

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

CITY OF BUSSELTON

MINUTES OF A SPECIAL MEETING OF ELECTORS HELD ON 1 MARCH 2016

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CITY OF BUSSELTON**MINUTES OF A SPECIAL MEETING OF ELECTORS HELD IN MEETING ROOM TWO/THREE,
COMMUNITY RESOURCE CENTRE, 21 CAMMILLERI STREET, BUSSELTON, ON TUESDAY, 1 MARCH,
2016 AT 5.30PM.**

The Presiding Member declared the meeting open at 5.30pm.

1. ATTENDANCE, APOLOGIES & LEAVE OF ABSENCE

Presiding Member:	Cr Grant Henley	Mayor
Members:	Cr Coralie Tarbotton Cr Ross Paine Cr Terry Best Cr John McCallum Cr Rob Bennett Cr Paul Carter Cr Robert Reekie Cr Gordon Bleechmore	
Officers:	Mr Mike Archer Mr Matthew Smith Mr Martyn Glover Mr Anthony Rowe Mr Matthew Riordan Mrs Helen Foulds Miss Lynley Rich Miss Hayley Barge	Chief Executive Officer Director, Finance and Corporate Services Acting Director, Planning and Development Services Manager, Development Services and Policy Manager, Strategic Planning and Development Senior Strategic Planner Manager, Governance Services Administration Officer, Governance
Apologies:	Nil	
Leave of Absence:	Nil	
Media:	1	
Electors:	Ms Anne Ryan Ms Judy Clarke Mr Ray Mountney Mr Ian Stubbs Mrs Rhonda Stubbs Mr Donald Henderson Mr Jeff Falconer Mr David Rickard Mr Fred Passmore Mrs Vicki Passmore Mr Rob Tognela	

2. BUSINESS OF THE MEETING

2.1 MEETING OPENING AND INTRODUCTION BY THE MAYOR

The Mayor welcomed all in attendance to the Special Meeting of Electors to discuss the Local Planning Scheme No 21 – Omnibus Amendment 1.

2.2 GENERAL BUSINESS TO BE CONSIDERED AS PRESENTED BY MEETING ATTENDEES / QUESTIONS AND MOTIONS FROM MEETING ATTENDEES

A number of questions were received in writing from Ms Anne Ryan and responded to prior to the meeting, as provided below.

1. **Specifically (and individually) what are the ‘fix ups’ you refer to in the text anomalies that occurred during the conversion of District Town Planning scheme No. 20;**

Answer: There are two provisions of the Scheme where text anomalies have been ‘fixed up’ and they are as follows:

1.1 Modification of clause 4.4.2, which can be found on page 13 of the Amendment document (‘fix up’ text in bold):

“4A. Modifying clause 4.4.2

With the conversion of Scheme 20 to Scheme 21, a small number of drafting errors or anomalies have occurred with the transfer to the new Scheme layout. Clause 4.4.2 for example, previously being the “Uses Not Listed” clause of Scheme No. 20, should refer to “*objectives **and policies** of the particular zone...*” at sub-clauses (a) and (c), as per sub-clause (b). The clause requires amendment to correct the omission of the words “*and policies*” (see resolution 4.1).”

1.2 Anomalies within Clause 4.5 – ‘Exceptions to the Zoning Table’, also on page 13 of the Amendment document:

“4B. Anomalies within Clause 4.5 – ‘Exceptions to the Zoning Table’

In the attempt to keep Scheme 21 policy neutral and compliant with the Model Scheme Text, clause 4.5 accumulated into one location a number of exemptions to the zoning table that were previously scattered throughout Scheme 20. The resulting complexity of the clause has led to the incorrect drafting of the provision relating to the use of rural/primary production lots in the Rural Residential zone for Intensive Agriculture. Clause 85(22) of Scheme 20 stated:

“(22) Notwithstanding any other provisions of this Scheme, “Intensive Agriculture” may be permitted within the “Rural Residential” Zone only where such lots are greater than 20 hectares or are identified for rural or primary production on an approved Subdivision or Development Guide Plan with such application being subject to advertising procedures consistent with Clause 12 of the Scheme.”

