

Please note: These minutes are yet to be confirmed as a true record of proceedings

CITY OF BUSSELTON

MINUTES FOR THE COUNCIL MEETING HELD ON 9 JULY 2014

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MINUTES

MINUTES OF A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 9 JULY 2014 AT 5.30PM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member open the meeting at 5.30pm.

2. ATTENDANCE

Presiding Member:

Cr Ian Stubbs Mayor

Members:

Cr John McCallum
Cr Tom Tuffin
Cr Rob Bennett
Cr Coralie Tarbotton
Cr Jenny Green
Cr Terry Best

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Oliver Darby, Director, Engineering and Works Services
Mr Paul Needham, Director, Planning and Development Services
Mrs Naomi Searle, Director, Community and Commercial Services
Miss Sarah Pierson, A/ Director, Finance and Corporate Services
Miss Lynley Rich, Manager, Governance Services
Mrs Katie Banks, Administration Officer, Governance

Apologies

Nil

Approved Leave of Absence

Councillor Gordon Bleechmore
Councillor Grant Henley

Media:

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

Public:

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NAIDOC Week Acknowledgment

In recognition of NAIDOC Week, the Mayor and Councillors acknowledged the traditional people of the land on which we live and paid respects to those people, both past and present, for their care of the land.

3. PRAYER

The prayer was delivered by Councillor John McCallum.

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

Nil

Public Question Time

Nil

5. ANNOUNCEMENTS WITHOUT DISCUSSION**Announcements by the Presiding Member**

Nil

Announcements by other Members at the invitation of the Presiding Member

Nil

6. APPLICATION FOR LEAVE OF ABSENCE

Nil

7. PETITIONS AND PRESENTATIONS

Nil

8. DISCLOSURE OF INTERESTS

Nil

9. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings****9.1 Minutes of the Council held on 25 June 2014****COUNCIL DECISION****C1407/166**

Moved Councillor J McCallum, seconded Councillor T Best

That the Minutes of the Council Meeting held 25 June 2014 be confirmed as a true and correct record.

CARRIED 7/0

Committee Meetings

- 9.2 Minutes of a meeting of the Meelup Regional Park Management Committee held on 10 June 2014

COUNCIL DECISION

C1407/167 Moved Councillor T Best, seconded Councillor T Tuffin

- 1) That the minutes of a meeting of the Meelup Regional Park Management Committee held on 10 June 2014 be received.
- 2) That the Council notes the outcomes of the Meelup Regional Park Management Committee meeting held on 10 June 2014 being:
 - a) The Committee were advised by the Dunsborough and Districts Country Club that it no longer planned to use Meelup Regional Park for the Down South Mountain Bike Festival 3hr MTB Endurance Race. Therefore, the Committee was not required to consider the Item.
 - b) The Committee received the Meelup Regional Park Environment Officer's report.

CARRIED 7/0

- 9.3 Minutes of a meeting of the Policy and Legislation Committee held on 19 June 2014

COUNCIL DECISION

C1407/168 Moved Councillor T Best, seconded Councillor T Tuffin

- 1) That The minutes of a meeting of the Policy and Legislation Committee held on 19 June 2014 be received.
- 2) That the Council notes the outcomes of the Policy and Legislation Committee meeting held on 19 June 2014 being:
 - a) The Local Government Property Local Law Determination – Horse Exercise Areas Item is presented for Council consideration at Item 10.1 of this agenda.
 - b) The Review of Delegations Item was presented as a Late Item for Council consideration and at the 25 June Council meeting in order to complete the required statutory review.

CARRIED 7/0

ADOPTION BY EXCEPTION RESOLUTION

At this juncture the Officer Recommendations for Items 11.1, 12.1 and 15.1 were considered in accordance with Clause 5.6 (2) of the Standing Orders via an Adoption by Exception resolution of Council.

En Bloc Motion

COUNCIL DECISION

C1407/169 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:

- 11.1 PROPOSED MODIFICATION OF BUSSELTON FORESHORE MASTER PLAN AND ADOPTION OF DEVELOPMENT GUIDE PLAN – SPECIAL PURPOSE (BUSSELTON FORESHORE) ZONE, CONSIDERATION FOR ADOPTION OF FINAL APPROVAL
- 12.1 AWARD OF TENDER RFT07/14 – QUARRY PRODUCTS
- 15.1 COUNCILLORS' INFORMATION BULLETIN

CARRIED 7/0

EN BLOC

- 11.1 PROPOSED MODIFICATION OF BUSSELTON FORESHORE MASTER PLAN AND ADOPTION OF DEVELOPMENT GUIDE PLAN – SPECIAL PURPOSE (BUSSELTON FORESHORE) ZONE, CONSIDERATION FOR ADOPTION OF FINAL APPROVAL

SUBJECT INDEX:	DP12/0012
STRATEGIC OBJECTIVE:	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT:	Strategic Planning and Development
ACTIVITY UNIT:	Strategic Planning and Development
REPORTING OFFICER:	Major Projects Officer - Mersina Robinson
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Busselton Foreshore Concept Plan 2010 
	Attachment B Adopted Master Plan Busselton Foreshore 
	Attachment C Initial Draft Development Guide Plan (as advertised October / November 2013) 
	Attachment D Proposed Change to Master Plan 
	Attachment E Draft Development Guide Plan (as advertised January / February 2014) 
	Attachment F Schedule of Submissions 2014 
	Attachment G Design Guidelines for the Busselton Jetty Precinct 

PRÉCIS

Officers seek the Council's consideration to endorse a modified Busselton Foreshore Master Plan (BFMP) and adopt for final approval a Development Guide Plan (DGP) that relates to the proposed land uses in the 'Special Purpose (Busselton Foreshore)' zone.

The proposed Development Guide Plan for the Busselton Foreshore will provide the statutory framework for development. In accordance with Schedule 7, Special Provision 44 of the City of

Busselton Town Planning Scheme No.20 the DGP is required to be guided by the City of Busselton endorsed Busselton Foreshore Master Plan (BFMP). The BFMP is a strategic document that provides detailed guidance for the planning and development of the Busselton Foreshore.

The modified BFMP and DGP were advertised on two occasions, firstly in October/November 2013 and the second time following the making of changes to the draft documents in January/February 2014. As a result of advertising some modifications are recommended.

Officers are recommending that the City endorse a modified BFMP and adopt the DGP for final approval. The modified DGP is required to be forwarded to the Western Australian Planning Commission for consideration for endorsement.

BACKGROUND

The proposal comprises a modified Busselton Foreshore Master Plan (BFMP) and Draft Development Guide Plan (DGP) for final approval. The DGP is for the 'Special Purpose (Busselton Foreshore)' zone which applies to the foreshore area between West Street, Marine Terrace and the alignment of what will be a future Brown Street extension (refer Attachments D and E).

The BFMP is a strategic document that provides detailed guidance for the planning and development of the Busselton Foreshore extending between King Street and Ford Road. The DGP incorporates statutory controls relating to land use, building heights and floor areas that reflect the BFMP. The DGP is not proposed to incorporate controls relating to more detailed design elements, relying on the BFMP and subsequent documents providing guidance on these matters.

The Draft DGP has been advertised on two occasions as follows:

- October/November 2013: In parallel with proposed revisions to BFMP and to relocate Short Stay Accommodation sites, modify height controls and create 'Wildlife Corridor' to, amongst other things, achieve environmental outcomes required by State and Federal agencies.
- January/February 2014: Increase the planned scale of the Microbrewery site to support better activation of the 'Busselton Jetty Precinct'.

