

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 13 APRIL 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, 13 APRIL 2011 AT 5:30 PM**

The Presiding Member opened the meeting at 5.50 p.m.

1. ATTENDANCE, APOLOGIES & LEAVE OF ABSENCE

Presiding Member: Cr Ian Stubbs Shire President

Members: Cr Grant Henley
Cr David Binks
Cr Gordon Bleechmore
Cr Terry Best
Cr Tom Tuffin
Cr Jackie Emery
Cr David Reid
Cr Don Hanran-Smith

Officers: Mr Mike Archer Chief Executive Officer
Mr Matthew Smith Director, Finance & Corporate Services
Mr Nigel Bancroft 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 Administration Officer - Governance

Apologies: Nil

Leave of Absence: Cr Len Boyling

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

Public: 4

Note: The Shire President made a special welcome to Mrs Naomi Searle, the newly appointed Director of Community and Commercial Services.

2. OPENING PRAYER

The Opening Prayer was delivered by Reverend Wayne Warfield of St Mary's Anglican Church.

3. **PUBLIC QUESTION TIME**

- 3.1 Mr Graham Tuck asked if the Council had taken into account the cost of rent for beachfront land when paying the owners of the Nautical Lady \$2 million.

Response: Shire President

The Shire President assured Mr Tuck that this was taken into account.

4. **SUMMARY OF RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE**

- 4.1 At the 23 March Council meeting, Mr Rob Griffiths asked if Council would consider sponsoring 2 Taiwanese people into the town.

Response: Human Resources Advisor

The Shire is able to sponsor overseas workers to work at the Shire, most typically done under the 457 Visa Sponsorship System. This is employment based sponsorship and is subject to a person having suitable skills and experience as per eligibility criteria set out by the government and as per current organisational vacancies.

There may be other non-employment based sponsorship schemes however this response is limited to employment based sponsorship.

A 457 Visa allows employment of overseas workers for a period of between one day and four years. With this visa people you employ from overseas can:

- * work in Australia for a period of between one day and four years
- * bring any eligible secondary applicants with them to Australia – secondary applicants can work and study
- * after entering Australia, have no limit on the number of times they travel in and out of Australia.

In order to sponsor employees to work on a 457 Visa there are a number of requirements that must be met, by both the employer and the employee.

The Shire must first be an approved business sponsor. This requires demonstration of a strong record or commitment to employing local labour, non-discriminatory employment practices, and training benchmarks. The Shire is currently an approved business sponsor.

Further to being approved, each time the employer wishes to sponsor someone they must lodge a nomination application providing details about the vacant position and the employee who it is proposed will fill the position. The position must be within the business and must relate to an approved occupation, as per the listing approved by the government (generally relates to recognised skill shortage areas, for example engineering).

There are also eligibility criteria that the employee must meet in order to gain sponsorship. Employees must meet all the following requirements:

- * be sponsored by an employer to fill a nominated position
- * have skills, qualifications, experience and an employment background which match those required for the position
- * demonstrated English language proficiency
- * be eligible for any relevant licences or registration required for the nominated position
- * Meet all of the relevant health requirements

Hence for the Shire to consider sponsoring an overseas worker they must have a vacancy which fits the approved positions listing provided by the government. As a matter of policy and internal process the Shire would typically advertise and look to fill the vacancy locally, before looking at overseas sponsorship. This is in order to support the local employment market and also as there are costs and additional obligations such as maintenance of health insurance and repatriation associated with sponsorship of overseas workers. The Shire does accept job applications from overseas workers in response to advertised vacancies, and assesses them in the same way as any local application in terms of assessing their skills, experience and qualifications against the position requirements. Consideration will be given to sponsorship in the event that there are no local candidates assessed as suitable for the position or if the overseas candidate has specialist skills. Hence the potential employee must be a suitable fit for the role, and they then must meet all of the other requirements regarding English literacy and health status.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. DISCLOSURE OF INTERESTS

DECLARATION OF INTEREST	
Name / Position	Councillor David Binks
Item No. / Subject	12.1 – Audit Committee Recommendation – Tender Recommendation – TEN 11/10 Provision of Audit Services
Type of Interest	Impartiality Interest

7. CONFIRMATION AND RECEIPT OF MINUTES**7.1 Minutes of an Ordinary Council Meeting held on 23 March 2011.**

C1104/101 Moved Councillor Bleechmore, seconded Councillor Best:

That the minutes of the Ordinary Council Meeting held on 23 March 2011 be confirmed as a true and correct record.

CARRIED 9/0

7.2 Minutes of the Meelup Regional Park Management Committee Meeting held on 8 March 2011.

C1104/102 Moved Councillor Hanran-Smith, seconded Councillor Bleechmore:

- 1) That the minutes of the Meelup Regional Park Management Committee meeting held on 8 March 2011 be received.
- 2) That Council notes the outcomes of the Meelup Regional Park Management Committee Meeting being:
 - a) The Committee endorsed the Meelup Beach Day for 2011 with reconsideration on a year to year basis subject to post event review.
 - b) The Committee endorsed the ten year plan in its current form.
 - c) The Committee agreed to make a submission in relation to the review of Dog Exercise Areas being undertaken by the Shire.
 - d) The Committee received and noted the finance report.
 - e) The Committee endorsed the closure of a number of sites from vehicle access and agreed to approach the Shire to plan and implement a parking plan for the Meelup Eagle Bay Road.
 - f) The Committee received and noted the Environmental Officer's report.

CARRIED 9/0

7.3 Minutes of the Audit Committee Meeting held on 30 March 2011.

C1104/103 Moved Councillor Best, seconded Councillor Bleechmore:

- 1) That the minutes of the Audit Committee meeting held on 30 March 2011 be received.
- 2) That Council notes the outcomes of the Audit Committee Meeting being:
 - a) The recommendations from the Tender Recommendation – Provision of Audit Services Item is presented for Council's consideration at Item 12.1 of this agenda.

CARRIED 9/0

8. **ANNOUNCEMENTS** by the Presiding Member without discussion

Nil

9. **PETITIONS AND MEMORIALS**

- 9.1 A petition opposing the application to develop 8 grouped dwellings at 802 Geographe Bay Road and 8 Bower Road in West Busselton containing 62 signatures has been received.

"To: The President of the Shire of Busselton

- 1. Under the Shire of Busselton Standing Orders Clause 10, the electors of the Shire of Busselton whose names, addresses and signatures are set out in the attached list request –*
- 2. The application to develop 8 grouped dwellings at 802 Geographe Bay Road and 8 Bower Road in West Busselton be refused as proposed; and*
- 3. That the Shire of Busselton, in its discretion, disallows this development under Clause 58 (1)(b) of the District Town Planning Scheme No 20.*

We the undersigned, object to the proposal on the basis that it –

- * is too dense (seek 8 dwellings, when 3 are appropriate)*
- * is not in keeping with the local amenity*
- * setbacks are reduced, making dwellings too close to the road*
- * too many driveways entering onto an already busy corner (Geographe Bay Road and Bower Road corner)*
- * does not retain the existing Western Ringtail Possum community or their habitat (WA Peppermint Trees)*
- * will increase traffic impacting child safety at the adjacent West Busselton Primary School*
- * does not include adequate visitor parking*

OFFICER COMMENT (Manager, Development Services)

The application at the subject of the petition was advertised for public comment, with the comment period having now closed. A number of submissions were received, many of which raised similar concerns to those set out in the petition. Because of the nature of the issues raised and the level of community interest, the application will be presented to the Council for determination rather than being determined under delegated authority. The issues raised in the submissions, including this petition, will be considered and reported on when the matter is presented to the Council.

MOTION / OFFICER RECOMMENDATION

Moved Councillor Hanran-Smith, seconded Councillor Tuffin:

That the Council receive the petition pursuant to 10.2 (a) of the Standing Orders regarding the application to develop 8 grouped dwellings at 802 Geographe Bay Road and 8 Bower Road, West Busselton and note that the issues raised in the petition will be considered in the reporting of the

application to the Council for determination and that the petitioner be advised of this.

AMENDMENT

Moved Councillor Binks:

That the motion be amended to receive the petition pursuant to 10.2 (c) of the Standing Orders, and not 10.2 (a).

LAPSED FOR WANT OF A SECONDER

COUNCIL DECISION

C1104/104 Moved Councillor Hanran-Smith, seconded Councillor Tuffin:

That the Council receive the petition pursuant to 10.2 (a) of the Standing Orders regarding the application to develop 8 grouped dwellings at 802 Geographe Bay Road and 8 Bower Road, West Busselton and note that the issues raised in the petition will be considered in the reporting of the application to the Council for determination and that the petitioner be advised of this.

CARRIED 8/1

FOR	AGAINST
Cr Emery	Cr Binks
Cr Reid	
Cr Hanran-Smith	
Cr Henley	
Cr Tuffin	
Cr Stubbs	
Cr Bleechmore	
Cr Best	

10. DECLARATION OF DUE CONSIDERATION

The Presiding Member requested Councillors to acknowledge, in accordance with Clause 8.1 of the Standing Orders, that they had given due consideration to the matters contained within the Agenda.

Declared Due Consideration	No Declaration
Councillor Ian Stubbs	
Councillor Jackie Emery	
Councillor David Binks	
Councillor Terry Best	
Councillor David Reid	
Councillor Don Hanran-Smith	
Councillor Grant Henley	
Councillor Gordon Bleechmore	
Councillor Tom Tuffin	

11. PRESENTATIONS BY PARTIES WITH AN INTEREST

Nil

EN BLOC COUNCIL RESOLUTION

At this juncture Items 13.1, 13.3, 16.1, 16.3 and 17.4 were considered in accordance with Clause 11.1 of the Standing Orders via an En Bloc resolution of Council.

C1104/105 Moved Councillor Reid, seconded Councillor Hanran-Smith:

That the Officer Recommendations for Items 13.1, 13.3, 16.1, 16.3 and 17.4 be adopted.

CARRIED 9/0

13.1 PROPOSED 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 COMMUNITY CONSULTATION

SUBJECT INDEX:	Town Planning Schemes and Amendments
APPLICATION NUMBER:	853/6/6/21pt162
STRATEGIC INITIATIVE:	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:	Director Planning and Development Services - Nigel Bancroft
DATE OF COMPLETION:	13 May 2011
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	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

PRÉCIS

The Council is requested to consider adopting for community consultation, proposed 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. This would effectively create these lots as residential dwellings within the tourist resort.

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. Officers are recommending that the proposed amendment be initiated to allow public consultation to be undertaken.

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

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 proposed amendment, the relevant amendment 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*.

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.

Shire of Busselton District Town Planning Scheme No. 20

The subject land is zoned Tourist under the Scheme and is developed for short stay tourist accommodation purposes. 'Tourist Accommodation' is defined, pursuant to Schedule 1 of the Scheme, as meaning:

'a building or group of buildings substantively used for the temporary accommodation of tourists, visitors and travellers which may have facilities for the convenience of patrons such as restaurants, convention areas and the like but does not include a building or place elsewhere specifically defined in this Schedule or a building or place used for a purpose elsewhere specifically defined in this Schedule.'

Clause 43 of the Scheme deals with residential occupancy of tourist developments as follows:

'No person shall occupy a tourist accommodation unit, chalet, caravan, camp or any other form of tourist accommodation for more than a total of 3 months in any one 12 month period.'

Clause 26 provides the mechanism for special provisions, in addition to any provisions which are generally more applicable to such land under this Scheme, to be introduced into the Scheme and for those provisions to be listed in Schedule 7 of the Scheme and for the Scheme Map to be endorsed accordingly.

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*.

Tourism Planning Taskforce Report 2006

The recommendations of the Tourist Planning Taskforce were endorsed by the State Government and the Western Australian Planning Commission in 2006. Recommendations relevant to the consideration of the proposal include those that relate to:

- * an allowance of between 0 and 25% (inclusive) residential – no occupancy component within a non-strategic tourism site, subject to the proposal meeting a number of tests; and

- * areas of the (non-strategic tourism) site providing the highest tourism amenity, i.e. the beachfront, being retained for tourism purposes and not designated for residential – no occupancy restriction units.

It should be noted that the relevant recommendations of the Taskforce are predicated on an underlying philosophy that, in determining an application for approval of a residential-no occupancy restriction component on a site identified as non-strategic, the tourism benefit will need to be given high regard and the approval of a component of residential use in an existing development where there is no demonstrated tourism benefit would be inappropriate.

Western Australian Planning Commission Planning Bulletin 83/2009 – Planning for Tourism

The bulletin sets out the interim policy of the Western Australian Planning Commission to implement the recommendations of the Tourism Planning Taskforce.

Policy provisions outlined in this bulletin relevant to the consideration of the proposal include:

- * the requirement for the local government to prepare a local tourism planning strategy as a component of the local planning strategy; and
- * the WAPC will generally support a scheme amendment where permanent residential development is limited to a maximum of 25% and located within a site identified as a non-strategic tourism site in a local tourism planning strategy.

It should be noted that, whilst the bulletin is to be used to guide decision-making by the WAPC and local government, it is broad in its content and the finer detail/assessment criteria are contained in the recommendations of the *Tourism Planning Taskforce Report 2006*.

The proposal is broadly consistent with the state planning policy framework in terms of the Shire having prepared and adopted a LTPS and the no-occupancy restriction not exceeding 25%.

Shire of Busselton Draft Local Tourism Planning Strategy 2010

The *Draft Local Tourism Planning Strategy* was adopted for final approval by the Council in December 2010 and therefore should be afforded significant weight in the consideration and assessment of planning proposals. The LTPS has been formulated to provide a long term strategic land use planning and strategic direction for tourism development and will inform the preparation of the Local Planning Strategy.

The subject land is located within Strategic Local Tourism Precinct 3 – Resort Strip Busselton. The precinct includes a cluster of holiday resort/tourist accommodation located between Bussell Highway and the coastal foreshore reserve and also includes Abbey Beach Resort, Broadwater Beach Resort, Geographe Bayview Resort, Amblin Caravan Park and the former Acacia Caravan Park.

Notwithstanding its location within a strategic local tourism precinct, the subject land is identified by the LTPS as a non-strategic tourist site, meaning that it has an important tourist function, but a component of unrestricted stay development may be suitable. Non-strategic sites that are located appropriately to accommodate unrestricted stay development, within an existing urban settlement and where determined appropriate in the planning context, can be allowed an unrestricted length of stay component up to a maximum of 25%.

The LTPS outlines criteria against which to assess proposals to incorporate an unrestricted length of stay component within non-strategic tourist sites. Each criteria is listed in italics below, with the officer response immediately following:

- i) up to 25% unrestricted length of stay, with maximum percentage to be determined on a case-by-case basis and subject to adequate addressing of design issues;*

The proposal seeks allowance for seven strata titled tourist units to have an unrestricted length of stay. This equates to approximately 20% of the strata titled bungalows and is therefore consistent with the LTPS.

- ii) located within an existing urban settlement;*

The subject land is well located in terms of services normally required by residential land uses, including the Broadwater Shopping Centre (which adjoins the site's eastern boundary) which provides for local residential and tourist shopping needs. The site is situated approximately 6km west of the Busselton CBD, which provides higher level services and shopping opportunities for residents and tourists. The site has convenient access to public transport, being located on Bussell Highway.

- iii) any unrestricted length of stay units/development shall be of a design and scale that is subsidiary to the tourism component of the development;*

The proposal would retain the existing Tourist zoning of the site, which reflects the primary use of the site for short stay holiday accommodation. The applicant is only seeking an unrestricted length of stay component for approximately 20% of the strata units in the complex. It is considered that this percentage is consistent with the draft LTPS in terms of retaining the dominant tourist function and character of the overall resort development.

- iv) the restricted length of stay component having to be completed to the Shire's satisfaction, prior to the occupation of the unrestricted stay component; or*

- v) *the Shire being satisfied through a legal agreement, bond, bank guarantee, or other legally agreed commitment from the developer to ensure the development will be undertaken and satisfactorily completed;*

This criterion is satisfied as the site has been fully developed and operational for short stay tourist accommodation for approximately eight years.

- vi) *the Shire being satisfied with the separation of the two uses or the management arrangement to prevent land use conflict;*

The seven proposed unrestricted stay units are clustered in the northern portion of the site. The tourist amenities (i.e. the pools and tennis/squash courts etc) and the reception/administration building are located away from the proposed unrestricted stay units in the middle and southern portion of the site. The location of the proposed unrestricted stay units away from the tourist amenities would minimise the risk of conflict between the two, principally in terms of noise nuisance. Tourist vehicle through traffic would be limited to three short stay units adjacent to the proposed unrestricted stay units.

- vii) *on all sites, the unrestricted length of stay component being generally located away from the areas of the site providing the highest tourism amenity;*

- viii) *on coastal sites, the unrestricted length of stay component being generally located in areas further from the coast;*

The highest tourism amenity elements include proximity to the beach and the resort infrastructure on site (pools, sports facilities and entertainment facilities). It is clear that the proposal does not comply with point viii above.

The tourist units in the northernmost portion of the site are well separated from the beach by a wide and thickly vegetated foreshore reserve. Three of the tourist units that have direct frontage to the foreshore reserve are being proposed for unrestricted stay use. The remaining three short stay units along the foreshore reserve also have direct access to the beach through the reserve. Pedestrian access has been designed so that both residents and resort guests are not restricted from using the pedestrian thoroughfares throughout the site to access the beach. Two gates are located on the northern boundary of the site that connect the resort to the beach access path and are available for use by both resort guests and residents.

It should be noted that were this a new development, it would be likely that the proposed unrestricted stay units adjoining the foreshore reserve would not be supported. However, as this is an existing development and given the outcome provided for in the strata management plan, it may be considered unreasonable to insist upon the principle of point (viii) above.

The resort infrastructure is located towards the central and southern portions of the site and provides an anchor and focal point for the balance of the short stay accommodation units. The proposed unrestricted stay units

are well separated from these facilities but would not prevent their use by the permanent residents.

The proposal may, however, 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.

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 draft 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.

The proposal has been assessed against the criteria outlined in the LTPS that, in brief, relate to: maximum percentage of unrestricted length of stay units; location within an urban settlement; subsidiary to the tourist component; completion of the tourist component; separation of tourist and residential uses; and location generally away from high tourist amenity areas.

Whilst the proposal broadly meets some of the assessment criteria of the LTPS and the state planning policy framework in relation to the introduction of an unrestricted occupancy component within a non-strategic tourist site, it clearly does not meet the tests of location away from high tourist amenity areas (the beachfront) and demonstration of a net tourism benefit. In fact it can be argued that the proposal, potentially, will have a negative tourism impact on the resort because high amenity tourist units will be kept out of the rental pool while tourists are located in lower amenity units away from the beachfront.

Generally the inclusion of a residential component within a non-strategic tourism site can potentially deliver a net tourism benefit by financially 'kick starting' new tourist development or providing the financial means to refurbish existing developments to improve the tourist product (such as standard of accommodation and onsite tourist infrastructure). Given that the subject land is already developed for tourist purposes, it is not clear what net tourism benefit could be offered by the proposal.

Officers are recommending initiation of the proposed amendment for referral to the EPA and subsequent public advertising 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 the proposed amendment is initiated for referral to the EPA and subsequently advertised for community consultation.

Option

Should the Council not support the officer's recommendation, Council could resolve to decline the request to initiate the proposed amendment in its entirety (and provide a reason for such a decision) or provide for the relaxation of use restriction for lots that are consistent with criteria vii) and viii) of the LTPS. It should be noted that under the relevant legislation there is no right of appeal against a Council decision not to initiate an amendment.

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

C1104/106 Moved Councillor Reid, seconded Councillor Hanran-Smith:

1. That the Council, 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 community consultation 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)

- (b) amending the Scheme Map accordingly.
2. That as the draft Amendment is in the opinion of the Council consistent with Part V of the Act and Regulations made pursuant to the Act, that upon preparation of the necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by Part V of the Act and on receipt of a response from the EPA indicating that the draft Amendment is not subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the Town Planning Regulations 1967.

CARRIED 9/0

EN BLOC

13.3 MINISTERIAL CONSENT TO ADVERTISE DRAFT LOCAL PLANNING SCHEME 21 AND ASSOCIATED SCHEME AMENDMENT MORATORIUM

SUBJECT INDEX:	Town Planning Scheme Review
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:	Strategic Land Use Planning
REPORTING OFFICER:	Coordinator Strategic Planning – David Brash
AUTHORISING OFFICER:	Director Planning and Development Services – Nigel Bancroft
DATE OF COMPLETION:	13 July 2011
VOTING REQUIREMENT:	Simple Majority
PROPOSAL:	Modified draft Local Planning Scheme 21- for community consultation and proposed moratorium on initiating new scheme amendments.
LOT SIZE:	N/A
ZONE:	N/A
POLICIES:	Nil
ATTACHMENT(S):	A Schedule of Modifications B:Modified Local Planning Scheme 21 (with track changes as required by the WAPC/Minister)

PRÉCIS

This report informs the Council of the Minister for Planning's decision to authorise the advertising of the Council's draft Local Planning Scheme 21 (LPS 21) for public comment for a period of 90 days, subject to modifications being made to the draft scheme prior to advertising.