Whilst clause 4.5.2 of the current Scheme No. 21 covers the use of Rural Residential lots greater than 20 hectares, including for Intensive Agriculture purposes, rural/primary production lots have not been included (these lots can consist of an area as small as 13 hectares).

Clause 4.5.3(d) of Scheme No. 21 states:

“4.5.3 Notwithstanding the provisions of clause 4.3 and Table 1, the following development shall be deemed an “X” use –

...

(d) *within the Rural Residential zone on any lot that is not over 20 hectares in area and/or is identified for rural or primary production on a development guide plan, intensive agriculture;...*

This clause effectively states that Intensive Agriculture is not permitted on any Rural Residential lot less than 20 hectares and/or identified as a rural/primary production lot. This is clearly not the intention of the clause it is attempting to replicate. It is also important to note that Intensive Agriculture is already an 'X' use in the Rural Residential zone by virtue of the zoning table. It is therefore recommended that sub-clause (d) is deleted and replaced by a new clause within 4.5 that accurately reflects the provision from the previous scheme. This new clause is proposed to be inserted at 4.5.4(h) (see resolutions 4.2a and b).

Also within the "Exceptions to the zoning table" clause, sub-clause 4.5.4(a) references uses that should be deemed a "D" use and subject to advertising specifically on land with an R-Code of R30 or greater. These uses include multiple dwellings (i.e. flats, apartments or similar, as opposed to units, villas, townhouses or similar), the permissibility associated with which was modified as part of Omnibus 6 to the previous Town Planning Scheme (Amendment 125, Gazetted 20 August 2013) from a use requiring advertising ('A' use) to a discretionary use ('D' use) in the Residential zone. Given that the recent change to the Scheme attempted to remove the requirement for advertising in the Residential zone this clause should also be amended to correspond to that modification. As such reference to multiple dwellings should be removed from sub-clause 4.5.4(a) (see resolution 4.2c)."

2. What updates generally.

Answer: Reference to "update the Scheme generally" relates to the following proposed modifications (includes page numbers in Amendment document):

- 4C. Modifications to the Zoning Table (relaxing the permissibility of 'Community Centre' in the 'Business' zone) – page 14;
- 4D. Deleting reference to multiple dwellings on R30 coded land (clause 5.3.1(g), in response to changes with the Residential Design Codes) – page 14;
- 4H. Deleting clause relating to Fire Management in Rural Areas (now superseded by the City's policy on bushfire protection and the *Planning and Development (Local Planning Schemes) Amendment Regulations 2015*) – page 18; and
- 4J. Amending Schedule 1 (specifically in relation to the definition for 'Health Care Professional') – page 19.

3. Why is it deemed necessary to prohibit drive through facilities in the business zone? Surely good planning is based on a case-by-case basis and should be approved on its merits. Drive through facilities may not necessarily cause issues with traffic congestion. One submission did bring up the point that this is restriction of business.

Answer: Potential issues with drive-through facilities have been identified in the Busselton and Dunsborough CBDs, with the Busselton City Centre Conceptual Plan and Dunsborough Town Centre Conceptual Plan identifying a need for more 'pedestrian-friendly', less vehicle-dependent and traffic cluttered approach. The City's Strategic documents (Local Commercial Planning Strategy and Local Cultural Planning Strategy) generally encourage mixed-use, vibrant, diverse, walkable town centres (with cultural, social, recreational and residential uses as well as core commercial/business), while encouraging focus on vehicle decongestion, trading vitality, laneway activation and connectivity, pedestrian linkages, safety, shopping experience in the CBDs.

The proposed prohibition on drive-throughs in the CBD is considered to assist in reaching these goals for the City and Town Centres.

It should be noted that opportunities still exist in the 'Industrial', 'Restricted Business' and 'Tourist' zones, depending on the type of use proposing to incorporate a 'drive-through facility' as incidental to that use.

4. Why is the increase (or relaxation) in heights for buildings in the CBD's of Busselton and Dunsborough deemed necessary – especially to R80 and the introduction of R-AC3.

