

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 11 SEPTEMBER 2019**

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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 11 SEPTEMBER 2019 AT 5.30PM.

**1. DECLARATION OF OPENING ACKNOWLEDGEMENT OF COUNTRY / ACKNOWLEDGEMENT OF VISITORS / DISCLAIMER / NOTICE OF RECORDING OF PROCEEDINGS**

The Presiding Member opened the meeting at 5.30pm.

**2. ATTENDANCE**

Presiding Member:

Cr John McCallum -  
Deputy Mayor

Members:

Cr Coralie Tarbotton  
Cr Ross Paine  
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  
Mrs Naomi Searle, Director, Community and Commercial Services  
Ms Sarah Pierson, Acting Director, Finance and Corporate Services  
Ms Melissa Egan, Governance Officer

Apologies:

Nil

Approved Leave of Absence:

Cr Grant Henley – Mayor

Media:

“Busselton-Dunsborough Times”

Public:

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**3. PRAYER**

The prayer was delivered by Pastor Simon Holmes of the Busselton Baptist Church

**4. APPLICATION FOR LEAVE OF ABSENCE**

Nil

## 5. DISCLOSURE OF INTERESTS

The Presiding Member noted that a declaration of impartiality interest had been received from Cr Paul Carter in relation to Agenda Item 14.1 'Reserve 12493, Yungarra Drive – Response to Petition'.

The Presiding Member advised that in accordance with Regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007* this declaration would be read out immediately before Item 14.1 was discussed.

## 6. ANNOUNCEMENTS WITHOUT DISCUSSION

### Announcements by the Presiding Member

The Presiding Member noted Cr Grant Henley was enjoying a well-deserved vacation in Europe.

## 7. QUESTION TIME FOR PUBLIC

Nil

## 8. CONFIRMATION AND RECEIPT OF MINUTES

### Previous Council Meetings

#### 8.1 Minutes of the Council Meeting held 27 August 2019

### RECOMMENDATION

That the Minutes of the Council Meeting held 27 August 2019 be confirmed as a true and correct record.

### COUNCIL DECISION AND AMENDED RECOMMENDATION

**C1909/174** Moved Councillor P Carter, seconded Councillor C Tarbotton

**That the Minutes of the Council Meeting held 27 August 2019 be confirmed as a true and correct record, but with the following amendment to the Council Decision (C1908/173) at Item 13.3:**

**That the Council, pursuant to:**

- 1. Section 31(2B)(a) of the *Dog Act 1976*, specifies an area delineated by a fence and generally aligned with the boundaries of Lot 509 Crown Reserve 52463 commonly known as Barnard Park East to be a place where dogs are prohibited at all times.**
- 2. Section 31(3C)(a) of the *Dog Act 1976*, notes a public notice of the Council's intention to specify Barnard Park East as a place where dogs are prohibited at all times will be given at least 28 days prior to this resolution taking effect.**
- 3. Section 8 of the *Dog Act 1976*, notes a person who has a disability or medical condition an effect of which can be alleviated or managed by the use of an assistance dog, or a person who is training or assessing an assistance dog is permitted to take that dog onto Barnard Park East.**

**CARRIED 7/0**

Reasons: A typographical error was made in the Amended Officer Recommendation of Item 13.3 with an incorrect reference to Lot 209 which should have referred to Lot 509 as the correct lot number.

**9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS****Petitions**

Nil

**Presentations**

Mr Colin Bussell of 11 Jones Road, Dunsborough, presented as a party with an interest in Item 14.1 'Reserve 12493, Yungarra Drive – Response to Petition'. Mr Bussell was generally in disagreement with the Officer's Recommendation for the ongoing stockpiling of construction/maintenance materials in the Reserve.

**Deputations**

Nil

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

Nil

**11. ITEMS BROUGHT FORWARD****For the convenience of the Public**


Nil

**12. REPORTS OF COMMITTEE**

Nil

### 13. PLANNING AND DEVELOPMENT SERVICES REPORT

#### 13.1 DRAFT AMENDMENT 36 TO LOCAL PLANNING SCHEME 21 - 'VASSE EAST' - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL

<b>STRATEGIC GOAL</b>	2. PLACE AND SPACES Vibrant, attractive, affordable
<b>STRATEGIC OBJECTIVE</b>	2.1 Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
<b>SUBJECT INDEX</b>	Structure Plans
<b>BUSINESS UNIT</b>	Strategic Planning
<b>REPORTING OFFICER</b>	Principal Strategic Planner - Louise Korovesi
<b>AUTHORISING OFFICER</b>	Director, Planning and Development Services - Paul Needham
<b>NATURE OF DECISION</b>	Legislative: to adopt legislative documents e.g. local laws, local planning schemes, local planning policies
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Location Plan/Aerial Photograph   Attachment B Scheme Amendment Map   Attachment C Flora and Vegetation Assessment   Attachment D Public Open Space Concept Plan   Attachment E Schedule of Modifications  Attachment F Local Planning Strategy  Attachment G Schedule of Submissions  