October/November 2013

The first advertising followed Council's resolution of October 2013 to adopt for the purpose of advertising the revised Busselton Foreshore Master Plan (4/10/13) and a DGP (13/9/13) for the Busselton Foreshore for public consultation pursuant to clause 25(4) of the Scheme for a period of 28 days. The revisions to the BFMP included:

- accommodating a possum habitat corridor to address the requirements of the EPBC Act, and the resultant changes required including movement of the short stay accommodation precincts to incorporate this corridor.
- changes in the height limit controls for the short stay accommodation from 15.8m to 20m default maximum. Under the then working draft DGP the maximum building height was 15.8 metres from natural ground level or 4 storeys plus loft. More recent work indicated that it may be difficult to develop a building with 4 storeys plus a loft that is 15.8 metres in height above natural ground level. In particular, it wouldn't enable higher ground floor ceiling height and may encourage 'blocky type' building design that attempts to maximise development potential yet not exceed 15.8 metres. The proposed height limits are also formulated in a manner consistent with the height standards as outlined in the new State Planning Policy 3.1 Residential Design Codes. Hence 20 metres was adopted for the purpose of advertising.

The revised BFMP and DGP were advertised for public comment from 23 October to 19 November 2013. That initial draft DGP is provided as Attachment C. Three submissions from State Government agencies and two submissions from the public (BADRA and one resident) were received.

The Department of Water (DoW) recommended that a Local Water Management Strategy (LWMS) consistent with State Planning Policy 2.9 – *Water Resources and the Better Urban Water Management Framework* be prepared to support the DGP. The DoW also recommended a provision within the DGP calling for the production of an Urban Water Management Plan (UWMP) for each precinct and one UWMP covering the whole DGP area. The DoW suggested that the UWMP should be prepared for DoW endorsement prior to implementation. This requirement has now been dismissed by the State Minister for the Environment following consideration of appeals on Clearing Permit 5792/1.

Further minor changes to the DGP as requested by the Department of Planning (DoP) were incorporated into the draft DGP (Attachment E).

The issues raised in the two public submissions include objection to the amount of commercial and short stay accommodation land use and the proposed increase in height limit of the short stay accommodation from 15.8 metres to 20 metres. These issues are addressed in the response to the advertising in January/February 2014 in the Officer Comment section of this report.

January/February 2014

The second advertising of the Draft DGP followed the CEO's delegated adoption of January 2014 to approve proposed modifications to the Master Plan and Draft DGP for the purpose of advertising for 28 days. The CEO's delegated decision followed informal consultation with the Busselton Foreshore Reference Group (BFRG) and the Council.

That also followed the outcomes of an initial market testing for three commercial sites identified in the BFMP. The City had conducted a process seeking registrations of interest from October to January 2013. Further market interest was then sought, including more detailed proposals from the registration of interest process throughout April and May 2013. In June 2013, Council selected preferred proponents for Site 4 and Site 5 (Attachment C) and invited them to prepare more detailed concepts for further consideration.

Following a review of concepts for both sites, the Council resolved to discontinue redevelopment of the existing Nautical Lady site (Site 4) and focus on a single development at Site 5 (behind the Nautical Lady building) and selected a single preferred proponent to further develop concept plans and artists' impressions. Council also resolved to discontinue seeking commercial interest in a development site at Site 1 (adjacent the Equinox Café).

Responses from the commercial sector regarding the viability of upgrading the Nautical Lady site (including new Building Code and universal access requirements) have determined that the redevelopment costs of the Nautical Lady would be cost prohibitive and not feasible. Hence, there was no suitable proponent for the then proposed site four.

Consideration was given to accommodating a larger development for a microbrewery, function centre, restaurant, and associated facilities of 2100 m² at the rear of the Nautical Lady site to replace the existing Nautical Lady tower café site (total building area 350m²); the eastern-most kiosk site (total building area 90m²) and the 450m² microbrewery/restaurant site, (so a net increase of built form envisaged by approximately 1,100 m²).

On 10 December 2013 the BFRG met to discuss the proposal and resolved that it be advertised for public comment. Under delegated power in January 2014 the CEO adopted the proposed modifications to the Master Plan and revised Draft DGP for the purpose of advertising for 28 days.

Following the 28 day advertising period a total of 30 submissions were received, mostly raising concerns with the proposed increase in footprint. Concerns related to:

- opposition to an additional licensed premises on the Busselton Foreshore as it is perceived to be not family friendly and may attract anti-social behaviour;
- the size of the proposed microbrewery, restaurant, function centre considered out of character with the location;
- considered to be inadequate car parking to cater for use, particularly in peak periods.
- objection to height limit increase in short stay accommodation areas.

These issues are discussed in the 'Officer Comment' section of this report.

Due to the response to the second advertising, City Officers have considered reduction of the floorspace for the site intended to contain the proposed microbrewery/restaurant (which is now site four on the draft DGP at Attachment E). Officers have discussed with the preferred proponents a proposal for a microbrewery, restaurant and function centre with a ground floor area of 1700m² covered area including verandahs, plus 400m² of additional al fresco.

This revised proposal was discussed at a Council briefing on 16 April 2014 and by the Busselton Foreshore Reference Group (BFRG) on 17 April 2014. On 17 April 2014 the BFRG met to discuss the revised concept for a site to contain a Microbrewery/Restaurant and were in agreement that the revised proposal be advertised for public comment. This was undertaken in June 2014 and the submissions from this proposal will be considered in a separate report to Council. It needs to be noted that neither the BFMP nor the DGP can or should resolve or direct all matters associated with development of any particular site – that must occur with the more detailed commercial and planning processes that will, ultimately, occur for all sites.

It was therefore important to consider the Master Plan and DGP that provides the planning framework for the Busselton Foreshore prior to final or detailed consideration of a proposal for any particular site. The DGP and Master Plan sets the broader land use and direction for the area, and hence should precede the details of a development proposed for any site.

STATUTORY ENVIRONMENT

The key elements of the statutory environment with respect to this proposal are set out in the relevant objectives, policies and provisions of the *City of Busselton District Town Planning Scheme No. 20*. In addition the land is reserved and subject to the Land Administration Act 1997. The Commonwealth Environment Protection and Biodiversity Conservation Act is also relevant. Each of these is discussed below under appropriate sub headings.

District Town Planning Scheme No. 20

The subject land is zoned 'Special Purpose (Busselton Foreshore)' and comprises Special Provision Area No. 44, which sets out detailed planning matters that are to be addressed through the preparation of a DGP. The Special Purpose zone provides for land uses which do not easily fit within the scope of other zones.

The Special Purpose zone was introduced to facilitate the Busselton Foreshore redevelopment. The DGP is being processed in accordance with the provisions of Clause 25 of the Scheme, which includes advertising, consideration of submissions and final approval/determination by the City and the Western Australian Planning Commission. Development is to be generally in accordance with a

Development Guide Plan. The DGP is to be guided by the City of Busselton endorsed 'Busselton Foreshore Master Plan'.

Land Administration Act 1997

In addition to town planning considerations, land tenure considerations are also relevant subject to the Land Administration Act 1997 (LAA). The LAA is administered by the Minister for Regional Development and Lands in his statutory role as Minister for Lands, with advice provided by the Department of Lands. Further control on the use of the reserve is protected by the Management Order conditions which may range from specific land management restrictions to the granting to the management body of the power to lease.

Rationalisation of the existing reserves on the site was approved by Parliament in November 2012 subject to the following conditions:

- Finalisation of the proposed rezoning of the site (Amendment No.173) bound by West Street, Marine Terrace, Brown Street extension and the coast;
- City adoption and WAPC endorsement of a Development Guide Plan for the rezoned site; and
- Finalisation of an agreement to the satisfaction of the Minister for Lands for the relocation of the tennis club facilities from Reserve 28535, including the right for the tennis club to continue to operate in its present location until relocation has been achieved.

Environment Protection and Biodiversity Conservation Act 1999

Since adoption of the BFMP in March 2012, the (then) Commonwealth Department of Sustainability, Environment, Water Population and Communities (DSEWPC) determined that the proposed Busselton Foreshore redevelopment is a 'controlled action' that requires assessment under the Environmental Protection and Biodiversity Conservation Act (EPBC Act) for its potential impact on Western Ringtail Possum (WRP) habitat and the Ramsar wetlands.