Answer: The proposed R80 density increase in Dunsborough will continue to be controlled by clause 5.8 of the Scheme, in other words, retaining the two-storey and three-storey height controls. The Amendment proposes to alter clause 5.8 by increasing the permitted height from 7.5 metres to 9 metres and from 10 metres to 12 metres, depending on the distance of a property from the Mean High Water Mark. This is discussed within the Amendment document at section "4F. Increasing the general permitted height for buildings" (page 16).

The proposed relaxation of the height controls as it relates to the CBDs proposes to align with the Residential Design Codes (R-Codes) for the areas identified with the proposed R-AC3 coding. These height controls are summarised in the table below (adapted from Table 4 of the R-Codes):

Maximum height (metres):	
Top of external wall	18m
Top of external wall (concealed roof)	19m
Top of pitched roof	21m
Wall built up to boundary (max.)	7m
Wall built up to boundary (average)	6m

The draft 'Local Planning Strategy' identifies the importance of the expansion of the Dunsborough settlement to:

- *accommodate desirable population growth,*
- *further establish and continue to support and maintain a thriving local community,*
- *enable the timely provision of necessary public and community utilities, services, facilities and infrastructure;*
- *develop and promote/generate residential quality of life, local employment, and tourism-related, agricultural/horticultural, 'creative industry' and other business (etc) development opportunities.*

Given the constraints of the Dunsborough Town Centre, it is important to foster the ability for development to take place in a way that supports the economic growth of the Town, that is the ability to develop quality mixed use development.

5. Why is it necessary to extend the town boundary now and not await infill (if this Omnibus Amendment were to pass) in say 10 years time.

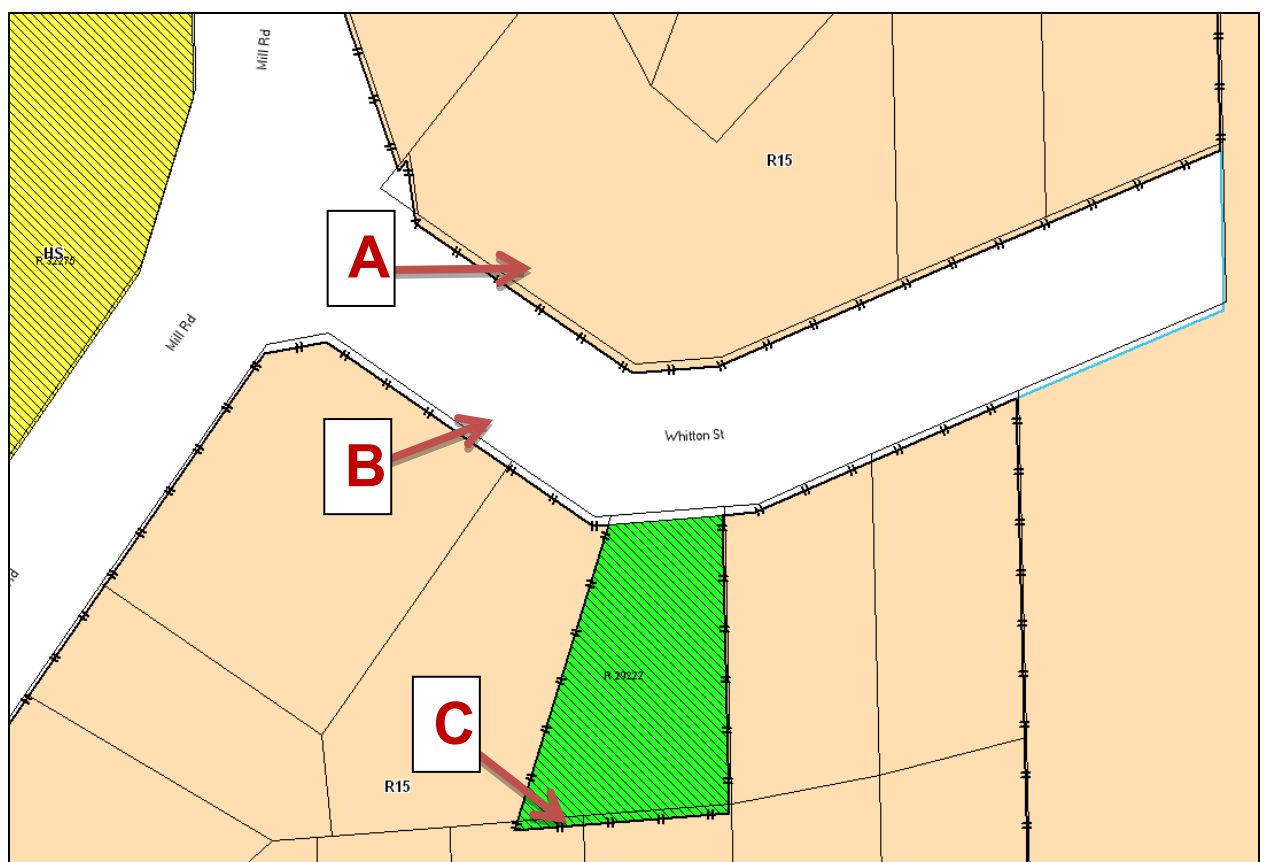
Answer: It is good strategic planning practice to prepare in advance for development before it happens in consideration of anticipated growth and endorsed City Strategies.