The Minister's decision follows the Council's adoption of the draft scheme in August 2009 and the forwarding of the document to the Planning Commission.

The modifications required by the Minister are minor and are supported.

This report also seeks the Council's support for the commencement date of a future moratorium on the initiation of town planning scheme amendments, to coincide with the expected commencement date of the advertising period of draft LPS 21.

PROPOSAL / BACKGROUND

At its Ordinary Meeting of 12 August 2009, the Council resolved to adopt the draft Shire of Busselton Local Planning Scheme 21(draft LPS 21) and forward it to the Western Australian Planning Commission (WAPC) and

Environmental Protection Authority (EPA) as required by the Regulations and Part V of the Act.

Furthermore the Council resolved that on receipt of consent to advertise from the WAPC, and a response from the EPA indicating that the draft LPS 21 is not subject to formal environmental assessment, that it be advertised for a period of 90 days in accordance with the Regulations.

The EPA responded with its decision not to formally assess the draft LPS 21 on 9 August 2010.

The Western Australian Planning Commission (Commission) responded on 20 January 2011, advising that the Minister for Planning had given conditional consent for the draft LPS 21 to be advertised for public inspection.

In responding, the Commission advised that the Minister noted that the draft LPS 21 is effectively an interim scheme review which consolidates the existing Scheme 20, reformats the Scheme to be consistent with the Model Scheme Text and addresses minor anomalies in the current District Town Planning Scheme 20. As such the preparation of an associated Local Planning Strategy has not been required. It is emphasised in this context that the scheme as proposed is policy neutral and has been prepared to improve the clarity and processes of the scheme without changing the development outcomes for any particular parcel of land.

The Minister has advised that he grants consent to advertise the Scheme pursuant to Regulation 14 of the Town Planning Regulations, and subject to the Scheme documents being modified in accordance with the attached "Schedule of Modifications" (refer attachment A).

If the Council accepts the modifications and resolves to proceed with the scheme as modified, the documents will be returned to the Commission upon which the scheme will be advertised for a period of 90 days.

STATEMENT OF IMPACT

There will be no impacts on landowners as a consequence of the Council accepting the modifications and resolving to proceed with the scheme as modified.

However there will be a need for the Council to withhold initiating new amendments to its current scheme (through a moratorium) for a specific period to administratively allow for the new scheme to be finalised. The timing and the implications of this are discussed under Officer Comment.

CONSULTATION

Advertising of the modified scheme will commence mid year 2011 for 90 days. It will be late 2011 or early 2012 before the submissions on the draft

scheme can be collated and reported back to the Council and it is likely to be the second half of 2012 before final approval and gazettal of draft LPS 21.

This timeframe has implications for a moratorium and is discussed further under Officer Comment.

If the Council resolves to proceed with draft LPS 21 it is envisaged that the following, as a minimum, would occur in support of the public comment period –

- * Availability of draft documents on the Shire's website, and for viewing at the front counter and libraries;
- * Publication of notices in Bay to Bay and Council for Community notices;
- * Press release;
- * Letters to all planning consultants known to be operating in the Shire;
- * Letters to all government agencies and service authorities; and
- * Information sessions for industry and the public if warranted as a result of expressed interest.

It is important to note in this regard that this is a 'policy neutral' updating of the Town Planning Scheme and any effects on individual landowners, if occurring at all, will relate primarily to process issues and should not result in the need for extensive consultation.

STATUTORY ENVIRONMENT

The key elements of the statutory environment in relation to this proposal are set out in the Planning and Development Act 2005 and subsidiary Town Planning Regulations 1967. Of particular importance are the following aspects of the legislation –

- * The regulations require that a local planning strategy be prepared in support of a new town planning scheme, but the Commission can waive this requirement where a 'policy neutral' consolidation is occurring. In this case the Minister has waived this requirement;
- * The regulations require that new town planning schemes generally follow the format set out in the 'model scheme text', which forms an appendix to the regulations; and
- * The Regulations require that the Minister's consent to the advertising of a Scheme must be conditional on sections 7A2 of the Act and 48(C) of the Environmental Protection Act. This has been complied with as the EPA's decision to not assess the scheme was issued to the Shire in August 2010 ahead of the Minister's decision to grant consent to advertise draft LPS 21.

POLICY IMPLICATIONS

There are no policy implications arising from Council accepting the modifications and resolving to proceed with the scheme as modified.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from Council accepting the modifications and resolving to proceed with the scheme as modified. The proposed moratorium on scheme amendments may affect the application fees received during the 2011/12 budget year, but could essentially also just result in receipt of these fees being brought forward.

STRATEGIC IMPLICATIONS

The draft LPS 21 process which forms part of that broader scheme review process reflects Strategic Priority 8 of the Shire's Strategic Plan 2010-2020, which is to - 'Provide appropriate planning and regulatory measures to ensure orderly and acceptable development of the district.' The process is also reflected in the identified project of - 'Proceed to complete the new Town Planning Scheme.'

OFFICER COMMENT

The modifications to the draft LPS 21 are supported as they are largely of a technical nature and do not affect the content or policy neutral status of the draft scheme.

There are two issues however that requires the Council's consideration prior a decision to accept the modifications and return the documents to the Commission for advertising.

Developer Contributions Plans

The Schedule of Modifications at points 1 and 2 outlines the section of the Scheme to be amended which deals with Developer Contributions Plans (DCP).

As background the provisions in the draft LPS 21 are modelled on the State Planning Policy 3.6 Development Contributions for Infrastructure (SPP 3.6) with the exception that draft LPS 21 includes a provision that a Development Contribution Plan may be required by the Shire for any land controlled by the Scheme (refer clause 7.7.1). This provision gives a greater flexibility to the Shire to adopt a DCP pursuant to the Scheme, than is provided for in SPP 3.6. The Commission advises that this clause is to be redrafted to reflect the direction set by SPP 3.6 which allows a local authority to prepare and adopt a DCP where the Scheme requires it i.e. pursuant to a Structure Plan, a Development Guide Plan or where a land parcel is specified in a Schedule of the Scheme.

In order to effect the changes to the Scheme outlined in the Commissions letter the words "or determined as necessary by the local government" are to be deleted from clause 7.7.1 of the draft text. This will have the effect of narrowing the scope of powers available to the local authority to require a DCP. Voluntary agreements between a developer(s) and the Shire for infrastructure provision could still occur and are provided for in the State Planning Policy.

Additionally the Commission requires a minor change to the developer contributions provisions at clause 7.7.11 to effectively provide discretion to the Commission to determine at which planning stage it will need to endorse a DCP where required by the Scheme. The effect of this will align the draft LPS with the current practice of the Commission.

It should be noted that while it is recommended that the Council accept these changes, a further report setting out alternative means of ensuring the outcome of the original drafting will be presented to Council in the coming months.

Scheme Amendment Moratorium

Because amendments to the current scheme would either fall away or could have the effect of delaying the gazettal of Scheme 21 if they are not finalised before the Minister considers draft LPS 21 for final approval, it will be necessary for the Council to set a date at which time it will effectively cease initiating new amendment to its current scheme. This is known as a moratorium and will be important for both the successful progress of the new and current scheme review processes. While this is the primary reason for the moratorium, toward the end of this process and when there are less amendments in the system, it also enables increased resources to be allocated to the finalisation of the scheme.

The timing of the scheme amendment moratorium will be important for proponents of Scheme amendments that are currently being prepared by planning consultants but have not yet been reported to the Council.

It is suggested that the date of the 30 September 2011, be set as the deadline by which proponents of scheme amendments would need to lodge proposals (including payment of necessary fees) with the Shire for reporting to the Council at a subsequent meeting. This would allow the advertising of these amendments to in part run in parallel with the advertising and subsequent review of submissions of the draft LPS 21 and be concluded with LPS 21.

In exceptional circumstances the Council could agree to initiate an amendment after the moratorium comes into effect, but would need to be very conscious of the potential impact of that on other customers and the community. There are also several amendments currently in program that we would not want to see fall away and within reason, the final Gazettal of

LPS 21 should not occur until those amendments are complete: notably the Airport North Industrial Area and Ambergate North amendment proposal.

CONCLUSION

Adoption of draft Local Planning Scheme 21 as modified will enable the project to progress to advertising.

A date for a moratorium on new scheme amendments is necessary, given the impending commencement of the advertising period. A moratorium will provide certainty to the Shire's customers and the community on new proposals and avoid future delays to the finalisation of the LPS 21.

Option

The Council could resolve not to proceed with the Scheme or seek the Ministers reconsideration of the modifications. However the modifications are minor and reconsideration would involve further delays to the progress of the draft scheme.

A second option is for the Council to not agree to a moratorium however, this may put some applicants in the position of expending funds on a scheme amendment that then has no effect as it is not progressed sufficiently when the scheme is gazetted. In this respect the Council always has the option to adjust the timing of the moratorium, but it is important to provide information on the issue as early as possible.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The final draft scheme text and maps will be referred to the Commission within 42 days of the meeting. Local planning consultants will be notified of the proposed program and moratorium immediately.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1104/107 Moved Councillor Reid, seconded Councillor Hanran-Smith:

That the Council –

1. In pursuance of Regulations 14(1), 14 (4) and 25AA(6) of the *Town Planning Regulations 1967* resolves to proceed with draft Local Planning Scheme 21(the Scheme) for advertising and returns the Scheme documents, modified in accordance with the Minister's required modifications, as depicted at attachment B; and the same scheme map as the current *Shire of Busselton District Planning Scheme No. 20* scheme map, other than the area identified as 'Dunsborough Industrial Park' shall instead be identified as 'SP31'; to the Western Australian Planning Commission.

2. Resolves that a scheme amendment moratorium will commence on the 30 September 2011, such that any uninitiated scheme amendments to the current scheme which are not lodged by this date and fees paid will not be reported to the Council and that these and any further amendments will be held over pending final approval of Local Planning Scheme 21; and
3. Requires broad communication of the date for the impending moratorium and explanation of the need for the moratorium, including specific advice to planning consultants operating in the Shire.

CARRIED 9/0

EN BLOC

16.1 LIST OF PAYMENTS MADE - FEBRUARY 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:	Principal Finance Officer – 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 – February 2011

PRÉCIS

This report provides details of payments made from the Shire's bank accounts for the month of February 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 / OFFICER RECOMMENDATION

C1104/108 Moved Councillor Reid, seconded Councillor Hanran-Smith:

That voucher numbers M099474 – M099757, EF12490 – EF12985, T006673 – T006676 and DD001451 – DD001463, together totalling \$4,041,494.27 be noted.

**CARRIED 9/0
EN BLOC**

16.3 LEASE EXTENSION REQUEST APOSTOLIC CHURCH TRUST - PORTION OF RESERVE 22674 'LOCKE ESTATE'

SUBJECT INDEX:	Agreements/Contracts
STRATEGIC INITIATIVE:	Provide a range of quality leisure, cultural, recreation and sporting facilities and services
BUSINESS UNIT:	Finance and Corporate Services
SERVICE:	Property Services
REPORTING OFFICER:	Property Coordinator - Ann Sanford
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Matthew Smith
DATE OF COMPLETION:	30 November 2011
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	Current Apostolic Church Trust leased site

PRÉCIS

The Shire of Busselton leases a portion of Lot 5303 on Deposited Plan 220583 Volume LR3088, Folio 423, Reserve 22674 also known as Locke Estate, to the Apostolic Church Trust (ACT) as indicated in Attachment 1. The Reserve is Crown Land which is vested with the Shire of Busselton with the power to lease for terms of up to 21 years for the designated purpose of recreational camp sites and group holiday accommodation.

The current lease expires on 30 November 2011. The ACT has formally advised that they will not be renewing their lease agreement; however they have applied for permission to remain operating until 31 January 2012.

The purpose of this report is to consider the request from the ACT to remain on site in accordance with the holding over provision of their current lease agreement.

BACKGROUND

Reserve 22674 "Locke Estate" consists of 16 campsites. In 1990 the Shire entered into lease agreements with 16 individual community groups for the purpose of recreational camp sites. These agreements are due to expire on 30 November 2011.

At its meeting on 28 July 2010 the Council resolved (C1007/271) the following in relation to the Locke Estate Lease Agreements;

"That the CEO inform the current Locke Estate lessees of portions of Reserve 22674 that the Council reconfirms its commitment to enter into leases for terms up to 21 years with the existing lessees over their existing sites, commencing on the day following the expiration of the current leases, subject to approval of the Minister for Lands".

In February 2011, the Apostolic Church Trust (ACT) declined the offer to enter into a new agreement. Later that month, the ACT advised they would like to reconsider their position with regards to the lease renewal.

At the Locke Estate Working Group (LEWG) meeting held on 21 February 2011 it was acknowledged that ACT was reconsidering their original decline in renewing the lease agreement. It was agreed formal notification was required from ACT by 28 February 2011.

The ACT have since advised that they no longer wish to renew their lease agreement, however they have requested that an extension be considered until 31 January 2012, so that the campsite operations can continue over the peak period.

The request for an extension on their existing lease agreement was tabled at the LEWG meeting on 21 March 2011. It was agreed that the decision should be determined by the Council.

The statutory requirements in relation to this request are discussed in the Officer Comment section of this report.

CONSULTATION

Discussions were held at the LEWG meeting in February and March 2011 in relation to the ACT request for extension on their existing lease agreement. The LEWG were reluctant to offer extensions as this would set a precedent for other leases.

STATUTORY ENVIRONMENT

Section 3.54 of the Local Government Act authorises the Shire to control and manage reserve land vested in or placed under its control. The Locke Estate, being Reserve 22674, is under the care and control of the Shire of Busselton under a Management Order with Power to Lease for a designated purpose for periods of up to 21 years.

The Shire can enter into leases over portions of the reserve, subject to the approval of the Minister for Lands.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

If the Council agree to extend the existing lease agreement on holding over provisions, the monthly rent will be \$8.33 exclusive of GST.

The rent in the first year for the new lessee's after 30 November 2011, equates to \$66.67 per month exclusive of GST.

STRATEGIC IMPLICATIONS

This request is consistent with the following Shire of Busselton strategic priorities:

- * Provide a range of quality leisure, cultural, recreation and sporting facilities and services; and
- * Responsible management of public infrastructure assets.

OFFICER COMMENT

Holding Over Provision

The request received from the Apostolic Church Trust (*also known as Camp Grace*) to remain on site until 31 January 2012 could be accommodated in accordance with clause 14.05 of their current lease which reads as follows;

"If the Lessee with the consent of the Lessor remains in occupation of the Demised Premises after the expiration of the Term then in the absence of an express agreement in writing to the contrary the Lessee will hold the Demised Premises as tenant from month to month at a monthly rental equal to one twelfth of the yearly rental"

Vesting Order

Under the management order for the Reserve the Shire has the power to lease for a term of up to 21 years. Given that the lease was for a term of 21 years which expires in December 2011, approval from the Minister for Lands is required prior to extending the lease on the holding over provision.

Yielding Up of the Premises

The ACT has advised that the site will be vacated on the 28 February 2012, which is permissible under consistent with clause 14.02 of the current lease which reads as follows;

"At any time within three (3) months after the expiration of the Term or immediately prior thereto the Lessee may remove from the Demised Premises all the Lessee's buildings structures and other fixtures and fittings floor coverings sign or notice required to be removed by the Lessor and shall make good to the satisfaction of the Lessor any damage caused to the Demised Premises by the removal"

However, if the Council resolves to extend the lease agreement until 31 January 2012, the date for yielding up the premises would also be required to be extended, being 30 April 2012.

This later date would be inconsistent with the availability of the other vacant sites within the Locke Estate.

Expressions of Interest Vacant Sites

Advertising for expressions of interest for the vacant sites is to commence once all current lessees have viewed the new draft lease and confirmed their intention to either accept or decline the offer to enter into the new agreement and the applications received have been approved by the Council.

This process is nearing completion and it appears up to 4 sites will become available. It is recommended that all vacant sites be advertised at the same time and the successful applicants lease agreements to commence all on the same date. It is also recommended that this occur as soon as practical upon termination of the existing lease. The term of lease for the vacated site would be timed to end on the same date for all Locke Estate sites, resulting in the length of term being slightly shorter for the sites that had been vacated, in order to allow for the 3 months yielding up period for the previous leases.

CONCLUSION

For these reasons it is recommended that the Council do not support the application from the ACT to extend their current lease agreement. No significant justification has been provided for the lease extension and there does not appear to be sufficient reason to treat the ACT any differently to other groups that have chosen not to renew their lease.

Options

1. The Council could agree to the extension on the lease agreement until the 31 January 2012 with the date for yielding up the premises being 30 April 2012; or
2. The Council could agree to the extension on the lease agreement until the 31 January 2012, with the Apostolic Church Trust required to yield up the premises by 28 February 2012. To formalise this option, would require the Apostolic Church Trust to execute a Supplementary Deed in respect of its lease agreement with the Shire, including a variation to clause 14.02 to allow only 1 month after termination for the lease to yield up possession of the site.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The outcome of the report is to be provided in writing to the Apostolic Church Trust within 14 days of the Council Decision.

If the Council adopt option 2, the Supplementary Deed will need to be executed prior to 30 November 2011.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1104/109 Moved Councillor Reid, seconded Councillor Hanran-Smith:

1. That the Council advises the Church Trust that it does not support an extension to the term of the lease agreement dated 17 January 1991 between the Shire of Busselton and Apostolic Church Trust for a portion of Lot 5303 on Deposited Plan 220583 Volume LR3088, Folio 423, Reserve 22674.
2. That as per clause 14.02 of the lease agreement dated 17 January 1991 the Apostolic Church Trust is required to yield up the premises on or before the 28 February 2012.

CARRIED 9/0
EN BLOC

17.4 COUNCILLORS' INFORMATION BULLETIN

SUBJECT INDEX:	Councillors' Information
STRATEGIC PRIORITY:	Provide effective communication
BUSINESS UNIT:	CEO's Office
SERVICE:	Council and Councillor Services
REPORTING OFFICERS:	Various
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
DATE OF COMPLETION:	14 April 2011
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	1 - Letter from Anglican Diocese of Bunbury 2 - Letter of Appreciation from residents 3 - Development Assessment Guide Panels PDS1 - Report detailing planning applications received PDS2 - Report detailing planning applications determined

PRECIS

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**17.3.1 South West Academy of Sport**

A letter has been received from the CEO of the South West Academy of Sport, Bernice Butlion. The letter extends great appreciation to the Shire for all of their efforts in making the South West Academy Board Meeting and the Meet and Greet event held in the Busselton Shire last month a huge success. Bernice would like to thank everyone for spending their valuable time and effort completing this project.

17.3.2 Letter of Appreciation from the City of Armadale

The Mayor of the City of Armadale has sent a letter to the Shire thanking the Council for the excellent support provided during the recent devastating bushfire in the Kelmscott/Clifton Hills area.

"During the extreme weather conditions and severe fire behaviour, the assistance provided on the fire group by your Brigade members during this

difficult response operation was outstanding and contributed greatly to the fact that no human lives were lost.

Please pass on my sincere appreciation to all your Brigade members for their professional dedication and commitment which was just outstanding."

17.3.3 Letter from the Anglican Diocese of Bunbury

A letter has been received from the Anglican Diocese of Bunbury regarding the provision of Christian services in Vasse. (Attachment 1) The letter is seeking for the provision of land where they can be based in order to offer this important ministry.

17.3.4 Geographe Catchment Council minutes

An outcome from the Geographe Catchment Council meeting held on 24 February 2011:

"Members agreed that staff give a briefing to the Shire that outlines the history and works completed on the LVR and also discuss any new findings that could be trialled. GeoCatch could participate in a workshop if the Shire decides to hold one."

Shire staff are in negotiations with Geocatch and the Department of Water in order to organise a workshop for Councillors. A tentative booking has been made for the 4th of May 2011.

17.3.5 Busselton Senior High School letter of support

A letter has been received from the Busselton Senior High School expressing their support for the development of a Performing Arts facility in the Shire.

"Our school community has many ongoing requirements for a presentation space including:

- End of semester drama and dance performances
- Music performances throughout the year
- Presentation ceremonies
- Prize-giving end of year functions
- Whole of district professional development/workshops

Our specialist music program requires a certain number of performances to be given each year and we currently use our Gymnasium for this purpose."

17.3.6 Letter of Appreciation – Road Surfacing and footpath

A letter has been received from the Residents of the Adventist village Pettit Crescent. (Attachment 2) The residents express their heartfelt thanks to the Shire for resurfacing the road and installing a footpath.

17.3.7 Planning & Development Services Statistics

Planning Applications

Attachment PDS1 is a report detailing all Planning Applications received by the Shire between 1 March, 2011 and 15 March, 2011. Fourteen formal applications were received during this period.