Following discussions with DSEWPC, State Department of Parks and Wildlife (DPAW), and completion of WRP surveys and reports, the BFMP has been revised to further enhance and protect WRP habitat. The most significant change to the BFMP is the inclusion of a possum corridor and the resultant changes that are required to incorporate this corridor. This proposal has received support from the Commonwealth Department of Environment and formal approval. This is seen as a positive environmental outcome from the Busselton Foreshore Redevelopment.

Following public review and an appeal period on a permit to clear 30 native trees on the Busselton Foreshore, the State DER received three appeals. In June 2014, the Minister for Environment resolved to partially dismiss the Appeals and made a decision to grant the clearing permit in accordance with Section 110 of the *Environmental Protection Act 1986*.

RELEVANT PLANS AND POLICIES

The key policies relevant to the proposal are *State Planning Policy 2.6 - State Coastal Planning (SPP 2.6)* and the *City's Local Tourism Planning Strategy*. Each is addressed below under appropriate subheadings.

State Planning Policy 2.6 – State Coastal Planning

SPP 2.6 has been considered in the development of the BFMP and DGP. The policy requires that a coastal planning strategy and/or foreshore management plan should be prepared to support proposals on the coast.

In this regard the City of Busselton engaged Shore Coastal to undertake a study of coastal impact on the Busselton Foreshore and completed coastal protection upgrade works within the Busselton Foreshore, west of Queen Street. Works have been undertaken consistent with this study and as part of Stage 2 Phase 1 of the Busselton Foreshore Redevelopment project, reconstruction of the seawall to 4 metres AHD has been completed.

Further to this, Shore Coastal has undertaken a coastal defences study for the foreshore between Queen Street to east of the Brown Street extension. This study has provided preliminary setbacks for the area from Queen Street to Brown Street and the 'Youth Precinct' east of the Jetty. The proposed setbacks have been applied to the location of proposed development and lower level infrastructure consistent with Shore Coastal's advice.

Part 5.4 of SPP 2.6 provides direction to local governments in defining the heights of buildings within 300 metres of the coast. Due regard is to be given to planning criteria considerations set out in the policy. The height of the short stay accommodation development is proposed to be limited by the DGP to a maximum of four storeys plus a loft (total building height not exceeding 20m). Design criteria for buildings within the Busselton Foreshore will ensure built form is of a high quality and address the surrounding public realm, providing for view corridors to the coast.

WAPC Regional Strategy: South-West Planning and Infrastructure Framework March 2014 (Draft)

Officers consider the proposed Busselton Foreshore redevelopment is consistent with the relevant parts of the WAPC document.

Local Tourism Planning Strategy

The subject land is identified by the *Local Tourism Planning Strategy* (LTPS) as a strategic tourist site that meets criteria of tourism significance and importance. The intention of the LTPS is to retain strategic tourism sites for tourism use.

STRATEGIC COMMUNITY OBJECTIVES

The revised BFMP is considered consistent with the City's Strategic Community Plan 2013 which identifies the following community objectives especially relevant to the Busselton Foreshore Redevelopment:

2.1: A City where the community has access to quality cultural, recreation, and leisure facilities and services.

2.2: A City of shared, vibrant and well-planned places that provide for diverse activity and strengthen our social connections.

RISK ASSESSMENT

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework. The implementation of the officer recommendation will involve referral of the DGP to the WAPC. In this regard, there are no significant risks identified.

FINANCIAL IMPLICATIONS

There are not considered to be any direct financial implications for the City arising from the recommendations of this report.

CONSULTATION

The proposed revised Master Plan and DGP were advertised for community consultation on two occasions, in slightly different form as described earlier in this report, in October/November 2013 and January/February 2014.

The first advertising followed Council's resolution of 9 October 2013 to adopt for the purpose of advertising the revised Busselton Foreshore Master Plan (4/10/13) and the revised DGP (13/9/13) for public consultation pursuant to clause 25(4) of the Scheme for a period of 28 days. Advertising was undertaken between 23 October and 19 November 2013. Three submissions from State Government agencies and two submissions from the public (BADRA and one resident) were received.

The second advertising of the Draft DGP followed the CEO's delegated adoption decision of 20 January 2014 to approve proposed modifications to the Master Plan and Draft DGP for the purpose of advertising for 28 days. Advertising was undertaken between 11 January and 26 February 2014. Five submissions from State Government agencies and 25 submissions from the public were received.

The City has consulted with the Department of Planning and officers are generally supportive of the key elements of the BFMP, DGP and response to issues as outlined in this report.

OFFICER COMMENT

The following four key contentions were raised in the public submissions (refer Attachment F):

1. An additional licensed premise on the Busselton Foreshore is not required and perceived to be not family friendly and will attract anti-social behaviour.
2. The size of the proposed microbrewery, restaurant, function centre is out of character with the location.
3. There is inadequate car parking to cater for use, particularly in peak periods.
4. Objection to the height limit increase in short stay accommodation areas.

Each of these issues is discussed below under the four headings listed.

An additional licensed premise on the Busselton Foreshore is not required and perceived to be not family friendly and will attract anti-social behaviour

There was opposition to the concept of a site for a microbrewery, restaurant and function centre in what is supposed to be a family friendly public open space.

The proposed microbrewery, restaurant, function centre is located within the Busselton Jetty Precinct, wherein the objective is *'to function as a magnet to enliven the central part of the Busselton Foreshore; and enhance the views of the foreshore and jetty, improving the pedestrian experience and development to provide for maximum activation of surrounding spaces'*.

Whilst the Busselton Foreshore Working Group Concept Plan 2010 and BFMP approved in April 2012 did not include a tavern or microbrewery within the Busselton Jetty Precinct, this use is considered to be compatible with the restaurant, café and railway house uses within the Precinct.

Microbreweries developed in the Cape to Cape Region in recent years have been of a high quality, typically developed as a combination of microbrewery, restaurant, gallery, children's playground. Many have a sophisticated and family friendly atmosphere often within a picturesque and attractive environment. Examples include: Cheeky Monkey Brewery and Cidery, Duckstein Brewery, Eagle Bay, Brewery, Bootleg Brewery. All of these venues and facilities have a strong appeal and cater to families, couples, individuals and groups and offer a safe affordable product to locals and visitors.

The setting on the Busselton Foreshore is considered ideal for this type of facility where the recreational uses and playgrounds are within easy accessibility and enable a range of activities to be undertaken on the foreshore by families.

With the increasing population and visitation to the City the current facilities at this location are often at capacity in the peak season. When special functions or events are held at the current facilities there is no alternative food and beverage outlet near the City's prime attraction. Hence this facility would also provide a facility that is currently lacking in the CBD and foreshore.

Furthermore, there is no facility of this nature on the foreshore between Dunsborough and the Mash Brewery in Bunbury. Facilities such as Little Creatures in Fremantle and those that exist in the Capes region have not been known to have issues related to drinking offences or to the detriment of families safety.

Whilst the formal consultation process has resulted in the expression of concerns about having an additional licensed premises, it is also very clear that there is a substantial level of support from others in the community.

The size of the proposed microbrewery, restaurant and function centre is out of character with the location

A number of submissions suggested that "a 2100m² footprint, plus additional alfresco space, together with a second storey, is out of context with the present overall free flow and accessibility to the public foreshore. The proposed allocated designated area is too near and imposing to the seafront public area, and such developments should be encouraged towards the Marine Terrace area of the foreshore plan."

As outlined in the DGP, the microbrewery/tavern and restaurant site originally had an area of 450m², the Nautical Lady tower café site has a total building area 350m² and the eastern-most kiosk has a total building area of 90m². Hence this total area of 890m² was proposed to be increased to an area of 2100m² (plus 400m² al fresco) in one consolidated site. The intention for this site is to combine the restaurant, Nautical Lady Café and kiosk to create one building for the purpose of a microbrewery/tavern, function centre and restaurant. The building would have a maximum building footprint of approximately 2100m² plus 400m² al fresco. The building footprint would be retained at the Restaurant site, but will extend a further 1750m² plus 400m² al fresco into the surrounding recreation area. The building may be a maximum of two storeys. In addition to the removal of the Nautical Lady tower, the easternmost of the five proposed kiosks would be removed to enable the proposed development of the site.

