



ITEMS FOR DEBATE

COUNCIL MEETING 17 MAY 2023

ADOPTION BY EXCEPTION RESOLUTION

<u>RECOMMENDATION</u>	
That the Committee Recommendations for items 12.1, 12.2, and 12.3 and the Officer Recommendations for items 14.1, 14.2 and 17.1 be adopted en bloc:	
12.1	Airport Advisory Committee – 12/4/2023 – BUSSELTON MARGARET RIVER AIRPORT OPERATIONS UPDATE
12.2	Finance Committee – 3/5/2023 – LIST OF PAYMENTS MADE – MARCH 2023
12.3	Finance Committee – 3/5/2023 – FINANCIAL ACTIVITY STATEMENTS – YEAR TO DATE AS AT 31 MARCH 2023
14.1	RFT 07/23 PLUMBING SERVICES
14.2	RFT 08/23 IRRIGATION COMPONENTS
17.1	COUNCILLORS INFORMATION BULLETIN

ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION

Item No.	Item Title	Reason
15.1	BUSINESS DEVELOPMENT, EVENTS AND MARKETING PROGRAM (BDEMP)	Absolute Majority Required
15.2	YOUTHCARE GRANT AGREEMENT	Absolute Majority Required

ITEMS FOR DEBATE

Item No. 9.2	PETITION – DEPARTMENT OF COMMUNITIES HOUSING UNITS	Pulled by Officers	Page 15
<p><u>AMENDED RECOMMENDATION</u></p> <p>That the Council receive the petition and refer it to the CEO for action.</p>			
<p><u>REASONS FOR AMENDMENT</u></p> <p>During discussion on this item at the agenda briefing session it was suggested, and the Mayor indicated he was happy, to (on Council determining to receive the petition) make contact with the Department of Housing on behalf of the Council and communicate the concerns of the petitioners. For this reason officers recommend that the petition be received.</p>			
<p><u>OFFICER COMMENT</u></p> <p>As per above.</p>			
<p><u>LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT</u></p> <p>Pursuant to regulation 11(da) of the <i>Local Government (Administration) Regulations</i> 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.</p>			

<p>Item No. 13.1</p>	<p>LOWER VASSE RIVER AND TOBY INLET - UPDATE, REVIEW AND PROPOSED FUTURE DIRECTION FOR THE CITY AS INTERIM WATERWAY ASSET MANAGER</p>	<p>Pulled by Cr Riccelli</p>	<p>Page 78</p>
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ALTERNATIVE RECOMMENDATION

That the Council, with respect to the City’s role as interim asset manager for the Lower Vasse River and Toby Inlet -

- 1. Notes that the City’s role is undertaken within the broader context of the Revitalising Geopraphe Waterways programme, overseen by the Vasse Ministerial Taskforce;**
- 2. Notes progress with implementing the Lower Vasse River and Toby Inlet Waterway Management Plans (2019);**
- 3. Reiterates the City’s commitment to being interim asset manager for the Lower Vasse River and Toby Inlet, whilst also reiterating that the City’s continued commitment is contingent upon continuing technical and financial support from the State Government;**
- 4. Sets out that the City’s continued commitment to being interim asset manager for the Lower Vasse River and Toby Inlet is also contingent upon the State’s continued commitment to boader waterway and water quality management in Geopraphe Bay and the Geopraphe Bay catchment;**
- 5. Notes findings and recommendations from the –**
 - a. Living Streams Concept Design (Alluvium, August 2021);**
 - b. Living Streams Concept peer review (Hamilton et al., June 2022); and**
 - c. Living Streams Design for the Lower Vasse River – Peer Review (Alluvium, October 2022);**
- 6. Supports the continued staged removal of nutrient-rich sediments between the Busselton Bypass and the Busselton Butter Factory Museum as the City’s short-term priority focus for management of the Lower Vasse River, subject to procurement, funding and regulatory approvals;**
- 7. Notes that the success of sediment removal for reducing blue-green algal blooms in the Lower Vasse River will be continuously reviewed and its effectiveness at improving water quality assessed before committing to further stages of sediment removal beyond the Stage 3 sediment removal project, which is planned to be undertaken in the section of the River upstream from Strelly Street Bridge, commencing in Autumn 2024;**
- 8. Supports a large scale application of the Phosphorus binding clay Phoslock (or equivalent) in partnership with the Department of Water and Environmental Regulation (DWER) in a section of the Lower Vasse River in Summer 2023/24 in order to scope out practical requirements, costs and effects on water quality;**
- 9. Also notes that any further work on other stages of the Living Streams Concept Design, other than further stages of sediment removal, will not be prioritised or progressed until the actions set out in points 6 and 8 above have been undertaken and assessed, and in addition noting that –**
 - a. Implementation of the second, third and fourth stages (off-stream treatment wetlands, instream structures and enhancement of the Rotary Park Basin, respectively) would entail significant capital and ongoing operational expenditure, securing of funding for which is likely to be challenging;**

