

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

CITY OF BUSSELTON

MINUTES OF THE POLICY AND LEGISLATION COMMITTEE MEETING HELD ON 10 MAY 2023

TABLE OF CONTENTS

ITEM NO.	SUBJECT	PAGE NO.
1.	DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS.....	2
2.	ATTENDANCE	2
3.	PUBLIC QUESTION TIME.....	2
4.	DISCLOSURE OF INTERESTS	3
5.	CONFIRMATION AND RECEIPT OF MINUTES	3
5.1	Minutes of the Policy and Legislation Committee Meeting held 1 March 2023	3
6.	REPORTS	4
6.1	COUNCIL POLICY REVIEW: EVENTS.....	4
6.2	PROPOSED LOCAL PLANNING POLICY: IDENTIFICATION OF COMPLEX DEVELOPMENT APPLICATIONS - CONSIDERATION OF ADOPTION FOR ADVERTISING	26
6.3	CONSOLIDATED PARKING SCHEME AMENDMENT - PROWSE WAY, DUNSBOROUGH.....	40
6.4	BUSHFIRES BRIGADES LOCAL LAW	47
7.	NEXT MEETING DATE	108
8.	CLOSURE	108

MINUTES

MINUTES OF THE POLICY AND LEGISLATION COMMITTEE HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 10 MAY 2023 AT 10.30AM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 10:32am.

The Presiding Member acknowledged the Wadandi and Bibbulmun people as the traditional custodians of this region and paid our respects to Elders past and present.

The Presiding Member advised the meeting was being recorded.

2. ATTENDANCE

Presiding Member:

Cr Ross Paine

Members:

Cr Anne Ryan
Cr Kate Cox
Cr Phill Cronin
Cr Jodie Richards

Officers:

Mr Paul Needham, Director, Planning and Development Services
Mr Dave Goodwin, Acting Director, Community and Corporate Services (*from 10:39am*)
Ms Jo Wilson, Manager Development Services
Mr Matt Du Plessis, Community Emergency Services Manager (*from 11:06am*)
Mrs Emma Heys, Governance Coordinator
Mr Ian McDowell, Ranger & Emergency Services Coordinator
Ms Briony McGinty, Legal Officer (*from 10:35am*)
Ms Jo Barrett-Lennard, Governance Officer

Apologies:

Nil

3. PUBLIC QUESTION TIME

Responses to Previous Questions Taken on Notice

Nil

Question Time for Public

Nil

4. DISCLOSURE OF INTERESTS

The Presiding Member noted that a Disclosure of Impartiality Interest had been received from Cr Phill Cronin in relation to Item 6.4, 'Bushfire Brigades Local Law'.

In accordance with regulation 22(2)(b) of the *Local Government (Model Code of Conduct) Regulations 2021*, this disclosure would be read out immediately before the item was discussed.

5. CONFIRMATION AND RECEIPT OF MINUTES**5.1 Minutes of the Policy and Legislation Committee Meeting held 1 March 2023****COMMITTEE DECISION**

PL2305/491 Moved Councillor P Cronin, seconded Councillor J Richards

That the Minutes of the Policy and Legislation Committee Meeting held 1 March 2023 be confirmed as a true and correct record.







CARRIED 5/0

10:35am: At this time, Ms McGinty entered the meeting.

10:39am: At this time, Mr Goodwin entered the meeting.

6. REPORTS

6.1 COUNCIL POLICY REVIEW: EVENTS

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Council Policies
BUSINESS UNIT	Governance Services
REPORTING OFFICER	Governance Coordinator - Emma Heys Events Coordinator - Peta Pulford
AUTHORISING OFFICER	Acting Director, Community and Commercial Services - Dave Goodwin
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Proposed Council Policy: Events   Attachment B Current Council Policy: Events   Attachment C Tracked Changes Proposed Policy: Events (for reference only)  

COMMITTEE RECOMMENDATION

PL2305/492 Moved Councillor P Cronin, seconded Councillor A Ryan

That the Council adopts the amended Council policy: Events (the Policy) (Attachment A) to replace the current policy (Attachment B).

CARRIED 5/0

OFFICER RECOMMENDATION

That the Council adopts the amended Council policy: Events (the Policy) (Attachment A) to replace the current policy (Attachment B).

EXECUTIVE SUMMARY

This report presents an amended Council policy: Events (the Policy) (Attachment A), with the Policy having been reviewed as part of the City's ongoing review of its Council policies. Officers are recommending the Policy replace the current Council policy contained in Attachment B.

BACKGROUND

It is the function of the Policy and Legislation Committee to consider new and review existing Council policies. The City's Policy Framework sets out an ongoing cycle of policy review, whereby all policies of the Council will be reviewed at least every 3 years, with the aim of determining the ongoing strategic importance and applicability of the policy.

The original Events policy was adopted by Council on 12 April 2006 to improve management of the event application and approval process. The policy was part of an overall events application package developed to help inform applicants about the various approvals required and to assist the City to meet its legislative responsibilities.

The policy was further reviewed in September 2016 to include reference to the objectives and goals of the Events Strategy prepared in April 2012, and to document improvements in the event application process.

Most recently the Policy was reviewed in January 2020 and amended in response to amendments to the *Local Government Act 1995* (the Act) requiring all local governments to adopt a policy that deals with matters relating to the attendance of council members and the CEO at events.

OFFICER COMMENT

The attraction, development and promotion of events is a key strategic objective for the City of Busselton, with events an important contributor to the achievement of a robust and prosperous economy, and the creation of vibrant places and an inclusive community.

In recognition of events as a strategic driver the City has adopted the brand 'Events Capital WA' and developed an Events Strategy. Events are considered to be either a Hallmark, Major, Regional or Community events dependant on their ability to achieve the City's objectives. The Policy outlines the criteria to be considered in relation to 5.90A of the Act and the approval of attendance of Councillors and the CEO at events.

Amendments to the Policy include an updated list of pre-authorised events, which align to the recommendations of the Business Development, Events and Marketing Program (previously MERG) and the Events Strategy. Additionally, amendments have been made to the provision for markets, with the maximum allowable markets to be held at Lions Park, Dunsborough reduced from one per Saturday to two per month; and with any additional markets in Dunsborough to be held at the Dunsborough Playing Fields or Dunsborough Foreshore.

Statutory Environment

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of the Act.

The Policy also deals with attendance at events by Councillors and the CEO. The relevant sections of the Act are detailed below:

5.62 Closely associated persons

- (1) *For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —*

....

- (eb) *the relevant person is a council member and the person has given a gift to which this paragraph applies to the relevant person since the relevant person was last elected; or*

(ec) the relevant person is a CEO and the person has given a gift to which this paragraph applies to the relevant person since the relevant person was last employed (or appointed to act) in the position of CEO;

(1A) Subsection (1)(eb) and (ec) apply to a gift if —

(a) either —

(i) the amount of the gift exceeds the amount prescribed for the purposes of this subsection; or

(ii) the gift is 1 of 2 or more gifts made by 1 person to the relevant person at any time during a year and the sum of the amounts of those 2 or more gifts exceeds the amount prescribed for the purposes of this subsection; and

(b) the gift is not an excluded gift under subsection (1B).

(1B) A gift is an excluded gift —

(a) if —

(i) the gift is a ticket to, or otherwise relates to the relevant person's attendance at, an event as defined in section 5.90A(1); and

(ii) the local government approves, in accordance with the local government's policy under section 5.90A, the relevant person's attendance at the event;

5.90A. Policy for attendance at events

(1) In this section —

event includes the following —

(a) a concert;

(b) a conference;

(c) a function;

(d) a sporting event;

(e) an occasion of a kind prescribed for the purposes of this definition.

(2) A local government must prepare and adopt a policy that deals with matters relating to the attendance of council members and the CEO at events, including —*

(a) the provision of tickets to events; and

(b) payments in respect of attendance; and

(c) approval of attendance by the local government and criteria for approval; and

(d) any prescribed matter.

Relevant Plans and Policies

The officer recommendation aligns to the City's Events Strategy.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could choose to not adopted the proposed Policy or to include further amendments.

CONCLUSION

Council policy: Events, has been reviewed in accordance with the City's ongoing review of its Council policies and is recommended for adoption.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be placed on the City's website within one week of adoption.



1. PURPOSE

- 1.1. The purpose of this Policy is to articulate the strategic importance of Events to the City of Busselton and to set out a framework for the attraction and promotion of Events.
- 1.2. This Policy also sets out the City's position with respect to the attendance of Councillors and the CEO at Events in accordance with Section 5.90A of the Act.

2. SCOPE

- 2.1. This Policy is applicable to Events within the City of Busselton District and more broadly to Events across the South West region of WA.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
District	City of Busselton local government area
Event	<p>an organised occurrence hosted by a person or organisation on public or private land where people assemble at a given time for a given purpose and which generally involves one or more of the following:</p> <ul style="list-style-type: none">• Preparation or sale of food;• Sale or consumption of alcohol;• Erection of infrastructure and / or signage;• Generation of additional noise;• Use / installation of electrical equipment;• Changes / interruptions to traffic flow;• Additional parking requirements;• Crowd control measures <p>includes:</p> <ul style="list-style-type: none">• Festivals (concert, music, food, cultural);• Sporting events;• Conferences;• Exhibitions, expos and fairs;• Functions (e.g. community or business events);• Markets; and• Any other activity in accordance with 5.90A(1)(e)
Partner	spouse, de-facto or other partner as approved
Policy	this City of Busselton Council policy titled "Events"

6.1 Attachment A Proposed Council Policy: Events

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Theme 3. – OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy, of the City's Strategic Community Plan June 2021 and specifically Strategic Priority 3.3: Continue to promote the District as the destination of choice for events and unique tourism experiences.
- 4.2. This Policy links to Key Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically Strategic Priority 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

- 5.1. The City has adopted the brand 'Events Capital WA', with the attraction, development and promotion of Events recognised by Council as a key strategic and competitive advantage for the development of a robust and prosperous economy and tourism industry, and an important contributor to the creation of vibrant places and an inclusive community.
- 5.2. The City will actively engage with and assist Event organisers to support the development of a diverse year round calendar of Events, across the District.
- 5.3. The attraction, development, and approval of Events will be in accordance with the following objectives:
 - a. generation of direct and indirect economic benefits to the community;
 - b. generation of social benefit, vibrancy, and promotion of cultural diversity and inclusion;
 - c. creation of a calendar of Events which brings visitors to the District year round and provides broad activation across the District; and
 - d. positive promotion of the District and the South West region of WA.
- 5.4. The City's Event Strategy sets out the key strategies adopted by the City to achieve the objectives outlined in this Policy.
- 5.5. Events are categorised by the City for their strategic importance as follows:
 - a. Hallmark –an annually occurring Event which is internationally or nationally recognised, creates significant economic benefit, provides significant community interaction and media exposure, typically attracts 5,000 plus participants / visitors;
 - b. Major – an Event which attracts visitors nationally and from outside of the region, showcases regional facilities and attractions, creates economic benefit and high opportunities for community interaction and media exposure, typically has between 2,000 and 5,000 participants / visitors;
 - c. Developing – an Event that attracts visitors from within the region and State, helps to build the City's Events Capital WA brand and has the potential to become a future Major or Hallmark Event;
 - d. Community – an Event which celebrates aspects of community life, has strong social / community benefit; more limited economic benefit, and is generally run by the community.
- 5.6. While Events are considered a positive contributor, the potential for Events to impact adversely on community safety, amenity and the environment is recognised. In order to manage risk, environmental and amenity impacts, Events held within the District must, subject to paragraph 5.7, be approved by the City prior to taking place.
- 5.7. An Event approval is not required at venues which have an appropriate development approval under the City's town planning scheme and / or an approval in accordance with environmental health legislation.
- 5.8. Event applications will be assessed against the objectives outlined in paragraph 5.3 and the following criteria (or criteria similar):
 - a. the nature, size and suitability of the Event;
 - b. the location of the Event, its suitability and whether it meets the City's objectives of broad activation;

6.1 Attachment A Proposed Council Policy: Events

- c. the period of time the Event will operate;
- d. the amenity of the Event and the likely impacts on residents and businesses;
- e. any conflicts with other Events or community use at or around the location;
- f. the relevant experience of the operator and their capacity to manage key risks such as fire safety; and
- g. for markets specifically, preference will be given to markets being run for a charitable or community purpose, with a majority of stalls offering local produce, artisan goods and items not in direct competition with surrounding business.

5.9 The following location criteria will also be applied to assist in protection of sensitive areas and to ensure the equitable use of the location by Event organisers and the general community:

- a. Meelup Regional Park:
 - i. Maximum of four trail based Events per calendar year, that is an Event that involves participants walking, running or cycling on trails or roads within the park; and
 - ii. Maximum of four site based Events per calendar year, that is an Event that involves use of a beach and / or adjacent picnic and car park area; and
 - iii. Maximum of one trail based and one site based Event per month.
- b. Yallingup and Smiths Beach:
 - i. Maximum of one international or national Event per year, of up to seven days each;
 - ii. Maximum of four other major Events per year, of up to four days each;
 - iii. Maximum of four minor Events per year, of up to two days each;
 - iv. Maximum of eight club Events (run by local board riding clubs) per year.
- c. Markets:
 - i. Maximum of one market each Sunday in Busselton, to be held at Signal Park;
 - ii. Maximum of one market each week, to be held at the Busselton Cultural Precinct;
 - iii. Maximum of one market each Saturday in Busselton, to be held at the Busselton Community Garden, with a maximum of 20 stalls;
 - iv. Maximum of two markets per month in Dunsborough, to be held at Lions Park;
 - v. Any additional markets in Dunsborough to be held at Dunsborough Playing Fields or Dunsborough Foreshore;
 - vi. Maximum of one market each Saturday in Vasse, to be held at the Vasse Hall / Oval.
- d. Applications for other locations may be considered and approved by the CEO.

5.10 Fees are payable upon application as per the City of Busselton's Schedule of Fees and Charges.

Events Sponsorship

5.11 The City has an events sponsorship programme that is funded through funds derived from the industrial / commercial and holiday home differential rate. The Business Development, Events and Marketing Program (BDEMP) supports recommendations to Council with respect to the allocation of funds towards Events.

5.12 Event sponsorship can be provided as cash and / or in-kind contributions, with sponsorship agreements entered into with Event organisers on either a single or multi-year basis.

5.13 Event sponsorship requests will be assessed against the objectives outlined in paragraph 5.3.

5.14 Events sponsored by the City will be evaluated to determine future funding levels.

Event Attendance

5.15 Councillor and CEO representation at Events is valued as a means of reinforcing the City's strategic positioning as the 'Events Capital WA', and to ensure Events are properly assessed for their benefit and ongoing relevance. Where attendance to Events by Councillors and the CEO is approved in accordance with this Policy, the requirement to disclose a financial interest under the Act will not apply.

6.1 Attachment A Proposed Council Policy: Events

- 5.16 An invitation provided or addressed personally to a Councillor or to the CEO (for instance via a personal email account) will not be captured by this Policy, and the requirement to disclose a financial interest where the amount exceeds the amount prescribed under the regulation 20A of the *Local Government (Administration) Regulations* will apply.
- 5.17 In addition to invitations / tickets provided by Event organisers, the CEO, in consultation with the Mayor, may purchase tickets for the purposes of City representation at an Event. The City will generally only purchase tickets for Hallmark and Major Events where attendance is demonstrated, through reference to the criteria in paragraph 5.18, as being in the City's interest.
- 5.18 In determining approval for attendance at Events under Section 5.90A(2)(c), Council (or the CEO under delegation) will consider criteria such as the following:
- who is providing the ticket to the Event;
 - the location of the Event;
 - whether the Event is sponsored by the City;
 - the relevance of the Event to the City's adopted policy objectives under paragraph 5.3;
 - the role of the Council member or CEO when attending the Event (participant, presenter, observer) and the value of their contribution;
 - the cost to attend the Event and / or the public value of attendance if the ticket is being provided at no cost to the Local Government;
 - the number of invitations / tickets received; and
 - the benefits or importance of Council and / or CEO representation at the event.
- 5.19 A list of established pre-authorised Events and attendees is provided at Attachment A. The attendees are authorised in order of priority, subject to the number of available invitations / tickets. Where there are insufficient invitations / tickets available for all pre-authorised attendees to attend, the CEO (in liaison with the Mayor) will determine final attendance.
- 5.20 It is considered appropriate for a Councillor or CEO's Partner to accompany them to an Event held outside of normal business hours. While the City will not generally pay for such attendance, invitations / tickets received by the City may be provided for this purpose where they are available.
- 5.21 The Mayor can delegate any approved attendance to an Event to the Deputy Mayor or another Council member.
- 5.22 This policy does not apply where a Councillor or the CEO attends an Event at their own cost and in a personal capacity.