More recently City Officers, Councillors and BFRG have discussed and considered a revised proposal for a microbrewery, restaurant and function centre with a ground floor area of 1700m², covered area including verandahs, plus additional 400m² al fresco (and a reduction in total floor area of 400m² relative to the advertised DGP in January/February 2014). Officers, Councillors and the BFRG consider the revised proposal will be more in keeping with the mass and scale of the other existing and proposed buildings north of the proposed east west spine road and the foreshore in the Busselton Jetty Precinct. Reference has been made to the Master Plan which includes principles of protecting the open and informal character and retaining visual links to the Busselton Foreshore. Whilst the scale of the building will be increased this will be offset to some degree by the removal of the Nautical Lady tower and proposed café site to its north.

From a planning perspective the proposed increase in total floor area from 890m² to 1700m² (plus 400m² al fresco) will provide a greater opportunity to activate the Busselton foreshore area. It will enable the development of a tourist/commercial landmark building complementary to the site and surrounding commercial, recreational and entertainment uses within the Busselton Jetty Precinct. It

will stimulate activity in this precinct towards the jetty, open onto the public realm, provide for integration with activity along the foreshore promenade, along the east west spine road and with the Busselton CBD.

Development will be guided by the BFMP Design Guidelines for the Busselton Jetty Precinct including the following:

- Light weight construction
- Large openings and interstitial spaces
- Attractive facades
- Service areas screened from view
- Primary orientation is to the beach, however buildings must be designed in recognition of their landscape setting.

This will stimulate activity in this precinct towards the jetty and provide for further integration with activity along the foreshore promenade, the east west spine road and with the Busselton CBD. The impact on the amount of recreational space will be minimised given that it will replace the existing Nautical Lady tower café site and the eastern-most kiosk into one consolidated site.

It should also be noted that the Concept Plan 2010 (Attachment A) included two retail/restaurant buildings in the approximate location of the proposed microbrewery/tavern, function centre, restaurant and associated facilities. The proposal represents an opportunity to create a landmark building at this focal location on an important entry road to the Busselton Jetty precinct and activating the western side of the central piazza area.

Officers consider that the reduced ground floor area of 1700m² for the proposed microbrewery, restaurant and function centre with a covered area including verandahs, plus 400m² additional al fresco is appropriate and will be more in keeping with the scale of other proposed buildings within the Busselton Jetty Precinct on the foreshore than the proposal for a 2100m² microbrewery, restaurant and function centre with a covered area including verandahs, plus 400m² additional al fresco.

Inadequate car parking to cater for use, particularly in peak periods

A number of submissions raised concern regarding the parking implications associated with increasing the floorspace limit within Development Location 4 from 890m² to 2100m², given that the DGP states that no on-site parking will be required for this precinct and there does not appear to be a commensurate increase in offsite parking to reflect the increased floorspace.

The Master Plan aims to encourage more visitors to the foreshore and to persuade them to stay longer. The design approach has been to reduce parking bays in the inner core to enable a greener and more people friendly environment. The proposal reinforces the concept of having parking outside of the inner core on the periphery, as well as improving access and legibility. A key principle of the Master Plan is to utilise car parking throughout the Busselton Foreshore redevelopment as opposed to provision of private parking. Car parking will be in the form of short term on-street parking, longer term parking within landscaped car parks and generally provided as shared facilities. This will reduce the visual dominance of the car parking and allow for better traffic management.

The amount of existing car parking has been rationalised and substantially increased. There are approximately 1043 car parking bays planned throughout the Busselton Foreshore area extending between Gale Street and Georgette Street. However, there is a greater reliance on street and shared parking areas. Car parking will also be provided informally during events, where parking is directed to ovals and grassed areas away from activity.

Two large parking areas that will incorporate retention WRP habitat will be created on the southern side of the short stay accommodation. These car-parks are able to be expanded with parking fitted within the constraints of the existing Peppermint trees and until a detailed design for this area has been completed, the exact number of car-parks is not determined. The east west link road, Queen Street and Stanley Street will be designed as 'shared streets' that will be utilised by both pedestrians and vehicular traffic designed for low speed. Limited areas of parking will be available from the 'shared streets', providing special needs bays, public transport, coach access and servicing to the commercial tenancies.

Integration with the central business district (CBD) is an important element of the foreshore and it is expected that visitors will walk between these two areas and not shift their vehicle from one to the other unless time restrictions (such as in the CBD) dictate otherwise.

Consideration should be given to the point that most of the activity generated on the foreshore and in the CBD is during the day. A Transport and Parking Assessment for the BFMP indicated that the highest peak hour traffic volumes are generally experienced on a Saturday around midday. This is typical for a coastal resort. Parking surveys also indicated that the average stay is around 2 hours, despite there being no time restrictions on the parking bays. Hence there is likely to be a substantial amount of under-utilised parking in the evenings. The proposed microbrewery will attract patronage largely from the early-afternoon into the evenings, hence there will be opportunities for use of shared parking areas.

A 2007 Riley Consulting/Landcorp report 'Proposed Busselton Foreshore Revitalisation and Residential Redevelopment' recommends that *"The design of the foreshore should seek to integrate bus movements throughout the precinct. The provision of bus services in Busselton would be based on commercial requirements and should be considered in a separate study in liaison with transport operators."* The grid pattern of the CBD and foreshore is conducive to providing a tourist style bus, and this is likely to be integrated into the transport network of the CBD and Busselton Foreshore in the future.

In summary it is considered that there is significant parking strategically located around the Busselton Foreshore to accommodate the proposed development on the foreshore. The foreshore development has been designed to reduce parking bays in the inner core to enable a greener and more people friendly environment. People will be encouraged to walk, cycle or skate to the site through being well catered for by the extensive pedestrian and cycling pathway system. This will be achieved through the provision of attractive pathways and facilities for pedestrians, skaters and cyclists.

The reduced ground floor area of 1700m² for the proposed microbrewery, restaurant and function centre with a covered area including verandahs, plus additional alfresco should, however, reduce the potential peak demand for car parking generated by use/development of Site 4.

Objection to the height limit increase in short stay accommodation areas

There was some objection to the height of the short stay accommodation being increased from 15.8m to 20m, with submitters suggesting that *'it is more likely the height has been increased to make it more attractive to developers. Such a height increase would substantially increase the visual impact of the development'*.

The purpose of increasing the height limit was to enable some flexibility in design. It may be restrictive to develop a building with 4 storeys plus a loft that is 15.8 metres in height above natural ground level. In particular, it may encourage 'blocky type' building design that attempts to maximise development potential yet not exceed 15.8 metres.

That would especially be the case if a developer wished to accommodate commercial or food/beverage land uses, especially at ground floor level, where floor-to-floor heights of up to 4.0 metres may be necessary. What is instead proposed is an approach similar to what is used in the R-Codes where there are controls on height for 'top of the external wall', 'top of pitched roof' and 'top of external wall (concealed roof)'. To ensure that developers of 4 storeys plus loft can be accommodated whilst still providing for design flexibility, it is proposed the top of the external wall could be 16 metres, top of pitched roof to be 20 metres, and top of external wall (concealed roof) be 18 metres.

Other Issues

The Department of Planning (DOP) has recommended:

- modifying the Master Plan or DGP to incorporate 'design guidelines' or 'built form parameters' to ensure that the proposed built form and scale of development meets the Busselton Jetty Precinct objectives; and

-in the Short Stay Accommodation Precinct adding a provision in the DGP making 'Shop' and 'Tavern' uses incidental to the 'Hotel' and 'Tourist Accommodation' uses to reflect the primacy of this precinct for tourist accommodation purposes as envisaged by the Master Plan.

