

SHIRE OF JERRAMUNGUP



MINUTES

COUNCIL ORDINARY MEETING

15th APRIL 2015

ORDINARY MINUTES – 15th APRIL 2015**INDEX**

| ITEM NO. | <u>DETAILS</u> | <u>PAGE</u> |
|---|---|--------------------|
| 9.1 | Confirmation of Minutes | 5 |
| WORKS | | |
| 10.1.1 | Works Report | 7 |
| FINANCE | | |
| 10.2.1 | Accounts Payable – March 2015 | 12 |
| 10.2.2 | Monthly Financial Report – March 2015 | 14 |
| HEALTH, BUILDING & TOWN PLANNING | | |
| 10.3.1 | Proposed Amendments to bank guarantee | 18 |
| 10.3.2 | Proposed Scheme Amendment 9 | 25 |
| 10.3.3 | Review of Local Planning Scheme & Building Act Delegations | 33 |
| 10.3.4 | Proposed Building Envelope, Single House, Ancillary Accommodation & Outbuilding – Lot 54 Gneiss Hill Road, Bremer Bay | 41 |
| 10.3.5 | Proposed Building Envelope, Single House & Outbuilding – Lot 103 Point Henry Road, Bremer Bay | 56 |
| ADMIN | | |
| 10.4.1 | Administration Status Report | 74 |
| 10.4.2 | Delegated Council Functions | 76 |
| 10.4.3 | Fire Control Information Notice | 97 |
| 10.4.4 | Draft Lease Bremer Bay Sports Club | 103 |
| COUNCILLOR REPORT | | |
| 11 | Councillor Reports | 109 |
| NEW BUSINESS OF AN URGENT NATURE | | |
| | | |
| | | |

SHIRE OF JERRAMUNGUP

ORDINARY MEETING OF COUNCIL HELD IN THE TOWN HALL, BREMER BAY ON WEDNESDAY 15th APRIL 2015, COMMENCING AT 2.05PM.

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The President declared the meeting open at 2.05pm.

2. RECORD OF ATTENDANCE

| | |
|------------------|------------------|
| Cr R Lester | President |
| Cr J Iffla | Deputy President |
| Cr B Trevaskis | Member |
| Cr W Bailey | Member |
| Cr R Parsons | Member |
| Cr J Leenhouders | Member |

| | |
|---------------|---------------------------------------|
| Mr B Bailey | Chief Executive Officer |
| Mr C Pursey | Planning Officer |
| Mrs C Solomon | Acting Deputy Chief Executive Officer |

| | |
|---------------|---------------|
| Mrs C Hobbs | Public Member |
| Mrs T Pittard | Public Member |
| Dr I Weir | Public Member |

3. APOLOGIES

| | |
|-------------|--------|
| Cr C Daniel | Member |
|-------------|--------|

4. LEAVE OF ABSENCE PREVIOUSLY APPROVED

Nil

5. PUBLIC QUESTION TIME

Mrs Hobbs queried the bridge on the walk trail that goes to the shop which had a 'do not enter' sign displayed. Mrs Hobbs noticed the sign has been removed – has this bridge been fixed?

Mr Bailey advised the Shire is sourcing funding to replace the bridge. The sub structure is of concern however the bridge surface is fine. Mr Bailey arranged for the sign to be reinstalled after ascertaining the sign had been vandalised and stolen.

Mrs Hobbs queried what kind of trees are growing in the open drains in the new town centre development.

Mr Bailey noted there was a vegetation plan done for the Bremer Town Structure Plan and that the trees were carefully selected by the designers. Mr Bailey will look into what variety of trees they are and as to whether they were natural regrowth.

Mrs Pittard was disappointed with the road side bins located on Borden - Bremer Bay Road near Reef Beach, Mrs Pittard is aware the road side bins are the responsibility of Main Roads however when Main Roads come to pick up the rubbish they don't pick up the rubbish that has been blown everywhere in the surrounding area, is it possible to get skip bins or could the Shire employees pick the rubbish up?

Mr Bailey advised that Main Roads are currently reviewing their rubbish pick up strategy, he will inform Main Roads of the concerns raised.

Mrs Pittard advised there was a lot of rubbish left everywhere at Reef Beach, who is responsible for Reef Beach?

Mr Bailey advised that Reef Beach is unallocated crown land, State Land Services are the responsible agency. Mr Bailey noted the Shire did trial a rubbish facility down at Dillon's over the Christmas period unfortunately it was misused with locals dumping household rubbish.

Mrs Pittard queried the primary Bremer Town Centre commercial lot located on the corner of Sea Dragon Ave and Borden Bremer Bay Road, is the block able to have street frontage to both roads.

Mr Pursey advised the corner lot is identified for a shop front development and frontage addressing both roads will be actively encouraged.

Mrs Pittard noted plans for parking at the rear of businesses in the town centre, Mrs Pittard thought there was to be no rear shop access.

Mr Pursey advised that the rear car parking area is effectively for overflow in the busy summer months and that secondary access from this carpark can be considered through the development process.

Mrs Pittard is concerned for teenage kids that they are getting bored in town and vandalism is resultant. Is there something Bremer Bay can get to entertain the teenagers? Mrs Pittard suggested a skate park in the public open space on Freeman Drive.

Mr Bailey advised the Shire is working towards funding for the implementation of the Bremer Bay Town Centre Structure Plan, a skateable area is identified in the Plan. Mr Bailey advised of past dealings with the development of the Hopetoun skate park, it was identified in many other cases that skate parks function best when they are located in the centre of town or adjacent to highly supervised areas.

Cr Trevaskis noted that a community group should be approaching Council with a proposal based on input from local teenagers and potential users of infrastructure targeting this age group.

Mrs Pittard noted there is a dead yandil tree hanging over the side of Wellstead Road which needs to be removed it is quite dangerous.

Mr Bailey advised tree loppers are coming down to Bremer Bay shortly and he will get them to look into it. Further investigation noted that a work order has already been issued for the removal of the dead tree.

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. PETITIONS / DEPUTATIONS / PRESENTATIONS

Nil

8. DECLARATIONS OF FINANCIAL INTEREST

Nil

9. CONFIRMATION OF MINUTES

9.1 Ordinary Council Meeting held 18th March 2015

OC150401 Moved Cr Parsons / Seconded Cr Trevaskis

That the Minutes of the Ordinary Meeting of Council held 18th March 2015 be confirmed.

Carried 6-0

WORKS

| | |
|------------------------------------|----------------------------|
| SUBMISSION TO: | Works |
| AGENDA REFERENCE: | 10.1.1 |
| SUBJECT: | Works Report |
| LOCATION/ADDRESS: | Shire of Jerramungup |
| NAME OF APPLICANT: | N/A |
| FILE REFERENCE: | |
| AUTHOR: | Chris Miller |
| DISCLOSURE OF ANY INTEREST: | Nil |
| DATE OF REPORT: | 7 th April 2015 |

ATTACHMENT

Attachment 10.1.1(a) – Road maintenance report
Attachment 10.1.1(b) – Road construction program schedule

ROAD CONSTRUCTION

Works on Rabbit Proof Fence Road are complete with the crew widening, upgrading drainage, forming and re-sheeting from Jerramungup North Road, 3km west.

Extensive regrowth & overburden removal was encountered which meant that the generic 4 week re-sheet turned into a six week job to open up the road corridor and re-establish the formation widths.

After the completion of Fence Road re-sheeting works the construction crew has mobilised to Jerramungup North Road to complete re-sheeting works from the Jerramungup - Gnowangerup Highway to the airstrip. Works on the Jerramungup North Road are going well with the crew extending existing drainage lines, and about 40% through hauling and spreading gravel. The crew are on track to be complete by the 24th of April.

Kokoda Road construction is also complete with the Monash / Kokoda intersection and fishtails sealed with 30mm hot mix. The existing pavement from the Memorial intersection, past the DFES shed to Spitfire Avenue was also re-sealed with 30mm hot mix to alleviate the problems with the existing pavement.

TOWN SERVICES

The town services team has been busy in Bremer Bay in preparation for the Easter period working on street maintenance and tidying up parks and gardens.

The Bremer Bay tree dump is complete which is a significant upgrade from the pre-existing arrangements, allowing more controlled burns as required with three separate cells.

The team has also been busy completing ongoing maintenance on the effluent systems in Jerramungup and Bremer Bay cleaning vegetation around effluent dams and drainage lines.

They have also fixed some ongoing stormwater drainage problems in Bremer Bay on the John Street and Susan Street easement and also opened up the existing drainage lines at the bottom of Derrick Street in Jerramungup.

STATUTORY REQUIREMENTS

Nil

STRATEGIC IMPLICATIONS

This item relates to the following component from the Shire of Jerramungup Strategic Community Plan 2012 – 2025;

Aspiration 10: A community where transport infrastructure is constructed and maintained using best practice principals.

FINANCIAL IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

WORKFORCE IMPLICATIONS

This report provides an overview of the outside workforce operations for the month.

VOTING REQUIREMENTS

Simple Majority

COMMENT

Nil

RECOMMENDATION

That Council adopt the March works report.

OC150402 Moved Cr Bailey / Seconded Cr Leenhouders

That Council adopt the March works report.

Carried 6-0

FINANCE

| | |
|------------------------------------|----------------------------|
| SUBMISSION TO: | Finance |
| AGENDA REFERENCE: | 10.2.1 |
| SUBJECT: | Accounts Payable |
| LOCATION/ADDRESS: | Shire of Jerramungup |
| NAME OF APPLICANT: | |
| AUTHOR: | Kiara Leeson |
| DISCLOSURE OF ANY INTEREST: | Nil |
| DATE OF REPORT: | 1 st April 2015 |

ATTACHMENT

Attachment 10.2.1 - List of Accounts Paid to 31st March 2015

BACKGROUND

| FUND | VOUCHERS | AMOUNTS |
|--------------------------------|----------------------|----------------------------|
| Municipal Account | | |
| Last Cheque Used | 27850 | |
| | EFT 10260 – 10319 | \$116,593.84 |
| | EFT 10321 – 10393 | \$ 235,679.41 |
| | Cheque 27851 – 27851 | \$2166.13 |
| | Cheque 27852 -27853 | Cancelled |
| | Cheque 27854 – 27866 | \$20,307.34 |
| | Direct Deposit | \$24.00 |
| Municipal Account Total | | \$374,770.72 |
| Trust Account | | |
| | EFT 10320-10320 | \$7425.00 |
| | Cheque 249 - 249 | \$420.00 |
| Trust Account Total | | \$7845.00 |
| <u>Grand Total</u> | | <u>\$382,615.72</u> |

CERTIFICATE

This schedule of accounts as presented, which was submitted to each member of the Council, has been checked and is fully supported by vouchers and invoices which are submitted herewith and which have been duly certified as to the receipt of goods and the rendition of services and as to prices computation, and costings and the amounts shown have been paid.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That the schedule of direct debits and accounts payable, totalling submitted \$382,615.72 to the Full Council on 15th April 2015 be endorsed.

SIGNATURES

Author

Chief Executive Officer

OC150403 Moved Cr Iffla / Seconded Cr Parsons

That the schedule of direct debits and accounts payable, totalling submitted \$382,615.72 to the Full Council on 15th April 2015 be endorsed.

SIGNATURES

Author

Chief Executive Officer

Carried 6-0

| | |
|------------------------------------|----------------------------|
| SUBMISSION TO: | Finance |
| AGENDA REFERENCE: | 10.2.2 |
| SUBJECT: | Monthly Financial Report |
| LOCATION/ADDRESS: | Shire of Jerramungup |
| AUTHOR: | Brent Bailey |
| DISCLOSURE OF ANY INTEREST: | Nil |
| DATE OF REPORT: | 1 st April 2015 |

SUMMARY

This report presents the monthly financial report to Council which is provided as an attachment to the agenda. The recommendation is to receive the monthly financial report.

ATTACHMENT

Attachment 10.2.2 - Monthly Financial Report – Period Ending 31st March 2015

BACKGROUND

As per the Financial Management Regulation 34 each Local Government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1) (d), for that month with the following detail

- The annual budget estimates,
- The operating revenue, operating income, and all other income and expenses,
- Any significant variations between year to date income and expenditure and the relevant budget provisions to the end of the relevant reporting period,
- Identify any significant areas where activities are not in accordance with budget estimates for the relevant reporting period,
- Provide likely financial projections to 30 June for those highlighted significant variations and their effect on the end of year result,
- Include an operating statement, and
- Any other required supporting notes.

CONSULTATION

Council financial records.

COMMENT

This report contains annual budget estimates, actual amounts of expenditure, revenue and income to the end of the month. It shows the material differences between the budget and actual amounts where they are not associated to timing differences for the purpose of keeping Council abreast of the current financial position.

STATUTORY REQUIREMENTS

Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996 require that financial activity statement reports are provided each month reporting on the sources and applications of funds, as set out in the annual budget under regulation 22(1)(d) for that month.

The report is to be presented at either the next ordinary meeting after the end of the month, or if not prepared in time to the next ordinary meeting after that meeting.

STRATEGIC IMPLICATIONS

This item relates to the following component from the Shire of Jerramungup Strategic Community Plan 2012 – 2025;

Aspiration 11: A community where revenue is maximised and rating methodology is fair, equitable and transparent.

FINANCIAL IMPLICATIONS

As detailed within the Monthly Financial Report

POLICY IMPLICATIONS

Accounting policies as detailed within the Monthly Financial Report

WORKFORCE IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council receive the Monthly Financial Report for the period ending 31st March 2015 in accordance with Section 6.4 of the Local Government Act 1995.

OC150404 Moved Cr Bailey / Seconded Cr Iffla

That Council receive the Monthly Financial Report for the period ending 31st March 2015 in accordance with Section 6.4 of the Local Government Act 1995.

Carried 6-0

**HEALTH,
BUILDING
&
TOWN PLANNING**

| | |
|------------------------------------|---|
| SUBMISSION TO: | Health, Building & Town Planning |
| AGENDA REFERENCE: | 10.3.1 |
| SUBJECT: | Proposed amendments to bank guarantee |
| LOCATION/ADDRESS: | Former Lot 231 Bremer Bay Road, Bremer Bay |
| NAME OF APPLICANT: | Mr Tony Stanich |
| FILE REFERENCE: | LU.SU.2 |
| AUTHOR: | Craig Pursey, Planning Officer |
| DISCLOSURE OF ANY INTEREST: | Nil |
| DATE OF REPORT: | 26 th March 2015 |

SUMMARY

Council considered a request from the developer of Lot 231 Bremer Bay Road, Bremer Bay (Mr Tony Stanich) to delay and discount the bank guarantee lodged to secure subdivision works expected as part of Stage 2 at their meeting in August 2014. At this meeting Council resolved to refuse the request.

