g. Youth).*

The youth of Dunsborough have been actively involved from the infancy stages of this project as follows:

1. Initial community consultation with the broader Dunsborough community, including collecting 540 signatures in a petition and letters of support from key stakeholders;
2. Selected members participating in a Dunsborough skate park up-grade working group;
3. Participation in workshops with project designers, Convic, including submission of draft designs at their own time and expense for the preliminary design concepts.

This sense of ownership will see much larger participation and physical activity undertaken by the youth of Dunsborough once the facility has been constructed.

The second key challenge Participation; challenge 3a relates to *“better influence the early childhood agenda to ensure that the importance of ‘play’ and development of fundamental movement skills are embedded as a core component of early childhood development and learning.*

The development of a new multi purpose skate park that provides facilities for skate boarding, BMX, scooter and roller blading will promote ‘play’ and development of fundamental movement skills for the 12-24 age demographic in Dunsborough. The facilities will assist in combating the decline in participation in physical activities due to an increase in the use of home technologies and social isolation.

The third key challenge Places and Spaces, challenge 2 relates to *“fundamental shortcomings in open space quantity, quality and functionality must be urgently resolved.”* When complete the skate park facility will provide a state of the art facility for numerous young people and families in Dunsborough. The provision of a quality purpose built facility provides a space for challenging activities, boosting confidence, skills development and offering a safe environment to ‘hang out’.

The proposed Stage 5 – ‘Upgrade of the Dunsborough Skate Park’ will address the local community needs and help to increase participation in physical activity in Dunsborough. As a result of this, it is recommended that this project be assessed as a 'high' priority and that it be rated as (A) - being well planned and needed by the municipality.

Both applications are well planned and well needed, but due to the regional significance of the ‘Busselton Tennis and Croquet Complex’ this application is ranked as the number two priority of the two applications received.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

DSR, South West Office staff will be advised in writing of the Council’s decision by 31 October 2011 when the full contents of the application are forwarded to the Bunbury regional office.

CONCLUSION

Both submissions received for projects within the Shire for this current funding round have been well planned and are well needed by the Shire of Busselton.

It is recommended the Council prioritise, rank and provide financial support to the submissions received as outlined officer comment and financial implications sections of this report respectively.

Option

1. The Council decide not to support the Shire of Busselton Application – Stage 1 and Stage 2 of the proposed 5 stage ‘Active Sporting Precinct’ (Busselton Tennis and Croquet Complex) at this time.
2. The Council decide not to support the Shire of Busselton Application – Stage 5 of the 5 stage upgrade to the Dunsborough Playing Fields (Dunsborough Skate Park Upgrade) at this time.
3. The Council prioritises the Shire of Busselton Application – Stage 5 of the 5 stage upgrade to the Dunsborough Playing Fields (Dunsborough Skate Park Upgrade) as a priority ‘A’ project, rank number 1 and the Stage 1 and Stage 2 of the proposed 5 stage ‘Active Sporting Precinct’ (Busselton Tennis and Croquet Complex) as priority ‘A’ project, rank number 2.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1110/331 Moved Councillor Reid, seconded Councillor Henley:

That the Council:

1. Submits the Shire of Busselton’s Application – Stage 1 and Stage 2 of the proposed 5 stage ‘Active Sporting Precinct’ (Busselton Tennis and Croquet Complex) to the Department of Sport and Recreation’s Community Sport and Recreation Facilities Fund and rates the application as a priority ‘A’ project, rank number 1;
2. Submits the Shire of Busselton’s Application – Stage 5 of the 5 stage upgrade to the Dunsborough Playing Fields (Dunsborough Skate Park Upgrade) to the Department of Sport and Recreation’s Community Sport and Recreation Facilities Fund and rates the application as a priority ‘A’ project, rank number 2;
3. Allocates a total of \$1,000,000 in 2012/13 and \$1,000,000 in the 2013/14 budgets for the detailed design and construction of stages 1 and 2 of the proposed ‘Active Sporting Precinct’ (Busselton Tennis and Croquet Complex) subject to the Shire receiving funding through the Department of Sport and Recreation’s Forward Planning Grant.

4. Allocates a total of \$201,810 in 2012/13 budget for the detailed design and construction of Stage 5 of the 5 stage upgrade to the Dunsborough Playing Fields (Dunsborough Skate Park Upgrade) subject to the Shire receiving funding through the Department of Sport and Recreation's Annual Planning Grant.

CARRIED 11/0
EN BLOC

15.1 COUNCILLORS' INFORMATION BULLETIN

SUBJECT INDEX:	Councillors' Information
STRATEGIC INITIATIVE:	Provide Effective Communication
BUSINESS UNIT:	CEO's Office
SERVICE:	Council and Councillor Services
REPORTING OFFICER:	Various
AUTHORISING OFFICER:	Chief Executive Officer – Mike Archer
DATE OF COMPLETION:	13 October 2011
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	1 – Ministerial Circular 2 – ALGA Constitutional Recognition of Local Government PDS1 - Report Detailing Planning Applications Received PDS2 - Report Detailing Planning Applications Determined PDS3 – Graph Showing Number of Building Licence Applications Received for 2011 PDS4 – Graph Showing Progressive Total Value Of Building Construction Approved in the Shire for the Year With Historical Comparisons PDS5 – Graph Showing Progressive Total Number of Building Licences Issued for Buildings and Dwellings for the Year With Historical Comparisons. PDS6 – Graph Showing Number of Building Applications by Month for Quarter PDS7 – Advice of review of report " <i>first in, first served</i> " policy of allocating water entitlements for consumptive use from unallocated water resources released by the Minister for Water. PDS8 -Report Detailing Current Status of State Administrative Tribunal Appeals With the Shire

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

15.1.1 Ministerial Circular – Increased Monetary thresholds of Major Land Transactions

A circular has been received from the Minister for Local Government regarding the Local Government (Functions and General) Regulations 1996, being amended to increase the minimum value defining a major land transaction and a major trading undertaking. (Attachment 1)

15.1.2 Coastal Protection Grants 2011/12

Correspondence has been received from the Department of Transport Coastal Infrastructure Division regarding the Coastal Protection Grants 2011/12.