The BFMP outlines 'Design Guidelines' for the Busselton Jetty Precinct. These guidelines have and will be provided to prospective developers, and will be taken into consideration in the assessment of development applications. There is no need to modify the BFMP or DGP to incorporate 'design guidelines' or 'built form parameters', as these are already contained within the BFMP and referred to in the DGP Report. Any proposed built form and scale of development will be guided by the City of Busselton endorsed BFMP.

The uses 'Shop' and 'Tavern' are intended to be incidental to the 'Hotel' and 'Tourist Accommodation', however 'Incidental Use' is not recognised in the City of Busselton TPS. This intention is proposed to be depicted in the DGP Land Use Permissibility Table within the objective for the Short Stay Accommodation Precinct. It is proposed to modify the Precinct Objective to state:

*'This precinct will provide for high quality development sites for tourist accommodation and supporting land uses, aiming to provide active frontage to the east-west spine road, an open, landscaped setting, and retain wide view corridors between buildings. **The predominant land use in this precinct will be short stay accommodation such as hotels and serviced apartments. Restaurants, shops and bars will be provided at ground level to address surrounding streets and the public realm..'***

This will reflect the primacy of this precinct for tourist accommodation purposes as envisaged by the BFMP.

SUMMARY

Officers consider that the proposed DGP will provide an appropriate planning framework for land use and development on the foreshore. The proposed changes will not adversely impact the amenity of adjoining occupiers, the provision of parking, will not restrict the use and development of adjoining land, and will not adversely impact on environmental areas.

From a planning perspective the proposed floor area of 1700m² for the proposed microbrewery, restaurant and function centre will provide greater opportunity to activate the Busselton foreshore redevelopment. It will enable the development of a tourist/commercial landmark building complementary to the site and surrounding commercial, recreational and entertainment uses within

the Busselton Jetty Precinct. It will stimulate activity in this precinct towards the jetty and provide for further integration with activity along the foreshore promenade, the east west spine road and with the Busselton Central Business District. The impact on the amount of recreational space will only be minimal given that it will replace the existing Nautical Lady tower café site and consolidate the eastern-most kiosk into one consolidated site. It will also open up the public realm area in the core activities precinct.

The reduction in footprint size for Site 4 to a maximum development area of 1700m² plus 400m² al fresco will require a change to the Master Plan and DGP.

Officers are therefore proposing the adoption for final approval modification to the part of the Master Plan and DGP that relates to the maximum ground floor footprint of 1700m² (plus 400m² al fresco) for the proposed microbrewery/tavern, function centre, restaurant and associated facilities (Site 4). In addition, this site is proposed to replace the existing Nautical Lady tower/Café, the 450m² microbrewery/restaurant site and the eastern-most kiosk of 90m².

Officers consider the variations to be consistent with the objectives of local and State policy. Therefore, Officers recommend Council adopt the proposal for final approval.

CONCLUSION

Officers are recommending that: Council adopt the modified Busselton Foreshore DGP subject to modifications for final approval; and that the modified DGP be adopted subject to modifications and forwarded to the Western Australian Planning Commission for endorsement.

OPTIONS

Should the Officer Recommendation not be supported, the following options could be considered –

1. Resolve to adopt the modified Master Plan and Development Guide Plan for final approval without modification.
2. Resolve to adopt the modified Development Guide Plan for final approval, with further changes.

TIMELINE FOR IMPLEMENTATION OF RECOMMENDATION

Implementation of the Officer Recommendation will occur within one month of the date of the Council decision.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1407/170

Moved Councillor C Tarbotton, seconded Councillor J McCallum

That the Council resolves:

- 1) to endorse for final approval the Busselton Foreshore Master Plan, subject to the following modifications:
 - a) Depiction of the tavern, restaurant, to a maximum ground floor building footprint of 1700m².
- 2) pursuant to Special Provision No. 44 in Schedule 7 of the District Town Planning Scheme No. 20, to adopt the Development Guide Plan (Attachment C) that relates to the proposed land uses in the 'Special Purposes (Busselton Foreshore)' zone for final approval subject to the following modifications:

- a) Reduction in maximum building ground floor area of the tavern, restaurant, shop within the Busselton Jetty Precinct to 1700m² plus 400m² al fresco (site four);
 - b) Modify the Land Use Permissibility Table within the objective for the Short Stay Accommodation Precinct to state:
 - i. *'... The predominant land use in this precinct will be short stay accommodation such as hotels and serviced apartments. Restaurants, shops and tavern land uses may be provided at ground level to address surrounding streets and the public realm, but accommodation uses must be the predominant use on all sites.'*
- 3) That the City forward the revised Development Guide Plan to the Western Australian Planning Commission for endorsement.

CARRIED 7/0

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12.1 AWARD OF TENDER RFT07/14 – QUARRY PRODUCTS

SUBJECT INDEX:	RFT07/14 - Quarry Products
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Engineering and Works Services
ACTIVITY UNIT:	Construction and Maintenance
REPORTING OFFICER:	Engineering Technical Officer, Construction & Maintenance - Raelene Lamb
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Confidential Tender Evaluation Report - RFT07/14

PRÉCIS

The Council is requested to consider the tenders received in response to Request for Tender RFT07/14 – Quarry Products and consent to award the tender in accordance with the evaluation panel's recommendation.

BACKGROUND

The Principal objectives with this Request for Tender are to appoint a panel of suitably qualified contractors for the supply of quarry products within the City of Busselton on an as required basis. Products include, gravel base course material, sand (screened yellow and fill), crushed limestone, sealing aggregate, drainage aggregate, laterite sealing aggregate, laterite asphalt gravel, rock armour/ filter rock (granite, ironstone and limestone) and rock filter stone (granite, ironstone, limestone and basalt), drainage aggregate.

This Tender relates to materials and services currently supplied under two existing City of Busselton contracts:

- RFT11/13 "Supply and Delivery of Quarry Products" (which expires on 1 October 2014), and;
- RFT03/10 "Gravel Base Course Material" (which expires on 1 August 2014).

Materials and services currently provided under each of RFT11/13 and RFT03/10 will only be purchased by the City under the Contract resulting from this Tender once the respective existing contracts expire.

After due diligence by the evaluation team, a panel of Contractors offering the range of services which satisfy the compliance and selection criteria and who offer a competitive price and service will be created.

The Contract will run for three (3) years from award with an option of two (2) twelve (12) month extensions, exercisable at the absolute discretion of the City of Busselton.

Five (5) submissions were received in response to this Request for Tender. Submissions were received from Busselton Civil and Plant, Leeuwin Civil, Holcim, Carbone Bros Pty Ltd and B & J Catalano Pty Ltd.

The review process of all submissions for RFT07/14 has been completed by the Tender Evaluation Panel that comprised of the following City Officers:-

Mark Tyler	Contracts & Tendering Officer
Raelene Lamb	Engineering Technical Officer (Panel Chair)
Norm Read	Construction Supervisor

STATUTORY ENVIRONMENT

Part 4 (Tenders) of the Local Government (Functions and General) Regulations 1996 apply, In particular, Regulation 11: "Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services of the consideration under the contract is, or is expected to be, more, or with more, than \$100,000..." and Regulation 14 (2a).

RELEVANT PLANS AND POLICIES

The following Council policies have relevance to the Tender process.

Policy 239 – Purchasing:

The procurement process complies with this policy.

Policy 049/1 –Regional Price Preference:

The Regional Price Preference was applied to this tender.

Policy 031 – Tender Selection Criteria:

The procurement process complies with this policy.

FINANCIAL IMPLICATIONS

Application of appropriate selection criteria to the tender has contributed to ensuring that tenderers are offering the "best value" with respect to the supply of services and is highlighted via the tender assessment process.

A comparison of rate increases from the gravel base course material and quarry products tenders, awarded in 2011 and 2013, respectively, is provided below.