6. What is the rationale for now allowing up to 100% of sites for permanent occupancy in caravan parks and park home parks in the residential zone, ie what strategy or consultative feedback has been received by Council to justify this change.

Answer: This was an initiative that was put out for public consultation as part of the Omnibus Amendment. The basis behind this is to allow these uses where they are not primarily intended for short stay tourism use, typically they may be aged housing units offering a lower cost alternative for accommodation. There was no response to this issue during the consultation period. Consequently the City believes the Community supports the proposal.

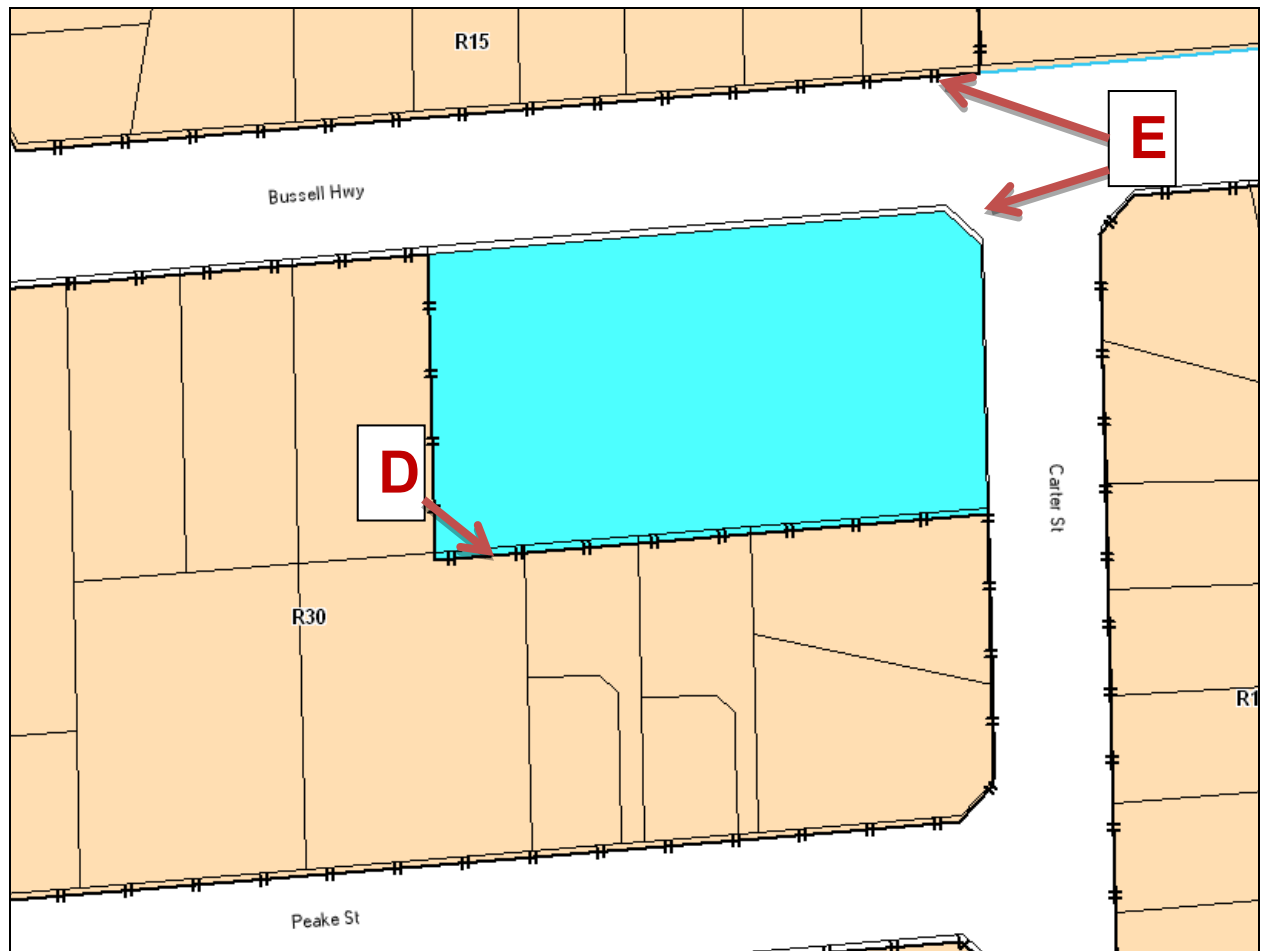
7. What “slivers” of incorrect zonings are you referring to and on what maps. Why are they incorrect.