6 RELATED DOCUMENTATION / LEGISLATION

- 6.1 *Local Government Act 1995*
- 6.2 City of Busselton Events Strategy

7 REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	12 August 2020	Resolution #	C2008/076

Attachment A – Pre-authorised Events

Event	Event Organiser	Attendee
Ironman WA	Ironman Oceania	Mayor CEO Deputy Mayor All Councillors
CinefestOZ	Geographe French Australian Festivals Inc.	Mayor CEO Deputy Mayor All Councillors
Busselton Festival of Triathlon	Triathlon Western Australia	Mayor CEO Deputy Mayor All Councillors
Busselton Jetty Swim	Busselton Allsports Inc.	Mayor CEO Deputy Mayor All Councillors
Cabin Fever	AHOY Management	Mayor CEO Deputy Mayor All Councillors
X-Adventure Dunsborough	Rapid Ascent Pty Ltd	Mayor CEO Deputy Mayor All Councillors
Fine Vines Festival	AHOY Management	Mayor CEO Deputy Mayor All Councillors
South West Craft Beer Festival	Buzz Marketing	Mayor CEO Deputy Mayor All Councillors
Busselton Fringe Festival	Acting Up	Mayor CEO Deputy Mayor All Councillors



Council Policy

Council Policy Name:	Events	
Responsible Directorate:	Community and Commercial Services	Version: Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to articulate the strategic importance of Events to the City of Busselton and to set out a framework for the attraction and promotion of Events. This Policy also sets out the City's position with respect to the attendance of Councillors and the CEO at Events in accordance with Section 5.90A of the Act.

2. SCOPE

- 2.1. This Policy is applicable to Events within the City of Busselton District and more broadly to Events across the South West region of WA.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
District	City of Busselton local government area
Event	<p>an organised occurrence hosted by a person or organisation on public or private land where people assemble at a given time for a given purpose and which generally involves one or more of the following:</p> <ul style="list-style-type: none"> • Preparation or sale of food; • Sale or consumption of alcohol; • Erection of infrastructure and / or signage; • Generation of additional noise; • Use / installation of electrical equipment; • Changes / interruptions to traffic flow; • Additional parking requirements; • Crowd control measures <p>includes:</p> <ul style="list-style-type: none"> • Concerts and music festivals; • Sporting events; • Conferences; • Exhibitions, expos and fairs; • Functions (e.g. community or business events); • Markets; and • Any other activity in accordance with 5.90A(1)(e)
Partner	spouse, de-facto or other partner as approved
Policy	this City of Busselton Council policy titled "Events"

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 3. – OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priority:
 - a. 3.3: Continue to promote the District as the destination of choice for events and unique tourism experiences.
- 4.2. This Policy links to Strategic Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priority:
 - a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

- 5.1. The City has adopted the brand 'Events Capital WA', with the attraction, development and promotion of Events recognised by Council as a key strategic and competitive advantage for the development of a robust and prosperous economy and tourism industry, and an important contributor to the creation of vibrant places and an inclusive community.
- 5.2. The City will actively engage with and assist Event organisers to support the development of a diverse year round calendar of Events, across the District.
- 5.3. The attraction, development, and approval of Events will be in accordance with the following objectives:
 - a. generation of direct and indirect economic benefits to the community;
 - b. generation of social benefit, vibrancy, and promotion of cultural diversity and inclusion;
 - c. creation of a calendar of Events which brings visitors to the District year round and provides broad activation across the District; and
 - d. positive promotion of the District and the South West region of WA.
- 5.4. Events are categorised for their strategic importance as follows:
 - a. Hallmark – an international or nationally recognised Event that creates significant economic benefit and typically attracts 5,000 plus participants / visitors;
 - b. Major – an Event which attracts visitors nationally and from outside of the region, showcases regional facilities and attractions, creates economic benefit and typically has between 2,000 and 5,000 participants / visitors;
 - c. Regional – an Event that attracts visitors to the region from within the State and from within the region, helps to build the City's Events Capital WA brand and has the potential to become a future Major or Hallmark Event;
 - d. Community – an Event which celebrates aspects of community life, has strong social / community benefit; more limited economic benefit, and is generally run by the community.
- 5.5. While Events are considered a positive contributor, the potential for Events to impact adversely on community safety, amenity and the environment is recognised. In order to manage risk, environmental and amenity impacts, Events held within the District must, subject to paragraph 5.6, be approved by the City prior to taking place. The event application process is outlined in the Events Application Operational Practice.
- 5.6. An Event approval is not required at venues which have an appropriate development approval under the City's town planning scheme and / or an approval in accordance with environmental health legislation.

6.1 Attachment B Current Council Policy: Events

- 5.7 Event applications will be assessed against the objectives outlined in paragraph 5.3 and the following criteria (or criteria similar):
- a. the nature size and suitability of the Event;
 - b. the location of the Event, its suitability and whether it meets the City's objectives of broad activation;
 - c. the period of time the Event will operate;
 - d. the amenity of the Event and the likely impacts on residents;
 - e. any conflicts with other Events or community use at or around the location;
 - f. the relevant experience of the operator and their capacity to manage key risks such as fire safety; and
 - g. for markets specifically, the organiser's ability to demonstrate that the market is being run for a charitable or community purpose, with a preference for local produce and artisan goods.
- 5.8 The following location criteria will also be applied assist in protection of sensitive areas, and to ensure the equitable use of the location by Event organisers and the general community:
- a. Meelup Regional Park:
 - i. Maximum of four trail based Events per calendar year, that is an Event that involves participants walking, running or cycling on trails or roads within the park; and
 - ii. Maximum of four site based Events per calendar year, that is an Event that involves use of a beach and / or adjacent picnic and car park area; and
 - iii. Maximum of one trail based and one site based Event per month.
 - b. Yallingup and Smith Beach:
 - i. Maximum of one international or national Event per year;
 - ii. Maximum of four other major Events per year, of up to four days each;
 - iii. Maximum of one minor Event per year, of up to four days;
 - iv. Maximum of eight club Events (run by local board riding clubs) per year.
 - c. Markets:
 - i. Maximum of one market each Sunday in Busselton, to be held at Signal Park;
 - ii. Maximum of one market each week, to be held at the Busselton Cultural Precinct;
 - iii. Maximum of one market each Saturday in Busselton, to be held at the Busselton Community Garden, with a maximum of 20 stalls;
 - iv. Maximum of one market each Saturday in Dunsborough, to be held at Lions Park or Dunsborough Playing Fields;
 - v. Maximum of one market each Saturday in Vasse, to be held at the Vasse Hall / Oval;
 - vi. Applications for other locations may be considered and approved by the CEO.
- 5.9 Fees upon application are payable as per the City of Busselton's Schedule of Fees and Charges.

Events Sponsorship

- 5.10 The City has an events sponsorship programme that is funded through a combination of municipal funds and funds derived from the industrial / commercial differential rate. The Marketing and Events Reference Group (MERG) makes recommendations to Council with respect to the allocation of funds towards Events.
- 5.11 Event sponsorship can be provided as cash or in-kind contributions, with sponsorship agreements entered into with Event organisers on either a single or multi-year basis.
- 5.12 Event sponsorship requests will be assessed against the objectives outlined in paragraph 5.3.
- 5.13 Events sponsored by the City will be evaluated to determine future funding levels.

Event Attendance

- 5.14 Councillor and CEO representation at Events is valued as a means of reinforcing the City's strategic positioning as the 'Events Capital WA', and to ensure Events are properly assessed for their benefit and ongoing relevance.

6.1 Attachment B Current Council Policy: Events

- 5.15 Invitations / tickets to Events may be provided to the City by Event organisers. Where attendance at these Events is approved in accordance with this Policy, the requirement to disclose a financial interest under the Act will not apply.
- 5.16 An invitation provided or addressed personally to a Councillor or to the CEO (for instance via a personal email account) will not be captured by this Policy, and the requirement to disclose a financial interest where the amount exceeds the amount prescribed under the *Local Government (Administration) Regulation 20A* will apply.
- 5.17 In addition to invitations / tickets provided by Event organisers, the CEO, in consultation with the Mayor, may purchase tickets for the purposes of City representation at an Event. The City will generally only purchase tickets for Hallmark and Major Events where attendance is demonstrated, through reference to the criteria in paragraph 5.18, as being in the City's interest.
- 5.18 In determining approval for attendance at Events under Section 5.90A(2)(c), Council (or the CEO under delegation) will consider criteria such as the following:
- a. who is providing the ticket to the Event;
 - b. the location of the Event;
 - c. whether the Event is sponsored by the City;
 - d. the relevance of the Event to the City's adopted policy objectives under paragraph 5.3;
 - e. the role of the Council member or CEO when attending the Event (participant, presenter, observer) and the value of their contribution;
 - f. the cost to attend the Event and / or the public value of attendance if the ticket is being provided at no cost to the Local Government;
 - g. the number of invitations / tickets received; and
 - h. the benefits or importance of Council and / or CEO representation at the event.
- 5.19 A list of established pre-authorised Events and attendees is provided at Attachment A. The attendees are authorised in order of priority, subject to the number of available invitations / tickets. Where there are insufficient invitations / tickets available for all pre-authorised attendees to attend, the CEO (in liaison with the Mayor) will determine final attendance.
- 5.20 It is considered appropriate for a Councillor or CEO's Partner to accompany them to an Event held outside of normal business hours. While the City will not generally pay for such attendance, invitations / tickets received by the City may be provided for this purpose where they are available.
- 5.21 The Mayor can delegate any approved attendance to an Event to the Deputy Mayor or another Council member.
- 5.22 This policy does not apply where a Councillor or the CEO attends an Event at their own cost and in a personal capacity.

6 RELATED DOCUMENTATION / LEGISLATION

- 6.1 *Local Government Act 1995*
- 6.2 Events Strategy
- 6.3 Events Application Operational Practice

7 REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	12 August 2020	Resolution #	C2008/076
Previous Adoption	DATE	12 February 2020	Resolution #	C2002/034

Attachment A – Pre-authorised Events

Event	Event Organiser OR DATE	Attendee
Hallmark Events		
Ironman WA	Ironman Oceania	Mayor CEO Deputy Mayor All Councillors
Cinefest Oz	Geographe French Australian Festivals Inc.	Mayor CEO Deputy Mayor All Councillors
Busselton Festival of Triathlon (Ironman 70.3)	Triathlon Western Australia	Mayor CEO Deputy Mayor All Councillors
Gourmet Escape	IMG Culinary	Mayor CEO Deputy Mayor All Councillors
Busselton Jetty Swim	Busselton Allsports Inc.	Mayor CEO Deputy Mayor All Councillors
Jazz by the Bay	Jazz by the Bay Association	Mayor CEO Deputy Mayor All Councillors
Forest Rally	West Australian Car Club (Inc)	Mayor CEO Deputy Mayor All Councillors
Major Events		
Cabin Fever	Creative Corner	Mayor CEO Deputy Mayor All Councillors
X-Adventure Dunsborough	Rapid Ascent Pty Ltd	Mayor CEO Deputy Mayor All Councillors



City of Busselton
Geographic Bay

Council Policy

Council Policy Name: **Events**

Responsible Directorate: **Community and Commercial Services** Version: **AdoptedDraft**

1. PURPOSE

- 1.1. The purpose of this Policy is to articulate the strategic importance of Events to the City of Busselton and to set out a framework for the attraction and promotion of Events. This Policy also sets out the City's position with respect to the attendance of Councillors and the CEO at Events in accordance with Section 5.90A of the Act.

2. SCOPE

- 2.1. This Policy is applicable to Events within the City of Busselton District and more broadly to Events across the South West region of WA.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
District	City of Busselton local government area
Event	<p>an organised occurrence hosted by a person or organisation on public or private land where people assemble at a given time for a given purpose and which generally involves one or more of the following:</p> <ul style="list-style-type: none"> • Preparation or sale of food; • Sale or consumption of alcohol; • Erection of infrastructure and / or signage; • Generation of additional noise; • Use / installation of electrical equipment; • Changes / interruptions to traffic flow; • Additional parking requirements; • Crowd control measures <p>includes:</p> <ul style="list-style-type: none"> • Concerts and music festivals (concert, music, food, cultural); • Sporting events; • Conferences; • Exhibitions, expos and fairs; • Functions (e.g. community or business events); • Markets; and • Any other activity in accordance with 5.90A(1)(e)
Partner	spouse, de-facto or other partner as approved
Policy	this City of Busselton Council policy titled "Events"

4. STRATEGIC CONTEXT

~~a.~~ This Policy links to Strategic-Key Theme 3. – OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy, of the City's Strategic Community Plan June 2021 and specifically ~~the following~~ Strategic Priority:

3.3: Continue to promote the District as the destination of choice for events and unique tourism experiences.

~~a.~~ This Policy links to Strategic-Key Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically ~~the following~~ Strategic Priority:

4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

5.1. The City has adopted the brand 'Events Capital WA', with the attraction, development and promotion of Events recognised by Council as a key strategic and competitive advantage for the development of a robust and prosperous economy and tourism industry, and an important contributor to the creation of vibrant places and an inclusive community.

5.2. The City will actively engage with and assist Event organisers to support the development of a diverse year round calendar of Events, across the District.

5.3. The attraction, development, and approval of Events will be in accordance with the following objectives:

- a. generation of direct and indirect economic benefits to the community;
- b. generation of social benefit, vibrancy, and promotion of cultural diversity and inclusion;
- c. creation of a calendar of Events which brings visitors to the District year round and provides broad activation across the District; and
- d. positive promotion of the District and the South West region of WA.

5.4 The City's Event Strategy sets out the key strategies adopted by the City to achieve the objectives outlined in this Policy.

5.4.5 Events are categorised by the City for their strategic importance as follows:

- a. Hallmark – ~~an annually occurring Event which is an~~ internationally or nationally recognised, ~~Event that creates significant economic benefit, provides significant community interaction and media exposure, and~~ typically attracts 5,000 plus participants / visitors;
- b. Major – an Event which attracts visitors nationally and from outside of the region, showcases regional facilities and attractions, creates economic benefit and high opportunities for community interaction and media exposure, ~~and~~ typically has between 2,000 and 5,000 participants / visitors;
- c. Regional-Developing – an Event that attracts visitors ~~to the region~~ from within the region and State ~~and from within the region~~, helps to build the City's Events Capital WA brand and has the potential to become a future Major or Hallmark Event;
- d. Community – an Event which celebrates aspects of community life, has strong social / community benefit; more limited economic benefit, and is generally run by the community.

5.6 While Events are considered a positive contributor, the potential for Events to impact adversely on community safety, amenity and the environment is recognised. In order to manage risk, environmental and amenity impacts, Events held within the District must, subject to paragraph 5.76, be approved by the City prior to taking place. ~~The event application process is outlined in the Events Application Operational Practice.~~

5.5.7 An Event approval is not required at venues which have an appropriate development approval under the City's town planning scheme and / or an approval in accordance with environmental health legislation.

6.1 Attachment C Tracked Changes Proposed Policy: Events (for reference only)

~~5-6~~5.8 Event applications will be assessed against the objectives outlined in paragraph 5.3 and the following criteria (or criteria similar):

- a. the nature, size and suitability of the Event;
- b. the location of the Event, its suitability and whether it meets the City's objectives of broad activation;
- c. the period of time the Event will operate;
- d. the amenity of the Event and the likely impacts on residents and businesses;
- e. any conflicts with other Events or community use at or around the location;
- f. the relevant experience of the operator and their capacity to manage key risks such as fire safety; and
- g. for markets specifically, preference will be given to markets the organiser's ability to demonstrate that the market is being run for a charitable or community purpose, with a preference majority of stalls offering local produce, and artisan goods and items not in direct competition with surrounding business.