- b. Resolution of issues identified through the peer review process may not be possible, would entail significant additional technical work, and may increase the associated capital and operational expenditure required for implementation; and**
 - c. As a result, further investment in developing the Living Streams Concept Design should be very carefully considered before any commitment is made to do so;**
- 10. Requests the CEO to continue advocating with the State Government for prioritising infill sewer in the Busselton Light Industrial Area;**
- 11. Supports current management of Toby Inlet, with a focus on management of the sand bar and revegetation of adjacent foreshore reserves, in partnership with the Toby Inlet Catchment Group in the short term, and management of sedimentation issues, potentially including targeted removal of sediments in the medium to longer term;**
- 12. Notes the need for a considered approach and demonstrated process to considering water quality improvement trials in the Lower Vasse River and Toby Inlet, informed primarily by advice from the DWER Aquatic Science branch, or other appropriately qualified, experienced and independent technical or scientific specialists;**
- 13. Endorses the proposed community and stakeholder engagement model for management of the Lower Vasse River and Toby Inlet, and the cessation of the Lower Vasse River Management Advisory Group as established by Council Resolution C2003/086, and requests that the CEO prepare a community and stakeholder strategy, consistent with the proposed model;**
- 14. Thanks Lower Vasse River Management Advisory Group members for their contributions;**
- 15. Thanks the State Government for its past and ongoing support for the Revitalising Geopraphe Waterways programme; ~~and~~**
- 16. Expresses the City's continuing support for the Vasse Ministerial Taskforce as a means of overseeing and coordinating work to improve water quality and waterway health in the Geopraphe Bay catchment; and**
- 17. Requests that the CEO present a further briefing to the Council, no later than April 2024, setting out –**
 - a. A further update, review and proposed future direction to be considered by Council, with respect to the City's role as interim asset manager for the Lower Vasse River and Toby Inlet, including addressing the specific matters identified below;**
 - b. Water quality monitoring data and analysis with respect to –**
 - i, The outcomes of stage 1 and 2 sediment removal projects; and**
 - ii. the outcomes for the planned large-scale application of Phosphorus binding clay; and**
 - c. Note that although Stage 3 sediment removal may be completed by April 2024, there will be insufficient time to consider the water quality impacts for this stage; and**
 - d. Provide a Community Information/Planning Session to coincide with the Council Briefing, addressing all of the above.**

REASONS FOR ALTERNATIVE

1. I have added further notes to point 9 to highlight the considerable expense involved to implement the off-stream treatment wetlands, instream structures and enhancement of the Rotary Park Basin, respectively. Even if we were able to source some government funding towards this, it would still entail significant allocation of capital from our budget, alongside ongoing operational expenditure.

The Peer Review highlighted several challenges that would need to be overcome should this method be adopted, some of which may not be feasible. Any further technical work/investigation into overcoming these issues would also incur additional expenses.

Overall, this option should not be the preferred or practical direction the City should be heading towards at this point in time.

2. I have recommended Point 17 be added to provide some clarity around the future decision-making direction for the LVR. The Officer's Recommendation did not include any specifics around timelines or when/how further decisions would be made with regards to our continuing aim to improve the water quality of the LVR. I believe that April 2024 allows sufficient time for outcomes to be assessed for stages 1 & 2 of sediment removal and the large-scale phoslock trial.

These outcomes/results should be relayed to the broader community/relevant stakeholders and the Council. Feedback received via these avenues can then be considered alongside the data and decisions made with regards to any further treatments to the LVR.

OFFICER COMMENT

Officers do not have any concerns with the alternative, and the addition of Point 17 in particular as appropriate, as it makes clearer what the Council expects in terms of considering outcomes of work that it is expected will occur over the next 12 months or so.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations 1996*, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.