Quarry Products Description	Percentage Change (TEN03/10 & TEN11/13 vs RFT 07/14)
Gravel Base Course Material	3%
Crushed Limestone 75mm	0%
Crushed Limestone 37mm	0%
Crushed Limestone 19mm	0%
Sealing Aggregate (MRWA) 5mm	8.35%
Sealing Aggregate (MRWA) 7mm	8.35%
Sealing Aggregate (MRWA) 10m	7.9%
Sealing Aggregate (MRWA) 14mm	8.35%
Sealing Aggregate (General) 5mm	8.35%
Sealing Aggregate (General) 7mm	8.35%
Sealing Aggregate (General) 10m	7.9%
Sealing Aggregate (General) 14mm	8.35%
Sealing Aggregate Dust	30% (Small Annual Usage - Approx 50T PA)
Drainage Aggregate 20mm	New Product
Drainage Aggregate 40mm	New Product
Rock Armour Stone >3.0 Tonne (Ironstone)	0%
Rock Armour Stone 1.0 - 3.0 Tonne (Ironstone)	0%
Rock Armour Stone 0.5 – 1.0 Tonne (Ironstone)	0%
Rock Filter Stone 100mm – 500mm (Basalt)	0%
Clean Fill Sand	9%

Quarry Products Description	Percentage Change (TEN03/10 & TEN11/13 vs RFT 07/14)
Clean Grit Sand	New Product

In comparison, the Consumer Price Index for Perth (all groups) has increased by eight percent (8%) between March 2011 and March 2014.

The costs of services within this tender are provided for in capital works and operational budgets for each financial year. Purchasing under this contract will be in accordance with these adopted budgets.

STRATEGIC COMMUNITY OBJECTIVES

Key Goal Area 2: Well Planned, Vibrant and Active Places
 Community Objective 2.3: Infrastructure assets that are well maintained and responsibly managed to provide for future generations.

RISK ASSESSMENT

The objective of this tender is to create a panel of Contractors who best demonstrate the ability to provide quality services at a competitive price across the identified areas of supply. Therefore, should a Contractor not be able to deliver, an alternative Contractor, with compatible resources will be sourced from the panel.

The risk has been categorised as an L5 (Unlikely with minor operational consequences). The risk has been assessed in this manner because the panel contractors have all demonstrated an ability to provide the services, underpinned by providing laudable referees and supportable financial profile information.

Therefore the City has no reason to believe that any of the Contractors may not be able to perform the services as and when required. The risk is perceived to have minor operational consequences for the City given the panel nature of the contract. The flexibility in the contract terms means that the City should always be able to find a replacement provider with minimal delay and at no additional cost to the City.

CONSULTATION

Nil.

OFFICER COMMENT

As part of the tender evaluation an initial compliance check was conducted to identify submissions that were non-conforming with the immediate requirements of the RFT. This included compliance with contractual requirements and provision of requested information. All submissions were deemed to be compliant.

The assessments of the tenders were based on the following Qualitative Criteria as included in the Request for Tender Document:

- Relevant Experience: 10% - a review of relevant work experience, including relevant referees.
- Tenderers Resources: 20% - detailing the company's ability to fulfil the contract requirements.

The Tendered price was given the following weighting:

- Tendered Price: 70%

Given the Request seeks to assemble a panel, the Qualitative Criteria scores and Tendered Price were not determinative in selecting the panel members, but where distances from quarry to worksite vary, the final decision of which tenderer should be chosen for use within a specific project will be made by the member of staff commissioning the works. This decision will be based upon the tenderers qualitative score, the price of the specific product required and distance from the quarry to the worksite.

1. As a result of the Evaluation Panels assessment tenderers were ranked on their Qualitative scores. The Basis of this decision is as follows:

2.

3. Busselton Civil and Plant: Daily operations in the South West for in excess of 17 years and have worked for the City of Busselton for the duration of that time. BCP is structured around service delivery to the City of Busselton and Water Corporation. Services are also provided to the private sector. Director with 25+ years' experience and other key personnel have 15-35 years civil construction experience. Employs a dedicated pit supervisor. Demonstrated sound judgement, competency and good management and provided examples of community consultation, providing amicable solution to frequent truck movements in a built up environment.

4. Leeuwin Civil: A good range of projects including many types of work that the City undertakes regularly. Have local private and local government experience, including the City of Busselton. 35 employees, including 4 operational directors each with 15+ years construction experience. Details of key operational staff provided. Fleet consists of a wide range of plant and a team of full time mechanics.

Holcim: Has been delivering construction materials since 1901 and is a leading supplier of aggregates. Holcim operates from a network of, in excess of, 88 quarries providing consistent, quality products to a diverse range of customers Australia wide. Holcim are the preferred aggregates supplier to the Shires of Nannup, Donnybrook, Dardanup, Kojonup, West Arthur and previously to the City of Busselton.

Carbone Bros Pty Ltd: Is a long established company and has been in operation in the South West for the past 52 years with a vast variety of plant and heavy duty machinery. They specialise in the delivery of gravel, limestone and sand which are mined and mixed in the company's own quarries. Many of the staff are multi skilled ensuring a continuous flow of production, also ensuring absenteeism does not cause delay in contractual fulfilment.

B & J Catalano Pty Ltd: Transport material, including sand, gravel and limestone, from their numerous pits. They operate a comprehensive fleet of over 80 trucks and its operations extend across the Metropolitan area, the Mid-West and the South West. The fleet includes semi-trailers, rigid vehicles, road trains, truck and dog configurations, as well as bulk end and side tippers. They are fully accredited under the Main Roads WA Heavy Vehicle accreditation scheme which includes requirements under fatigue management and occupational health and safety requirements.

CONCLUSION

This report seeks the Council's endorsement of the officer's recommendation to create a panel of preferred suppliers in accordance with the Terms and Conditions as specified in RFT07/14 – Quarry Products.

All tenderers have demonstrated the company's ability to service the contract to an acceptable City of Busselton standard, within tolerable time frames and at a competitive price.

OPTIONS

The Council may consider the following alternative option:

1. The Council may choose not to accept the officer's recommendation to create a tender panel of preferred suppliers. Where works for the year are expected to exceed the amount required for a public tender process, in order to meet its financial obligations under Part 4 (Tenders) of the Local Government (Functions and General) Regulations 1996 in particular, Regulation 14 (2a), the City would generally seek to use suppliers on a WALGA Preferred Supplier Panel if no tender was awarded. WALGA, however, does not currently operate a suitable panel of contractors which would cover the requirements of RF07/14. Therefore, if Council does not approve the creation of a tender panel, the City would be required to approach each purchase of materials as a new purchase under the Purchasing Policy, thereby significantly increasing the administrative burden and costs. This would further frustrate operational efficiency in obtaining critical quarry supplies in a timely manner.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The award of the tender can be announced immediately after the Council has endorsed the officer's recommendation. Successful tenderers will receive formal written notification within seven (7) days of the decision being handed down. There were no unsuccessful tenderers.

This Tender relates to materials and services currently supplied under two existing City of Busselton contracts:

- RFT11/13 "Supply and Delivery of Quarry Products" (which expires on 1 October 2014), and;
- RFT03/10 "Gravel Base Course Material" (which expires on 1 August 2014).

Materials and services currently provided under each of RFT11/13 and RFT03/10 will only be purchased by the City under the Contract resulting from this Tender once the respective existing contracts expire.

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1407/171 Moved Councillor C Tarbotton, seconded Councillor J McCallum

That the Council:

Approves the creation of a panel of the following preferred suppliers in accordance with the Terms and Conditions as specified in RFT07/14 Quarry Products for a period of three (3) years from the date of award, with two (2) optional one (1) year extensions to be exercised at the Principal's discretion:






- B & J Catalano Pty Ltd
- Carbone Bros Pty Ltd
- Holcim (Australia) Pty Ltd
- BCP Civil and Plant
- Leeuwin Civil

That materials and services currently provided under each of RFT11/13 and RFT03/10 will only be purchased by the City under the Contract resulting from this Tender once the respective existing contracts expire.