The grant round was very competitive, with 23 applications requesting a total of over \$2.05 million in funding. The amount available was significantly less, \$1.08 million, so some eligible applications missed out on funding

Out of 16 funded projects, the Shire was successful with 2 projects to the value of \$170K. Those projects were for the cost effective alternative to a full reconstruction of the rock seawall and a valuable study to inform future coastal management for Locke Estate.

15.1.3 Correspondence from the Water Corporation

A letter has been received from the Regional Manager of the Water Corporation.

“The Water Corporation has recently undertaken a program to educate customers about obtaining appropriate building approvals, when building structures on their property.

Recently, our Building Services Coordinator Carol Davis visited representatives from your Shire’s Building Services Section, to discuss communicating building approvals messages to customers, and I would like to thank you for the support of your staff in this program.

We have provided flyers and brochures on Water Corporation building approval processes to your Shire representatives, and I would like to again thank you for the support of your people in this campaign.”

15.1.4 Seniors’ Housing Centre

Information has been provided to the Shire from the Department of Commerce regarding the new Seniors’ Housing Centre located in the Perth CBD. A copy of this information pack will be in the Councillors’ office, or

alternatively you can download it from the Seniors' Housing Centre website at www.commerce.wa.gov.au/seniorshousing.

15.1.5 Constitutional Recognition of Local Government

Frequently Asked Questions relating to the Constitutional Recognition of Local Government has been received from the Australian Local Government Association and is attached for your information. (Attachment 2)

15.1.6 Planning & Development Services Statistics

Planning Applications

Attachment PDS1 is a report detailing all Planning Applications received by the Shire between 15 September and 30 September, 2011. Eighteen formal applications were received during this period.

Attachment PDS2 is a report detailing all Planning Applications determined by the Shire between 15 September and 30 September. A total of thirty four applications (including subdivision referrals) were determined by the Shire during this period with all approved / supported.

Planning Application Summary for September, 2011

The total number of development and subdivision applications received for the month is thirty six.

The total Estimated Cost of Development for applications received in September is \$4,640 690.

A total of fifty three applications were determined for the month, of which 95% of applications not requiring formal advertising were determined within 60 days and 67% of applications requiring formal advertising determined within 90 days.

Outstanding development applications currently stands at forty nine, however only twenty three of the outstanding applications are within the Shire's control and able to be processed.

Planning Application Summary for September Quarter

On average, thirty six development applications were received per month and forty two development applications were determined per month.

92% of applications not requiring formal advertising were determined within 60 days and 71% of applications requiring formal advertising were determined within 90 days. 80% of subdivision referrals were completed within 42 days.

Building Applications September, 2011

Attachment PDS3 is a graph showing the number of Building Licence applications received for 2011. The total number of Building Licence Applications for September, 2011 was 113 and had an estimated cost of \$12,568,140.

Attachment PDS4 is a graph showing the progressive total value of building construction approved in the Shire for the year with historical comparisons.

Attachment PDS5 is a graph showing the progressive total number of building licences issued for Buildings and Dwellings for the year with historical comparisons.

Building Application Summary for September Quarter

Attachment PDS6 is a graph outlining the number of Building applications by month. The quarter total of 314 applications consists of:

Dwellings:	95
Class 10 Buildings:	145
Swimming Pools:	16
Signs:	10
Demolition:	13
Strata:	1
Dwelling Additions:	28

The total value of applications for the quarter is \$39,171,237

15.1.7 Correspondence

Attachment PDS7 is a copy of WALGA's *Infopage* advising that the Minister for Water has released, for public comment, a discussion paper to inform his review into the Department of Water's "first in, first served" policy of allocating water entitlements for consumptive use from unallocated water resources across the state.

The review is part of the State Government water reform that examines alternatives to the current policy. The review focuses, in particular, on what are appropriate mechanisms for the Government in prioritising access to water.

The discussion paper has been released for public comment and downloads of the paper are available on the Department of Water's website. WALGA has asked for feedback on the discussion paper by submission of comments.

15.1.8 State Administrative Tribunal (SAT) Appeals

Attachment PDS8 is a list showing the current status of State Administrative Tribunal Appeals involving the Shire of Busselton as at 30 September, 2011.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1110/332 Moved Councillor Reid, seconded Councillor Henley:

That Items 15.1.1, 15.1.2, 15.1.3, 15.1.4, 15.1.5, 15.1.6, 15.1.7 and 15.1.8 of the Councillors' Information Bulletin are noted.

CARRIED 11/0
EN BLOC

ITEMS CONSIDERED BY SEPARATE RESOLUTION

At this juncture, in accordance with Clause 5.6 (3)(a) & (b) of the Standing Orders, those items requiring an Absolute Majority or in which Councillors had declared Financial, Proximity or Impartiality Interests were considered.