Ongoing negotiations with the developer and a detailed review of the nature of the development required under the existing bank guarantee have led to a request for Council to reconsider their decision of August 2014.

This report recommends requiring the construction of the footpath to the east of the subdivision but delaying the drainage works in Bremer Bay Road until such time as stage 3 of the subdivision of Lot 231 is commenced.

ATTACHMENT

Nil

BACKGROUND

Site Description

Lot 231 Bremer Bay Road, Bremer Bay is located on the north side of Bremer Bay Road, adjacent to the Bremer Bay Caravan Park as shown in the figure below.



Lot 231 edged in yellow (source: Landgate 2014)

Previous Considerations

2008

Council considered and conditionally supported an application for a 117 lot subdivision of Lot 231 Bremer Bay Road, Bremer Bay at their meeting of 15th April 2008.

The Western Australian Planning Commission approved the subdivision application on the 14th November 2008, applying 26 conditions of approval (WAPC #131320).

Stage 2 consisted of 33 lots along Bremer Bay Road at the northern end of the site; this was completed to the Shire's satisfaction on the 13th September 2012.

33 Titles have been created, only 7 appeared to have been sold; there has been no housing activity on any of these lots.

Condition 16

Condition 16 of this approval stated:

“Arrangements for upgrading and construction of Progress Drive and Bremer Bay Road.”

There were explanatory notes included in the approval that described that this condition included:

- Path construction linking path on frontage of subdivision to existing path network further east toward the beach; and
- The drainage and kerb work on Bremer Bay Road between the subdivision and Progress Drive

Rather than construct these elements the applicant decided to 'bond' them with the Shire. The Shire received a substantial bank guarantee and a written commitment to conduct these works by the 1st July 2015.

2012

Council considered and supported a re-application to create 77 lots over the balance of this property at their meeting in November 2012 and supported it subject to 17 conditions of approval. This new application was subsequently approved by the WAPC, expiring on the 14th January 2017.

2014

Council considered and refused a request to delay the works required as part of Stage 2.

CONSULTATION

Shire staff

COMMENT

Council's Planning Officer and Works Manager met with the developer of Lot 231 Bremer Bay Road in late February 2015 in order to give direction on the works required to complete Stage 2. The works include:

- Construction of a concrete footpath linking the subdivision to an existing path to the east of Lot 231.
- Drainage and crossover upgrades in Bremer Bay Road between the subdivision and Progress Drive. These works would include the removal, replacement and upgrading of seven crossovers, deepening of the existing open drain and additional rock pitching and stabilisation work.

Footpath

At this meeting agreement was reached on the standard and alignment of the concrete footpath to be extended to the east. It is anticipated that this work will be completed before 30th June 2015. The footpath alignment is shown in the image below.



Proposed new footpath alignment

Drainage Works

The drainage works required include:

- Removal of seven crossovers between Progress Drive and Lot 231;
- Deepening of open drain, rock pitching and stabilising of open drain; and
- Replacement and upgrading of seven crossovers with new levels, asphalt surface and new 375mm pipes.

At the time when Stage 2 of the subdivision of Lot 231 was constructed it was felt that there was no guarantee as to when Stage 3 would commence and therefore both the footpath and drainage works were secured with a bank guarantee. The bank guarantee can be cashed by Council in July 2015 under the terms of the agreement of the time.

A review of the current condition of the drainage in Bremer Bay Road shows:

1. The current drainage and crossovers function adequately.
2. The works required *may* exceed the total of the bank guarantee secured if the Shire had to conduct the works;
3. Stage 2 development did not contribute to stormwater drainage in this part of Bremer Bay Road; and
4. Economies of scale could be achieved if the works in question could be undertaken with the next stage of the subdivision of Lot 231 as mobilisation costs would be reduced.

Proposal

The developer proposes to:

- Complete the footpath by 1st July 2015;
- Undertake the drainage works in Bremer Bay Road as part of Stage 3;
- Has indicated that there is no timeframe for Stage 3 starting at this time as it is subject to the market. However he has stated that; “*with the Bremer Bay Canyon phenomenon giving Bremer some exposure, it will speed things up*”; and
- Accepts that Council will retain the entire bank guarantee to cover the drainage works on Bremer Bay Road.

Assessment

The footpath is a good link for both the subdivision and the town and should be constructed by July 2015.

At this stage the drainage and crossover upgrade is not necessarily required as the current drainage works well enough and the subdivision is not contributing storm water to this portion of Bremer Bay Road.

It is recommended that the bank guarantee be retained and a new construction date of 14th January 2017 be agreed in writing unless an alternative date is negotiated prior to the time. 14th January 2017 is when the current subdivision approval for Stage 3 expires.

STATUTORY REQUIREMENTS

The Shire of Jerramungup accepted a bank guarantee in lieu of the subdivider constructing the elements required by condition 16 of subdivision approval WAPC #131320. The conditions of subdivision were cleared in September 2012 and Titles created as a result.

The Shire of Jerramungup has the right to call upon the bank guarantee to satisfy this condition of subdivision as required.

The methodology for the bonding of subdivision conditions is established through the Institution of Public Works Engineering Australia (IPWEA) Subdivisional Guidelines previously adopted by Council and recognised by the WAPC.

STRATEGIC IMPLICATIONS

The proposal is consistent with the following aspirations of the Strategic Community Plan:

Aspiration 11: A community where revenue is maximised and rating methodology is fair, equitable and transparent.

FINANCIAL IMPLICATIONS

The recommendation in this item seeks to defer the drainage works under the existing bank guarantee until 14th January 2017. Should additional time be sought beyond that period the sum of the bank guarantee would need to be reviewed to ensure the value will cover the costs of the drainage upgrade .

WORKFORCE IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council,

1. Require the construction of the footpath from Blossom Avenue to the existing path network to the east of former Lot 231 Bremer Bay Road, Bremer Bay by the 31st July 2015; and
2. Agree to extend the timeframe for the calling upon the bank guarantee for the drainage works required by Condition 16 of WAPC 131320 to 14th January 2017 or such alternative date as negotiated prior to that date.

OC150405 Moved Cr Leenhouwers / Seconded Cr Bailey

That Council,

- 1. Require the construction of the footpath from Blossom Avenue to the existing path network to the east of former Lot 231 Bremer Bay Road, Bremer Bay by the 31st July 2015; and**
- 2. Agree to extend the timeframe for the calling upon the bank guarantee for the drainage works required by Condition 16 of WAPC 131320 to 14th January 2017 or such alternative date as negotiated prior to that date.**

Carried 6-0

| | |
|------------------------------------|--|
| SUBMISSION TO: | Health, Building & Town Planning |
| AGENDA REFERENCE: | 10.3.2 |
| SUBJECT: | Proposed Scheme Amendment 9 |
| LOCATION/ADDRESS: | Lots 2100 Point Henry Road and Part Lot 50 Wellstead Road, Bremer Bay |
| NAME OF APPLICANT: | Harley Dykstra Pty Ltd on behalf of WM Wellstead |
| FILE REFERENCE: | A1601031 |
| AUTHOR: | Craig Pursey, Planning Officer |
| DISCLOSURE OF ANY INTEREST: | The author of this report is a former employee of the applicant |
| DATE OF REPORT: | 7 th April 2015 |

SUMMARY

Council is to consider initiating Scheme Amendment 9 to the Shire of Jerramungup Local Planning Scheme No 2 to:

1. Rezone Pt Lot 50 Wellstead Road and Lot 2100 Point Henry Road, Bremer Bay from the 'Rural' zone to 'Rural Residential' No.6 zone, and amend the Scheme Maps accordingly; and
2. Insert provisions relating to the subdivision, development and use of Rural Residential Zone No.6 into Schedule 11 of the Scheme Text.

This rezoning would allow for the creation of three lots within a minimum lot size of one hectare.

Council provided 'in-principle support' for the scheme amendment at their meeting in December 2014 subject to the applicant providing a fire management plan, land capability study and a contribution toward the Shire's shared path network.

The requested documentation has been provided and the proposed Scheme provisions and subdivision guide plan adequately address the site's opportunities and constraints.

On balance, this report recommends that the amendment be initiated subject to minor modifications and referred to the EPA for assessment.

ATTACHMENT

- Attachment 10.3.2 (a) - Draft Scheme Amendment Provisions
- Attachment 10.3.2 (b) - Draft Subdivision Guide Plan
- Attachment 10.3.2 (c) - Bushfire Management Plan Summary Sheet

BACKGROUND

Site Description

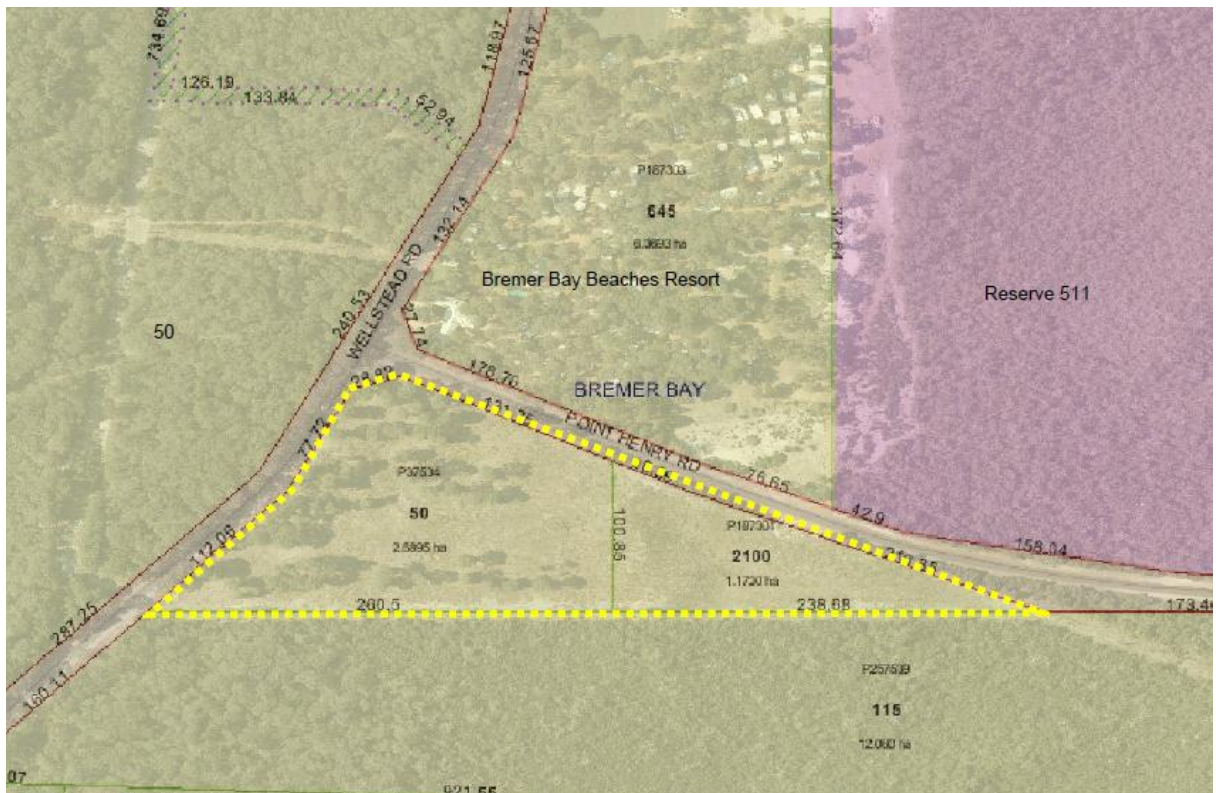
Lot 2100 Point Henry Road is a triangular lot 1.172ha in area, largely cleared and zoned 'Rural' under the Scheme.

Lot 50 Wellstead Road is a large lot that extends on both sides of Wellstead Road, only the 2.69ha portion on the eastern side of Wellstead Road is being proposed for rezoning.

Lot 2100 and the eastern portion of Lot 50 (the subject site) are a total of 3.86ha in area located on the south eastern corner of the Point Henry and Wellstead Road intersection. It is 3.3km from the Bremer Bay town centre.

The Bremer Bay Beaches Resort Caravan Park is on the subject site's northern boundary, the remaining surrounding properties are largely covered in remnant vegetation.

The subject site has access to power but not scheme water or sewer. Access to the site is via Wellstead Road and Point Henry Road.



Subject site edged in yellow, image shows the site largely cleared. (Landgate 2014)

Zoning & Scheme Requirements

The subject site is zoned 'Rural' by the Shire's Local Planning Scheme No.2.

Under the current zoning there is little to prevent the subject site being developed with two separate residences. If the houses complied with the setback requirements of the Scheme, no planning approval would be required to develop housing on these sites.

CONSULTATION

Should Council agree to pursue the scheme amendment it will require consultation with affected government agencies and the local community as required by statutory processes.

COMMENT

The Proposal

The applicant has submitted a draft amendment document which proposes to:

1. Rezone Pt Lot 50 Wellstead Road and Lot 2100 Point Henry Road, Bremer Bay from 'Rural' zone to 'Rural Residential' No.6 zone, and amend the Scheme Maps accordingly; and
2. Insert provisions relating to the subdivision, development and use of Rural Residential Zone No.6 into Schedule 11 of the Scheme Text.

The rezoning would facilitate the subject sites subdivision into three lots with a minimum lot size of one hectare.

To support this application, a Bushfire Management Plan and Land Capability Assessment have been prepared by Bio Diverse Solutions and are appended to the scheme amendment document.

The scheme amendment documentation appears to address and/or acknowledge the requirements of the Local Planning Strategy, various State Planning Policies and commits to contributing to the shared path network connecting the site back to the Bremer Bay townsite.

A full copy of the Scheme Amendment document is available on request. A copy of the proposed Scheme provisions are at Attachment 10.3.2(a), the Subdivision Guide Plan (SGP) is at Attachment 10.3.2 (b) and the Bushfire Management Plan is at Attachment 10.3.2(c) of this report.

