



City of
Greater Geraldton
a vibrant future



Our Ref: D-16-52912
Your Ref: Petition No. 117
File Ref: A65947
Enquiries: Phil Melling

17 August 2016

The Chairman
Standing Committee on Environment & Public Affairs
Parliament House
Perth WA 6000

Dear Sir/Madam

PETITION NO. 117 - SOUTHGATES SAND DUNES, GERALDTON

Reference is made to the above petition and firstly, an apology is due for the delay in responding on this matter.

The City's position on the proposed rezoning of the area that includes the Southgates sand dunes was outlined in a report to Council on 24 March 2009, a copy of that report is attached. Council's resolution was as follows:

SC58 TOWN PLANNING SCHEME No. 1A AMENDMENT No. 4 & ENVIRONMENTAL REVIEW – PROPOSED DEVELOPMENT ZONE 'SOUTHGATES DUNES', CAPE BURNEY

COUNCIL DECISION

MOVED CR L'ANSON, SECONDED CR MCILWAINE

That Council by Simple Majority RESOLVES to:

1. *pursuant to regulation 17(1) of the Town Planning Regulations 1967 determine the submissions as outlined in the 'Schedule of Submissions'.*
2. *pursuant to regulation 17(2) of the Town Planning Regulations 1967 and Part 5 of the Planning & Development Act 2005, not proceed with Scheme Amendment No. 4 to City of Geraldton-Greenough Town Planning Scheme No. 1A and makes this determination based on the following:*
 - a. *Council considers that the current oversupply of residential zoned land that is yet to be subdivided within the Geraldton-Greenough area indicates that the proposed rezoning of additional land for residential purposes is contrary to Scheme Objective 1.6 (a) that seeks to facilitate and coordinate progressive development;*
 - b. *the submission period has raised a considerable number of objections both from the community and government agencies based on a range of substantial concerns;*

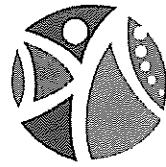


- c. the need for further study into coastal processes along the Geraldton coastline;
 - d. Council considers that it would be premature and prejudicial to proceed with a substantial amendment of this nature at this time given there are a number of broader planning issues that are still outstanding for the southern growth corridor; including potential upgrades to infrastructure that will rely on outcomes from the environmental assessment process; and
 - e. the current uncertainty over the native title and land exchange process.
3. advise respondents that, notwithstanding Council's decision not to proceed with the Amendment, the local government is not the final decision making authority in the Scheme Amendment process and until such time as a determination has been made by the Minister for Planning the Amendment remains an "active" application;
4. revoke its endorsement of the "Greenough River Estate Structure Plan (Subdivision Guide Plan)" for that portion of land covered by Amendment No. 4 to Town Planning Scheme No. 1A;
5. advise the applicant, the Department for Planning & Infrastructure and Main Roads WA, that should the Minister for Planning not support Scheme Amendment No. 4 then Council is unwilling to initiate any further requests for rezoning effecting the Southgates Dunes until such time as the following issues have been satisfactorily addressed:
 - a. the assessment by the Environmental Protection Authority of all environmental issues raised during the submission period;
 - b. the completion of the Coastal Vulnerability Analysis and Risk Assessment Program (Cape Burney to Buller River Sediment Study) by the Northern Agricultural Catchments Council;
 - c. the resolution of all native title issues relevant to the subject area;
 - d. resolution of all matters and approval pursuant to the Aboriginal Heritage Act 1972;
 - e. the resolution of the land exchange agreement between the state government and developer;
 - f. agreement from key stakeholders (including the Department for Planning & Infrastructure and Main Roads WA) on the broader planning of the southern growth corridor;
 - g. definitive arrangements for construction and/or upgrading of related infrastructure needs inclusive of developer contributions;
 - h. resolution of serviceability issues caused by the flooding of Rudds Gully;
 - i. potential impacts of climate change and sea level as indicated by the IPCC 2008;
 - j. the preparation of a cultural heritage assessment for the Southgates Dunes area which includes identifying and recognition of Aboriginal cultural heritage values of the land; and
6. request the Minister for Planning and the WA Planning Commission to urgently undertake a review of the Geraldton Region Plan 1999 and associated Greater Geraldton Structure Plan 1999 and further request support for the City of Geraldton-Greenough's "City Vision" project as a means to expedite the review process.

CARRIED 7/4

REASON FOR VARIATION TO THE EXECUTIVE RECOMMENDATION: That Council identified the need for additional cultural heritage assessment for the Southgates Dunes area which includes identifying and recognition of Aboriginal cultural heritage values of the land.





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The City was advised in January 2016 that the Minister for Environment had issued a "Statement of Conditions to which scheme should be subject if it is to be implemented" for Local Planning Scheme Amendment No.4 referenced in the Council resolution above.

The City believes there are still a number of outstanding requirements contained in Council's resolution despite the issuing of the Ministerial Statement. The City has been advised that additional environmental work has been undertaken that allowed the Minister for Environment to issue the Statement. However, the City has not been party to any of the assessments undertaken and it and the Greater Geraldton Community have still not been provided with copies of the supporting documents that led to the determination.

If the rezoning were to be finalised by the Minister for Planning, and given some of the conditions contained in the Statement, it appears that the City could ultimately be expected to undertake the management of a number of identified areas and implement a number of processes that could be a financial and management liability/ burden on City ratepayers.

Given the above and the number of outstanding issues raised by the City of Greater Geraldton, therefore above resolution still stands, the petition has a number of interlinked outcomes with that original resolution.

Thank you for this opportunity to comment on the petition.

Should further information or clarification on the City submission be required, please contact Phil Melling at the City on (08) 9956 6647.