Answer: The “slivers” have occurred as a result of the digitising of the Scheme maps. This has provided the ability for the practitioner to zoom into very small detail, which identifies anomalies between the original hard copy and the new digitalised model. There are approximately 8000 of these slivers that have been identified on the zoning maps. Whilst this does not affect the administration of the Scheme over the individual parcels of land, the Amendment seeks to correct the anomalies and provide clarity for all affected landholdings. A typical example of this is in the area of Whitton Street, West Busselton, near to the Busselton Hospital (image below). Here you can see that the cadastre layer has shifted from the zoning layer, having the effect of a portion of the road reserve as having ‘Residential’ zone (labelled “A”), properties on the southern side of Whitton Street as having a strip of ‘no zone’ (labelled “B”), and the Recreation Reserve spilling over onto the properties to the south (labelled “C”).



A little further south of here is the West Busselton shopping centre at the corner of Bussell Highway and Carter Street. Again, this effect can be seen, most notably where the ‘Business’

zone spills over onto the 'Residential' zoned properties to the south (labelled "D"). The 'no zone' which should cover the road reserves also does not line up correctly (labelled "E").



In each case the clear intent of the Scheme mapping is maintained, the lot's zoning is not changing, just the boundary has slightly moved with the updated cadastre.

This method for correcting the maps has been supported by the Department of Planning. In future we will be seeking an alternative and more efficient way of ensuring the mapping is accurate, that will avoid the need for a full Scheme Amendment process.

8. What zoning errors and historic zonings are now redundant (further in the document you state some examples, but obviously not all examples are listed).

Answer: The zoning errors and historic zonings have been individually and specifically identified within the Amendment, within the table commencing on page 21 and with individual Scheme Amendment Maps at page 49. In total there are 47 zoning errors and historic zonings proposed to be corrected. The explanation for each individual rezoning is listed within the table.

9. If, in the Strategic Plan, it states "3.3 A community where local business is supported" does the need for 5.14 Home Business have restrictions put on it? And more importantly, who will police this clause?

Answer: The Local Planning Scheme, inclusive of the Omnibus has provision for different types of business, which supports the City's Strategic Plan. These different types of businesses need to be managed with respect to adjoining land uses. Consequently there is a need for restrictions. The use class Home Business is policed under the provisions of the Local Planning Scheme.