10. REPORTS OF COMMITTEES**10.1 FINANCE COMMITTEE RECOMMENDATION - LIST OF PAYMENTS MADE - AUGUST 2011**

This Item was considered earlier in the meeting as part of the Adoption by Exception Resolution of Council. ([C1110/324, page 5](#))

10.2 FINANCE COMMITTEE RECOMMENDATION - FINANCIAL ACTIVITY STATEMENTS - PERIOD ENDING 31 AUGUST 2011

This Item was considered earlier in the meeting as part of the Adoption by Exception Resolution of Council. ([C1110/325, page 10](#))

10.3 FINANCE COMMITTEE RECOMMENDATION - PROPOSED REALLOCATION OF SPONSORSHIPS AND DONATIONS DELEGATION

SUBJECT INDEX:	Authorised Delegation of Power/Authority
STRATEGIC INITIATIVE:	Be a responsible, accountable local government
BUSINESS UNIT:	Governance
SERVICE:	Council and Councillor Services
REPORTING OFFICER:	Manager, Governance Services - Lynley Rich
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
DATE OF COMPLETION:	26 October 2011
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENT(S):	Current Delegation to Finance Committee and Proposed Delegation to Chief Executive Officer

PRÉCIS

Having reviewed and considered a significant number of minor sponsorship applications (up to \$500) at its meeting on 6 October, 2011, the Finance Committee recommended that the allocation process should be undertaken by the Chief Executive Officer to ensure a more timely process.

BACKGROUND

As part of the Council's new three-tiered funding system, at its meeting on 22 June, 2010 the Council delegated to the Finance Committee the responsibility to consider and determine applications for up to \$500.

CONSULTATION

This proposal was also discussed with the members of the Policy and Legislation Committee, as the Committee responsible for delegations, prior to consideration by the Finance Committee. Support was indicated for the proposal.

STATUTORY ENVIRONMENT

Section 5.42 of the *Local Government Act 1995* provides the Council with the ability to delegate powers and duties to its CEO.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

No implications for the proposed change of delegation. All decisions must still be made in accordance with the adopted budget.

STRATEGIC IMPLICATIONS

Delegations enable officers to carry out some of the powers and duties of the local government (the Council) which reduces the volume of matters being referred to Council or a Committee for a decision. This can effectively reduce the turn around time for some matters.

OFFICER COMMENT

Council resolved in April 2010 as part of a move towards a tiered system of funding:

That the existing Small Local Project Funding by Councillors be discontinued and that a separate sponsorship and Donations Fund limited to \$25,000 be established. Individual payments from this fund are not to exceed \$500. The Finance Committee will be delegated authority by the Council to determine the allocations of sponsorship and donations from the Fund. The Fund will be administered by staff who will make a recommendation to the Finance Committee on a monthly basis.

The tiered funding system was finalised by Council at its meeting on 23 March 2011 and the Finance Committee was provided with the delegated authority to administer the small allocations on 22 June, 2011. It is now recommended by the Committee that this delegation is revoked to enable a more timely turn around of sponsorship applications by the CEO within established guidelines (which formed part of the three-tiered funding decision).

The Committee felt that the decision about the allocation of funds up to \$500 could be made by the CEO under delegation, and did not need to be considered by the Committee. However, the allocation of funds below \$500 is still to be reported back to the Committee at their monthly meeting.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Any delegation change will be effective immediately the Council's decision is made.

COUNCIL DECISION / COMMITTEE RECOMMENDATION

ABSOLUTE MAJORITY REQUIRED

C1110/333 Moved Councillor Henley, seconded Councillor Bleechmore:

That the Council:

1. Revokes the delegation to the Finance Committee to determine the allocation of donations and sponsorships from the fund established for this purpose in accordance with the Council's tiered funding scheme.
2. Delegates authority to the Chief Executive Officer to determine the allocation of donations and sponsorships from the fund established for this purpose in accordance with the Council's tiered funding scheme, subject to individual payments from the fund not exceeding \$500.
3. Notes that a report on applications considered and determined by the CEO will be provided to the Finance Committee via its information bulletin.

CARRIED 11/0
BY ABSOLUTE MAJORITY

11. PLANNING AND DEVELOPMENT SERVICES REPORT**11.1 AMENDMENT NO. 163 PROPOSED REZONING OF A PORTION OF LOT 22 CAVES ROAD, WILYABRUP FROM 'VITICULTURE/TOURISM' TO 'CONSERVATION' - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL**

This Item was considered earlier in the meeting as part of the Adoption by Exception Resolution of Council. ([C1110/326, page 17](#))

11.2 BUILDING CONTROL REFORM - IMPLICATIONS FOR THE SHIRE, RANGE OF SERVICES TO BE OFFERED, SETTING OF CHARGES AND ESTABLISHMENT OF DELEGATIONS AND AUTHORISATIONS

SUBJECT INDEX:	Building Enquiries/Codes, Property, regulations
STRATEGIC INITIATIVE:	Strategic Priority 8 – Provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district
BUSINESS UNIT:	Development Services
SERVICE:	Building Services
REPORTING OFFICER:	Building Services Coordinator – Rocco Guzzomi
AUTHORISING OFFICER:	A/Director Planning and Development Services – Paul Needham
DATE OF COMPLETION:	1 January 2012
VOTING REQUIREMENT:	Absolute majority required
ATTACHMENT(S):	Attachment A: Summary of key elements of the new system

PRÉCIS

A new building control system is about to come into effect in Western Australia. This will introduce private sector competition for some building control functions, but local governments will continue to play the key role. This report summarises the changes, their implications and seeks the Council's endorsement for the Shire's proposed approach to implementing the new system.

BACKGROUND

On 1 January 2012 the new *Building Act 2011* and related legislation will begin operation. This introduces a number of changes to the system of building control in Western Australia. The most important change is the introduction of private sector competition for a limited range of building control functions. Local governments, however, will continue to play the key role.

Staff have undertaken the necessary work over the last few months to ensure that this Shire is prepared for, and able to manage a smooth

transition to, the modified system. To support that, the Council is asked to endorse the setting of charges and establishment of delegations and authorisations to enable staff to implement the new legislation (and to also revoke existing, soon to be redundant, delegations).

There are a number of options available to local governments in terms of the range of building control services that they choose to offer. It is proposed that this Shire initially offer essentially the same services as we are required to offer under the existing legislation, but with scope for that to be reviewed over time.