Yours sincerely

Ken Diehm
CHIEF EXECUTIVE OFFICER

SC58	TOWN PLANNING SCHEME No. 1A AMENDMENT No. 4 & ENVIRONMENTAL REVIEW – PROPOSED DEVELOPMENT ZONE 'SOUTHGATES DUNES', CAPE BURNEY
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AGENDA REFERENCE:	09/04395
AUTHOR:	S Lancaster, Senior Strategic Planner & M Connell, Manager Town Planning Services
EXECUTIVE:	P Melling, Director Sustainable Communities
DATE OF REPORT:	17 March 2009
FILE REFERENCE:	LP/0080
APPLICANT / PROPONENT:	Chappell, Lambert & Everett Planning Consultants and Coffey Environment
ATTACHMENTS:	Yes

SUMMARY:

The advertising period has concluded for Town Planning Scheme No. 1A Amendment No. 4 and associated Environmental Review which proposes to rezone the undeveloped land bordered by the Brand Highway to the east, Greenough River to the south, the Indian Ocean to the west and Tarcoola Beach to the north to 'Development Zone'.

This report recommends that Council not proceed with the Scheme Amendment and further that Council revoke its endorsement of the "Greenough River Estate Structure Plan (Subdivision Guide Plan)" for that portion of land covered by Amendment No. 4 to Town Planning Scheme No. 1A.

BACKGROUND:

The (then) Shire of Greenough resolved at its meeting on 23 February 2005 to initiate 2 separate Scheme Amendments involving the Cape Burney Estate area. Scheme Amendment No. 114 to Town Planning Scheme No. 4 (Greenough) involved the land south of the Greenough River Resort. Scheme Amendment No. 4 to Town Planning Scheme No. 1A (Greenough River Resort) involved the area generally known as 'Southgates Dunes'. It is this Amendment No. 4 that is the subject of this report.

Council at its meeting held on 23 February 2005 resolved inter alia to amend its Town Planning Scheme No. 1A by:

"Rezoning Lots 1, 3, 708, 1268, 1925, 1945, 2453, 4200, 4201, 5843, 6852, 11939, 12196 and the portion of Lot 2466 contained within Shire of Greenough Town Planning Scheme No. 1A from 'General Farming' to 'Development' zone;"

Under the proposed 'Development' zone, development in the area is to accord with an adopted Subdivision Guide Plan. Council at its meeting held on 28 March 2007 resolved as follows:

"That Council receive and endorse the Greenough River Estate Structure Plan (Subdivision Guide Plan) dated February 2007 (as prepared by Chappell Lambert and Everett) and the supportive technical documents for the future 'Development Zone' for the area shown on the submitted plans in order to allow the final assessment of the Scheme Amendment to Development Zone to be considered by the EPA and WA Planning Commission prior to granting consent to advertising the proposed amendment."

The Environmental Protection Authority on 18 April 2005 determined that the Amendment should be assessed under the Environmental Protection Act. An environmental review was undertaken by the proponent and the Environmental Protection Authority approved the review for release on 15 August 2008.

On 27 November 2008 the Department for Planning & Infrastructure gave consent for the Amendment to be advertised.

The Proposal:

The subject land is comprised of 507.7613ha land owned by Bayform Holdings Pty Ltd, a 12.4703ha Reserve managed by the Water Corporation (containing a wastewater treatment plant), a 13.0258ha lot owned by Ramage Super Fund and 218.8984ha Unallocated Crown Land that is subject to a land exchange agreement between the State Government and the developer.

The subject area is comprised of approximately 130ha of land used for rural purposes along the eastern frontage to the Brand Highway, approximately 220ha of vegetated land at the northern and southern ends of the site and along a central spine, and approximately 200ha of exposed parabolic dune that is commonly referred to as Southgates Dunes. The remainder of the subject land includes dune/vegetation interface, a wastewater treatment plant at the site's core, a residence and limesand quarry at the northern end, and the cleared portion that is subject to bulk earthworks for a residential development south of Greenough River Road.

The 'Development' zone has been suggested by the applicant as the preferred mechanism for a large area that would take many years to stabilise and develop. The 'Development' zone would allow for the adoption and ongoing updating of a Subdivision Guide Plan as the area develops rather than individual Scheme Amendments prior to every stage of subdivision. The applicant's SGP proposes that the subject area be developed for a range of housing densities (R25-R80), 5 primary school sites, 1 high school site, 1 town commercial centre and 2 local commercial centres, public open space network and 4 tourist nodes.

A location plan, aerial photograph, the developer's proposed Subdivision Guide Plan and relevant extracts from the Scheme Amendment documentation are included as Attachment No. SC58A.

Copies of the full Scheme Amendment, Environmental Review and Subdivision Guide Plan documents are available to Council upon request.

COMMUNITY CONSULTATION:

The Amendment and environmental review were publicly advertised in accordance with the provisions of the Planning & Development Act 2005 and Environmental Protection Act 1986 with advertising commencing on 05 January 2009 and concluding on 16 February 2009.

The proposal was also widely publicised in the local media.

Submissions:

As a result of the advertising, a total of 113 submissions were received (6 offering no objection, 2 expressing indifference and 105 in objection). Three late submissions were also received all objecting to the proposed rezoning. Listed below is a summation of the comments/concerns raised from the public comment period:

No Demonstrated Need

- There is no justification for further housing in this city, land prices are plummeting, land releases are struggling to sell, there are already many undeveloped blocks.
- The current global financial crisis and consequent unemployment will halt population growth and ensure large numbers of residential blocks of land will remain unsold for many years, perhaps decades, leaving vast tracts of unprotected housing estates generating constantly blowing sand and disrupting quality of life for years to come, who will manage the sand and dust then?
- The scale of development is beyond what is necessary or appropriate, no evidence that this level of development is required, there is abundant and far more appropriate land to the north, east, south and even inner Geraldton that could be developed to meet the future housing needs of the City.
- Population projections are unrealistic, Geraldton only grew by 2,500 people between 2001 and 2006, we are not seeing anywhere near the population growth some people predict.
- The submitted population projections are based on projects that do not exist, other shires in the Mid West have recently revised down their predicted growth figures.

