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CITY OF BUSSELTON

MINUTES FOR THE COUNCIL MEETING HELD ON 23 MAY 2018

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MINUTES

MINUTES OF A MEETING OF THE A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 23 MAY 2018 AT 5.30PM.

1. DECLARATION OF OPENING/ACKNOWLEDGEMENT OF COUNTRY/ACKNOWLEDGEMENT OF VISITORS/DISCLAIMER

The Presiding Member open the meeting at 5.31pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

Cr John McCallum Deputy Mayor
Cr Coralie Tarbotton
Cr Ross Paine
Cr Rob Bennett
Cr Paul Carter
Cr Robert Reekie
Cr Kelly Hick
Cr Lyndon Miles

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Oliver Darby, Director, Engineering and Works Services
Mr Paul Needham, Director, Planning and Development Services
Mr Cliff Frewing, Acting Director, Community and Commercial Services
Mr Tony Nottle, Director, Finance and Corporate Services
Ms Sarah Pierson, Manager, Governance and Corporate Services
Miss Kate Dudley, Administration Officer, Governance

Apologies

Nil

Approved Leave of Absence

Nil

Media:

“Busselton-Dunsborough Times”
“Busselton-Dunsborough Mail”

Public:

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3. PRAYER

The prayer was delivered by Pastor Thomas Cooper of Freedom Church.

4. APPLICATION FOR LEAVE OF ABSENCE

Nil

5. DISCLOSURE OF INTERESTS

The Mayor noted that a declaration of financial interest had been received from:

- Cr John McCallum in relation to agenda Item:
16.1 LEASE FOR TELECOMMUNICATION MAST AT 78 VASSE HIGHWAY, BOVELL
- Mr Cliff Frewing, Director, Community and Commercial Services in relation to agenda Item:
16.1 LEASE FOR TELECOMMUNICATION MAST AT 78 VASSE HIGHWAY, BOVELL

The Mayor noted that a declaration of impartiality interest had been received from:

- Kate Dudley, Governance Administration in relation to agenda Item:
16.1 LEASE FOR TELECOMMUNICATION MAST AT 78 VASSE HIGHWAY, BOVELL

The Mayor advised that in accordance with the Local Government (Rules of Conduct) Regulations 2007 this declaration would be read out immediately before Item 16.1 was discussed.

6. ANNOUNCEMENTS BY THE PRESIDING MEMBER

Nil

7. QUESTION TIME FOR PUBLIC**Response to Previous Questions Taken on Notice**

Nil

Question Time For Public

Nil

8. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings**8.1 Minutes of the Council Meeting held 9 May 2018**COUNCIL DECISION****C1805/097** Moved Councillor P Carter, seconded Councillor J McCallum

That the Minutes of the Council Meeting held 9 May 2018 be confirmed as a true and correct record.

CARRIED 9/0**9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS**

Nil

10. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (WITHOUT DISCUSSION)

Nil

11. ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY**ITEMS BROUGHT FORWARD AND ADOPTION BY EXCEPTION RESOLUTION**

At this juncture the Mayor advised the meeting that with the exception of the items identified to be withdrawn for discussion, that the remaining reports, including the Committee and Officer Recommendations, will be adopted en bloc, i.e. all together.

COUNCIL DECISION AND OFFICER RECOMMENDATION**C1805/098** Moved Councillor C Tarbotton , seconded Councillor J McCallum

That the Committee and Officer Recommendations in relation to the following agenda items be carried en bloc:

- 15.1 RETAIL TRADING HOURS REVIEW
- 17.1 COUNCILLORS' INFORMATION BULLETIN

CARRIED 9/0**EN BLOC**

15.1 RETAIL TRADING HOURS REVIEW

SUBJECT INDEX:	Retail Trading Hours
STRATEGIC OBJECTIVE:	A community where local business is supported and in turn drives our economy
BUSINESS UNIT:	Commercial Services
ACTIVITY UNIT:	Economic Development
REPORTING OFFICER:	Manager, Commercial Services - Jennifer May
AUTHORISING OFFICER:	Director, Community and Commercial Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

PRÉCIS

This report recommends that Council authorise the CEO to conduct stakeholder consultation on extending the general retail trading hours of Busselton and / or Dunsborough to incorporate the entire City of Busselton district, and, providing there are no adverse submissions, apply to the Minister of Mines, Industry Regulation and Safety for a permanent / long term variation to the City of Busselton General Retail Trading Hours in accordance with the Retail Trading Hours Act 1987.

BACKGROUND

The Retail Trading Hours Act 1987 applies to retail shops in Western Australia south of the 26th parallel. It sets out the trading hours and rules covering various categories of retail outlets. The trading hours of restaurants, cafes and takeaway food shops are not covered by the Act. Current State year round general retail trading hours, as per the Retail Trading Hours Act 1987 are:

- Monday, Tuesday, Wednesday and Friday from 8.00am to 6.00pm;
- Thursday from 8.00am to 9.00pm;
- Saturday from 8.00am to 5.00pm.

Further, the Perth metropolitan area general retail trading hours, as per the Retail Trading Hours Act 1987 are:

- Monday, Tuesday, Wednesday, Thursday and Friday from 8.00am to 9.00pm;
- Saturday from 8.00am to 5.00pm;
- Sunday and Public Holidays from 11.00am to 5.00pm;
- Christmas Day, Good Friday and ANZAC Day: Closed.

Non-metropolitan Local Governments are empowered, subject to endorsement by the Minister for Commerce, to extend general retail trading hours beyond those stipulated in the Retail Trading Hours Act 1987.

Between 2010 – 2013, the City of Busselton conducted annual reviews and extensive consultation with the local community and businesses to determine the extended trading hours for the Christmas and holiday trading periods for Busselton and Dunsborough town sites.

Previous reviews and decisions for this period relating to the extension of Retail Trading Hours in Busselton is summarised as follows:

2010

At the Ordinary Meeting of Council on 27 October 2010, Council resolved (C1010/372):

1. *That the Council approve the temporary adjustment to the Retail Trading Hours from November 2010 for the shopping precinct for the Shire of Busselton as follows:*
 - a. *Seasonal trading period with the same hours as the Department of Commerce approved Christmas trading hours for the period from Monday 29 November 2010 until 31 December 2010*
 - b. *That the trading hours on Sunday 5 December 2010 be extended to 9pm to coincide with the Ironman event.*

The Department of Commerce approved Christmas trading hours comprised of weekday trading from 8.00am to 9.00pm, Saturday trading from 8.00am to 5.00pm and Sunday trading from 10.00am to 5.00pm, from 29 November 2010 to 31 December 2010.