#### OFFICER RECOMMENDATION

That the Council:

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts Amendment 36 to Local Planning Scheme 21 for final approval, in accordance with the modifications proposed in the Schedule of Modifications shown at Attachment E, for the purposes of:
  - (a) Rezoning Lots 1445, 178, 501, 9000 and 176 Rendezvous Road and Lot 9003 Vasse-Yallingup Siding Road, Vasse from 'Rural Residential' to 'Urban Development'.
  - (b) Rezoning Lots 224 and 634 Rendezvous Road, Vasse from 'Agriculture' to 'Urban Development'.
  - (c) Amending the Development Investigation Area by excluding Lots 1445, 178, 501, 9000, 201, 176 and 224 Rendezvous Road and Lot 9003 Vasse-Yallingup Siding Road, Vasse.
  - (d) Amending 'Special Provision Area No. 4' to read as follows –

No	Particulars of Land	Zone	Special Provisions
SP4	As identified on the Scheme map	Urban Development	<ol style="list-style-type: none"> <li>1. Notwithstanding the requirement for a structure plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 4.</li> <li>2. No subdivision (including strata or survey strata subdivision) or other development shall be carried out in Special Provision Area 4 until a Structure Plan has been prepared and adopted under the provisions of Part 4 of the deemed provisions.</li> <li>3. Where land is specifically zoned the provisions of the zone shall prevail over the Structure Plan.</li> </ol>

			<p><b>4. Structure planning is to identify developable and non-developable areas based on comprehensive environmental assessment that investigates, but is not limited to, the following matters -</b></p> <ul style="list-style-type: none"><li><b>a) Identification of vegetation having conservation significance.</b></li><li><b>b) Approved measures to ensure the retention, protection and ongoing management of those remnant vegetated areas having recognised environmental values within ‘public open space’ and/or conservation areas (as identified on an endorsed Structure Plan). Such measures are required to also address linkages and connectivity with contiguous areas of similarly important remnant vegetation on land adjoining the special provision area as well as management measures to ensure the habitat functions of these areas are maintained and where possible enhanced.</b></li><li><b>c) Determination of boundaries of geomorphic wetlands including identification of appropriate buffers to development to the satisfaction of the Department of Biodiversity, Conservation and Attractions.</b></li><li><b>d) A Local Water Management Strategy to establish a framework to ensure that the quality and quantity of surface and groundwater is maintained post-development and is to address (but not be limited to):</b><ul style="list-style-type: none"><li><b>i. flood management (major events);</b></li><li><b>ii. measures to ensure that existing hydrological and ecological functions of the geomorphic wetlands are not impacted by future development;</b></li><li><b>iii. establish groundwater conditions, based on monitoring, and management requirements;</b></li><li><b>iv. identify and describe proposed measures to capture and treat the minor events; and</b></li><li><b>v. outline monitoring and management requirements.</b></li></ul></li></ul> <p><b>5. Areas identified as having conservation significance (such as wetlands &amp; buffers) are to be identified on a Structure Plan as ‘Reserve for Conservation’ and ceded free of cost to the Crown at the time of subdivision in addition to any public open space land required as a condition of subdivision for residential purposes.</b></p> <p><b>6. Prospective conditions of subdivision requiring the requisite preparation of vegetation, fauna, wetland and ASS management plans (e.g.), the primary objective of which would be to ensure the protection and ongoing management of significant environmental, biodiversity, habitat and/or cultural</b></p>
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			<p>values.</p> <p>7. Prior to subdivision or development the proponent is to prepare a Development Contribution Plan to the satisfaction of the City of Busselton and WAPC to ensure appropriate and timely contributions towards community facilities, public open space and civil infrastructure on a progressive and staged basis.</p>
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(e) Amending the Scheme Map accordingly.

2. Advise the Western Australian Planning Commission that the proposed Amendment is considered by the Council to be a 'standard' amendment pursuant to the *Planning and Development (Local Planning Schemes) Regulations 2015*, for the following reasons:
  - i. The Amendment would have minimal impact on land in the Scheme area that is not the subject of the amendment.
  - ii. The Amendment would not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.
3. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, endorses the Schedule of Submissions at Attachment G, which has been prepared in response to the public consultation process undertaken in relation to Amendment 36.
4. Upon preparation of the necessary documentation, refers the adopted Amendment 36 to the Western Australian Planning Commission for consideration and determination in accordance with the *Planning and Development Act 2005*.
5. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should directions be given that modifications to Amendment 36 are required, direct these modifications to be undertaken accordingly, on behalf of the Council, unless they are considered by Officers likely to significantly affect the purpose and intent of the draft Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination.

