



ITEMS FOR DEBATE – COUNCIL MEETING 24 AUGUST 2021

ADOPTION BY EXCEPTION RESOLUTION

RECOMMENDATION

That the Committee Recommendations for items 12.1 and 12.2 and the Officer Recommendation for item 17.1 be adopted en bloc:

- 12.1 Finance Committee – 11/8/2021 - LIST OF PAYMENTS MADE - JUNE 2021
- 12.2 Finance Committee – 11/8/2021 – FINANCIAL ACTIVITY STATEMENTS – YEAR TO DATE AS AT 30 JUNE 2021
- 17.1 COUNCILLORS' INFORMATION BULLETIN

ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION (WITHOUT DEBATE)

Item No.	Item Title	Reason
14.1	RFT 13/21 TURF MAINTENANCE SERVICES AWARD OF TENDER	Disclosure of Interest (financial) – Cr Carter

ITEMS FOR DEBATE

Item 13.1	BUSHFIRE REVIEW – CONSULTATION AND NEXT STEPS	Pulled by Cr Cox <i>Disclosure of Interest – Cr Hick (Impartiality)</i>	Page 63
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ALTERNATIVE RECOMMENDATION

That the Council:

1. Endorses the following approach to the next stages of development of a new bushfire notice for the City:
 - (a) Face to face meetings with key stakeholders including community groups, the Bush Fire Advisory Committee, and bushfire consultants;
 - (b) Engage external specialist advice from a suitably qualified and experienced consultant to assist with the development of an alternative 'APZ standard or similar' with less amenity, environmental and financial **impacts** than the standard detailed in the first draft notice, whilst still achieving meaningful bushfire safety benefits and which is broadly consistent with community values (the external consultant should be involved in at least some of the meetings referred to above);
 - (c) Confirm that it does not intend to introduce boundary firebreak requirements in Rural-Residential areas where they are not currently required **or apply any changes to existing, endorsed APZ requirements**; and
 - (d) Taking into consideration feedback from key stakeholders, specialist advice and the results of the earlier consultation process (conducted in April and May 2021), develop a second draft notice for consultation, to be presented to the Council in late 2021.
2. Foreshadows the following subsequent steps, should the Council adopt a second draft notice in late 2021:
 - (a) In early 2022, carry out a further round of community consultation and a series of face to face and online information sessions on the second draft notice; and
 - (b) In the first half of 2022, considers the second draft notice, in light of submissions made following the consultation process referred to in (a) above, with a view to *potentially* adopting a new notice to come into effect for the 2022/2023 fire season; and
3. Endorses advocacy with the State Government to address the following key concerns:
 - (a) Review of the bushfire prone area mapping standard to avoid situations where neighbouring properties are subject to significantly different controls, despite having very similar levels of exposure to bushfire risk;
 - (b) Introduction of simplified and standardised approaches to planning and building regulation in bushfire prone locations within urban areas;

- (c) Identifying that the 'APZ Standard' set out in current State planning policy documents is not consistent with community values, and needs to be reconsidered; and
- (d) Identifying that achieving consistency between planning and building control regulation and ongoing compliance through bushfire notices requires proactive State leadership.

REASONS FOR AMENDMENT / ALTERNATIVE

The first draft of the Revised Bushfire Notice was released for community consultation in April 2021. There was an overwhelming response to the survey from the community. Of the 1501 written submissions received from the community, 606 (40%) of respondents expressed concerns about the removal and/or pruning of trees and other vegetation or bush. Further analysis of the community feedback indicated broad objection to any proposed changes to APZ (Asset Protection Zones) in Rural and Rural-Residential areas.

It is widely agreed that Rural-Residential areas would be the most adversely affected by any retrospective implementation of increased Asset Protection Zones. Any increase to the APZ in these areas would potentially result in massive destruction to natural vegetation, wildlife habitat and visual amenity. Our unique natural environment is what draws many people to move to this area and the community have clearly demonstrated that they have no desire to alter and remove the vegetation on properties that have been granted building permits and development approvals. Properties located in rural residential areas that comply with existing local Bushfire Management Plans, should not be required to change their APZ regardless of what an external consultant may or may not advise.

In this report staff have demonstrated they have listened to the community regarding boundary firebreaks in Rural-Residential areas. If we are deeply committed to Community Engagement, then we need to listen to the voice of the community which has overwhelmingly indicated that are not supportive of any changes to existing, endorsed Asset Protection Zones in Rural Residential areas.

OFFICER COMMENT

If the Council is not prepared to consider changes to the 'APZ' requirements set out in the current bushfire notice, it is questionable whether the City should continue the bushfire notice review project at all at this stage, as there would be little of substance left to review (Parts 1 (b) and (c) of the alternative recommendation also look to be at odds with each other). It is considered that, if that is the case, it may be more appropriate for the Council to –

1. Note the outcomes of the earlier consultation process;
2. Resolve to not proceed with a review of the notice at this time (some direction on when the matter might be looked at again may also be appropriate – as this is not a matter that can reasonably be deferred indefinitely); and
3. Endorse advocacy with the State as set out in part 3 of the officer recommendations.

City officers, however, remain of the view that work on the review should continue. The key reasons for that are related to the potential reputational, financial, environmental and other risks associated with the current notice, in particular –

1. The City is responsible for implementation of town planning and building control laws and policies that assume ongoing vegetation and other bushfire risk management around

houses and other development will be achieved through the City's bushfire notice. The current notice, however, does not actually provide for that.