CARRIED 7/0

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15.1 COUNCILLORS' INFORMATION BULLETIN

SUBJECT INDEX:	Councillors' Information
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Executive Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Reporting Officers - Various .
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Planning Applications Received  Attachment B Planning Applications Determined  Attachment C REBA Correspondence Finger Jetty Issue  Attachment D REBA Newsletter April 2014  Attachment E Letter from Hon Warren Truss MP 

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

15.1.1 Planning and Development Services Statistics

Planning Applications

Attachment PDS1 is a report detailing all Planning Applications received by the City between 1 and 15 June, 2014. Twenty two formal applications were received during this period.

Attachment PDS2 is a report detailing all Planning Applications determined by the City between 1 and 15 June, 2014. A total of twenty seven applications (including subdivision referrals) were determined by the City during this period with all approved / supported.

15.1.2 Correspondence from Residents of Eagle Bay Association (REBA)

A thank you letter regarding the Naturaliste Volunteer Marine Rescue finger jetty issue and REBA newsletter – April 2014 have been received from Don Best, REBA President. Copies of the correspondence are provided as attachments.

15.1.3 Correspondence from Hon Warren Truss MP

Attachment E is a copy of a letter received from Hon Warren Truss in response to a letter from the City inviting him to visit Busselton and

15.1.4 Thank you Letter for Assistance with the Shire of Exmouth ICT Review 2014

Correspondence has been received from Rob Manning A/ Director, Shire of Exmouth:

“On behalf of the Shire of Exmouth I extend our thanks to the Shire of Busselton for making the services and knowledge of your staff member Hendrik Boshoff available to us earlier this month.

During his stay with the Shire of Exmouth he has conducted a thorough and very insightful Review Report for our current ITC systems and processes.

The various recommendations for improvements will assist our Shire not only in being more productive, but also in managing risks and put in place better purchase & ICT Service plans.

Hendrik has been a pleasure to work with and he is an asset to the City of Busselton. We hope that his visit to a remote regional Shire with its own particular ICT challenges has had value to him and to the City of Busselton in terms of exchange of knowledge and experience.

On behalf of all staff I thank you for the generous offer of support and hopefully we have made a start for an ongoing partnership between our Shire and the City of Busselton.”

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1407/172 Moved Councillor C Tarbotton, seconded Councillor J McCallum

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





- 15.1.1 Planning and Development Services Statistics
- 15.1.2 Correspondence from Residents of Eagle Bay Association (REBA)
- 15.1.3 Correspondence from Hon Warren Truss MP
- 15.1.4 Thank you Letter for Assistance with the Shire of Exmouth ICT Review 2014

CARRIED 7/0

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10. REPORTS OF COMMITTEE

10.1 Policy and Legislation Committee - 19/06/2014 - LOCAL GOVERNMENT PROPERTY LOCAL LAW DETERMINATION – HORSE EXERCISE AREAS

SUBJECT INDEX:	Animal Management
STRATEGIC OBJECTIVE:	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Ranger and Emergency Services
REPORTING OFFICER:	Ranger and Emergency Services Coordinator - Dean Freeman
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Horse Exercise Area Wonnerup West 
	Attachment B Horse Exercise Area Wonnerup East 
	Attachment C Horse Exercise Area Anniebrook 
	Attachment D Submission Schedule 

This item was considered by the Policy and Legislation Committee at its meeting on 19 June 2014, the recommendations from which have been included in this report.

PRÉCIS

On 9 April 2014 Council resolved to advertise for public comment a notice of intention to make determinations pursuant to the City's Local Government Property Local Law 2010, to enable horses to be exercised on sections of beach at Wonnerup and Anniebrook.

This report considers the public submissions received in response to the notice of intention and recommends that Council proceed with the making of the Determination to allow horses to be exercised on a section of beach to the east of the Wonnerup boat ramp and on a section of beach at Anniebrook. It is also recommended that Council not proceed with the making of a determination to allow horses to be exercised on the beach (being portion of Reserve 5217 and Unallocated Crown Land) from Wonnerup Boat Ramp, westerly to McCormack Street.

BACKGROUND

In January 2011, Council resolved (resolution C1101/020) to make determinations under the City's Local Government Property Local Law to enable horses to be exercised on the following beaches within the district.

- a) That the exercising of horses, including water therapy, be permitted on the beach (being portion reserve 5217 and Unallocated Crown Land) from Wonnerup Boat Ramp (west) to McCormack Street excluding sand dunes and vegetated areas.
- b) That the exercising of horses, including water therapy, be permitted on the beach (being portion Reserve 39193 and Unallocated Crown Land) adjacent to Forrest Beach Road, north east, to the Shire of Capel border as bounded by the high water mark to the water's edge, excluding sand dunes and/or vegetated areas.

Following a review of Council's determinations relating to horse exercise areas, on 9 April 2014, Council resolved (resolution C1404/089) to give local public notice of its intention to make Determinations under the Local Government Property Local Law to allow horses to be exercised at the following locations –

- a) The beach (being portion of Reserve 5217 and Unallocated Crown Land) from Wonnerup Boat Ramp, westerly to McCormack Street excluding sand dunes and or vegetated areas (refer to Attachment A);
- b) The beach (being portion Reserve 39193 and Unallocated Crown Land) adjacent to Forrest Beach Road from the Wonnerup boat ramp east, to the Shire of Capel border excluding sand dunes and/or vegetated areas (refer to Attachment B); and
- c) The beach (being portion of Reserve 23572 west of Station Gully drain to the eastern boundary of Reserve 29844 for a distance of approximately 1.2 kilometres excluding sand dunes and/or vegetated areas (refer to Attachment C) .

STATUTORY ENVIRONMENT

The procedure for making a determination is outlined in the City's Property Local Law 2010 (clause 2.2), and includes a requirement to give 21 days local public notice of Council's intention to make the determination.

If submissions are received in response to the public advertising of Council's intention to make a determination, the City's Property Local Law 2010 indicates that Council is to consider the submissions and decide whether or not to amend the proposed determination; or not to continue with the proposed determination.

If the Council decides to amend the proposed determination, it is to give local public notice—

- a) of the effect of the amendments; and
- b) that the proposed determination has effect as a determination on and from the date of publication.

RELEVANT PLANS AND POLICIES

There are no plans or policies especially relevant to the consideration of this matter.

FINANCIAL IMPLICATIONS

Subject to Council making the proposed determinations, there may be some financial implications associated with installation of signage at the proposed horses exercise areas and trail path access to the beach at the Anniebrook. These costs are however minimal and can be accommodated within existing operating budgets.

Access to the proposed Anniebrook horse exercise area is via a single lane causeway over Toby Inlet adjacent to Station Gully Drain, to a relatively small car park area for accommodating vehicles and horse floats.

There is no proposal to upgrade the access road or car park, however, the access trail from the car park to the beach will require the installation of some low level post and rail fencing and bollards to be installed to delineate the access trail to the beach and to protect the fore dune vegetation and this expenditure can be accommodated within existing operating budgets.

STRATEGIC COMMUNITY OBJECTIVES

This matter is considered relevant to the following objective of the Strategic Community Plan 2013:

Key Goal Area 2 – Well Planned, Vibrant and Active Places – Community Objective 2.2 – A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections

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 sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls has been identified is medium, or greater. No such risks were identified.

CONSULTATION

The City of Busselton Property Local Law 2010, clause 2.2 empowers the Council to make a determination to regulate various activities on land managed by the City of Busselton and includes a requirement to give 21 days local public notice of Council's intention to make a determination.

Notice of intent to make a determination for the proposed horse exercise areas was advertised in a local newspaper and on the City's website. In addition to this public advertising, 153 land owners in close proximity to the proposed horse exercise areas were also notified in writing.

The public submission period closed on 9 May 2014 and 49 submissions were received. Details of the submissions received are included with this report as Attachment D.

OFFICER COMMENT

The submission summary indicates 32 objections and 8 submissions in support of the proposed horse exercise area from the Wonnerup boat ramp west to McCormack Street. The main reason outlined in the objections related to public safety and health concerns and potential damage to fore dune vegetation.

The submission comments also indicate general support for the use of the beach to the east of the Wonnerup boat ramp to the Shire of Capel boundary for the exercising of horses however, there are 5 submissions expressing objection to the use this section of beach for the exercising of horses. There are also 5 submissions in support and 2 objections to the proposed horse exercise area at Anniebrook.