At the Ordinary Meeting of Council on 10 November 2010, Council resolved (C1011/387):

That the Council does not approve extended trading hours in January 2011, and the trading hours to remain as they are now.

2011

At the Ordinary Meeting of Council on 10 August 2011, Council resolved (C1108/248):

That the Council:

- (a) *Endorses the preferred proposed year-round extensions to the retail trading hours in Busselton, on a seven day per week basis, to be reviewed in 12-months:*

Monday, Tuesday, Wednesday and Friday from 8.00am to 7.00pm;

Thursday from 8.00am to 9.00pm;

Saturday from 8.00am to 6.00pm;

Sunday and Public Holidays from 10.00am to 6.00pm;

ANZAC Day from 1.00pm to 6.00pm.

- (b) *Request that the CEO seek community feedback on the preferred proposed retail trading hours and present a report back to Council prior to an application being made to the Department of Commerce.*

At the Ordinary Meeting of Council on 12 October 2011, Council resolved (C1110/313):

That the Council:

- a) *Make application to the Department of Commerce for year-round extensions to the retail trading hours in Busselton, based on a seven day per week basis:*

Monday, Tuesday, Wednesday and Friday from 8.00am to 7.00pm;

Thursday from 8.00am to 9.00pm;

Saturday from 8.00am to 6.00pm;

Sunday and Public Holidays from 10.00am to 6.00pm;

ANZAC Day from 1.00pm to 6.00pm.

- (b) *Request that the CEO review the extended retail trading hours in twelve months time and present a report back to Council.*

2012

At the Ordinary Meeting of Council on 12 December 2012, Council resolved (C1212/348):

That the Council endorses the current retail trading hours for Busselton:

*Monday, Tuesday, Wednesday and Friday from 8.00am to 7.00pm;
Thursday from 8.00am to 9.00pm;
Saturday from 8.00am to 6.00pm;
Sunday and Public Holidays from 10.00am to 6.00pm;*

Excluding Good Friday, ANZAC Day and Christmas Day.

2013

The City advertised its intention to extend Retail Trading Hours for the Holiday and Event season, commencing 9 December 2013 to 3 January 2014. This was undertaken in consultation with the BCCI who supported the proposal. No submissions were received and a successful application was subsequently received from the Department of Commerce approving the following extension;

Monday, Tuesday, Wednesday, Friday from 8.00am to 9.00pm;
Thursday from 8.00am to 9.00pm (no change);
Saturday from 8.00am to 6.00pm;
Sunday and Public Holidays from 10.00am to 6.00pm;
Christmas Day Closed.

2014

The City of Busselton, in consultation with Busselton Chamber of Commerce and Industry, consulted on a proposal for year-round extended trading hours. The proposal incorporated specific trading hours to bring Busselton more in line with Dunsborough as follows;

Monday to Sunday from 8.00am to 9.00pm
ANZAC Day from 1.00pm to 9.00pm
Christmas Day and Good Friday closed.

An application was made to the then Minister for Commerce in 2014, following extensive consultation and a Variation Order for Busselton was approved in 2015.

In 2014 the City, in consultation with the Busselton Chamber of Commerce and Industry, made an application to the then Minister for Commerce to permanently extend the Busselton town site retail trading hours to create uniform, permanent annual trading hours. The current retail trading hours for the City of Busselton town site shopping precincts are as follows:

Busselton Retail Trading Hours (town)

- Monday – Friday 8.00am to 9.00pm;
- Saturday from 8.00am to 9.00pm;
- Sunday and Public Holidays from 8.00am to 9.00pm;
- Closed on Christmas Day, Good Friday and until 1.00pm on ANZAC Day.

Dunsborough Retail Trading Hours

- Monday to Sunday from 8.00am to 9.00pm inclusive of ALL Public Holidays (including Good Friday, ANZAC Day and Christmas Day).

In April 2018 the City received a request from the Coles Supermarket located at Vasse to review the trading hours applicable for the Vasse store. City Officers consulted with the Department of Mines, Industry Regulation and Safety on whether the Busselton general retail hours extended to the town site of Vasse. The Department indicated that the Busselton Retail Trading Hours as determined by Variation Order 2015 were specific to the town site of Busselton and not applicable to the Vasse retail stores (despite having the same post code).

This has again highlighted the disparity between the shopping precincts with the City of Busselton and given the population growth experienced since 2015, Officers are proposing that the current general retail trading hours for the City of Busselton be reviewed and unified across the local government district, including Busselton, Dunsborough and Vasse town sites and for any potential shopping precincts that may be developed in the future, as per the following options;

Option 1

Maintain the Dunsborough Retail Trading Hours as they are and extend the Busselton Retail Trading Hours to include the remainder of the City of Busselton district.

City of Busselton local government district

- Monday – Friday 8.00am to 9.00pm;
- Saturday from 8.00am to 9.00pm;
- Sunday and Public Holidays from 8.00am to 9.00pm;
- Closed on Christmas Day, Good Friday and until 1.00pm on ANZAC Day.

Dunsborough town site

- Monday to Sunday from 8.00am to 9.00pm inclusive of ALL Public Holidays (including Good Friday, ANZAC Day and Christmas Day).

This option will not provide any additional trading hours to Busselton or Vasse town sites on public holidays and continues to place disparities between the trading regimes of Dunsborough and the remainder of the district which can be confusing for retailers, locals and visitors.

Option 2

Unify all general retail trading hours across the City of Busselton local government district to reflect the current Dunsborough Retail Trading Hours;

City of Busselton local government district

- Monday - to Sunday 8.00am to 9.00pm
- ALL Public Holidays (including Good Friday, ANZAC Day and Christmas Day).

This option provides the additional trading hours on Christmas Day, Good Friday and ANZAC Day for Busselton and Vasse town sites and provides for consistency across the district. This option is proposed to apply to the entire City of Busselton local government district and hence will apply to any potential future shopping precincts that may be developed outside of Busselton, Vasse and Dunsborough town sites.