The specific proposals set out in this report follow an informal briefing provided to Councillors on 14 September 2011, and are consistent with the direction proposed at that time.

The key elements of the new legislation, especially as they relate to the recommendations of this report, are summarised in Attachment A.

CONSULTATION

Officers undertook informal consultation with staff at the Building Commission and some other local governments, as well as some members of the local building industry, as part of developing our proposed approach to implementing the new legislation. Officers are also planning an information session for the local building industry regarding the Shire's approach to implementing the new legislation, seeking industry feedback and with the aim of maintaining our generally good and productive working relationship.

STATUTORY ENVIRONMENT

In accordance with the requirements of the local government legislation, public notice regarding the proposed setting of charges will be published in accordance with the requirements of the local government legislation. Charges not set by statute will be subject of GST.

The new legislation gives powers to the Council to delegate its powers to issue building permits, occupancy permits, building approval certificates and/or demolition permits to a person employed by the local government. The new legislation also gives the Council power to authorise a person employed by the local government to undertake monitoring and enforcement functions. Unfortunately, the legislation does not give the Council the power to delegate to, or authorise, the CEO, and for the CEO to then sub-delegate or sub-authorise, those powers as appropriate. The CEO can, however, establish management directions in relation to those delegations and authorisations.

Where the Shire is offering design compliance, construction compliance and/or building compliance services, a delegation or authorisation from the Council is not necessary. Instead, Shire officers are able to undertake those

duties provided they are registered as building surveyors by the Building Commission pursuant to the *Building Services (Registration Act) 2011*.

If the value of the specific building surveying services offered by the Shire that are subject of private sector competition exceeds \$5,000,000 annually, those services would represent a 'major trading undertaking' pursuant to the local government legislation. That would mean the Shire would need to prepare and advertise a business plan in relation to those services. The value of those services will not exceed \$5,000,000 when the new legislation comes into effect, and is highly unlikely to do so at any time in the future.

POLICY IMPLICATIONS

There are no policy implications of the recommendations of this report.

FINANCIAL IMPLICATIONS

The building services operations of the Shire have returned an annual surplus of around \$200,000 over the last few years. The new building control system will affect the nature and level of fees income to be received by the Shire, as the well as the nature and scale of the Shire's building control workload. On the basis of the recommended approach to implementing the new legislation, our best estimate of the likely financial implications of the new legislation is that there will be around a 3% reduction in fees income (equivalent to around \$20,000), with a reduction in workload of a similar scale. The nature of the changes, though, is such that the financial and workload implications are quite uncertain, will take some time to become clear and will evolve over time.

STRATEGIC IMPLICATIONS

The recommendations of this reflect Strategic Priority 8 of the Shire's 2010-2020 Strategic Plan, which is to – 'Provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district'.

OFFICER COMMENT

The Shire has a building services team that currently provides a complete range of building control services. The team is also capable of providing a complete range of services when the new system comes into effect.

It is important that the building industry in this Shire is able to access building surveying services on an ongoing and uninterrupted basis. It is also considered that the public and many smaller builders will expect to be able to lodge plans with the Shire, pay a fee, and obtain the necessary approvals to undertake building work.

It is not clear what private sector capacity or willingness to offer services will exist in this Shire and the broader region. It is expected that the

situation, in terms of both private sector and local government capacities, will be quite dynamic over the next 1-3 years.

There is potential to offer services in relation to building work outside this Shire and/or to compete with private sector suppliers operating in this Shire. That may create opportunities for the Shire to earn additional income and assist in ensuring the ongoing sustainability of our building services team.

Being able to offer a full suite of building surveying services will also enable the Shire to further the integration of our building control, town planning, environmental health and other development/land-use regulation functions. That integration is helpful to the public and developers, but it also creates opportunities for greater efficiency in our own operations. For instance, basic planning assessments are currently undertaken by our building surveyors – meaning that the same person is undertaking both the building and planning assessments.

The proposed approach to implementing the new legislation may be summarised as follows –

1. That the Shire provides the full range of certification services in relation to building work undertaken in this Shire.
2. That the Shire undertake ongoing discussions with adjoining local governments and major builders regarding the potential for the Shire to offer services in relation to building work outside the local government district and offer those services where mutual benefit can be demonstrated and subject of further Council briefing and/or formal consideration as appropriate.
3. That charges for services not set by statute be set at a level equivalent to the current building fees, and generally as hourly rates where there are no current equivalents.
4. That a review of the approach be undertaken through the Policy and Legislation Committee within one year of the new legislation coming into effect.

CONCLUSION

The proposed approach is seen as providing for the successful implementation of the new legislation in this Shire.

Option

There are a number of options available to the Council, including restricting the range of building control services to be offered, or setting fees at higher or lower levels.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The recommendations of this report will be implemented as soon as the new legislation comes into effect, which is expected to be on 1 January 2012.