~~5-7~~5.9 The following location criteria will also be applied to assist in protection of sensitive areas, and to ensure the equitable use of the location by Event organisers and the general community:

- a. Meelup Regional Park:
 - i. Maximum of four trail based Events per calendar year, that is an Event that involves participants walking, running or cycling on trails or roads within the park; and
 - ii. Maximum of four site based Events per calendar year, that is an Event that involves use of a beach and / or adjacent picnic and car park area; and
 - iii. Maximum of one trail based and one site based Event per month.
- b. Yallingup and Smiths Beach:
 - i. Maximum of one international or national Event per year, of up to seven days each;
 - ii. Maximum of four other major Events per year, of up to four days each;
 - iii. Maximum of ~~one four~~ minor Events per year, of up to ~~four two~~ days each;
 - iv. Maximum of eight club Events (run by local board riding clubs) per year.
- c. Markets:
 - i. Maximum of one market each Sunday in Busselton, to be held at Signal Park;
 - ii. Maximum of one market each week, to be held at the Busselton Cultural Precinct;
 - iii. Maximum of one market each Saturday in Busselton, to be held at the Busselton Community Garden, with a maximum of 20 stalls;
 - ~~iv.~~ Maximum of one market each Saturday in two markets per month in Dunsborough, to be held at Lions Park or Dunsborough Playing Fields;
 - ~~iv-v.~~ Any additional markets in Dunsborough to be held at Dunsborough Playing Fields or Dunsborough Foreshore;
 - vi. Maximum of one market each Saturday in Vasse, to be held at the Vasse Hall / Oval;
- d. Applications for other locations may be considered and approved by the CEO.

~~Applications for other events or locations may be considered and approved by the CEO.~~

~~5-8~~5.10 Fees ~~upon application~~ are payable upon application as per the City of Busselton's Schedule of Fees and Charges.

Events Sponsorship

~~5-9~~5.11 The City has an events sponsorship programme that is funded through ~~a combination of municipal funds and funds derived from the industrial / commercial and holiday home differential rate.~~ The Business Development, Events and Marketing Program (BDEMP) Marketing and Events Reference Group (MERG) ~~Marketing and Events Reference Group (MERG)~~ makes supports recommendations to Council with respect to the allocation of funds towards Events.

~~5-10~~5.12 Event sponsorship can be provided as cash and / or in-kind contributions ~~or a combination of both~~, with sponsorship agreements entered into with Event organisers on either a single or multi-year basis.

6.1 Attachment C Tracked Changes Proposed Policy: Events (for reference only)

~~5.115.13~~ Event sponsorship requests will be assessed against the objectives outlined in paragraph 5.3.

~~5.125.14~~ Events sponsored by the City will be evaluated to determine future funding levels.

Event Attendance

~~5.13~~ Councillor and CEO representation at Events is valued as a means of reinforcing the City's strategic positioning as the 'Events Capital WA', and to ensure Events are properly assessed for their benefit and ongoing relevance.

~~5.14~~

5.15 ~~Invitations / tickets to Events may be provided to the City by Event organisers.~~ Where attendance to Events by Councillors and the CEO at these Events is approved in accordance with this Policy, the requirement to disclose a financial interest under the Act will not apply.

5.16 An invitation provided or addressed personally to a Councillor or to the CEO (for instance via a personal email account) will not be captured by this Policy, and the requirement to disclose a financial interest where the amount exceeds the amount prescribed under the *Local Government (Administration) Regulation 20A* will apply.

5.17 In addition to invitations / tickets provided by Event organisers, the CEO, in consultation with the Mayor, may purchase tickets for the purposes of City representation at an Event. The City will generally only purchase tickets for Hallmark and Major Events where attendance is demonstrated, through reference to the criteria in paragraph 5.2118, as being in the City's interest.

5.18 In determining approval for attendance at Events under Section 5.90A(2)(c), Council (or the CEO under delegation) will consider criteria such as the following:

- a. who is providing the ticket to the Event;
- b. the location of the Event;
- c. whether the Event is sponsored by the City;
- d. the relevance of the Event to the City's adopted policy objectives under paragraph 5.3;
- e. the role of the Council member or CEO when attending the Event (participant, presenter, observer) and the value of their contribution;
- f. the cost to attend the Event and / or the public value of attendance if the ticket is being provided at no cost to the Local Government;
- g. the number of invitations / tickets received; and
- h. the benefits or importance of Council and / or CEO representation at the event.

~~5.19~~ A list of established pre-authorised Events and attendees is provided at Attachment A. The attendees are authorised in order of priority, subject to the number of available invitations / tickets. Where there are insufficient invitations / tickets available for all pre-authorised attendees to attend, the CEO (in liaison with the Mayor) will determine final attendance.

~~5.19~~ ~~Additionally, a Councillor's attendance is pre-approved at an they are a association organising the Event~~

5.20 It is considered appropriate for a Councillor or CEO's Partner to accompany them to an Event held outside of normal business hours. While the City will not generally pay for such attendance, invitations / tickets received by the City may be provided for this purpose where they are available.

5.21 The Mayor can delegate any approved attendance to an Event to the Deputy Mayor or another Council member.

5.22 This policy does not apply where a Councillor or the CEO attends an Event at their own cost and in a personal capacity.

6 RELATED DOCUMENTATION / LEGISLATION

6.1 *Local Government Act 1995*
6.2 Events Strategy

~~7~~ ~~Events Application Operational Practice~~
7 **REVIEW DETAILS**

Review Frequency		3 yearly		
<u>Council Adoption</u>	<u>DATE</u>		<u>Resolution #</u>	
<u>Previous Adoption</u>	<u>DATE</u>	<u>12 August 2020</u>	<u>Resolution #</u>	<u>C2008/076</u>

7—REVIEW-DETAILS







Review-Frequency		3-yearly		
Council Adoption	DATE	12 August 2020	Resolution #	C2008/076
Previous Adoption	DATE	12 February 2020	Resolution #	C2002/034

Attachment A – Pre-authorised Events

Event	Event Organiser OR DATE	Attendee
Hallmark Events		
Ironman WA	Ironman Oceania	Mayor CEO Deputy Mayor All Councillors
Cinefest-OzZ	Geographe French Australian Festivals Inc.	Mayor CEO Deputy Mayor All Councillors
Busselton Festival of Triathlon (Ironman 70.3)	Triathlon Western Australia	Mayor CEO Deputy Mayor All Councillors
Gourmet Escape	IMG Culinary	Mayor CEO Deputy Mayor All Councillors
Busselton Jetty Swim	Busselton Allsports Inc.	Mayor CEO Deputy Mayor All Councillors
Jazz by the Bay	Jazz by the Bay Association	Mayor CEO Deputy Mayor All Councillors
Forest Rally	West Australian Car Club (Inc)	Mayor CEO Deputy Mayor All Councillors
Major Events		
Cabin Fever	Creative Corner AHOY Management	Mayor CEO Deputy Mayor All Councillors
X-Adventure Dunsborough	Rapid Ascent Pty Ltd	Mayor CEO Deputy Mayor All Councillors
Fine Vines Festival	AHOY Management	Mayor CEO Deputy Mayor All Councillors
South West Craft Beer Festival	Buzz Marketing	Mayor CEO Deputy Mayor All Councillors
Busselton Fringe Festival	Acting Up	Mayor CEO Deputy Mayor All Councillors

10:48am: At this time, Mr Goodwin left the meeting.

6.2 PROPOSED LOCAL PLANNING POLICY: IDENTIFICATION OF COMPLEX DEVELOPMENT APPLICATIONS - CONSIDERATION OF ADOPTION FOR ADVERTISING

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Local Planning Policies
BUSINESS UNIT	Planning and Development Services
REPORTING OFFICER	Director Planning and Development Services - Paul Needham Manager Development Services - Joanna Wilson
AUTHORISING OFFICER	Director Planning and Development Services - Paul Needham
NATURE OF DECISION	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Draft Local Planning Policy: Complex Development Applications   Attachment B Applications over \$2M ECD - 2021 and 2022   Attachment C Zoning Table with 'A' uses highlighted  

COMMITTEE RECOMMENDATION

PL2305/493 Moved Councillor P Cronin, seconded Councillor J Richards

That the Council, pursuant to clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, prepare and advertise Draft Local Planning Policy: Complex Development Applications (the Draft Policy) (Attachment A) as a draft local planning policy.

CARRIED 5/0

OFFICER RECOMMENDATION

That the Council, pursuant to clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, prepare and advertise Draft Local Planning Policy: Complex Development Applications (the Draft Policy) (Attachment A) as a draft local planning policy.

EXECUTIVE SUMMARY

The Council is asked to consider adopting, as a draft for advertising, a new local planning policy that would identify, in addition to what is set out in State level regulation, the scope of development applications to be identified as ‘complex applications’.

Complex applications must be advertised for public comment before being determined, and the breadth and duration of the advertising process is longer than is the case for non-complex applications.

The aim is to ensure that applications that are likely to be of significant community interest and/or strategic importance would be subject of longer and broader advertising/consultation processes than would be the case in the absence of a policy.

BACKGROUND

The Council is asked to consider adopting, as a draft for advertising, a new local planning policy that would identify, in addition to those set out in State level regulation, the scope of development applications to be identified as 'complex applications'. State level regulation only identifies what are known as 'use-not-listed' applications as complex applications.

A use-not-listed is as set out in clause 3.4.2 of the City of Busselton Local Planning Scheme No. 21 ('Scheme'), and arises where an application is;

"in respect of a use that is not specifically referred to in the zoning table and...cannot reasonably be determined as falling within a use class referred to in the zoning table".

Applications for uses-not-listed are quite unusual and very small in number, with perhaps the key example in the City of Busselton being display homes or display home villages.

State level regulation does, however, explicitly allow local governments to adopt local planning policies that identify other types or forms of applications as complex applications. That is set out in part (b) of the definition of complex application. That definition forms part of clause 1 ('terms used') of Schedule 2 (the 'Deemed Provisions') of the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations'). The Deemed Provisions are incorporated into all local government town planning schemes in Western Australia and, in the event of any conflict between the Deemed Provisions and a local government town planning scheme, the Deemed Provisions prevail.

Where an application is identified as a complex application, it must be advertised for a period of 28 days, and must be advertised by:

- (1) the publication of a notice on the City's website;
- (2) by giving notice to owners and occupiers of land in the vicinity of the site; and
- (3) by the placement of a sign on the site.

Where an application is not a complex application, if it needs to be advertised, it can only be advertised for a period of 14 days, and does not need to be advertised through all three means. Note that non-complex applications can be advertised for longer periods, but only with the agreement of the applicant.

Both complex and other applications can also be advertised in other ways, such as through advertising in a newspaper, or through notices on social media. It should be noted that applications of a single residential nature, including outbuildings, that require discretion around matters such as setbacks, are usually only advertised through the sending of a notice to potentially affected neighbours, and are not advertised more broadly.

OFFICER COMMENT

It is considered that, where an application has the potential to be of significant community interest or strategic importance, an advertising period of greater than 14 days is appropriate – with the 28 day period for complex applications being seen as a more appropriate period. It is also considered appropriate that such applications are not only advertised through the sending of notices to the owners and occupiers of land in the vicinity. It is considered that such applications should be advertised more broadly, providing greater opportunity for others in the community to become aware of the application and make submissions. The publishing of a notice on the City's website and the placement of a sign on site can assist in highlighting that opportunity.

Further, in most cases such applications will need to be referred for comment to one or more State agencies, and the Deemed Provisions give those agencies 42 days in which to provide comment to the local government. As such, in most cases a 28 day public advertising period will not add to the total time required to assess the application. It is also worth noting that the City's normal practice in any case is to accept late submissions up to the point where it becomes impracticable to do so (i.e. once a decision has been made or, in the case of an application to be determined by the Council or a Development Assessment Panel, once the report on the application has been substantially drafted).

In addition, in terms of the key rationale for a local planning policy that identifies additional development applications to be 'complex applications', it is considered that most of the applications that have the potential to be of significant community interest or strategic importance are not for a use-not-listed (and as already noted, such applications are in fact quite rare). Given that, it is clearly appropriate to treat some other types of applications as complex.

As already noted, the Deemed Provisions do allow applications other than use-not-listed applications to be treated as complex applications in the absence of a local planning policy, but only with the agreement of the applicant. Until recently, where officers identified that broader and longer advertising was appropriate, most applicants have agreed to their applications being treated as complex applications, meaning that a local planning policy had not been required. In more recent times, however, there have been cases where applicants have not agreed, and that has triggered the work to develop the draft local planning policy.

The Draft Policy (Attachment A) proposes that the following types of applications be identified as complex applications (meeting any one of the following criteria would identify an application as complex – although note that many applications may meet two or more of the criteria) -

1. Any applications lodged for determination by a Development Assessment Panel (DAP).
2. Any applications for development to a value of more than \$2M estimated cost of development, other than applications for entirely permitted ('P') land uses, or a Warehouse/Storage, Single Houses or less than 10 Grouped Dwellings.
3. Any application for a land use that must be advertised (i.e. an 'A' use).
4. Any application to extend, alter or change a non-conforming use.
5. Any application for land within a 'Development Zone' (either the 'Urban Development' or 'Industrial Development' Zone) that is not consistent with an adopted Structure Plan, or where there is no adopted Structure Plan.
6. Any application for a Child Care Centre within 100 metres of any residential dwelling.

The Draft Policy, however, does set out that certain types of applications are not identified as complex, even if they meet the criteria described above -

1. An application to amend or cancel a development approval.
2. The reconsideration of an application that is subject of an application for review ('appeal') with the State Administrative Tribunal (SAT).
3. Relatively minor development, unlikely to generate significant community interest or be of strategic importance.

In preparing the Draft Policy, officers have reviewed and considered local planning policies adopted by some other local governments, but have not based the Draft Policy on any other particular example. In part that reflects the fact that the variety, complexity and volume of development applications received by the City is greater than that experienced by most other local governments in Western Australia.

A description of and rationale for the identification of each of the types of applications proposed is set out below, as is the rationale for the proposed exclusions. There is also some commentary around an aspect of the Draft Policy that proposes some advertising requirements that reflect existing practice, but which are in addition to the minimum requirements set out in the Deemed Provisions.

DAP applications

Applications lodged for determination by a DAP consist of both 'mandatory' DAP applications (with an estimated cost of development over \$10M) and 'optional' DAP applications (with an estimated cost of development over \$2M). Some forms of development are, however, excluded –

1. Development of Warehouse/Storage (but only with respect to the mandatory application threshold); and
2. Development of a Single House, or less than 10 Grouped or Multiple Dwellings.

Whilst, if the number of DAP applications was to expand significantly in future, some reconsideration may be required, at this stage it is considered appropriate that all DAP applications be identified as complex. That is because mandatory DAP applications always involve a relatively high level of investment, and in many cases where applicants lodge optional DAP applications, it will be because the applicants expect that the application may generate significant community interest.

The identification of DAP applications as complex is set out in 4.1.1 in the Draft Policy.

\$2M value threshold

Subject to most of the same exclusions as the State has applied to identifying the DAP application thresholds, it is proposed that other applications with an estimated cost of development over \$2M also be identified as complex. An exclusion for Multiple Dwelling developments (i.e. flats or apartments) over \$2M in cost but which consist of less than 10 dwellings is not, however, proposed. As Multiple Dwelling developments that cost less than \$2M to develop are unlikely, and would likely consist of substantially less than 10 dwellings if they did arise, that means that any significant Multiple Dwelling application would be complex.

The key rationale for the \$2M value threshold proposed is that such applications are reasonably likely to generate significant community interest or be of strategic importance. A secondary rationale for the \$2M value threshold is also to avoid a situation where an applicant decides not to lodge an application for DAP determination as a means of avoiding a broader and longer advertising process.

In future, as costs of development escalate with inflation, an adjustment to the \$2M value threshold would be appropriate. For reasons of simplicity and legibility, however, it is not proposed that the policy include an automatic indexation provision. A report identifying all development applications with an estimated cost of development greater than \$2M received during the last two complete calendar years is provided as Attachment B.

The \$2M value threshold for complex applications is set out in 4.1.2 of the Draft Policy.

'A' land uses

It is also proposed that all applications for 'A' land uses, which the Scheme requires must be advertised before a decision is made, also be identified as complex. In drafting the Scheme and identifying some land uses in some Zones as 'A' land uses, a decision has already been made that a higher level of community engagement may be required than for other applications – and that is the key rationale for this aspect of the Draft Policy.