**ALTERNATIVE RECOMMENDATION**

**C1909/175** Moved Councillor C Tarbotton, seconded Councillor P Carter

**That the Council refer this Item 13.1 and the Officer Recommendation to be considered by Council at its meeting to be held on 25 September 2019.**

Cr Paine foreshadowed and put the following amendments (striked through and in red text):

**AMENDED ALTERNATIVE RECOMMENDATION**

**C1909/176** Moved Councillor R Paine, seconded Councillor P Carter

**That the Council ~~refer~~ defer this Item 13.1 ~~and the Officer Recommendation~~ to be considered by Council at its meeting to be held on 25 September 2019.**

**CARRIED 7/0**

The new substantive motion was put including the amendment:

### **COUNCIL DECISION**

**C1909/177**

Moved Councillor C Tarbotton, seconded Councillor P Carter

**That the Council defer this Item 13.1 to be considered by Council at its meeting to be held on 25 September 2019.**

**CARRIED 7/0**

Reasons: Since publication of the Agenda, it emerged that the City had not advised affected landowners that the matter was to be considered by the Council. Because there is no particular urgency to the matter and in the interests of procedural fairness, it is recommended that consideration of the matter be deferred to allow those landowners to attend and make presentations to the Council. The issue has arisen because the amendment, somewhat unusually, is City-led, rather than landowner-led, but does have significant impact on particular land parcels (rather than having broader, more generalised impacts, as would be the case with most City-led amendments).

### **EXECUTIVE SUMMARY**

The Council is requested to consider adopting draft Amendment 36 to Local Planning Scheme 21 (LPS21) for final approval. Draft Amendment 36 proposes to rezone Lots 1445, 178, 501, 9000, 201 and 176 Rendezvous Road and Lot 9003 Vasse-Yallingup Siding Road, Vasse from 'Rural Residential' to 'Urban Development' and Lots 224 and 634 Rendezvous Road, Vasse from 'Agriculture' to 'Urban Development' (collectively referred to as 'Vasse East').

Advertising of the Amendment resulted in 12 external agency submissions and 14 public submissions. The public submissions included 7 objections and matters raised focussed on perceived loss of amenity and property values, potential environmental impacts and inconsistency with the *Leeuwin Naturaliste Sub-Regional Strategy 2019*.

Officers are recommending that draft Amendment 36 be adopted for final approval, in accordance with changes proposed on advice from the Environmental Protection Authority (EPA), as well as submissions received from the Department of Water and Environmental Regulation (DWER) and Department of Biodiversity, Conservation and Attractions (DBCA), and as set out in the Schedule of Modifications provided at Attachment E, and referred to the Western Australian Planning Commission (WAPC) and Hon. Minister for Planning for final approval.

### **BACKGROUND**

'Vasse East' is located immediately east of existing residential development at Vasse and Heron Lake (Attachment A: Location Plan/Aerial Photograph). Immediately to the east and all the way through to Queen Elizabeth Avenue, land is zoned, subdivided and mostly developed for rural residential purposes. To the north and the south, the amendment area is bound by the Busselton Bypass and Rendezvous Road respectively. The subject land is generally flat and consists of mostly cleared agriculture and grazing land and includes residential buildings and outbuildings. The subject land also contains wetlands and native remnant vegetation.

The proposal comprises a Scheme Amendment that proposes to rezone Lots 1445, 178, 501, 9000, 201 and 176 Rendezvous Road and Lot 9003 Vasse-Yallingup Siding Road, Vasse from 'Rural Residential' to 'Urban Development' and Lots 224 and 634 Rendezvous Road, Vasse from 'Agriculture' to 'Urban Development'. Amendments to the boundary and provisions of Special Provision Area 4 are also proposed to ensure that future structure planning for the subject land includes comprehensive environmental investigations and assessment.



Draft Amendment 36 was initiated by the Council for public consultation on 24 April 2018. The Scheme Amendment map is provided at Attachment B.

The rationale behind draft Amendment 36 relates to the identification of the subject land as a long term urban growth area by the City's *Draft Local Planning Strategy* and the objective of preventing the sterilisation of the land for future urban development through rural residential subdivision and development (there exists the ability for landowners to seek approval to a structure plan to facilitate subdivision under the *current* planning framework).