<p>Item No. 13.1</p>	<p>LOWER VASSE RIVER AND TOBY INLET - UPDATE, REVIEW AND PROPOSED FUTURE DIRECTION FOR THE CITY AS INTERIM WATERWAY ASSET MANAGER</p>	<p>Pulled by Cr Ryan</p>	<p>Page 78</p>
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ALTERNATIVE RECOMMENDATION

That the Council, with respect to the City's role as interim asset manager for the Lower Vasse River and Toby Inlet -

1. Notes that the City's role is undertaken within the broader context of the Revitalising Geopraphe Waterways programme, overseen by the Vasse Ministerial Taskforce;
2. Notes **the limited** progress with implementing the Lower Vasse River and Toby Inlet Waterway Management Plans (2019);
3. Reiterates the City's commitment to being interim asset manager for the Lower Vasse River and Toby Inlet, whilst also reiterating that the City's continued commitment is contingent upon continuing technical and financial support from the State Government;
4. Sets out that the City's continued commitment to being interim asset manager for the Lower Vasse River and Toby Inlet is also contingent upon the State's continued commitment to broader waterway and water quality management in Geopraphe Bay and the Geopraphe Bay catchment;
5. Notes findings and recommendations from the –
 - a. Living Streams Concept Design (Alluvium, August 2021);
 - b. Living Streams Concept peer review (Hamilton et al., June 2022); and
 - c. Living Streams Design for the Lower Vasse River – Peer Review (Alluvium, October 2022);
6. Supports the continued staged removal of nutrient-rich sediments between the Busselton Bypass and the Busselton Butter Factory Museum as the City's short-term priority focus for management of the Lower Vasse River, subject to procurement, funding and regulatory approvals;
7. Notes that the success of sediment removal for reducing blue-green algal blooms in the Lower Vasse River will be continuously reviewed and its effectiveness at improving water quality assessed before committing to further stages of sediment removal beyond the Stage 3 sediment removal project, which is planned to be undertaken in the section of the River upstream from Strelly Street Bridge, commencing in Autumn 2024;
8. **On completion of assessment of the sediment removal by Apex Envirocare, an evaluation of the remaining sediment in the dredged Stage 2 section should be undertaken, as was carried out for the 180 metre section of Stage 1, to ensure efficacy. If the majority of the known sediment still remains in the river as was the case following Stage 1, then Council should reconsider the use of more appropriate dredging equipment to accomplish a greater removal of sediment;**
- ~~8.~~ 9. Supports a large scale application of the Phosphorus binding clay Phoslock (or equivalent) in partnership with the Department of Water and Environmental Regulation (DWER) in **the area of Peel Terrace between Causeway Road and the Eastern Link, or more specifically where Stage 1 dredging has now occurred in a section of the Lower Vasse River in Summer 2023/24** in order to scope out practical requirements, costs and effects on water quality;

- ~~9.10.~~ **Also notes that any further work on other stages 2 and 3 of the Living Streams Concept Design, other than further stages of sediment removal will not be prioritised or progressed until the actions set out in point 6 and 8 above have been undertaken and assessed. continued due to the Peer Review feedback. Stage 1 sediment removal is to be progressed and assessed following each stage;**
- ~~10.~~ **11.** Requests the CEO to continue advocating with the State Government for prioritising infill sewer in the Busselton Light Industrial Area;
- ~~11.~~ **12.** Supports current management of Toby Inlet, with a focus on management of the sand bar and revegetation of adjacent foreshore reserves, in partnership with the Toby Inlet Catchment Group in the short term, and management of sedimentation issues, potentially including targeted removal of sediments in the medium to longer term;
- ~~12.~~ **13.** Notes the need for a considered approach and demonstrated process for water quality improvement trials in the Lower Vasse River and Toby Inlet, informed primarily by advice from the DWER Aquatic Science branch, or other appropriately qualified, experienced and independent technical or scientific specialists, **including but not limited to the LVRMAG Lower Vasse River Management Advisory Group Members. The CEO to explore all opportunities for trials of any or all possible options to reduce cyanobacteria in the Lower Vasse River, with a view to using any resultant success in Toby Inlet. Those trials to include, but not be limited to nanobubbles, ultrasonic, Solair Group BPEC® Solution, blue dye;**
- ~~13.~~ **Endorses the proposed community and stakeholder engagement model for management of the Lower Vasse River and Toby Inlet, and the cessation of the Lower Vasse River Management Advisory Group as established by Council Resolution C2003/086, and requests that the CEO prepare a community and stakeholder strategy, consistent with the proposed model;**
- 14.** Thanks the LVRMAG members for their past contributions **and continued efforts in the future;**
- 15.** Thanks the State Government for its past and ongoing support for the Revitalising Geographe Waterways programme; and
- 16.** Expresses the City's continuing support for the Vasse Ministerial Taskforce as a means of overseeing and coordinating work to improve water quality and waterway health in the Geographe Bay catchment.