Attachment C is a copy of the Zoning Table from the Scheme, with all land uses that are treated as an 'A' use in one or more of the Zones highlighted. Some of the key 'A' land uses are –

1. Animal Establishment (e.g. a dog kennels) in the Rural Residential and Rural Landscape Zones;
2. Brewery in all of the Zones in which it is permissible, other than the Industry Zones;
3. Caravan Park in the Rural and Viticulture & Tourism Zones;
4. Child Care Premises in the Residential, Rural-Residential, Viticulture & Tourism Zones and Tourism Zones;
5. Educational Establishment in the Residential Zone;
6. Holiday (Multiple/Grouped Dwelling) in all of the Zones in which it is permissible;
7. Hotel in all of the Zones in which it is permissible;
8. Industry Extractive in all of the Zones in which it is permissible;
9. Medical Centre in the Residential Zone;
10. Nightclub in all of the Zones in which it is permissible;
11. Place of Worship in the Residential, Rural, Viticulture & Tourism and Rural Residential Zones;
12. Tavern in all of the Zones in which it is permissible; and
13. Wind Farm in all of the Zones in which it is permissible.

The identification of applications for 'A' land uses as complex is set out in 4.1.3 of the Draft Policy.

Non-conforming uses

A non-conforming use is one that either did not require development approval or has lawfully received development approval in the past, but due to subsequent changes in the planning framework, would be a prohibited land use now, and no longer capable of receiving development approval if applied for today. Clause 3.11 of the Scheme provides that non-conforming uses enjoy 'non-conforming use rights', which allow for the continuation of the use, and also provide a right to apply to alter, extend or change the development.

An application to alter, extend or change a non-conforming use (i.e. to change from one non-conforming use to another) is, by definition, an application to undertake development that could not otherwise be approved on the subject site or, in most but not all cases, other land in the vicinity. As such, it is considered more likely than would otherwise be the case that it would be an application that would generate significant community interest or be of strategic importance – and that is the key reason why it is proposed that such applications be identified as complex.

The identification of applications for non-conforming uses as complex is set out in 4.1.4 of the Draft Policy.

Applications subject of, or not consistent with, a Structure Plan

Land in urban growth areas is usually in the 'Urban Development' Zone, and the zoning and other land use controls are generally set out in a Structure Plan (noting that a Structure Plan guides future subdivision and zoning – and in the case of a Precinct Structure Plan, can also guide future development). The same is true for land in the 'Industrial Development' Zone – noting the only land currently in that Zone is the planned, but not yet commenced, 'Airport North' industrial area.

Structure Plans do not include or incorporate the Zoning Table as such, and in effect all land uses are discretionary ('D') land uses – and there are no prohibited ('X'), permitted ('P') or advertised ('A') land uses as such. The fact that there are no prohibited uses also means there are no non-conforming uses. Applications can also be lodged before a Structure Plan has actually been lodged or approved.

The effect of the above is that applications can be lodged either before there is any specific land-use guidance or controls, or for what are proposed, in time, to be identified as prohibited land uses. There is a high likelihood that such applications would be of strategic importance – most often that approval could be inconsistent with and undermine strategic direction. Given that, it is considered that applications that are inconsistent with a Structure Plan, or which relate to land for which a Structure Plan is required but has not yet been adopted, should also be treated as complex.

It is also proposed, however, that inclusions and exclusions for 'A', 'P' and some specific land uses also apply where there is an adopted Structure Plan, consistent with what would apply if land subject of an adopted Structure Plan was zoned in accordance with that plan. Once land subject of a Structure Plan has been subdivided, the Deemed Provisions and current practice require that the land is subject of a 'Basic Amendment' to remove the land from the Urban Development or Industrial Development Zone, and to instead zone the land as per the proposed zoning shown on the Structure Plan.

The identification of the application types described above as complex is set out in 4.1.2 (b), 4.1.3 (b) and 4.1.5 of the Draft Policy.

Exclusions

Some exclusions to the scope of complex applications outlined above are proposed in part 4.2 of the Draft Policy -

1. An application to amend or cancel a development approval.
2. The reconsideration of an application that is subject of an application for review ('appeal') with the State Administrative Tribunal (SAT).
3. Relatively minor development, unlikely to generate significant community interest or be of strategic importance.

An application to amend or cancel a development approval is made pursuant to clause 77 of the Deemed Provisions. Applications to cancel a development approval are very rare, but applications to amend are fairly common, especially for more significant developments.

Clause 77 (2) sets out that an application to amend or cancel is to be assessed as if it was a new application, but clause 77 (3) allows the local government to waive or vary a requirement that would apply to a new application. The intent of clause 77 (3) is, in substantial part, to allow applications to amend approvals to be assessed in a reasonably efficient fashion, with the local government being granted discretion to not advertise amendments or seek input from State agencies where it is considered that the amendment is unlikely to create any new issues requiring consideration. Usually, applications to amend involve relatively minor changes to approvals, and no further advertising is considered necessary.

The Draft Policy would not, however, mean that applications to amend could not be advertised if it was seen as appropriate to do so. Also, if considered appropriate, because the local government has the discretion to vary a requirement, the City could therefore advertise an application to amend as a complex application if considered appropriate, notwithstanding the policy.

Conversely, even in the absence of this aspect of the Draft Policy, clause 77 (3) would still allow the local government to vary the advertising requirement for an application that the draft policy identifies as being complex, and either not advertise at all, or advertise as per a non-complex application. As most applications to amend are not advertised at all, though, it is seen as more transparent to not identify applications to amend as complex in the policy – making it clear that they will generally not be advertised as complex applications.

With respect to an application that is subject of an application for review with the SAT and that is being reconsidered, depending on the circumstances, reconsideration could be by City officers acting under delegation, by the Council or by a DAP. Reconsideration may also involve the application as previously considered without change, or an application that has been modified to a lesser or greater degree. If the application has been modified, however, it would almost invariably be modification(s) designed to address issues raised as a result of advertising the application.

In such a context, it is considered that further advertising would often not be necessary or appropriate. The Draft Policy would, however, not preclude further advertising (or referral to State agencies) where it was considered appropriate. Also, if the decision-maker felt that more extensive advertising was appropriate, that could be identified and agreed with the applicant as part of the SAT process.

The final exclusion is for relatively minor development, such as an addition to an existing approved development, or a minor component of a development in a Zone where that use is an 'A' use. Consideration was given to including some further detail around this aspect of the Draft Policy, but doing so was not seen as appropriate, mostly because of the diversity of applications that may be received, and the capacity for applicants to break applications down into smaller components, pursued via separate applications, to avoid the complex application advertising requirements.

It should be noted that, whilst different decision-makers can form different views on the exercise of the same discretionary power, other than for uses-not-listed, at the present time the identification of complex applications is currently an entirely discretionary matter, and subject to the agreement of the applicant, and the Draft Policy would reduce the extent of discretion required, and remove the need to obtain applicant agreement, even with the inclusion of part 4.2 (c).

Child care centres

Child Care Premises is an 'A' use in the Residential, Rural-Residential, Viticulture & Tourism Zones and Tourism Zones, but a 'D' use in the Rural, Service Commercial and the various Centre Zones. In some but not all cases, the development of a new Child Care Premises would also entail development over \$2M in value. As a result, given parts 4.1.1, 4.1.2 and 4.1.3 of the Draft Policy, most applications for new child care centres would be identified as complex.

There is a possibility, however, that an application for a new child care centre may arise in one of the Zones where it is a 'D' use and with a development value below \$2M, but also be in close proximity to one or more dwellings – meaning that consideration of potential noise impacts would be required. As a result, part 4.1.6 has been included in the Draft Policy, identifying any application for a Child Care Premises within 100 metres of a dwelling as complex.

Additional advertising requirements

In part 4.3 of the Draft Policy, two additional advertising requirements for complex applications are also set out, being the publication of a notice in a newspaper circulating in the District, as well as a notice on social media. It is seen as appropriate that those additional means are used with complex applications.

Statutory Environment

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

Relevant Plans and Policies

The Community Engagement Council Policy has been considered in the preparation of this report.

Financial Implications

There are no significant financial implications associated with the officer recommendation.

Stakeholder Consultation

Draft local planning policies are required to be advertised for a period of a minimum of 21 days before being considered for final adoption by the Council. The Deemed Provisions also require that a copy of a draft policy is available on the City's website and available at the City's office during the advertising period. It is envisaged that the advertising period would be a minimum of 28 days, and that the Draft Policy would also be advertised via a newspaper notice and direct correspondence to key community groups (e.g. PLGLOA, DDPA).

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could -

1. Not adopt the Draft Policy; or
2. Modify the Draft Policy prior to adoption as a draft for advertising purposes.

CONCLUSION

It is considered that the Draft Policy, if adopted in final form, would help ensure that applications that are likely to be of significant community interest and/or strategic importance would be subject of longer and broader advertising/consultation processes than would be the case in the absence of the policy. That is considered to be appropriate and, as such, it is recommended that the Council adopt the Draft Policy for advertising.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

It is envisaged that advertising would commence in July, with a view to the Draft Policy being further considered by the Policy & Legislation Committee in September and the Council in October.



Local Planning Policy No. 4.XX

COMPLEX DEVELOPMENT APPLICATIONS

1. HEAD OF POWER AND SCOPE

This Policy has been adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions), Clause 4 and applies to development across the whole of the City.

2. PURPOSE

The purpose of this Policy is to identify complex applications for development approval for the purposes of part (b) of the definition of *complex application* in clause 1 of the Deemed Provisions.

Note: 'complex application' means -

- (a) *an application for approval of development that is a use of land if the use is not specifically referred to in the zoning table for this Scheme in respect of the zone in which the development is located; or*
- (b) *an application of a kind identified elsewhere in this Scheme, or in a local planning policy, as a complex application for development approval.*

3. INTERPRETATION

Terms should be interpreted in the same way as they would be interpreted if they were contained within the *City of Busselton Local Planning Scheme 21*.

4. POLICY STATEMENT

4.1 In addition to any applications for development approval that are complex applications pursuant to the Scheme, subject to 4.2 below, any application that meets one or more of the criteria below, is also complex –

4.1.1 Any application lodged for determination by a Development Assessment Panel, pursuant to the *Planning and Development (Development Assessment Panels) Regulations*.

4.1.2 Any application for development to a value of more than \$2M estimated cost of development, other than an application that is –

- (a) An application for works associated with a land use that is a 'P' land use in the Zone in which the development is proposed or, if multiple land uses are proposed, all of the land uses proposed are for 'P' land uses on the land on which development is proposed;
- (b) If the land is in the Urban Development or Industrial Development Zone, and is subject of an approved Structure Plan, and the application is for a land use or land uses that would all be 'P' land uses if the land were zoned as per the zoning or land use designation shown on the Structure Plan; or
- (c) An application for Warehouse/Storage, Single House or less than 10 Grouped Dwelling(s).

4.1.3 Any application that –

- (a) Includes an 'A' land use on the land on which development is proposed; or
- (b) In the Urban Development or Industrial Development Zone, and if the land is subject of

Local Planning Policy No. 4.XX

COMPLEX DEVELOPMENT APPLICATIONS



an approved Structure Plan, one or more of the land uses would be an 'A' land uses if the land were zoned as per the zoning or land use designation shown on the Structure Plan.

4.1.4 Any application to extend, alter or change a non-conforming use, pursuant to clause 3.11 of the Scheme.

4.1.5 Any application for land within the 'Urban Development' or 'Industrial Development' Zone that is not consistent with an adopted Structure Plan, or where there is no adopted Structure Plan.

4.1.6 Any application for a Child Care Premises within 100 metres of a Dwelling.

4.2 Notwithstanding 4.1 above, any applications of the following types are not complex applications -

- (a) An application to amend or cancel a development approval; or
- (b) An application that is subject of Section 31 of the *State Administrative Tribunal Act 2004*; or
- (c) An application that the City identifies as being relatively minor development, which is unlikely to generate significant community interest or be of significant strategic importance.

4.3 In addition to advertising as required by the Deemed Provisions, complex applications shall also be advertised by -

- (a) The placement of a notice in a newspaper circulating in the District; and
- (b) The placement of a notice on one or more of the social media channels where the City has a presence.

5. REVIEW DETAILS

Review Frequency		2 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE		Resolution #	

Estimated Cost	Full Details	Primary Property
4,500,000.00	Waste Treatment and Composting Facility (Additions - Bio-Digester and Fertiliser Plant)	388 Yelverton North Road, YALLINGUP SIDING WA 6282
12,000,000.00	Mixed Use Development (Multiple Dwellings and Restaurant/Cafe)	26 Geographe Bay Road, DUNSBOROUGH WA 6281
7,000,000.00	Mixed Use Development (Brewery, Tavern, Restaurant/Cafe, Shops and Tourist Accommodation)	61 Dunn Bay Road, DUNSBOROUGH WA 6281
2,000,000.00	Single House	332 Brash Road, YALLINGUP WA 6282
2,200,000.00	Mixed Use Development (7 Multiple Dwellings and Office)	98 Kent Street, BUSSELTON WA 6280
2,200,000.00	Amendment to Development Approval - 7 Multiple Dwellings	98 Kent Street, BUSSELTON WA 6280
2,000,000.00	Single House	792 Yelverton Road, WILYABRUP WA 6280
9,500,000.00	Hospital (Private) Special Control Area	57 Molloy Street, BUSSELTON WA 6280
2,080,000.00	Service Station (Special Control Area)	100 West Street, WEST BUSSELTON WA 6280
2,000,000.00	Single House (Special Control Area)	127 Dryandra Avenue, YALLINGUP WA 6282
3,000,000.00	Single House and Outbuilding - Special Control Area	140 Moses Rock Road, WILYABRUP WA 6280
3,042,500.00	Amendment to Development Approval - Single House and Outbuilding - Special Control Area	140 Moses Rock Road, WILYABRUP WA 6280
2,000,000.00	Single House, Swimming Pool and Water Tank	77 Thornton Road, YALLINGUP SIDING WA 6282
12,000,000.00	Mixed Use Development (Shops, Restaurant/Cafe and Multiple Dwellings) - Lot 5 & Portion Lot 12 Dunn Bay Road, Dunsborough	1-48/50 Dunn Bay Road, DUNSBOROUGH WA 6281
5,700,000.00	Aged Persons Complex (Remainder of Stage 1 - 19 Aged Person Dwellings) Lots 10, 11, 12, 13, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34 and 35)	65 Commonage Road, QUINDALUP WA 6281
30,000,000.00	Use Not Listed (Busselton Jetty Underwater Discovery Centre including Restaurant/Cafe, Tavern, Art Gallery, Interpretive Centre, Observatory and Staff Facilities)	Queen Street, BUSSELTON WA 6280
2,100,000.00	Single House, Ancillary Dwelling and Swimming Pool (Special Control Area)	233 Dryandra Avenue, YALLINGUP WA 6282
2,500,000.00	Single House (Demolition and Construction) - Special Control Area	12 Wardenup Crescent, YALLINGUP WA 6282
2,500,000.00	Single House - Special Control Area	7 Wedgetail View, EAGLE BAY WA 6281
2,000,000.00	Chalets (5 x Chalets, Office and Signage) Special Control Area	4259 Caves Road, WILYABRUP WA 6280

Estimated Cost	Full Details	Primary Property
3,000,000.00	Tavern	15 Foreshore Parade, BUSSELTON WA 6280
2,350,000.00	Two Grouped Dwellings	18 Geographe Bay Road, DUNSBOROUGH WA 6281
22,000,000.00	Mixed Use Development (Office, Shops, Restaurant/Cafe, Liquor Store - Small Exhibition Centre, Multiple Dwellings)	57 Dunn Bay Road, DUNSBOROUGH WA 6281
3,000,000.00	Single House, Swimming Pool, Tennis Court; and Change of Use from 'Single House' to 'Chalet'	148 Carter Road, METRICUP WA 6280
6,000,000.00	Shop	Napoleon Promenade, VASSE WA 6280
2,800,000.00	Single House (Special Control Area)	7 Picquet Close, EAGLE BAY WA 6281
2,800,000.00	Single House - Special Control Area	8 Beach Road, DUNSBOROUGH WA 6281
2,000,000.00	Single House, Swimming Pool, Water Tank and Outbuilding - Special Control Area	171 Dryandra Avenue, YALLINGUP WA 6282
40,000,000.00	Hospital and 5 x Commercial Tenancies	Napoleon Promenade, VASSE WA 6280
16,000,000.00	Mixed Use Development (Restaurant/Cafe and Multiple Dwellings) Special Control Area	24 Dunn Bay Road, DUNSBOROUGH WA 6281