The application provides a summary justification for the proposal as follows:

- *The land is cleared and highly capable of supporting the proposed land uses;*
- *The ongoing fire protection benefit that the Shire of Jerramungup currently receives from the landowners maintenance of the land will be secured in perpetuity through an appropriate Fire Management Plan and Scheme Provisions;*
- *The land is currently vacant, however, it is quite possible that the land could be developed for two (2) additional dwellings and associated outbuildings. The Amendment will introduce better fire controls over the land and better overall land management in return for an additional lot/dwelling entitlement;*
- *The requirements specified in Council determination of the Scheme Amendment Request in December 2014 have been achieved;*
- *Although the land is not identified within the Shire of Jerramungup Local Planning Strategy for rural residential uses, it should be considered that the use of the subject site for these uses brings the Point Henry rural residential area to the logical edge point, being the intersection of Wellstead and Point Henry Roads;*
- *It is located in a locality characterised by Rural Residential land uses and forms a natural edge to the rural residential development in the locality.*

Assessment

Points in favour of the proposal include:

1. Lot 2100 and Part Lot 50 can already be developed with 2 houses, without planning approval if the Scheme setbacks are met. Changing the zoning to 'Rural Residential' will require planning approval for all development and the chance to improve the environmental and fire management aspects of any development.
2. If the site can be developed with 2 houses, there is an argument that the land's development potential should be maximised; therefore a minimum lot size of 1 ha is the smallest acceptable in this zone.
3. The subject site is already largely cleared and currently maintained in a low fuel state by the landowner, Max Wellstead. This benefits fire management for the wider area. However there is currently nothing requiring the landowner to keep it in this low fuel state, the subject site would regenerate quickly if not actively managed. Rezoning the site would secure its ongoing management into the future.
4. The site is part of Point Henry and is a logical extension and limit to the existing 'Rural Residential' zone.

Points against the proposal include:

1. The site is not specifically identified in either the Local Planning Strategy or the older Point Henry Limited Rural Strategy as future Rural Residential development.
2. The proposal would introduce additional housing into the Point Henry area which has known fire management issues, including issues with access being one road in only.

On balance approval is recommended because the Local Planning Strategy is not detailed blueprint but a guide the Council should pay due regard to when making land use decisions. The land can be developed in any case, it seems logical to introduce greater controls to achieve a better planning outcome and safer development for the return of one additional lot.

Subdivision Guide Plan

The Subdivision Guide Plan (SGP) is provided at Attachment 10.3.2(b). It shows the subject site subdivided into 3 lots with a minimum lot size of 1ha.

A subdivision guide plan guides future subdivision and development of the site along with the scheme provisions. The features of the SGP include:

- A simple three lot subdivision that responds to the sites opportunities and constraints;
- Centrally located building envelopes in the 'low' fuel area of the property;
- A shared crossover to reduce potential access issues; and
- Includes bushfire management measures such as a fire service access track along the southern boundary of the site and perimeter fire breaks around each lot.

The SGP design is generally supported.

Land Capability

The documentation includes a review of a previous land capability assessment completed for the subject site. Land capability studies at this stage of the scheme amendment process are required to establish that the site is capable of being developed both in terms of soil types for housing foundations and access and for effluent disposal.

- (i) The report shows that the site is capable of being developed with housing.

- (ii) The reporting acknowledges that there is no 'late winter water testing' for distance to ground water table but it does make the case that it is highly unlikely that the site would be affected by a high water table.

The site appears to be capable of development and if the responsible agencies require more information to satisfy their requirements then this can occur during the advertising period for the scheme amendment.

Bushfire Management Plan

A fully compliant Bushfire Management Plan has been submitted with the documentation, a copy of the Plan is at Attachment 10.3.2(c) of this report. It proposes the following elements:

- (i) Substantial setbacks from 'moderate' hazard vegetation that allow for development within the building envelope to be a BAL12.5 standard.
- (ii) Perimeter fire breaks around each lot;
- (iii) A 'fire service access' track along the southern boundary, which is effectively a trafficable firebreak;
- (iv) The balance of the lots to be retained in a low fuel state;
- (v) 20,000l of water retained specifically for fire fighting on each lot; and
- (vi) Details on driveway, access and building protection zone standards;

The only element of the various Guidelines applicable to fire management that is not addressed appears to be the requirement for a subdivision not connected to scheme water to provide one 50KL water tank per 25 lots created *or part thereof*.

Technically Council has the ability to insist on the provision of a 50KL water tank to service the subdivision. At this stage it is recommended to accept this element as proposed but to further investigate with the Department for Fire and Emergency Services during the advertising period.

Contribution Toward Trails Network

The subject site is 3.3km from the Bremer Bay townsite along Wellstead Road. Council has adopted a trails network for connecting the adjacent caravan park and Point Henry back into town.

The applicant has accepted that a contribution of up to \$10,000 will be required as part of the current development proposal. This will be enforced through clauses in the scheme amendment.

Conclusion

The proposed scheme amendment is consistent with the in-principle support provided previously by Council and has provided acceptable supporting documentation. It is recommended that Scheme Amendment No.9 be initiated for the purposes of forwarding to the Environmental Protection Authority.

STATUTORY REQUIREMENTS

All amendments undergo a statutory process including referral to the EPA, public advertising and ultimately approval of the amendment is required by the Minister for Planning.

As a first step, should Council agree to initiate the amendment, the amendment is referred to the EPA for assessment.

Public advertising is required and further information from various government agencies is sought during this period to further inform the proposal.

There is no right for review to the State Administrative Tribunal if Council does not initiate an amendment. However, with recent changes to the Planning and Development Act 2005 there may now be an opportunity for the applicant to approach the Minister for Planning to initiate the Amendment.

STRATEGIC IMPLICATIONS

The proposal aligns with a variety of the aspirations of the Strategic Community Plan:

Aspiration 2: A growing community that embraces well designed and sustainable development.

Aspiration 4: An environmentally astute community where human needs are met while conserving our natural and built environment.

FINANCIAL IMPLICATIONS

None for Council at this stage.

If the scheme amendment progresses there will be fees paid that will cover advertising and officer time.

WORKFORCE IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council,

1. Initiate Amendment No 9 to the Shire of Jerramungup Local Planning Scheme No 2 pursuant to Section 75 of the Planning and Development Act 2005 by;
 - a) Rezoning Pt Lot 50 Wellstead Road and Lot 2100 Point Henry Road, Bremer Bay from the 'Rural' zone to 'Rural Residential No.6' zone, and amending the Scheme Maps accordingly; and
 - b) Inserting provisions relating to the subdivision, development and use of Rural Residential Zone No.6 into Schedule 11 of the Scheme Text.
2. Refer Scheme Amendment No 9 to the Environmental Protection Authority for assessment.

OC150406 Moved Cr Iffla / Seconded Cr Trevaskis

That Council,

1. **Initiate Amendment No 9 to the Shire of Jerramungup Local Planning Scheme No 2 pursuant to Section 75 of the Planning and Development Act 2005 by;**
 - a) Rezoning Pt Lot 50 Wellstead Road and Lot 2100 Point Henry Road, Bremer Bay from the 'Rural' zone to 'Rural Residential No.6' zone, and amending the Scheme Maps accordingly; and**
 - b) Inserting provisions relating to the subdivision, development and use of Rural Residential Zone No.6 into Schedule 11 of the Scheme Text.**
2. **Refer Scheme Amendment No 9 to the Environmental Protection Authority for assessment.**

Carried 6-0

| | |
|------------------------------------|--|
| SUBMISSION TO: | Health, Building and Town Planning |
| AGENDA REFERENCE: | 10.3.3 |
| SUBJECT: | Review of Local Planning Scheme & Building Act delegations |
| LOCATION/ADDRESS: | N/A |
| NAME OF APPLICANT: | N/A |
| FILE REFERENCE: | Delegations Register |
| AUTHOR: | Planning Officer, Craig Pursey |
| DISCLOSURE OF ANY INTEREST: | The author has an interest in that certain delegations will fall under his area of responsibility. |
| DATE OF REPORT: | 2 nd April 2015 |

SUMMARY

Council is requested to review the existing delegations to staff to administer specific aspects of the Local Planning Scheme as required by Clause 11.3 of the Scheme and Section 5.46 of the Local Government Act.

The existing delegations appear to have been functioning well.

Council approval to extend delegation to approving building envelope locations in the Rural Residential Zone is sought to expedite acceptable applications.

ATTACHMENT

Nil

BACKGROUND

At their meeting of 21st May 2014 Council resolved to delegate to the Chief Executive Officer a series of powers and duties under Clause 11.3 of the Shire of Jerramungup Local Planning Scheme No.2.

The delegations are required to be reviewed at least once every financial year.

In order to achieve compliance the listing of Council's delegations is submitted for approval by Council.

COMMENT

The current delegations have resulted in a more streamlined assessment process with staff being empowered to negotiate with applicants and commit to turnaround times for compliant applications.

No complaints have been received regarding staff application of the delegations under the Local Planning Scheme during the past year.

Proposed Additional Delegations

In October 2014 Council adopted the Point Henry Fire Management Strategy Policy Statement as a Local Planning Policy. One of the measures adopted states:

That as part of the planning application for a dwelling, the building envelope is to be redefined and endorsed by Council. The building envelopes shown in the subdivision guide plans are general in nature and historically have not been assessed against fire management & environmental/landscape/amenity principles. While acknowledging that landowners will want to site dwellings to take advantage of coastal views the building envelope should preferably not be located in areas of Kwongkan Shrubland.

All development in the Rural Residential zone must be located within a 3000m² building envelope and this building envelope location is now required to be assessed and approved with every application. As this is a recent change every planning application for new development in Point Henry will need to go before Council as this decision making is not delegated to officer level.

Clause 5.25.3 (f) of Local Planning Scheme No.2 states:

Building envelopes as shown on the Subdivision Guide Plan are to:

- (i) be delineated on-site by owner and approved by the local government prior to the commencement of any clearing of vegetation and the local government may require an alternative building envelope if it considers the envelope delineated would be detrimental to the landscape or environment;*
- (ii) not exceed 10% of the lot area, or 3,000 m² whichever is the lesser;*
- (iii) be located having regard for the suitability of the soil for effluent disposal, wind protection and the objective to minimise erosion and the visual prominence of buildings;*
- (iv) be located on lots adjacent to major roads, tourist routes, the roads to the beaches on Point Henry Peninsula, and reserved land so that any building is not visually prominent when viewed from such roads or reserved land;*
- (v) be located, wherever possible, so that new dwellings will not be visible from dwellings on adjacent or surrounding properties.*

Building envelope applications are generally referred to neighbours for comment as part of their assessment. It is suggested that the power to approve building envelope applications are delegated to the Chief Executive Officer subject to:

- i) No objection being received from neighbouring landowners;

- ii) The building envelope location is not visually prominent when viewed from major roads, roads to beaches, reserve land or beaches; and
- iii) The envelope is not located in Kwongkan Shrubland.

STATUTORY REQUIREMENTS

Scheme requirements

- Clause 11.3 of the Shire of Jerramungup Local Planning Scheme No.2 refers to the delegations of functions under the Scheme.
- Clause 11.3.1 allows Council to delegate any of its powers or any of its duties under the Scheme, to the CEO or a Committee.
- Clause 11.3.2 allows the CEO to delegate in turn to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties.

Clause 11.3 of the Scheme calls up Section 5.46 of the Local Government Act which requires the annual review of delegations.

STRATEGIC IMPLICATIONS

The proposal aligns with a variety of the aspirations of the Strategic Community Plan:

Delegations help to facilitate: **Aspiration 2:** A growing community that embraces well designed and sustainable development.

Aspiration 6: An engaged and informed community, defined by strong civic leadership, sound governance and transparent decision making.

FINANCIAL IMPLICATIONS

There may be small savings to the Shire in the more efficient use of staff resources.

POLICY IMPLICATIONS

Local Planning Policies may be implemented at staff level should applications be fully compliant.

VOTING REQUIREMENTS

Absolute Majority

RECOMMENDATION

That Council delegate to the Chief Executive Officer the following powers and duties under Clause 11.3 of the Shire of Jerramungup Local Planning Scheme No.2:

Local Planning Scheme No.2

1. Initiate the necessary public advertising of 'A' planning applications prior to determination by the Council.
2. Initiate the necessary public advertising of planning applications for a 'Use Not Listed' prior to determination by the Council.
3. Approve all 'P' planning applications where the use proposed complies with standards prescribed by Local Planning Scheme No.2 and any relevant Local Planning Policies made under the Scheme.
4. Approve all 'D' planning applications subject to:
 - (i) Compliance with the objectives of the Council's Local Planning Policies; and
 - (ii) Compliance with Local Planning Scheme No.2.
5. Approve planning applications for building envelopes in the 'Rural Residential' zone where:
 - (i) No objection being received from neighbouring landowners;
 - (ii) The building envelope location is not visually prominent when viewed from major roads, roads to beaches, reserve land or beaches; and
 - (iii) The envelope is not located in Kwongkan Shrubland.
6. Approve planning applications in a Reserve where the proposed use is consistent with the ultimate purpose intended for the reserve.
7. Approve and accept tree planting and landscaping plans required for subdivisional approvals or planning consent conditions where the plans involve the use of local native plant and tree species or other appropriate species.
8. Provide responses to mobile phone carriers in accordance with the Telecommunications Act in respect to:
 - (i) The proposed method of community consultation.
 - (ii) The installation of low impact facilities.
9. Approve requests for boundary setback variations required by the Residential Design Codes, the Town Planning Scheme or relevant Local Planning Policies (where there is power to vary the standards) where the variation will not adversely impact on the amenity of adjoining residences and adjoining owners support has been received.

10. Approve applications for purpose built transportable buildings where the proposed building will not adversely impact on the amenity of adjoining residences and adjoining owners support has been received.
11. Approve applications for Single Houses and outbuildings in the Rural Residential zone where the proposed building(s) fully comply with the requirements of the Local Planning Scheme and/or relevant Local Planning Policies and will not adversely impact on the amenity of adjoining residences.
12. Approve applications for advertisements that fully comply with the requirements of the Local Planning Scheme and/or relevant Local Planning Policies and will not adversely impact on the amenity of the surrounding area.

Subdivision

13. Recommend support to the Western Australian Planning Commission and where delegated by the Commission determine applications for subdivisional proposals up to five (5) lots where these proposals comply with Local Planning Scheme No.2 or relevant Local Planning Policy and ensure appropriate and relevant conditions are requested of the Western Australian Planning Commission.
14. Endorse clearance of Freehold Title and Strata title subdivisions on Deposited Plans or Plans of Strata / Survey Strata and strata documents.

Scheme Amendments and Structure Plans

15. Require proponents to modify Local Planning Scheme Amendments and Structure Plan documents to the satisfaction of Council officers prior to them being considered by the Council.
16. Make inconsequential text and grammatical modifications to Scheme Amendments and Structure Plan documentation at any stage of the process.
17. Accept modifications to Scheme Amendments required by the Minister for Planning and Infrastructure unless they are in direct conflict with the Council's intentions following the consideration of submissions. This will include accepting the Minister's decision not to require modifications which were requested by the Council following consideration of submissions.