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

C1110/334 Moved Councillor McCallum, seconded Councillor Tuffin:

That the Council, effective as of the date when the *Building Act 2011* and related legislation comes into force (expected to occur 1 January 2012) –

1. Endorses the following general approach with respect to implementation of the legislation –
 - a) That the Shire provides the full range of certification services in relation to building work undertaken in this Shire;
 - b) That the Shire undertake ongoing discussions with adjoining local governments and major builders regarding the potential for the Shire to offer services in relation to building work outside the local government district and offer those services where mutual benefit can be demonstrated and subject of further Council briefing and/or formal consideration as appropriate; and
 - c) That a review of the approach be undertaken through the Policy and Legislation Committee within one year of the new legislation coming into effect;
2. Revokes the following existing delegations pursuant to the *Local Government (Miscellaneous Provisions) Act 1960* and *Strata Titles Act 1985* –
 - a) MP2 (issue of Section 401 notices);
 - b) MP3 (removal of neglected and dilapidated buildings);
 - c) MP4 (unlawful works);
 - d) MP5 (dangerous buildings);
 - e) MP6 (certificates of classification);
 - f) MP7 (licence to deposit materials on or excavate adjacent to a street);
 - g) MP8 (demolition licences);
 - h) MP9 (issue of building licences and R-Code variations);
 - i) MP10 (swimming pool safety fence exemptions); and

- j) STRATA1 (issue of strata title certificates);
3. Pursuant to Sections 96 and 127 of the *Building Act 2011*, and subject to the direction of the Chief Executive Officer and any policies of the Council, grants delegated authority to and authorises the persons holding the following positions to undertake the powers of the local government pursuant to that act -
- a) Chief Executive Officer
 - b) Director Planning and Development Services;
 - c) Manager Development Services;
 - d) Building Services Coordinator;
 - e) Senior Building Surveyor;
 - f) Building Surveyor(s); and
 - g) Building Administration Officer(s); and
4. Pursuant to Section 6.16 of the Local Government Act 1995, establishes the following charges (all of which will be subject to GST) -
- a) Certificate of design compliance for class 2-9 buildings – 0.09% of the GST inclusive estimated value of works, with a minimum of \$165;
 - b) Certificate of construction compliance where the Shire provided the certificate of design compliance – nil, unless repeat inspections or similar are required, where additional work will be charged at \$75 per hour, with a minimum of \$165;
 - c) Certificate of construction compliance where the Shire did not provide the certificate of design compliance – \$75 per hour, with a minimum of \$390;
 - d) Certificate of building compliance for authorised buildings, or unauthorised class 2-9 buildings - \$75 per hour, with a minimum of \$165;
 - e) Certificate of building compliance for unauthorised class 1-10 buildings – 0.26% of the GST inclusive estimated current value of the works;

- f) Certificates of design, construction or building compliance in relation to building work outside the local government district - \$75 per hour, including travel time, with a minimum of \$315; and
- g) Provision of written advice confirming compliance with town planning and environmental health matters, and/or advising of town planning and environmental requirements, prior to submission of an application for issue of building permit - \$150.

CARRIED 11/0
BY ABSOLUTE MAJORITY

11.3 AMENDMENT NO 164: REZONING OF LOT 6 FORREST BEACH ROAD, WONNERUP FROM 'AGRICULTURE' TO 'CONSERVATION' AND 'RESERVE FOR RECREATION' - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL

This Item was considered earlier in the meeting as part of the Adoption by Exception resolution of Council. ([C1110/327, page 22](#))

11.4 AMENDMENT 162: INTRODUCTION OF A SPECIAL PROVISION AREA TO PERMIT AN UNRESTRICTED LENGTH OF STAY FOR SEVEN STRATA TOURIST LOTS WITHIN LOT 2 BUSSELL HIGHWAY, BROADWATER - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL

This Item was considered earlier in the meeting as part of the Adoption by Exception resolution of Council. ([C1110/328, page 27](#))

11.5 FOOD ACT 2008 - APPOINTMENT OF AUTHORISED AND DESIGNATED OFFICERS

SUBJECT INDEX:	Public Health Operations
STRATEGIC PRIORITY:	3. Provide for a Healthy Community
BUSINESS UNIT:	Environmental Services
SERVICE:	Health Services
REPORTING OFFICER:	Senior Environmental Health Officer - Peter Horgan
AUTHORISING OFFICER:	Acting Director Planning and Development - Paul Needham
DATE OF COMPLETION:	26 November 2011
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENT(S):	Nil

PRÉCIS

Council as the enforcement agency, has a responsibility to ensure that the functions conferred or imposed on an enforcement agency are administered appropriately and that authorised and designated officers are appointed for

the purpose of enforcing the *Food Act 2008* (the Act). This report recommends that authority to administer the functions conferred or imposed under the Act and to appoint authorised and designated officers be delegated to the Chief Executive Officer.

BACKGROUND

The *Food Act 2008* (the Act), was proclaimed and came into operation on 23 October 2009. The Act and subsidiary legislation (*Food Regulations 2009*) consolidates and replaces all food safety legislation previously made under the *Health Act 1911*.

The Act is now the principal piece of legislation regulating the sale of food in Western Australia and is consistent with food safety legislation in other Australian states and territories.

The Act adopts the Australian New Zealand Food Standards Code (the Code). This means that all food safety requirements are contained within the Code. The advantage of this approach is that it provides for national consistency. For example, a food business in WA is required to meet the same requirements as a food business operating anywhere else in Australia.

The Western Australian Department of Health have the prime responsibility for overseeing the administration of the Act, while local government is responsible for carrying out the bulk of the enforcement and administration activities and for making arrangements to implement this new legislative framework. The ongoing implementation of the Act requires the appointment of authorised officers to administer the various responsibilities under the Act.

CONSULTATION

Information has been obtained from other Local Government authorities about their approaches to the implementation of the Act, and guidance has also been provided by the Department of Health on the appointment of authorising officers.

STATUTORY ENVIRONMENT

Repealed Legislation:

To coincide with to the introduction of the *Food Act 2008*, the *Health Act 1911* was amended and the following subsidiary legislation previously made under the *Health Act 1911* repealed:

1. *Health (Food Hygiene) Regulations 1993*
2. *Health (ANZ Food Standards Code Adoption) Regulations 1986*
3. *Health (Food Standards) (Administration) Regulations 1986*
4. *Health (Meat Hygiene) Regulations 2001*
5. *Health (Pet Meat) Regulations 1990*

Appointment of Authorised Officers:

The former provisions of the *Health Act 1911*, directed Local Government to appoint Environmental Health Officers to administer food safety legislation. With the amendment of the *Health Act 1911*, 'Authorised Officers' may now be appointed by Council under the Section 122 of the Act.

