



## **ITEMS FOR DEBATE**

### **COUNCIL MEETING 31 JANUARY 2024**

#### **ADOPTION BY EXCEPTION RESOLUTION**

##### **RECOMMENDATION**

That the Officer Recommendations for items 11.2, 14.1, 14.2 and 15.1 be adopted en bloc:

11.2	Development Application - DA23/0327 - Single House (Swimming Pool, Gym & Garage) - Special Character Area at Lot 16 (No. 6) Seaview Rise, Eagle Bay <i>Supplementary Agenda</i>
14.1	Monthly Financial Report - Year to Date 30th November 2023
14.2	List of Payments Made - November 2023
15.1	Elected Member Information Bulletin

#### **ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION**

Nil

## ITEMS FOR DEBATE

Item No. 10.1	Busselton Margaret River Airport Update	Pulled by Cr Macnish	Page 15
<p><b><u>ALTERNATIVE RECOMMENDATION</u></b></p> <p><b>That the Council:</b></p> <ol style="list-style-type: none"><li><b>1. Receives and notes the Busselton Margaret River Airport Update report.</b></li><li><b>2. Authorises and requires the CEO to publish the periodical BMRA Update report one week after the publication of the Airport Advisory Committee (AAC) meeting minutes should the AAC endorse the BMRA Update report.</b></li><li><b>3. That the Council adopt the final BMRA Master Plan (version 2024) as a guide for future planning, and henceforth it is termed the Final Airport Master Plan Busselton Margaret River Airport (2023-2043) and replaces the existing BMRA Master Plan (2016-2036).</b></li><li><b>4. Requests the CEO undertake a broader review of the terms of reference of the AAC to clarify the purpose and function of the committee, and meeting frequency and processes, to provide a report to Council at the March 2024 Ordinary Council meeting.</b></li></ol>			
<p><b><u>REASONS FOR ALTERNATIVE</u></b></p> <ol style="list-style-type: none"><li>1. Unless there be an identified issue and accordingly the BMRA Update report is ‘called-in’ to the Council’s attention (via an item to be placed on the next Council agenda), then there is no reason for this report of information to be forwarded to the Council as there is no decision required to be made.</li><li>2. To clarify a somewhat confusing terminology and ensure it is the Council that adopts the Master Plan (not just via a briefing session which has no formal standing).</li><li>3. To ensure an appropriate terms of reference for the committee moving forward and as an opportunity to streamline this (element of the Council’s) governance process.</li></ol>			
<p><b><u>OFFICER COMMENT</u></b></p> <p><b>Comment on alternative recommendation 1:</b></p> <p>The existing Terms of Reference for the Airport Advisory Committee provides that:</p> <p><i>7.1. Pursuant to section 5.17 of the Act, the Committee is delegated the powers to note an item that does not require a recommendation to Council or further action of Council.</i></p> <p><i>7.2. Committee recommendations, other than those made in accordance with the delegated powers in paragraph 7.1, are not binding on Council and must be endorsed by Council to take effect.</i></p>			

Officers support retaining the delegation of the powers enabling the Airport Advisory Committee to note an item that does not require a recommendation to the Council or further action of the Council. The Margaret River Airport update report may be treated as such an item moving forward if determined by the Council.

**Comment on alternative recommendation 2:**

Officers support point 2 of the alternative recommendation, which provides additional clarity for the Council to adopt the Final Airport Master Plan Busselton Margaret River Airport (2023-2043) as a guide for future planning.

**Comment on alternative recommendation 3:**

Officers have discussed the proposed terms of reference review with Cr. Macnish and are fully supportive.

**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.

<b>Item No.</b>  <b>11.1</b>	Development Application - DA22/0817 - Bed and Breakfast (Change of Use and New Development) - Special Control Area at Lot 301 (No. 29) Carnarvon Castle Drive Eagle Bay	<b>Pulled by</b>  <b>Mayor Cronin</b>	<b>Page 23</b>
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**ALTERNATIVE RECOMMENDATION**

**That the Council:**

1. Notes that the development application for Bed and Breakfast (Change of Use of Existing Single House and New Development) on Lot 301 (No. 29) Carnarvon Castle Drive, Eagle Bay was previously refused by the City on 20 September 2023 (“the decision”).
2. Notes that, pursuant to review proceedings under the State Administrative Tribunal Act 2004 (the SAT Act), the Applicant has provided amended plans to the City, responding to concerns raised in the decision.
3. Notes further, that the Tribunal has now invited the City to reconsider its decision.
4. Pursuant to section 31(2)(a) of the SAT Act, sets aside the decision and substitutes its new decision as follows:
  - i. That application DA22/0817 submitted for development of Bed and Breakfast (Change of Use of Existing Single House and New Development) on Lot 301 (No. 29) Carnarvon Castle Drive, Eagle Bay, is considered by the Council to be consistent with Local Planning Scheme No. 21 and the objectives of the zone within which it is located.
  - ii. To grant development approval for the proposal subject to the following conditions:

**GENERAL CONDITIONS:**

1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
2. The use hereby approved shall at all times comply with the definition of Bed and Breakfast as provided in Schedule 1 of the City of Busselton Local Planning Scheme No. 21, as follows:

"Bed and Breakfast" means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast.

Notwithstanding the above interpretation, the approved use is restricted to a maximum of four (4) guests.

3. Advertising signage associated with the approved use shall be no greater than 0.2m<sup>2</sup>, located within the subject site.

4. A minimum number of four car parking bays shall be provided on the site comprising two for the residents of the dwelling and two for the guests of the Bed and Breakfast.