Appeals

18. Provide responses to the State Administrative Tribunal in respect to applications for a review lodged against a refusal of planning consent, unacceptable conditions imposed on an approval of planning consent or supporting statements for the Western Australian Planning Commission in respect to a subdivision application decision made by the Commission. This also includes advising the Tribunal if mediation is an option to consider for the appeal process.

Legal Proceedings

19. The Chief Executive Officer is delegated authority to appoint persons to initiate prosecutions and legal proceedings for breaches of the Town Planning Scheme in accordance with Part 13 of the Planning and Development Act 2005 on behalf of the Council.

OC150407 Moved Cr Bailey / Seconded Cr Leenhouders

That Council delegate to the Chief Executive Officer the following powers and duties under Clause 11.3 of the Shire of Jerramungup Local Planning Scheme No.2:

Local Planning Scheme No.2

1. Initiate the necessary public advertising of 'A' planning applications prior to determination by the Council.
2. Initiate the necessary public advertising of planning applications for a 'Use Not Listed' prior to determination by the Council.
3. Approve all 'P' planning applications where the use proposed complies with standards prescribed by Local Planning Scheme No.2 and any relevant Local Planning Policies made under the Scheme.
4. Approve all 'D' planning applications subject to:
 - (i) Compliance with the objectives of the Council's Local Planning Policies; and
 - (ii) Compliance with Local Planning Scheme No.2.
5. Approve planning applications for building envelopes in the 'Rural Residential' zone where:
 - (i) No objection being received from neighbouring landowners;
 - (ii) The building envelope location is not visually prominent when viewed from major roads, roads to beaches, reserve land or beaches; and
 - (iii) The envelope is not located in Kwongkan Shrubland.
6. Approve planning applications in a Reserve where the proposed use is consistent with the ultimate purpose intended for the reserve.
7. Approve and accept tree planting and landscaping plans required for subdivisional approvals or planning consent conditions where the plans involve the use of local native plant and tree species or other appropriate species.
8. Provide responses to mobile phone carriers in accordance with the Telecommunications Act in respect to:
 - (i) The proposed method of community consultation.

- (ii) The installation of low impact facilities.
- 9. Approve requests for boundary setback variations required by the Residential Design Codes, the Town Planning Scheme or relevant Local Planning Policies (where there is power to vary the standards) where the variation will not adversely impact on the amenity of adjoining residences and adjoining owners support has been received.
- 10. Approve applications for purpose built transportable buildings where the proposed building will not adversely impact on the amenity of adjoining residences and adjoining owners support has been received.
- 11. Approve applications for Single Houses and outbuildings in the Rural Residential zone where the proposed building(s) fully comply with the requirements of the Local Planning Scheme and/or relevant Local Planning Policies and will not adversely impact on the amenity of adjoining residences.
- 12. Approve applications for advertisements that fully comply with the requirements of the Local Planning Scheme and/or relevant Local Planning Policies and will not adversely impact on the amenity of the surrounding area.

Subdivision

- 13. Recommend support to the Western Australian Planning Commission and where delegated by the Commission determine applications for subdivisional proposals up to five (5) lots where these proposals comply with Local Planning Scheme No.2 or relevant Local Planning Policy and ensure appropriate and relevant conditions are requested of the Western Australian Planning Commission.
- 14. Endorse clearance of Freehold Title and Strata title subdivisions on Deposited Plans or Plans of Strata / Survey Strata and strata documents.

Scheme Amendments and Structure Plans

- 15. Require proponents to modify Local Planning Scheme Amendments and Structure Plan documents to the satisfaction of Council officers prior to them being considered by the Council.
- 16. Make inconsequential text and grammatical modifications to Scheme Amendments and Structure Plan documentation at any stage of the process.
- 17. Accept modifications to Scheme Amendments required by the Minister for Planning and Infrastructure unless they are in direct conflict with the Council's intentions following the consideration of submissions. This will include accepting the Minister's decision not to require modifications which were requested by the Council following consideration of submissions.

Appeals

18. Provide responses to the State Administrative Tribunal in respect to applications for a review lodged against a refusal of planning consent, unacceptable conditions imposed on an approval of planning consent or supporting statements for the Western Australian Planning Commission in respect to a subdivision application decision made by the Commission. This also includes advising the Tribunal if mediation is an option to consider for the appeal process.

Legal Proceedings

19. The Chief Executive Officer is delegated authority to appoint persons to initiate prosecutions and legal proceedings for breaches of the Town Planning Scheme in accordance with Part 13 of the Planning and Development Act 2005 on behalf of the Council.

Carried by Absolute Majority 6-0

| | |
|------------------------------------|---|
| SUBMISSION TO: | Health, Building & Town Planning |
| AGENDA REFERENCE: | 10.3.4 |
| SUBJECT: | Proposed Building Envelope, Single House, Ancillary Accommodation & Outbuilding |
| LOCATION/ADDRESS: | Lot 54 Gneiss Hill Road, Bremer Bay |
| NAME OF APPLICANT: | Stacey Francis & Debra Fluhler |
| FILE REFERENCE: | A100325 |
| AUTHOR: | Craig Pursey, Planning Officer |
| DISCLOSURE OF ANY INTEREST: | Nil |
| DATE OF REPORT: | 7 th April 2015 |

SUMMARY

Council has received a planning application for Lot 54 Gneiss Hill Road, Bremer Bay that proposes the following:

- a) An irregularly shaped 3000m² building envelope;
- b) Single storey house;
- c) 200m² outbuilding;
- d) Ancillary accommodation;
- e) Two water tanks;
- f) Building Protection Zones around all development; and
- g) Access driveways and turnarounds

A Bushfire Attack Level (BAL) assessment has been provided with the application that requires and proposes construction to BAL29 standard.

No variation to the Local Planning Scheme, Point Henry Fire Management Strategy Policy Statement or the Western Australian Planning Commission's (WAPC) Planning for Bushfire Risk Management Policy Framework is proposed.

Conditional planning approval is recommended.

ATTACHMENT

Attachment 10.3.4 - Planning Application including BAL Assessment

BACKGROUND

Site Description

Lot 54 Gneiss Hill Road, Bremer Bay (Lot 54) is 5.34ha in area and developed with a limestone access track only. Lot 54 is accessed via a 115m long battleaxe driveway.

The property remains in a vegetated state consisting of peppermint and mallee trees and heath. The property does not appear to be vegetated with the Kwongkan Shrubland vegetation community.

Existing Rural Residential lots adjoin Lot 54 to the north, west and east with reserve land connecting through to Blossoms Beach on the properties southern side.



Lot 54 edged in yellow (Landgate 2014)

Zoning & Scheme Requirements

Lot 54 is zoned Rural Residential Area 1 by the Shire's Local Planning Scheme No.2. All development in this zone requires planning approval.

Council adopted Local Planning Policy 18 - Point Henry Fire Management Strategy Policy Statement (LPP18) at their meeting in October 2014 which applies to the site.

CONSULTATION

LPP18 requires that as part of the planning application for a dwelling, the building envelope is to be redefined and endorsed by Council. The proposed building envelope was referred to all adjoining landowners as part of the assessment process with no objections being received.

COMMENT

The Proposal

Council has received a planning application for Lot 54 Gneiss Hill Road, Bremer Bay that proposes the following:

- a) An irregularly shaped 3000m² building envelope;
- b) Single storey house;
- c) 200m² outbuilding with a ridge height of 5.0m;
- d) Single storey ancillary accommodation;
- e) Two water tanks providing 92KL of water plus 20KL of water dedicated for fire fighting purposes;
- f) Building Protection Zones around all development; and
- g) Access driveways linking and edging the proposed house and outbuilding.

A Bushfire Attack Level (BAL) assessment has been provided with the application that requires and proposes construction to BAL29 standard.

A full copy of the application and plans are attached to this report.

Assessment

All development in Rural Residential Zone 1 requires planning approval and is subject to the following requirements and policies:

- A. Shire of Jerramungup Local Planning Scheme No.2 (the Scheme);
- B. Local Planning Policy 16 - Outbuildings (LPP16);
- C. WAPC Planning for Bushfire Risk Management Policy Framework including:
 - (i) Draft State Planning Policy 3.7 (SPP 3.7);
 - (ii) Draft Planning for Bushfire Risk Management Guidelines and Appendices; and
 - (iii) Planning for Bushfire Protection Guidelines Edition 2
- D. Local Planning Policy 18 - Point Henry Fire Management Strategy Policy Statement (LPP18)

Compliance with each document is briefly explored below.

- A. Shire of Jerramungup Local Planning Scheme No.2 (the Scheme);

Rural Residential development is controlled through Clause 5.25 and Schedule 11 of the Scheme, a summary of the relevant requirements and the proposal's compliance are summarised in the table below.

| Requirement | Proposed | Compliance/Comment |
|---|--|---|
| 20m setback from road frontage and 15m from all other boundaries | A minimum of 20m | Complies |
| Single House permitted, ancillary accommodation at Council's discretion | Single storey house and ancillary accommodation. | Complies, ancillary accommodation is 61.5m ² internal floor area and will be required to be used by family & friends of the main residence only. |
| Building envelopes are to be a maximum of 10% of the lot area or 3000m ² , whichever is the lesser. The envelope is not to be located so as to cause erosion issues or result in buildings being visually prominent from tourist routes and ideally surrounding houses. | 3000m ² | Complies. The envelope is irregular in shape but does not result in development that will lead to erosion or buildings that would be visually prominent. |
| Driveways located so as to minimise erosion and the visibility of driveways | Utilises existing limestone access track and proposes additional access around house and shed sites at a lower elevation than the house. | Complies |
| Buildings are not to exceed 5 metres in height from natural ground level to the apex of the roof unless the local government is satisfied a higher building will not be visually obtrusive | The house, outbuilding and ancillary accommodation height do not exceed 5 metres. | Complies. |
| External walls to utilise non-reflective materials that blend with the landscape | Rammed Earth and colourbond proposed | Complies, to be condition of approval. |
| Minimum of 92KL of water storage and adequate roof catchment | 92KL of water tank plus 20KL dedicate fire fighting water supply | Complies |

B. Local Planning Policy 16 - Outbuildings (LPP16);

The application includes an outbuilding (shed) in a flat, low point on the site which complies with Local Planning Policy No 16 - Outbuildings as follows:

| | Permitted | Proposed | Compliance |
|---------------------------------|-------------------|-------------------|-------------------|
| Size for one outbuilding | 240m ² | 200m ² | Complies |
| Wall height | 4.2m | 4.2m | Complies |
| Ridge Height | 5m | 5m | Complies |

Fire Management

The WAPC have released the Planning for Bushfire Risk Management Policy Framework as a draft that includes the following documents that apply to all development proposals in bushfire prone areas (Point Henry is a bushfire prone area):

- (i) Draft State Planning Policy 3.7 (SPP 3.7);
- (ii) Draft Planning for Bushfire Risk Management Guidelines and Appendices; and
- (iii) Planning for Bushfire Protection Guidelines Edition 2

Additionally, Council adopted Local Planning Policy 18 - Point Henry Fire Management Strategy Policy Statement (LPP18) in October 2014 that further refines and clarifies the fire management requirements for development in Point Henry.

C. WAPC Planning for Bushfire Risk Management Policy Framework

The Department of Planning website describes the framework as follows:

SPP 3.7 assists in reducing the risk of bushfire to people, property and infrastructure by encouraging a conservative approach to strategic planning, subdivision, development and other planning decisions proposed in bushfire-prone areas. Specifically it:

- *addresses the land use planning elements of the Keelty report;*
- *elevates bushfire issues to be addressed by the highest level of planning policy available, giving it clear status and effect in the land use planning policy framework;*
- *emphasises the need to consider bushfire management measures in strategic level policy documents, including regional and local planning schemes, sub-regional and local planning strategies and structure plans, as well as during statutory planning processes for subdivision and development applications; and*

- *seeks to achieve the consistent implementation of bushfire management measures across the community.*

Revised Planning for Bushfire Risk Management Guidelines have also been prepared and are designed to supplement the objectives and policy measures established in SPP 3.7, to assist in their interpretation and provide advice on how bushfire risk is to be addressed when designing or assessing a proposal within a bushfire-prone area. Once finalised, the revised Guidelines will supersede the current Guidelines.

Although the documents are draft, they are considered to be 'seriously entertained planning proposal' and apply to development assessment.

The relevant requirements of the WAPC Framework are summarised in the following table:

| Requirement | Proposed | Compliance/Comment |
|---|---|--|
| SPP 3.7 | | |
| Any development application in an area where construction standards at or between BAL-12.5 and BAL-29 may apply requires a Bushfire Management Plan prepared by a fire consultant that includes a BAL assessment. | A BAL assessment was prepared by the applicant who has claimed to be an experienced person in fire management being the local Brigade Captain. | Complies The BAL assessment appears to be compliant and in the absence of an accreditation system it is not possible to question the applicant's credentials to provide this documentation. |
| Development applications within identified bushfire-prone areas are to undertake a bushfire hazard assessment (low, moderate or extreme), prepared by a fire consultant, in accordance with the methodology set out in the Planning for Bushfire Risk Management Guidelines. | BAL Assessment provided. | Complies See assessment against Guidelines below. |
| Planning for Bushfire Risk Management Guidelines | | |
| 1. Location <i>(Acceptable Solution)</i> The subdivision, development or land use is located in an area that is not subject to ... a Bushfire Attack Level of BAL-40 or BAL-FZ. | Proposed fuel reduction around buildings of at least 20m. | Complies With low fuel areas established the maximum BAL that applies is BAL29 |
| 2. Siting & Design of Development <i>(Acceptable Solution)</i> 20m Building Protection Zone (BPZ) + Hazard Separation Zone (HSZ) proposed and housing developed in accordance with AS3959 | BAL29 and 20m BPZ | Condition required BAL assessment assumes Shrubland vegetation type. If worse case scenario is assumed and 'woodland' is applied then a 22m setback is required given the slope of the land and the BAL29 construction standard proposed. |
| 3. Vehicular Access <i>(Acceptable Solutions)</i> Private Driveways with trafficable surface and minimum horizontal and vertical clearances from vegetation. Turn-around areas designed to accommodate type 3.4 fire appliances and to enable them to turn around safely every 500m and within 50m of a house. | Use of existing driveway. New driveways around the house making a loop back to the existing driveway. Secondary informal access to neighbours firebreak system. | Complies |
| 4. Water No specific requirements at development application stage | 20KL water tank dedicated for fire fighting purposes | Complies |

As the application complies with the acceptable solutions described in the Planning for Bushfire Risk Management Guidelines and has provided an acceptable BAL assessment the application is deemed to comply with the WAPC Framework.