COMPLEX DEVELOPMENT APPLICATIONS
ATTACHMENT C - ZONING TABLE

Zone / Use Class	Residential	Regional Centre	Centre	Local Centre	Service Commercial	Tourism	Light Industry	General Industry	Rural	Viticulture and Tourism	Rural Residential	Rural Landscape	Conservation	Bushland Protection
Abattoir	X	X	X	X	X	X	A	D	A	X	X	X	X	X
Aged Persons Home	D	A	A	X	X	X	X	X	A	X	X	X	X	X
Agriculture – Extensive	X	X	X	X	X	X	X	X	P	P	A	D	D	D
Agriculture – Intensive	X	X	X	X	X	X	X	X	P	P	X	X	X	X
Amusement Parlour	X	P	P	P	D	D	D	D	X	X	X	X	X	X
Ancillary Accommodation	P	D	D	D	X	X	X	X	P	P	P	D	D	D
Animal Establishment	X	X	X	X	X	X	X	X	D	D	A	A	X	X
Animal Husbandry – Intensive	X	X	X	X	X	X	X	X	D	D	X	X	X	X
Aquaculture	X	X	X	X	X	X	D	D	D	D	A	A	A	X
Bed and Breakfast	D	D	D	D	X	P	X	X	D	D	D	D	D	D
Brewery	X	A	A	A	A	A	D	D	A	A	X	X	X	X
Bulky Goods Showroom	X	P	P	P	P	X	D	X	X	X	X	X	X	X
Bus Depot	X	X	X	X	D	X	D	D	D	X	X	X	X	X
Caravan Park	A	X	X	X	X	D	X	X	A	A	X	X	X	X
Caretaker's Dwelling	X	X	X	X	X	D	X	X	X	X	X	X	X	X
Car Park	X	D	D	D	D	X	D	D	X	X	X	X	X	X
Cinema/Theatre	X	D	D	D	D	X	X	X	X	X	X	X	X	X
Chalet	X	X	X	X	X	D	X	X	D	D	X	A	A	X
Child Care Premises	A	D	D	D	D	A	X	X	D	A	A	X	X	X
Club Premises	X	D	D	D	D	D	X	X	A	A	X	X	X	X
Community Purpose	A	P	P	P	D	D	D	D	D	A	A	X	X	X
Consulting Rooms	A	P	P	P	P	X	X	X	X	X	X	X	X	X
Convenience Store	X	P	P	P	D	D	D	D	X	X	X	X	X	X
Corner Shop	A	P	P	P	P	X	D	D	A	A	A	X	X	X
Educational Establishment	A	P	P	P	D	X	D	D	D	D	D	X	X	X
Exhibition Centre	X	A	A	A	A	A	X	X	A	A	X	X	X	X
Factory Unit Building	X	X	X	X	D	X	P	P	X	X	X	X	X	X
Fuel Depot	X	X	X	X	X	X	P	P	X	X	X	X	X	X
Funeral Parlour	X	D	D	D	D	X	D	X	X	X	X	X	X	X
Garden Centre	X	A	A	A	A	X	D	X	D	D	A	X	X	X
Grouped Dwelling	D	D	D	D	X	X	X	X	X	X	X	X	X	X
Guesthouse	X	D	D	D	X	D	X	X	A	A	A	A	A	X
Holiday Home (Multiple/Grouped Dwelling)	A	A	A	A	X	X	X	X	X	X	X	X	X	X
Holiday Home (Single House)	D	D	D	D	X	X	X	X	D	D	D	D	D	D
Home Business	D	P	P	P	X	X	X	X	P	P	P	A	A	A
Home Occupation	P	P	P	P	X	P	X	X	P	P	P	P	P	P
Hospital	A	D	D	D	D	X	X	X	A	A	X	A	X	X
Hotel	X	A	A	A	A	A	X	D	A	A	X	X	X	X
Industry	X	X	X	X	X	X	D	D	X	X	X	X	X	X
Industry – Cottage	X	X	X	X	X	D	X	X	P	P	A	D	A	A

Industry – Extractive	X	X	X	X	X	X	A	A	A	X	X	X	X	X
Industry – Light	X	X	X	X	D	X	P	P	X	X	X	X	X	X
Industry – Primary Production	X	X	X	X	X	X	D	D	D	D	X	X	X	X
Liquor Store – Large	X	P	P	P	X	X	X	X	X	X	X	X	X	X
Liquor Store – Small	X	P	P	P	X	X	X	X	X	X	X	X	X	X
Lunch Bar	X	X	X	X	D	X	D	D	X	X	X	X	X	X
Marina	X	D	D	D	D	D	D	D	X	X	X	X	X	X
Marine Filling Station	X	D	D	D	D	D	D	D	X	X	X	X	X	X
Market	X	D	D	D	D	A	D	D	D	D	A	X	X	X
Medical Centre	A	P	P	P	D	X	D	D	X	X	X	X	X	X
Mining Operations	X	X	X	X	X	X	A	A	A	X	X	X	X	X
Motel	X	A	A	A	A	D	X	X	X	X	X	X	X	X
Motor Vehicle, Boat or Caravan Sales	X	D	D	D	P	X	P	P	X	X	X	X	X	X
Motor Vehicle Repair	X	X	X	X	D	X	P	P	X	X	X	X	X	X
Motor Vehicle Wash	X	X	X	D	D	X	D	D	X	X	X	X	X	X
Multiple Dwelling	D	D	D	D	X	X	X	X	X	X	X	X	X	X
Nightclub	X	A	A	X	X	A	X	X	X	X	X	X	X	X
Office	X	P	P	P	X	X	X	X	X	X	X	X	X	X
Park Home Park	A	X	X	X	X	D	X	X	X	X	X	X	X	X
Place of Worship	A	D	D	D	D	X	D	X	A	A	A	X	X	X
Produce Sales	X	X	X	X	X	X	X	X	D	D	A	A	A	X
Reception Centre	X	D	D	D	D	D	X	X	A	A	X	X	X	X
Recreation Establishment	X	X	X	X	X	D	X	X	D	D	X	A	A	X
Recreation – Private	X	D	D	D	D	D	D	D	X	D	A	A	A	X
Repurposed Dwelling	D	D	D	D	X	X	X	X	D	D	D	D	D	D
Research Establishment	X	D	D	D	D	X	D	D	D	X	X	X	X	X
Residential Building	A	X	X	X	X	D	X	X	A	A	X	X	X	X
Resource Recovery Centre	X	X	X	X	X	X	X	A	X	X	X	X	X	X
Restaurant/Cafe	X	P	P	P	D	D	X	X	D	D	A	X	X	X
Restricted Premises	X	D	D	D	D	X	X	X	X	X	X	X	X	X
Rural Holiday Resort	X	X	X	X	X	D	X	X	X	A	X	X	X	X
Rural Pursuit/Hobby Farm	X	X	X	X	X	X	X	X	P	P	A	A	X	X
Second-hand Dwelling	D	D	D	D	X	X	X	X	D	D	D	D	D	D
Service Station	X	X	X	D	D	X	D	D	A	X	X	X	X	X
Shop	X	P	P	P	X	X	X	X	X	X	X	X	X	X
Single House	P	D	D	D	X	X	X	X	P	P	P	P	P	P
Small Bar	X	D	D	A	A	D	A	X	A	A	X	X	X	X
Takeaway Food Outlet	X	A	A	A	A	A	X	X	X	X	X	X	X	X
Tavern	X	A	A	A	A	A	A	X	A	A	X	X	X	X
Trade Supplies	X	P	P	P	P	X	D	X	X	X	X	X	X	X
Telecommunications Infrastructure	A	A	A	A	D	A	D	D	A	A	A	A	X	X
Tourist Accommodation	X	D	D	D	X	D	X	X	X	A	X	X	X	X
Transport Depot	X	D	D	D	D	X	D	D	X	X	X	X	X	X
Tree Farm	X	X	X	X	X	X	X	X	D	D	X	X	X	X
Veterinary Centre	X	D	D	D	P	X	D	X	A	A	X	X	X	X
Warehouse/Storage	X	D	D	D	P	X	P	P	X	X	X	X	X	X
Waste Disposal Facility	X	X	X	X	X	X	X	A	X	X	X	X	X	X
Waste Storage Facility	X	X	X	X	X	X	X	A	X	X	X	X	X	X
Wind Farm	X	X	X	X	X	X	X	X	A	A	X	X	X	X
Winery	X	D	D	D	D	A	P	X	D	D	X	A	X	X

11:01am: At this time, Ms Wilson left the meeting.

11:03am: At this time, Mr du Plessis entered the meeting.

6.3 CONSOLIDATED PARKING SCHEME AMENDMENT - PROWSE WAY, DUNSBOROUGH

STRATEGIC THEME	LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing
STRATEGIC PRIORITY	2.10 Provide local road networks that allow for the safe movement of people through the District.
SUBJECT INDEX	Consolidated Parking Scheme
BUSINESS UNIT	Ranger Services
REPORTING OFFICER	Ranger & Emergency Services Coordinator - Ian McDowell
AUTHORISING OFFICER	Director Planning and Development Services - Paul Needham
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Line Marking and Sign Installation Layout Plan: No Stopping Road or Verge (adjacent to 17 Prowse Way) ↓



COMMITTEE RECOMMENDATION

PL2305/494 Moved Councillor J Richards, seconded Councillor A Ryan

That the Council:

1. Resolves, pursuant to clause 2.1(1)(a) of the *City of Busselton Parking Local Law 2020*, that the bend abutting 17 Prowse Way, Dunsborough be determined a no-stopping road or verge area as shown in the attached Line Marking and Sign Installation Plan (Attachment A);
2. Notes:
 - (a) that the resolution will take affect after the giving of public notice by the CEO; and
 - (b) the Consolidated Parking Scheme will be amended to reflect the resolution.

CARRIED 5/0

OFFICER RECOMMENDATION

That the Council:

1. Resolves, pursuant to clause 2.1(1)(a) of the *City of Busselton Parking Local Law 2020*, that the bend abutting 17 Prowse Way, Dunsborough be determined a no-stopping road or verge area as shown in the attached Line Marking and Sign Installation Plan (Attachment A);
2. Notes:
 - (a) that the resolution will take affect after the giving of public notice by the CEO; and
 - (b) the Consolidated Parking Scheme will be amended to reflect the resolution.

EXECUTIVE SUMMARY

The Consolidated Parking Scheme (CPS) is an administrative document including a series of maps that details vehicle parking restrictions across the District. Restrictions include no stopping zones.

This report seeks to establish a no-stopping zone, road or verge, on the bend adjacent to 17 Prowse Way, Dunsborough. The extent of the no stopping zone is shown on the linemarking and sign installation layout plan at Attachment A.

The report has been prepared following an approach from a resident on the street, acting on behalf of himself and others, raising concerns about parking management in the area.

BACKGROUND

On 16 February 2023, the City received a letter from a resident, acting for and on behalf of a number of residents of Prowse Way, identifying concerns a number of perceived parking and traffic issues in Prowse Way including:

- The all-day carpark in Prowse Way adjacent to Dugalup Brook Reserve is full every day of the week;
- Once these bays are full, people park on the Dugalup Brook Reserve and down both sides of the street;
- People regularly park on verges and on driveways and the vacant block at number 21;
- The apex of Prowse Way, at the entrance to the all-day carpark, is a 90 degree bend;
- All day parking on both verges, including under the trees on Dugalup Brook reserve has created a blind corner from pedestrian and residents;
- Residents are occasionally hindered accessing their own residences and driveways, some experience difficulties when backing trailers onto and from the thoroughfare; and
- Tradespeople (e.g. lawn mowing contractors) with trailers cannot always park in front of the house they are working at.

OFFICER COMMENT

City officers have completed an assessment of the parking and traffic behaviour in the area, and have determined that there are parking issues on Prowse Way that are of sufficient concern to require some management. The measures considered appropriate, most of which do not require a Council resolution, and some of which have already been implemented, are outlined later in this section of the report. Prior to setting out that information, however, it is seen as appropriate to outline broader principles that may be usefully applied to considering parking management in a context such as Prowse Way.

In broad terms, it is considered that, especially in areas close to or within activity centres (i.e. Busselton City Centre, Dunsborough Town Centre, Vasse Village Centre and a number of smaller centres), there will be increasing pressure to make greater of on-street carparking capacity. Under both parking control laws and the planning framework, there are in fact inherent rights for people to park on-street – including for people not residents on the street. There are not, however, the same inherent rights with respect to parking on the verge.

Also, in contexts where the demand exists, it may often be sensible to make use of surplus on-street parking capacity, rather than constructing additional car parking areas in other locations, or simply not having as much car parking capacity available.

Constructing additional car parking capacity comes not only at a financial cost, but also increases the paved/impermeable area within the urban environment, contributing to the urban heat island affect and reducing the area available for trees or other landscaping. Without acquiring land, there is also a finite amount of land on which the City can deliver additional public parking.

Making a decision to not allow use of on-street car parking capacity without providing additional car parking capacity elsewhere also imposes costs, as the parking is not available to meet the demand. Whilst it is also noted that there can be net benefits from not having enough car parking supply to meet demand, as it encourages other forms of transport, because the urban areas in the District, and the District in general, have developed at very low densities and are extremely car dependent, the capacity to induce behaviour change by deliberately restricting car parking capacity is quite limited.

It does need to be recognised, though, that parking pressure in a street can have amenity impacts on the owners and occupiers of property on that street. Parking pressure can also have safety implications especially where there are footpaths, on-street car parking can often enhance pedestrian safety, as parked cars act as a barrier between the footpath and vehicle traffic. In locations where there is no, or very limited, on-site parking on the properties on a street, there can also be a need to manage on-street car parking to ensure that owners and occupiers on a street have somewhere to park (i.e. on-street parking capacity needs to be protected for those who own or occupy the property on the street, otherwise there is nowhere available for them to park – which is not the case on Prowse Way). Other amenity impacts could include people parking on verges, blocking driveways, or from noise associated with parking activity.

Essentially, it is considered that there needs to be a balanced consideration of broader parking demand and supply issues, whilst identifying impacts on the owners and occupiers of property on a street or area, and finding appropriate ways to mitigate those impacts if required.

Officers have identified a number of actions that, once implemented, are expected to mitigate the impacts of car parking in this area. These are:

- Within the all-day carpark, restrict parking to the designated bays only;
- Install no parking signs and bollards on Dugalup Brook Reserve; and
- Establish a no-stopping road or verge zone, on the bend abutting 17 Prowse Way, as shown on the linemarking and sign installation layout plan at Attachment A – the specific recommendation of this report.

The City has already completed the following works, which do not require a resolution of the Council:

- Bollards have been installed along the boundary of the Dugalup Brook Reserve, Prowse Way and the all-day carpark. The bollards act as a physical barrier to prevent people parking on the Reserve;
- A new sign advising that parking on Dugalup Brook Reserve is prohibited has been installed on the Reserve (this is already prohibited under the provisions of the *Parking Local Law 2020* so does not require a resolution of the Council); and
- Linemarking in the all-day carpark will be/has been refreshed to better delineate the parking bays. In addition to this, a new sign has been installed at the entry to the car park advising this is an all-day carpark “marked bays only”. These measures, along with the installation of the bollards will ensure that people park only in designated bays.

Although provisions already exist within the *Parking Local Law 2020* to prohibit people stopping on a carriageway in a position (e.g. on a curve) where it is not visible to the driver of an overtaking vehicle from a distance of 50m in a built-up area, photographs provided by the residents of Prowse Way in support of their submission show this sometimes occurs on the road and verge abutting 17 Prowse Way.

In the interest of improved community safety at this location, formalisation of the proposed no-stopping zone will clarify this restriction to all road users.

Residents of Prowse Way also requested consideration of ‘residents only’ parking restrictions on Prowse Way. The City’s *Parking Local Law 2020* already sets out that people can only park on a verge with the consent of the adjoining property owner or occupier. The City, however, will only be aware of any issues in this regard when advised by the owner or occupier. City officers have and expect to continue communicating with residents around controls related to verge parking, with the aim of educating both the residents and those looking to park on Prowse Way about the controls, as well as advising of alternative parking locations.

The *Parking Local Law 2020* does not allow for establishment of ‘resident only’ parking areas. Timed parking controls would also apply to both residents and others in the same way. Whilst some local government parking local laws allow for establishment of ‘permit parking’ areas, the City’s does not, and it is not considered that the kinds of issues that would require introduction of permit parking areas exist in the District to any significant degree at present.