2. The requirements of the current notice are not always clearly described or precise. It is therefore often not clear what actually needs to be done to comply with the notice, creating significant uncertainty for the City and landowners.
3. The current notice contains some provisions which 'recommend' vegetation management in some contexts but does not require it. That places landowners in a situation where vegetation management is 'recommended', but exemptions from the need to gain environmental or planning approvals that may apply if the vegetation management (clearing, pruning etc.) was 'required' do not actually apply;
4. The current notice requires or recommends management of 'low-threat vegetation', such as reticulated gardens, which were excluded from the first draft notice. It is envisaged such vegetation would also be excluded from any other future draft notice too. That means that in 'urban bushfire prone' settings especially, a new notice has significant potential to reduce the extent to which vegetation needs to be managed to comply with the notice (there are similar issues with requirements in 'urban non-bushfire prone' settings, and current requirements for boundary firebreaks in some 'urban bushfire prone' settings, e.g. an area like Country Road Estate).
5. It is considered that there is a capacity to develop an; "alternative 'APZ standard or similar' with less amenity, environmental and financial impacts than the standard detailed in the first draft notice, whilst still achieving meaningful bushfire safety benefits and which is broadly consistent with community values"; and that pursuance of that aim is worthwhile.

In closing it is worth noting that the City's current bushfire notice does not contain an 'APZ' (Asset Protection Zone) requirement as such, it contains 'BPZ' (Building Protection Zone) requirements. For the purposes of the alternative motion, it is assumed that the phrase 'APZ requirements' in the alternative motion refers to the equivalent in the current notice – i.e. 'BPZ requirements'.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 22(7) of the *Local Government (Model Code of Conduct) Regulations 2021*, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.

Item No. 13.2	RECONSIDERATION - DA 21/0043.01 - 22 MANSON STREET, WEST BUSSELTON	Pulled by Cr Carter	Page 91
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ALTERNATIVE RECOMMENDATION

That the Council determines:

A. That application DA21/0043.01 which seeks to delete Condition 3.1 of DA 21/0043 requiring “*that the driveway and front fence shall be re-designed and aligned to ensure the retention of all street trees*” at Lot 46 (No. 22) Manson Street, West Busseton is considered by the Council to be inconsistent with Local Planning Scheme No. 21.

B. That Development Approval is issued for the proposal referred to above (A), subject to Condition 3.1 being replaced with the following:

3.1 Provision of one replacement tree to be planted on the verge in front of the site.

~~That a refusal be issued for the proposal referred to above (A) for the following reasons:~~

~~1. The proposed deletion of condition 3.1 has the effect of removing the western most street tree in front of the subject site. The removal of the street tree is not unavoidable and therefore does not satisfy the Deemed to Comply requirements of Part 3.5.3 C5.3 of the R-Codes.~~

~~2. The application does not demonstrate compliance with the Design Principles outlined in Part 3.5.3 P5.1 of the R-Codes in that the proposed access point has a negative impact on streetscape.~~

~~3. The street tree proposed to be removed is mature, in good health, contributes positively to the streetscape.~~

REASONS FOR AMENDMENT / ALTERNATIVE

This DA was/is required for this development because the proposal included a parapet wall on the western boundary, which is not as of right in an R15 area, as well as a minor rear setback variation. The proposal was advertised to the adjacent properties for comment and no objections were received. Both of these variations to the R-Codes were considered reasonable and were supported by officer.

A DA was also required because of the proposed removal of the street tree. The deemed-to-comply provisions at Part 5.3.5 / C5.3 of the R-Codes indicate (amongst other things) that a driveway shall be “located so as to avoid street trees, or, where this is unavoidable, the street trees replaced at the applicant’s expense or re-planting arrangements to be approved by the decision-maker”.

The officer position is that the driveway is able to avoid the street tree on the western side of the verge through a redesign of the access (e.g: a curved driveway) and courtyard fence and, as such, it is not “unavoidable”.

However, I have visited the site, marked out the boundary, setback, likely driveway alignment and widths, required setback from the existing tree, and imagined myself in a vehicle navigating the driveway. Imagine cars parked in the driveway to navigate, a situation where a driver is in a hurry

or flustered with kids and perhaps a school kid is walking or riding along the road as a vehicle is leaving the property, and the consequences of missing seeing something as you are looking over shoulder to shoulder as you navigate the S-bend of your driveway also with your view obstructed by a tree. This will be an accident waiting to happen.

So that's the first question to be answered – is it unavoidable? Maybe! But will it compromise safety?

Further, where the deemed-to-comply provisions of the R-Codes cannot be satisfied (as would be the case where the design requires the realignment), assessment against the design principles is required. The design principles at Part 5.3.5 / P5.1 of the R-Codes relating to vehicular access indicate amongst other things that “vehicular access provided to each development site to provide; vehicle access safety; reduced impact of access points on the streetscape; legible access; pedestrian safety; minimal crossovers; and high quality landscape features.”

Respectfully and contrary to officer's opinion, and again having visited the site, it is my view that requiring the applicant to retain the tree and redesign and realign the driveway (and courtyard fence) will be detrimental to vehicle access safety, reduce pedestrian safety and will reduce legible access to the property contradictory to the design principles at Part 5.3.5 / P5.1 of the R-Codes relating to vehicular access.

These two points are almost circular in their arguments and contribute to my opinion that removal of the street tree is in fact unavoidable?

OFFICER COMMENT

Relevant City officers conducted a site visit prior to the issue of the initial Development Approval and confirmed that adequate sightlines could be achieved to maintain vehicle and pedestrian safety should the existing street tree on the western side of the property be retained and a curved driveway be required as a result. On that basis, officers concluded that the primary Design Principles consideration in respect of the proposed tree removal is streetscape character.

Should Council wish to allow the removal of the street tree by deleting Condition 3.1 of the Development Approval, the drafting of the proposed alternate recommendation, recommending that Condition 3.1 be replaced instead with the requirement to plant a replacement tree on the verge in front of the site, is considered appropriate.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

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