STATUTORY ENVIRONMENT

Trading hours in Western Australia are regulated by different trading restrictions applicable to various areas and types of retailers. The Retail Trading Hours Act 1987 enables non-metropolitan local governments to extend general trading hours beyond standard arrangements. These extensions require endorsement by the Minister of Mines, Industry Regulation and Safety.

Small retail shops have no restrictions on trading hours and may continue to trade each day of the year. A 'small retail shop' is a shop owned by up to six (6) people who operate no more than three (3) retail shops, in which up to 18 people work at any one time (excluding apprentices).

Special retail shops may trade between 6.00am and 11.30pm each day of the year. Special retail shops include newsagencies and bookshops, pharmacies, garden nurseries, hardware and improvement shops, video shops, art and craft shops, souvenir and duty free shops, shops at sports venues, boating shops, motor vehicle spare parts shops and shops at international standard hotels.

Small retail and special retail shops must hold a Certificate from the Department of Mines, Industry Regulation and Safety to trade during these hours.

Various amendments have been made to the Retail Trading Hours Act 1987 over the past few years which has seen the general retail trading hours extended.

Under the Non-Metropolitan Local Government Empowerment Policy a number of local government authorities have removed trading hour restrictions within their jurisdictions, including the neighbouring Shires of Augusta-Margaret River, Capel, Dardanup and the City of Bunbury. The City of Busselton is one (1) of 12 local governments who have made variations to standard general retail trading hours, where;

- Busselton operates under the Retail Trading Hours (Shire of Busselton) Variation Order 2015 of the Retail Trading Hours Act 1987.
- Dunsborough operates under the Local Government Retail Trading Hours Exemption Order (No 23) 1993 of the Retail Trading Act 1987.

RELEVANT PLANS AND POLICIES

The recommendations are in line with Council policies.

FINANCIAL IMPLICATIONS

Nil.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

This matter primarily aligns with Key Goal Areas 4 of the City of Busselton's endorsed Strategic Community Plan 2017:

Key Goal Area 4: Economy

- 4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.
- 4.2 A community where local business is supported and in turn drives our economy.
- 4.3 Events and unique tourism experiences that attract visitors and investment.

Further, extended retail trading hours assist the City in meeting its vision of becoming the 'Events Capital of WA' by providing a range of retail services to better serve the needs of visitors to the region, thereby value-adding to events, and further encouraging increased visitation and attraction of events to the region.

RISK ASSESSMENT

The recommendations contained within this report are not considered to present any risks of a medium or greater level.

CONSULTATION

Under the rules and guidelines for permanent/long term variations to the Order for Non-Metropolitan Governments, a community consultation process is required. Officers recommend that the following stakeholder consultation occurs:

- Individual meetings with the major retailers throughout the district;
- Information letter and a survey feedback with local businesses;
- Individual meetings with Busselton and Dunsborough Chamber of Commerce and Industry, MRBTA, local member of State Parliament Ms Libby Mettam MLA;
- City of Busselton Your Say Surveys;
- Advertising in the local media.

OFFICER COMMENT

Unified retail trading hours provide benefits by activating the main City town centres and for the tourism industry and will attract more people to the town, providing a better experience for tourists. It will also encourage an extended length of stay and visitor spend, as evidenced by data produced by the tourism industry. Further, as the City continues the upgrade of the Busselton Foreshore, attracts further investment to the area, and nears completion of the Busselton-Margaret River Airport redevelopment, the number of visitors to the City on a year-round basis will only continue to increase. As the City continues to develop as a tourist destination, more flexibility in trading hours across the district is essential.

At this stage, the application only applies to Coles Vasse but in time may apply to other retailers as the City grows and develops. City officers cannot see any reason for having different trading hours for the same retail outlet in three different locations within the City. Further the majority of businesses operating in Busselton, Dunsborough and now Vasse are as classified as 'small business', and have the ability to operate 24 hours per day. Those that fall into the 'general retail' category currently operate within the regulated trading regime. The proposed trading hours will ensure equity and consistency for retail operators throughout the district to extend their retail offerings at their individual choice, creating critical mass to further support small business should they choose to open similar hours.

Officers have reviewed the current retail trading hours that apply to Busselton and Dunsborough and present the following options for consideration;

Option 1

Apply to the Department of Mines, Industry Regulation and Safety to maintain the Dunsborough Retail Trading Hours and extend the Busselton Retail Trading Hours to include the remainder of the City of Busselton district.

This option is viewed by Officers as maintaining the status quo within the District. Whilst there will continue to be some disparity between the trading hours of Busselton and Dunsborough, this option provides consistency in weekday trading and weekend trading.

Option 2

Apply to the Department of Mines, Industry Regulation and Safety to unify all general retail trading hours across the City of Busselton local government district to reflect the current Dunsborough Retail Trading Hours;

- Monday to Sunday from 8.00am to 9.00pm inclusive of ALL Public Holidays (including Good Friday, ANZAC Day* and Christmas Day).

This option is viewed by Officers as appropriately bridging the gap between the disparate trading regimes that exist between Busselton and Dunsborough. This option also allows individual retailers to operate the hours of their choice, keeps Busselton competitive in terms of retail opportunities, and reduces the potential leakage of retail spend to areas outside of the District that have more favourable trading regimes. This option is incorporated into the Officer Recommendation.

* Council may consider adjusting the ANZAC trading hours for the entire district to reflect those of Busselton currently with trading from 1.00pm on ANZAC Day acknowledging the importance of ANZAC commemorations.

CONCLUSION

Extended retail trading hours has the potential to provide the region with significant economic return through increased consumer spending, visitor numbers, and events to the region. In turn, it is anticipated that such increased economic activity will result in increased investment and attraction of other industry sectors to the region. In order to achieve this, it must be recognised that the City needs to achieve a balance between consumer demand and the hours in which retailers are prepared to open.

OPTIONS

Council may elect to:

- Not support the Officer's recommendation for Option 2 and endorse Option 1;
- Support the Officer's recommendation for Option 2 incorporating the change of trading hours on ANZAC day from 1.00pm to the entire local government district; and
- Determine a different option based on alternative trading hours for different town sites within the City of Busselton.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should Council endorse the Officer Recommendation, Officers will commence stakeholder consultation and, providing there are no adverse objections, make an application to the Department of Mines, Industry Regulation and Safety before October 2018.