An option that officers have considered to further manage parking pressure on Prowse Way, but is not recommended at this stage, is to line-mark car parking bays. Once bays are marked, people are required to park their vehicles within the marked bays. The marking of bays would therefore be expected to reduce the incidence of people parking in inappropriate locations. Because of the design standards that would need to be applied, such an action would also reduce the total amount of space available for parking. It is considered, however, that it is not necessary to do so at this stage, and that the impact of the other actions already undertaken or recommended in this report should be assessed before considering further actions to manage car parking on Prowse Way.

Another option considered is the construction of a footpath on portion(s) of Prowse Way. That would, however, need to be considered in the context of the City’s broader capital works programme, and considered and prioritised alongside other potential footpath projects.

Statutory Environment

City of Busselton Parking Local Law 2020

Pursuant to clause 1.10 Powers of the Council: the Council may, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

Pursuant to subclause 2.1(1)(e) Determination of Parking Stalls: parking stations and parking areas: the Council may by resolution constitute, determine or vary no stopping areas.

Pursuant to subclause 3.10(2) Parking on Private Land: a person must not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.

Pursuant to clause 3.11 Parking on Reserves: a person, other than an employee of the local government in the course of his or her duties or a person authorised by the local government, must not drive or park a vehicle on or over any portion of a reserve other than on an area specifically set aside for that purpose.

Pursuant to subclause 6.5(1) Stopping on Crests, Curves etc.: a driver must not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres in a built-up area.

Pursuant to subclause 6.9(1)(a) Stopping on Verge: a person must not stop a vehicle so that any portion of it is on a verge.

Pursuant to subclause 6.9(1)(c) Stopping on Verge: a person must not stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge so that any portion of it is on a verge.

Pursuant to subclause 6.9(2) Stopping on Verge: subclause 6.9(1)(a) does not apply if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.

Pursuant to subsection 6.10(2)(a) Obstructing Access to and from a Path, Driveway etc.: a driver must not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless the driver is dropping off, or picking up passengers.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

The review of the parking controls at Prowse Way was triggered from a letter representing 15 households in the area (12 households in Prowse Way, and another 3 in close proximity of streets around Prowse Way). There are a total of 30 households in Prowse Way.

Officers from the City have met with representatives from that group to discuss matters other than those directly related to parking issue which are the subject of this report. Representatives from the group have also been advised of the actions already taken by the City, and the proposed establishment of the no stopping zone abutting 17 Prowse Way. They have requested to meet with officers on-site to further discuss parking issues, this meeting is scheduled for 22 May 2023 which is after the Policy and Legislation Committee meets.

Officers have advised the owner of 17 Prowse Way, who is not a signatory to the letter provided by residents of Prowse Way, but who is most affected by the implementation of the proposed no-stopping road or verge restrictions of this proposal. The owner of the property is in favour of the proposal to create a no-stopping zone on the bend abutting 17 Prowse Way.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve to establish a formal no-stopping road or verge zone over a greater, or entire length of Prowse Way on both sides of the road.
2. Resolve to establish a formal no-stopping road or verge zone over a greater, or entire length of Prowse Way on one side of the road.
3. Choose not to establish a formal no-stopping road or verge zone anywhere in Prowse Way.

CONCLUSION

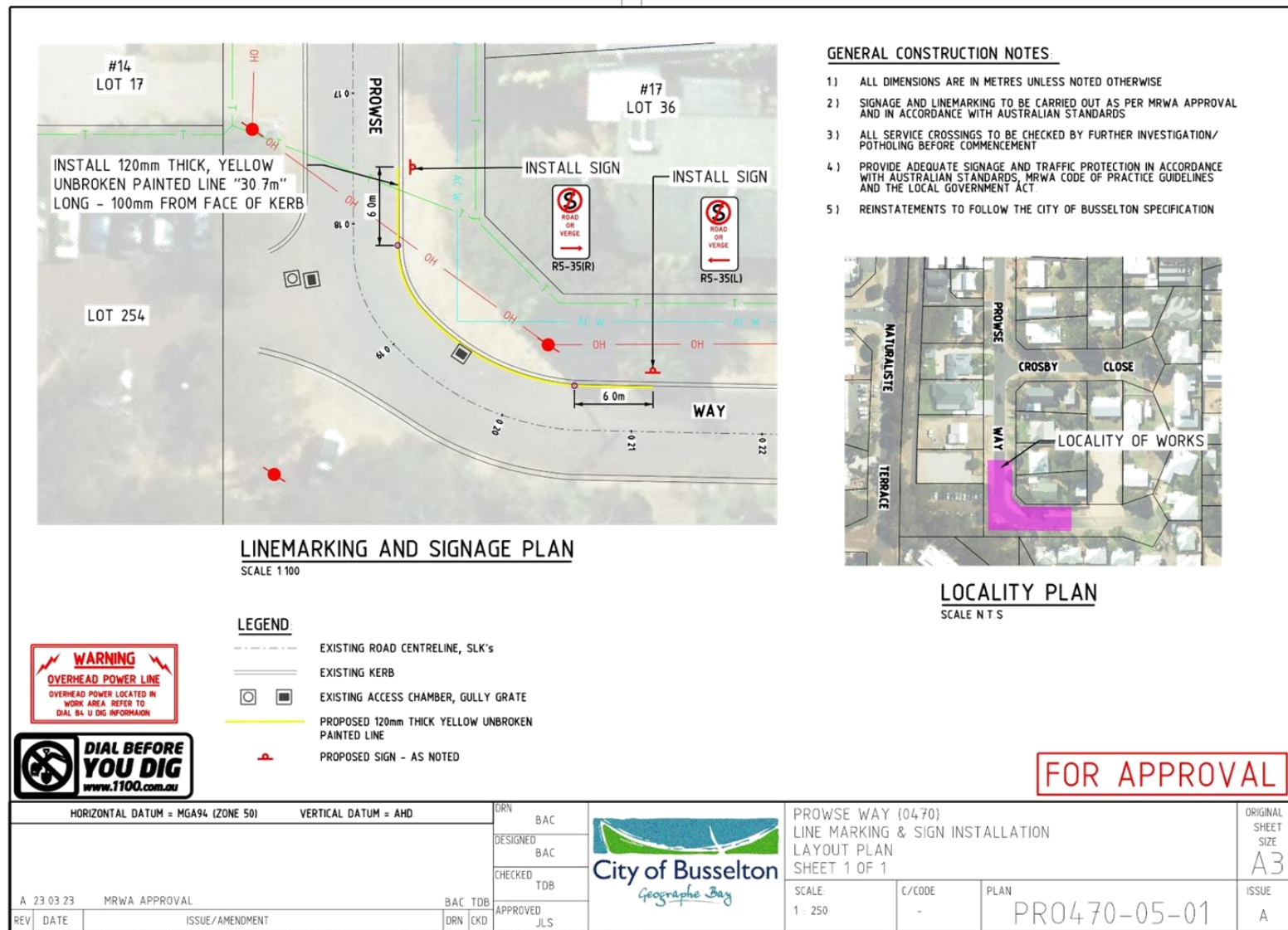
Pursuant to clause 1.10 of the *Parking Local Law 2020*, the Council may, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this local law.

Pursuant to subclause 2.1(1)(e) of the *Parking Local Law 2020* this report recommends that the Council resolves to establish a no-stopping on the road or verge on the bend abutting 17 Prowse Way, as shown on the linemarking and sign installation layout plan at Attachment A.









TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If approved by the Council, the implementation of the officer recommendation will come into effect after the giving of public notice by the Chief Executive Officer of the Council determination, and following the installation of signs giving effect to the determination. This is expected to take no more than 28 days following the date of the Council resolution.

Line Marking and Sign Installation Layout Plan: No Stopping Road or Verge (adjacent to 17 Prowse Way)



6.4 BUSHFIRES BRIGADES LOCAL LAW

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Local Laws
BUSINESS UNIT	Legal Services
REPORTING OFFICER	Legal Officer - Briony McGinty
AUTHORISING OFFICER	Acting Director, Finance and Corporate Services - Sarah Pierson
NATURE OF DECISION	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A WALGA advice   Attachment B 1968 Bush Fire Brigades Local Law   Attachment C Marked-up Proposed Local Law   Attachment D Clean Proposed Local Law  

DISCLOSURE OF INTEREST	
Date	10 May 2023
Meeting	Policy and Legislation Committee Meeting
Name/ Position	Cr Phill Cronin
Item No./ Subject	Item 6.4, ‘Bushfires Brigade Local Law’
Type of Interest	Impartiality Interest
Nature of Interest	I am a member of the Metricup Bushfire Brigade.

COMMITTEE RECOMMENDATION

PL2305/495 Moved Councillor A Ryan, seconded Councillor P Cronin

That the Council:

- Commences the law-making process for the City of Busselton Bush Fire Brigades Local Law; the purpose and effect of the local law being as follows:**

Purpose: To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

Effect: Bush fire brigades are created in accordance with the *Bush Fires Act 1954*.
- Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the *Local Government Act 1995*, by:**
 - Giving local public notice of the Proposed Local Law; and
 - Giving a copy of the Proposed Local Law and public notice to the Minister for Local Government and the Minister for Emergency Services.
- Notes that the CEO, after the close of the public consultation period, will submit a report to the Council on any submissions received on the Proposed Local Law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.**

CARRIED 5/0

OFFICER RECOMMENDATION

That the Council:

1. Commences the law-making process for the *City of Busselton Bush Fire Brigades Local Law*; the purpose and effect of the local law being as follows:
Purpose: To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.
Effect: Bush fire brigades are created in accordance with the *Bush Fires Act 1954*.
2. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the *Local Government Act 1995*, by:
 - (a) Giving local public notice of the Proposed Local Law; and
 - (b) Giving a copy of the Proposed Local Law and public notice to the Minister for Local Government and the Minister for Emergency Services.
3. Notes that the CEO, after the close of the public consultation period, will submit a report to the Council on any submissions received on the Proposed Local Law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.

EXECUTIVE SUMMARY

The *City of Busselton Bush Fire Brigades Local Law* (Proposed Local Law) is presented to Council for consideration. The Bush Fire Advisory Committee (BFAC) and City Officers have identified a need for a new local law relating to bush fire brigades. This is supported by recent advice from DFES and WALGA regarding the requirement to establish brigades pursuant to a local law. It is recommended that the Council initiates the law-making process and authorises the CEO to give local public notice of the Proposed Local Law.

BACKGROUND

The City has operated a number of bushfire brigades over many years. The management of those brigades has occurred through a variety of policies as well as requirements under the *Bush Fires Act 1954* (BF Act). At the BFAC meeting on 13 December 2022 a motion was passed to review these management policies. It was determined by officers upon review that a bush fire brigade local law could replace these policies.

In addition to this, local governments were recently contacted by both DFES and WALGA regarding the requirement to establish bushfire brigades pursuant to a local law. Separate advice from DFES and WALGA both confirmed that there were certain risks attaching to bushfire brigades operating without being established under a local law. However, those risks were minimal in the short term provided a local government had appointed Bushfire Fire Control Officers (FCOs) in accordance with the BF Act; which the City does. A summary of WALGA's advice is provided at Attachment A.

The City already has a local law relating to bush fire brigades, found at Attachment B. However, it was gazetted in 1968 and no longer fit for purpose.

In order to comply with the BF Act, City officers have drafted a local law, based on the WALGA model template. This model is understood to be acceptable to the Joint Standing Committee on Delegated Legislation (JSC) (discussed further under Statutory Environment). In consultation with BFAC, officers have made changes to the model, in order to achieve a more contemporary local law, as well as ensuring consistency (where feasible) with existing brigade management practices and policies.

OFFICER COMMENT

The Proposed Local Law is based on the WALGA model and is consistent with those of many other local governments who have adopted a bush fire brigades local law. A number of amendments have been made to the model, which can be seen in the “marked-up” version at Attachment C.

The local law is divided into parts, described further below:

Part 2 – Establishment of Bush Fire Brigades

This part provides that a local government can create brigades. It then lists the positions to which a local government must appoint persons. Following the first AGM of a brigade, those positions are thereafter appointed by the brigade themselves. In a fire ground situation, the chain of command is also established through Part 2, Division 2. This part also incorporates the Rules (at Schedule 1) to be the Rules of each brigade. Existing brigades continue to operate as if they were established under the local law.

Part 3 – Organisation and maintenance of Bush Fire Brigades

The Chief Bush Fire Control Officer (Chief FCO) has primary managerial responsibility for organisation and maintenance of brigades. Brigades must hold annual general meetings, and nominate brigade members to serve as the FCO at the Bush Fire Advisory Committee (BFAC). The BFAC then nominates a person for the position of FCO to the local government.

Part 4 – Types of Bush Fire Brigade Membership

The membership types reflect those currently operating within the City’s brigades, with the exception of Honorary life member. This has been included within the Proposed Local Law to reflect a motion passed at the BFAC meeting of 13 December 2022 to amend the bush fire brigade management policies to incorporate this membership type.

Part 5 – Appointment Dismissal and Management of Members

Part 5 refers to the Rules (contained in Schedule 1) for dealing with brigade member management.

Part 6 - Equipment of Bush Fire Brigades

Part 6 provides for the making of policies, the provision of equipment and funding requests to the local government.

First Schedule – The Rules

The first schedule outlines the Rules under which the brigades are to operate. This is akin to the rules (or Constitution) of an incorporated association. City officers have spent time with BFAC members in different forums to ensure that the proposed model is fit for purpose for brigades, and in particular those that are currently incorporated. Under section 42A of the BF Act a brigade may be incorporated or otherwise. So the registration of some brigade groups as incorporated associations for purposes such as fundraising and community engagement, does not impact on the creation of the brigade by the local government for purposes under the BF Act.

Statutory Environment

Local Government Act 1995

Section 3.5 of the Act provides Council with the head of power for making local laws, which stipulates:

A local government may make Local Laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.

Pursuant to section 41(1) of the BF Act, where a local government elects to establish a bushfire brigade it must do so in accordance with local laws it has made for that purpose.

Section 62 of the BF Act provides a general power to make local laws relating to bushfire brigade matters for –

- (a) *the appointment, employment, payment, dismissal and duties of bush fire control officers; and*
- (b) *the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and*
- (c) *any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by this Act.*

The procedure for making local laws is set out in sections 3.12 to 3.17 of the Act and regulation 3 of the *Local Government (Functions and General) Regulations 1996* (WA). The person presiding at a Council meeting is to give notice of the purpose and effect of a proposed local law by ensuring that:

- the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- the minutes of that Council meeting include the purpose and effect of the proposed local law.

The purpose and effect of the Proposed Local Law is as follows:

Purpose: To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

Effect: Bush fire brigades are created in accordance with the *Bush Fires Act 1954*.

Local public notice is to be given by advertising the Proposed Local Law in accordance with the requirements of sections 3.12(3) of the Act. The submission period must run for a minimum period of six weeks after which Council, having considered any submissions received, may resolve to make the local law as proposed or make a local law that is not significantly different from what was proposed.

Parliamentary Scrutiny

Section 42 of the *Interpretation Act 1984* allows the WA State Parliament to disallow a local law, which is a mechanism to guard against the making of subsidiary legislation that is not authorised or contemplated by the empowering enactment, has an adverse effect on existing rights or ousts or modifies the rules of fairness. Parliament has appointed the Joint Standing Committee on Delegated Legislation (JSC) which is a committee of State politicians from both houses of the Western Australian Parliament, to undertake an overseeing role on its behalf, which includes the power to scrutinise and recommend the disallowance of local laws to the Parliament. After gazettal, a copy of the Local Law will be sent to the JSC who will examine the local law and determine whether or not it complies with the abovementioned criteria.

Relevant Plans and Policies

There are a number of City policies relating to bush fire brigades. These policies will continue to operate in the short term. However, should the local law be adopted, these policies will be superseded and will be presented to Council for repeal.

Financial Implications

Costs associated with the advertising and gazettal of the Proposed Local Law will come from the legal budget. These costs are unlikely to exceed \$2,000. Making and implementing the Proposed Local Law should not have any other financial implications for the City.

Stakeholder Consultation

Should Council resolve to commence the process of making the Proposed Local Law, public submissions will be invited as part of the statutory consultation process prescribed under section 3.12(3) of the Act. The submission period must run for a minimum period of 6 weeks after which the Council, having considered any submissions received, may resolve to adopt the proposed local law or a law which is not significantly different.