Attachment PDS2 is a report detailing all Planning Applications determined by the Shire between 1 March, 2011 and 15 March, 2011. A total of eleven applications (including subdivision referrals) were determined by the Shire during this period with ten applications approved / supported and one development application refused.

A monthly summary will be provided on every second Council Agenda setting out average processing times and value of planning applications.

17.3.8 Update on Implementation of Development Assessment Panels

Correspondence has been received from the Department of Planning providing an update on the implementation of the Development Assessment Panels. (Attachment 3)

17.3.9 Letter from the Premier

A letter has been received from Colin Barnett MLA expressing his thanks and appreciation at being involved in the Busselton Jetty Fiesta and the opportunity to share in the celebration with the community. Mr Barnett was delighted at the early invite to Busselton when Stage 1 Busselton Foreshore Redevelopment Project is complete and looks forward to receiving more details.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1104/110 Moved Councillor Reid, seconded Councillor Hanran-Smith:

That Items 17.3.1, 17.3.2, 17.3.3, 17.3.4, 17.3.5, 17.3.6, 17.3.7, 17.3.8 and 17.3.9 as included in the Councillors' Information Bulletin be received and noted.

CARRIED 9/0
EN BLOC

ITEMS CONSIDERED BY SEPARATE RESOLUTION

At this juncture, in accordance with Clause 11.2b of the Standing Orders, those items requiring an Absolute Majority or in which Councillors had declared Financial, Proximity or Impartiality Interests were considered.

12.1 **AUDIT COMMITTEE RECOMMENDATION - TENDER RECOMMENDATION - TEN 11/10 - PROVISION OF AUDIT SERVICES**

SUBJECT INDEX:	RFT - Request for Tenders
STRATEGIC PRIORITY:	Be a responsible accountable local government
BUSINESS UNIT:	Finance
SERVICE:	Financial management and control
REPORTING OFFICER:	Principal Finance Officer – Darren Whitby
AUTHORISING OFFICER:	Director, Finance and Corporate Services, – Matthew Smith
DATE OF COMPLETION:	15 April 2011
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	<ul style="list-style-type: none"> ▪ CONFIDENTIAL Tender TEN 11/10 - Recommendation Report ▪ CONFIDENTIAL Tender TEN 11/10 - Tender Evaluation

DECLARATION OF INTEREST	
Name / Position	Councillor David Binks
Item No. / Subject	12.1 – Audit Committee Recommendation – Tender Recommendation – TEN 11/10 – Provision of Audit Services
Type of Interest	Impartiality Interest
Declaration	I disclose that I have an association with AMD Chartered Accountants in that they are clients of the company that is my employer. I will consider the Item solely on its merits and vote or act accordingly.

PRÉCIS

At its meeting of 21 January 2011, the Council's Audit Committee endorsed (AU1101/005) the selection criteria to be recommended to the Council in respect of Tender 11/10 – Provision of Audit Services. At its meeting of 09 February 2011, the Council endorsed (C1102/032) the selection criteria as recommended by the Audit Committee.

Consequent to assessment of tenders received in respect of this matter, this report makes a recommendation to the Council, via the Audit Committee, as to the award of the tender.

BACKGROUND

Pursuant to Part 7 - Division 2 of the Local Government Act, the accounts and annual financial report of a local government for each financial year are required to be audited by an auditor appointed by the local government.

With the current Audit contract expiring upon finalisation of the 2009/10 financial year audit, the Shire has recently called tenders for the provision of audit services for the ensuing three year period.

In terms of Regulation 16 of the Local Government (Audit) Regulations, an Audit Committee is to provide guidance and assistance to the local government as to the development of a process to be used to select and appoint a person to be an auditor. This is consistent with the Instrument of Appointment for the Council's Audit Committee.

With the Audit Committee, and subsequently the Council, having endorsed the selection criteria to be used in calling for tenders, the outcomes of the tender process are now presented to the Audit Committee for deliberation, prior to a recommendation being made to the Council for formal consideration.

CONSULTATION

In accordance with its Instrument of Appointment, the Council's Audit Committee is charged with the specific duties and responsibilities for, amongst others:

- developing and recommending to the Council an appropriate process for the selection and appointment of the local government's auditor
- recommending to the Council the person or persons to be appointed as auditor

The selection criteria, and the associated specification requirements as detailed in the Request for Tender document, were considered by the Audit Committee at its meeting of 21 January 2011.

This report addresses the responsibility for the Audit Committee to recommend to the Council the person or persons to be appointed as the Council's auditor.

STATUTORY ENVIRONMENT

Part 7 of the Local Government Act, and the Local Government (Audit) Regulations, refer to the audit of the financial accounts of a local government, including the appointment of auditors.

Section 3.57 of the Local Government Act and Part 4 of the Local Government (Functions and General) Regulations refer to the requirement for a local government to invite tenders.

Part 4A of the Local Government (Functions and General) Regulations refers to regional price preferences in respect of tenders.

POLICY IMPLICATIONS

The following Council Policies are of relevance in respect of this matter:

Purchasing Policy (239)

This policy details the necessary guidelines to be followed when inviting tenders.

Regional Price Preference Policy (049/1)

This policy details the price preference guidelines to be considered when evaluating tenders submitted by regional suppliers. It should be noted that whilst included in the tender documentation, none of the submitters are eligible for a regional price preference.

FINANCIAL IMPLICATIONS

The Council's 2010/11 adopted budget includes an allocation of approximately \$35K for audit fees, which includes the final audit for the 2009/10 financial year, plus the interim audit for the 2010/11 financial year.

STRATEGIC IMPLICATIONS

This matter aligns with the following Strategic Priority as comprised within the Council's Strategic Plan 2010-2020:

Strategic Priority 9 – *Be a responsible, accountable local government.*

OFFICER COMMENT

A Tender Evaluation Panel comprising the Principal Finance Officer, the Financial Accountant and the Manager, Infrastructure Development was formed to assess and evaluate this tender, for which four (4) submissions were received.

Consequent to the Tender Evaluation Panel's review to ensure that each tender submission had adequately addressed the necessary compliance criteria, the tenders were then processed through to qualitative criteria assessment, based on the following criterion as previously endorsed by the Council:

Qualitative Criteria	Weighting
Relevant Experience	20%
Key Personnel Skills and Experience	20%
Tenderers Resources	10%
Demonstrated Understanding	20%
Price	30%

In order to assign an overall score to each tender, Tender Evaluation Panel members individually assessed both the compliance and qualitative criterion (excluding price). The individual scores in respect of the qualitative criteria were then averaged to obtain the Panel's collective score for each tender. The pricing component was separately scored using the 'Average Based Scoring Method' as recommended in the WALGA Purchasing and Tender Guide. The resultant overall score for each tender is reflected in the Recommendation Report and Tender Evaluation spreadsheet attached.

As a result of the evaluation process, and in consideration of the most advantageous outcome for the Shire of Busselton, the Tender Evaluation Panel recommends that Mr Tim Partridge of AMD Chartered Accountants be appointed as the Council's Auditor for a period of three (3) years, comprising the financial years commencing on 01 July 2010 and ending on 30 June 2013.

Options

The Council may determine to reject the Officer's and/ or the Audit Committee's recommendation, and award the contract to another tenderer. Alternatively, the Council may determine to retender the contract.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The award of the tender can be announced immediately consequent to the Council's decision in respect of this matter.

COUNCIL DECISION / COMMITTEE RECOMMENDATION / OFFICER RECOMMENDATION

C1104/111 Moved Councillor Bleechmore, seconded Councillor Hanran-Smith:

That the Council awards Tender 11/10 – Provision of Audit Services to Mr Tim Partridge of AMD Chartered Accountants.

CARRIED 9/0

15.1 BUDGET AMENDMENT - FLEET MANAGEMENT

SUBJECT INDEX:	Purchasing & Acquisition / Plant:
STRATEGIC INITIATIVE:	3.2 Responsible management of public infrastructure assets. 4.2 Manage the Shire's resources to provide optimum benefit to the community.
BUSINESS UNIT:	Infrastructure Planning.
SERVICE:	Fleet Management.
REPORTING OFFICER:	Fleet Management Officer – Graham Morris
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
DATE OF COMPLETION:	30 June 2011.
VOTING REQUIREMENT:	Absolute Majority.
ATTACHMENT(S):	Nil.

PRÉCIS

This report seeks Council approval to allocate funds to the 2010/2011 Budget for the purpose of purchasing replacement fleet not included in the 2010/2011 Budget.

BACKGROUND

A replacement tipper truck is required to replace P161003 which was written off after an accident. The purchase of a replacement vehicle was not included in the 2010/11 budget at the time of budget preparation pending advice on the insurance payout being made. An insurance payout was made to the Shire for a total of \$39,700 which was received at the end of FY 2009/10. The truck was not replaced immediately pending a trial to see if other Shire vehicles could be shared or utilised in its place.

A decision has been made that the truck does need to be replaced on a permanent basis as efficiencies using other plant were not feasible. An additional truck has since had to be leased to take up the workload. To reduce the costs to the Shire in leasing this truck for the remainder of FY 2010/11 (as opposed to placing a replacement truck in the 2011/12 budget), this report will request that funds be transferred from the Plant Replacement Reserve this financial year in order to purchase the replacement truck immediately.

The purchase price for this vehicle is \$90,000. Approval is now sought for the funding for the replacement of P161003 to be funded from the Plant Replacement Reserve Account 528-11403-7723-0000.

CONSULTATION

Nil.

STATUTORY ENVIRONMENT

Under section 6.8(1)(b) of the Local Government Act 1996, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure is authorised in advance by resolution passed by Absolute Majority.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The replacement of heavy fleet item P161003 (tipper truck) does require a transfer of funds (\$90,000) from the Plant Replacement Reserve Account. The Plant Replacement Reserve is expected to have a balance of \$3,051,298.00 as of 30 June 2011. The insurance value (\$39,700) has been received by the Shire in 2009/10 and therefore cannot be contributed towards the purchase of this item. At the time of the incident, the truck was valued by the insurer to be \$39,700. This would have been the equivalent of the trade-in value, should the Plant have been replaced in a normal manner.

STRATEGIC IMPLICATIONS

This proposal is considered relevant to the Shire's Strategic Plan 2010 - 2020:

- | | |
|----------------------------|---|
| 1. Key Result Area: | Natural and Built Economic Wellbeing: |
| Strategic Priorities: | Provide for a high standard transport system to and within the district. |
| 2. Key Result Area: | Organisational Wellbeing: |
| Strategic Priorities: | Manage the Shire's resources to provide optimum benefit to the community. |

OFFICER COMMENT

Council approval is sought for the funding for the replacement of P161003 (tipper truck) for \$90,000 to be funded from the Plant Replacement Reserve Account 528-11403-7723-0000.

Option

1. The Council may choose not to endorse the officer's recommendation, which will require the continued lease of the truck.

2. The Council may choose to defer the purchase of this item until the FY 2011/12 budget and the shire staff are to continue to lease a truck until the new purchase.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

This officer's recommendations will be delivered during the 2010 – 2011 financial year, with completion by 30 June 2011.

COUNCIL DECISION / OFFICER RECOMMENDATION

ABSOLUTE MAJORITY REQUIRED

C1104/112 Moved Councillor Bleechmore, seconded Councillor Hanran-Smith:

That Council endorse:

1. a budget amendment to transfer a total amount of \$90,000 for the replacement of P161003 (tipper truck) to be funded from the Plant Replacement Reserve Account 528-11403-7723-0000.

CARRIED 9/0
BY ABSOLUTE MAJORITY

12. MATTERS ARISING FROM COMMITTEE MEETINGS / BUSINESS FROM PREVIOUS COUNCIL MEETINGS

12.1 AUDIT COMMITTEE RECOMMENDATION – TENDER RECOMMENDATION TEN11/10 – PROVISION OF AUDIT SERVICES

This Item was considered earlier in the meeting as part of the Items Considered by Separate Resolution of Council. ([C1104/111, page 37](#))

13. PLANNING AND DEVELOPMENT SERVICES REPORT

13.1 PROPOSED 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 COMMUNITY CONSULTATION

This Item was considered earlier in the meeting as part of the En Bloc resolution of Council. ([C1104/106, page 15](#))

13.2 DRAFT AMENDMENT 141: REZONING OF PORTION OF LOTS 2 & 202 BUSSELL HIGHWAY, YALYALUP FROM SPECIAL PURPOSE (YALYALUP DEFERRED DEVELOPMENT AREA) TO SPECIAL PURPOSE (YALYALUP DEVELOPMENT AREA) - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL

SUBJECT INDEX:	Town Planning Schemes & Amendments
APPLICATION NUMBER:	P7009
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 Land Use Planner – Louise Koroveshi
AUTHORISING OFFICER:	Director Planning and Development Services – Nigel Bancroft
DATE OF COMPLETION:	13 May 2011
VOTING REQUIREMENT:	Simple majority
PROPOSAL:	To consider adopting for final approval a draft scheme amendment to rezone the eastern portion of the Busselton Airport (North) Development Guide Plan area from 'Special Purpose (Yalyalup Deferred Development Area)' to 'Special Purpose (Yalyalup Development Area)'
LOT SIZE:	Land area is 81 hectares
ZONE:	Special Purpose (Yalyalup Deferred Development Area), Special Provision Area No. 23
POLICIES:	1. <i>Busselton Urban Growth Strategy</i>

ATTACHMENT(S):

2. *Liveable Neighbourhoods*
 3. *WAPC Statement of Planning Policy No. 4 – State Industrial Buffer Policy*
 4. *WAPC Statement of Planning Policy No. 5.3 - Jandakot Airport Vicinity*
- A. Location Plan
 - B. Busselton Airport (North) Development Guide Plan
 - C. N65(5)/N65(10) Contour Overlay
 - D. Schedule of Submissions

PRÉCIS

The Council is requested to consider adopting for final approval draft Scheme Amendment 141 which proposes to rezone a portion of Lots 2 and 202 Bussell Highway, Yalyalup from Special Purpose (Yalyalup Deferred Development Area) to Special Purpose (Yalyalup Development Area).

The draft amendment was referred to the Environmental Protection Authority which determined that it should not be assessed under Part IV of the *Environmental Protection Act 1986*. No objections to the amendment were received as a result of subsequent community consultation, however a submission lodged by the proponent seeks to modify the endorsed DGP and Special Provision Area 23 pursuant to Schedule 7 of the Scheme in order to remove the requirement for the preparation of Detailed Area Plans (DAP) for the remaining residential precincts.

The adoption of the amendment for final approval was previously identified as being dependent upon Council consideration of studies into the long term development/expansion requirements and future acoustic footprint of the Busselton Regional Airport (BRA). Noise modelling recently undertaken for the Shire indicates that the subject land is likely to be outside of the area that would be affected by aircraft noise above an acceptable threshold recommended by the draft Noise Management Plan (NMP) for the BRA. Notwithstanding that a precautionary approach is suggested, given that the NMP has not been approved by the EPA and that the noise modelling is yet to be tested through a peer review.

Officers are recommending that the Council adopt Amendment 141 for final approval, subject to modifications to the endorsed DGP and Schedule 7 Special Provision Area 23, to in particular deal with the potential aircraft noise issue.

PROPOSAL / BACKGROUND

The proposal comprises a scheme amendment that relates to the rezoning of a portion of Lots 2 and 202 Bussell Highway, Yalyalup from Special Purposes (Yalyalup Deferred Development Area) to Special Purposes (Yalyalup Development Area).

The subject land is located approximately 5km southeast of the Busselton townsite (Attachment A). The site comprises two of a number of landholdings that are subject to the endorsed Busselton Airport (North) Development Guide Plan (Attachment B). The western portion of the Yalyalup landholdings to which the Busselton Airport (North) DGP applies is zoned Special Purposes (Yalyalup Development Area). Five Detailed Area Plans (DAPs) have been adopted by the Council within the Yalyalup Development Area, including one for the future Yalyalup village centre.

The amendment would lift the deferred zoning over the balance of the Yalyalup landholdings within the eastern portion of the Busselton Airport (North) DGP area.

The rezoning of the land is subject to a number of special provisions, pursuant to Schedule 7 of the Scheme, being achieved and/or implemented. The requirements are, in brief: provision of employment generators in the area; developer contributions and staging plan; visual buffers along transport corridors; revegetation/rehabilitation programme; ceding of the outer transit corridor; future noise impacts associated with the BRA; site contamination and creation of neighbourhood community focus areas.

The amendment was adopted for community consultation (refer to agenda item 13.1 of the 23 June 2010 Council meeting) on the basis that six of the special provision requirements had been satisfied and that the Council's consideration of the amendment for adoption for final approval was subject to:

1. Finalisation and adoption of a Developer Contributions and Staging Plan for Yalyalup; and
2. Completion, and the Council's consideration of, studies into the long term development/expansion requirements and future acoustic footprint of the Busselton Regional Airport, noting that those studies may result in the need to modify or refuse the amendment and/or modify the current DGP.

At its meeting on 8 December 2010 the Council resolved to adopt a Developer Contributions and Staging Plan for Yalyalup.

At its special meeting on 15 December 2010 the Council considered, and resolved to adopt, a draft Noise Management Plan (NMP) for the BRA which has been referred to the EPA for approval and subsequent advertising for public comment.

The Council also considered noise modelling reports prepared by SVT Engineering Consultants that included the generation of ANEF, N65 and N70 contours for four predicted growth scenarios for the BRA. The Council resolved to endorse ANEF and N65/N70 noise contours (and associated mapping) for use, inter alia, as a tool to assist in future land use planning. The noise modelling indicates that the N65(10) contour for Scenario 4 (i.e. the line which represents the outer boundary of the area where more than

10 noise events per day of more than 65 decibels under the highest number of aircraft movements anticipated) lies just outside the area subject to the amendment (Attachment C). The NMP indicates that where aircraft noise levels above this threshold are received by residences this would trigger the need for consideration of noise amelioration measures, such as insulation.

At the time of writing this report the NMP had not been formally approved by the EPA. The noise modelling completed for the Shire by SVT Engineering Consultants is also yet to undergo a peer review. The completion of these two processes is anticipated to take several months.

Notwithstanding the current modelled alignment of the N65(10) contour, officers are of the view that there is a need to take a precautionary approach with regard to potential impacts on future airport operations from new houses generally in the southeast portion of the rezoning area. This is discussed further under the 'Officer Comment' section.

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. The proponent has however advised that the object to the proposal change to the amendment related to further assessment of potential aircraft noise impost.

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 draft amendment was subsequently advertised for 42 days (advertising closed 3 December 2010).

As a result of advertising, seven government agency/servicing authority submissions and one public submission were received (Attachment D). No objections to the amendment were raised. The public submission, prepared by the proponent, seeks the Council's support to modify the endorsed DGP and relevant clauses of Special Provision 23 pursuant to Schedule 7 of the Scheme so that the requirement for the preparation of Detailed Area Plans for the remaining residential precincts is removed.

Shire officers have had more recent discussions with the proponents in regard to the proposed condition relating to airport noise, and have made some changes to the proposed condition in response to concerns raised by the proponent. This is discussed in more detail under 'Officer Comment'.

The requested modifications are discussed further under the 'Officer Comment' section.

STATUTORY ENVIRONMENT

The key statutory environment for the consideration of the amendment includes the relevant special provisions pursuant to Schedule 7 of the Scheme that relate to the Special Purpose (Yalyalup Deferred Development Area) and the Busselton Airport (North) Development Guide Plan.

The amendment was previously assessed as generally meeting the requirements of the Scheme, apart from the requirement for the finalisation of a DCSP and studies into the long term development/expansion requirements and future acoustic footprint of the Busselton Regional Airport (refer to agenda item 13.1 of the 23 June 2010 Council meeting).

POLICY IMPLICATIONS

The key policy implications for consideration are set out in the *Busselton Urban Growth Strategy, Liveable Neighbourhoods, Statement of Planning Policy 4 – State Industrial Buffer Policy* and *Statement of Planning Policy 5.3 – Jandakot Airport Vicinity*.

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 of the recommendations of this report including the proposal for further assessment of potential noise impacts prior to subdivision in the Southeast corner of the site. However, should the amendment be adopted for final approval without this recommended requirement then future costs could be created for the Shire (in terms of funding acoustic insulation measures for houses or accepting constraints on the use and development of the airport).

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

In addition to the matters considered in adopting the amendment for consultation there are two matters relevant to the consideration of the draft amendment for adoption for final approval. These matters relate to:

- * potential impact on future airport operations; and
- * the requirement for DAPs to be prepared for remaining residential precincts.

Each is discussed below under appropriate subheadings.

Potential Impact on Future Airport Operations

It is a requirement of the Scheme that the lifting of the Deferred Yalyalup Development zone is dependent upon demonstration that the potential for future noise impacts from BRA operations is taken into account in the development of the land, and any required noise attenuation associated with potential noise impacts determined from investigations is adequately planned for to ensure no impact on airport operations.

The noise modelling recently undertaken for the Shire by SVT Engineering Consultants indicates that the N65(10) contour for Scenario 4 (i.e. the line which represents the outer boundary of the area where more than 10 noise events per day of more than 65 decibels is likely under the highest number of aircraft movements anticipated) lies just outside the area subject of the amendment.