COUNCIL DECISION AND OFFICER RECOMMENDATION**C1805/099**

Moved Councillor C Tarbotton , seconded Councillor J McCallum

That the Council:

1. Conduct stakeholder consultation and advertising as detailed in the report for the following proposed trading hours to apply to the City of Busselton local government district:

Monday to Sunday from 8.00am to 9.00pm inclusive of ALL Public Holidays (including Good Friday, ANZAC Day and Christmas Day).
2. Subject to there being no major objections, make application to the Department of Mines, Industry Regulation and Safety for permanent extensions to the retail trading hours across the entire City of Busselton local government district in line with recommendation 1.

CARRIED 9/0**EN BLOC**

17.1 COUNCILLORS' INFORMATION BULLETIN

SUBJECT INDEX:	Councillors' Information Bulletin
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Administration Officer - Governance - Katie Dudley
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Planning Applications received by the City between 16 April, 2018 and 30 April, 2018⇒
	Attachment B Planning Applications determined by the City between 16 April, 2018 and 30 April, 2018⇒
	Attachment C State Administrative Tribunal Appeals⇒

PRÉCIS

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

17.1.1 Planning & Development Services Statistics

Planning Applications

Attachment A is a report detailing all Planning Applications received by the City between 16 April, 2018 and 30 April, 2018. A total of 26 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 16 April, 2018 and 30 April, 2018. A total of 30 applications (including subdivision referrals) were determined by the

17.1.2 State Administrative Tribunal Appeals

Attachment C is a list showing the current status of State Administrative Tribunal Appeals involving the City of Busselton as at 3 May, 2018.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1805/100 Moved Councillor C Tarbotton , seconded Councillor J McCallum

That the items from the Councillors' Information Bulletin be noted:

- 17.1.1 Planning & Development Services Statistics
- 17.1.2 State Administrative Tribunal Appeals

CARRIED 9/0

EN BLOC

12. REPORTS OF COMMITTEE MEETINGS

Nil

ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION, WITHOUT DEBATE**16. FINANCE AND CORPORATE SERVICES REPORT****16.1 LEASE FOR TELECOMMUNICATION MAST AT 78 VASSE HIGHWAY, BOVELL****SUBJECT INDEX:**

	Agreements/Contracts
STRATEGIC OBJECTIVE:	An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Property Services
REPORTING OFFICER:	Property Management Coordinator - Sharon Woodford-Jones
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Confidential Valuation Advice Attachment B Proposed Lease and Licence Areas ⇨

DISCLOSURE OF INTEREST	
Date	23 May 2018
Meeting	Council
Name/Position	John McCallum, Councillor
Item No./Subject	16.1 Lease for Telecommunication Mast at 78 Vasse Highway, Bovell
Type of Interest	Financial Interest
Nature of Interest	I declare that I have Telstra shares valued at more than \$10,000

DISCLOSURE OF INTEREST	
Date	23 May 2018
Meeting	Council
Name/Position	Cliff Frewing, Director Community and Commercial Services
Item No./Subject	16.1 Lease for Telecommunication Mast at 78 Vasse Highway, Bovell
Type of Interest	Financial Interest
Nature of Interest	I declare that I have Telstra shares valued at more than \$10,000

DISCLOSURE OF INTEREST	
Date	23 May 2018
Meeting	Council
Name/Position	Kate Dudley, Governance Administration Officer
Item No./Subject	16.1 Lease for Telecommunication Mast at 78 Vasse Highway, Bovell
Type of Interest	Impartiality Interest
Nature of Interest	I am the Tenant at 78 Vasse Highway, Bovell

5:38 pm At this time Councillor J McCallum left the meeting.

5:38 pm At this time the Director, Community and Commercial Services left the meeting.

PRÉCIS

The City have been approached by Telstra Corporation Limited (Telstra) who wish to lease land for the purpose of installing and operating a telecommunications facility to improve mobile phone coverage in the Yalyalup and Bovell areas. This report recommends that Council enter into a lease with Telstra on the terms outlined.

BACKGROUND

The proposed land Telstra wish to lease is part Lot 40, (78) Vasse Highway, Bovell (Lot 40), the approximate location of which is shown on the plan attached marked Attachment B. Lot 40 comprises 4.1 hectares of freehold land purchased by the City in 2015 adjacent to the Bovell Park Sporting Complex. The site was acquired to accommodate the expansion of the sporting facilities at some point in the future. The subject land is zoned 'Agriculture' and currently occupied by a tenant under a short term (12 month) residential tenancy agreement.

In July 2017, Telstra's consultants, Visionstream, enquired about the availability of a site for the purpose of constructing a base station and telecommunications tower. Following a detailed selection process, Lot 40 was identified as the most suitable as it would address current service inadequacies and provide coverage for the expanding Yalyalup residential area, a federally recognised 'blackspot'. Telstra were made aware that the chosen location could not restrict or interfere with the planned expansion of the Bovell Park sporting facilities.

Concurrent to the lease negotiations, Visionstream applied for a Development Application for a 'Telecommunications Base Station' and a 41.5m telecommunications tower. Approval has been granted for a base station and mast up to a maximum of 50m.

Lot 40 is the subject of a pre-existing residential tenancy agreement which includes the use of the paddocks within the lot for the keeping of animals and livestock. At the time of acquiring the land, the potential to generate an income from short term tenancies was identified as a means by which to fund borrowing for the asset. City officers have been mindful of the need to preserve that income stream in their negotiations with Telstra.

It is proposed that the lease to Telstra include the grant of a non-exclusive licence over an access way to the site, the approximate route of which is shown on Attachment B. Telstra will be required to maintain that area but, in keeping with the nature of a licence, allow others to use it if necessary.

Officers are now in a position to seek a resolution from Council to enter into a lease that will allow Telstra to commence construction.

STATUTORY ENVIRONMENT

Section 3.58 of the Local Government Act 1995 (LGA) relates to the disposal of property by a local government, with disposal defined to include leasing. Section 3.58 requires the publishing of the proposed disposition with the publication to describe the property concerned, give details of the proposal and invite submissions to be made before a specified date.

Section 3.58(4) of the LGA requires that the disposition includes either a valuation not more than six months old or a declaration that a valuation older than 6 months is considered a true indication of the value at the time of the disposition.