Given the number of objections to the proposed determination to allow horses to be exercised on the beach (being portion of Reserve 5217 and Unallocated Crown Land) from Wonnerup Boat Ramp, westerly to McCormack Street excluding sand dunes and or vegetated areas, it is recommended that Council not continue with this proposed determination.

It is further recommended that Council pursuant to the City of Busselton Local Government Property Local Law 2010, make the following Determinations to allow horses to be exercised, including water therapy, at the following locations -

- a) the beach (being portion Reserve 39193 and Unallocated Crown Land) adjacent to Forrest Beach Road from the Wonnerup boat ramp east, to the Shire of Capel border excluding sand dunes and/or vegetated areas; and

- b) the beach (being portion of Reserve 23572 west of Station Gully drain to the eastern boundary of Reserve 29844) for a distance of approximately 1.2 kilometres excluding sand dunes and/or vegetated areas.

CONCLUSION

The exercising of horses using coastal areas and ocean is an established practice within the City district and a determination to designate areas for this purpose is recommended.

OPTIONS

Council may choose not to make determinations regarding Horse Exercise Areas. The effect of this decision would be that there would be no areas of public land within the City on which horses could be exercised.

TIMELINE FOR IMPLEMENTATION OF RECOMMENDATION

If the Officer recommendation is adopted by the Council, then this determination will have effect from the date of publication of a notice to that effect. That will occur within one month of a resolution consistent with the officer recommendation.

OFFICER RECOMMENDATION

That the Council -

1. Pursuant to the City of Busselton Local Government Property Local Law 2010, make the following Determinations to allow horses to be exercised, including water therapy, at the following locations:
 - a. the beach being portion of Reserve 39193 and unallocated Crown land) adjacent Forrest Beach Road, north east, to the Shire of Capel boundary excluding sand dunes and/or vegetated areas; and
 - b. the beach (being portion of Reserve 23572 west of Station Gully drain to the eastern boundary of Reserve 29844) for a distance of approximately 1.2 kilometres excluding sand dune sand/or vegetated area.
2. Not continue with the making of the proposed Determination to allow horses to be exercised on the beach (being portion of Reserve 5217 and Unallocated Crown Land) from Wonnerup Boat Ramp, westerly to McCormack Street excluding sand dunes and or vegetated areas.

Note: Because the section of beach between McCormack Street and the mouth of the Wonnerup Inlet comprises Unallocated Crown Land, Reserve 5217 and Reserve 385, the Officer Recommendation 2 was amended to include reserve 385, with all of the beach between the Wonnerup Boat Ramp and the mouth of the inlet as the area where horses are no longer permitted to be exercised.

COMMITTEE RECOMMENDATION

That the Council -

1. Pursuant to the City of Busselton Local Government Property Local Law 2010, make the following Determinations to allow horses to be exercised, including water therapy, at the following locations:
 - a. the beach being portion of Reserve 39193 and unallocated Crown land) adjacent Forrest Beach Road, north east, to the Shire of Capel boundary excluding sand dunes and/or vegetated areas; and
 - b. the beach (being portion of Reserve 23572 west of Station Gully drain to the eastern boundary of Reserve 29844) for a distance of approximately 1.2 kilometres excluding sand dune sand/or vegetated area.
2. Not continue with the making of proposed Determination to allow horses to be exercised on the beach (being portion of Reserve 5217 and Unallocated Crown Land) from Wonnerup Boat Ramp, westerly to McCormack Street and inclusive of Reserve 385, sand dunes and or vegetated areas.

Note: As a result of questions raised at the agenda briefing session, Officers put forward an Alternative Recommendation for Council consideration. Because the last bit of the foreshore reserve adjoining the Capel boundary (Lot 25) is still privately owned, it is likely to soon be vested with the City. The Alternative Recommendation allows for the area to be determined as a horse exercise area if management is vested with the City.

An amendment to determine the area west of the Wonnerup boat ramp approximately 400m west to the western boundary of Reserve 5217 as a horse exercise area was also recommended, and to better define the western boundary of Reserve 40677, a reference to the prolongation of the boundary of the reserve was included in the recommendation.

ALTERNATIVE OFFICER RECOMMENDATION

Moved Councillor Best, seconded Councillor Green:

That the Council:

Pursuant to the City of Busselton Local Government Property Local Law 2010, make the following Determinations to allow horses to be exercised, including water therapy, at the following locations:

- a. The beach excluding sand dunes and/or vegetated areas , within Reserve 39193 adjacent to Forrest Beach Road and the beach within Lot 25, following transfer of the management of Lot 25 to the City;
- b. The beach excluding sand dunes and/or vegetated areas, within part of Reserve 5217 bounded by the Wonnerup boat ramp to the prolongation of the western boundary of Reserve 5217, a distance of approximately 400 meters.
- c. The beach excluding sand dunes and/or vegetated areas, within Reserve 23572 bounded by the prolongation of the western boundary of Reserve 40677 (Station Gully Drain) and the prolongation of the eastern boundary of Reserve 29844, a distance of approximately 1.2 kilometres.

LOST 2/5

FOR	AGAINST
Cr T Best Cr J Green	Cr I Stubbs Cr J McCallum Cr T Tuffin Cr G Bleechmore Cr R Bennett

Note: Because the Alternative Motion put forward by Officers was lost, debate returned to the Committee Recommendation.

COUNCIL DECISION AND COMMITTEE RECOMMENDATION

C1407/173

Moved Councillor T Tuffin, seconded Councillor J McCallum

That the Council -

1. Pursuant to the City of Busselton Local Government Property Local Law 2010, make the following Determinations to allow horses to be exercised, including water therapy, at the following locations:
 - a. the beach being portion of Reserve 39193 and unallocated Crown land) adjacent Forrest Beach Road, north east, to the Shire of Capel boundary excluding sand dunes and/or vegetated areas; and
 - b. the beach (being portion of Reserve 23572 west of Station Gully drain to the eastern boundary of Reserve 29844) for a distance of approximately 1.2 kilometres excluding sand dune sand/or vegetated area.
2. Not continue with the making of proposed Determination to allow horses to be exercised on the beach (being portion of Reserve 5217 and Unallocated Crown Land) from Wonnerup Boat Ramp, westerly to McCormack Street and inclusive of Reserve 385, sand dunes and or vegetated areas.

CARRIED 7/0

11. PLANNING AND DEVELOPMENT SERVICES REPORT**11.1 PROPOSED MODIFICATION OF BUSSELTON FORESHORE MASTER PLAN AND ADOPTION OF DEVELOPMENT GUIDE PLAN – SPECIAL PURPOSE (BUSSELTON FORESHORE) ZONE, CONSIDERATION FOR ADOPTION OF FINAL APPROVAL**

This Item was considered earlier in the meeting as part of the En Bloc Resolution of Council.
[\(C1407/170, page 18\)](#)

12. ENGINEERING AND WORK SERVICES REPORT**12.1 AWARD OF TENDER RFT07/14 – QUARRY PRODUCTS**

This Item was considered earlier in the meeting as part of the En Bloc Resolution of Council.
[\(C1407/174, page 23\)](#)

11. COMMUNITY AND COMMERCIAL SERVICES REPORT

Nil

12. FINANCE AND CORPORATE SERVICES REPORT

Nil

13. CHIEF EXECUTIVE OFFICER'S REPORT**15.1 COUNCILLORS' INFORMATION BULLETIN**

This Item was considered earlier in the meeting as part of the En Bloc Resolution of Council.
[\(C1407/175, page 25\)](#)

14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

15. CONFIDENTIAL REPORTS

Nil

16. PUBLIC QUESTION TIME

Nil

17. NEXT MEETING DATE

Wednesday, 23 July 2014

20. CLOSURE

The meeting closed at 5.45pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 33 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 23 JULY 2014.

DATE: _____ PRESIDING MEMBER:
