

SHIRE OF AUGUSTA-MARGARET RIVER - DRAFT DISTRICT PLANNING SCHEME 1

24. Hon BARRY HOUSE to the Minister for Local Government and Regional Development:

With regard to the recent decision by the Department of Local Government and Regional Development to exclude Augusta-Margaret River Shire Councillor Brian Middleton from participating in the entire debate on the draft district planning scheme 1, after he sought advice on a possible conflict of interest involving his business partner living in a street recommended for rezoning, I ask -

- (1) On what grounds was he excluded; that is, under what section of the act?
- (2) Why was the exclusion not confined to only that one item in draft district planning scheme 1?
- (3) Why was Councillor Middleton treated differently from several other councillors who declared conflicts of interest and who were barred from deliberating on the specific items, but were allowed to participate in all other aspects of the debate?

Hon KIM CHANCE replied:

On behalf of the Minister for Local Government and Regional Development, I thank Hon Barry House for some notice of the question. The answer is quite lengthy. I table the answer and seek leave for its incorporation into *Hansard*.

Leave granted.

[See paper 1330.]

The following material was incorporated -

-
1. Councillor Middleton was one of five Councillors that declared an interest in DDTPS1. As there are seven positions of Councillor, the Council could not achieve a quorum to deal with the matter. The Chief Executive officer (CEO) requested approval, pursuant to section 5.69 of the *Local Government Act 1995* (the Act) for the declaring Councillors to participate in the matter.

Under Section 5.60 of the Act, a Councillor has an interest in a matter if either the Councillor or a person with whom the Councillor is closely associated has a direct or indirect interest in a matter or a proximity interest in the matter. Under section 5.62, Councillor Middleton's business partner is deemed to be a "closely associated person".

It was proposed to rezone the property owned by Councillor Middleton's business partner to R30/40 which would significantly increase the development potential of the land and thereby its value. Councillor Middleton was not granted an exemption to allow him to participate on the basis that he had a clear interest in the matter.
 2. The Council held a Special meeting to discuss DDTPS1 which covers the whole district, ie discussions/decisions were not based on individual properties. Therefore, any discussion/voting on DDTPS1 would have included Councillor Middleton's business partner's property.
 3. With respect to the four other declaring councillors, two were assessed to have a proximity interest, which was not considered significant. One Councillor was assessed to have no interest in the matter (or at least the interest was not clear). The fourth Councillor was assessed to have a property that was within the boundaries of the Witchcliffe Village Strategy (a guiding document referred to by DDTPS1). The CEO advised that it was not intended to discuss this Strategy at the Council meeting. Accordingly, conditional approval was given for this Councillor to participate, however, should the Witchcliffe Village Strategy be raised at the meeting, the approval was invalid and the Councillor was to leave the room.
-