Recreational Value

- As more land is used up for housing there are fewer places left where you can go motorbike riding or 4-wheel driving without disturbing local residents, to lose this land will increase people using land closer to residents and strain local services to stop them using it.
- Southgates Dunes are used regularly by locals and attract tourists to them for a diverse range of recreational activities (e.g. swimming, walking, running, hiking, windsurfing, kiteboarding, fishing, family gatherings, BBQ's, motorbike riding, dog walking, picnicking, 4WDing, photography, bird watching, horse exercising).
- Taking away these dunes will cause heartache for these users and will leave no place for them to be active in this type of activity.
- The Environmental Review fails to identify alternatives to replace this valued community resource.
- Little or no planning of recreational facilities for off-road vehicles, motorbikes, sandboarding etc. this area could be set aside for these activities and controlled correctly.
- There are not many other places on our coastline that offer this free of charge, free to access, and free to enjoy, it is special as it is untouched and undeveloped and should remain this way.

Social and Iconic Value

- Report focuses only on the biophysical requirement, what about human/social requirements e.g. asking the community already living near the dunes how they value the view and how the dune system is relative to their lifestyle.
- Southgates Dunes is a Geraldton icon that makes it feel like 'home', when travelling from Perth I look forward to coming home to it, when home I enjoy seeing it.
- Southgate Dunes are a prominent, important and significant landscape that greets travellers to Geraldton coming from the south and leaves a final impression to travellers departing south.
- Unique landmark of our City, essential social, environmental and tourism signature that defines our City.
- Southgates Dunes are iconic to Geraldton's emerging tourist product, in respect to marketing, branding and list of things to do.
- They are always clearly visible to the many users of Tarcoola Beach, Mahomet's Beach, Separation Point and the Point Moore Peninsula. They provide a sense of proximity to unspoilt and untamed landscape. As Geraldton grows into an ever larger regional city they help define a sense of a country town that much of this community values.
- Southgate Dunes are as important a visual icon as the Point Moore lighthouse in defining the visual character of Geraldton.
- Icons are important for the public imagination, just think of the power of icons such as Sydney Harbour Bridge, Pinnacles, Cable Beach.
- This decision places at risk the very fabric and sense of place which residents and visitors come to enjoy and consequently places at risk any future economic potential derived from these assets.

- Beauty of the area is it changes on a daily basis, tracks made the day before are gone the next as the wind replaces those with perfectly carved slopes.
- Once it is gone it is gone forever and Geraldton becomes more and more like a Perth suburb, to be greeted by endless urban sprawl is a horrifying thought, would completely destroy the wonderful unique feel.
- There hasn't been enough community consultation and a comprehensive report on what the people of Geraldton want and how the dunes are used.
- Information needs to be obtained from local communities, interest groups and agencies contributes about Southgates Dunes to gather an overall understanding of community landscape values and identification of areas of high landscape importance.
- The close proximity of high quality natural landscapes and vegetation so close to an urban area is an asset that should be considered rather than construed as a threat to the expanding urban sprawl.
- NACC has commenced a social study to better understand community perceptions regarding current and past developments along the coast, coastal features and climate change, the City should wait for the result of this project to make sure community values are considered in the planning process for Southgates.

Aboriginal Heritage

- Area is traditional Aboriginal land.
- Fresh water in the middle of sand dunes is not a common occurrence and these types of natural water sources should be treasured and preserved for the future of our children.
- Lets keep the small areas that still have evidence of the first Australians.
- Traditional elders concerns are ignored.
- Burial grounds are sacred grounds.
- This area is very significant to our family and other Amangu claimants.
- We have remains of our ancestors found in these sand dunes, a registered site, this means these areas should not be touched.
- For too long we have been treated as insignificant, but we are traditional owners and need to be respected, our ancestors need to be respected.
- Contractors will not let traditional owners know about their ancestors.

Longshore Marine Sand Drift

- Southgates is fed from the ocean (lime sands) and Greenough River sediment (silica sands), it is blown into the Southgates Dune field by the prevailing southerly winds. The sand is transported northward through the dune field by eolation. Where the northwest edge of the blowout meets the beach, sand is fed back into the coast to become littoral drift. The dynamic nature of this system results in sands from this system feeding into the marine system and contributing to the deposition of sands from Tarcoola Beach to Point Moore and

ultimately northern sand movement around the Point to the beaches of Champion Bay.

- The impact that development on this dune system will have on these long term coastal processes including self-sustaining sand replenishment on Geraldton's public beaches should receive critical consideration in the Environmental Impact Assessment of this Scheme Amendment.
- Tarcoola Beach will erode and the shore line will move eastward threatening roads and property, conceivable that Tarcoola Beach residents will mount a class action seeking compensation from the decision making authorities that approved a development that could be clearly foreseen to cause depletion.
- If the sand feed through Southgates is arrested by urban development there are two possible scenarios; beaches to the north will be eroded and/or sand will continue to feed over the Southgate urban developments especially after Greenough River flood events and will be an urban hazard.
- The applicant's study indicates that Southgates contributes approximately 10,000m³ of sand to these beaches which constitutes 25% of the total sand deposited on these beaches, this appears to be a significant amount that if removed from the system has the potential to lead to extensive erosion issues along beaches that are highly valued by the community for recreation.
- The Review provides no commitment from the developer to manage potential erosion problems via beach nourishment measures that have been employed elsewhere in Australia where inappropriate development has altered coastal processes and contributed to the degradation of local beaches.
- Allowing a decision prior to the NACC Coastal Vulnerability Analysis and Risk Assessment Program being completed that will shed light on Southgates' role within the coastal system is exposing the City to future legal action through failure of due diligence in the strategic planning process.

Geraldton Port and Marina Precedent

- The environmental study for the enhancement of the Geraldton Port concluded that 15,000m³ of sand per annum would be prevented from being transported northwards, to compensate for this loss the Port and City Council signed a memorandum of understanding that the Port would transport sand in perpetuity. The proposed development of Southgates will prevent significant amounts of sand being deposited by the current to reach Explosives and Pages Beaches, in turn Council will no longer have access to any free sand supplies from those beaches to meet the commitments of its memorandum of understanding.
- The enormous, expensive and perpetual trouble caused by the construction of the Geraldton Port and Batavia Coast Marina provide inescapable first hand experience of the consequence of interfering with natural coastal processes.

- The combined impact of the Port and Marina on the beaches from the marina north to St Georges is a small scale example of the costs and potential impact on the environment and City finances if the destruction of the Southgates Dunes is allowed to proceed.

Financial Liability

- Who will be responsible for the ongoing maintenance of the beach including sand replenishment and the eventual need for rock groins to stabilise the beach, and at what cost?
- Think of the crippling ongoing financial burden the proposed development would leave generations of ratepayers let alone the destruction of our heritage and the fantastic Geraldton beach lifestyle.
- How many thousands of dollars are spent each year by the City in the trucking of sand to replenish the degraded beaches north of the CBD along Chapman Road, Remediation costs to future generations is impossible to estimate.
- Consider this very carefully as it could have serious and expensive consequences in the long term.

Legacy to Future Generations

- The future of Geraldton and those of our children and future generations deserves great duty of care and weighing up of long term outcomes.
- Proposal does not represent the long term vision for many in the community.
- Rezoning from Public Use and Parks and Recreation to Development not in public interest.
- Generations have spent time in the sand dunes, future generations should be given the same opportunity.
- A rash decision by Council that is being forced by land developers now could lead to environmental problems and regret later.
- Once people have built homes on these dunes there will be no way to undo the development, so we need to be absolutely sure we understand what we are doing.
- Councillors need to make a responsible decision in the interest of all people of Geraldton-Greenough and not just the interest of a few.

Density

- Consideration should be given to increasing density rather than elongating sprawl further (it's already a 20 minute drive north to south).
- Represents poor planning that exacerbates urban sprawl, adds reliance on vehicle transport and removes valuable green space from the city.
- Smart planning would be to hold off on land releases so that houses in-fill closer to town increasing housing density and removing pressure on roads, public transport, expanding infrastructure.

Environmental Review

- Exact impact not fully known until the dunes are removed, with so much at stake a precautionary approach should be taken and the dunes left in place.
- Environmental Review provides no data on nearshore currents which shows the limitation of previous coastal studies that don't quantify in detail the contribution of Southgates to the down-drift system.
- Documents do not mention rate of sand movement per year nor the evolution of the shoreline in the northern sectors.
- Being a 20 year development project it would be wise to wait for the new State Coastal Planning Policy (expected to be release June 2009).
- In some areas the setbacks shown on the Structure Plan are less than 100m this is cause for concern as the shoreline is retreating.
- The sea level rise component of the setback is based on the Bruun Rule model which is no longer applicable on perched beaches such as the Southgates coast, the data used was collected in Fremantle and then adjusted to the Southgate's conditions, this methodology is not acceptable and an underestimate of erosion could lead to severe damage to new infrastructures.
- It bases information on outdated 2001 sea level rise and coastal setback reports, resulting in setbacks that are inconsistent with setbacks for other coastal developments along our coastline.
- Creating a vegetated foreshore will reduce the quantity of sand available to the down-drift system, will stabilise the mobile dunes but probably cause further erosion down-drift.
- Review should make reference to State Planning Policy 2.9 Water Resources and Policy 2.0 Environment and Natural Resources and Better Urban Water Management.
- Onus should be on the developer to prove beyond doubt that the loss of the dunes will not significantly damage the coastal environment.

Fauna and Flora

- Will cause loss of critical habitat for fauna and massive destruction of flora in an area unique in its combination of aesthetic and ecological values and proximity to already urbanised areas.
- The Vertebrate Fauna, Flora Vegetation Report notes that fauna which will be impacted by the clearing is unlikely to be different to those found in similar habitats located south of Greenough River and elsewhere in the region, but those areas are considerably further from town and there are already very few areas of natural bush left in and around Geraldton.
- This is the first substantial area of bush on the coast south of the city centre, it is important that natural bush connect otherwise animals, in particular birds, don't move from one area to another.
- Host to many bird species around the edge.
- Development would mean the loss of 240ha of native vegetation, Geraldton-Greenough is already extensively cleared with significant tracts of land already highly degraded and susceptible to erosion, Planning and EPA policies indicate that additional clearing in the

coastal zone should be carefully considered and avoided where other options are available.

Previous Record of Developers and Council

- The performance of the developer on works already undertaken in the area has failed to meet written agreements with abutting landholders and has seen large denuded areas of existing vegetation with no homes built upon this land, resulting in wind and water erosion of the cleared land and causing actual physical damage to nearby homes and property.
- The level of competence required by the developer to successfully carry out the works envisioned in the proposal is on present evidence highly unlikely to be met, with extremely negative consequences for abutting landowners and for the City's social, built and natural environment.
- The developer may not have the funds to honour their commitments to Council.
- The proponents suggest their experience with local conditions has given them the solution of how the dunes may be stabilised, observations of their prior stabilisation show that this technique is inadequate.
- The City's performance in managing present development operations in Cape Burney reveals it as incompetent and it will be unable to adequately manage and control extensive works envisioned, this lack of competency puts environmental and public interest at too great a risk.