REASONS FOR ALTERNATIVE

Cyanobacteria is the number one health issue emanating from the River and needs to be addressed as an impending action, not left to long term hypotheticals. We need solutions now and there is a plethora of evidence to substantiate solutions are attainable now.

The paper "Is Exposure to BMAA a Risk Factor for Neurodegenerative Diseases? A Response to a Critical Review of the BMAA Hypothesis" states

"Although there remain gaps in the literature, an increasingly large body of data from multiple independent labs using orthogonal methods provides increasing evidence that chronic exposure to BMAA may be a risk factor for neurological illness".

Such illnesses including MND, Parkinson's, Alzheimer's etc. This paper was distributed to all Councillors last week. Simply sticking our heads in the sand and not treating Cyanobacteria as our priority to ensure the health of our community is not a consideration. Remember when smoking used to be good for us?

Dismantling the LVRMAG now, at a critical stage is not the solution. The Resolution C2003/086 was that the Council:

1. Supports the establishment of a Management Advisory Group for the Lower Vasse River, to meet the following objectives -
 - (a) identifying practical and implementable actions to sustainably improve the health and amenity of the River;
 - (b) identifying means of funding those actions;
 - (c) assisting the City with implementation of the Lower Vasse River Waterway Management Plan;
 - (d) facilitating information exchange on waterway management, restoration and enhancement;
 - (e) promoting and encouraging collaboration between stakeholders; and
 - (f) having input into the approach and priorities for, and reviewing the outcomes of, trials, research and monitoring;

These objectives have not been allowed to be implemented and it is clear the community members time has been wasted if the LVRMAG is not a continuing body. Criticism from Members of the LVRMAG should be seen as valuable input, not something to be discounted and summarily dismissed.

The Strategic Community Plan shows the Vasse River as a priority.

Our last Markyt Community Survey showed the Vasse River as a low performing area which highlighted

- How the community is consulted about local issues and
- Maintaining and enhancing the Vasse River and Toby Inlet. Removing the LVRMAG will achieve none of these expectations.

The pretence of creating a new group, adding in Toby Inlet, is just throwing the baby out with the bathwater and does not bode well for the perception of our Council in the community.

It is also a concern from the LVRMAG community members that the mini-dredge used for Stage1 and currently for Stage 2 is ineffective and will be less so for any further stages of dredging. Stage 1 sediment take was less than 42%. This information was not released to the LVRMAG prior to approval of Stage 2. I share that concern.

OFFICER COMMENT

As set out in the officer report, it is considered that it is appropriate to move away from the current community engagement model with respect to the City's role as waterway asset manager. Key issues include:

- (1) significant engagement resources are being allocated to the Lower Vasse River, but relatively little to Toby Inlet;
- (2) the current model has quite narrow reach in terms of the broader community, and it is considered that the alternative model proposed would have significantly broader reach;

- (3) LVRMAG meetings have become quite focused on technical issues - whilst that may be appropriate for a technical advisory group, it is not appropriate for a broader management advisory group, especially a group where most of the members are not technical experts in waterway management; and
- (4) the work programme for the next few years for the City's role as waterway asset manager is largely determined, with a need to review the success of actions already undertaken or planned, before determining what or whether further actions may be appropriate.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations* 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.

Item No. 13.2	DA22/0754 - EXTENSION TO NON-CONFORMING USE - TOURIST ACCOMMODATION (CARETAKER'S DWELLING AND 9 X ACCOMMODATION UNITS)	Pulled by Cr Ryan	Page 376
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ALTERNATIVE RECOMMENDATION

That application DA22/0754 submitted for development of Extension to Non-Conforming Use – Tourist Accommodation (Caretakers Dwelling and Nine Accommodation Units) on Lot 50 (No. 40) Ford Road, Busselton under Local Planning Scheme No 21 be refused.