D. Local Planning Policy 18 - Point Henry Fire Management Strategy Policy Statement (LPP18)

Council adopted LPP18 in October 2014 with the objectives:

- a) *To integrate fire management as a key element of development and subdivision design in balance with environmental, landscape, community and residential objectives;*
- b) *To ensure that new development contains appropriate levels of bushfire protection;*
- c) *To improve the fire safety of existing dwellings; and*
- d) *Not to prohibit development on existing lots.*

New development is required to comply with the following elements of LPP18 shown in the table overleaf.

| Requirement | Proposed | Compliance/ Comment |
|---|--|---|
| <p><u>New Dwellings</u> That new dwellings being developed on existing allotments shall unless otherwise approved by Council:</p> <ul style="list-style-type: none"> • Be constructed in accordance with AS3959 Construction of Buildings in Bushfire Prone Areas; • Comply with any approved fire management plan including any assigned BAL rating; • Have an appropriate water supply of 20,000L; • Have an appropriate driveway and vehicle turn around area; • Have a 20m building protection zone; and • Avoid areas of Kwongkan Shrubland. | <p>The house, ancillary accommodation & Outbuilding propose:</p> <ul style="list-style-type: none"> • BAL29 construction in accordance with AS3959 • BAL assessment provided • 20,000L dedicated water supply • Loop driveway • 20m BPZ minimum • Proposal is in mallee and peppermint vegetation communities. | <p>Complies</p> |
| <p><u>Outbuildings</u> AS3959 construction standards apply to outbuildings, carports, sheds, verandas etc. Where these are attached to the dwelling they will have the same BAL rating as the dwelling. Where they are more than 6m from the dwelling they will have a separate BAL rating.</p> | <p>BAL 29 construction plus minimum 20m BPZ</p> | <p>Complies</p> |
| <p><u>Building Envelope and Balance of Land</u> That as part of the planning application for a dwelling, the building envelope is to be redefined and endorsed by Council.</p> | <p>3000m² spread across the property</p> | <p>Complies, assessed elsewhere in this report.</p> |

| | | |
|---|-----------------------------------|---|
| <p><u>Planning Application and Approvals</u></p> <p>That planning applications on land in the Study Area are to include information on proposed bush fire management measures including:</p> <ul style="list-style-type: none"> a) What BAL rating is intended to be used for the construction of the dwelling; b) Confirming the average gradient of the slopes under this vegetation on all four sides of the dwelling extending for a distance of 100m; c) Detailing what vegetation is intended to be cleared for the construction of the dwelling and associated fire management of the property; d) Defining the proposed building envelope; e) Confirm the capacity of the proposed water tanks; and f) Showing the proposed driveway. | <p>Provided in BAL assessment</p> | <p>Complies, refer to Attachment 10.3.4</p> |
|---|-----------------------------------|---|

Conclusion

The proposed house, outbuilding and ancillary accommodation are located along the northern boundary of the site. The house is proposed on the high point of the lot but is only single storey. The slope away from the house will be maintained in a low fuel state and the slope of land is unlikely to give rise to erosion issues.

The ancillary accommodation is located on a gentle slope, it is single storey and will not be easily seen from the surrounding road network and barely seen from surrounding houses.

The outbuilding is located on flat land and lower than the house and ancillary accommodation. It is difficult to see from the surrounding properties and will not be seen from any road.

The application appears to comply with the majority of Scheme, policy and fire management requirements. A number of specific planning conditions should be applied to ensure ongoing compliance with some requirements, particularly access, maintenance of low fuel zones and the size of BPZ.

STATUTORY REQUIREMENTS

All development in the Rural Residential zone requires planning approval.

The applicant has a right of review to the State Administrative Tribunal if aggrieved by any decision made by the WAPC.

STRATEGIC IMPLICATIONS

The proposal aligns with a variety of the aspirations of the Strategic Community Plan:

Aspiration 2: A growing community that embraces well designed and sustainable development.

Aspiration 4: An environmentally astute community where human needs are met while conserving our natural and built environment.

FINANCIAL IMPLICATIONS

Nil

WORKFORCE IMPLICATIONS

Nil

POLICY IMPLICATIONS

As described in the body of this report.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council,

1. Approve the application lodged by Stacey Frances & Debra Fluhler for a single house, ancillary accommodation, outbuilding and associated water tanks on Lot 54 Gneiss Hill Road, Bremer Bay subject to the following conditions;
 - a) Development shall be carried out in full and fully implemented in accordance with the approved plans and details submitted with the planning application; including the BAL Assessment Report.
 - b) The ancillary accommodation shall only be occupied by direct family members and friends of the occupiers of the main dwelling.

- c) All runoff from impervious surfaces being contained within the property and disposed of to the satisfaction of the Chief Executive Officer.
- d) Water tank(s) with a minimum capacity of 92 kilolitres and approved on site effluent disposal must be installed and in operation prior to occupation of dwelling.
- e) The driveway to be maintained at a trafficable standard at all times. The driveway is to have a minimum trafficable surface of 4m, horizontal clearance of 6m and vertical clearance of 4m.
- f) No building on the site is to exceed 5 metres as measured from natural ground level.
- g) The external walls and roof of the single house, ancillary accommodation and outbuilding are to be constructed out of non-reflective materials to the satisfaction of the Chief Executive Officer.
- h) The house and ancillary accommodation to be connected to an on-site effluent disposal system to the satisfaction of the Environmental Health Officer.
- i) A building protection zone being cleared and maintained around all buildings a minimum of 22m in width.
- j) All buildings are to be constructed in accordance with 'AS3959 Construction of Buildings in Bushfire Prone Areas' to at least the BAL 29 construction standard.
- k) At least 20,000litres of water is to be retained for fire fighting purposes. The tank is to be fitted with a 50mm male 'camlock' to allow access to the tanks in case of fire and accessed from a compliant turn around area.
- l) A turn around area is to be provided within 50m of the house that is designed to accommodate 3.4 fire appliances and enable them to turn around safely.
- m) Landscape plans, showing size, species, location and reticulation of trees and shrubs to be planted or retained, being submitted to Council for approval prior to the issue of a building permit. These plans are to show how ongoing screening to adjoining properties will be achieved and balanced with the requirements of the Building Protection Zone.
- n) The outbuilding being used for domestic use only and not for commercial or industrial use or human habitation.
- o) Ablutions are only permitted in an outbuilding where a house has been substantially commenced on the same site.

2. Advise the applicant in footnotes on the planning approval that;
 - (i) Planning approval is not consent for site works or construction. A building licence is required prior to any commencement of works.
 - (ii) You are encouraged to work with neighbouring landowners to establish a secondary exit from the house.
 - (iii) Standards for access, turnarounds, water supply and building protection zones are drawn from the WAPC's Planning for Bushfire Risk Management Guidelines; these should be referenced when considering the establishment of these elements of the development.

OC150408 Moved Cr Parsons / Seconded Cr Iffla

That Council,

1. **Approve the application lodged by Stacey Frances & Debra Fluhler for a single house, ancillary accommodation, outbuilding and associated water tanks on Lot 54 Gneiss Hill Road, Bremer Bay subject to the following conditions;**
 - a) **Development shall be carried out in full and fully implemented in accordance with the approved plans and details submitted with the planning application; including the BAL Assessment Report.**
 - b) **The ancillary accommodation shall only be occupied by direct family members and friends of the occupiers of the main dwelling.**
 - c) **All runoff from impervious surfaces being contained within the property and disposed of to the satisfaction of the Chief Executive Officer.**
 - d) **Water tank(s) with a minimum capacity of 92 kilolitres and approved on site effluent disposal must be installed and in operation prior to occupation of dwelling.**
 - e) **The driveway to be maintained at a trafficable standard at all times. The driveway is to have a minimum trafficable surface of 4m, horizontal clearance of 6m and vertical clearance of 4m.**
 - f) **No building on the site is to exceed 5 metres as measured from natural ground level.**
 - g) **The external walls and roof of the single house, ancillary accommodation and outbuilding are to be constructed out of non-reflective materials to the satisfaction of the Chief Executive Officer.**

- h) The house and ancillary accommodation to be connected to an on-site effluent disposal system to the satisfaction of the Environmental Health Officer.**
- i) A building protection zone being cleared and maintained around all buildings a minimum of 22m in width.**
- j) All buildings are to be constructed in accordance with 'AS3959 Construction of Buildings in Bushfire Prone Areas' to at least the BAL 29 construction standard.**
- k) At least 20,000litres of water is to be retained for fire fighting purposes. The tank is to be fitted with a 50mm male 'camlock' to allow access to the tanks in case of fire and accessed from a compliant turn around area.**
- l) A turn around area is to be provided within 50m of the house that is designed to accommodate 3.4 fire appliances and enable them to turn around safely.**
- m) Landscape plans, showing size, species, location and reticulation of trees and shrubs to be planted or retained, being submitted to Council for approval prior to the issue of a building permit. These plans are to show how ongoing screening to adjoining properties will be achieved and balanced with the requirements of the Building Protection Zone.**
- n) The outbuilding being used for domestic use only and not for commercial or industrial use or human habitation.**
- o) Ablutions are only permitted in an outbuilding where a house has been substantially commenced on the same site.**

- 2. Advise the applicant in footnotes on the planning approval that;**
- (i) Planning approval is not consent for site works or construction. A building licence is required prior to any commencement of works.**
 - (ii) You are encouraged to work with neighbouring landowners to establish a secondary exit from the house.**
 - (iii) Standards for access, turnarounds, water supply and building protection zones are drawn from the WAPC's Planning for Bushfire Risk Management Guidelines; these should be referenced when considering the establishment of these elements of the development.**

Carried 6-0

| | |
|------------------------------------|--|
| SUBMISSION TO: | Health, Building & Town Planning |
| AGENDA REFERENCE: | 10.3.5 |
| SUBJECT: | Proposed Building Envelope, Single House & Outbuilding |
| LOCATION/ADDRESS: | Lot 103 Point Henry Road, Bremer Bay |
| NAME OF APPLICANT: | Dr Ian Weir |
| FILE REFERENCE: | A1600075 |
| AUTHOR: | Craig Pursey, Planning Officer |
| DISCLOSURE OF ANY INTEREST: | Nil |
| DATE OF REPORT: | 7 th April 2015 |

SUMMARY

Council has received a planning application for Lot 103 Point Henry Road, Bremer Bay that proposes the following:

- a) 3000m² building envelope;
- b) 46m² single storey house;
- c) 48m² outbuilding, being a re-purposed sea container;
- d) 112 kilolitres of rainwater storage;
- e) Building Protection Zones around all development; and
- f) Access tracks and turnarounds.

A Bushfire Attack Level (BAL) assessment has been provided with the application that requires construction to BAL19 standard. A Flora Survey for the property from Nathan McQuoid is included that assesses the extent of the Kwongkan Shrubland vegetation community across the site.

No variation to the Local Planning Scheme, Point Henry Fire Management Strategy Policy Statement or the Western Australian Planning Commission's (WAPC) Planning for Bushfire Risk Management Policy Framework is proposed.

Conditional planning approval is recommended.

ATTACHMENT

Attachment 10.3.5 - Planning Application including BAL Assessment & Flora Survey

BACKGROUND

Site Description

Lot 103 Point Henry Road, Bremer Bay (Lot 103) is 4.02ha in area and developed with an access track only and a small cleared portion of land that is gradually regenerating.

The property remains largely in a vegetated state, 75% of which has been assessed as being Kwongan Shrubland.

A strategic break runs along the eastern boundary of Lot 103.



Lot 103 edged in yellow (Landgate 2014)

Zoning & Scheme Requirements

Lot 103 is zoned Rural Residential Area 3 by the Shire's Local Planning Scheme No.2. All development in this zone requires planning approval.

Council adopted Local Planning Policy 18 - Point Henry Fire Management Strategy Policy Statement (LPP18) at their meeting in October 2014 which applies to the site.

Application History

The original planning application for the house and outbuilding at Lot 103 Point Henry Road, Bremer Bay was lodged on the 28th October 2013. The assessment of this application has been drawn out for a variety of reasons including the development of the Point Henry Fire Management Strategy and

release of the WAPC Planning for Bushfire Risk Management Policy Framework. The history of the assessment of this application is summarised below:

| | |
|---------------|---|
| October 2013 | Application Received; |
| Oct-Nov 2013 | Assessment of application by Shire staff, referral to Geoffrey Lush (fire consultant) for comment and advice; |
| November 2013 | Request for clarification and additional information from applicant; |
| December 2013 | Referral of proposed building envelope to neighbouring landowners; |
| March 2014 | Revised application received from applicant; |
| April 2014 | As performance based approach to the Building Protection Zone was proposed the application was referred to DFES for comment; |
| June 2014 | DFES request additional information and clarification; |
| December 2014 | Additional information requested by DFES provided, this information referred to Geoffrey Lush and DFES for comment; |
| January 2015 | Geoffrey Lush provides comment |
| January 2015 | Planning Officer requests more information in light of Local Planning Policy 18 - Point Henry Fire Management Strategy Policy Statement (LPP18) requirements, particularly in response to proposal to apply a performance based approach to the Building Protection Zone to a figure less than 20m; |
| February 2015 | Flora Study received from Nathan McQuoid |
| March 2015 | Feedback from DFES received |
| March 2015 | Alternative approach discussed with applicant |
| April 2015 | Revised planning application received with 20m BPZ, appears to be fully compliant with all planning requirements, as detailed in the body of this report. |

The assessment of this application has been overly long and is due in a large part to the proposal seeking to provide a 'performance based approach' to the Building Protection Zone (BPZ) at 11m wide. The 'acceptable solution' for BPZ is a standard 20m.

A performance based approach requires referral to DFES for comment. Despite the draft WAPC Fire Management Framework allowing for performance based approaches to all fire management elements, DFES have been reluctant to accept a reduction to the 20m BPZ and it appears have not accepted less than 20m anywhere in the state.

On the other hand, the Point Henry Fire Management Strategy accepts that given the unique vegetation types and undulating topography that it is not always desirable or possible to require the 20m BPZ.

The way forward on this matter is to prepare a specific local planning policy on this matter and have it adopted as a 'Regional Variation' under the draft Planning for Bushfire Risk Management Guidelines. If successful, applications of this type will no longer require referral to DFES and the new 'standard' can be retrospectively applied to the current application.

CONSULTATION

LPP18 requires that as part of the planning application for a dwelling, the building envelope is to be redefined and endorsed by Council. The proposed building envelope was referred to all adjoining landowners as part of the assessment process with no objections being received.