Of relevance to this proposal, draft Amendment 28 ('Omnibus 3') was initiated by the Council for public consultation on 24 April 2018. Draft Amendment 28 received consent to advertise from the WAPC on 29 June 2019 subject to modifications (prospective advertising should commence by late September). Included in a range of matters considered by draft Amendment 28 is the introduction of consolidated and Regulation compliant development zone provisions into LPS21, including the introduction of a new 'Urban Development' zone. It was originally intended that draft Amendment 28 would include zoning proposals for 'Vasse East'. In response to preliminary advice received from the EPA that a comprehensive structure plan may need to be progressed concurrently with draft Amendment 28, proposed changes concerning 'Vasse East' were detached from that amendment, to be progressed via a separate, stand-alone amendment.

#### ***Environmental Considerations***

Draft scheme amendments require examination by the EPA pursuant to S48A of the *Environmental Protection Act 1986* to determine if formal assessment is required, and if not, advice and recommendations may be provided to the local government.

Environmental values within the subject land include; remnant native vegetation; threatened ecological communities (TECs); Swan Coastal Plain geomorphic wetlands and terrestrial fauna. The EPA requested additional information to enable assessment under S48A of the *Environmental Protection Act 1986* in relation to flora and vegetation, terrestrial fauna and inland waters and advised that further scheme mechanisms (such as text provisions) are required to mitigate impacts to these values.

In response the City provided the EPA with the following information –

1. Proposed modified Scheme provisions to strengthen requirements for environmental assessments to be undertaken as part of the future structure planning process.
2. A targeted flora and vegetation assessment for Lot 1445 Rendezvous Road, Vasse (Attachment C).
3. A public open space *concept plan* (Attachment D) that captures spatially the environmental features identified on the City's GIS database (i.e. those values mentioned above) and recommendations from the vegetation assessments (remnant vegetation and ecological linkages within Lot 1445 Rendezvous Road). Areas proposed to be included in public open space by a subsequent structure plan would be further investigated by hydrological, geotechnical, environmental and local water management assessments and recommendations as part of the structure planning process.

The EPA issued its decision on draft Amendment 36 on 27 May 2019, concluding that the Amendment can be managed to meet the EPA's environmental objectives through the implementation of the proposed modified local planning scheme provisions and structure planning requirements.

## **OFFICER COMMENT**

The land subject of Amendment 36 is strategically identified as a future urban growth area 'Vasse East (11)' in the City's *Draft Local Planning Strategy* and was identified for 'Urban Expansion' in the advertised version of the WAPC *Leeuwin Naturaliste Sub-Regional Strategy*.

A significant purpose of Amendment 36 is to prevent the sterilisation of the land within 'Vasse East' for future urban development through rural residential subdivision/development. Placement of the land in a 'Development' zone will trigger the requirement for comprehensive structure planning that will include, amongst other things, the targeted environmental assessments contained in the recommended special provisions, as set out in the Schedule of Modifications at Attachment E, and relevant matters/concerns raised in the public submissions.

Having considered the submissions received, officers consider that draft Amendment 36 is an appropriate outcome consistent with the *Planning and Development (Local Planning Schemes) Regulations 2015*, key local and State strategic planning documents and the orderly and proper planning within the City of Busselton.

### **Statutory Environment**

The key elements of the statutory environment in relation to draft Amendment 36 are set out in the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*. Each is discussed under appropriate subheadings.

#### ***Planning and Development Act 2005***

The *Planning and Development Act 2005* outlines the relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been taken into account in preparing and processing this amendment.

#### ***Planning and Development (Local Planning Schemes) Regulations 2015***

The *Planning and Development (Local Planning Schemes) Regulations 2015*, which came into operational effect on 19 October 2015, identifies three different levels of amendments – basic, standard and complex. The resolution of the local government is to specify the level of the amendment and provide an explanation justifying this choice. Draft Amendment 36 is considered to be a 'standard' amendment.

### **Relevant Plans and Policies**

The key policy implications with respect to the proposal are set out in the following documents –

- *State Planning Policy 3 – Urban Growth and Settlement;*
- *State Planning Policy 3.7 – Planning in Bushfire Prone Areas & Planning Bulletin 111/2016 Planning in Bushfire Prone Areas;*
- *Leeuwin Naturaliste Sub-Regional Strategy 2019; and*
- *Draft City of Busselton Local Planning Strategy 2016.*

Each is discussed below under appropriate subheadings.

#### ***State Planning Policy 3 - Urban Growth and Settlement***

SPP 3 sets out the principles and considerations which apply to planning for urban growth and settlement in Western Australia. The overall aim of the policy is to facilitate sustainable patterns of urban growth and settlement and effective protection of the environment. The policy cites five objectives to achieve this outcome. The following objectives of the policy are relevant to the consideration of draft Amendment 36 –

- *To promote a sustainable and well planned pattern of settlement across the State, with sufficient and suitable land to provide for a wide variety of housing, employment, recreation facilities and open space.*
- *To promote the development of a sustainable and liveable neighbourhood form which reduces energy, water and travel demands whilst ensuring safe and convenient access to employment and services by all modes, provides choice and affordability of housing and creates an identifiable sense of place for each community.*

Consolidation of development around Vasse which has existing and planned community services and infrastructure (e.g. reticulated sewer and water), through a higher and better use of the land, is considered to be more consistent with SPP 3 than low density rural residential subdivision.