The N65(10) contour is important because the draft NMP for the BRA suggests that the Council will consider noise amelioration for houses that experience more than 10 noise events of 65 dB(A) or more per day. Any new houses built within areas that experience noise levels that meet the NMP triggers (to potentially be eligible for noise amelioration) may create future costs for the Shire, in terms of having to pay for this amelioration to houses, or accepting constraints on the use and development of the airport.

Officers are of the view that there needs to be a precautionary approach to new residential development generally in the southeast portion of the area to which the amendment applies for a number of reasons. The Council has considered a range of studies and information into the long term development/expansion requirements and acoustic footprint of the BRA and, given the importance of the airport for the development, economy and lifestyle of the whole of the Shire and the broader region, has resolved to commit to the development of the airport at its current location.

The NMP has not been formally approved by the EPA and the noise modelling has not yet been subject to a peer review, and it may be several months before these processes are completed. Whilst the current information indicates that new houses in the amendment area will not have an impact on future airport operations, there is still a degree of uncertainty relating to the final outcomes of the NMP and the peer review of the current modelling. Therefore there is potentially a risk that some new houses in the amendment area will have an impact on future airport operations, or be impacted by the operations.

If the final NMP and noise modelling confirm that there is a risk that houses in the amendment area may have an impact on the airport, that could potentially be addressed through requirements for houses to be built with additional insulation and other noise amelioration measures to achieve

interior noise levels consistent with those specified in the NMP. The Australian Standard *AS 2021-2000 Acoustics-Aircraft Noise Intrusion-Building Siting and Construction* provides guidance on acoustic design for insulation of buildings against aircraft noise.

This could be achieved by a special provision being included in the scheme amendment that requires, prior to subdivision, a further assessment of noise impact to determine the necessity for noise amelioration measures to be built into new houses, generally within the N65(5)/N65(10) contour area (refer to Attachment C). This is reflected in the Officer Recommendation as proposed Special Provision 11.

The developers have indicated concern about the impact that the proposed scheme requirement would have on the saleability and sale price of those lots and advise that potentially 200 future lots could fall within the N65(5) contour area. The developers contend that the proposed special provision is unnecessary because their land falls outside of the N65(10) contour and there is already a scheme requirement that landowners and prospective purchasers are warned, via notification on the titles of lots, of possible airport noise from the BRA. While this notification is still considered to be relevant and important for the general area, it will not necessarily translate into future purchasers of lots voluntarily building houses that are insulated against aircraft noise, or provide protection where residences are subject to noise levels above threshold established in the NMP.

Officers are happy for the amendment to progress, but on the basis of inclusion of the condition requiring further investigation and addressing of noise issues before subdivision proceeds in the specific area most likely to experience noise levels above that recommended by the NMP. There does need to be a balance between providing a clear path for the proponents to address constraints on the development of their land and protecting the long-term interests of the community as a whole. The proposed condition (condition 11 of the proposed special provisions) seeks to provide that appropriate balance, being specifically linked to the Airport Noise Management Plan and peer reviewed noise modelling.

Requirement for Detailed Area Plans

The proponent has requested that the endorsed DGP and relevant clauses of Special Provision Area 23, that outline requirements for the preparation of DAPs for the remaining residential precincts within the DGP area, be removed and/or modified.

The endorsed DGP for the Yalyalup urban growth area contains a condition that requires the preparation of DAPs for all residential precincts and this is also a requirement of the Scheme in terms of the special provisions applicable to the land.

DAPs usually deliver a further level of detailed planning and have been used in the Vasse, Dunsborough Lakes and Yalyalup growth areas. The Shire's

experience with those areas, however, suggests that a more simple approach is to provide more detailed guidance at the DGP stage and to only require DAPs for certain locations such as village/local centres. This approach has been applied by the Shire in the planning for Ambergate North and is consistent with the WA Planning Commission's *Liveable Neighbourhoods* and *Residential Planning Codes*, which provide further guidance on land use elements that may require the preparation of a DAP.

There are currently five adopted DAPs applicable to the Yalyalup Development area, including for the future village centre and school/public open space precincts. These DAPs will remain valid and enforceable to guide future subdivision and development. The special provisions will also provide an opportunity to require a new DAP under certain circumstances.

Officers are comfortable, therefore, in adopting an approach for Yalyalup by modifying the DGP and scheme provisions so that DAPs are not mandatory for the remaining residential precincts in the amendment area. The Officer Recommendation also outlines other minor adjustments to several conditions on the DGP that are currently required to be addressed via a DAP to ensure that certain matters are addressed prior to lodgement of a subdivision application (clause 25(12) of the Scheme allows such minor changes to be effected without the need for consultation).

The developer has indicated their intention to undertake a review of the DGP. A revised DGP will require adoption by the Council and subsequent endorsement by the Western Australian Planning Commission. This review will provide officers the opportunity to ensure that the required level of detail is contained on the DGP to guide future subdivision and development in the absence of DAPs.

CONCLUSION

It is recommended that draft Amendment 141 be adopted for final approval, subject to modifications to the endorsed DGP and Special Provision Area 23.

Option

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

1. To defer consideration of the amendment until the finalisation of the NMP and peer review of the noise modelling (and addressing of any issues arising from those processes to the satisfaction of the Council).
2. Not to adopt the amendment for final approval, and provide a reason for such a decision, resulting in the land remaining zoned under the Scheme as Deferred Yalyalup Development.

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

1. That the Council:

- (a) in pursuance of Part V of the *Planning and Development Act 2005*, adopts draft Amendment 141 to the Shire of Busselton District Town Planning Scheme for final approval, which proposes to rezone portions of Lots 2 and 202 Bussell Highway, Yalyalup from Special Purpose (Yalyalup Deferred Development Area)' to 'Special Purpose (Yalyalup Development Area)';
- (b) modifies Special Provision 23 pursuant to Schedule 7 of the Scheme as follows:

No	Particulars of Land	Zone	Special Provisions
23	Lots 2, 6, 31, 32, 202, 501 and 9003 Vasse and Bussell Highways, Yalyalup	Special Purpose (Yalyalup Development Area) and Special Purpose (Yalyalup Deferred Development Area)	<ol style="list-style-type: none"> 1. Development (including subdivision) of the land shall be generally in accordance with the Development Guide Plan and the Detailed Area Plan for the land adopted by Council and endorsed by the Western Australian Planning Commission pursuant to the Scheme. 2. Notwithstanding the provisions of Clause 25 of the Scheme, the Development Guide Plan shall include the following details: <ol style="list-style-type: none"> a. the area to which the Development Guide Plan applies; b. key opportunities and constraints of the Development Area including, landform, topography, hydrology, landscape, vegetation, soils, conservation and heritage values, ownership, land use, roads and public transport and services; c. the planning context for the Development Area including the regional and neighbourhood structure, relevant strategies, Scheme provisions and policies and where appropriate, indicating how the proposed Development Guide Plan is to be integrated into

			<p>the surrounding area;</p> <ul style="list-style-type: none"> d. proposed major land uses, in particular, residential areas, public open space and arrangements between different landowners if required, school sites, civic and community uses, commercial uses (including the location and hierarchy of commercial centres), mixed use, service industrial and mixed business uses; e. estimates of future lots (yield), indicative lot layout, dwellings, the average lot area and density (codings), population, employment and commercial floor space; f. provision for major infrastructure e.g. main drainage, sewerage, water supply and other key infrastructure services, including the future servicing of the industrial land identified on the Busselton Airport Structure Plan; g. the proposed road network and hierarchy, public transport services, and bicycle and pedestrian networks; h. buffers or other similar treatment at the interface between development cells and main/arterial roads/local distributor roads/ significant local roads or adjoining land; i. the boundaries of all development precincts which are to be subject of Detailed Area Plans; j. an ethnographic and archaeological survey is undertaken and the findings are reported to Council and the Department of Indigenous Affairs. Any changes to the subdivision design resulting from the findings of the survey(s) shall be considered in the preparation of the Development Guide Plan. k. mosquito management strategy (which may be integrated with the drainage management strategy/plan) and implementation strategy is approved by Council. l. a traffic management plan is approved by Council. m. a drainage management strategy/plan is approved by
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			<p>Council.</p> <ul style="list-style-type: none"> n. the landscaping strategy. o. such other information as may be required by Council. <p>3. The provisions of the endorsed Development Guide Plan apply to the land as if its provisions were incorporated into the Scheme and are binding and enforceable in the same manner as those provisions included in the Scheme.</p> <p>4. All provisions (such as land use and development controls or approval procedures) applicable to a zone, reserve or R-Code pursuant to the Scheme shall apply to the corresponding land use designations pursuant to the endorsed Development Guide Plan.</p> <p>5. a A Detailed Area Plan may be required by the Council and where required shall be prepared and submitted for a lot or lot(s):</p> <ul style="list-style-type: none"> (i) to enhance, elaborate or expand on the details or provisions contained in a proposed Development Guide Plan or a Development Guide Plan; (ii) in place of a development approval required to comply with Clause 2.5 of the Residential Design Codes; or (iii) for any other planning purpose. <p>b Upon receiving a Detailed Area Plan the Council is to either:</p> <ul style="list-style-type: none"> (i) Determine that the Detailed Area Plan is to be advertised for a minimum period of 21 days; or (ii) Determine that the Detailed Area Plan is to be considered without advertising; or (iii) Determine that the Detailed Area Plan is not to be advertised or considered
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			<p>until further details have been provided or modifications undertaken; or</p> <p>(iv) Determine that the Detailed Area Plan is not satisfactory for advertising or immediate consideration and refuse it, with the reasons for this decision to be provided to the proponent.</p> <p>c If within 90 days of receiving a Detailed Area Plan under clause 5(a) of this Schedule, or such longer period as may be agreed in writing between the person and the Council, the Council has not made one of the determinations referred to in clause 5(c) of this Schedule, the Council is deemed to have refused to approve the Detailed Area Plan.</p> <p>6. A Detailed Area Plan is to be used as the basis for;</p> <p>a making recommendations to the Western Australian Planning Commission on subdivision applications; and</p> <p>b determining development applications with respect to the land subject to the Detailed Area Plan.</p> <p>7. A Detailed Area Plan may include details as to:</p> <p>a building envelopes;</p> <p>b distribution of land uses within a lot;</p> <p>c private open space;</p> <p>d services;</p> <p>e vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;</p> <p>f the location, orientation and design of buildings and the space between buildings;</p> <p>g advertising signs, lighting and fencing;</p> <p>h landscaping, finished site levels</p>
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			<p>and drainage;</p> <ul style="list-style-type: none"> i protection of sites of heritage, conservation or environmental significance; j special development controls and guidelines; k noise buffering; l ancillary dwellings, and/or studio dwellings, home business or home workspace; m encroachments (reciprocal right-of-way, party walls) n variations from the Residential Design Codes and other provisions for land use and development control; o landscaping strategies/plans that are considered along with a Detailed Area Plan shall include: <ul style="list-style-type: none"> (i) restoration of remnant vegetation in public open space areas including the replacement of endemic understorey plant species where considered necessary and management of weeds; and (ii) the retention of paddock trees where practicable; and (iii) the provision of habitat for wetland bird species and rehabilitation of wetland areas, where appropriate. <p>8. Notification of prospective purchasers by way of memorial on the title of proposed lots is to be undertaken to warn of the potential threat of viral infection from mosquitoes.</p> <p>9. At the subdivision stage, notification of landowners and prospective purchasers by way of a memorial on the title of the proposed lots is to be undertaken, to inform landowners of possible airport noise with respect to the nearby Busselton Airport operations. A memorial is to be inserted on the title of lots in close proximity to Bussell Highway, Vasse Highway and the proposed Outer Bypass to advise that the amenity of the lot may be affected by traffic noise</p>
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			<p>to the satisfaction of the Shire of Busselton and Main Roads.</p> <p>10. Prior to subdivision or development the proponent is to prepare a developer contribution and staging plan to the satisfaction of the Shire to ensure the proponents appropriate and timely contribution toward service infrastructure and community facilities on a progressive and staged basis. An appeal right will exist in respect to determination of the plan pursuant to Clause 96 (2) of the Scheme.</p> <p>11. Prior to subdivision of the area generally between the N65(5)/N65(10) noise contours for the Busselton Regional Airport - Scenario 4, as mapped by SVT Engineering Consultants (2010), a further assessment of noise impact is required to determine the need for noise amelioration measures to be built into new houses. That assessment shall be based upon an Environmental Protection Authority approved Noise Management Plan for the airport and peer reviewed noise modelling identifying areas likely to experience noise above the thresholds identified in the approved Noise Management Plan where noise amelioration may be required.</p>
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- (c) modifies the Busselton Airport (North) Development Guide Plan by deleting conditions 7, 8, 11, 13 and 15 and inserting the following new condition;

'Prior to lodgement of an application for subdivision approval:

- (i) lot sizes adjacent to Vasse Highway are to be determined to address adequate building areas (for dwelling and outbuildings); adequate lot frontages (minimum 30 metres) and a 40 metre wide landscape buffer adjacent to Vasse Highway;*
- (ii) preparation of a revegetation, rehabilitation and landscape plan to the specification and satisfaction of the Department of Environment and Conservation and the Shire of Busselton;*
- (iii) access to Vasse Highway from Lot 505 is to be determined; and*

(iv) *detailed design of the interface between the Reserve for Landscape Protection and future development is to be determined (this may require a redesign and/or alternative road alignment).*

2. Endorses the Schedule of Submissions prepared in response to the community consultation undertaken in relation to draft Amendment 141.
3. That, on receipt of modified scheme amendment documentation and Development Guide Plan, the Council refer draft Amendment 141 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.

Note: Officers provided Council with a revised recommendation which had an amendment to special provision 11 to provide clarification regarding potential noise amelioration requirements.

COUNCIL DECISION / REVISED OFFICER RECOMMENDATION

C1104/113 Moved Councillor Henley, seconded Councillor Best:

1. That the Council:
 - (a) in pursuance of Part V of the *Planning and Development Act 2005*, adopts draft Amendment 141 to the Shire of Busselton District Town Planning Scheme for final approval, which proposes to rezone portions of Lots 2 and 202 Bussell Highway, Yalyalup from Special Purpose (Yalyalup Deferred Development Area)' to 'Special Purpose (Yalyalup Development Area)';
 - (b) modifies Special Provision 23 pursuant to Schedule 7 of the Scheme as follows:

No	Particulars of Land	Zone	Special Provisions
23	Lots 2, 6, 31, 32, 202, 501 and 9003 Vasse and	Special Purpose (Yalyalup Development Area) and	1. Development (including subdivision) of the land shall be generally in accordance with the Development Guide Plan and the Detailed Area Plan

	<p>Bussell Highways, Yalyalup</p>	<p>Special Purpose (Yalyalup Deferred Development Area)</p>	<p>for the land adopted by Council and endorsed by the Western Australian Planning Commission pursuant to the Scheme.</p> <p>2. Notwithstanding the provisions of Clause 25 of the Scheme, the Development Guide Plan shall include the following details:</p> <ul style="list-style-type: none"> a. the area to which the Development Guide Plan applies; b. key opportunities and constraints of the Development Area including, landform, topography, hydrology, landscape, vegetation, soils, conservation and heritage values, ownership, land use, roads and public transport and services; c. the planning context for the Development Area including the regional and neighbourhood structure, relevant strategies, Scheme provisions and policies and where appropriate, indicating how the proposed Development Guide Plan is to be integrated into the surrounding area; d. proposed major land uses, in particular, residential areas, public open space and arrangements between different landowners if required, school sites, civic and community uses, commercial uses (including the location and hierarchy of commercial centres), mixed use, service industrial and mixed business uses; e. estimates of future lots (yield), indicative lot layout, dwellings, the average lot area and density (codings), population, employment and commercial floor space; f. provision for major infrastructure e.g. main drainage, sewerage, water supply and other key infrastructure services, including the future servicing of the industrial land identified on the Busselton Airport Structure Plan; g. the proposed road network and hierarchy, public transport services, and bicycle and pedestrian networks;
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			<ul style="list-style-type: none"> h. buffers or other similar treatment at the interface between development cells and main/arterial roads/local distributor roads/ significant local roads or adjoining land; i. the boundaries of all development precincts which are to be subject of Detailed Area Plans; j. an ethnographic and archaeological survey is undertaken and the findings are reported to Council and the Department of Indigenous Affairs. Any changes to the subdivision design resulting from the findings of the survey(s) shall be considered in the preparation of the Development Guide Plan. k. mosquito management strategy (which may be integrated with the drainage management strategy/plan) and implementation strategy is approved by Council. l. a traffic management plan is approved by Council. m. a drainage management strategy/plan is approved by Council. n. the landscaping strategy. o. such other information as may be required by Council. <p>3. The provisions of the endorsed Development Guide Plan apply to the land as if its provisions were incorporated into the Scheme and are binding and enforceable in the same manner as those provisions included in the Scheme.</p> <p>4. All provisions (such as land use and development controls or approval procedures) applicable to a zone, reserve or R-Code pursuant to the Scheme shall apply to the corresponding land use designations pursuant to the endorsed Development Guide Plan.</p> <p>5. a A Detailed Area Plan may be required by the Council and where required shall be prepared and submitted for a lot or lot(s):</p> <ul style="list-style-type: none"> (i) to enhance, elaborate or expand on the details or provisions contained in a
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			<p>proposed Development Guide Plan or a Development Guide Plan;</p> <p>(ii) in place of a development approval required to comply with Clause 2.5 of the Residential Design Codes; or</p> <p>(iii) for any other planning purpose.</p> <p>b Upon receiving a Detailed Area Plan the Council is to either:</p> <p>(i) Determine that the Detailed Area Plan is to be advertised for a minimum period of 21 days; or</p> <p>(ii) Determine that the Detailed Area Plan is to be considered without advertising; or</p> <p>(iii) Determine that the Detailed Area Plan is not to be advertised or considered until further details have been provided or modifications undertaken; or</p> <p>(iv) Determine that the Detailed Area Plan is not satisfactory for advertising or immediate consideration and refuse it, with the reasons for this decision to be provided to the proponent.</p> <p>c If within 90 days of receiving a Detailed Area Plan under clause 5(a) of this Schedule, or such longer period as may be agreed in writing between the person and the Council, the Council has not made one of the determinations referred to in clause 5(c) of this Schedule, the Council is deemed to have refused to approve the Detailed Area Plan.</p> <p>6. A Detailed Area Plan is to be used as the basis for;</p> <p>a making recommendations to the Western Australian Planning Commission on subdivision applications; and</p>
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			<p>b determining development applications with respect to the land subject to the Detailed Area Plan.</p> <p>7. A Detailed Area Plan may include details as to:</p> <p>a building envelopes;</p> <p>b distribution of land uses within a lot;</p> <p>c private open space;</p> <p>d services;</p> <p>e vehicular access, parking, loading and unloading areas, storage yards and rubbish collection closures;</p> <p>f the location, orientation and design of buildings and the space between buildings;</p> <p>g advertising signs, lighting and fencing;</p> <p>h landscaping, finished site levels and drainage;</p> <p>i protection of sites of heritage, conservation or environmental significance;</p> <p>j special development controls and guidelines;</p> <p>k noise buffering;</p> <p>l ancillary dwellings, and/or studio dwellings, home business or home workspace;</p> <p>m encroachments (reciprocal right-of-way, party walls)</p> <p>n variations from the Residential Design Codes and other provisions for land use and development control;</p> <p>o landscaping strategies/plans that are considered along with a Detailed Area Plan shall include:</p> <p>(i) restoration of remnant vegetation in public open space areas including the replacement of endemic understorey plant species where considered necessary and management of weeds; and</p> <p>(ii) the retention of paddock</p>
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			<p>trees where practicable; and</p> <p>(iii) the provision of habitat for wetland bird species and rehabilitation of wetland areas, where appropriate.</p> <p>8. Notification of prospective purchasers by way of memorial on the title of proposed lots is to be undertaken to warn of the potential threat of viral infection from mosquitoes.</p> <p>9. At the subdivision stage, notification of landowners and prospective purchasers by way of a memorial on the title of the proposed lots is to be undertaken, to inform landowners of possible airport noise with respect to the nearby Busselton Airport operations. A memorial is to be inserted on the title of lots in close proximity to Bussell Highway, Vasse Highway and the proposed Outer Bypass to advise that the amenity of the lot may be affected by traffic noise to the satisfaction of the Shire of Busselton and Main Roads.</p> <p>10. Prior to subdivision or development the proponent is to prepare a developer contribution and staging plan to the satisfaction of the Shire to ensure the proponents appropriate and timely contribution toward service infrastructure and community facilities on a progressive and staged basis. An appeal right will exist in respect to determination of the plan pursuant to Clause 96 (2) of the Scheme.</p> <p>11. The Council has prepared a draft Noise Management Plan for Busselton Regional Airport, which requires approval by the Environmental Protection Authority. The Council may recommend conditions on the subdivision and development of land requiring noise amelioration measures consistent with the draft Noise Management Plan and subsequently with the Noise Management Plan as finally approved by the Environmental Protection Authority.</p>
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(c) modifies the Busselton Airport (North) Development Guide Plan by deleting conditions 7, 8, 11, 13 and 15 and inserting the following new condition;