Land Exchange

- The proposed land exchange between the State Government and the developer has not been finalised and should not be allowed to proceed as the community has not been adequately consulted.
- Rezoning should be delayed to ensure the land exchange between Bayform and the state government actually occurs.
- The State Agreement is in clear conflict with the objectives outlined in the WAPC's State Coastal Planning Policy, specifically Clause 5 seeks to protect, conserve and enhance coastal values particularly in areas of landscape, nature conservation and cultural significance, and protect significant views and vistas.
- The Crown Land of Victoria Location 11939 needs to remain vested in the Crown and be managed as a Local Authority Reserve.
- Should be an enquiry into why a Minister has swapped this land for development.
- There is no survey data or any other evidence that the 400ha proposed to be exchanged for Southgates Dunes is good quality vegetation.
- The area to be exchanged for Southgates Dunes is not readily accessible to vehicles because it has the Greenough River between it and the road so anyone who likes to visit it may not be able to do so except by crossing the Greenough Rivermouth when it is dry.

- Council should be getting back to State Government and reclaiming private land where it interferes with the integrity of the dune/beach system.

Traffic

- Traffic impact assessment is inadequate as it only deals with the section of the Structure Plan south of Greenough River Road.
- Not support the proposed Town/Local Centre straddling the Highway due to disruption in flow of traffic along the Highway.

Dune Stabilisation

- The historical aerial photography shows claims that stabilisation of Southgates is required to protect existing property and infrastructure are false. There is only minor expansion of the area of bare sand in the northern part of the Southgate Dunes where mining has taken place, considering that a developer can physically level an area the size of Southgates the ability exists to manage a relatively small area of dunes at the northern face which is supposedly a threat.
- Dune stabilisation can be addressed by limiting the access of vehicles to the dunes and revegetating with local dune vegetation species.
- The limesand dunes move north by up to 10m per annum and represent a geohazard for the community. The previous extraction of the limesand from the northern portion of these dunes was an effective technique for mitigating this northern migration.
- Concerned that the proposal has the potential to sterilise the limesand resource within Lot 2453, this significant resource was previously mined under an extractive industry licence. This limesand was a unique and valuable local raw material for adding an agricultural neutralising capacity to the farmland in the Geraldton-Greenough region.

A 'Schedule of Submissions' is included as Attachment No. SC58B. Copies of the actual submissions are available to Council upon request.

The proponent has responded to each of the raised issues, and many of the individual submissions in great detail. A copy of the proponent's full response is included as Attachment No. SC58C.

COUNCILLOR/OFFICER CONSULTATION:

The issue of the Scheme Amendment and associated Subdivision Guide Plan have been previously considered by the Shire of Greenough dating back to January 2003.

The Amendment was formally initiated on 23 February 2005 and the Subdivision Guide plan was endorsed in order to allow the assessment of the Scheme Amendment on 28 March 2007.

Internal discussions have occurred at a senior level involving the Chief Executive Officer, the Director Sustainable Communities, the Manager Town Planning Services and the Senior Strategic Planner.

STATUTORY IMPLICATIONS:

The subject area is zoned 'General Farming', 'Residential Development', 'Residential R20', 'Resort Development', 'Commercial', 'Parks & Recreation', 'Dune Preservation' and 'Public Use' under the City of Geraldton-Greenough Town Planning Scheme No. 1A.

Council's draft Local Planning Scheme No. 5 proposes no change to the zoning.

The 'Development' zone has been suggested by the proponent as their preferred mechanism to allow for the introduction of a range of land uses within a future subdivision (this could include a shopping centre, tourist nodes, primary schools, public open space, pockets of medium density housing). The 'Development' zone would allow for the preparation of a Subdivision Guide Plan and its amendment if required as the area develops rather than individual Scheme Amendments prior to every stage of subdivision. The Subdivision Guide Plan would be required to be prepared to the satisfaction of Council and the WA Planning Commission prior to any subdivision taking place.

The Environmental Protection Authority have required that Scheme Amendment No. 4 should be assessed under Division 3 of Part IV of the Environmental Protection Act, necessitating the preparation of an Environmental Review.

Part 5 of the Planning & Development Act 2005 provides for the amendment of a Local Planning Scheme.

Regulation 17 of the Town Planning Regulations 1967 stipulates the manner in which submissions must be considered as follows:

"17. Consideration of submissions

- (1) Subject to subregulation (1a) the responsible authority shall, within —*
- (a) 6 months of the expiry of the period specified under regulation 15(5) for making submissions;*
 - (b) 42 days of receiving a statement delivered under section 48F(2)(a) of the EP Act; or*
 - (c) if the responsible authority makes a request under section 48G(1) of the EP Act within the longer of the periods referred to in paragraphs (a) and (b) and a statement is delivered under section 48G(3) of the EP Act, 42 days of receiving that latter statement,*

(whichever is the longer period), or such further period as is approved by the Commission, consider all submissions to the Scheme and in respect of each submission shall consider whether the Scheme should be modified accordingly or whether that submission should be rejected."

As the Amendment is subject to an Environmental Review regulation 17(1)(b) is applicable. Section 48F of the Environmental Protection Act stipulates the

procedure that applies in determining the environmental conditions to which the Amendment is to be subject. Conditions are determined following the publication by the Environment Minister of a report detailing environmental issues raised by the Amendment and conditions to which the Amendment should be subject.