COMMENT

The Proposal

Council has received a planning application for Lot 103 Point Henry Road, Bremer Bay that proposes the following:

- a) 3000m² building envelope;
- b) A 46m² single storey house;
- c) 48m² outbuilding, being a re-purposed sea container;
- d) 112 kilolitres of rainwater storage, including 20KL of water dedicated for fire fighting purposes;
- e) Building Protection Zones around all development; and
- f) Access driveways and turnarounds, with the turnaround being placed around the proposed outbuilding and water tanks.

Documentation has been provided including:

- A Bushfire Attack Level (BAL) assessment has been provided with the application that shows that the site is required to be built to the BAL19 standard. However, the outbuilding and house are proposed to be constructed at the higher BAL40 standard.
- A Flora Study that describes the '*extent and character of the kwongan vegetation community on Lot 103 Point Henry Road*', as required by LPP18;
- Calculations on roof catchment and storage; and
- Justification for the building envelope location.

A full copy of the application, supporting documentation and plans are attached to this report.

Assessment

All development in Rural Residential Zone 3 requires planning approval and is subject to the following requirements and policies:

- E. Shire of Jerramungup Local Planning Scheme No.2 (the Scheme);
- F. Local Planning Policy 16 - Outbuildings (LPP16);
- G. WAPC Planning for Bushfire Risk Management Policy Framework including:
 - (iv) Draft State Planning Policy 3.7 (SPP 3.7);
 - (v) Draft Planning for Bushfire Risk Management Guidelines and Appendices; and
 - (vi) Planning for Bushfire Protection Guidelines Edition 2
- H. Local Planning Policy 18 - Point Henry Fire Management Strategy Policy Statement (LPP18)

Compliance with each document is briefly explored below.

E. Shire of Jerramungup Local Planning Scheme No.2 (the Scheme);

Rural Residential development is controlled through clause 5.25 and Schedule 11 of the Scheme, a summary of the relevant requirements and the proposal's compliance are summarised in the table below.

| Requirement | Proposed | Compliance/Comment |
|---|---|--|
| 20m setback from road frontage and 15m from all other boundaries | A minimum of 45m | Complies |
| Building envelopes are to be a maximum of 10% of the lot area or 3000m ² , whichever is the lesser. The envelope is not to be located so as to cause erosion issues or result in buildings being visually prominent from tourist routes and ideally surrounding houses. | 3000m ² The applicant has provided justification for the proposed building envelope location in that it allows for development to be screened from Point Henry Road by utilising the topography and single storey construction. | Complies. |
| Driveways located so as to minimise erosion and the visibility of driveways | Utilises existing access track and proposes additional loop driveway around the outbuilding. | Complies The driveway enters the site on an angle and much of its length is obscured from Point Henry Road. |
| Buildings are not to exceed 5 metres in height from natural ground level to the apex of the roof unless the local government is satisfied a higher building will not be visually obtrusive | The house and outbuilding do not exceed 5 metres. | Complies. |
| External walls to utilise non-reflective materials that blend with the landscape | Not provided | Condition of approval. |
| Minimum of 92KL of water storage and adequate roof catchment | 92KL of water tank plus 20KL dedicated fire fighting water supply | Complies Detailed justification provided with application based on two person household using a grey water recycling system. If more people were to use the house then additions would be required to the house and capture area would also be increased. |
| All buildings to comply with AS3959 Building in Bushfire Prone Areas | BAL 19 construction required. BAL40 construction proposed | Complies |

F. Local Planning Policy 16 - Outbuildings (LPP16);

The application includes an outbuilding (re-purposed sea container) on the site which complies with Local Planning Policy No 16 - Outbuildings as follows.

| | Permitted | Proposed | Compliance |
|---------------------------------|-------------------|------------------|-------------------|
| Size for one outbuilding | 240m ² | 48m ² | Complies |
| Wall height | 4.2m | 2.4m | Complies |
| Ridge Height | 5m | 3m | Complies |

Fire Management

The WAPC have released the Planning for Bushfire Risk Management Policy Framework as a draft that includes the following documents that apply to all development proposals in bushfire prone areas (Point Henry is a bushfire prone area):

- (iv) Draft State Planning Policy 3.7 (SPP 3.7);
- (v) Draft Planning for Bushfire Risk Management Guidelines and Appendices; and
- (vi) Planning for Bushfire Protection Guidelines Edition 2

Additionally, Council adopted Local Planning Policy 18 - Point Henry Fire Management Strategy Policy Statement (LPP18) in October 2014 that further refines and clarifies the fire management requirements for development in Point Henry.

G. WAPC Planning for Bushfire Risk Management Policy Framework

The Department of Planning website describes the framework as follows:

SPP 3.7 assists in reducing the risk of bushfire to people, property and infrastructure by encouraging a conservative approach to strategic planning, subdivision, development and other planning decisions proposed in bushfire-prone areas. Specifically it:

- *addresses the land use planning elements of the Keelty report;*
- *elevates bushfire issues to be addressed by the highest level of planning policy available, giving it clear status and effect in the land use planning policy framework;*
- *emphasises the need to consider bushfire management measures in strategic level policy documents, including regional and local planning schemes, sub-regional and local planning strategies and structure plans,*

- as well as during statutory planning processes for subdivision and development applications; and*
- seeks to achieve the consistent implementation of bushfire management measures across the community.*

Revised Planning for Bushfire Risk Management Guidelines have also been prepared and are designed to supplement the objectives and policy measures established in SPP 3.7, to assist in their interpretation and provide advice on how bushfire risk is to be addressed when designing or assessing a proposal within a bushfire-prone area. Once finalised, the revised Guidelines will supersede the current Guidelines.

Although the documents are draft, they are considered to be a 'seriously entertained planning proposal' and apply to development assessment.

The relevant requirements of the WAPC Framework are summarised in the following table.

| Requirement | Proposed | Compliance/Comment |
|---|--|--|
| SPP 3.7 | | |
| Any development application in an area where construction standards at or between BAL-12.5 and BAL-29 may apply requires a Bushfire Management Plan prepared by a fire consultant that includes a BAL assessment. | A BAL assessment was prepared by the applicant who appears to be an experienced person in fire management. | Complies The BAL assessment appears to be compliant and in the absence of an accreditation system it is not possible to question the applicant's credentials to provide this documentation. |
| Development applications within identified bushfire-prone areas are to undertake a bushfire hazard assessment (low, moderate or extreme), prepared by a fire consultant, in accordance with the methodology set out in the Planning for Bushfire Risk Management Guidelines. | BAL Assessment provided. | Complies See assessment against Guidelines below. |
| Planning for Bushfire Risk Management Guidelines | | |
| 1. Location <i>(Acceptable Solution)</i> The subdivision, development or land use is located in an area that is not subject to ... a Bushfire Attack Level of BAL-40 or BAL-FZ. | Proposed fuel reduction around house of 20m reduces BAL of site in its natural state. | Complies With low fuel areas established the maximum BAL that applies is BAL19 |
| 2. Siting & Design of Development <i>(Acceptable Solution)</i> 20m Building Protection Zone (BPZ) + Hazard Separation Zone (HSZ) proposed and housing developed in accordance with AS3959 | BAL40 proposed with 20m BPZ | Complies, only BAL 19 required. |
| 3. Vehicular Access <i>(Acceptable Solutions)</i> Private Driveways with trafficable surface and minimum horizontal and vertical clearances from vegetation. Turn-around areas designed to accommodate type 3.4 fire appliances and to enable them to turn around safely every 500m and within 50m of a house. | Use of existing driveway. New driveway around the outbuilding making a loop back to the existing driveway. Turnaround is well within 50m of the house. Secondary informal access to strategic break to the east proposed. | Complies |
| 4. Water No specific requirements at development application stage | 20KL water tank dedicated for fire fighting purposes | Complies |

As the application complies with the acceptable solutions described in the Planning for Bushfire Risk Management Guidelines and has provided an acceptable BAL assessment the application is deemed to comply with the WAPC Framework.

H. Local Planning Policy 18 - Point Henry Fire Management Strategy Policy Statement (LPP18)

Council adopted LPP18 in October 2014 with the objectives:

- e) *To integrate fire management as a key element of development and subdivision design in balance with environmental, landscape, community and residential objectives;*
- f) *To ensure that new development contains appropriate levels of bushfire protection;*
- g) *To improve the fire safety of existing dwellings; and*
- h) *Not to prohibit development on existing lots.*

New development is required to comply with the following elements of LPP18.

| Requirement | Proposed | Compliance/Comment |
|---|---|---|
| <p><u>New Dwellings</u> That new dwellings being developed on existing allotments shall unless otherwise approved by Council:</p> <ul style="list-style-type: none"> • Be constructed in accordance with AS3959 Construction of Buildings in Bushfire Prone Areas; • Comply with any approved fire management plan including any assigned BAL rating; • Have an appropriate water supply of 20,000L; • Have an appropriate driveway and vehicle turn around area; • Have a 20m building protection zone; and • Avoid areas of Kwongkan Shrubland. | <p>The house & outbuilding propose:</p> <ul style="list-style-type: none"> • BAL40 construction in accordance with AS3959 • BAL assessment provided • 20,000l dedicated water supply • Loop driveway • 20m BPZ minimum • Proposal is in Kwongkan Shrubland. | <p>Complies</p> <p>Flora Study establishes that it is impractical to locate the development outside of Kwongkan Shrubland vegetation community as it occupies ~75% of the site.</p> |
| <p><u>Outbuildings</u></p> <p>AS3959 construction standards apply to outbuildings, carports, sheds, verandas etc. Where these are attached to the dwelling they will have the same BAL rating as the dwelling. Where they are more than 6m from the dwelling they will have a separate BAL rating.</p> <p>Non habitable outbuildings may utilise BAL-40 or BAL-FZ ratings</p> | <p>BAL 40 construction plus minimum 10m low fuel area.</p> | <p>Complies</p> <p>BAL40 construction is permitted for outbuildings.</p> |

| | | |
|---|---|---|
| <p><u>Building Envelope and Balance of Land</u></p> <p>That as part of the planning application for a dwelling, the building envelope is to be redefined and endorsed by Council.</p> | <p>3000m² envelope proposed with reasonable access to road but not within sight of the road.</p> | <p>Complies, assessed elsewhere in this report.</p> |
| <p><u>Planning Application and Approvals</u></p> <p>That planning applications on land in the Study Area are to include information on proposed bush fire management measures including:</p> <ul style="list-style-type: none"> a) What BAL rating is intended to be used for the construction of the dwelling; b) Confirming the average gradient of the slopes under this vegetation on all four sides of the dwelling extending for a distance of 100m; c) Detailing what vegetation is intended to be cleared for the construction of the dwelling and associated fire management of the property; d) Defining the proposed building envelope; e) Confirm the capacity of the proposed water tanks; and f) Showing the proposed driveway. | <p>All required information provided in planning application BAL assessment</p> | <p>Complies, refer to Attachment 10.3.5</p> |

Conclusion

The proposed house and outbuilding are located in a position that is not seen from the Point Henry Road and is protected from the prevailing winds. The development is modest in scale but appears to fully comply with the requirements of the Scheme.

The application has been modified recently to achieve compliance with the 'acceptable solutions' under the various fire management policies.

The matter of a reduced BPZ will be followed through independently as part of a separate policy process.

Conditional planning approval is recommended.

STATUTORY REQUIREMENTS

All development in the Rural Residential zone requires planning approval.

The applicant has a right of review to the State Administrative Tribunal if aggrieved by any decision made by the WAPC.

STRATEGIC IMPLICATIONS

The proposal aligns with a variety of the aspirations of the Strategic Community Plan:

Aspiration 2: A growing community that embraces well designed and sustainable development.

Aspiration 4: An environmentally astute community where human needs are met while conserving our natural and built environment.

FINANCIAL IMPLICATIONS

Nil

WORKFORCE IMPLICATIONS

Nil

POLICY IMPLICATIONS

As described in the body of this report.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council,

1. Approve the application lodged by Dr Ian Weir for a single house, outbuilding and associated water tanks on Lot 103 Point Henry Road, Bremer Bay subject to the following conditions;

- a) Development shall be carried out in full and fully implemented in accordance with the approved plans and details submitted with the planning application; including the BAL Assessment Report.
- b) All runoff from impervious surfaces being contained within the property and disposed of to the satisfaction of the Chief Executive Officer.
- c) Water tank(s) with a minimum capacity of 92 kilolitres and approved on site effluent disposal must be installed and in operation prior to occupation of dwelling.
- d) The driveway to be maintained at a trafficable standard at all times. The driveway is to have a minimum trafficable surface of 4m, horizontal clearance of 6m and vertical clearance of 4m.
- e) No building on the site is to exceed 5 metres as measured from natural ground level.
- f) The external walls and roof of the single house and outbuilding are to be constructed out of non-reflective materials to the satisfaction of the Chief Executive Officer.
- g) A building protection zone being cleared and maintained around all buildings to a minimum of 20m in width.
- h) The house is to be connected to an on-site effluent disposal system and utilise a grey water recycling system to the satisfaction of the Environmental Health Officer.
- i) The house is to be constructed in accordance with 'AS3959 Construction of Buildings in Bushfire Prone Areas' to at least the BAL 19 construction standard.
- j) The outbuilding is to be constructed in accordance with 'AS3959 Construction of Buildings in Bushfire Prone Areas' to at least the BAL 40 construction standard.
- k) At least 20,000litres of water is to be retained for fire fighting purposes. The tank is to be fitted with a 50mm male 'camlock' to allow access to the tanks in case of fire and accessed from a compliant turn around area.
- l) A turn around area is to be provided within 50m of the house that is designed to accommodate 3.4 fire appliances and enable them to turn around safely.
- m) The outbuilding being used for domestic storage only and not for commercial or industrial use or human habitation.

2. Advise the applicant in footnotes on the planning approval that;
- (i) Planning approval is not consent for site works or construction. A building licence is required prior to any commencement of works.
 - (ii) You are encouraged to work with neighbouring landowners to establish a secondary exit from the house.
 - (iii) The Shire of Jerramungup intends on preparing a Local Planning Policy to guide the development of Building Protection Zones where vegetation, topography or other site conditions exist that make the application of a standard 20m BPZ impractical. It is intended to have this policy adopted as a 'regional variation' under the WAPC Draft Planning for Bushfire Risk Management Guidelines. Once developed, its findings may be applied to the current application.
 - (iv) Standards for access, turnarounds, water supply and building protection zones are drawn from the WAPC's Planning for Bushfire Risk Management Guidelines; these should be referenced when considering the establishment of these elements of the development.