RELEVANT PLANS AND POLICIES

Nil

FINANCIAL IMPLICATIONS

Telstra's opening 'bid' for the lease of this site was \$4,000 per annum. As the City currently benefit from in-house valuation expertise, officers were able to investigate the market conditions and demand for suitable sites in the area. Following negotiation, Telstra have agreed to pay an annual rent of \$20,000. It is proposed that rent will increase annually by 2% and be subject to periodical market rent reviews. In addition, it has been suggested that if the lessee negotiates with another unrelated telecom provider to install another facility, the City will be entitled to charge a proportion of the annual rent payable under this lease for the sublease or licence.

A confidential copy of the valuation advice is provided as attachment A to this report.

Long-term Financial Plan Implications

The income from the proposed lease, together with the ongoing revenue from the short term residential tenancy, will assist with repayment of the borrowing and, if considered appropriate, the subsequent development of the land.

STRATEGIC COMMUNITY OBJECTIVES

The recommendation in this report reflects the objectives of Key Goal Areas 2 and 4, specifically Community Objectives 2.1 and 4.1 of the City of Busselton Strategic Community Plan 2017:

2.1: "Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow"

4.1: "An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice"

RISK ASSESSMENT

There are not considered to be any medium or greater level risks associated with the lease. The lease terms address a number of potential risks associated with the location and access to the proposed facility which are discussed in more detail in the Officer Comment section.

CONSULTATION

The current tenant of Lot 40 was made aware at the time of entering into a residential tenancy agreement of the possibility of the City leasing part of the land to a telecommunication provider. The tenant has been contacted subsequently and informed of the desired location of the mast and the proposed means of accessing the facility. The lease will provide that the lessee will take all reasonable steps to cause as little disruption to the tenant as possible in the exercise of its rights under the lease, both in terms of the initial construction of the facility and future access for maintenance and repair.

The proposed disposition will be advertised locally detailing the names of the lessee, the proposed rent and the term of the lease. Any submissions received as a result of statutory advertising will be reported to Council with alternative recommendations in relation to the terms of the lease if considered necessary.

OFFICER COMMENT

The proposed lease negotiated between the parties is, to the extent that it is relevant, based on a format previously approved by Council in relation to leases of land in support of the National Broadband Network.

Rent and additional payment

As mentioned in the financial section of this report the rent will commence at \$20,000 per annum and be increased by 2% each year. In addition, it is proposed that there will be periodical market rent reviews at frequencies to be negotiated. Subject to the outcome of ongoing negotiations, the potential also exists for additional rental income in the event of a sublease or licence to another communications provider.

Term of the proposed Lease

The proposed maximum term of the lease is 20 years. The Lessee has the option to give notice to extend the lease after the expiry of 10 years and again at 15 years after the commencement date.

The Lessee may remain in occupation of the premises following expiry of the term on a periodical tenancy basis, with an option for either party to terminate on the provision of appropriate notice.

Insurance and electricity services

The Lessee is responsible for public liability insurance of no less than \$20 million and other insurances appropriate for use of the site as a telecommunications tower. The Lessee must obtain an independent supply of electricity and maintain responsibility for the same.

Removal of apparatus

The Lessee is required to remove all above ground equipment within 3 months of the expiry of the lease and leave the site in a clean and tidy condition replicating the condition of the site at the commencement of the lease.

Subletting and assignment

The Lessee may assign the lease to a subsidiary body or holding company of their corporation provided the assignee is an incorporated entity. Prior written consent must be obtained from the City before the Lessee can assign the lease to an unrelated entity and the City cannot unreasonably withhold consent to such an assignment.

The Lessee must obtain the prior written consent of the City should they wish to sublet or licence all or part of the premises to another service provider.

Access over Lot 40

It is proposed that the Lessee also be given a licence over the fire break on the eastern boundary and track on the southern boundary to access the leased area. The only other alternative is to force the Lessee to construct another crossover from Vasse Highway (which would require approval from Main Roads). The licence will facilitate access and services to the leased area in such a way as to minimise the impact on the remainder of the lot.

Other terms and conditions

The proposed lease contains standard terms and conditions normally found in leases of this type as well as conditions and obligations specific to the purpose such as compliance with relevant legislation.

Negotiations are being finalised and as such the officer recommendation includes a proposed delegation. Given this an absolute majority decision is required.

CONCLUSION

The need to improve mobile phone coverage for nearby developing areas has been identified at a federal level and at a local level. The availability of reliable and consistent mobile telephone coverage is of benefit to the residential and business community in the vicinity and the City has in the past made sites available for the purpose of NBN telecommunication masts.

The use of a relatively small part of Lot 40 should not adversely impact on the future proposals for the site. The grant of a lease will also generate an income stream that could be used for the purpose of further enhancements to the site to facilitate future development proposals.

OPTIONS

1. Council may choose not to enter into a lease with this operator.
2. Council may direct officers to enter into a lease on alternative terms and conditions.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Advertising of the proposed disposition will take place as soon as possible for a 14 day period. In the event that there are adverse submissions, a further report will be presented to Council detailing the submissions and any subsequent recommended changes to the proposed lease arrangements. If no submissions are received it is anticipated that a lease will be entered into by the end of July 2018.

COUNCIL DECISION AND OFFICER RECOMMENDATION**C1805/101**

Moved Councillor P Carter, seconded Councillor L Miles

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

1. Advertises the proposed disposition of land to Telstra Corporation Limited in accordance with Section 3.58 of the Local Government Act 1995 for the term and conditions outlined in this report; and
2. Delegates to the CEO, subject to there being no adverse objections resulting from resolution 1, to negotiate and enter into a lease with Telstra Corporation Limited for a portion of Lot 40, Plan 14199, as shown on Attachment B on the following terms and conditions:
 - (i) the annual rent will commence at \$20,000 per annum subject to annual rent increases of 2% and market rent reviews.
 - (ii) the term of the lease will be ten years followed by two subsequent five year options exercisable by the lessee up to a maximum term of 20 years.
 - (iii) a right for the lessee to assign the lease to a related entity and to sublet or license the premises to a similarly related entity without the requirement to pay additional rent
 - (iv) the lessee to be granted an access license over necessary parts of Lot 40 to access the leased premises in such as manner as to cause as little disruption or interference with the remainder of Lot 40.
 - (vi) other terms and conditions consistent with the construction of a telecommunication facility in this locality.