***State Planning Policy 3.7 Planning in Bushfire Prone Areas 2017 & Planning Bulletin 111/2016 Planning in Bushfire Prone Areas***

SPP 3.7 directs how strategic planning proposals should address bushfire risk management in Western Australia. It applies to all land which has been designated as being bushfire prone on the State Map of Bushfire Prone Areas.

Planning Bulletin 111/2016 also assists with the interpretation and implementation of SPP 3.7, the associated *Guidelines for Planning in Bushfire Prone Areas 2017* and the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* Part 10A – Bushfire Risk Management. The Planning Bulletin also sets out exemptions from the requirements of SPP 3.7 and the deemed provisions, to be applied pragmatically by the decision maker, for proposals that do not result in –

- the intensification of development (or land use);
- an increase in the number of residents; or
- does not involve the occupation of employees on site for any considerable amount of time.

Draft Amendment 36, in and of itself, will not result in any of the outcomes listed above and is therefore exempt from the requirements of SPP 3.7. Pursuant to Part 4 r.15 of the Regulations, land identified as being in a ‘Development’ zone requires the preparation of a structure plan before subdivision and development can occur, and the assessment of bushfire risk and management measures would be comprehensively addressed at that stage.

***Leeuwin Naturaliste Sub-Regional Strategy 2019***

The *Leeuwin Naturaliste Sub-Regional Strategy 2019* (LNSRS) is an overarching strategic land use planning document outlining the approach of the WAPC to future planning and development in the City of Busselton and Shire of Augusta-Margaret River.

The LNSRS identifies ‘Vasse East’ as ‘Rural Living’ and ‘Rural’ which simply reflects the current zoning of the land under LPS21. The advertised version of the draft LNSRS, however, identified ‘Vasse East’ for urban expansion, reflective of the strategic direction set out by the draft LPS. City officers understand that the exclusion of the area in the final LNSRS was probably unintentional, and the document may be amended to be consistent with the draft document.

As the decision of the Council to initiate draft Amendment 36 was consistent with the (then) draft LNSRS and the draft LPS, officers are of the view that progression of the proposal is warranted. Support (or otherwise) for the draft Amendment and a final decision rests with the WAPC and the Minister for Planning respectively.

***Draft Local Planning Strategy 2016***

The draft LPS was adopted by the Council in September 2016 and is pending endorsement by the WAPC. The draft LPS sets the long term broad planning direction for the whole of the District of the City of Busselton and provides the strategic rationale for decisions related to the progressive review and amendment of the Scheme. The draft LPS also sets out four 'frameworks' relating to: settlement; urban growth areas; activity centres; and industrial/service commercial growth areas. 'Vasse East' is identified as a long term urban growth area (reference number 11 on the draft LPS map provided at Attachment F) for the following key reasons –

- i. Currently zoned 'Rural Residential' but not structure planned;
- ii. Proximity to Vasse would suggest a higher and better use than (potentially) unsewered rural residential subdivision and development; and
- iii. Consolidate settlement around Vasse where commercial, retail, education and other community infrastructure and service infrastructure has been developed (and will continue to do so in accordance with the local planning framework).

'Vasse East' was also included in the draft LPS so that the land would not be prejudiced by existing rural residential subdivision and development opportunities.

**Financial Implications**

There are not considered to be any financial implications for the City arising from the proposal.

**Stakeholder Consultation**

Draft Amendment 36 was advertised for 42 days ending 31 July 2019. A total of 26 submissions were received (12 government agency and 14 public submissions). A Schedule of Submissions is provided at Attachment G. The public submissions included 7 objections to the Amendment and matters raised are summarised as follows –

- Loss of amenity (views/rural outlook, peace and quiet, expectation of adjacent rural residential subdivision not urban).
- Impacts on the environmental attributes of the subject land (wetlands, native vegetation, fauna)
- Inconsistent with the identification of the land for 'Rural Living' by the LNSRS.

Future structure planning for the Amendment area would address relevant matters raised in public submissions. Structure planning proposals for the land would be advertised for public comment and adjoining landowners would be notified and have an opportunity to put forward their views. The structure planning process would consider the interface with, and transition to, adjoining residential and rural residential areas, and comprehensive environmental assessments to identify areas to be set aside for public open space (i.e. waterways and wetlands and appropriate foreshore buffers and vegetation having environmental values).

Officers consider that the matters raised in the public submissions are not substantive and no modification(s) to the draft Amendment are being recommended in this regard.

**Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. The implementation of the Officer Recommendation will involve adopting the Amendment for final approval and referral to the Western Australian Planning Commission and Minister for Planning for final approval. In this regard, there are no significant risks identified.

**Options**

As an alternative to the proposed recommendation the Council could:

1. Resolve not adopt the Amendment for final approval (and provide a reason for such a decision). It should be noted that under the relevant legislation there is no right of appeal against a Council decision not to adopt an amendment for final approval.
2. To seek further information before making a decision.

Officers can assist with the drafting of a suitable alternative motion if required.







**CONCLUSION**

As a result of the assessment detailed above, City officers recommend that the Council provides a recommendation to the Western Australian Planning Commission to support draft Amendment 36, in accordance with the Schedule of Modifications (Attachment E).

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the Officer Recommendation will involve the referral of draft Amendment 36 to the Western Australian Planning Commission for final approval and this will occur within one month of the resolution.

**14. ENGINEERING AND WORK SERVICES REPORT****14.1 RESERVE 12493, YUNGARRA DRIVE - RESPONSE TO PETITION**

<b>STRATEGIC GOAL</b>	6. LEADERSHIP Visionary, collaborative, accountable
<b>STRATEGIC OBJECTIVE</b>	6.4 Assets are well maintained and responsibly managed.
<b>SUBJECT INDEX</b>	Petitions
<b>BUSINESS UNIT</b>	Operation and Works Services
<b>REPORTING OFFICER</b>	Manager, Operation and Works Services - Matthew Twyman
<b>AUTHORISING OFFICER</b>	Director, Engineering and Works Services - Oliver Darby
<b>NATURE OF DECISION</b>	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A PETITION RECEIVED FROM MR COLIN FREDRICK BUSSELL   Attachment B RESERVE 12493 LOCATION PLAN  Attachment C PHOTOS OF RESERVE 12493  Attachment D RESERVE 12493, LOT 600 ARMSTRONG PLACE AND VIDLER ROAD DEPOT LOCATION PLAN  

<b>DISCLOSURE OF INTEREST</b>	
Date	11 September 2019
Meeting	Council
Name/Position	Paul Carter, Councillor
Item No./Subject	14.1
Type of Interest	Impartiality Interest
Nature of Interest	I declare an Impartiality Interest in relation to Agenda Item 14.1, as my Mother, Suzanne Carter of 486 Geographe Bay Road, Abbey, is a signatory on the Petition.  As a consequence there may be a perception that my impartiality on the matter may be affected. I declare that I will consider the item solely on its merits and vote or act accordingly.

**OFFICER RECOMMENDATION**

That the Council:

1. Endorse the continued use of Reserve 12493 Yungarra Drive for the stockpiling of construction/maintenance materials and storage of associated plant/equipment, when working in and around the Dunsborough area.
2. Endorse the undertaking of landscaping to the verge adjacent to the newly installed fence to create a vegetation buffer and screen the area.
3. Request the CEO to advise the petitioners of the outcome.

**AMENDED RECOMMENDATION**

**C1909/178** Moved Councillor J McCallum, seconded Councillor P Carter

That the Council:

1. Endorse the continued use of Reserve 12493 Yungarra Drive for the stockpiling of **limited** construction/maintenance materials and storage of associated plant/equipment, when working in and around the Dunsborough area.

2. Endorse the undertaking of landscaping to the verge adjacent to the newly installed fence to create a vegetation buffer and screen the area.
3. Request the CEO to advise the petitioners of the outcome.

Cr Carter seconded the motion and put the following amendments (in red text):

**AMENDMENT TO AMENDED RECOMMENDATION**

**C1909/179** Moved Councillor J McCallum, seconded Councillor P Carter

That the Council:

1. Endorse the continued use of Reserve 12493 Yungarra Drive, **for municipal purposes only**, for the stockpiling of **limited** construction/maintenance materials and storage of associated plant/equipment, **but not for the temporary storage of associated waste materials**, when working in and around the Dunsborough area.
2. Endorse the undertaking of landscaping to the verge adjacent to the newly installed fence to create a vegetation buffer and screen the area.
3. Request the CEO to advise the petitioners of the outcome.

**CARRIED 6/1**

Voting:

For the motion: Cr McCallum, Cr Miles, Cr Tarbotton, Cr Hick, Cr Carter, Cr Reekie

Against the motion: Cr Paine

The new substantive motion was put including the amendment:

**COUNCIL DECISION**

**C1909/180** Moved Councillor J McCallum, seconded Councillor P Carter

That the Council:

1. Endorse the continued use of Reserve 12493 Yungarra Drive, **for municipal purposes only**, for the stockpiling of **limited** construction/maintenance materials and storage of associated plant/equipment, **but not for the temporary storage of associated waste materials**, when working in and around the Dunsborough area.
2. Endorse the undertaking of landscaping to the verge adjacent to the newly installed fence to create a vegetation buffer and screen the area.
3. Request the CEO to advise the petitioners of the outcome.