The Act also requires 'authorised officer' to be designated under section 126, for various functions relating to the issuing of infringement notices. A designated authorised officer appointed for the purpose of issuing an infringement notice under section 126 (2) is not eligible to be a designated officer under sections 126 (3), (6) or (7) which relates to extending the period for payment or withdrawal of an infringement notice.

The Act also provides the power for Council to delegate various functions including the appointment of authorised officers. This report recommends that Council delegate its authority to the Chief Executive Officer to appoint authorised officers under section 122 and to designate authorised officers for the purposes of section 126.

POLICY IMPLICATIONS

Prosecutions Policy No 015:

In May 2010, Council resolved (resolution C1005/149) to adopt Prosecutions Policy 015. The aim of Prosecution Policy 015 is to ensure decisions in relation to infringements and prosecutions are based on appropriate criteria which are accountable, transparent, open, fair and capable of being applied consistently across the broad range of circumstances to which the laws apply. Prosecutions Policy No 015 applies to infringements and prosecutions for offences under the acts, regulations and local laws administered by the Shire and as the circumstances allow, to all appeals out of proceedings in respect of any such prosecutions.

Compliance and Enforcement Policy:

To assist local government with the implementation of the Act, the Department of Health (DOH) has provided guidelines for the development of Compliance and Enforcement Policy. The DOH guidelines are based on the National Enforcement Guideline (October 2009) prepared by the Food Regulation Standing Committee Implementation Sub-Committee Enforcement Policy Working Group.

The DOH encourages local government when developing Compliance and Enforcement Policy, to utilise the DOH Compliance and Enforcement Policy framework to ensure national consistency in the enforcement of the Act, Regulations and Food Standards Code. A draft Compliance and Enforcement Policy is currently being developed for review by Councils Policy and Legislation committee and may be the subject of a future report to Council.

FINANCIAL IMPLICATIONS

There are no financial implications of the recommendation of this report.

STRATEGIC IMPLICATIONS

This proposal is considered relevant to the Shire's Strategic Plan 2010-2020 Key Result Area of Community and Social Wellbeing, specifically Strategic Priority 3 which is to 'Provide for a healthy community'.

OFFICER COMMENT

The Act includes provisions for the appointment of authorised officers and the designation of authorised officers for various functions relating to infringement notices. The appropriate authorisation is necessary for Environmental Health Officers to perform their duties under the Act.

Council has an obligation to administer a food business surveillance program under the Act, and has a responsibility to report annually to the Department of Health on the performance of the surveillance program and various other matters including the procedure adopted by Council for appointment of authorised officers.

CONCLUSION

The delegation of the Council's power to make appointments under the Act will ensure an efficient administrative procedure for the authorisation and designation of appropriate personnel.

Option

Council may choose not to delegate authority to the Chief Executive Officer to appoint Authorised and Designated Officers under the *Food Act 2008*. If Council decides not to delegate its authority, then on each occasion an appointment becomes necessary Council will be required to approve the appointment.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will be, in part, effective immediately upon Council endorsement. Sub-delegation from the CEO to other officers will be established within one month of a Council resolution consistent with the officer recommendation.

COUNCIL DECISION / OFFICER RECOMMENDATION

ABSOLUTE MAJORITY REQUIRED

C1110/335 Moved Councillor McCallum, seconded Councillor Tarbotton:

That the Council:

delegates to the Chief Executive Officer pursuant to section 118 of the *Food Act 2008*, authority to exercise functions in relation to the administration of

the *Food Act 2008*, to appoint Authorised Officer(s) under section 122 and to designate authorised officers for the purposes of section 126.

CARRIED 11/0
BY ABSOLUTE MAJORITY

11.6 AMENDMENT 177 - REZONING LOT 111 DUNN BAY ROAD, DUNSBOROUGH FROM 'TOURIST' TO 'SPECIAL PURPOSE' WITH SPECIAL PROVISIONS (NO. 46) - CONSIDERATION FOR INITIATION

SUBJECT INDEX:	Town Planning Scheme Amendments
APPLICATION NUMBER:	AMD20/177
STRATEGIC INITIATIVE:	8: Provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district.
BUSINESS UNIT:	Planning and Development Services
SERVICE:	Strategic Planning
REPORTING OFFICER:	Strategic Planning Officer – Dane Gaunt
AUTHORISING OFFICER:	A/Director, Planning and Development Services – Paul Needham
DATE OF COMPLETION:	26 November 2011
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	The proposed rezoning to “Special Purpose” will facilitate the development of commercial uses not associated with tourism and no more than 2/3 of tourist accommodation being utilised on an “unrestricted length of stay” basis.
LOT SIZE:	1012m ²
ZONE:	Tourist
POLICIES:	<ol style="list-style-type: none"> 1. <i>State Planning Policy No.3 Urban Growth and Settlement/Liveable Neighbourhoods</i> 2. <i>Local Tourism Planning Strategy</i> 3. <i>Local Commercial Planning Strategy</i>
ATTACHMENT(S):	<ol style="list-style-type: none"> A. Location Plan B. Site Aerial Photograph

PRÉCIS

The Council is asked to consider Amendment 177 (‘the proposal’) to District Town Planning Scheme No. 20 (‘the Scheme’) for adoption for advertising.

The intent of the proposal is to facilitate a range of uses permissible under the “Business Zone” as well the consideration of no more than two thirds of the tourist accommodation units to be utilised on an “unrestricted length of stay” basis (i.e. greater than 3 months by any person in any 12 month period).

It is recommended that the amendment be adopted by the Council for advertising.