OC150409 Moved Cr Leenhouwers / Seconded Cr Bailey

That Council,

1. Approve the application lodged by Dr Ian Weir for a single house, outbuilding and associated water tanks on Lot 103 Point Henry Road, Bremer Bay subject to the following conditions;
 - a) Development shall be carried out in full and fully implemented in accordance with the approved plans and details submitted with the planning application; including the BAL Assessment Report.
 - b) All runoff from impervious surfaces being contained within the property and disposed of to the satisfaction of the Chief Executive Officer.
 - c) Water tank(s) with a minimum capacity of 92 kilolitres and approved on site effluent disposal must be installed and in operation prior to occupation of dwelling.
 - d) The driveway to be maintained at a trafficable standard at all times. The driveway is to have a minimum trafficable surface of 4m, horizontal clearance of 6m and vertical clearance of 4m.
 - e) No building on the site is to exceed 5 metres as measured from natural ground level.
 - f) The external walls and roof of the single house and outbuilding are to be constructed out of non-reflective materials to the satisfaction of the Chief Executive Officer.
 - g) A building protection zone being cleared and maintained around all buildings to a minimum of 20m in width.
 - h) The house is to be connected to an on-site effluent disposal system and utilise a grey water recycling system to the satisfaction of the Environmental Health Officer.
 - i) The house is to be constructed in accordance with 'AS3959 Construction of Buildings in Bushfire Prone Areas' to at least the BAL 19 construction standard.
 - j) The outbuilding is to be constructed in accordance with 'AS3959 Construction of Buildings in Bushfire Prone Areas' to at least the BAL 40 construction standard.
 - k) At least 20,000litres of water is to be retained for fire fighting purposes. The tank is to be fitted with a 50mm male 'camlock' to

- allow access to the tanks in case of fire and accessed from a compliant turn around area.
- l) A turn around area is to be provided within 50m of the house that is designed to accommodate 3.4 fire appliances and enable them to turn around safely.**
 - m) The outbuilding being used for domestic storage only and not for commercial or industrial use or human habitation.**

- 2. Advise the applicant in footnotes on the planning approval that;**
- (i) Planning approval is not consent for site works or construction. A building licence is required prior to any commencement of works.**
 - (ii) You are encouraged to work with neighbouring landowners to establish a secondary exit from the house.**
 - (iii) The Shire of Jerramungup intends on preparing a Local Planning Policy to guide the development of Building Protection Zones where vegetation, topography or other site conditions exist that make the application of a standard 20m BPZ impractical. It is intended to have this policy adopted as a 'regional variation' under the WAPC Draft Planning for Bushfire Risk Management Guidelines. Once developed, its findings may be applied to the current application.**
 - (iv) Standards for access, turnarounds, water supply and building protection zones are drawn from the WAPC's Planning for Bushfire Risk Management Guidelines; these should be referenced when considering the establishment of these elements of the development.**

Carried 6-0

A D M I N

| | |
|------------------------------------|------------------------------|
| SUBMISSION TO: | Administration |
| AGENDA REFERENCE: | 10.4.1 |
| SUBJECT: | Administration Status Report |
| LOCATION/ADDRESS: | |
| NAME OF APPLICANT: | Shire of Jerramungup |
| FILE REFERENCE: | |
| AUTHOR: | Brent Bailey |
| DISCLOSURE OF ANY INTEREST: | Nil |
| DATE OF REPORT: | 8 th April 2015 |

SUMMARY

This status report provides Council with an update on current projects of interest being addressed by administration.

ATTACHMENT

Nil

PROJECT UPDATE

1) Bremer Bay Medical Centre

No further update.

2) Strategic Waste Management

The Shire has received advice that the Regional Waste Facilities project has received approximately \$3.12M which will be used to implement the business case for developing Regional Waste Sites in Ravensthorpe and Katanning and upgrading local transfer stations and waste facilities within the other participating Shires.

Works approvals for the Ravensthorpe site has been issued with the associated management plans being prepared at present. The Shire of Ravensthorpe will be calling for tenders to construct the new facilities in the 2015/2016 financial year and aim to have the site operational by March 2016.

The Shire of Katanning is still progressing through the works approval process for their waste recieval facilities and a separate works approval for the landfill cells will be undertaken once this is complete.

3) Fisheries Beach Marina

In response to many community complaints in relation to sand accumulation at the boat ramp, an application under the Recreation

Boating and Facilities Funding program was submitted and was funded by the Department of Transport. The Shire expects the Department of Transport to commence the project of constructing two sandbag style groynes towards the latter half of 2015.

The Shire is also negotiating with the Department of Transport to jointly fund a bore to rectify water supply issues in the area.

4) RAV Network Within Jerramungup Town Site

Shire staff members have met with representatives from MRWA to review the existing RAV network within the Jerramungup town site. Subsequently an application to review the existing limitations on Memorial Road has been submitted which may extend the northern section into a RAV 7 nominated road. Some improvement works will need to be undertaken on the intersection and culverts at the intersection of Memorial Road and Gnowangerup - Jerramungup Road to allow Road Trains to turn west without having to cross the double white lines.

| | |
|------------------------------------|--|
| SUBMISSION TO: | Administration |
| AGENDA REFERENCE: | 10.4.2 |
| SUBJECT: | Delegated Council functions |
| LOCATION/ADDRESS: | |
| NAME OF APPLICANT: | Shire of Jerramungup |
| FILE REFERENCE: | Delegations Register |
| AUTHOR: | Brent Bailey |
| DISCLOSURE OF ANY INTEREST: | The author has an interest in that certain delegations will fall under his area of responsibility. |
| DATE OF REPORT: | 1 st April 2015 |

SUMMARY

In order to expedite decision-making within the Shire, a recommendation is made to delegate a number of powers and duties to the Chief Executive Officer as provided for in the Local Government Act (1995).

ATTACHMENT

Nil

BACKGROUND

Section 5.46 (2) of the Local Government Act requires that at least once every financial year delegations be reviewed. In order to achieve compliance, the listing of Council's delegations is submitted for approval by Council.

CONSULTATION

Senior Staff
Previous Council Delegations Register

COMMENT

A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under the Local Government Act 1995 other than those referred to in section 5.43. At least once every financial year, delegations are to be reviewed by the delegator.

The delegations presented last year have been reviewed, no changes are recommended.

| Act or Regulation | Section | Relevant Exercisable Power | Limitations |
|---------------------------|----------------|--|--------------------|
| Local Government Act 1995 | 3.34(1) | A local government may enter land in an emergency without notice or consent | |
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| Local Government Act 1995 | 3.40A(4) | A local government may declare that a vehicle is an abandoned vehicle wreck | |
| Local Government Act 1995 | 3.47(2) | The local government may sell or otherwise dispose of any vehicle that has not been collected within 2 months of a notice having been given under section 3.40(3) or 7 days of a declaration being made that a vehicle is an abandoned vehicle wreck | |
| Local Government Act 1995 | 3.47A(1) | If an impounded animal is ill or injured to such an extent that treating it is not practicable, the local government may humanely destroy the animal and dispose of the carcass | |
| Local Government Act 1995 | 3.48 | If goods are removed or impounded under section 3.39 and the offender is convicted, the local government may recover any expenses incurred in removing and impounding the goods | |
| Local Government Act 1995 | 3.50(1) | A local government may close a thoroughfare to vehicles, wholly or partially, for a period not exceeding 4 weeks | |
| Local Government Act 1995 | 3.50(1a) and | A local government may, after providing public notice of its intention and reasons, inviting submissions and | |

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| Local Government Act 1995 | 3.50(6) | An order to close a thoroughfare may be revoked by the local government | |
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| Local Government Act 1995 | 3.58(2) | A local government can only dispose of property to the highest bidder at public auction or the most suitable public tender | Subject to the disposal being identified in the Shire's Annual Budget and the value of the property being less than \$70,000. |
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| Local Government Act 1995 | 6.12(1)(b) | A local government may waive or grant concessions in relation to any amount of money or write off any amount of money that it is owed to the local government [subject to section 6.12(2)] | Subject to the debt not exceeding \$500 or applying to any amount of money owing in respect of rates and service charges over \$10.00. |
| Local Government Act 1995 | 6.14(1) | A local government may invest money in its municipal or trust funds that is not being used, in accordance with Part III of the Trustees Act 1962 | Subject to Council's Finance Policy 3 – Investments. |
| Local Government Act 1995 | 6.49 | A local government may make an agreement with a person to pay their rates and service charges | |
| Local Government Act 1995 | 6.56(1) | A local government may recover an unpaid rate or service charge and the cost of proceedings in court of competent jurisdiction | |
| Local Government Act 1995 | 6.60(2) | A local government may give notice (to a lessee of land in respect of which there is an unpaid rate or service charge, requiring the lessee to pay its rent to the local government in satisfaction of the rate or service charge) | |

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| Local Government Act 1995 | 9.10(1) & (2) | The local government may appoint persons or classes of persons to be authorised to perform certain functions and must issue them with a certificate stating they are authorised | |
| Local Government Act 1995 | 9.49A(4) | Signing of various classes of documents on behalf of Council. | |
| Local Government (Financial Management) Regulations 1996 | Reg 12(1)(a) | Power to make payments from the municipal and trust funds | Subject to the requirements of Regulation 13 of the Local Government (Financial Management) Regulations 1996. |
| Local Government (Functions and General) Regulations 1996 | Reg 14(2a) | Where a local government is inviting tenders, the local government must determine in writing the criteria for accepted tenders | |
| Local Government (Functions and General) Regulations 1997 | Reg 20 | A local government may, with the approval of the tenderer, make a minor variation in a contract for goods or services before it enters the contract with the successful tenderer | |

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| Local Government (Uniform Local Provisions) Regulations 1996 | Reg 12(1) | Upon application the local government may approve the construction of a crossing giving access from a public thoroughfare to the land, or a private thoroughfare serving the land. | Subject to Council's Crossover Guidelines |
| Building Act 2011 | 20 | Approve or refuse a Building Permit | |
| Building Act 2011 | 21 | Approve or refuse a Demolition Permit | |
| Building Act 2011 | 58 | Issue an Occupancy Permit and a Building Approval Certificate | |
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| Building Act 2011 | 110 | Issue Building Orders | |
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| Dog Act 1976 | 9 | Administer and enforce provisions of the Dog Act | |
| Dog Act 1976 | 20 | Issue a certificate of classification | |
| Health Act 1911 | 26 | A local government may appoint and authorise any person to be its deputy to exercise and discharge all or any of the powers and functions of the local government for such time and subject to such conditions and limitations (if any) as the local government shall see fit. Such appointment shall not affect the exercise or discharge by the local government itself of any power or function. | |

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| Health Act 1911 | 27(5) | Every local government may appoint such other officers as it deems necessary. | |
| Bush Fires Act 1954 | 17(10) | Determine to vary Prohibited Burning Times, in accordance with s17(7) and (8), regarding: - shortening, extending, suspending or reimposing a period of prohibited burning times; or - imposing a further period of prohibited burning times. | Delegation to Chief Bush Fire Control Officer |
| Bush Fires Act 1954 | 59(3) & 59A(2) | Consider allegations of offences alleged to have been committed against this Act in the district of the local government and, if the delegate thinks fit, to institute and carry on proceedings in the name of the local government against any person alleged to have committed any of those offences in the district. | |
| Food Act 2008 | 122 | Appoint a person to be an authorised person for the purposes of the Food Act 2008 (s122(1)) | |
| Food Act 2008 | 126 | Appoint a person to be a Designated Officer for the purposes of the Food Act 2008 (s126(13)) | |

STATUTORY REQUIREMENTS

Sections 5.42, 5.43 and 5.46 of the Local Government Act (1995), provides as follows.

5.42 Delegation of some powers and duties to CEO

(1) A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

5.43 Limits on delegations to CEOs

A local government cannot delegate to a CEO any of the following powers or duties:

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.99 or 5.100; (fee, expenses and allowances)
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5; (objection to a decision)
- (h) any power or duty that requires the approval of the Minister or the Governor; or
- (i) *such other powers or duties as may be prescribed.*

5.46. Register of, and records relevant to, delegations to CEO's and employees

(1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.

(2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.

(3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

STRATEGIC IMPLICATIONS

This item relates to the following elements from the Shire of Jerramungup Strategic Community Plan.

Aspiration 6: An engaged and informed community, defined by strong civic leadership, sound governance and transparent decision making.

FINANCIAL IMPLICATIONS

No additional financial implications are identified as there are no proposed changes to delegations.

POLICY IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute Majority

RECOMMENDATION

That Council delegate to the Chief Executive Officer the following powers and duties:

| Act or Regulation | Section | Relevant Exercisable Power | Limitations |
|---------------------------|----------------|--|--------------------|
| Local Government Act 1995 | 3.34(1) | A local government may enter land in an emergency without notice or consent | |
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OC150410 Moved Cr Bailey / Seconded Cr Iffla

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Carried by Absolute Majority 6-0

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|------------------------------------|---------------------------------|
| SUBMISSION TO: | Administration |
| AGENDA REFERENCE: | 10.4.3 |
| SUBJECT: | Fire Control Information Notice |
| LOCATION/ADDRESS: | Shire of Jerramungup |
| NAME OF APPLICANT: | N/A |
| FILE REFERENCE: | |
| AUTHOR: | Charmaine Solomon |
| DISCLOSURE OF ANY INTEREST: | Nil |
| DATE OF REPORT: | 2 nd April 2015 |

SUMMARY

This item addresses the draft Shire of Jerramungup Fire Control Information which has been amended to commence implementation of the recommendations following Council's adoption of the Point Henry Fire Management Strategy Policy Statement in October 2014.

ATTACHMENT

Attachment 10.4.3 (a) - Original Fire Control Information
Attachment 10.4.3 (b) - Draft Fire Control Information

BACKGROUND

The Shire of Jerramungup – Fire Control Information is provided annually to all land owners within their rates notice information. It is a four (4) page document prepared under the Bush Fire Act 1954. The notice is broken down into land uses e.g. residential, town centre, service commercial etc. and provides the minimum requirements for each zone to prevent the outbreak of a bush fire.

In October 2014, Council adopted the Point Henry Fire Management Strategy Policy Statement part of the recommendation was to;

Consider the following changes to the Fire Break Notice:

- *Amend how rural residential areas are referred to by differentiating between Point Henry and other Rural Residential areas;*
- *Phase in over a five year period requirements for compliant access, turnarounds for heavy firefighting vehicles, dedicated water source and a 20m Building Protection Zone in accordance with the Point Henry Fire Management Strategy Policy Statement found at Attachment 10.3.1(c); and*
- *Allow for extended approvals for variations issued under the Fire Break Notice.*

In the past, confusion surrounds the Rural Residential Zones of which there are two within the Shire.

1. Freeman Drive in the Bremer Bay town site
2. The majority of the Point Henry Peninsula

Section 2 of the Fire Control Information related to the Rural Residential Zone. Sections 2a(i) and (ii) referred to the Freeman Drive area that is predominantly 5 acre cleared and pastured lots. This area requires a 3 metre wide access track around the boundary and around all buildings, haystacks and inflammable matter.