CARRIED 8/0

5:39 pm At this time Councillor J McCallum returned to the meeting.

5:39 pm At this time the Director, Community and Commercial Services left the meeting.

ITEMS FOR DEBATE

17. PLANNING AND DEVELOPMENT SERVICES REPORT

13.1 DA18/0139 - CHILDCARE CENTRE AND EDUCATIONAL ESTABLISHMENT - LOT 21 (HSE 431) RENDEZVOUS ROAD, VASSE

SUBJECT INDEX:	Development/Planning Applications
STRATEGIC OBJECTIVE:	Development is managed sustainably and our environment valued.
BUSINESS UNIT:	Development Services and Policy
ACTIVITY UNIT:	Statutory Planning
REPORTING OFFICER:	Senior Development Planner - Andrew Watts
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Location plan⇒
	Attachment B Development Plans⇒
	Attachment C Traffic Impact Assessment ⇒
	Attachment D Bushfire Management Plan and Evacuation Plan⇒
	Attachment E Schedule of Submissions⇒

PRÉCIS

The Council is asked to consider an application seeking approval for development of a Childcare Premises and Educational Establishment on Lot 21 (No.431) Rendezvous Road, Vasse ("the site").

The planning proposal has been placed before Council due to the nature of the issues requiring consideration. It is considered that the proposal is consistent with the relevant planning framework and is recommended for approval subject to conditions.

BACKGROUND

Lot 21 (No.431) is zoned Agriculture, is located on the southern side of Rendezvous Road opposite Woodswallow Drive, and is bound by properties to the south, east and west that are similarly zoned Agriculture. In the near vicinity of the site on the northern side of Rendezvous Road the properties are zoned Rural Residential. A location plan is provided in **Attachment A**.

Childcare Premises and Educational Establishment are 'D' (i.e. discretionary) uses in the Agriculture zone.

The development is proposed to comprise of renovation of the existing dwelling to convert it for the intended use. A fenced outdoor play/activity area surrounds the building. The building is approximately 480m² in area (including verandahs) and the fenced area proposed to be used for outside activities is approximately 4800m².

The Childcare Premises and Educational Establishment would cater for up to 100 children at any time, with a program designed to provide 'nature based and creative learning' for children aged six months to twelve years, operating from 7:30am to 6:30pm, Monday to Friday. The Educational Establishment component is proposed to operate as a program supporting parents home schooling their children. This is intended to be for up to 15 children, aged 4-12, one or two days per week from 9am – 3pm. This is not additional to the 100 children, rather the 15 children would be part of the 100 children total on the relevant days.

Explanatory information from the applicant and the development plans are provided in **Attachment B**.

The applicant has submitted a Traffic Impact Assessment report in support of the proposal, which concludes that the existing road and access conditions are suitable to cater for the additional traffic generated by the proposed development. A copy of the report is at **Attachment C**.

The site is located in a bushfire prone area and the development is considered to be a vulnerable land use requiring the submission of a Bushfire Management Plan and Evacuation Plan completed by an appropriately qualified person. These were included with the application. A copy of the plan is at **Attachment D**.

A total of 40 onsite car parking bays are proposed, with 20 for parents/guardians and 20 for staff. The proposal includes provision of an accessible parking space provided in accordance with AS2890.6.

STATUTORY ENVIRONMENT

The key elements of the statutory environment that relate to the proposal are set out in the Local Planning Scheme.

The site is located in the 'Agriculture' zone. Objectives of this zone relevant to this application are as follows:

- (d) To enable the development of land for other purposes where it can be demonstrated by the applicant that suitable land or buildings for the proposed purposes are not available elsewhere and that such purposes will not detrimentally affect the amenity of any existing or proposed nearby development.

Policies of the "Agriculture" zone relevant to this application are:

- (a) To permit land included within the zone and shown by close investigation in consultation with the Department of Agriculture and Food not to be prime agricultural land to be utilised for other purposes not incompatible with adjacent uses.
- (f) To implement and adhere to the adopted recommendations and outcomes of the Local Rural Planning Strategy adopted by the local government and endorsed by the Commission.

Part 4 of the Scheme deals with General Development Requirements and clauses applicable to the Agriculture zone and relevant to the proposed development are:

4.35 SETBACK REQUIREMENTS IN THE AGRICULTURE AND VITICULTURE AND TOURISM ZONES

4.35.1 A building in the Agriculture or Viticulture and Tourism zones must not be located closer than 30 metres or such other distance as may be specified in an adopted planning policy to any boundary.

In considering the application, the Council needs to consider the 'Matters to be considered' set out in clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, particularly relevant considerations in relation to this application are the following –

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and*

Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;

- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following —*
 - (i) environmental impacts of the development;*
 - (ii) the character of the locality;*
 - (iii) social impacts of the development;*
- (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (s) the adequacy of —*
 - (i) the proposed means of access to and egress from the site;*
and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) any submissions received on the application;*
- (za) the comments or submissions received from any authority consulted under clause 66;*
- (zb) any other planning consideration the local government considers appropriate.*

RELEVANT PLANS AND POLICIES

The key policy implications for consideration are set out in the following policy documents:

Local Planning Policy 7A– Childcare Premises Provisions

Planning Policy 7 establishes criteria for assessment of proposed development and is intended to provide a practical guide to aid in the preparation of drawings to be submitted in support of an application. The requirements for the proposal are:

- *A minimum lot area of 900m² is required for appropriate design and to aid in reducing the impacts on surrounding landowners. By complying with the minimum lot area requirement the centre should be able to accommodate play areas, landscaping, car parking areas and other facilities.*

Lot 21 is 16.6 Ha in area.

- *The site coverage shall not exceed 50% of the land area –*

The building proposed to be utilised for the development is approximately 480m² (including verandahs), the fenced area proposed to be used for outside activities is approximately 4800m² and additional areas to be used for carparking purposes. This will be considerably less than 50% of the total site.

- *Setbacks of Child Care Premises shall be, at a minimum, consistent with the requirements of development permitted within the respective zone, however, further setbacks may be required by the City to meet the Policy Provisions described in Part 6 below -*

The prescribed building setback for the Agriculture zone is 30m from any boundary. The fenced area indicated on the development plans to be used by children for outside activities is 18m from the nearest property boundary. The main building associated with development proposal is 50m from the nearest boundary.