PROPOSAL / BACKGROUND

The Council is asked to consider Scheme Amendment relating to Lot 111 Dunn Bay Road, Dunsborough.

The subject land is located on the north western side of Dunn Bay Road between the Dunsborough Town Centre and Dunn Bay foreshore and consists of an area of 1012m².

The subject land was previously occupied by a single storey residential dwelling which was recently demolished to make way for a mixed use development consisting of two commercial units, a town house and 8 short stay (tourist) accommodation units (completed April 2011).

Proposal

The amendment proposes to rezone the subject land from "Tourism" to "Special Purpose" with additional special provisions being applied. The rezoning will allow for a range of commercial uses permissible under the "Business" zone as well as the use of no more than two thirds of the accommodation units approved on site on an "unrestricted length of stay basis".

A number of special provisions are proposed to control the future land uses permitted on the site.

No.	Particulars of Land	Zone	Special Provisions
46.	Lot 111 Dunn Bay Road, Dunsborough	Special Purpose	1. Land-use permissibility shall be the same as for the 'Building' Zone, other than as varied by point 2 below. 2. The Council may approve use of up to, but no more than, two-thirds of the accommodation units on-site with no restriction on length of stay. The remainder of the accommodation units shall be subject of length of stay restrictions limiting occupancy to no more than 3 months in any 12 month period. For the purpose of this provision 'accommodation unit' means any tourist accommodation unit, grouped dwelling unit, multiple dwelling

			or other unit used for overnight accommodation or as a place of residence.
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STATEMENT OF IMPACT

The proponent has submitted the proposal for the Council's consideration and it is therefore assumed that they consider that the proposal would have a net benefit in terms of their objectives for their land.

CONSULTATION

There is no requirement under the *Planning and Development Act 2005* to advertise a proposed scheme amendment prior to it being initiated by the Council. Accordingly, no advertising has occurred to date.

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

STATUTORY ENVIRONMENT

The Planning and Development Act 2005 outlines the relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been taken into account in preparing this amendment.

POLICY IMPLICATIONS

The key State and local policies most relevant to the proposal are set out in *State Planning Policy No.3 - Urban Growth and Settlement, Liveable Neighbourhoods*, the *Shire of Busselton Local Tourism Planning Strategy*, and the *Shire of Busselton Local Commercial Planning Strategy*.

State Planning Policy No.3 - Urban Growth and Settlement/Liveable Neighbourhoods

One of the main features of the Urban Growth and Settlement Policy is to create sustainable communities with access for all to employment, health, education, shops, leisure and community facilities by locating new development so as to be accessible by foot, bicycle or public transport rather than having to depend on access by car. Whilst a number of car parking bays are currently provided it is considered that due to the proximity of the site to the Dunsborough Town Centre and surrounding public open space the primary mode of transport would be pedestrian.

This principle is also reinforced within *Liveable Neighbourhoods* which advances the principle of an urban structure of walkable neighbourhoods clustered to form towns of compatibly mixed uses in order to reduce car dependence for access to employment, retail and community facilities.

Local Tourism Planning Strategy

The Shire of Busselton *Local Tourism Planning Strategy (LTPS)*, adopted by the Council for final approval in 2010 (and referred to the Western Australian Planning Commission for final endorsement), has been formulated to provide a long term strategic land use planning direction for tourism development.

The LTPS, which addresses current and future tourist demand, identifies strategic- and non-strategic tourism sites (both of which are to be retained for tourism purposes), tourism precincts and provides associated policy direction. The LTPS also list a number of sites where alternative zonings may be considered.

The subject site is identified as one of the sites where alternative zonings could be considered. The alternative zoning recommended for this site is "Special Purpose" allowing for a range of uses permissible under the "Business" zone but with special provisions requiring that a minimum component of short stay tourist accommodation is provided before "unrestricted length of stay" units are considered. Importantly, the LTPS is silent on the extent of the minimum component of short stay to be provided on site before unrestricted length of stay units can be approved.

Local Commercial Planning Strategy

The Local Commercial Planning Strategy (LCPS) was adopted by the Council for final approval in November 2010 and referred to the Western Australian Planning Commission for final endorsement.

The LCPS was prepared to provide a long term strategic land use planning framework to coordinate adequate provision and location of retail, commercial and industrial development opportunities in the Shire. The LCPS forms an important component of the Shire's Local Planning Strategy and will underpin revised zoning proposals for a new Local Planning Scheme.

The LCPS recommends the rezoning of land along Dunn Bay Road to allow for higher intensity, mixed use development. Furthermore the LCPS encourages the development of larger format retail and office/consulting uses towards the western end of Dunn Bay Road.

It is considered that the proposed amendment is consistent with the intent of the LCPS and will aid in the facilitation of the recommended commercial uses for this area.

FINANCIAL IMPLICATIONS

There are no direct financial implications of the recommendations of this report.

STRATEGIC IMPLICATIONS

The staff recommendation is consistent with Strategic Priority 8 of the Shire's 2010-20 Strategic Plan, which is to - *'provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district'*.

OFFICER COMMENT

The range of development options sought by the proponent cannot be accommodated under the current statutory planning framework. The strategic planning framework that is currently being formulated does, however, support the objectives of the draft Scheme amendment.

The Shire has embarked on a comprehensive Local Planning Scheme review process, which includes the formulation of a Local Tourism Planning Strategy (LTPS) and Local Commercial Planning Strategy (LCPS) that is to inform the Scheme and underpin proposals for future amendments to the Scheme.

This proposal is considered to have merit as an opportunity to support the recent and appropriate redevelopment of the site, given its proximity to the Dunsborough town centre and is consistent with the intent as identified for the site in the Local Commercial and Tourism Planning Strategies. Therefore the rezoning of the site to "Special Purpose – Mixed Use" with special provisions is considered to be an outcome consistent with the desired future land use pattern within the Dunn Bay Road precinct.