'Prior to lodgement of an application for subdivision approval:

- (i) lot sizes adjacent to Vasse Highway are to be determined to address adequate building areas (for dwelling and outbuildings); adequate lot frontages (minimum 30 metres) and a 40 metre wide landscape buffer adjacent to Vasse Highway;*
 - (ii) preparation of a revegetation, rehabilitation and landscape plan to the specification and satisfaction of the Department of Environment and Conservation and the Shire of Busselton;*
 - (iii) access to Vasse Highway from Lot 505 is to be determined; and*
 - (iv) detailed design of the interface between the Reserve for Landscape Protection and future development is to be determined (this may require a redesign and/or alternative road alignment).*
2. Endorses the Schedule of Submissions prepared in response to the community consultation undertaken in relation to draft Amendment 141.
 3. That, on receipt of modified scheme amendment documentation and Development Guide Plan, the Council refer draft Amendment 141 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 5/4

FOR	AGAINST
Cr Binks	Cr Reid
Cr Best	Cr Tuffin
Cr Bleechmore	Cr Emery
Cr Henley	Cr Stubbs
Cr Hanran-Smith	

13.3 MINISTERIAL CONSENT TO ADVERTISE DRAFT LOCAL PLANNING SCHEME 21 AND ASSOCIATED SCHEME AMENDMENT MORATORIUM

This Item was considered earlier in the meeting as part of the En Bloc resolution of Council. ([C1104/107, page 22](#))

14. COMMUNITY AND COMMERCIAL SERVICES REPORT

Nil

15. ENGINEERING AND WORKS SERVICES REPORT

15.1 BUDGET AMENDMENT – FLEET MANAGEMENT

This Item was considered earlier in the meeting as part of the Items considered by separate Resolution of Council. ([C1104/112, page 40](#))

16. FINANCE AND CORPORATE SERVICES REPORT

16.1 LISTOF PAYMENTS MADE – FEBRUARY 2011

This Item was considered earlier in the meeting as part of the En Bloc resolution of Council. ([C1104/108, page 25](#))

16.2 DIFFERENTIAL RATING - FUNDING FOR TOURISM, MARKETING AND EVENTS ACTIVITIES

SUBJECT INDEX:	Rating Operations
STRATEGIC PRIORITY:	Manage the Shire's resources to provide optimum benefit to the community
BUSINESS UNIT:	Finance
SERVICE:	Rating Services
REPORTING OFFICER:	Principal Finance Officer – Darren Whitby
AUTHORISING OFFICER:	Director, Finance & Corporate Services – Matthew Smith
DATE OF COMPLETION:	Not Applicable
VOTING REQUIREMENT:	Simple majority
ATTACHMENT(S):	Nil

PRÉCIS

As part of its annual budget each year, the Council allocates funding towards tourism, marketing and events. Additional funds are also indirectly allocated for these same purposes via the raising of the Busselton Central Business District specified area rate (SAR), which is administered by the Busselton Chamber of Commerce and Industry (Inc).

In order for the Shire to continue to fund these activities into the future, it has been proposed that differential rating be used to assist in raising the

required rates revenue; from those sectors of the community that most directly benefit from tourism, marketing and events activities.

Concomitantly, it is also proposed that the Busselton Central Business District SAR be discontinued at the culmination of the 2010/11 financial year, for reasons as will be detailed within this report.

At its meeting of 03 March 2011, the Council's Finance Committee determined (FIN1103/012) that the differential rating proposals be presented to the Council for consideration on the basis of the CBD Specified Area Rate being discontinued from 01 July 2011. This report is presented in response to the above decision, and seeks to formalise the outcomes of related workshops, such that the Council can formally resolve its position in relation to these matters.

BACKGROUND

As part of the Councils' 2010/11 adopted budget, approximately \$310K was allocated to events sponsorship, with a further \$150K allocated towards tourism, via a direct contribution towards the operations of the Geographe Bay Tourism Association. This is in addition to approximately \$490K earmarked for sporting and community groups and other worthy 'community' oriented projects and initiatives.

With limited financial resources, it has been identified that in order for the Shire to continue to support tourism, marketing and events activities, additional funding is required. Based on the view that the business community directly benefits from tourism, marketing and events sponsorship within the Shire, it is proposed that this sector of the community contributes towards the future funding of these activities. This contribution is proposed to be raised via rates, using differential rating methodologies against the industrial and commercial zone groups and the commercial land use group.

As part of this proposal, at its 03 March 2011 meeting, the Council's Finance Committee determined (FIN1103/012) that the proposal be presented for consideration by the Council on the basis of the Busselton Central Business District SAR being discontinued from 01 July 2011. In addition to the known duplication of events funding by the Shire and the Busselton Chamber of Commerce and Industry (via the SAR funds), the differential rating proposal will seek to provide a higher level of equity across the Shire, such that those businesses within the Busselton CBD (who are presently paying a specified area rate) are no longer subsidising events that benefit the greater business community within the district.

CONSULTATION

An initial meeting to discuss the differential rating proposal was convened on 19 August 2010. In addition to Councillor and staff representation, representatives from the Busselton Chamber of Commerce and Industry, the Dunsborough/ Yallingup Chamber of Commerce and Industry and the

Geographe Bay Tourism Association were in attendance. As part of this meeting, it was requested that attending business community representatives seek feedback from their respective members on the proposal, and to report the outcomes back to the Council's Finance Committee.

A further meeting was convened on 25 January 2011 with the incoming President of the Dunsborough/ Yallingup Chamber of Commerce. A number of Councillors and staff were also in attendance at this meeting.

On 08 February 2011, the Chief Executive Officer attended a Dunsborough/ Yallingup Chamber of Commerce meeting, at which time he spoke to attending members on, amongst others, the rating proposal.

At its meeting of 03 March 2011, the Council's Finance Committee further deliberated this matter, at which time written responses to the proposal from the respective Chambers of Commerce and the Geographe Bay Tourism Association were also reviewed.

Finally, and as part of a Ten Year Financial Plan workshop conducted on 09 March 2011, the Finance Committee's position on this proposal was conveyed and discussed amongst the Elected Members Group.

STATUTORY ENVIRONMENT

- Section 6.33 of the Local Government Act specifically refers to differential rates.
- Section 6.36 of the Local Government Act refers to the requirement for local governments to give local public notice prior to the imposition of any differential rate or minimum payment applying to a differential rate category. The public notice is to invite submissions to the proposal, which the local government must consider prior to imposing the proposed rate or minimum payment, with or without modification.
- Section 6.37 of the Local Government Act specifically refers to specified area rates.

POLICY IMPLICATIONS

Council Policy 236 – 'Rating' supports the use of differential rating.

FINANCIAL IMPLICATIONS

Based on the Council's 2010/11 adopted rates model, total rates levied against industrial and commercial properties (by zone group and land use group) equates to approximately \$6.4M.

It must be noted however that this value includes vacant land and also those properties on a minimum payment. Additionally, Section 6.33(3) of

the Local Government Act states that without the approval of the Minister, a local government can not impose a differential rate that is more than twice the lowest differential rate imposed by it. Whilst the above matters will all require further consideration as part of this proposal, the total rates levied against these subject properties does provide an indicative estimate of the percentage increase in rates required (from this sector) to fund tourism, marketing and events.

As an outcome of the Finance Committee and Councillor workshops, it has been suggested that funds equating to a 6%, 8% and 10% rate increase for the industrial and commercial sectors be implemented over the next three years. Consequently, in 2011/12, approximately \$384K in additional rates is proposed to be levied against properties within these sectors.

It is also worthy to note that, should the Council determine to discontinue to Busselton Central Business District SAR as at the end of this financial year, those businesses within the Busselton CBD presently being levied the SAR (historically set at 10% of the general rate), will no longer be levied this rate.

STRATEGIC IMPLICATIONS

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

- *Business and Economic Wellbeing*

To assist and provide for the economic development of the district.

This priority includes the proposed project of promoting the Shire as the events capital of the South West.

- *Organisational Wellbeing*

Manage the Shire's resources to provide optimum benefit to the community.

This priority includes the proposed project of developing a more user-based rating system.

OFFICER COMMENT

The Council has acknowledged the importance of supporting tourism, marketing and events within the Shire. This is reflected in the Council's Strategic Plan 2010-2020, whereby the Council seeks to "*promote the Shire as the events capital of the South West*". Notwithstanding this, the Council is required to demonstrate financial prudence, in light of escalating costs, to effectively continue to provide core services to its community. As such, and wherever possible, discretionary expenditures should be funded from those sectors of the community that most directly benefit as a result. This is also reflective of the Council's Strategic Plan 2010-2020, whereby the Council is seeking to "*develop a more user-based rating system*". It is for this reason that the proposal to implement differential rating for the industrial and commercial sectors of the Shire has been raised.

As part of the outcomes of a Finance Committee and subsequent Councillor workshop, Councillors have suggested a number of overarching guidelines in respect of this proposal. These are summarised as follows:

Level of Funds to be Raised

As an outcome of the workshops held on this proposal, it has been recommended that a staged approach be implemented in respect of rate increases attributable to the industrial and commercial sectors; as follows:

Year	Rate Increase
2011/12	6%
2012/13	8%
2013/14	10%

In respect of the above, the following requires noting:

- The rate increase is only indicative of the value of additional rates to be levied against the industrial and commercial sectors, as other factors also need to be considered (e.g. minimum payments, differential rating ratios etc).
- Subsequent to 2011/12, the annual rates increases for the following two years would only be an additional 2%, in order to achieve the equivalent of 10% by the third year.

Allocation of Funds to be Raised

As part of the workshop outcomes, it was tendered that the additional rates revenue raised be allocated to several specific areas; comprising:

- Tourism - Geographe Bay Tourism Association (GBTA)

At its meeting of 23 March 2011, the Council resolved (C1103/097) to approve a three year Funding Agreement for the GBTA, to the value of \$150K per annum. It is proposed that this allocation be funded from the additional rates revenue raised.

- Marketing

In addition to the GBTA funding, it has been suggested that the remaining funds be allocated evenly between marketing and events. Based on the currently adopted rates model, a 6% rate increase for the commercial and industrial rated properties would equate to approximately \$384K. As such, in 2011/12, approximately \$117K would be available for marketing purposes. The 'marketing' budget allocation would be expended on 'whole of Shire' marketing only. Whilst the business community would be encouraged to actively participate in marketing initiatives, the Shire is not positioned, or legally able to, subsidise any business expenditure on marketing.

- Events

Cognisant of the above, approximately \$117K would also be made available for events funding in 2011/12. With respect to events, the Council would

determine those events it chose to provide funding for, which may include newly proposed events.

Consultation – Decision Making Processes

With regards to both marketing and events allocations, it has been recommended that the Council retain full control of these funds, including the overall responsibility for all decision making processes in respect of the expenditure of the funds. Notwithstanding this however, the Council would consult with key stakeholders in respect of the funds allocation, and would seek the expertise of others (e.g. GBTA for marketing) to ensure the optimum use of the funds. To this end, it is proposed that a Key Stakeholders Reference Group, comprising the Busselton Chamber of Commerce and Industry, the Dunsborough/ Yallingup Chamber of Commerce and Industry, the Geographe Bay Tourism Association and the Busselton Jetty Environment and Conservation Association, be formed to discuss and make recommendations to the Council on the expenditure of the marketing and events budget allocations.

Future of Busselton Central Business District Specified Area Rate (Busselton CBD SAR)

At its meeting of 03 March 2011, the Council's Finance Committee determined (FIN1103/012) that the differential rating proposal be presented for consideration by the Council on the basis that the Busselton CBD SAR be discontinued from 01 July 2011. There are several reasons for the Finance Committee's decision in this regard, which include:

- The implementation of a 'whole of district' differential rate would assist in providing rating equity across all industrial and commercial rated properties within the Shire. Presently, those businesses paying the Busselton CBD SAR directly contribute to many events that benefit tourism, commercial and industrial businesses across the Shire. It is considered that this is neither appropriate nor equitable.
- It is considered that the historical duplication of events funding by the Shire and the Busselton Chamber of Commerce and Industry is not an efficient use of rates revenue.
- Specified area rates are restrictive and require high levels of administration and compliance reporting to the Council. This is not considered an effective use of staff and Chamber representative's time.
- Due to the strict statutory requirements in relation to specified area rates, it is considered that the Shire's the current processes in respect of the Busselton CBD SAR are not fully compliant with the intent of the Local Government Act, and would necessitate significant amendments to be made to existing processes.

In light of the above, it is considered appropriate that the Busselton CBD SAR be discontinued from the end of this financial year.

Other Funding Sources

As part of the workshop deliberations, the matter of sourcing additional funding from (residentially zoned) holiday home registrations and inspections was raised for discussion. Whilst the charging of these fees is subject to the formalisation of a local law in respect of the regulation of holiday homes, pursuant to Section 6.17(3)(b) of the Local Government Act, the associated fees are to be limited to the cost of providing the service (cost recovery only). Whilst the Council may, at which time the local law is formalised, determine to notionally allocate additional funds to the marketing and events budget allocation (equivalent to the estimated revenue from the registration and inspection fees), the fees would not be permitted to be loaded for the purposes of specifically contributing to the overall tourism, marketing and events allocation.

CONCLUSION

As detailed within this report, the differential rating proposal will provide the necessary revenue to enable the Council to continue to fund tourism, marketing and events activities into the future. Furthermore, this proposal will provide a greater level of equity in the Shire's rating burden, with all industrial and commercial properties (by zone group and land use group) contributing towards the promotion of the district.

Option

1. The Council may determine not to favourably consider this proposal, and continue to fund tourism, marketing and events activities from general revenue. Clearly however, this option may limit the Council's future ability to fund other core and discretionary services.
2. The Council may determine any other rating proposals by which additional rating revenue can be raised to continue to fund tourism, marketing and events sponsorship.
3. The Council may determine to discontinue or at least reduce its financial support of tourism, marketing and events activities past the 2010/11 financial year.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should the Council determine to implement an amendment to its current differential rating methodologies; rates modelling for the 2011/12 draft annual budget will be reflective of this proposal. Consequent to the receipt and reconciliation of the updated valuation roll, a further report detailing the 2011/12 draft budget rates modelling outcomes will be presented to the Council during June 2011.

OFFICER RECOMMENDATION

That the Council:

1. Endorses the implementation of a differential rating proposal wherein properties rated within the Industrial and Commercial Zone Groups and the Commercial Land Use Group, directly contribute toward the Shire's continued support of tourism, marketing and events activities; as outlined in this report.
2. Endorses a staged implementation of the differential rating proposal, with the equivalent of an additional 6% rate increase across the Commercial Zone Groups and the Commercial Land Use Group, being included in 2011/12 draft budget rates modelling.
3. Determines to discontinue the levying of the Busselton Central Business District Specified Area Rate, effective from the commencement of the 2011/12 financial year.
4. Subject to Recommendation 1. above, endorses the establishment of a Key Stakeholders Reference Group to make recommendations to the Council in respect of the marketing and events budget allocations. This Group is to comprise representation from the Busselton Chamber of Commerce and Industry, the Dunsborough/ Yallingup Chamber of Commerce and Industry, the Geographe Bay Tourism Association and the Busselton Jetty Environment and Conservation Association.

Note: Councillor Emery gave notice of her intention to move an alternative motion which would see the implementation of the differential rating proposal deferred.

MOTION

Moved Councillor Emery, seconded Councillor Stubbs:

That the Council:

1. Defer discussing implementing a differential rating proposal for the Industrial and Commercial Zone Groups and the Commercial Land Use Group until the 2012/13 financial year.
2. Consult with individual business proprietors for their views on this matter. Not just the Chambers of Commerce.
3. Request that the result of this consultation be brought to Council, and Council consider this in their 2012/13 rates process.
4. Determines to discontinue the levying of the Busselton Central Business District Specified Area Rate, effective from the commencement of the 2011/12 financial year.

FORESHADOWED MOTION

Councillor Hanran-Smith gave notice of his intention to move the Officer Recommendation.

AMENDMENT

Moved Councillor Binks, seconded Councillor Stubbs:

That a part 5 be added to the motion:

5. That an appropriate amount be included in the 2011/12 draft budget for consideration for the likely shortfall in event and marketing funding usually funded by the Specified Area Rate.

LOST 4/5	
FOR	AGAINST
Cr Emery	Cr Reid
Cr Binks	Cr Tuffin
Cr Stubbs	Cr Bleechmore
Cr Henley	Cr Best
	Cr Hanran-Smith

MOTION PUT

Moved Councillor Emery, seconded Councillor Stubbs:

That the Council:

1. Defer discussing implementing a differential rating proposal for the Industrial and Commercial Zone Groups and the Commercial Land Use Group until the 2012/13 financial year.
2. Consult with individual business proprietors for their views on this matter. Not just the Chambers of Commerce.
3. Request that the result of this consultation be brought to Council, and Council consider this in their 2012/13 rates process.
4. Determines to discontinue the levying of the Busselton Central Business District Specified Area Rate, effective from the commencement of the 2011/12 financial year.

LOST 4/5	
FOR	AGAINST
Cr Emery	Cr Reid
Cr Binks	Cr Tuffin
Cr Stubbs	Cr Bleechmore
Cr Henley	Cr Best
	Cr Hanran-Smith

Note: As the motion was lost Councillor Hanran-Smith was able to move the Officer Recommendation that he had foreshadowed.

6.55pm At this time the Shire President left the meeting and the Deputy Shire President took control of proceedings.

6.56pm At this time Councillor Henley left the meeting.

COUNCIL DECISION / OFFICER RECOMMENDATION

C1104/114 Moved Councillor Hanran-Smith, seconded Councillor Bleechmore:

That the Council:

1. Endorses the implementation of a differential rating proposal wherein properties rated within the Industrial and Commercial Zone Groups and the Commercial Land Use Group, directly contribute toward the Shire's continued support of tourism, marketing and events activities; as outlined in this report.
2. Endorses a staged implementation of the differential rating proposal, with the equivalent of an additional 6% rate increase across the Commercial Zone Groups and the Commercial Land Use Group, being included in 2011/12 draft budget rates modelling.
3. Determines to discontinue the levying of the Busselton Central Business District Specified Area Rate, effective from the commencement of the 2011/12 financial year.
4. Subject to Recommendation 1. above, endorses the establishment of a Key Stakeholders Reference Group to make recommendations to the Council in respect of the marketing and events budget allocations. This Group is to comprise representation from the Busselton Chamber of Commerce and Industry, the Dunsborough/ Yallingup Chamber of Commerce and Industry, the Geopraphe Bay Tourism Association and the Busselton Jetty Environment and Conservation Association.

CARRIED 6/1

FOR	AGAINST
Cr Hanran-Smith	Cr Emery
Cr Binks	
Cr Reid	
Cr Tuffin	
Cr Bleechmore	
Cr Best	

Note: Councillor Henley and the Shire President were not in the Council Chamber at the time of voting on this motion.

16.3 LEASE EXTENSION REQUEST APOSTOLIC CHURCH TRUST – PORTION OF RESERVE 22674 “LOCKE ESTATE”

This Item was considered earlier in the meeting as part of the En Bloc resolution of Council. ([C1104/109, page 30](#))

17. CHIEF EXECUTIVE OFFICER'S REPORT

17.1 REQUEST TO INVESTIGATE THE ACQUISITION OF LOT 450, IN THE CULTURAL PRECINCT, FROM THE DEPARTMENT OF ENVIRONMENT AND CONSERVATION AND CONSIDERATION OF THE SITE AS A LOCATION FOR BUSSELTON'S PERFORMING ARTS CENTRE

SUBJECT INDEX:	Major Projects - Performing Arts Centre
STRATEGIC PRIORITY:	Strategic Priority 1: Provide a range of quality leisure, cultural, recreational and sporting facilities and services
BUSINESS UNIT:	Major Projects
SERVICE:	Planning and Design; Cultural Planning
REPORTING OFFICER:	Planning and Design; Cultural Planning/Development Officer – Pip Sawyer
AUTHORISING OFFICER:	Chief Executive Officer – Mike Archer
DATE OF COMPLETION:	June 30 th 2012
VOTING REQUIREMENT:	Simple majority
ATTACHMENT(S):	A: Intramap plan of Queen Street - northern section) B: Streetscape upgrade plan for Queen Street (Adelaide Street to Marine Terrace) C: PACIC Site Investigation Oct 2010 D: Intramap of cultural precinct with parking overlay E: Port Augusta Cultural Centre F: Extract from Pegasus Venue Management Feasibility Study -Performing Arts and Creative Industries Centre

PRÉCIS

The gifting of Lots 43 and 44 Queen Street to the Shire leaves Lot 450 Queen Street as the only lot in the cultural precinct not in Shire ownership. Currently owned by the State Government- DEC, initial enquiries have determined that acquisition of this lot is a possibility if the Shire can negotiate a land swap at no disadvantage to DEC. Shire owned land in Peel Terrace is one option, and one with potential to co locate WA State Government agencies in Busselton with shared, or parallel, interests in one building.