Legal advice has confirmed that the City is entitled to consider submissions made to it and to proceed to adopt (with or without modifications) or resolve not to proceed with the proposed Amendment prior to receipt of the section 48F(2)(a) statement in accordance with regulation 17.

POLICY IMPLICATIONS:

There are no policy implications.

FINANCIAL AND BUDGET IMPLICATIONS:

Concern has been raised during the advertising period over the impact that the development of Southgates Dunes will have on longshore marine sand drift, and the cost of any ongoing annual works that may be required to rectify any interruption of sand drift.

Under the current zoning approximately 145ha of land privately owned by the developer is exclusively zoned for public purposes ('Dune Preservation' and 'Parks & Recreation' zone).

Previous legal advice is that where land is zoned exclusively for a public purpose then it leads to the landowner being able to lodge a claim for compensation against the Council who has responsibility for the Town Planning Scheme and its zonings.

Section 2.3 of Town Planning Scheme No. 1A states in relation to this matter that:

- "2.3.1 *Where the Council refuses planning consent for the development of a reserve on the ground that the land is reserved for Local Authority purposes or for the purposes shown on the Scheme Map, or grants consent subject to conditions that are unacceptable to the applicant the owner of the land may, if the land is injuriously affected thereby, claim compensation for such injurious affection.*
- 2.3.2 *Claims for such compensation shall be lodged at the office of the Council not later than six months after the date of the decision of the Council refusing planning consent or granting it subject to conditions that are unacceptable to the applicant.*
- 2.3.3 *In lieu of paying compensation, the Council may purchase the land affected by such decision of the Council at a price representing the unaffected value of the land at such time of refusal of planning consent or of the grant of consent subject to conditions that are unacceptable to the applicant."*

STRATEGIC & REGIONAL OUTCOMES:

Strategic & Plan for the Future Outcomes:

Any development of the Southgates area will need to consider the following from the Plan for the Future:

Goal 2 – A City of Communities.

Outcome 2.1 – A sustainable built urban and rural environment.

Strategy 2.1.1 – Introduce the concepts of smart growth (sustainable urban form).

Strategy 2.1.4 – Improve the quality and choice of residential development to suit the needs of a balanced demographic profile and to satisfy the economic, environmental, social and cultural needs of the community.

Goal 5 – A Sustainable City.

Outcome 5.5 – Improved protection and conservation of biodiversity by enhancing the natural Terrestrial, Coastal and Marine environment.

Strategy 5.5.1 – In consultation with peak bodies such as Northern Agriculture Catchment Council (NACC) and Dept Environment and Conservation (DEC), protect and enhance native flora, fauna and coastal and marine habitats including the management of feral animals and weed control with relevant authorities.

Strategy 5.5.2 – Through the Reconciliation Committee, recognise and embrace the importance of Yamatji heritage on the natural environment.

Regional Outcomes:

Geraldton Region Plan (1999):

This plan seeks to provide a framework for the future management, protection and coordination of regional planning in the region. The Region Plan incorporates a structure plan for the Greater Geraldton area which identifies the land as 'Future Urban'. Section 9.4.1 of the Region Plan states:

"Residential development of the Southgate Dunes is constrained by environmental considerations. The development of land in the vicinity of the Southgate Dunes has been the subject of considerable investigation. In October 1994 Landrow, a company with significant landholdings north and south of the Greenough River, submitted a proposal to exchange its landholding south of the Greenough River with the Department of Land Administration (DOLA), which owns land to the north containing the Southgate sand dunes. Landrow proposes to stabilise and ultimately urbanise the Southgate Dunes. While this proposal is considered long-term, the principles, terms and conditions of the land exchange and dune stabilisation agreement between Landrow and DOLA have been agreed and this land has been included in the Structure Plan."

Local Planning Strategy (2008):

The City's Local Planning Strategy Map identifies the subject area as 'Urban' and Section 3.2.4 of the Local Planning Strategy text notes:

"Cape Burney is the urban area located at the mouth of the Greenough River. It is expected to grow rapidly in the future owing to its coastal and estuarine location. The Southgate Dunes, to the north of the Greenough River mouth, have been identified for urban development in the future. Development in this area will need to go through a rezoning process. The dune field is presently being stabilised by means of planting vegetation and cutting off the coastal sand supply that led to the dunes growth in the past.

Cape Burney has the 'Greenough on Sea' wastewater treatment plant, this plant is to be retained for the long term and will require compatible land uses within the buffer. Eventually the Water Corporation intends that the 'Greenough on Sea' WWTP will be decommissioned and flows pumped to the Narngulu WWTP."

ECONOMIC, SOCIAL, ENVIRONMENTAL & CULTURAL ISSUES:

Economic:

The proposed rezoning would facilitate a substantial amount of land for future urban development of Geraldton.

Social:

The social issues raised by the community during the advertising period are discussed within the Schedule of Submissions.

Environmental:

The Environmental Protection Authority advised on 18 April 2005 that the Amendment was required to be assessed under Division 3 of Part IV of the Environmental Protection Act. This required the applicant preparing an Environmental Review document that has been advertised concurrently with the Scheme Amendment.

Copies of the submissions made to the City during the advertising period were forwarded to the Environmental Protection Authority in accordance with section 85 (1) of the Environmental Protection Act.

Cultural & Heritage:

The subject land contains no sites listed within the City of Geraldton-Greenough Municipal Inventory of Heritage Places.

The Department of Indigenous Affairs have advised that there are 19 registered Aboriginal heritage sites within the general surrounding area with the map provided by the Department indicating that there are 8 sites within the rezoning area itself.

The Amendment was referred to the Yamajti Land and Sea Council and the consultant to the Mullewa Wadjari People. To date no response has been received.

Other cultural and heritage issues raised by the community during the advertising period are discussed within the Schedule of Submissions.