**CARRIED 7/0**

Reasons: Councillors considered the addition of the word "limited" would more accurately describe the proposed future use of the Reserve.

The additional wording was added to provide comfort to the petitioners that the continued use of the Reserve is for municipal purposes only, for the storage of construction and maintenance materials and not for the storage of any associated waste materials.

## **EXECUTIVE SUMMARY**

At the Ordinary Council Meeting on 26 June 2019, Council received a petition to cease the current use of Reserve 12493, Lot 4842 (Yungarra Drive, Quedjinup) and revegetate it. The reserve, located on Yungarra Drive in Quedjinup, has been used historically for the stockpiling of materials and associated plant/equipment for works in the Dunsborough area. In addition to receiving the petition, Council requested that the CEO prepare a report for Council.

This report recommends that Council endorse the continued current use of Reserve 12493, with a further recommendation to install verge landscaping to provide a landscape buffer, screening and improved streetscape.

## **BACKGROUND**

At the Ordinary Council Meeting on 26 June 2019, Council received a petition from Mr Colin Frederick Bussell to cease the current use of Reserve 12493 and revegetate it. The petition contained 67 signatures (Attachment A). Council further referred the petition to the CEO to prepare a report for Council.

Reserve 12493 was gazetted on 13 December 1912 and vested to the then Shire of Busselton, with the legal use of Gravel. The reserve is 0.8738 hectares and is situated on Yungarra Drive between Caves Road and Windle Place in Quedjinup, as shown in Attachment B.

Historically, material stockpiling in Dunsborough has been split between Reserve 12493 and Lot 600 Armstrong Place. However, use of Lot 600 ceased in 2014 following the transfer of ownership to Ray Village Aged Services Inc. (Cape Care). This has resulted in the increased use of Reserve 12493.

Reserve 12493 has been used for stockpiling materials in excess of 30 years, with usage being predominantly during the day time (Monday to Friday).

The reserve is being utilised in order to efficiently deliver capital and maintenance projects within the Dunsborough and western area of the district. The frequency, scale and timing of use of Reserve 12493 varies significantly over the year and is highly dependent upon the annual capital budget and the locality of projects included. The 2018/19 capital budget included some large scale projects delivered in the Dunsborough region. Ceasing use of the reserve will reduce efficiencies by increasing delivery times and directly impacting capital and operating budgets.

Following contact by owners of properties local to the reserve, City staff arranged for the fencing and gating of the reserve. When in use, stockpile heights will be monitored and managed more closely, and unusable spoil from projects will be periodically removed. It is possible that these recent works by the City have reduced the risk of historic hooning activities within the reserve.

The reserve is screened with mature vegetation on three sides and the City plans to provide additional vegetative screening this winter. Refer to Attachment C for photos of the reserve currently.

## **OFFICER COMMENT**

Analysis of the petition (Table 1) indicates that of the 67 entries, 14 live closer than one kilometre from Reserve 12493, with 11 of these living on roads immediately adjacent to the reserve. 14 entries were from residents greater than 10 kilometres away. Of the petition entries, 7 addresses have 2 entries, meaning that the petition captures sixty (60) individual addresses, including 2 entries without address details.



**Table 1:** Petition Analysis Summary

Distance From Reserve (km)	Quantity
< 1	14
1 to 5	34
5 to 10	3
> 10	14
unknown	2
<b>TOTAL</b>	<b>67</b>

Reserve 12493 is the closest available location to the Dunsborough town site and is used for the stockpiling of materials and associated plant/equipment, in order to efficiently deliver capital and maintenance projects within the Dunsborough/Western area of the district. The 2018/19 capital budget saw some large scale projects delivered in the Dunsborough region, with the following projects utilising the reserve:

- Dunsborough Road Access Improvements
- Dunsborough Cycleway - CBD to Our Lady of the Cape School
- Naturaliste Terrace Road and Footpath Improvements
- Dunsborough Lakes Drive to N.C.C. Footpath
- Greenfield Road Improvements

The Dunsborough Road Depot on Vidler Road is the only other location suitable for material stockpiling within the vicinity of Dunsborough and is currently used for longer term storage of materials, plant and equipment. Space at the depot is limited however and access restricted such that it is unsuitable for large quantities of quarry type products.

The distance between Vidler Road Depot and Reserve 12493 is 4km, with a round trip of 8km taking approximately 20-30 minutes, due to road gradient and restricted access. The financial implications of this are detailed below under Financial Implications. Road safety concerns have also been raised in the past by staff about operating lower speed plant on this section of Caves Road, due to road gradient and traffic volume.