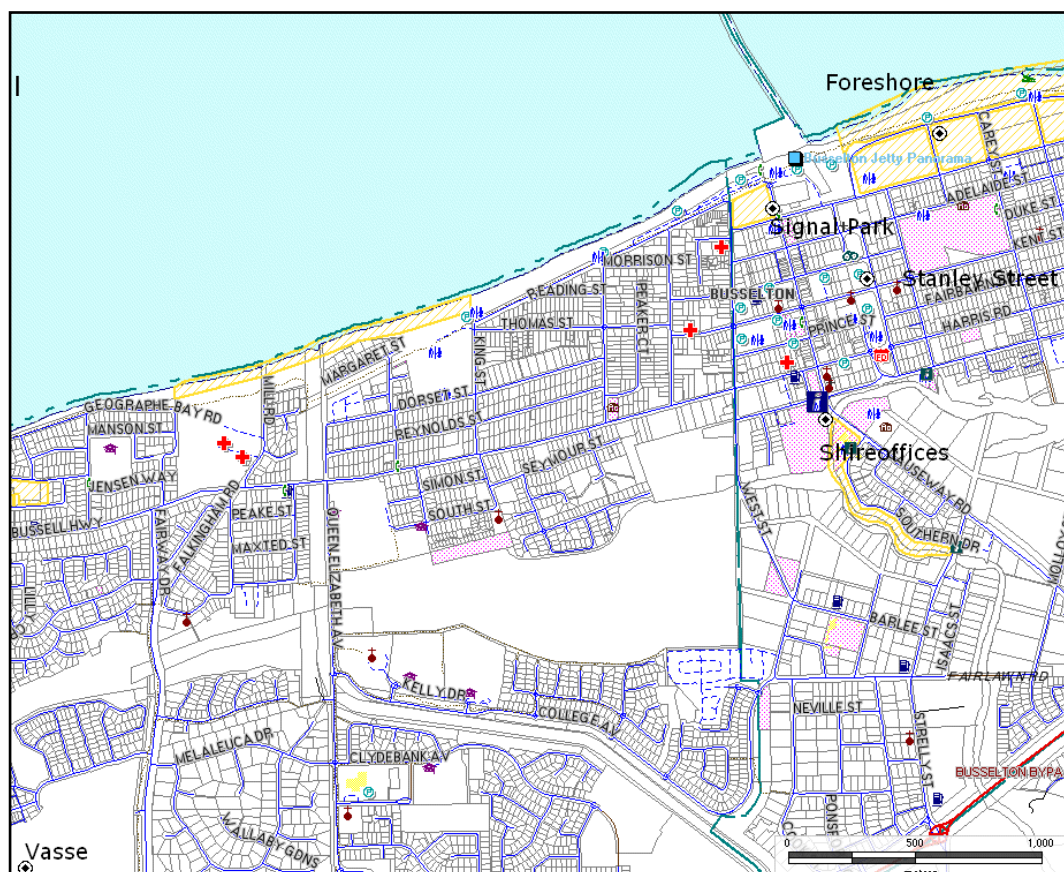
Assessment of the locations suggested by the Shire in the feasibility study conducted by Pegasus Venue Management in 2008 did not result in a clear decision regarding the location of a performing arts centre in the Shire of Busselton. Subsequently to completion of this study, several factors

including the gifting of Lots 43 and 44; the piazza style, pedestrian friendly streetscape upgrade proposed for the cultural precinct; and the adoption by Council of the Busselton Foreshore Working Group Concept Plan and Recommendations, have contributed to a realisation that Lot 450 Queen Street is potentially a good location for a flexible use performing arts venue capable of seating 350 to 400 people. Viewed in the context of existing arts, exhibition and performance venues in the cultural precinct, the addition of a large flexible configuration performance and conference venue has the potential to create a practical cultural complex, including a creative industries component.

BACKGROUND

In response to public interest in the provision of new and larger facilities for the performing arts in the Shire of Busselton, the Shire commissioned Pegasus Venue Management in 2008 to undertake a feasibility study for a Performing Arts and Creative Industries Centre within the Shire of Busselton. The study, presented to the Council on 10 June 2009, investigated several locations put forward by the community as potential sites. The study found that the sites, assessed against set criteria including land status and ownership, access, visibility and financial sustainability, ranked in the following order:

- * Signal Park
- * Foreshore Reserve
- * Stanley Street
- * Current Shire Building
- * Vasse Newtown
- * Busselton Hospital



The Council (C0906/208) requested further evaluation of these sites. This information was presented to the Council (C0912/427) on 12 September 2009. Council's decision at that time was to:

- * Note the evaluation of potential sites provided;
- * Request input from the Busselton Foreshore Working Group with regard to siting of a performing arts centre or facility within the Foreshore Reserve by May 2010; and
- * Consider development of a performing arts and creative industries centre as part of the review of the 10 year Financial Plan.

In April 2010, the Busselton Foreshore Working Group's community survey provided the following result relating to the future use of Signal Park:

Performing Arts in Signal Park or soundshell or parking or markets	21
Performing Arts NOT in Signal Park	9
Keep Signal Park as is	22

The data above indicated that the community enjoys the current use of Signal Park as public open space, valuing its flexibility as a venue for temporary events, including the beach festival, the circus, concerts, open air theatre, dance and film events, markets, and sporting events such as the WA Ironman and the Jetty Swim.

Concept Plan

In June 2010 Hassell Architects presented the concept plan for Busselton Foreshore. This was developed from the associated community design workshop run by Village Well and accompanied by recommendations from the Busselton Foreshore Working Group (BWFG).

The concept plan maintains Signal Park as public open space that is "improved to provide comfortable resting places and space for large events". It does not assign a location for a purpose built performing art centre on the park, or on the foreshore reserve. This omission does not mean the BWFG is not supportive of such a facility on the foreshore, but that it did not have sufficient information to form a view during development of the concept plan. A commercial precinct, for hotel and short stay accommodation, is indicated on the concept plan. This zone could be considered as a potential location for a performing arts facility or complementary conference facilities that are part of an hotel development.

Options for Location of the Performing Arts Centre

In August 2010, the new CEO of the Shire of Busselton and Cultural Planning/Development Officer reviewed the Pegasus Venue Management feasibility study for the location of Performing Arts Centre, with fresh eyes. Following the handover by the State Government of Lots 43 and 44 Queen Street to the Shire in August 2010, an overview of Shire initiatives noted

that the Shire is now the owner of all lots in the Queen Street cultural precinct¹, except Lot 450, which is owned by the WA State Government and occupied by the Department of Environment and Conservation. The question was asked whether, given:

- * The Shire's 2011/12 Queen Street streetscape upgrade to create a new civic space in the cultural precinct (Attachment B); and
- * The proposal by the Busselton repertory Club to upgrade facilities at the Weld Theatre which is supported by the Council in the 2011/12 budget for the amount of \$150,000 (in cash or in kind);

the cultural precinct had ever been considered as a potential location for the proposed performing arts centre/convention centre. An examination of this proposition found that the Department of Environment and Conservation site (Lot 450), an area of 2435 sq. m on the corner of Queen Street and Adelaide Street, had not been considered as a potential location for a Performing Arts Centre, but that it does have potential for the following reasons:



- * The cultural precinct already has a well patronised small theatre and an exhibition space;

¹ The cultural precinct is defined as the northern section of Queen Street, between Adelaide Street and Marine Terrace (Attachment A: Intramaps plan of Queen Street - cultural precinct)

- * The gifting of Lots 43 and 44 to the Shire has created a commercial development opportunity in the cultural precinct, in line with local planning policies and TPS 20;
- * The Shire's adaptation of heritage buildings in Queen Street for community and cultural use has increased use of the cultural precinct by the community and raised its profile as a tourist destination;
- * This section of Queen Street, particularly after completion of the Shire's streetscape works, will become a central hub and meeting place, linking the town centre with the Foreshore through pedestrian friendly streetscape design. The new streetscape (Attachment B) will have a level piazza style treatment stretching from building line to building line. Traffic control measures (including retractable bollards) at the junctions with Adelaide Street and Marine Terrace, a paved surface, landscaped rain gardens, new trees and public artworks will create a distinctly different new public space that will have a variety of uses;
- * The lease signed between the Shire and the Busselton Repertory Club in 2010 permits the Shire to excise the parking area behind Weld Hall Theatre creating laneway access to the rear of Lots 43, 44 and the Art Geo gallery. The new laneway will result in a net increase in parking adjacent to the cultural centre (Attachment D);
- * The Busselton Repertory Club proposal to upgrade facilities at the Weld Hall Theatre includes a glass foyer extension fronting Queen Street. This external alteration will significantly lift public awareness of the theatre and its availability as a small (approx 130 seat) community theatre and conference venue;
- * In January 2011, the Council approved the cultural precinct as the location of a commemorative public artwork, the Settlement Art Project;
- * The gift shop and art gallery in the Old Courthouse and ArtGeo fulfil the desirability, expressed in the feasibility study, for a creative industries component as part of a purpose built performing arts complex.

Importance of a town centre location

The study by Pegasus Venue Management Pty in 2008 assessed two sites, located away from the town centre, as follows:

Vasse Newtown

"Although this site may also be considered visible from main roads, its location out of Busselton CBD detracts from its attractiveness as a centre visible to all residents. Venues set apart from the daily activities of the broader community are much harder to animate, and any hospitality venues such as a café or restaurant would be bound to fail, at least in the short to medium term until this area is further developed."

Busselton Hospital

"Again, this site was considered too far out of the Busselton CBD and there are no identifiable opportunities for co locations or partnerships, impacting the financial sustainability and role in the creative community."

This view is confirmed in the Shire's draft Local Cultural Planning Strategy currently before Council, Recommendation 14.1 states:

"That a site for a performing arts centre be identified in an appropriate location in or near the town centre of Busselton, noting that a number of capable sites have been identified in the Shire's performing arts and creative industries feasibility study."

In support of the consideration of Lot 450 Queen Street, the Busselton Town Centre Guide Plan 2003, 5.3 Cultural Precinct states:

"Reinvigorating existing and establishing further cultural facilities in this area of Queen Street with associated café/eating places would revitalise this section of the town centre and form a link between the eastern end of the town centre and the Foreshore".

Lot 450 Queen Street

The WA State Government currently owns Lot 450, Queen Street, occupied by the Department of Environment and Conservation. An assessment of the approximately 2,400sq. m. site by architects and theatre specialists Kerry Hill Architects has determined that it is a viable location. (Attachment C). A flexible format venue, designed to face onto Queen Street and the rear grassed courtyard of the Old Courthouse and Police Complex, could form the centrepiece of a performing arts complex comprised of a new theatre, seating 350 to 400, the Weld Theatre and ArtGeo.

CONSULTATION

The Busselton Foreshore Working Group's recommendations were discussed with relevant Shire staff and members of the BGWG. Existing studies, reports and community surveys were reviewed. A meeting with the Busselton Repertory Group and Busselton SHS determined that there is strong support for a new facility of this size and in a central location. The City of Port Augusta provided information relating to its heritage cultural complex, confirming that their project arose from a State Government initiative and is focused on community access as opposed to being revenue driven.

STATUTORY ENVIRONMENT

There are no statutory implications to this report. However, should the Council decide that it is desirable to acquire Lot 450 and therefore to pursue the potential for a land swap with the Department of Environment and

Conservation, there will be a requirement to comply with conditions set out in Part 3 of the Local Government Act 1995 and Part 9 of the Land Administration Act 1997.

POLICY IMPLICATIONS

The District Town Planning Scheme Local Planning Policy 4C Busselton Town Centre Urban Design, adopted in April 2010 has the following requirements:

- * New development must be mindful of the existing pattern of development, the character, scale and form of existing buildings. This does not mean that the character cannot and should not evolve over time;
- * The town centre currently contains few residents or temporary accommodation for tourists and visitors. This has resulted in most streets becoming very quiet after hours, which is not conducive to the safety and security of the streets and their users, detrimental to the commercial viability of many businesses, and inconsistent with the vibrant, lively and attractive urbanity the Shire is keen to promote;
- * The Shire is keen to promote more mixed use development of an appropriate scale and form throughout the Provision Area, and to reinforce the role of Queen Street as the premier retail main street of the town. Tourism is likely to become an increasingly important part of the town's future development;
- * Urban design involves both planning and design, and deals with the three dimensional built environment by addressing the context of buildings and spaces, rather than just the objects themselves; and
- * The aim of good urban design is to provide high quality urban places that are efficient, functional, attractive and comfortable for users, and which can respond to the changing needs of the community, the economy and the environment over time.

FINANCIAL IMPLICATIONS

To acquire Lot 450 Queen Street, the Shire will need to negotiate with the Department of Environment and Conservation to see if they are prepared to participate in a land swap or accept an offer to move to new offices at no disadvantage. Therefore, should the Shire decide to pursue acquisition of Lot 450, there will be financial implications. These have not yet been investigated in any depth but will require consideration of possible development directions. For instance:

- * The Shire may need to relinquish land elsewhere in the Shire to facilitate an exchange, with all the attendant costs; and
- * The Shire may decide to consider the development of state government offices (co locating several agencies in one building) on a site that it currently owns. The way in which such a site is developed will have financial implications.

Construction costs for a Performing Arts Venue

If Lot 450 Queen Street is selected as the location for a future performing arts venue, the estimated cost of construction and fit out of a flexible 357 to 400 seat theatre/conference venue on that site has been estimated as close to \$32 million by Kerry Hill Architects, the architects for the State Theatre Centre in Perth.

STRATEGIC IMPLICATIONS

Strategic Priority 1: Provide a range of quality leisure, cultural, recreational and sporting facilities and services

Strategic Priority 4: "Review townscape plans for Busselton CBD with a view to major upgrades".

OFFICER COMMENT

A land swap with the Department of Environment and Conservation that would allow the Shire to acquire Lot 450 Queen Street, on the corner of the cultural precinct, carries significant benefits for the Shire. The acquisition of this site would complete ownership of the town's heritage core by the Shire, creating a unique opportunity for the Shire to lead development in the town centre.

Greg Mair, Busselton District Manager of DEC, indicated in an exploratory meeting that DEC may be willing to look at relocating to new offices, but only at no disadvantage to the state agency. He agreed that, should the Shire decide to construct new offices in which State Government agencies are able to co locate, this could be an option with advantages for DEC.

If the Council does decide to pursue a land swap, the first step would be to present the proposal to the local Member of Parliament for Vasse and the State Government, in order to see if there are opportunities at State government level of benefit all parties. For instance:

- * The Shire might elect to undertake the construction of office accommodation on the understanding that the State Government will be the tenant, acting on behalf of a number of agencies with shared interests and a need for a public "shopfront" in Busselton;
- * The Shire might investigate a joint venture arrangement with the private sector in which the Shire provides the land and the joint venturer constructs a suitable building; or
- * The Shire might offer suitable land to DEC and the State Government for development through the Department of Treasury, Building Management & Works. An example of this type of development is the Combined Marine Operations Centre in Mandurah, housing DEC, the Department of Fisheries and the WA Police.

Car Parking

Concerns raised during community consultation for the cultural precinct streetscape upgrade have provided valuable feedback for this proposal. An investigation of the parking spaces that will be lost and gained as a result of the precinct upgrade has been completed. Additional parking that will be needed by a performing art facility in the town centre can be accommodated as follows. (Please see Attachment D).

Firstly, stage 1 of the Busselton Foreshore redevelopment (effectively Signal Park) and the redevelopment of Lots 43 and 44 by the Shire will result in a net gain in parking bays adjacent to the cultural precinct achieved through formalisation of the gravel and grass parking bays along the edges of Signal Park and off Marine Terrace, at the rear of the Old Courthouse building. Secondly, the development of a rear access road behind the Weld Theatre, Lots 43 and 44 Queen Street, and ArtGeo.

Some parking will be retained in the cultural precinct, principally as ACROD parking and drop off/loading zone parking. There is considerable on street parking in Adelaide Street and the shopper parking beyond which will be available in the evenings and at weekends when it is most likely the theatre/conference centre will be in use. Finally, it is intended that the current provision for informal overflow and events parking on the grass area in Signal Park is retained and improved as part of the first stage of Foreshore redevelopment.

A Model Process

The use of design guidelines and a model development process in line with documents prepared for the Scheme Review, including the Commercial Planning Strategy, Draft Local Tourism Strategy and Draft Local Cultural Planning Strategy, will set standards that can be followed by investors in leasehold lots on the Busselton Foreshore and landowners in the rest of the town centre. Busselton's continued population growth will ensure that town centre development will progress, but it is important that it does so within an urban design framework that has set high standards for new buildings, public space and environmental performance.

The gifting of Lots 43 and 44 Queen Street to the Shire of Busselton, raises the possibility of also acquiring Lot 450 Queen Street. Ownership of all lots in the cultural precincts by the Shire creates a unique opportunity to construct a civic and cultural heart for Busselton. Where such an opportunity combines a heritage core with the potential to develop a landmark building, it is possible to create something truly exceptional, providing that design guidelines and development controls are in place to ensure that the outcome is functional, practical and respectful of the heritage context.

The adaptive re use of heritage buildings in Busselton has proved that the use of such buildings by arts and cultural organisations can create an

attractive place, full of interest to visitors as well as community members. Where they are managed as an operational complex, such as ArtGeo, the sense of a cultural hub begins to emerge.

Although this opportunity can be usefully compared with a project in Port Augusta in South Australia where, in response to a State Government initiative, the local authority restored and adapted a cluster of heritage buildings for re use as an arts complex (See Attachment E), Busselton differs from Port Augusta in that it is an established tourism destination with strong expectations of growth. In response to one of the highest ongoing rates of population growth in regional Australia (at close to 5% average annual growth since 1981) major development initiatives such as the expansion of Busselton Regional Airport, redevelopment of Busselton Foreshore and construction of a Community Resource Centre are now receiving support from the WA State Government and community funding agencies such as LotteryWest. The net result is the creation of high quality public space in and around the town centre with the capacity to support greater community and commercial activity in the "downtown" areas.

Activating the Town Centre: Creating the Cultural Precinct

Local Planning Policy 4C Busselton Town Centre Urban Design policy singles out the Cultural Precinct, identifying it as:

"playing a key role in providing a connection between the foreshore and the town centre"

The location of the cultural precinct, with its cluster of heritage buildings, marks it as both a destination and a preferred route for any journey between the foreshore and the town. The pedestrian friendly streetscape upgrade to be commenced in April 2011 will further encourage people to choose to walk or cycle through the precinct. The re development of Lots 43 and 44 with rear access, active ground floor commercial tenancies and upper level offices and/or apartments, will also contribute to the activation and use of the cultural precinct.

Currently Lot 450 Queen Street is underutilised. Leased by the Department of Environment and Conservation from the State Government, it does have a public function but cannot really be regarded as an 'active' shopfront in urban design terms. The office space on the eastern side of Lot 450 Queen Street has been adapted from two adjoining buildings with different floor levels and the western part of the block is used chiefly for staff car parking as operational equipment is now located at a regional centre. With the building ageing and the trend for State Government agencies to co locate in one combined office location, it is an ideal time for the Shire to commence negotiations for acquisition of this site.

Consideration of Lot 450 Queen Street as the location of a performing arts centre fits neatly into the Shire's urban design and town centre strategies. It is in the centre of town, close to the recreational foreshore precinct and within walking distance of existing and planned accommodation. As part of

the cultural precinct, it has the advantage of being co located with the Shire's existing arts exhibition and performance assets. The case for locating a performance and conference venue in the cultural centre can be argued on the basis that a performing arts complex need not be built from scratch but assembled from existing elements augmented by a new key facility. (Please see Appendix C).

Initial concept development by Kerry Hill Architects, the architects for the new West Australian State Theatre complex in Northbridge, shows the potential of this site. It is large enough for a 350 to 400 capacity theatre with flexible configurations that will allow its use as a conventional theatre, a conference or meeting venue, a dance floor, catwalk, banquet hall or indoor sports hall.

The Pegasus Venue Management feasibility study indicated that a performing art complex for Busselton should consist of a large theatre (400 seats) and a smaller one (250 seats), an exhibition space, meeting and rehearsal rooms, public spaces and a bar/café facility that can cater for functions. Should a large theatre be constructed on Lot 450 Queen Street, it will be able to combine with an existing exhibition space and a small theatre. The heritage buildings adapted for re use as the ArtGeo exhibition space and the Weld Theatre, Queen Street itself and the green courtyard space behind the Old Courthouse and Police station would all be elements of one complex capable of hosting conferences, seminars, public and private events as well as a variety of cultural performances. In particular, use of the courtyard space behind the Old Police Sargeant's Cottages as "break out" space for patrons attending the large theatre will give new life to an underused area while retaining its current use as forecourt to the artists' studios and an occasional outdoor performance space.