- 10. There appears to be a number of mapping errors and in particular (as an example, but not limited to) the map (which have no numbers) referring to Lot 101 Eagle Cr, Lot 102 Fern Road, Eagle Bay. Could you please advise what this means as I understand a resident from Eagle Bay called and enquired with planning staff and he was advised it looked like an error. In particular I refer to the portion of land on the right hand side which under "existing zoning" is zoned recreation and on the "proposed zoning" appears to be residential and has a lot number.**

Answer: At least two discussions have taken place with two different residents of Eagle Bay with regard to this particular proposed rezoning. The requirement for Scheme Amendment Maps is to identify the "Existing Zoning", showing the Scheme as it currently stands. A second map is provided, titled "Proposed Zoning" which identifies *only* what is proposed to be modified. In this instance, the map relating to these properties shows strips of 'Residential R5' zone over Lot 100 Caladenia Close, Lot 101 Eagle Crescent and Lot 102 Fern Road, Eagle Bay where an error in the mapping had previously occurred. The explanation for this rezoning is as follows:

LPS Map Sheet No.	Address	Details -The proposed change	Explanation – Why is the modification required
6	Lot 102 (23) Fern Road, Lot 101 (6) Eagle Crescent and Lot 100 (3) Caladenia Close, Eagle Bay	Rezone portions of the lots from 'Public Purpose' Reserve to 'Residential R5' (resolution 5.24)	A portion of these lots were zoned within DTSP20 as 'Public Purpose' Reserve and then within LSP21 became no zone in error. It is unclear why they had been in part reserved for Public Purpose. It is likely that the land was zoned due to a drafting error.

In response to your query, there is no error on the Scheme map. The reserve to the east of Fern Road is not coloured as 'Residential', but it is white, indicating that there is no proposed rezoning of that land. There is no proposal to rezone Reserved land in this area.

- 11. Could you also advise what is the relevance of the "Advertising Scheme Maps" and why this is separate to the 154 page Omnibus Document.**

Answer: The Department of Planning advised that this was the most appropriate way to advertise the Scheme maps as they are large in size (originally size A1) and it was impractical to include them within the Amendment document.

A number of questions were raised by electors at the meeting which were responded to by the Mayor or officers.

Ms Anne Ryan

Ms Ryan asked if Councillors were aware of what an Omnibus Amendment is.

Response, Mayor Henley

The Mayor responded on his own behalf - yes.

Ms Anne Ryan

Ms Ryan asked why the advertising of the Omnibus Amendment occurred in November and December 2015 when it had been considered by Council on 28 August, 2015.

Response, Mayor Henley

The Mayor advised that the advertising period was deliberately chosen at that specific time to capture the most feedback.

Ms Anne Ryan

Ms Ryan asked why the City's Strategic Plan does not include reference to Omnibus Amendments.

Response, Chief Executive Officer

The CEO advised that the Strategic Plan does not include specific reference to all of the City's planning instruments.

Ms Anne Ryan

Ms Ryan contended that the proposed zoning maps were incorrect.

Response, A/Director, Planning and Development Services

The A/Director, Planning and Development Services advised that the proposed maps with colour were the only ones proposed to be changed.

Ms Anne Ryan identified her intention to propose a motion for the meeting's consideration.

MOTION

Moved Ms Ryan, seconded Ms Clarke:

That the Omnibus Amendment be refused by Council and any amendments to the Town Plan be made individually. Further, that formal consultation with the community is undertaken on each planning item prior to its adoption by Council.

LOST

During debate on the motion and at its conclusion, electors were able to raise questions which were responded to by the Mayor and officers.

Mr Ian Stubbs

Mr Stubbs asked if the proposed Omnibus Amendment was only to rectify anomalies or were other matters included.

Response, Mayor Henley

The Mayor advised that there were other matters included.

Mr Ian Stubbs

Mr Stubbs asked if the use of an Omnibus Amendment was standard industry practice or if this was unusual.

Response, Mayor Henley

The Mayor advised that Omnibus Amendments are standardly used to amend local government town planning schemes.

Mr Ian Stubbs

Mr Stubbs asked how many submissions were received and what were the main issues.

Response, Mayor Henley

The Mayor advised that there were 67 submissions received.

Response, Manager, Strategic Planning and Development

The Manager, Strategic Planning and Development confirmed the number of submissions at 67, broadly consisting of 19 submissions of specific or general support, 24 of specific or general objection, 15 with specific or general comments, 7 raising specific or general concerns and 2 requests for inclusion of a property in the expanded A74 and/or R80 areas.

Mr Ray Mountney

Mr Mountney asked if the proposed Omnibus Amendment would cause any change to the current zoning of his land.