It should be noted that City officers commenced consultation with BFAC prior to presentation to Council. A draft local law was distributed to BFAC prior to its meeting of 14 March 2023, with a robust discussion of the item taking place at this meeting. A motion was passed supporting further development of the local law, which included referring the matter to a working group for detailed consideration.

On 29 March 2023 the City convened a meeting between the Chief FCO and deputies along with a representative of WALGA to discuss the background to the advice from WALGA and DFES, as well as the status of the proposed consolidated emergency services legislation. During this meeting City officers also presented amendments to the tabled draft that incorporated the feedback and queries provided by BFAC members to date.

On 4 April 2023 officers again met with BFAC members to discuss the draft local law and its implementation. All queries and feedback provided to the City from BFAC members were incorporated by way of amendments or responsive comments into the Proposed Local Law.

As a result of those meetings, City officers are able to present the Proposed Local Law at Attachment D. The Proposed Local Law has been distributed to the City's 22 FCOs who were provided with the opportunity to virtually indicate their support for or against. By 4 May 2023 the City had received 18 responses, with 18 for, and 0 against. The Proposed Local Law will also be formally referred back to BFAC at its meeting 13 June 2023, and the results of that formal resolution will be presented to Council.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

Under the BF Act the City is required to adopt a bush fire brigades local law to ensure its brigades are properly established and brigade officers are properly appointed and empowered. The Officer Recommendation serves to mitigate the currently identified risk of bushfire brigades not being correctly established under the BF Act. Referring to the WALGA summary of advice, in the short term, the City has a local law (under which brigades are established) and also appoints FCOs pursuant to the BF Act; but the longer term risks need addressing.

Section 3.16 of the Act requires that all local laws of local governments must be reviewed within an 8 year period after their commencement to determine if they should remain unchanged or be repealed or amended. Since the Act came into force in 1996 there have been no amendments made to the City's existing local law relating to bushfire brigades.

There are a number of inconsistencies between the existing local law and the WALGA model and established brigade practices. Continuing to have management practices for brigades that are in conflict with the existing local law is a risk. As such officers consider it prudent to make a local law which is consistent with the WALGA model and in keeping with modern practices.

Options

As an alternative to the proposed recommendation the Council could choose to vary the provisions of the Proposed Local Law in any number of ways. However, for the reasons outlined in this report, the Proposed Local Law is the form of local law recommended at this stage.

There will be further opportunity for considering and making changes to the Proposed Local Law following the public consultation process outlined above, provided the changes are not significantly different from what is currently proposed. If any changes are of a significant nature the local law would need to be re-advertised.

CONCLUSION

It is recommended that the Council initiate the law-making process and authorise the CEO to commence advertising the Proposed Local Law.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Within two weeks of the Council decision to commence the law-making process, the Proposed Local Law will be advertised for public comment. The statutory consultation period is a minimum of six weeks and following the close of the advertising period a report will be submitted to the Council for further consideration which, depending on the number and nature of submissions received, could be within three months.



INFOPAGE

BUSH FIRE BRIGADE LOCAL LAWS, January 2023

WALGA was recently contacted by the Department of Fire and Emergency Services (DFES), who informed of State Solicitor's Office advice questioning the legality of Bush Fire Brigades established by Local Governments in the absence of an associated Bush Fire Brigades Local Law.

WALGA obtained its own separate, independent legal advice that confirmed the same; having established a Bush Fire Brigade, it is a requirement that the Local Government also adopt an associated Bush Fire Brigades Local Law.

WALGA has identified your Local Government as potentially falling into this category, following a search of your Local Government website for a BFB Local Law.

The Issues

1. DFES and WALGA have received separate, independent legal advice on the establishment of Bush Fire Brigades (BFB) by Local Governments under s.41 of the *Bush Fires Act 1954* (BF Act);
2. The consistent legal position is that a Local Government, having exercised discretion to establish a BFB, **must do so by making a Local Law** – ref s.41(1) of the BF Act;
3. The head of power to make a BFB Local Law is under s.62 of the BF Act.
4. The Parliamentary Joint Standing Committee on Delegated Legislation has reported a similar requirement: 'Where a local government elects to establish a bush fire brigade it must do so in accordance with local laws it has made for that purpose' (Ref: Report 16, June 2019 at 2.2)

Relevant Consequences

5. Where a BFBs has been established in the absence of a Local Law, WALGA's legal advice indicates that the registration of the Brigade and Brigade membership under s.41(2) is likely to be invalid;
6. In the absence of a Local Law, the election and duties of BFB officers under s.43 is likely to be invalid.
7. In the absence of a Local Law, the powers of BFB officers relevant to preventing, controlling and extinguishing a bush fire under s.44 is likely to be invalid.

WALGA's requested legal advice on other matters that we believe will provide some reassurances in the short term.

Although not having adopted a BFB Local Law will mean that Brigades are not properly constituted, we have been advised that the appointment of Bush Fire Control Officers will mean that Local Governments can effectively ensure the conduct of normal brigade activities, including responding to bush fires and directing firefighting assets and volunteers.

Our legal advice provides further reassurances that volunteers will be covered for compensation and protected from liability if conducting normal brigade activities under the direction of a BFCO.



Arrangements – Short Term

1. In the short term, Local Governments should ensure that a sufficient number of bush fire control officers (BFCO) are appointed under s.38(1) of the BF Act:
'A local government may from time to time appoint such persons as it thinks necessary to be its bush fire control officers under and for the purposes of this Act, and of those officers shall subject to section 38A(2) appoint 2 as the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer who shall be first and second in seniority of those officers, and subject thereto may determine the respective seniority of the other bush fire control officers appointed by it';
2. BFCO's special powers are set out in s.39 of the BF Act and this appointment will also ensure the proper direction of Brigades in responding to a bush fire, as set out in s.44(4) of the BF Act:
'(4) Subject to the provisions of sections 13(6) and 45, where a bush fire control officer of a local government is present at a fire which is burning in the district of the local government, he has supreme control and charge of all operations, and the officers and members of all bush fire brigades present at the fire are subject to and shall act under his orders and directions.'
3. WALGA's legal advice notes that a BFCO could manage a BFB established without a Local Law however this is not recommended as a permanent solution as BFBs will not have direct authority and powers otherwise provided under the BF Act.

Protections

4. WALGA sought legal advice on the application of Part 6B And Part 7 of the Fire and Emergency Services Act 1998 (FES Act);
5. Part 6B applies to compensation entitlements for volunteers engaged in emergency response activities including firefighting;
6. Legal advice is that the compensation provisions will cover a person who engages in volunteer activities by participating in 'normal brigade activities' under the direction of a BFCO;
7. Part 7 applies to protection of persons acting in good faith when performing functions under emergency services Acts, including volunteer firefighters;
8. Similarly, legal advice confirms that a volunteer acting under the direction of a BFCO when carrying out 'normal brigade activities' will be able to rely upon the statutory protection under s.37 of the FES Act.

Arrangements – Intermediate Term

1. The Local Government is required to adopt a BFB Local Law to ensure its Bush Fire Brigades are properly established and Brigade officers are properly registered and empowered.
2. WALGA has developed a template BFB Local Law addressing the BF Act local law-making requirements. This can be made freely available upon request.
3. WALGA can also provide general advice on the local law-making process and the development of a Council agenda item for this purpose;
4. Alternatively, the Local Government can obtain its own legal advice for the purpose of drafting a BFB Local Law.



Validity of Bush Fire Brigades Local Laws (Bylaws)

Introduction

WALGA is assisting the Department of Fire and Emergency Services with communications to Local Governments regarding Bush Fire Brigade Local Laws (BFB LL). WALGA has previously sought and distributed independent legal advice on the contemporary operation of Bush Fire Brigades and the role of appointed Bush Fire Control Officers, in the absence of a Bush Fire Brigades Local Law.

Questions have since been raised by Local Government that adopted, and have not repealed, a BFB LL prior to the commencement of the current *Bush Fires Act 1954*.

WALGA sought specific legal advice on the following question: “...whether local laws (bylaws) which validly established Bush Fire Brigades under *Bush Fires Act 1937 (WA)* validly survive the repeal of that Act and the commencement of the *Bush Fires Act 1954 (WA)* specifically via the operation of section 36 of the *Interpretation Act 1984*.”

Summary of Legal Advice

- Section 6 of the *Bush Fires Act 1954* ‘as passed’ expressly declared that the “repealing and re-enacting of a provision” section of the *Interpretation Act* (s.15 of the *Interpretation Act 1918* (reprinted in 1953) and s.36 of the *Interpretation Act 1984 (WA)*) applies to the *Bush Fires Act 1954*.
- Legal advice is that it is apparent at the time of passing the *Bush Fires Act 1954*, Parliament intended for local laws (formerly ‘bylaws’) establishing Bushfire Brigades under the *Bush Fires Act 1937*, to continue to have effect and therefore for those Brigades to continue. However, it is extremely unlikely that the Parliament would have intended those local laws to have continued in place for an extended period.
- Attention then turns to whether the other requirements of the *Bush Fires Act 1954* have been complied with, namely have there been any substantive changes to s.36(d) following the ‘as passed’ Act.
- Legal advice confirms that the clear and ordinary meaning of s.36(d) of the *Bush Fires Act 1954* has not changed in a manner relevant to the issue of establishment of Bush Fire Brigades between 1954 and 2023. Therefore, a local law made under the *Bush Fires Act 1937* which has not been repealed and where a Local Government does not have a local law to a similar effect made under the *Bush Fires Act 1954*, **is likely to still be in force**.
- Legal advice notes that a local law made under the *Bush Fires Act 1937*, whilst valid, may well not be fit for purpose now.

Note: For the purposes of the legal advice obtained, it was assumed that the local laws which established the Bush Fire Brigade under the *Bush Fires Act 1937*, did so validly at the time they came into effect.



Good Governance Considerations

From the perspective of the legal advice received, it might be said that a BFB LL made under the *Bush Fires Act 1937* is technically valid but likely to be practically obsolete. In accordance with our previous legal advice, it is therefore recommended that Local Governments with a local law established under the *Bush Fires Act 1937*:

- a. ensure there are an adequate number of appointed Bush Fire Control Officer to conduct 'normal brigade activities' and manage fires in its district in the short term; and
- b. consider making a local law to establish the Bush Fire Brigade under the *Bush Fires Act 1954* and to repeal the local law made under the *Bush Fires Act 1937*.

Bush Fire Brigade Local Laws – 1954 to 1996

Further investigation of the Government Gazette has identified that many Local Governments have adopted a BFB LL since the commencement of the *Bush Fires Act 1954* and there is no doubt as to the validity of these local laws.

However it is clear that many Local Governments were until recently, unaware of the existence of a BFB LL (for example, the local law is not published on the Local Government's website) and the *Local Government Act 1995* requirement to conduct an 8 year review of local laws has not been applied to BFB LLs. (Please note that the lack of an 8 year review does not invalidate any local law).

WALGA therefore suggests that Local Governments with BFB LLs adopted as bylaws prior to the commencement of the *Local Government Act* in 1996 give similar consideration as to whether this local law remains fit for purpose to the contemporary operation of Bush Fire Brigades within the district.

WALGA Local Laws Service

If you require assistance with any aspect of the local law-making process relating to Bush Fire Brigades, please contact WALGA's Governance & Procurement team at governance@walga.asn.au or call 9213 2514.

31 October, 1968.]

GOVERNMENT GAZETTE, W.A.

3209

BUSH FIRES ACT, 1954.

Shire of Busselton.

WHEREAS under the provisions of the Bush Fires Act, 1954 (as amended), a local authority may, with the approval of the Governor, make by-laws not inconsistent with that Act: Now, therefore, the Busselton Shire Council, being a local authority within the meaning of the said Act, doth hereby resolve and determine that—

- (a) the by-laws made by the Sussex Road Board and published in the *Government Gazette* on the 24th May, 1940, and amended by the Sussex Road Board and published in the *Government Gazette* on the 16th March, 1945, are revoked; and
- (b) the by-laws set out hereunder are made.

By-laws of the Busselton Shire Council relating to the establishment, maintenance and equipment of Bush Fire Brigades for the Shire or any part of the Shire of Busselton.

Establishment of Brigade.

1. (a) On the resolution of the Council to establish, maintain and equip a bush fire brigade under the provisions of the Bush Fires Act, 1954, and regulations thereunder, the brigade shall be formed in accordance with these by-laws; and a name shall be given to the brigade and application accompanied by the resolution of the Council forming the brigade shall be made to the Bush Fires Board for its registration accordingly.

(b) A bush fire brigade may be established for the whole of the Shire or for any specified area thereof.

Appointment of Officers.

2. The Council shall appoint a captain, a first lieutenant, a second lieutenant and such additional lieutenants as it shall deem necessary, to act as officers of the brigade and who, in the Council's opinion, have the necessary qualification and knowledge of the district required in such capacities.

3. The Shire Clerk or such other person as the Council may appoint, shall be the Secretary of the brigade.

4. The Council may appoint an equipment officer who shall be responsible for the custody and maintenance in good order and condition of all equipment and appliances acquired by the Council for the purposes of the brigade. Such officer may station such equipment at a depot approved by the captain where, if possible, motor trucks can easily be called upon. If there are more than one such depots in the area, the equipment officer shall appoint at each depot a person to look after the equipment and have it ready for immediate use when required.

5. The Council shall appoint bush fire control officers in accordance with the requirements of the district and may prescribe the area over which each such officer shall have jurisdiction. The employment, dismissal and payment for services of persons (other than officers) employed for duties under this Act shall be vested in the President and Shire Clerk of the Council conjointly.

Duties of Officers.

6. The duties of all officers appointed under these by-laws shall be as laid down in the provisions of the Bush Fires Act, 1954, and each officer so appointed shall be supplied with a copy of the Act and regulations. The captain shall have full control over the members of the brigade whilst engaged in fire fighting and shall issue instructions as to the methods to be adopted by the firemen. In the absence of the captain, the first lieutenant; and in the absence of the first, the second lieutenant or senior officer of the brigade present at the fire shall exercise all the powers and duties of the captain.

Membership of Brigade.

7. (1) The membership of a bush fire brigade may consist of the following:—

- (a) subscribing members;
- (b) fire fighting members; and
- (c) associate members,

(2) Subscribing members shall be those persons, who being interested in forwarding the objects of the brigade, pay an annual subscription to the funds of the brigade at the following rates:—

- (i) owner or occupier of land within the brigade area—minimum subscription of \$1.00
(ii) other persons—a minimum subscription of \$0.50

(3) Fire fighting members shall be those persons, being able-bodied men over 15 years of age who are willing to render service at any bush fire when called upon, and who sign an undertaking in the form contained in the First Schedule to these by-laws.

(4) Associate members shall be those persons who are willing to supply free motor transport for fire fighters or equipment, or are prepared to render other approved assistance, and who sign an undertaking in the form contained in the Second Schedule to these by-laws.

(5) No fees or subscriptions shall be payable either by fire fighting members or associate members and the enrolment of persons as such members shall in every case be subject to the approval of the Board.

(6) A subscribing member shall be eligible for enrolment as a fire fighting member.

Finance.

8. The expenditure incurred by the Council in the purchase of equipment, payment for services and generally for the purposes of this Act, shall be a charge on the ordinary revenue of the Council, but the Shire Clerk shall keep record of the expenditure incurred under this Act.

9. Meetings will be held as necessary.

These by-laws under the Bush Fires Act, 1954, were passed by a resolution of the Busselton Shire Council (a Local Authority under the provisions of such Act) at a meeting held at Busselton on 14th August, 1968.

F. H. JOLLIFFE,
President.

T. McCULLOCH,
Shire Clerk.

Approved by His Excellency the Governor in Executive Council, 9th October, 1968.

W. S. LONNIE,
Clerk of the Council.

First Schedule.

FORM OF ENROLMENT—FIREFIGHTING MEMBER.

Meetings of Brigade.

I, the undersigned, hereby make application to be enrolled as a firefighting member of the.....Bush Fire Brigade.
My private address is.....
My business address is.....
I can be communicated with by telephone No.....
If needed, I can provide my own transport to the scene of any outbreak. (This line to be struck out if not applicable.)

I hereby declare that I am over 15 years of age and in good health. On election by the committee as a firefighting member, I hereby undertake:—

1. To promote the objects of the brigade as far as shall be in my power.
2. To be governed by the provisions of the constitution and such by-laws and regulations as may from time to time be made thereunder.
3. To use my best endeavours to give assistance in firefighting measures when called upon on such occasions to obey all orders and instructions issued by duly authorised officers of the brigade.