Informed comments of independent theatre consultant, Graham Walne, who has consulted on most major theatrical facilities constructed in Western Australia over the past several decades have been important to the preparation of this report. His research and experience has determined that the majority of plays and concerts wishing to tour in Australia and Western Australia are designed for audiences of around 350 to 500. Only a small proportion of productions require larger venues such as those available at the Bunbury and Albany Regional Entertainment Centres which seat 800 and 600 respectively. The proportion of productions requiring a large capacity auditoria is less than 20%, which does not offer a sustainable basis on which to build a cost neutral cultural facility. Both Black Swan Theatre and Perth Theatre Trust reported to the State Theatre Centre design team that they sometimes struggled to fill the 474 seat Perth Playhouse, an insight helped to set the capacity of the new State Theatre Centre with 575 seats in the Heath Ledger Theatre and 234 seats in the Studio Underground.

Alongside the potential to design a 375 to 400 seat theatre for Lot 450, consideration has been given to the role of the Weld Theatre. The Busselton Repertory Club have indicated their support for a new theatre and for an increased role for the Weld Theatre. Although no real investigation has been

undertaken, it is estimated that an internal re fit of the Weld Theatre, currently seating around 100, could increase its capacity to around 125. At this size, the Weld Theatre would be a appropriately scaled small venue to supplement the larger facility and one that would retain community access to performance space at an affordable cost.

The MICE Market

The driver for all this is not simply local demand but the need that will be felt from exposure to the much larger tourism market that will eventuate with the planned expansion of Busselton Regional Airport. The potential for direct flights from interstate, and potentially overseas, in future years will place Busselton firmly on the list of locations for the MICE market (meetings, incentives, conferences and exhibitions), referred to in the Pegasus study (extract in Appendix F) as well as to host interstate and international travellers on package holidays and stopovers. The study stated:

"The business tourism industry has a vested interest in destination marketing and relies on high quality visitor experiences and attractions to complement their pitch for conventions in the state. Delegates often stay on after the convention to extend their business activities into leisure".

These visitors typically require a range of attractions. Many - wine tourism, gastronomy, walking, surfing and other outdoor activities - are already well developed in this region. The new 4 and 5 star short stay indicated in the Busselton Foreshore concept plan, complement existing family accommodation in the town and will add to the supply of accommodation options close to the town centre. Even if conference facilities form part of new accommodation built on the Foreshore Reserve, they will be still be within easy walking distance of the cultural precinct for delegates and unlikely to have either the theatre or exhibition facilities central to either a purpose built or adapted venue in the cultural centre.

The Beachcomber Project

Recently, the Busselton Chamber of Commerce released a study funded by Pro Busselton which profiled visitors to the Shire during the June to September period 2010. The study acknowledged that this timeframe does not take in the Shire's peak holiday, but nevertheless, provides an interesting snapshot of visitors taking a range of short breaks during other times of the year, outside the traditional family holiday season. In brief, the study found that the majority of visitors were couples and families taking short breaks, such as three to four days. The frequency with which these "mini" holidays are taken has risen, with visits prompted by the growing range of events and activities in the Shire, and in the wider SW region. Shopping, Wine and Wine tourism, and the Busselton Jetty, are named as the top attractions, with the quality and choice of venues and retail opening hours mentioned as the limiting factors. While this report will repay further analysis, it indicates that the Shire now hosts a more sophisticated tourist

with higher expectations regarding entertainments and activities, and potentially one intending to spend more money at events and cultural performances, particularly where they form part of a festival programme.

Conclusion

In conclusion, the Shire has canvassed community opinion and conducted a feasibility study into the potential demand for a performing arts centre in Busselton. Over a period of several years, various locations have been put forward, none of which have received overwhelming support. Community opinion is divided on the desirability of development in Signal Park with the balance of community opinion against building on Signal Park. The option of the Foreshore Reserve as the location of a new performing arts centre remains even though it was not formally included in the foreshore Concept Plan and recommendations. There appears to be general support for the view that any new venue must be within easy walking distance of the town centre and contribute to activity in the town after normal retail hours.

As stated at the beginning of this report, Lot 450 Queen Street, in the centre of town and part of the cultural precinct, was not considered as a potential site in previous surveys, workshops or the feasibility study for the following reasons:

- * It was not seen as being available; and
- * If assessed on its own, the site is too small to house all the elements of a performing arts centre but, viewed as part of a larger cultural complex, it becomes a real option as the location for a 350 to 400 seat flexible use theatre and conference venue.

The cost of construction, as well as operating and maintaining a performing arts centre was predicated on a new building and a purpose built location. Desktop research so far shows that the majority of such complexes are costly to run and, on an annual basis, most unlikely to make a profit for the local authority. This information can be verified and analysed from the annual members' surveys of the Australian Performing Arts Centres Association (APACA).

It is for this reason that the opportunity to consider a performing arts hub, composed of existing elements supplemented by a carefully focused landmark addition, is put forward in this report. The Shire of Busselton, and the town itself, is a destination differentiated in the tourist market as separate from Bunbury, with whom it does not intend to compete. It is also a place tourists select as their base to explore the Margaret River Wine Region. It has amenities that complement, rather than compete with, those of Margaret River and Augusta such as Busselton Jetty, and will only add to this with the redevelopment projects proposed for Busselton and Dunsborough Foreshores. In this context, "bigger" may not be "better", but may lead to a better balance between demand for high quality cultural experiences and the financial capacity of the Shire.

Wherever a future performing arts facility is located, preparing for its promotion, management and operating costs will require economic modelling by Shire staff. The Shire's current events development and promotional strategy, combined with analysis of information from APACA will enable this to be developed, particularly as it will be able to draw on the demographic social and economic information compiled in the Beachcomber Project visitor analysis.

A conceptual site investigation prepared by Kerry Hill Architects for the Shire in 2010 has demonstrated that Lot 450 Queen Street is large enough for a flexible use 357 to 400 seat auditorium with fly tower, rehearsal rooms and a café. Such a facility would be the 'flagship' of a heritage cultural complex in the town centre. The outcome has the potential to be a unique as well as a practical complex of great character complementing the activities and attractions that make Busselton a popular destination and regional holiday destination.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Commence investigation of options for the acquisition of Lot 450 Queen Street	28 February 2011
Report to Council of progress of negotiations	25 May 2011

OFFICER RECOMMENDATION

That the Council:

1. Confirm Lot 450 Queen Street as being the preferred site for a future performing arts and conference venue.
2. Endorse the CEO to investigate the acquisition of Lot 450 Queen Street from the State Government of Western Australia;
3. Endorse the CEO to pursue the potential for a land swap with the WA State Government, Department of Environment and Conservation by identifying land available for such a purpose;
4. Prepare a report relating to re housing the Department of Environment and Conservation through investigation of the potential to develop a new State government dedicated office building in which to co locate the local offices of State agencies; and
5. Present a report on the range of procurement mechanisms, including:
 - * Options for a joint venture partnerships with the private sector;
and
 - * Development of the building by the Shire of Busselton on the basis that the State Government commits as the lead tenant.

Note: Councillor Emery gave notice of her intention to move an alternative motion which did not confirm Lot 450 Queen Street as the preferred site for a future performing arts and conference venue.

MOTION

Moved Councillor Emery, seconded Councillor Reid:

That the Council:

1. Direct the CEO to explore all options for a site for the future performing arts and conference venue, whilst investigating the potential for Lot 450 Queen Street to fill this role.
2. Endorse the CEO to investigate the acquisition of Lot 450 Queen Street from the State Government of Western Australia;
3. Endorse the CEO to pursue the potential for a land swap with the WA State Government, Department of Environment and Conservation by identifying land available for such a purpose;
4. Prepare a report relating to re housing the Department of Environment and Conservation through investigation of the potential to develop a new State government dedicated office building in which to co locate the local offices of State agencies; and
5. Present a report on the range of procurement mechanisms, including:
 - * Options for a joint venture partnerships with the private sector; and
 - * Development of the building by the Shire of Busselton on the basis that the State Government commits as the lead tenant.

7.05pm At this time the Shire President returned to the meeting and resumed control of the meeting.

FORESHADOWED MOTION

Councillor Hanran-Smith foreshadowed his intention to move the Officer Recommendation.

7.10pm At this time Councillor Henley returned to the meeting.

MOTION PUT

Moved Councillor Emery, seconded Councillor Reid:

That the Council:

1. Direct the CEO to explore all options for a site for the future performing arts and conference venue, whilst investigating the potential for Lot 450 Queen Street to fill this role.
2. Endorse the CEO to investigate the acquisition of Lot 450 Queen Street from the State Government of Western Australia;
3. Endorse the CEO to pursue the potential for a land swap with the WA State Government, Department of Environment and Conservation by identifying land available for such a purpose;
4. Prepare a report relating to re housing the Department of Environment and Conservation through investigation of the potential to develop a new State government dedicated office building in which to co locate the local offices of State agencies; and
5. Present a report on the range of procurement mechanisms, including:
 - * Options for a joint venture partnerships with the private sector; and
 - * Development of the building by the Shire of Busselton on the basis that the State Government commits as the lead tenant.

LOST 4/5

FOR	AGAINST
Cr Emery	Cr Hanran-Smith
Cr Stubbs	Cr Best
Cr Reid	Cr Bleechmore
Cr Henley	Cr Tuffin
	Cr Binks

Note: As the motion was lost, Councillor Hanran-Smith was able to move the motion that he had foreshadowed.

MOTION / OFFICER RECOMMENDATION

Moved Councillor Hanran-Smith, seconded Councillor Binks:

That the Council:

1. Confirm Lot 450 Queen Street as being the preferred site for a future performing arts and conference venue.

2. Endorse the CEO to investigate the acquisition of Lot 450 Queen Street from the State Government of Western Australia;
3. Endorse the CEO to pursue the potential for a land swap with the WA State Government, Department of Environment and Conservation by identifying land available for such a purpose;
4. Prepare a report relating to re housing the Department of Environment and Conservation through investigation of the potential to develop a new State government dedicated office building in which to co locate the local offices of State agencies; and
5. Present a report on the range of procurement mechanisms, including:
 - * Options for a joint venture partnerships with the private sector; and
 - * Development of the building by the Shire of Busselton on the basis that the State Government commits as the lead tenant.

AMENDMENT

Moved Councillor Binks, seconded Councillor Reid:

That the following words be added to the end of recommendation 1 - "subject to its suitability being established"

CARRIED 6/3	
FOR	AGAINST
Cr Emery	Cr Best
Cr Tuffin	Cr Hanran-Smith
Cr Stubbs	Cr Bleechmore
Cr Reid	
Cr Henley	
Cr Binks	

COUNCIL DECISION

C1104/115 Moved Councillor Hanran-Smith, seconded Councillor Binks:

That the Council:

1. Confirm Lot 450 Queen Street as being the preferred site for a future performing arts and conference venue, subject to its suitability being established.
2. Endorse the CEO to investigate the acquisition of Lot 450 Queen Street from the State Government of Western Australia;

3. Endorse the CEO to pursue the potential for a land swap with the WA State Government, Department of Environment and Conservation by identifying land available for such a purpose;
4. Prepare a report relating to re housing the Department of Environment and Conservation through investigation of the potential to develop a new State government dedicated office building in which to co locate the local offices of State agencies; and
5. Present a report on the range of procurement mechanisms, including:
 - * Options for a joint venture partnerships with the private sector; and
 - * Development of the building by the Shire of Busselton on the basis that the State Government commits as the lead tenant.

CARRIED 9/0

17.2 SMALL LOCAL PROJECTS FUND 2010-11 No 17 AND 18

SUBJECT INDEX:	Sponsorship and Grant Applications
STRATEGIC INITIATIVE:	Manage the Shire's resources to provide optimum benefit to the community.
BUSINESS UNIT:	Finance
SERVICE:	Financial Management and Control
REPORTING OFFICER:	Administration Officer, Governance - Lisa Cole
AUTHORISING OFFICER:	Chief Executive Officer – Mike Archer
DATE OF COMPLETION:	Subject to receipt of all necessary information, funds will be provided as soon as practicable following this Council Meeting
VOTING REQUIREMENT:	Simple Majority
ATTACHMENT(S):	Nil

PRÉCIS

The following allocations of funds for expenditure from the Small Local Projects Budget allocation have been proposed. Funds are available and expenditure is permissible under the Local Government Act 1995.

No	Councillor Making Request	Amount	Recipient	Purpose for which funds will be used
17	Councillor David Reid	\$2500	Settlement of Busselton Art Project	To assist in commemorating the commencement of European settlement in Busselton in 1834.
18	Councillor Tom Tuffin	\$1000	Busselton Brass Band	To assist in the purchase of a cornet.

BACKGROUND

Council's Policy No. 202/1 is applicable.

CONSULTATION

Not applicable.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Council's Policy No. 202/1 is applicable.

The intent of the Small Local Projects Fund is to provide the Council with the ability to facilitate small local improvements and/or assist community groups to provide facilities/services or to carry out activities that are felt to be a positive contribution to their local area or the district as a whole. It is

not intended that allocations be contributed to single projects or single associations/causes, especially on a continuing basis, but that the funds be spread across a variety of purposes.

FINANCIAL IMPLICATIONS

On 13 August 2008, the Council resolved (C0808/237) to amend Policy 202/1 to facilitate an equal portion of any monies budgeted for small local projects to be available to each Councillor.

At the time of preparation of this report, available funds for each Councillor's recommendation are listed below.

Councillor	Amount Available \$
Cr Stubbs	1,750
Cr Binks	2,050
Cr Tuffin	1,750
Cr Emery	1,606
Cr Hanran-Smith	1,285
Cr Reid	2,500
Cr Boyling	2,000
Cr Bleechmore	2,000
Cr Henley	1,750
Cr Best	1,750
TOTAL FUNDS REMAINING	18,441

There are sufficient funds available within the portion allocated in the 2010/11 financial year for recommendation for disbursement by the Councillor proposing the allocation.

STRATEGIC IMPLICATIONS

Nil.

OFFICER COMMENT

Councillor Reid's proposal of \$2500 is allocated to the Settlement of Busselton Art Project commemorating the commencement of European settlement in Busselton in 1834. The funds would be directed to a community fund established by the Shire of Busselton in conjunction with the National Trust to receive public donations offering tax deductibility concessions to donors (which is not applicable in this instance).

Councillor Tuffin's proposal of \$1000 is to be allocated to the Busselton Brass Band to assist in the purchase of a cornet. The Band is attempting to encourage young people to join, but often meet the difficulty that student aged members can't afford to pay for their own instrument. The purchase of a cornet would help fill this gap to some extent. The total cost of an appropriate instrument is \$2750. Other costs met by the

Band include maintenance, insurance and licence on their trailer, Bandmaster honorarium and travel costs.

The Band is generous in providing items at many Shire and community functions including ANZAC DAY, Festival of Busselton and the opening of the jetty.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Subject to receipt of all necessary information, funds will be provided as soon as practicable following this Council Meeting.

OFFICER RECOMMENDATION

That the following amounts be allocated from the Council's Small Local Projects Budget Allocation:

No	Councillor Making Request	Amount	Recipient	Purpose for which funds will be used
17	Councillor David Reid	\$2500	Settlement of Busselton Art Project	To assist in commemorating the commencement of European settlement in Busselton in 1834.
18	Councillor Tom Tuffin	\$1000	Busselton Brass Band	To assist in the purchase of a cornet.

Note: Councillor Bleechmore gave notice of his intention to move an alternative motion to increase the allocation to the Settlement of Busselton Art Project with monies from his small local projects fund.

COUNCIL DECISION

C1104/116 Moved Councillor Bleechmore, seconded Councillor Best:

That the following amounts be allocated from the Council's Small Local Projects Budget Allocation:

No	Councillor Making Request	Amount	Recipient	Purpose for which funds will be used
17	Councillor David Reid	\$2500	Settlement of Busselton Art Project	To assist in commemorating the commencement of European settlement in Busselton in 1834.
	Councillor Bleechmore	\$1000		
18	Councillor Tom Tuffin	\$1000	Busselton Brass Band	To assist in the purchase of a cornet.

CARRIED 9/0

17.3 RESULTS OF ADVERTISING OF BUSINESS PLAN FOR THE ACQUISITION OF LOT 431 QUEEN ST

SUBJECT INDEX:	Busselton Jetty & Foreshore Revitalisation
STRATEGIC INITIATIVE:	Provide a range of quality leisure, cultural, recreational and sporting facilities and services.
BUSINESS UNIT:	Major Projects Unit
SERVICE:	Major Projects
REPORTING OFFICER:	Major Projects Officer - Communications – Anne Grove
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
DATE OF COMPLETION:	July 2011
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENT(S):	Nil

PRÉCIS

Lot 431 Queen St is a Crown Lot, leased to the Shire of Busselton and in turn, sub-leased to a commercial business operator. With redevelopment of the Busselton foreshore imminent, the Shire has been negotiating with the sub-lessee for the re-acquisition of the leasehold interest in the site. Over the last few months, negotiations with the sub-lessee have progressed to a point where both parties feel comfortable with the outcome and preliminary agreement.

The Council resolved in December 2010, to prepare and advertise a Business Plan for the Council's proposed re-acquisition of Lot 431. This report details the public submissions received as a result of that advertising, the anticipated course of action and schedule, should the Council resolve to continue with the re-acquisition.

BACKGROUND

In early 2009 the sublessee of Lot 431 Queen Street Busselton, known as the Nautical Lady Fun Park, indicated a desire to enter into negotiations with the Council for re-acquisition of their leasehold interest in the lot. The Council's interest in re-acquiring the leasehold site is based mainly on the strategic location of the lot and the disproportionately large footprint it holds, with respect to the balance of the Busselton foreshore project area. With 32 years remaining on the lease term, the presence of the facility creates long term physical and financial impediments to the redevelopment and enhancement of the Busselton foreshore.

Following successful negotiations between the Shire and the sub-lessee in late 2010, a report was presented to the Council at a Special Meeting on the 15th December 2010 where the following was resolved;

"C1012/458 Moved Councillor Boyling, seconded Councillor Tuffin:

- 1. That subject to the Statutory requirements of the Local Government Act, the Chief Executive Officer be authorised to progress a Memorandum of Understanding (MOU) or similar document, sufficient upon which to base a formal agreement with the sub-lessee, for the re-acquisition of the leasehold interest of Lot 431 Queen St, Busselton.*
- 2. The MOU is to be essentially on the terms as contained within the report, including that any agreement is subject to the approval of the Minister for Lands and the statutory requirements of the Local Government Act 1995.*
- 3. Upon the signing of the MOU, the CEO is to prepare and advertise a Business Plan in accordance with Section 3.59 of the Local Government Act and the results of the advertising period along with any submissions received are to be reported back to the Council.*

CARRIED 10/0"

Following this decision, a Business Plan was prepared and publicly advertised. The submissions received during the advertising period are detailed in the Officer Comment section of this report.

Furthermore, the preliminary agreement and principles upon which the agreement was negotiated have been discussed with State Lands. In February, a delegate of the Minister for Lands provided the Shire with approval of the proposed granting of a sub-lease to Mr & Mrs Couch for the purpose of "Café and Tourism" for a term expiring on the 5th January 2043. (The term is consistent with the remaining term of the current 'Shire of Busselton / Couch' sub-lease.)

CONSULTATION

The Shire has statutory obligations to undertake a period of public advertising on this matter in terms of Sections 3.58 and 3.59 of the Local Government Act.

Under 3.59 this commenced on the 14th January 2011 and concluded on Monday 28th February 2011. The public notice of the Shire's 'Intention to enter into a Major Land Transaction' appeared in state-wide and local newspapers and on the notice boards of the Shire Administration Centre and the Busselton & Dunsborough Libraries. The Business Plan was available for viewing on the Shire web page, at the Shire Administration Centre and the Busselton and Dunsborough Libraries.

Two (2) submissions on the Business Plan were received during the advertising period and are shown with the Officer Comments below.