Response, Manager, Strategic Planning and Development

The Manager, Strategic Planning and Development confirmed that the zoning of the land referred to by Mr Mountney would remain as it currently is.

Ms Anne Ryan

Ms Ryan asked what the signs placed on specific properties to advise of the proposed amendment actually said.

Response, Senior Strategic Planner

The Senior Strategic Planner advised that the signs included details of the Omnibus Amendment generally and details of the aspect affecting that parcel of land specifically.

Ms Judy Clarke

Ms Clarke asked why there were submissions missing. Ms Clarke sought detail on the whereabouts of a submission from Alistair Jackson.

Response, Manager, Strategic Planning and Development

The Manager, Strategic Planning and Development confirmed that Mr Jackson's submission was included in the published schedule of submissions.

Ms Anne Ryan

Ms Ryan asked why the local planning strategy was being referred to as the draft local planning strategy. She sought information as to the status of the local planning strategy.

Response, Manager, Strategic Planning and Development

The Manager, Strategic Planning and Development confirmed that the draft local planning strategy is in the process of being advertised for final approval.

Ms Judy Clarke

Ms Clarke asked if there would be other Omnibus Amendments being progressed by other local governments, particularly coastal Councils.

Response, Mayor Henley

The Mayor advised that this information should be obtained from the Department of Planning. However, the Mayor advised that it would be likely as there are nearly 140 local governments and Omnibus Amendments are a frequently used method to amend local government town planning schemes.

Ms Anne Ryan

Ms Ryan asked why the Omnibus Amendment maps show a change to the line around the jetty.

Response, Manager, Strategic Planning and Development

The Manager, Strategic Planning and Development advised that this related to the Busselton Jetty being included in the boundaries of the local government and the scheme being updated to reflect the boundary as the low water mark.

The following questions were taken on notice.**Ms Judy Clarke**

Ms Clarke asked if officers could explain why documents relating to the Town Planning Scheme and items specifically relating to Wonnerup provided on the Department of Planning and the City of Busselton website in Intramaps were different.

Response, Mayor Henley

The Mayor advised that the question would be taken on notice.

Ms Judy Clarke

Ms Clarke stated that the new groyne configuration for Port Geographe does not seem to be on the website. She asked if the proposed cadastral changes for the Port Geographe development area are included in the Omnibus Amendment and who was going to take responsibility for the loss of land?

Response, Mayor Henley

The Mayor advised that the website matter would be taken on notice and requested a response relating to the cadastral matter from the Director, Finance and Corporate Services.

Response, Director, Finance and Corporate Services

The Director, Finance and Corporate Services advised that cadastral changes have nothing to do with the Omnibus Amendment. He explained that the Omnibus Amendment changes the boundary of the scheme from the high water mark to the low water mark. These are not static lines and can change. They have been depicted at a particular point in time, however, that depiction has no bearing on the actual boundary which changes from time to time based on coastal movements. This also has no bearing on the State's coastal management obligations at Port Geopraphe.

Ms Judy Clarke

Ms Clarke asked if the submissions for the Omnibus Amendment and the Wonnerup Reserves Coastal Management Plan could be checked as submissions closed on the same day and it was possible a submission on one had gone in with the other submissions on the other topic.

Response, Mayor Henley

The Mayor advised that this could be checked.

Mr David Rickard

Mr David Rickard sought more information in relation to the matter raised by Ms Clarke as he identified there to be some confusion and a perception in the community that the lines depicted in the scheme become the limits of the City and therefore have an impact on the Department of Transport's responsibilities.

Response, Mayor Henley

The Mayor advised that the Wonnerup Residents' Association had been provided with correspondence fully explaining this matter, however, the matter could be taken on notice and more information provided after the meeting.

Response, Director, Finance and Corporate Services

The Director, Finance and Corporate Services provided further clarification in relation to this matter, including the fact that the area of the Department of Transport's responsibility is fixed primarily by an approval issued by the Minister for the Environment and also by various legal agreements. The scheme amendment will have no bearing on that. The Director advised that he would be available after the meeting for further discussion if required.

3. CLOSURE

The meeting was closed at 6.37pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 12 WERE CONFIRMED AS A TRUE AND CORRECT

RECORD ON _____

DATE: _____

CHAIRMAN: _____