RELEVANT PRECEDENTS:

Council supported the adoption of a 'Development' zone within Town Planning Scheme No. 4 for the Woorree New Town Estate (Scheme Amendment No. 115) at its 13 November 2007 meeting and for the Rudds Gully Development Zone (Scheme Amendment No. 128) at its 11 December 2007 meeting.

In both instances the land subject to these rezonings had largely been cleared for agricultural purposes and did not present the range of environmental issues relevant to the Scheme Amendment No. 4 area.

DELEGATED AUTHORITY:

There is no delegated authority.

VOTING REQUIREMENTS:

Simple Majority required.

OPTIONS:

Option 1:

As per Executive Recommendation in this report.

Option 2:

That Council by Simple Majority, pursuant to Part 5 of the Planning and Development Act 2005 RESOLVES to:

1. determine the submissions as outlined in the 'Schedule of Submissions';
2. adopt for final approval Scheme Amendment No. 4 to the City of Geraldton-Greenough Town Planning Scheme No. 1A; and
3. seek final approval of the Scheme Amendment from the Minister for Planning.

Option 3:

That Council by Simple Majority, pursuant to regulation 17 of the Town Planning Regulations 1967 RESOLVES to:

1. not consider submissions on Scheme Amendment No. 4 to the City of Geraldton-Greenough Town Planning Scheme No. 1A until such time as the following issues have been satisfactorily addressed:
 - a. a statement has been received under section 48F(2)(a) of the EP Act;
 - b. the completion of the Coastal Vulnerability Analysis and Risk Assessment Program (Cape Burney to Buller River Sediment Study) by the Northern Agricultural Catchments Council;
 - c. all native title issues relevant to the subject area;
 - d. resolution of all matters and approval pursuant to the Aboriginal Heritage Act 1972;
 - e. the land exchange agreement between the state government and developer;

- f. agreement from key stakeholders (including the Department for Planning & Infrastructure and Main Roads WA) on the broader planning of the southern growth corridor;
 - g. definitive arrangements for construction and/or upgrading of related infrastructure needs inclusive of developer contributions;
 - h. resolution of serviceability issues caused by the flooding of Rudds Gully; and
 - i. potential impacts of climate change and sea level as indicated by the IPCC 2008.
2. seek an extension of time from the Minister for Planning to consider submissions until such time as the above issues have been satisfactorily addressed; and
3. request the Minister for Planning and the WA Planning Commission to urgently undertake a review of the Geraldton Region Plan 1999 and associated Greater Geraldton Structure Plan 1999 and further request support for the City of Geraldton-Greenough's "City Vision" project as a means to expedite the review process.

CONCLUSION:

The rezoning and subsequent development of the Southgates area is a substantial proposal that needs to be considered in the context of State and regional policies and broader planning for the southern growth corridor.

It is apparent from the advertising period and the nature and number of submissions received, that there is considerable objection to this proposal from both the community and government agencies.

Given the potential for future ongoing financial burden to Council arising from the proposal, it is not recommended that any support be given to the rezoning of the subject area until the findings of the Northern Agricultural Catchments Council's 'Coastal Vulnerability Analysis and Risk Assessment Study' are known. This study will provide an independent examination of the sand budget of coastal sediment cells between the Greenough River and Buller River and longshore marine sand drift, and a clearer indication on the type and cost of remedial works should this natural system be interrupted.

As there are a range of environmental issues relevant to the subject area, a key factor to the progression of this proposal is the assessment by the Environmental Protection Authority and ultimately the setting of conditions by the Environmental Minister. It would be remiss of Council to entertain such a substantial proposal in the absence of such environmental assessment.

Although Option 3 would allow a deferral of the amendment until such time as the environmental assessment is completed, it is considered that there are a number of other outstanding issues that need to be resolved prior to progressing this type of proposal including:

- the need for further study into coastal processes along the Geraldton coastline;
- native title issues relevant to the subject area;

- the land exchange agreement between the state government and developer;
- agreement from key stakeholders on the broader planning for the southern growth corridor;
- arrangements for construction and/or upgrading of related infrastructure needs inclusive of developer contributions; and
- serviceability issues caused by the flooding of Rudds Gully.

Whilst it is acknowledged that a 'Development' zone does not in fact permit development (but rather the details of what development would be permitted in the zone would then be subject to a separate planning document namely a Structure Plan), it is considered that the zone heightens the development expectation of the land (especially from public perception). Whilst the parameters of what can actually be developed are still in debate it is considered premature and prejudicial that the amendment progress in its current form as the 'Development' zone could potentially create an unrealistic expectation for the land.

The Subdivision Guide Plan was only ever endorsed "*in order to allow the final assessment of the Scheme Amendment*". In light of the above assessment it is further recommended that Council revoke its endorsement of that portion of the Subdivision Guide Plan applicable to the Amendment.

EXECUTIVE RECOMMENDATION:

That Council by Simple Majority RESOLVES to:

1. pursuant to regulation 17(1) of the Town Planning Regulations 1967 determine the submissions as outlined in the 'Schedule of Submissions'.
2. pursuant to regulation 17(2) of the Town Planning Regulations 1967 and Part 5 of the Planning & Development Act 2005, not proceed with Scheme Amendment No. 4 to City of Geraldton-Greenough Town Planning Scheme No. 1A and makes this determination based on the following:
 - a. Council considers that the current oversupply of residential zoned land that is yet to be subdivided within the Geraldton-Greenough area indicates that the proposed rezoning of additional land for residential purposes is contrary to Scheme Objective 1.6 (a) that seeks to facilitate and coordinate progressive development;
 - b. the submission period has raised a considerable number of objections both from the community and government agencies based on a range of substantial concerns;
 - c. the need for further study into coastal processes along the Geraldton coastline;
 - d. Council considers that it would be premature and prejudicial to proceed with a substantial amendment of this nature at this time given there are a number of broader planning issues that are still outstanding for the southern growth corridor; including potential upgrades to infrastructure that will rely on outcomes from the environmental assessment process; and
 - e. the current uncertainty over the native title and land exchange process.
3. advise respondents that, notwithstanding Council's decision not to proceed with the Amendment, the local government is not the final decision making authority in the Scheme Amendment process and until such time as a determination has been made by the Minister for Planning the Amendment remains an "active" application;
4. revoke its endorsement of the "Greenough River Estate Structure Plan (Subdivision Guide Plan)" for that portion of land covered by Amendment No. 4 to Town Planning Scheme No. 1A;
5. advise the applicant, the Department for Planning & Infrastructure and Main Roads WA, that should the Minister for Planning not support Scheme Amendment No. 4 then Council is unwilling to initiate any further requests for rezoning effecting the Southgates Dunes until such time as the following issues have been satisfactorily addressed:
 - a. the assessment by the Environmental Protection Authority of all environmental issues raised during the submission period;
 - b. the completion of the Coastal Vulnerability Analysis and Risk Assessment Program (Cape Burney to Buller River Sediment Study) by the Northern Agricultural Catchments Council;
 - c. the resolution of all native title issues relevant to the subject area;

- d. resolution of all matters and approval pursuant to the Aboriginal Heritage Act 1972;
 - e. the resolution of the land exchange agreement between the state government and developer;
 - f. agreement from key stakeholders (including the Department for Planning & Infrastructure and Main Roads WA) on the broader planning of the southern growth corridor;
 - g. definitive arrangements for construction and/or upgrading of related infrastructure needs inclusive of developer contributions;
 - h. resolution of serviceability issues caused by the flooding of Rudds Gully; and
 - i. potential impacts of climate change and sea level as indicated by the IPCC 2008.
6. request the Minister for Planning and the WA Planning Commission to urgently undertake a review of the Geraldton Region Plan 1999 and associated Greater Geraldton Structure Plan 1999 and further request support for the City of Geraldton-Greenough's "City Vision" project as a means to expedite the review process.

COUNCIL DECISION

MOVED CR I'ANSON, SECONDED CR MCILWAINE

That Council by Simple Majority RESOLVES to:

1. pursuant to regulation 17(1) of the Town Planning Regulations 1967 determine the submissions as outlined in the 'Schedule of Submissions'.
2. pursuant to regulation 17(2) of the Town Planning Regulations 1967 and Part 5 of the Planning & Development Act 2005, not proceed with Scheme Amendment No. 4 to City of Geraldton-Greenough Town Planning Scheme No. 1A and makes this determination based on the following:
 - a. Council considers that the current oversupply of residential zoned land that is yet to be subdivided within the Geraldton-Greenough area indicates that the proposed rezoning of additional land for residential purposes is contrary to Scheme Objective 1.6 (a) that seeks to facilitate and coordinate progressive development;
 - b. the submission period has raised a considerable number of objections both from the community and government agencies based on a range of substantial concerns;
 - c. the need for further study into coastal processes along the Geraldton coastline;
 - d. Council considers that it would be premature and prejudicial to proceed with a substantial amendment of this nature at this time given there are a number of broader planning issues that are still outstanding for the southern growth corridor; including potential upgrades to infrastructure that will rely on outcomes from the environmental assessment process; and
 - e. the current uncertainty over the native title and land exchange process.
3. advise respondents that, notwithstanding Council's decision not to proceed with the Amendment, the local government is not the final decision making authority in the Scheme Amendment process and until such time as a determination has been made by the Minister for Planning the Amendment remains an "active" application;
4. revoke its endorsement of the "Greenough River Estate Structure Plan (Subdivision Guide Plan)" for that portion of land covered by Amendment No. 4 to Town Planning Scheme No. 1A;
5. advise the applicant, the Department for Planning & Infrastructure and Main Roads WA, that should the Minister for Planning not support Scheme Amendment No. 4 then Council is unwilling to initiate any further requests for rezoning effecting the Southgates Dunes until such time as the following issues have been satisfactorily addressed:
 - a. the assessment by the Environmental Protection Authority of all environmental issues raised during the submission period;

- b. the completion of the Coastal Vulnerability Analysis and Risk Assessment Program (Cape Burney to Buller River Sediment Study) by the Northern Agricultural Catchments Council;
 - c. the resolution of all native title issues relevant to the subject area;
 - d. resolution of all matters and approval pursuant to the Aboriginal Heritage Act 1972;
 - e. the resolution of the land exchange agreement between the state government and developer;
 - f. agreement from key stakeholders (including the Department for Planning & Infrastructure and Main Roads WA) on the broader planning of the southern growth corridor;
 - g. definitive arrangements for construction and/or upgrading of related infrastructure needs inclusive of developer contributions;
 - h. resolution of serviceability issues caused by the flooding of Rudds Gully;
 - i. potential impacts of climate change and sea level as indicated by the IPCC 2008;
 - j. the preparation of a cultural heritage assessment for the Southgates Dunes area which includes identifying and recognition of Aboriginal cultural heritage values of the land; and
6. request the Minister for Planning and the WA Planning Commission to urgently undertake a review of the Geraldton Region Plan 1999 and associated Greater Geraldton Structure Plan 1999 and further request support for the City of Geraldton-Greenough's "City Vision" project as a means to expedite the review process.

CARRIED 7/4

REASON FOR VARIATION TO THE EXECUTIVE RECOMMENDATION:
That Council identified the need for additional cultural heritage assessment for the Southgates Dunes area which includes identifying and recognition of Aboriginal cultural heritage values of the land.