Through discussions with the applicant and the assessment of the completed development it was agreed that the three ground floor tourist accommodation units should be preserved for short stay tourism accommodation. This equates to a two thirds/one thirds division between those units required to be retained within the letting pool for short stay accommodation (or let privately for this purpose) and those units which could ostensibly be occupied on a longer stay basis. The proposed provisions do not, however, nominate particular units, allowing the pattern of use to evolve over time without need for a town planning scheme amendment.

CONCLUSION

The draft amendment is considered to be consistent with the developing strategic planning framework for this area of Busselton.

It is therefore recommended that the Council initiate the draft amendment for public consultation subject to the modification of the special provisions.

Option

Should the Council not support the officer’s recommendation, the Council could consider the following alternative options.

Option1

Resolve to decline the request to initiate the Amendment, maintaining the status quo. It should be noted that under the relevant legislation there is no right of appeal against a Council decision not to initiate an amendment.

Option 2

A third option would be for the rezoning to be supported subject to modifications.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will involve the provision of advice of the Council resolution to the applicant and this will occur within one month of the resolution.

OFFICER RECOMMENDATION

That the Council resolves as follows -

1. In pursuance of Part V of the *Planning and Development Act 2005* adopts draft Amendment 168 to the Shire of Busselton District Town Planning Scheme No. 20 for public advertising, which proposes to:
 - (a) Rezone Lot 111 from ‘Tourist’ to ‘Special Purpose – Mixed use’.
 - (b) Amending the Scheme Text to insert the following particulars into Schedule 7 – Special Provision Areas of the Scheme as follows:

No.	Particulars of Land	Zone	Special Provisions
46.	Lot 111 Dunn Bay Road, Dunsborough	Special Purpose	1. Land-use permissibility shall be the same as for the ‘Building’ Zone, other than as varied by point 2 below. 2. The Council may approve use of up to, but no more than, two-thirds of the accommodation units on-site

			<p>with no restriction on length of stay. The remainder of the accommodation units shall be subject of length of stay restrictions limiting occupancy to no more than 3 months in any 12 month period.</p> <p>For the purpose of this provision 'accommodation unit' means any tourist accommodation unit, grouped dwelling unit, multiple dwelling or other unit used for overnight accommodation or as a place of residence.</p>
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Note: Officers provided Councillors with an updated recommendation which sought to amend a typographical error, where the word "Building" in point 1 of the Special Provisions is replaced with the word "Business".

COUNCIL DECISION

C1110/336 Moved Councillor Henley, seconded Councillor Binks:

That the Council resolves as follows -

1. In pursuance of Part V of the *Planning and Development Act 2005* adopts draft Amendment 168 to the Shire of Busselton District Town Planning Scheme No. 20 for public advertising, which proposes to:
 - (a) Rezone Lot 111 from 'Tourist' to 'Special Purpose – Mixed use'.
 - (b) Amending the Scheme Text to insert the following particulars into Schedule 7 – Special Provision Areas of the Scheme as follows:

No.	Particulars of Land	Zone	Special Provisions
46.	Lot 111 Dunn Bay Road, Dunsborough	Special Purpose	<ol style="list-style-type: none"> 1. Land-use permissibility shall be the same as for the 'Business' Zone, other than as varied by point 2 below. 2. The Council may approve use of up to, but no more than, two-thirds of the accommodation units on-site

			<p>with no restriction on length of stay. The remainder of the accommodation units shall be subject of length of stay restrictions limiting occupancy to no more than 3 months in any 12 month period.</p> <p>For the purpose of this provision 'accommodation unit' means any tourist accommodation unit, grouped dwelling unit, multiple dwelling or other unit used for overnight accommodation or as a place of residence.</p>
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CARRIED 11/0

11.7 AMENDMENT 168 - REZONING PORTION LOT 6 & 8 CAUSEWAY ROAD, BUSSELTON FROM 'TOURIST' TO 'RESIDENTIAL R40/R60 AND RECREATION RESERVE' - CONSIDERATION FOR FINAL APPROVAL

This Item was considered earlier in the meeting as part of the Adoption by Exception resolution of Council. ([C1110/329, page 34](#))

11.8 CONTROL OF THE LITTLE AND EASTERN LONG-BILLED CORELLA IN THE SHIRE OF BUSSELTON

This Item was considered earlier in the meeting as part of the Adoption by Exception resolution of Council. ([C1110/330, page 43](#))

12. ENGINEERING AND WORKS SERVICES REPORT

Nil

13. COMMUNITY AND COMMERCIAL SERVICES REPORT

13.1 COMMUNITY SPORT & RECREATION FACILITIES FUND - ANNUAL AND FORWARD GRANT ROUND APPLICATIONS - 2012/13 - 2014/15 TRIENNIUM

This Item was considered earlier in the meeting as part of the Adoption by Exception resolution of Council. ([C1110/331, page 54](#))

14. FINANCE AND CORPORATE SERVICES REPORT

Nil

15. CHIEF EXECUTIVE OFFICERS REPORT**15.1 COUNCILLORS' INFORMATION BULLETIN**

This Item was considered earlier in the meeting as part of the Adoption by Exception resolution of Council. ([C1110/332, page 60](#))

16. MOTIONS of which previous notice has been given

Nil

17. CONFIDENTIAL REPORTS

Nil

18. QUESTIONS FROM MEMBERS

Nil

19. PUBLIC QUESTION TIME

Nil

20. NEXT MEETING

9 November 2011

21. CLOSURE

The meeting closed at 5.40pm

THESE MINUTES CONSISTING OF PAGES 1 TO 83 WERE CONFIRMED AS A TRUE

AND CORRECT RECORD ON _____

DATE: _____

PRESIDING MEMBER: _____