#### **PRIOR TO COMMENCEMENT CONDITIONS**

5. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and approved in writing:
  - 5.1 Updated plans shall be submitted reducing the wall height of the outbuilding to 3.1m to comply with Local Planning Policy 4.10 Outbuildings and Other Non-Habitable Buildings **and removal of the roller door from the western elevation to the southern elevation.**
  - 5.2 A revised version of the Bushfire Management Plan prepared by Envision Bushfire Protection shall be submitted to the satisfaction of the City of Busselton.
  - 5.3 **A Landscape Plan which shall include landscaping along the western and northern elevation of the outbuilding, hereby approved, which shall at maturity sufficiently screen the outbuilding from Carnarvon Castle.**

#### **ONGOING CONDITIONS:**

6. The works undertaken to satisfy Conditions 3, 4 and 5 shall be subsequently maintained for the life of the development and the following complied with:
  - 6.1 The owner must implement the revised Bushfire Management Plan and Bushfire Emergency Evacuation Plan prepared by Envision Bushfire Protection required pursuant to Condition 5.2 for the duration of the development (Advice Note 11).
  - 6.2 **Landscaping and reticulation shall be implemented in accordance with the approved Landscape Plan and shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved**

#### **REASONS FOR ALTERNATIVE**

Having reviewed the new design layouts compared to the previous I have a question about the orientation of the proposed shed, the elevations indicate the roller door is facing West as supposed to then original facing South, that raises a concern that another crossover will be required and also the original visitor parking bays for the proposed auxiliary are now longer there?

Can we update condition 5.1 to move the roller door from the West to South elevation

There is also no landscaping plan associated to the development? With the bulk of the property facing West maybe this western boundary should have some vegetation to provide screening to the western Carnarvon Castle Street Frontage. This would be considered appropriate to address the concerns raised by submitters.

#### **OFFICER COMMENT**

##### **Outbuilding**

The plans that were considered at the September Council meeting did show the roller door to the outbuilding orientated towards the south. This was negotiated with the applicant through the assessment process however it would appear that the amended plans to be considered as part of the meeting on 31 January 2024 do indicate the roller door in the western elevation. Officers agree that the roller door should be relocated to the southern elevation.

This could be addressed via an amended to proposed condition 5.1 to state as follows:

- 5.1 Updated plans shall be submitted reducing the wall height of the outbuilding to 3.1m to comply with Local Planning Policy 4.10 Outbuildings and Other Non-Habitable Buildings **and removal of the roller door from the western elevation to the southern elevation.**

##### **Landscaping plan**

Officers agree that a landscaping plan should form a condition of development approval and recommend the following standard conditions be included:

##### **Prior to Commencement**

- 5.3 A Landscape Plan which shall include landscaping along the western and northern elevation of the outbuilding, hereby approved, which shall at maturity sufficient screen the outbuilding from Carnarvon Castle.

##### **Ongoing**

- 6.2 Landscaping and reticulation shall be implemented in accordance with the approved Landscape Plan and shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

#### **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.

<b>Item No.</b> <b>14.3</b>	Audit and Risk Committee: Terms of Reference and Independent Member	<b>Pulled by</b> <b>Officers</b>	<b>Page 54</b>
<p><b><u>ALTERNATIVE RECOMMENDATION</u></b></p> <p><b>That the Council:</b></p> <ol style="list-style-type: none"> <li><b>1. Adopts the amended Audit and Risk Committee Terms of Reference in Attachment 4.</b></li> <li><b>2. Accepts the CEO's responses to the request in Council Resolution C2311/178.</b></li> </ol>			
<p><b><u>REASONS FOR ALTERNATIVE</u></b></p> <p>To incorporate changes to the Audit and Risk Committee Terms of Reference to reflect feedback from Cr Macnish.</p> <p>Officers have conferred with Cr Macnish about the proposed Audit and Risk Committee Terms of Reference in light of his Notice of Motion at Item 16.6 of the agenda.</p> <p>Following that conferral officers have made the following further amendments which are included in a further amended Terms of Reference attached at Attachment 4:</p> <ol style="list-style-type: none"> <li>1. Including further wording to paragraph 2.3(i) clarifying that the internal auditor reports functionally to the Committee and administratively to the CEO;</li> <li>2. Introducing a new paragraph 2.3(v) clarifying that the Committee may reference appropriate resources in conjunction with the officer reports to perform its functions;</li> <li>3. Amending paragraph 6.3 to require notice of meetings and agenda papers to be provided at least 7 days prior to each meeting; and</li> <li>4. Including a new paragraph 6.4 to clarify that the agenda for the meeting will include items contemplated by the Committee's objectives, duties and responsibilities incorporating reports relating to risk, compliance and the implementation status of action items arising from audits.</li> </ol>			
<p><b><u>OFFICER COMMENT</u></b></p> <p>As above.</p>			
<p><b><u>LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT</u></b></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>			

## MOTIONS OF WHICH NOTICE HAS BEEN GIVEN

<b>16.1</b>	<b>Notice of Motion – Busselton Jetty Committee</b> <b>Cr Anne Ryan</b>
<b>16.3</b>	<b>Notice of Motion – Jetty Reserve Fund</b> <b>Cr Anne Ryan</b>
<b>16.4</b>	<b>Notice of Motion – Vasse River Committee</b> <b>Cr Anne Ryan</b>
<b>16.5</b> <i>Sup. Agenda</i>	<b>Notice of Motion – City of Busselton Planning Approach</b> <b>Cr Andrew Macnish</b>
<b>16.6</b> <i>Sup. Agenda</i>	<b>Notice of Motion – Audit and Risk Committee</b> <b>Cr Andrew Macnish</b>