Attachment D provides the location of Reserve 12493 in relation to Lot 600 Armstrong Place (no longer in use) and Vidler Road Depot.

An alternative option would be for the City to purchase land, possibly within the Dunsborough light industrial area. With the predicted future population growth of the Dunsborough region, land availability will become more limited. The amenity of such an option could be considered worse than the existing arrangement.

### **Statutory Environment**

The officer recommendation supports the general function of a local government under the *Local Government Act 1995* to provide for the good government of persons in its district.

### **Relevant Plans and Policies**

There are no relevant plans or policies to consider in relation to this matter.

### **Financial Implications**

A round trip between Reserve 12493 and Vidler Road Depot is 8km and equates to approximately 20-30 minutes, due road gradient and restricted access. Table 2 summarises the cost associated with the additional travel time.

**Table 2:** Cost Analysis Summary

	<b>Estimated Cost Per Truck (\$)</b>
Per trip	\$70
Per week	\$2,800
Per month	\$11,200

Capital projects can typically have anywhere between two and six trucks carting to or from a site at any one time. These costs would directly impact capital and operating budgets.

The costs associated with the proposed landscape screening of the reserve will be allocated to the Gravel Pit Rehabilitation (E9999) operating budget.

### **Stakeholder Consultation**

No external stakeholder consultation was required or undertaken in relation to this matter.

### **Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No such risks have been identified.

### **Options**

As an alternative to the proposed recommendation, Council could choose to cease use of Reserve 12493 for the stockpiling of construction/maintenance materials and associated plant/equipment. This would mean that materials may need to be procured in smaller quantities and construction sites or Vidler Road Depot site be utilised for material stockpiling and plant/equipment storage. For the reasons provided in this report, the abovementioned option is not recommended.

### **CONCLUSION**

In conclusion, City officers believe that the current use of Reserve 12493 for the stockpiling of materials and associated plant/equipment should continue. Recent and planned delineation and screening of the reserve by way of fencing and vegetation will improve the amenity of the site, while maintaining efficient operations for the City. When in use, stockpile heights will be monitored and managed, and unusable spoil from projects will be periodically removed.

### **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Implementation of the officer recommendation can take effect immediately.

**15. COMMUNITY AND COMMERCIAL SERVICES REPORT**

Nil

**16. FINANCE AND CORPORATE SERVICES REPORT**

Nil

**ADOPTION BY EXCEPTION RESOLUTION**

At this juncture the Presiding Member moved Item 17.1 be noted as an en bloc motion.

**COUNCIL DECISION**


**C1909/181**

Moved Councillor J McCallum, seconded Councillor C Tarbotton

**That the Officer Recommendation for Item 17.1 Councillors Information Bulletin be carried en bloc.**

**CARRIED 7/0**

**17. CHIEF EXECUTIVE OFFICERS REPORT****17.1 COUNCILLORS' INFORMATION BULLETIN**

<b>STRATEGIC GOAL</b>	6. LEADERSHIP Visionary, collaborative, accountable
<b>STRATEGIC OBJECTIVE</b>	6.1 Governance systems, process and practices are responsible, ethical and transparent.
<b>SUBJECT INDEX</b>	Governance Services
<b>BUSINESS UNIT</b>	Governance Services
<b>REPORTING OFFICER</b>	Executive Assistant to Council - Katie Banks
<b>AUTHORISING OFFICER</b>	Chief Executive Officer - Mike Archer
<b>NATURE OF DECISION</b>	Noting: the item does not require a decision of Council and is simply for information purposes and noting
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A State Administrative Tribunal Reviews as at 27 August 2019 

**OFFICER RECOMMENDATION AND COUNCIL DECISION**

**C1909/182** Moved Councillor J McCallum, seconded Councillor C Tarbotton

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

- **17.1.1 State Administrative Tribunal Reviews**
- **17.1.2 Recent Correspondence**

**CARRIED 7/0**

**EXECUTIVE SUMMARY**

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 State Administrative Tribunal Reviews**

Information is provided in Attachment A.

**17.1.2 Recent Correspondence****26 August 2019 – Geraldton MP to lead Regional Cities portfolio**

Nationals Geraldton MP Ian Blayney will take on a newly created Regional Cities portfolio, providing a strong focus on the economic and social development of regional centres across the State.

Hard copies of correspondence relating to the above item are available to view upon request.

**18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**19. URGENT BUSINESS**

Nil

**20. CONFIDENTIAL REPORTS**

Nil

**21. CLOSURE**

The Presiding Member closed the meeting at 6.25pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 23 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 25 SEPTEMBER 2019.

DATE: \_\_\_\_\_ PRESIDING MEMBER: \_\_\_\_\_