- *One car parking space per five children cared for at the centre is required. In addition, one car parking space per staff member is required –*

The development would require 37 car parking spaces based on the above ratio. A total of 40 onsite car parking bays are proposed, with 20 for parents/guardians and 20 for staff. The proposal includes provision of an accessible parking space provided in accordance with AS2890.6.

- *The preferred location for Child Care Premises are in the immediate vicinity of relevant user-groups such as town and neighbourhood centres, schools, work places, shops, community facilities, public open space, civic facilities and in the Business zones of the Scheme –*

Whilst the proposal is not necessarily consistent with the above, the land use designation is amongst a range of different uses approvable in the Agriculture zone.

- *The onus lies with the applicant to demonstrate that a Child Care Premises in a residential area is compatible with adjacent/surrounding development and will not have an unreasonable adverse impact on the amenity of the locality in which they are proposed. Whilst Child Care Premises may be considered adjunct to residential development, the City shall be satisfied that impacts on amenity from appearance, noise, traffic and other considerations should be acceptable with regard to the apparent amenity of a residential area –*

The proposal is located on an Agriculture zoned property that is surrounded by other agriculture zoned properties to the south, east and west and Rural Residential zoned properties to the north. The nearest residential premises is around 120m from the closest part of the fenced outdoor activity area of the development. The application includes a Traffic Impact Assessment report to support the proposal.

- *Where a Child Care Premises is located adjacent to a noise sensitive use, such as houses, retirement villages and nursing homes, the noise generating activities of a Child Care Premises, such as outdoor play areas, parking areas and plant and equipment, shall be located away from the noise sensitive use –*

The nearest residential premises is 120m from the closest part of the fenced outdoor activity area of the development.

FINANCIAL IMPLICATIONS

The recommendation of this report is a planning determination. It does not impose any direct financial implications upon the City.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

The recommendations in this report reflect Community Objective 2.1 of the City's Strategic Community Plan 2017 – 'Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow'.

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City's risk assessment framework. The assessment identifies 'downside' risks only, rather than 'upside' risks as well. Risks are only identified where the individual risk, once controls are identified, is medium or greater. No such risks have been identified.

CONSULTATION

The proposal was referred to adjoining landowners of the proposed development site for a period of 14 days. As a result of these referrals, four submissions have been received raising the following concerns:

1. Current volumes of traffic travelling along Rendezvous Road and the capacity of the road to cope with additional traffic in this location particularly at peak hours.
2. Noise impacts due to scale of development catering for 100 children, cars and animals during operating hours and the possibility of additional noise impacts from functions outside of standard operating hours.
3. Environmental impacts due to roadside and onsite clearing for sightlines and car parking etc.
4. Insufficient parking onsite resulting in parking along roadside and Reserve land opposite entry to the development.

The application has been referred to the Department of Fire and Emergency Services (DFES) and Department of Health for comments, who have provided the following comments:

DFES

State Planning Policy 3.7 (SPP 3.7) defines minor development as:

“applications in residential built-out areas at a scale which may not require full compliance with the relevant policy measures. Classes of development considered under this definition, with the exclusion of applications for unavoidable development, are:

- a single house on an existing lot 1,100m² or greater;
- an ancillary dwelling on a lot of 1,100m² or greater; and
- change to a vulnerable land use in an existing residential development.”

The child care centre/educational establishment land use is a form of development at a scale consistent with that of a typical existing residential dwelling, DFES supports the development being considered ‘minor’.

Department of Health

- The proposed development is required to be in accordance with the draft *Country Sewerage Policy*.
- The development is to have access to a sufficient supply of potable water.
- All food related aspects (Kitchens, Lunchroom, etc.) to comply with the provisions of the *Food Act 2008* and related code, regulations and guidelines.
- The proposal is located in an area that is prone to mosquito prevalence particularly if wetlands are in the vicinity. A mosquito management plan is required and should be implemented prior to the occupation of the development.

OFFICER COMMENT

Traffic

Reviewing the most recent traffic counts (circa 2015) and extrapolating them out to allow for growth in subsequent years results in an average daily traffic count of 585 vehicles per day with peak periods occurring around 8am and 3pm. At peak period (7am-9am) the maximum trips generated by the development is expected to be 40 trips per hour.

The applicant has submitted a Traffic Impact Assessment report in support of the proposal, which concludes that the existing road and access conditions are suitable to cater for the additional traffic generated by the proposed development.

Engineering Services staff have advised that the geometry of the existing road is suitable to cater for the additional traffic inputs from the development without the need for road widening or additional slip lanes into the entrance of the development. Rendezvous Road, in its current form, would have a design capacity of at least 3,000 vehicles per day.

It is considered that the location of the existing crossover proposed to be used for access and egress to the property is in the only possible acceptable position, being directly opposite the entrance to Woodswallow Drive, effectively making it similar to a four way intersection. Existing right and left turning lanes into Woodswallow Drive aid the flow of traffic and assist in preventing traffic conflicts that could occur from vehicles entering or exiting the proposed development site.

Strategic planning for future development in the area would result in populations of 7,000 people at Vasse and a further 12,000 at Ambergate North. This would result in traffic impacts on Rendezvous Road far exceeding that of the proposed development and will be the main determinant in any future road upgrades.

Noise

Previous advice received by the City from Department of Water and Environment Regulation in respect to noise impacts from a childcare premise was that -

“the noise levels of children playing are considerably variable” and “the number and composition of children accessing the outdoor play areas at any time can be controlled”

The nearest noise sensitive premise (residence) to the fenced outdoor activity area is approximately 120m away. Given the distance to neighbouring properties, vegetation onsite, operating hours and type of activity (non-amplified sound) the premise is considered unlikely to cause a noise nuisance. The operators of the premise must take all necessary action to comply with the *Environmental Protection (Noise) Regulations 1997* at all times.

Submissions raised concerns regarding the noise from the keeping of various animals on the property. Given that the site is zoned agriculture it should be anticipated that various animals are likely to be kept and may make some noise.

It is considered appropriate that a condition of approval require a Noise Management Plan to address practical issues such as limiting numbers of children in the outside activity area. It is also considered appropriate to condition operational days and hours to only those specified by the applicant. These hours are the least restrictive from a noise regulation perspective and the condition would also address concerns raised in submission regarding noise impacts from night time and weekend activities.