Section 2(b) and (c) referred to the Point Henry Peninsula. This section made reference to strategic fire breaks that are located on some properties.

To overcome confusion with landowners we have separated Freeman Drive and the Point Henry Peninsula and phased in the requirements for access/driveway, turnarounds, water supply and the 20m Building Protection Zone over a 5 year period for existing landowners.

The requirement for a Building Protection Zone may be varied by Council where the development is considered to be “unavoidable development”. The landowners must apply in writing to the Shire before the 15th October each year for permission to approve variations. The Shire may approve variations to the Building Protection Zone for a period not more than 5 years.

CONSULTATION

Shire Staff

COMMENT

It is recommended that Council adopt the amended Fire Control Information to reflect the Point Henry Fire Management Strategy Policy Statement.

STATUTORY REQUIREMENTS

Section 33, Bush Fire Act 1954

33. Local government may require occupier of land to plough or clear fire-break

- (1) Subject to subsection (2) a local government at any time, and from time to time, may, and if so required by the Minister shall, as a measure for preventing the outbreak of a bush fire, or for preventing the spread or extension of a bush fire which may occur, give notice in writing to an owner or occupier of land situate within the district of the local government or shall give notice to all owners or occupiers of land in its district by publishing a notice in the *Government Gazette* and in a newspaper circulating in the area requiring him or them as the case may be within a time specified in the notice to do or to commence to do at a time so specified all or any of the following things —
 - (a) to plough, cultivate, scarify, burn or otherwise clear upon the land fire-breaks in such manner, at such places, of such dimensions, and to such number, and whether in parallel or otherwise, as the local government may and is hereby empowered to determine and as are specified in the notice, and thereafter to maintain the fire-breaks clear of inflammable matter;

- (b) to act as and when specified in the notice with respect to anything which is upon the land, and which in the opinion of the local government or its duly authorised officer, is or is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire,
- and the notice may require the owner or occupier to do so —
- (c) as a separate operation, or in co-ordination with any other person, carrying out a similar operation on adjoining or neighbouring land; and
 - (d) in any event, to the satisfaction of either the local government or its duly authorised officer, according to which of them is specified in the notice.
- (2) A notice in writing under subsection (1) may be given to an owner or occupier of land by posting it to him at his last postal address known to the local government and may be given to an owner of land by posting it to him at the address shown in the rate record kept by the local government pursuant to the *Local Government Act 1995*, as his address for the service of rate notices.
- (2a) The provisions of subsection (2) are in addition to and not in derogation of those of sections 75 and 76 of the *Interpretation Act 1984*.
- (3) The owner or occupier of land to whom a notice has been given under subsection (1) and who fails or neglects in any respect duly to comply with the requisitions of the notice is guilty of an offence.
- Penalty: \$5 000.
- (4) Where an owner or occupier of land who has received notice under subsection (1) fails or neglects to comply with the requisitions of the notice within the time specified in the notice —
- (a) the local government may direct its bush fire control officer, or any other officer of the local government, to enter upon the land of the owner or occupier and to carry out the requisitions of the notice which have not been complied with; and
 - (b) the bush fire control officer or other officer may, in pursuance of the direction, enter upon the land of the owner or occupier with such servants, workmen, or contractors, and with such vehicles, machinery, and appliances as he deems fit, and may do such acts, matters and things as may be necessary to carry out the requisitions of the notice.
- (5) The amount of any costs and expenses incurred by the bush fire control officer or other officer in doing the acts, matters, or things provided for in subsection (4) —
- (a) shall be ascertained and fixed by the local government and a certificate signed by the mayor or president of the local government shall be *prima facie* evidence of the amount; and
 - (b) may be recovered by the local government in any court of competent jurisdiction as a debt due from the owner or occupier of land to the local government.
- (5a) A local government may make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* —
- (a) requiring owners and occupiers of land in its district to clear fire-breaks in such manner, at such places, at such times, of such dimensions and to such number, and whether in parallel or otherwise, as are specified in

the local laws and to maintain the fire-breaks clear of inflammable matter;

- (b) providing that things required by the local laws to be done shall be done to the satisfaction of the local government or its duly authorised officer.
- (5b) Where an owner or occupier of land fails or neglects in any respect to comply with the requirements of local laws made under subsection (5a) the provisions of subsections (3), (4) and (5) apply *mutatis mutandis* as if those requirements were the requisitions of a notice given under subsection (1).
- (5c) Nothing in subsection (5a) affects the power of a local government to give notice under subsection (1) nor its duty to do so if so required by the Minister.
- (5d) Where the provisions of local laws made under subsection (5a) are inconsistent with those of a notice given under subsection (1) or under section 34 or 35, the provisions of that notice shall, to the extent of the inconsistency, prevail.
- (6) A local government may, at the request of the owner or occupier of land within its district, carry out on the land, at the expense of the owner or occupier, any works for the removal or abatement of a fire danger, and the amount of the expense, if not paid on demand, may be recovered from the owner or occupier by the local government in a court of competent jurisdiction as a debt due from the owner or occupier to the local government.
- (7) Nothing in this section authorises a local government —
 - (a) to set fire to the bush, or to require an owner or occupier of land to set fire to the bush, contrary to the provisions of section 17; or
 - (b) to make local laws authorising or requiring bush to be set on fire contrary to the provisions of section 17.
- (8) Any amount recoverable by a local government under this section as a debt due from the owner or occupier of land is, until paid in full —
 - (a) a debt due from each subsequent owner in succession; and
 - (b) a charge against the land with the same consequences as if it were a charge under the *Local Government Act 1995* for unpaid rates; and
 - (c) recoverable by the local government in the same manner as rates imposed in respect of the land are recoverable under that Act.
- (9) In this section —
owner or occupier of land includes a prescribed department of the Public Service that occupies land or a prescribed State agency or instrumentality that owns or occupies land.

STRATEGIC IMPLICATIONS

The policy relates to the following components from the Shire of Jerramungup Strategic Community Plan 2012 – 2025;

Aspiration 7: A healthy community where residents feel safe, secure and self-assured.

Activity: Implement Local Emergency Management Arrangements (existing).

Key Component: Bushfire Preparedness.

FINANCIAL IMPLICATIONS

Nil

WORKFORCE IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council;

1. Adopt the amended Shire of Jerramungup Fire Control Information to reflect the following changes:
 - a) Specific mention to Freeman Drive Rural Residential Zone
 - b) Specific mention to Point Henry Peninsula Rural Residential Zone
 - c) Requirement for variations to the Building Protection Zone.
 - d) Requirements for landowners to phase in the following over a 5 year period in Point Henry;
 - i) Compliant access/driveway - landowners must comply by 31st October 2016.
 - ii) Turnarounds for heavy firefighting vehicles - landowners must comply by 31st October 2017.
 - iii) 20,000L dedicated water supply - landowners must comply by 31st October 2018.
 - iv) 20m Building Protection Zone - landowners must comply by 31st October 2019.
2. Provide the adopted Fire Control Information to the Jerramungup Bushfire Advisory Committee AGM for endorsement.
3. Once endorsed gazette the Fire Control Information in accordance with Section 33(1) of Bush Fire Act 1954.

That Council;

1. Adopt the amended Shire of Jerramungup Fire Control Information to reflect the following changes:
 - a) Specific mention to Freeman Drive Rural Residential Zone
 - b) Specific mention to Point Henry Peninsula Rural Residential Zone
 - c) Requirement for variations to the Building Protection Zone.
 - d) Requirements for landowners to phase in the following over a 5 year period in Point Henry;
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2. Provide the adopted Fire Control Information to the Jerramungup Bushfire Advisory Committee AGM for endorsement.
3. Once endorsed gazette the Fire Control Information in accordance with Section 33(1) of Bush Fire Act 1954.

Carried 6-0

| | |
|------------------------------------|--------------------------------------|
| SUBMISSION TO: | Administration |
| AGENDA REFERENCE: | 10.4.4 |
| SUBJECT: | Draft Lease – Bremer Bay Sports Club |
| LOCATION/ADDRESS: | Shire of Jerramungup |
| NAME OF APPLICANT: | N/A |
| FILE REFERENCE: | |
| AUTHOR: | Charmaine Solomon |
| DISCLOSURE OF ANY INTEREST: | Nil |
| DATE OF REPORT: | 2 nd April 2015 |

SUMMARY

This item addresses the draft lease agreement prepared between the Shire of Jerramungup and the Bremer Bay Sports Club Inc.

The parties wish to proceed with the lease of land for Part Reserve 511 comprising Lot 3000 on Deposited Plan 46739 and being the whole of the Land comprised in Crown Land Title Volume LR3159 Folio 707 for an area comprising of 101.9722 hectares.

ATTACHMENT

Attachment 10.4.4 - Draft Lease

BACKGROUND

On 22nd August 1997, the Shire of Jerramungup executed a lease with the Bremer Bay Sports Club for a portion of Reserve 511. Reserve 511 is a significant parcel of land located to the south east of the Bremer Bay Town Site.

The lease was for a period of 20 years and expired in March 2015 the lease area was for approximately 100 hectares and included the area bound by the golf course.

A new lease is now required between the Shire of Jerramungup and the Bremer Bay Sports Club Inc.

CONSULTATION

McLeod's Solicitors
Bremer Bay Sports Club Committee
Shire Staff

COMMENT

Under the Management Order the Shire has the power to lease the Land for any term not exceeding 21 years subject to the approval for the Minister for Lands being obtained.

Shire staff have liaised with members of the Bremer Bay Sports Club Committee to formulate the draft lease. The lease is now submitted to Council for approval and lodgement with the Minister for Lands.

A clause has been inserted for the “Shared Use Trail” which runs through the leased area to allow the Shire to have exclusive rights and responsibility for this infrastructure.

STATUTORY REQUIREMENTS

3.58. Disposing of property

- (1) In this section —
dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given; and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
 - (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
 - (a) a disposition of an interest in land under the *Land Administration Act 1997* section 189 or 190; or

- (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
- (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
- (d) any other disposition that is excluded by regulations from the application of this section.

[Section 3.58 amended by No. 49 of 2004 s. 27; No. 17 of 2009 s. 10.]

30. Dispositions of property excluded from Act s. 3.58

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if —
 - (a) the land is disposed of to an owner of adjoining land (in this paragraph called the **transferee**) and —
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
 - or
 - (b) the land is disposed of to a body, whether incorporated or not —
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

Land Administration Act 1997

18. Various transactions relating to Crown land to be approved by Minister

- (1) A person must not without authorisation under subsection (7) assign, sell, transfer or otherwise deal with interests in Crown land or create or grant an interest in Crown land.
- (2) A person must not without authorisation under subsection (7) —
 - (a) grant a lease or licence under this Act, or a licence under the *Local Government Act 1995*, in respect of Crown land in a managed reserve; or
 - (b) being the holder of such a lease or licence, grant a sublease or sublicense in respect of the whole or any part of that Crown land.
- (3) A person must not without authorisation under subsection (7) mortgage a lease of Crown land.
- (4) A lessee of Crown land must not without authorisation under subsection (7) sell, transfer or otherwise dispose of the lease in whole or in part.
- (5) The Minister may, before giving approval under this section, in writing require —

- (a) an applicant for that approval to furnish the Minister with such information concerning the transaction for which that approval is sought as the Minister specifies in that requirement; and
 - (b) information furnished in compliance with a requirement under paragraph (a) to be verified by statutory declaration.
- (6) An act done in contravention of subsection (1), (2), (3) or (4) is void.
- (7) A person or lessee may make a transaction under subsection (1), (2), (3) or (4) —
- (a) with the prior approval in writing of the Minister; or
 - (b) if the transaction is made in circumstances, and in accordance with any condition, prescribed for the purposes of this paragraph.
- (8) This section does not apply to a transaction relating to an interest in Crown land if —
- (a) that land is set aside under, dedicated or vested for the purposes of an Act other than this Act, and the transaction is authorised under that Act;
 - (b) that interest may be created, granted, transferred or otherwise dealt with under an Act other than —
 - (i) this Act; or
 - (ii) a prescribed Act;
 - (c) an agreement, ratified or approved by another Act, has the effect that consent to the transaction was not required under section 143 of the repealed Act; or
 - (d) the transaction is a lease, sublease or licence and the approval of the Minister is not required under section 46(3b).

[Section 18 amended by No. 59 of 2000 s. 8(1)-(5) ⁵.]

STRATEGIC IMPLICATIONS

The policy relates to the following components from the Shire of Jerramungup Strategic Community Plan 2012 – 2025;

Aspiration 5: An active community supported by fit for purpose sport and recreation facilities.

Aspiration 6: An engaged and informed community, defined by strong civic leadership, sound governance and transparent decision making.

FINANCIAL IMPLICATIONS

Preparation and registration of the lease is approximately \$2,000.

WORKFORCE IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

That Council;

1. Acknowledge that the disposition is an exempt disposition in accordance with Local Government (Functions and General) Regulations Section 30 (2)(b)(i).
2. Subject to the Shire gaining consent from the Minister for Lands, authorise the Shire President and Chief Executive Officer to execute the lease agreement for the Bremer Bay Sports Club Inc for Part Reserve 511 comprising Lot 3000 on Deposited Plan 46739 and being the whole of Land comprised in Crown Land Title Volume LR3159 Folio 707 for a maximum lease term of 21 years expiring on 14th April 2036.

OC150412 Moved Cr Iffla / Seconded Cr Parsons

That Council;

1. **Acknowledge that the disposition is an exempt disposition in accordance with Local Government (Functions and General) Regulations Section 30 (2)(b)(i).**
2. **Subject to the Shire gaining consent from the Minister for Lands, authorise the Shire President and Chief Executive Officer to execute the lease agreement for the Bremer Bay Sports Club Inc for Part Reserve 511 comprising Lot 3000 on Deposited Plan 46739 and being the whole of Land comprised in Crown Land Title Volume LR3159 Folio 707 for a maximum lease term of 21 years expiring on 14th April 2036.**

Carried 6-0

COUNCILLOR REPORTS

11. COUNCILLOR REPORTS

Cr Parsons

Attended a Business Sundowner at the Bremer Bay CRC.

12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY LEAVE OF THE PRESIDING MEMBER

12.1 From Officers

Nil

12.2 From Elected Members

Nil

13. NEXT MEETING/S

13.1 Ordinary Meeting – to be held Wednesday 20th May 2015 commencing 2.00pm at the Council Chambers, Jerramungup.

14. CLOSURE

The President declared the meeting closed at 2.50pm.