REASONS FOR ALTERNATIVE

1. The site is located within the Urban Consolidation area under the Local Planning Strategy, which specifies increases to density, not the increase to activities that are commercially orientated.
2. The site is under Local Planning Scheme is zoned Residential R30, which the proposal is not consistent with zone objectives 3.2 a), b) or c).
3. Clause 3.10 does not permit the extension of a non-conforming use.
4. The proposal is not consistent with the principles of 3.11 in that the proposal is not going to be less detrimental to the amenity of the location, than the current development.
5. The number of units proposed is significantly higher than the current level of development on the site. The number of bedrooms and subsequent proposed level of occupation, has increased from 40 to 90 potential occupants.
6. The proposed impact from traffic generation has not been adequately addressed.
7. The amenity of the area will be affected by the large increase in the number of units and visitors coming and going from the site.
8. The scale of the development is not in keeping with the character of the area.
9. The amount of car parking proposed is not consistent with the number of units and bedrooms provided.

OFFICER COMMENT

With respect to each of the proposed reasons for refusal, the following comment is provided –

- a. Point 1 - The Local Planning Strategy does not provide support for the proposed reason for refusal in the manner contemplated, and the particular strategy of the document that this proposed reason could relate to (strategy 7.2 f), needs to be understood in the context of the document as a whole, including strategy 8.2 f.

The two strategies referenced here are as follows –

7.2 (f) -

- f) Support and pro-actively plan for **urban consolidation and redevelopment** (including through increases in permissible residential density) in existing urban areas, especially in areas close to the Busselton City Centre, Dunsborough Town Centre and other activity centres identified in the activity centre framework. Support other proposals for redevelopment/consolidation (including through increases in permissible residential density) in existing urban areas, or for increases in planned development density in urban growth areas, especially in close proximity to activity centres or high amenity areas, such as in coastal locations, adjacent to open space, or which are close to significant community facilities. Planning for consolidation should have regard to Special Character Areas, amenity, streetscape and Western Ringtail Possum habitat.

8.2 (f) -

- f) Support the **development of new tourism accommodation** by allowing development of tourism accommodation in appropriate urban areas.

b. Points 2, 5, 7 and 8 –

It is considered that the overall scale of the built form proposed is not significantly larger than what would arise from the most likely alternative redevelopment option for the site – i.e. a nine unit or nine lot residential unit development or subdivision. Whilst it is true that residential development would likely not involve nine 5 bedroom units, it would likely include garage or other spaces not proposed as part of the current development proposal. Also, whilst it is also true that it would probably not involve all dwellings being two storey, it is likely that at least some would be two storey. From a site coverage perspective, the proposal is also very similar to what has eventuated on other sites in the immediate vicinity when those sites have been redeveloped in recent years.

Through the course of the assessment, the total scale of development proposed has also been reduced by approximately 20% (from around 2,500m² floorspace to around 2,000m² floorspace). The total number of bedrooms proposed has also been reduced, from 45 to 39. A recommended condition of approval also proposes that total guest occupancy be capped at 72, not 90 as originally proposed by the applicant.

- c. Point 3 – Clause 3.10 provides for the continuation of non-conforming uses, and does not say anything at all about extensions of non-conforming uses.
- d. Point 4 – this appears to be a reference to clause 3.11.3 of the Scheme. As the proposal is not for a change of non-conforming use, clause 3.11.3 is not relevant to consideration of the application. Whilst impact on amenity needs to be considered in the determination of the application, as clause 3.11.3 does not apply, it does not need to be demonstrated that impact on amenity will be less than is the case with the existing development on the site.

- e. Point 6 – a traffic impact assessment has been prepared by a suitably qualified and experienced traffic consultant, and peer reviewed by another qualified and experienced traffic consultant. There is not considered to be any basis on which to refuse the application in relation to traffic impact.

- f. Point 9 - There is no specific guidance around car parking provision for the Tourist Accommodation land use. There are some standards that provide some guidance, but it is important to note that consideration of car parking provision, unless there is a clear standard and that standard is met, is not simply about applying numerical standards. The decision-maker is required to consider whether the level of parking proposed will be sufficient, including through recognition of the fact that vehicles can, at times, park on the verge (of the development site) or the street, unless there are parking restrictions in place (and no such restrictions are in place), and in most places in the City, there is usually a significant amount of verge and street parking capacity.

It is also noted that there has been a reduction in the scale of the proposed development, but recommended conditions of approval require both a retention of the previously proposed on-site parking, as well as the construction of additional on-street parking within the Ford Road verge of the site.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations 1996*, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.