Submitter	Comment	Response
BaDRA	<p>The Busselton and Districts Residents' Association (BaDRA) members wish to advise the Shire of Busselton that they have familiarised themselves with the content and terms of the above mentioned Business Plan, which sees the Shire regain control of the major portion of Lot 431 Queens St, currently leased by the Nautical Lady, at a cost to the Shire of \$2,000,000 plus GST.</p> <p>BaDRA supports the re-acquisition of this land, and associated loan, in order to ensure the progression of the development of the foreshore as per the current concept plan.</p> <p>We thank you for the opportunity to comment.</p>	Noted.
J Bussell	<p>1. It is surprising that the Tower seems likely to remain, since it is more than two storeys high and as such is in contravention of planning regulations for the foreshore and should never have been allowed. Also it has no long term cultural or historical significance to the foreshore.</p> <p>2. I note the existing sub-lessee has a priority on the tower and surrounds, but wonder whether any other business or organisation was given the opportunity to tender for this exclusive position. If as stated, the new lease arrangements involve completely new arrangements, they should have been open to the whole community for opportunities.</p>	<p>The tower building was approved at the time of construction. The Shire cannot impose planning provisions retrospectively and therefore in this instance, has no ability to demand changes to the height of this building.</p> <p>The existing sub-lessee has a sub-lease over the site valid for a further 32 years; therefore no opportunity exists for the Shire to invite others to tender for the site. New lease arrangements have been negotiated with the existing sub-lessee within the term of the existing lease agreement.</p>

	<p>3. It is a concern that BJECA was not offered some part of the lease area for some storage facility as in an interim it is desperately short of space for various purposes. The Tower tunnel could be used in this way and the Surf Club relocated, perhaps adjacent to the Sea Scouts.</p>	<p>The Shire is currently working with BJECA to ensure suitable accommodation is available to cater for their operations. A new building is planned which will not only accommodate the jetty train but also some museum and retail space. Officers have been in consultation directly with BJECA and the Surf life-saving club in regards to this matter and no objections were met. The demolition of the tower is fundamental to the opening of the foreshore space on the current concept plan.</p>
	<p>4. I do hope that the Lease Arrangements in respect of the Tower area do not cover such a long period of time advantage as previously allowed, as there are concerns at this type of latitude being granted both previously and in future, in respect of opportunities for renegotiation of arrangements. Such details seem lacking in the document.</p>	<p>The Shire was limited in its negotiation to the remaining term of the existing sub-lease. However the remaining term of 32 years is not inconsistent with existing lease terms on the foreshore or those that will be negotiated over the next few years.</p>
	<p>5. The document mentions that lease funds may be used for foreshore maintenance, but no mention of the JMF (Jetty Maintenance Fund) into which Lease Proceeds were to be directed. Why is this?</p>	<p>This is correct; the Shire is obliged to direct revenue from several lease sites on the foreshore to the JMF. Any revenue above the amount required as a contribution to the fund will be utilised to maintain the foreshore.</p>
	<p>6. The area granted to the Sub-Lessee is in fact in excess of 500M2 for the figure arrived at, being in fact 638M2 and wonder whether the amount Council is paying for a bare 5,500 M2 is commensurate with the allowed Alfresco area granted in an exclusive prime position.</p>	<p>The lease area will be approximately 500sqm. The additional area of 138sqm shown in the plan is for the alfresco and is subject to a Licence not a lease. The licence does not grant exclusive use of an area but allows the Licensee to operate there. The Licence area rent will be additional to the leased area rent.</p>

Officers are now seeking Council approval to commence the process to ensure compliance with section 3.58.

STATUTORY ENVIRONMENT

The transaction between the Shire and the Sublessee is a "Major Land Transaction" as contemplated under section 3.59 of the Local Government Act, and as a part of the public consultation State-wide public notice was given, and the business plan made available for public inspection.

In addition to the process, under section 3.59 the granting of a new lease to the sublessee falls within the scope of "Disposing of Property" by a Local Government as contemplated under section 3.58 of the Local Government Act.

Section 3.58(2) of the Act provides that, unless the transaction is an exempt transaction, a Local Government can dispose of property to either the highest bidder at a public auction, by public tender or by public notice in accordance with 3.58(3) and (4). The public notice must contain the names of all parties concerned; the consideration to be received by the Local Government for the disposition and the market value of the disposition as ascertained by a Valuation carried out not less than 6 months before the proposed disposition.

Noting that the agreement to re-acquire Lot 431 is conditional upon the Shire's disposal of the proposed lot, the Shire has already reached a preliminary agreement to re-lease the portion of the Land to the Sub-lessee. The disposal of the Land can therefore be dealt with by giving 2 weeks local public notice of the proposed disposition in accordance with Section 3.58. (3) and (4).

Regulation 30 of the Local Government Act (Functions and General) Regulations 1996 sets out the dispositions that are exempt from the application of section 3.58, Officers do not feel that the proposed sub-lease would fall into any of the categories which would be exempt from compliance with section 3.58. Accordingly it will be necessary for the Shire to comply with section 3.58 before granting the proposed Sub-Lease to the Sub-lessee.

The Business Plan for the re-acquisition of Lot 431 in accordance with section 3.59 was prepared and advertised with two submissions from the public being received. If the Council resolves to proceed with the re-acquisition, then an Absolute Majority vote to do so is required.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Funds required to enable the acquisition of Lot 431 may be available from savings identified within the 2010/2011 budget. Should insufficient savings be available from this source, then a transfer of the amount required (the deficit) can be made from the Infrastructure Development Reserve (IDR). The current balance of the IDR is \$2,544,667.

Additionally, a Royalties for Regions (Special Round) funding application for the Busselton Foreshore Redevelopment has been submitted to the State Government for \$9,000,000. Part of the total funding request is the \$2,000,000 to fund the acquisition of Lot 431. The Shire is unlikely to be advised of the outcome of that application until the 1st July 2011; however, should the Shire be successful in its application any previously paid monies can be reimbursed to the IDR.

Should the offer be accepted by the current Sub-Lessee, it is proposed that a refundable deposit of \$200,000 be paid to the Sub-Lessee, with the remaining balance of the purchase price (\$1,800,000) to be paid in the next financial year for the Shires cash-flow purposes and to meet the Shires financial planning requirements. Drawing of funds from identified savings will allow the Shire to pay the deposit in the current financial year, potentially expediting the implementation of the agreement.

STRATEGIC IMPLICATIONS

The re-acquisition of Lot 431 is not a listed project in the Strategic Plan however it is an integral part of the Busselton Foreshore Revitalisation project which is listed as Priority 1.1.1 to *"Provide a range of quality leisure, cultural, recreational and sporting facilities and services."*

OFFICER COMMENT

During the public advertising for Section 3.59. for the period from 14 January 2011 to 28th February 2011, 2 public submissions were received by the Shire on the Business Plan relating to the re-acquisition of Lot 431 Queen St and disposal of a yet to be determined but lesser lot being the curtilage of the tower building.

Regulation 30 of the Local Government, Functions and General Regulations 1996 sets out the dispositions exempt from the application of section 3.58. Officers do not feel that the proposed sub-lease would fall into any of the categories which would be exempt from compliance with Section 3.58. Accordingly it will be necessary for the Shire to comply with Section 3.58. before granting the proposed Sub-Lease to the Sub-lessee.

In parallel to the advertising of the Business Plan, a draft legal agreement for the sub-lease has been developed. At the time of preparing this report, the sub-lease agreement was yet to be finalised and presented to the Sub-Lessee. However, the draft is essentially on the basis of the 'in principle'

agreement between the Sub-Lessee and the Shire as presented to the Council in December 2010. The lease document is being prepared by Shire Officers and legal counsel in accordance with previous council reports and fundamentally is as follows;

- a) The total price for the re-acquisition of the leasehold interest is \$2,000,000 plus GST.
- b) The area to be acquired by the Shire is approximately 5,589sqm, with the remaining 500sqm of the existing site to be re-leased to the sub-lessee. The exact areas would be determined according to the reconfigured Busselton Foreshore Concept Plan.
- c) The term of the new lease would be approximately 32 years, equivalent to the amount of time remaining on the current lease of Lot 431.
- d) The Rent applicable to the new lease would be determined by a market valuation in accordance with the Local Government Act.
- e) Rent Reviews will be consistent with similar commercial leases with the Shire, which are annual CPI reviews and Market Reviews each 5 years.
- f) An area of approximately 138sqm, adjacent to the western and northern boundaries of the new proposed lease site would be Licensed to the sub-lessee as an alfresco area. (See Attachment A) This would be in addition to the leased area and the rate would be determined by a market valuation.
- g) The train tunnel attached to the North / Eastern wall of the tower would be demolished by the Shire to a point approximately 1m from the sub-lessee's building. Demolition from that point would be undertaken by the sub-lessee.
- h) The water slide would be removed and disposed of by the sub-lessee.
- i) The sub-lessee will remove any assets they wish to from the balance of the site; that is, everything south of the tower building and ice cream kiosk by a date to be determined and mutually agreed between the parties. The Shire will then remove any remaining infrastructure and assets from the balance of the site, clean and grass over the area in readiness for the 2011 Ironman event.
- j) While undertaking the building renovations on the tower, the sub-lessee will occupy the ice cream kiosk. They will not pay rent on the kiosk but will be required to pay all variable outgoings pertaining to both buildings. A mutually agreeable time limit will be applied to the rent free term to ensure the development is undertaken in a timely manner.
- k) After the kiosk is vacated by the sub-lessee, the kiosk will be demolished by the Shire to enable the continuing construction of the foreshore.
- l) The supported purpose of the new lease will be for café / ice cream parlour / restaurant / wine bar / tourist related retail.
- m) The building renovation and / or construction of any area or item within the lease area is to be of a high quality that is acceptable to the Shire. Colours and materials used are to be appropriate and complimentary to the surroundings of the Busselton Foreshore redevelopment and in the vein of the artistic impression presented to the Shire by the sub-lessee.
- n) The terms of the financial arrangements for the payment of funds for the re-acquisition are to be negotiated by the CEO.

CONCLUSION

Negotiations with the sub-lessee over the preceding 12 months have resulted in a strategy for acquisition and development of Lot 431 that enjoys support from the sub-lessee, the Shire and by and large, the local community. Only two submissions on the Shire's Business Plan were received, with only one negative comment which was based on a misunderstanding of some facts and the process undertaken. It is therefore recommended the Council resolve to proceed to the finalisation of the lease agreement, and settlement of the acquisition, subject to approval from State Lands.

Option

The Council could determine not to proceed with the re-acquisition of Lot 431 Queen and redesign that area of the foreshore around the existing Nautical Lady site. However this would not be in the spirit of "goodwill" that has been developed between the Shire and the Lessee.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The timeline for progression of this matter cannot be fully determined until the lease agreement has been accepted and signed by the Sub-lessee and the Shire. This is expected to occur in April 2011.

7.25pm At this time the Governance Manager left the meeting.

7.26pm At this time the Governance Manager returned to the meeting.

OFFICER RECOMMENDATION

ABSOLUTE MAJORITY REQUIRED

That the Council;

1. Acknowledges the submissions made during the public advertising of the Shire's Business Plan and Notice of Intention to Enter into a Major Land Transaction for the re-acquisition of Lot 431 Queen St.
2. Proceeds with the acquisition of Lot 431 Queen St in accordance with the advertised Business Plan and Notice.
3. Authorises the CEO to publicly advertise the Shire's intention to dispose of a portion of Lot 431 to the sub-lessee in accordance with Section 3.58 of the Local Government Act, the results of which will be reported back to the Council as early as possible.
4. Authorises the CEO to progress the formal legal agreements necessary to achieve the re-acquisition of the lot, in parallel with the above statutory requirement and within the terms of the previously approved 'in principle' agreement, including the payment of \$200,000 refundable deposit this financial year and the remaining balance to be paid in the next financial year.

Note: Councillor Reid gave notice of his intention to move an alternative recommendation that involved an additional recommendation 5, to authorise the CEO to conduct a third party review of the draft sub-lease for Lot 431. However, he moved the motion of which he had given notice, without recommendation 4. Therefore his original recommendation 5 became part 4 of the motion.

MOTION

ABSOLUTE MAJORITY REQUIRED

Moved Councillor Reid, seconded Councillor Emery:

That the Council;

1. Acknowledges the submissions made during the public advertising of the Shire's Business Plan and Notice of Intention to Enter into a Major Land Transaction for the re-acquisition of Lot 431 Queen St.
2. Proceeds with the acquisition of Lot 431 Queen St in accordance with the advertised Business Plan and Notice.
3. Authorises the CEO to publicly advertise the Shire's intention to dispose of a portion of Lot 431 to the sub-lessee in accordance with Section 3.58 of the Local Government Act, the results of which will be reported back to the Council as early as possible.
4. Authorises the CEO to coordinate a third party review of the draft Sub-lease agreement for the proposed disposal of the portion of Lot 431 and the existing Sub-leases currently in place on the foreshore. The review is to be undertaken by a commercial leasing professional, and reported back to the Council prior to any new documents being finalised.

AMENDMENT

Moved Councillor Bleachmore, seconded Councillor Stubbs:

That the following point 4 be added to the motion, and part 4 becomes part 5:

4. Authorises the CEO to progress the formal legal agreements necessary to achieve the re-acquisition of the lot, in parallel with the above statutory requirement and within the terms of the previously approved 'in principle' agreement, including the payment of \$200,000 refundable deposit this financial year and the remaining balance to be paid in the next financial year.

CARRIED 9/0

AMENDMENT

Moved Councillor Binks, seconded Councillor Best:

That part 5 of the motion regarding the third party review of the sub-lease be deleted.

LOST 3/6	
FOR	AGAINST
Cr Binks	Cr Henley
Cr Best	Cr Stubbs
Cr Hanran-Smith	Cr Bleechmore
	Cr Emery
	Cr Tuffin
	Cr Reid

COUNCIL DECISION

C1104/117 Moved Councillor Reid, seconded Councillor Emery:

That the Council;

1. Acknowledges the submissions made during the public advertising of the Shire's Business Plan and Notice of Intention to Enter into a Major Land Transaction for the re-acquisition of Lot 431 Queen St.
2. Proceeds with the acquisition of Lot 431 Queen St in accordance with the advertised Business Plan and Notice.
3. Authorises the CEO to publicly advertise the Shire's intention to dispose of a portion of Lot 431 to the sub-lessee in accordance with Section 3.58 of the Local Government Act, the results of which will be reported back to the Council as early as possible.
4. Authorises the CEO to progress the formal legal agreements necessary to achieve the re-acquisition of the lot, in parallel with the above statutory requirement and within the terms of the previously approved 'in principle' agreement, including the payment of \$200,000 refundable deposit this financial year and the remaining balance to be paid in the next financial year.
5. Authorises the CEO to coordinate a third party review of the draft Sub-lease agreement for the proposed disposal of the portion of Lot 431 and the existing Sub-leases currently in place on the foreshore. The review is to be undertaken by a commercial leasing professional, and reported back to the Council prior to any new documents being finalised.

**CARRIED 7/2
BY ABSOLUTE MAJORITY**

FOR	AGAINST
Cr Emery	Cr Hanran-Smith
Cr Tuffin	Cr Binks
Cr Henley	
Cr Stubbs	
Cr Bleechmore	
Cr Best	
Cr Reid	

7.55pm At this time Councillor Bleechmore left the meeting.

17.4 COUNCILLORS' INFORMATION BULLETIN

This Item was considered earlier in the meeting as part of the En Bloc resolution of Council. ([C1104/110, page 33](#))

18. MOTIONS of which notice has been given**18.1 TRAFFIC STUDY FOR GEOGRAPHE PRIMARY SCHOOL AND GEOGRAPHE LEISURE CENTRE**

NoM NO: 2011: 01

Councillor Tom Tuffin had given notice of his intention to move the following motion at the Council Meeting on 13 April 2011:

MOTION

1. That the Council commit up to \$20,000 as a 50% share of the cost of a Traffic Study in the vicinity of the Geographe Primary School and the Geographe Leisure Centre.
2. That the CEO approach the Department of Education and Training to confirm their commitment to provide the other 50% of the cost of such study.
3. The study commence as soon as practicable after the Department of Education and Training's commitment has been received.

REASON

1. As a matter of student safety there is a very serious and pressing need for an improved parking and pick-up and set-down facility at the Geographe Primary School. The Shire in consultation with Geographe Primary School have determined that a traffic study will be required to design the most appropriate traffic/parking treatment, noting that the Department of Education have indicated that they are willing to pay half the costs of this study. This will assist in identifying the most suitable type and location for any treatments or facility in the location.
2. The student body at Geographe Primary School consists of kindergarten aged students as well as Education Support students. Pick up and set down can be more complicated than is the case with other students.
3. The Traffic Study is likely to be considerable use to staff when solving problems of parking and access concerned with the Geographe Leisure Centre.
4. There is a degree of urgency in commencing the study arising from the facts that:
 - The current situation is quite dangerous (particularly in wet weather). Through traffic is mixed with pick-up and set-down traffic and also with staff cars. There is no way in which it is

possible for students coming to, or going from school to be excluded from this somewhat chaotic traffic situation.

- The Department of Education and Training committed money for the facility in 2008/2009. There is a real danger that unless there are indications that the project will be proceeding in the near future then there is a likelihood that the funds will be diverted to some other pressing Department of Education and Training project and that this project will be relegated to the bottom of their priority list. This could cause a long delay.

OFFICER COMMENT (Director, Engineering and Works Services)

The Geographe Leisure Centre (GLC) and Geographe Primary School (GPS) gain access off Recreation Lane. Recreation Lane is the sole access to the GLC and the primary access for parents collecting students by vehicle from the GPS. Although the GPS frontage is located on Clydebank Avenue, due to the limitation of parking, the vast majority of parents utilise the parking facility on Recreation Lane. In addition to the parking and access needs of parents, Recreation Lane provides access to the GPS for school bus collection.

The traffic congestion and shortage of parking at the Geographe Primary School (GPS) was raised during the later part of 2010 by the GPS Principal, Mr Tim Baker. In addition to the school issues the Manager of the Geographe Leisure Centre (GLC) has contacted Officers within Engineering and Works Services with similar concerns and issues. The Principal of GPS approached the Shire seeking assistance in determining a long term approach to resolving the issues they were experiencing with traffic congestion and shortage of parking. The shortage of parking for the school is not a direct responsibility of the Shire and is primarily the responsibility of Department of Education and Training (DET). However the Shire's involvement is seen as critical to any discussions and planning for this area due to the potential impacts on one of the Shire's key facilities, ie the GLC. It must however be pointed out that this would not be considered as one of the Shire's priority projects, as the needs for improvement are considered as seasonal (ie term time) and as with any school a daily issue at pick up and drop off times.

Shire Officer's have had numerous meetings with the principal and staff of GPS as well as representatives of the DET to discuss potential solutions. The outcomes of these meetings have been unsuccessful in determining any long term gains with minor inefficient gains or short term improvement being identified only. This was leading to a stalemate and it was considered that a holistic long term approach for both the GLC and GPS access and parking needs should be undertaken. This is to ensure that the requirements of each centre are identified and addressed. Hence the Shires current involvement, noting however that the construction of any infrastructure at this point would generally only serve to improve the school facility and should therefore be funded by the DET in the future, once the most appropriate outcome has been determined from the traffic/parking study.

There is currently no budget allocation to carry out a Traffic Management study for the GLC and GPS. The amount required to carry out such a study has been estimated at \$20,000, with Department of Education and Training funding 50% (\$10,000). The matching contribution of 50% (\$10,000) could be funded from the Shire of Busselton's Councillors Strategic fund which currently contains \$10,000 or from savings in the 2010/11 Infrastructure Development consultancy budget. The financial offer by the Department of Education and Training of 50% is currently available this financial year, however the offer may not be available in the future. It is therefore considered prudent to provide the Shire's matching contribution of \$10,000 within the current budget period (2010/11).

COUNCIL DECISION

C1104/118 Moved Councillor Tuffin, seconded Councillor Hanran-Smith:

1. That the Council commit up to \$20,000 as a 50% share of the cost of a Traffic Study in the vicinity of the Geographe Primary School and the Geographe Leisure Centre.
2. That the CEO approach the Department of Education and Training to confirm their commitment to provide the other 50% of the cost of such study.
3. The study commence as soon as practicable after the Department of Education and Training's commitment has been received.

CARRIED 8/0
BY ABSOLUTE MAJORITY

Note: Councillor Bleechmore was not in the Council Chamber at the time of the vote on this motion.

19. CONFIDENTIAL REPORTS

Nil

20. NOTICES OF MOTION proposed for consideration at a future Meeting

Nil

21. QUESTIONS FROM MEMBERS WITHOUT NOTICE

- 21.1 Councillor Emery asked if all lease agreements go to Council before being signed, and referred to the lease for the Goose as an example which she thought had been determined without going to Council.

Response: Director, Finance and Corporate Services

The Director, Finance and Corporate Services advised Councillor Emery that all leases come to Council. There has not been a new lease for the Goose but potentially a rent review has occurred.

Councillor Emery then asked when leases of that magnitude would come back to Council.

Response: Director, Finance and Corporate Services

The Director, Finance and Corporate Services advised Councillor Emery that a Council resolution is required for all new leases. On occasions Council will authorise the use of the Standard lease for community groups, while a commercial lease would be presented to Council with a great deal of detail about the terms of the agreement or the actual agreement.

Councillor Emery asked how often there was a market review on properties.

Response: Director, Finance and Corporate Services

The Director, Finance and Corporate Services advised that it depends on the type of lease but most would have rent review requirements.

22. NEXT MEETING

27 April 2011 at the Naturaliste Community Centre, Dunsborough.

23. CLOSURE

The meeting closed at 8.00pm

THESE MINUTES CONSISTING OF PAGES 1 TO 108 WERE CONFIRMED AS A TRUE

AND CORRECT RECORD ON _____

DATE: _____

PRESIDING MEMBER: _____