Environmental

The sightlines provided from the existing access are acceptable without the need for clearance of any roadside vegetation.

The applicant has advised that as part of operating a nature based childcare service it is intended to revegetate various part of the site. No vegetation has been identified in the application to be removed beyond that necessary to comply with any bushfire planning requirements.

Submissions have raised concern about the impact of clearing on an endangered orchid species. As noted above, it is expected that vegetation impacts will be minimal, however a review of the natural environment module of the City GIS indicates that areas of the site affected by rare vegetation are outside of the area proposed to be utilised by the development or on areas where there are existing structures and therefore already disturbed. The only GIS indications of threatened flora in the area are in the road reserve and within Reserve land in front of a neighbouring property further along rendezvous Road to the west.

Appropriateness of the location for the proposed development

The site is zoned Agriculture and the current planning framework allows for a range of low key commercial activities in the zone e.g. nurseries, childcare premises, restaurant etc.

The site and neighbouring properties are somewhat smaller (16.6 Ha) than many agricultural properties. If the Council wishes to consider this and neighbouring lots as quasi 'Rural Residential' or 'Conservation' lots (given the wetland area dividing them) then this would restrict many of the low key commercial uses permissible in the Agriculture zone. If Council wish to pursue this consideration, a Scheme Amendment process to rezone the land will be necessary, but would not be able to be a consideration in the assessment of this application.

Agency comments

DFES

The City does not agree with the DFES finding that the development is a 'minor development' as it is located in an Agriculture zone and is catering for up to 100 children plus 15 staff. It is therefore clearly not at a scale consistent with that of a residential dwelling and is a vulnerable land use.

Whilst disagreeing with the DFES characterisation of the proposal as a minor development, the City has reviewed the Bushfire Management Plan (BMP) and Emergency Evacuation Plan (EEP) and is satisfied that it generally complies with the requirements of SPP3.7 and the Guidelines for Planning in Bushfire Prone Areas.

It is considered that the BMP and EEP can be endorsed as part of the suite of development plans for approval.

Department of Health

The City notes the comments received from the Department of Health in respect to water supply, waste water disposal and food handling requirements. These matters would be addressed by the City's Health Services and require some further approvals under various health legislation prior to use of the proposed development.

Mosquito management issues warrant a condition of approval requiring a Mosquito Management Plan to be submitted and approved prior to use of the development.

CONCLUSION

It is recommended that the Council grant approval to the development subject to conditions.

OPTIONS

The Council could:

1. Determine that the application is inconsistent with the objectives and policies of the zone in which development is proposed, and refuse the proposal subject to reasons.
2. Apply additional or different conditions.

If any Councillor is minded to either of the above options officers can assist in the drafting of a suitable alternative motion.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The applicant will be notified of the Council's decision within two weeks of a decision consistent with the officer recommendation.

COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION**C1805/102**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council resolve:

That development application DA18/0139 submitted for a Childcare Premises and Educational Establishment at Lot 21 (No.431) Rendezvous Road, Vasse, is considered by the Council to be consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.

That Development Approval is issued for the proposal referred to above subject to the following conditions:

GENERAL CONDITIONS

1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) including any notes placed thereon in red by the City, and except as may be modified by the following conditions.

PRIOR TO THE COMMENCEMENT OF ANY WORKS CONDITIONS:

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing:
 - 3.1 Details of stormwater and surface water drainage. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 65m² of impervious area.
 - 3.2 Details of on-site effluent works.

PRIOR TO THE OCCUPATION/USE OF THE DEVELOPMENT:

4. The development hereby approval shall not be occupied or used until all plans, details of works required by Condition(s) 3 have been implemented and/or the following conditions have been complied with:
 - 4.1 A minimum number of 37 car parking bays (including 1 disabled bay) shall be provided on site. The parking area(s), driveway(s) and point(s) of ingress and egress [including crossover(s)] shall be designed, constructed, sealed, drained and marked.
 - 4.2 A Noise Management Plan to address the practicalities of limiting noise impacts to neighbouring properties (e.g control the number and composition of children accessing the outdoor play areas at any time).
 - 4.3 A Mosquito Management Plan is to be submitted, approved and implemented to the satisfaction of the City.

ONGOING CONDITIONS:

5. The works undertaken to satisfy Condition(s) 3 and 4 shall be subsequently maintained for the life of the development and the following conditions complied with.
 - 5.1 The operating hours are restricted to 07:00 to 18:30, Monday to Friday only.
 - 5.2 At any time a maximum of 100 children are permitted to be under care at the hereby approved development.

CARRIED 9/0

18. ENGINEERING AND WORKS SERVICES REPORT

Nil

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. URGENT BUSINESS**20. CONFIDENTIAL REPORTS**

The reports listed below are of a confidential nature, in accordance with section 5.23(2) of the Local Government Act 1995. These reports have been provided to Councillors, the Chief Executive Officer and Directors only.

20.1 LAND ACQUISITION AGREEMENT - PORTION OF 76 STRELLY STREET, BUSSELTON (LOT 2 ON DIAGRAM 30213)

SUBJECT INDEX:	Land acquisition
STRATEGIC OBJECTIVE:	Road networks that provide for a growing population and the safe movement of all users through the District.
BUSINESS UNIT:	Engineering and Facilities Services
ACTIVITY UNIT:	Land matters
REPORTING OFFICER:	Land and Infrastructure Officer - Andrew Scott
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Sketch of land to be acquired

This item is confidential in accordance with section 5.23(2) (c) and (e)(ii) of the Local Government Act 1995, as it contains information relating to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting, and a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1805/103 Moved Councillor P Carter, seconded Councillor J McCallum

That the Council approves the acquisition of a portion of 76 Strelly Street, Busselton (Lot 2 on Diagram 30213) for a purchase price not exceeding \$130,000 (excluding GST) under the terms of a land acquisition agreement to be determined by the Chief Executive Officer.

CARRIED 9/0

21. CLOSURE

The meeting closed at 5.40pm .

THESE MINUTES CONSISTING OF PAGES 1 TO 32 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 13 JUNE 2018.

DATE: _____ PRESIDING MEMBER: _____