Applicant's Signature.....

Date.....

31 October, 1968.]

GOVERNMENT GAZETTE, W.A.

3211

Second Schedule.

FORM OF ENROLMENT—ASSOCIATE MEMBER.

I, the undersigned, hereby make application for enrolment as an associate member of the.....Bush Fire Brigade.

(a) I am prepared to offer to transport fire fighting members and/or equipment to the scene of any outbreak when called upon. I have a motor vehicle of the following type..... available for such purpose.

(b) I am prepared to offer my services in the following capacity:—
.....
.....

(Paragraph (a) or (b) above may be struck out if both do not apply.)

My private address is.....

My business address is.....

I can be communicated with by telephone No.....

On election as an associate member by the committee, I hereby undertake:—

1. To promote the objects of the brigade as far as shall be in my power.
2. To be governed by the provisions of the constitution and such by-laws and regulations as may from time to time be made thereunder.
3. To use my best endeavours to assist in fire suppression work in the above capacity when called upon.

Applicant's Signature.....

Date.....

BUSH FIRES ACT, 1954.

Gnowangerup Shire Council.

Resolution.

WHEREAS under the provisions of the Bush Fires Act, 1954, a local authority may make by-laws; now, therefore, the Gnowangerup Shire Council, being a local authority within the meaning of the Act, doth hereby make the following by-laws:—

1. Fee for application for a permit to burn clover:—

The fee for an application for a permit to burn clover under Regulation 19 of the Bush Fires Act, 1954, Regulations, shall be \$8.40 (Eight Dollars Forty Cents) and such fee shall include the cost of any inspection of the land in respect of which the permit is applied for.

Passed by the Gnowangerup Shire Council at a duly constituted meeting held on the 19th day of June, 1968.

The Common Seal of the Municipality of the Shire of Gnowangerup was duly affixed hereto in the presence of—

[L.S.]

J. V. McDONALD,
President.

B. F. HARRIS,
Shire Clerk.

Approved by His Excellency the Governor in Executive Council this 22nd day of October, 1968.

W. S. LONNIE,
Clerk of the Council.

BUSH FIRE BRIGADES LOCAL LAW

BUSH FIRES ACT 1954

LOCAL GOVERNMENT ACT 1995

TABLE OF CONTENTS

PART 1 - PRELIMINARY

1.1CITATION*

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1.2DEFINITIONS

1.3 REPEAL

1.4 APPLICATION

Division 1 – Establishment of a bush fire brigade

2.1ESTABLISHMENT OF A BUSH FIRE BRIGADE*

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2.2 NAME AND OFFICERS OF BUSH FIRE BRIGADE

Division 2 – Command at a fire

2.3 RANKS WITHIN THE BUSH FIRE BRIGADE*

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Division 3 – Application of Rules to a bush fire brigade

2.4 RULES*

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Division 4 – Transitional

2.5 EXISTING BUSH FIRE BRIGADES*

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Division 5 – Dissolution of bush fire brigade

2.6DISSOLUTION OF BUSH FIRE BRIGADE*

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2.7NEW ARRANGEMENT AFTER DISSOLUTION

Division 1 – Local government responsibility

3.1LOCAL GOVERNMENT RESPONSIBLE FOR STRUCTURE*

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3.2 OFFICERS TO BE SUPPLIED WITH ACT

Division 2 – Chief Bush Fire Control Officer

3.3MANAGERIAL ROLE OF CHIEF BUSH FIRE CONTROL OFFICER*

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3.4 CHIEF BUSH FIRE CONTROL OFFICER MAY ATTEND MEETINGS

3.5 DUTIES OF CHIEF BUSH FIRE CONTROL OFFICER

Division 3 – Annual general meetings of bush fire brigades

3.6HOLDING OF ANNUAL GENERAL MEETING*

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3.7NOMINATION OF BUSH FIRE CONTROL OFFICERS TO BUSH FIRE ADVISORY COMMITTEE

3.8 NOMINATION OF BUSH FIRE CONTROL OFFICER TO THE LOCAL GOVERNMENT

3.9MINUTES TO BE TABLED BEFORE THE BUSH FIRE ADVISORY COMMITTEE

Division 4 – Bush Fire Advisory Committee

3.10FUNCTIONS OF ADVISORY COMMITTEE*

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3.11	ADVISORY COMMITTEE TO NOMINATE BUSH FIRE CONTROL OFFICERS
3.12	LOCAL GOVERNMENT TO HAVE REGARD TO NOMINEES
3.13	.....	ADVISORY COMMITTEE TO CONSIDER BUSH FIRE BRIGADE MOTIONS
4.1	.....	TYPES OF MEMBERSHIP OF BUSH FIRE BRIGADE
4.2	.....	FIRE FIGHTING MEMBERS
4.3	.....	TRAINEE MEMBERS
4.4	.....	ASSOCIATE MEMBERS
4.5	.....	CADET MEMBERS
4.6	.....	LIFE MEMBER
4.7	.....	HONORARY LIFE MEMBER
4.8	.....	NOTIFICATION OF MEMBERSHIP
5.1	.....	RULES TO GOVERN
6.1	.....	POLICIES OF LOCAL GOVERNMENT
6.2	.....	EQUIPMENT IN BRIGADE AREA
6.3	.....	FUNDING FROM LOCAL GOVERNMENT BUDGET
6.4	.....	CONSIDERATION IN THE LOCAL GOVERNMENT BUDGET
1.1	.....	INTERPRETATION
PART 2 – OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE		
2.1	.....	OBJECTS OF BUSH FIRE BRIGADE
2.2	.....	COMMITTEE TO DETERMINE APPLICATIONS
2.3	.....	CONDITIONS OF MEMBERSHIP
2.4	.....	APPLICATIONS FOR MEMBERSHIP
2.5	.....	DECISION ON APPLICATION FOR MEMBERSHIP
2.6	.....	DFES TO BE NOTIFIED OF REGISTRATIONS
2.7	.....	TERMINATION OF MEMBERSHIP
2.8	SUSPENSION OF MEMBERSHIP
2.9	EXISTING LIABILITIES TO CONTINUE
2.10	MEMBER HAS RIGHT OF DEFENCE

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2.11	OBJECTION RIGHTS
3.1	CHAIN OF COMMAND DURING FIRE FIGHTING ACTIVITIES
3.2	DUTIES OF CAPTAIN
3.3	SECRETARY
3.4	TREASURER
3.5	BRIGADE TRAINING OFFICER
3.6	EQUIPMENT OFFICER
3.7	STORAGE OF EQUIPMENT
3.8	EQUIPMENT OFFICER TO REPORT
4.1	MANAGEMENT OF BUSH FIRE BRIGADE
4.2	CONSTITUTION OF COMMITTEE
5.1	ORDINARY MEETINGS
5.2	SPECIAL MEETINGS
5.3	ANNUAL GENERAL MEETING
5.4	QUORUM
5.5	VOTING
5.6	AUDITOR
6.1	MEETINGS OF COMMITTEE
6.2	QUORUM
6.3	VOTING
7.1	FEES
7.2	FUNDS
7.3	FINANCIAL YEAR
7.4	BANKING
7.5	DISCLOSURE OF INTERESTS
7.6	DISAGREEMENTS
8.1	NOTICES
8.2	PROXIES

APPENDIX I

APPENDIX II

APPENDIX III

Deleted: PART 1 - PRELIMINARY

1.1 *Citation*

1.2 *Definitions*

1.3 *Repeal*

1.4 *Application*

PART 2 – ESTABLISHMENT OF BUSH FIRE BRIGADES

DIVISION 1 – ESTABLISHMENT OF A BUSH FIRE BRIGADE

2.1 *Establishment of a BUSH FIRE brigade*

2.2 *Name and officers of BUSH FIRE brigade*

DIVISION 2 – COMMAND AT A FIRE

2.3 *Ranks within the BUSH FIRE brigade*

DIVISION 3 – APPLICATION OF RULES TO A BUSH FIRE BRIGADE

2.4 *Rules*

DIVISION 4 – TRANSITIONAL

2.5 *Existing BUSH FIRE brigades*

DIVISION 5 – DISSOLUTION OF BUSH FIRE BRIGADE

2.6 *Dissolution of BUSH FIRE brigade*

2.7 *New Arrangement after dissolution*

PART 3 – ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

DIVISION 1 – LOCAL GOVERNMENT RESPONSIBILITY

3.1 *Local government responsible for structure*

3.2 *Officers to be supplied with Act*

DIVISION 2 – CHIEF BUSH FIRE CONTROL OFFICER

3.3 *Managerial role of Chief Bush Fire Control Officer*

3.4 *Chief Bush Fire Control Officer may attend meetings*

3.5 *Duties of Chief Bush Fire Control Officer*

DIVISION 3 – ANNUAL GENERAL MEETINGS OF BUSH FIRE BRIGADES

3.6 *Holding of annual general meeting*

3.7 *Nomination of bush fire control officers to Bush Fire Advisory Committee*

3.8 *Nomination of bush fire control officer to the local government*

3.9 *Minutes to be tabled before the Bush Fire Advisory Committee*

DIVISION 4 – BUSH FIRE ADVISORY COMMITTEE

3.10 *Functions of Advisory Committee*

3.11 *Advisory Committee to nominate bush fire control officers*

3.12 *Local government to have regard to nominees*

3.13 *Advisory Committee to consider BUSH FIRE brigade motions*

PART 4 – TYPES OF BUSH FIRE BRIGADE MEMBERSHIP

4.1 *Types of membership of BUSH FIRE brigade*

4.2 *Fire fighting members*

4.3 *Associate members*

4.4 *Cadet members*

4.5 *Honorary life member*

4.6 *Notification of membership*

Page Break

PART 5 – APPOINTMENT, DISMISSAL AND MANAGEMENT OF MEMBERS

5.1 *Rules to govern*

PART 6 – EQUIPMENT OF BUSH FIRE BRIGADES

6.1 *Policies of local government*

6.2 *Equipment in brigade area*

6.3 *Funding from local government budget*

6.4 *Consideration in the local government budget*

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“local government” means the City of Busselton; ~~_____~~

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“normal brigade activities” is defined in section 35A of the Act;

“Regulations” means Regulations made under the Act; and

“Rules” means the Rules Governing the Operation of Bush Fire Brigades set out in the First Schedule.

(2) In this local law, unless the context otherwise requires, a reference to –

- (a) a Bush Fire Control Officer;
- (b) a Captain;
- (c) a First Lieutenant;
- (d) a Second Lieutenant;
- (e) any additional Lieutenants;
- (f) an Equipment Officer;
- (g) a Brigade Training Officer;
- (h) a Secretary.
- (i) a Treasurer; or
- (j) a Secretary / Treasurer combined,

means a person holding that position in a bush fire brigade.

1.3 Repeal

The *By-laws of the Busselton Shire Council relating to the establishment, maintenance and equipment of Bush Fire Brigades for the Shire or any part of the Shire of Busselton*, published in the government gazette on 31 October 1968, are repealed.

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1.4 Application

This local law applies throughout the district.

1.5 Commencement

This local law comes into operation on the 14th day after the date of its publication on the *Government Gazette*.

PART 2 – ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1 – Establishment of a bush fire brigade

2.1 Establishment of a bush fire brigade

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government's decision under subclause (1).

2.2 Name and officers of bush fire brigade

- (1) On establishing a new bush fire brigade under clause 2.1(1) the local government is to –
- (a) give a name to the bush fire brigade;
 - (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (the “brigade area”); and
 - (c) appoint –
 - (i) a Captain;
 - (ii) a First Lieutenant;
 - (iii) a Second Lieutenant;
 - (iv) additional Lieutenants if the local government considers it necessary;
 - (v) a Brigade Training Officer;
 - (vi) an Equipment Officer;
 - (vii) a Secretary;
 - (viii) a Treasurer; or
 - (ix) a Secretary/Treasurer combined; and
 - (x) any other position deemed necessary for the effective management of brigade activities.
- (2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position.
- (3) A person appointed to a position in subclause (1)(c) is to be taken to be a brigade member.
- (4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.
- (5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2)

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Division 2 – Command at a fire

2.3 Ranks within the bush fire brigade

- (1) Where under the Act and Bush Fire Operating Procedures members of the bush fire brigade have command of a fire, unless a bush fire control officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the firefighters. In the absence of the Captain, the first Lieutenant, and in the absence of the first, the second Lieutenant and so on, in the order of seniority determined, is to exercise all the powers and duties of the Captain.
- (2) Where a bushfire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior ranked bushfire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.

Division 3 – Application of Rules to a bush fire brigade

2.4 Rules

- (1) The Rules govern the operation of a bush fire brigade.

- (2) A bush fire brigade and each brigade member is to comply with the Rules as set out in Schedule 1.

Division 4 – Transitional

2.5 Existing Bush Fire Brigades

- (1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day –
- (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
 - (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
 - (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.
- (2) In this clause –
- “commencement day” means the day on which this local law comes into operation.

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Division 5 – Dissolution of bush fire brigade

2.6 Dissolution of bush fire brigade

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Operating Procedures or the Rules, or is not achieving the objectives for which it was established.

2.7 New arrangement after dissolution

If a local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the brigade area.

PART 3 - ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

Division 1 – Local government responsibility

3.1 Local government responsible for structure

The local government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

3.2 Officers to be supplied with Act

The local government is to supply each brigade officer with a copy of the Act, the Regulations, the Bush Fire Operating Procedures, this local law and any other written laws which may be relevant to the performance of the brigade officers' functions, and any amendments which are made thereto from time to time.

Division 2 – Chief Bush Fire Control Officer

3.3 Managerial role of Chief Bush Fire Control Officer

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

3.4 Chief Bush Fire Control Officer may attend meetings

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

3.5 Duties of Chief Bush Fire Control Officer

The duties of the Chief Bush Fire Control Officer include –

- (a) provide leadership to volunteer bush fire brigades;
- (b) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the local government;
- (c) liaise with the local government concerning fire prevention / suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn) bush fire brigades or brigade officers;
- (d) ensure that bush fire brigades are registered with the local government and that lists of brigade members are maintained.

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Division 3 – Annual general meetings of bush fire brigades

3.6 Holding of annual general meeting

A bush fire brigade is to hold its annual general meeting prior to 31 May each financial year.

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3.7 Nomination of bush fire control officers to Bush Fire Advisory Committee

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At the annual general meeting of a bush fire brigade, a minimum of one brigade member is to be nominated to the Bush Fire Advisory Committee to serve as the bush fire control officer for the brigade area until the next general meeting.

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3.8 Nomination of bush fire control officer to the local government

If the local government has not established a Bush Fire Advisory Committee, then at the annual general meeting of a bush fire brigade, the bush fire brigade is to nominate one brigade member to the local government to serve as the bush fire control officer for the brigade area until the next annual general meeting.

3.9 Minutes to be tabled before the Bush Fire Advisory Committee

- (1) The Secretary is to forward a copy of the minutes of the annual general meeting of a bush fire brigade to the Chief Bush Fire Control Officer **along with a list of elected office bearers and their contact details** within one month after the meeting.
- (2) The Chief Bush Fire Control Officer is to table the minutes of a bush fire brigade's annual general meeting at the next meeting of the –
 - (a) Bush Fire Advisory Committee; or
 - (b) Council, if there is no Bush Fire Advisory Committee,following their receipt under subclause (1).

Division 4 – Bush Fire Advisory Committee

3.10 Functions of Advisory Committee

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

3.11 Advisory Committee to nominate bush fire control officers

As soon as practicable after the annual general meeting of each bush fire brigade in the district, the Bush Fire Advisory Committee is to nominate to the local government from the persons nominated by each bush fire brigade a person **or persons** for the position of a bush fire control officer for the brigade area.

3.12 Local government to have regard to nominees

When considering persons for the position of a bush fire control officer, the local government is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

3.13 Advisory Committee to consider bush fire brigade motions

The Bush Fire Advisory Committee is to make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades.

PART 4 – TYPES OF BUSH FIRE BRIGADE MEMBERSHIP

4.1. Types of membership of bush fire brigade

The membership of a bush fire brigade consists of the following –

- (a) fire fighting members;
- (b) **trainee members;**
- (c) associate members;
- (d) cadet members; and
- (e) honorary life members.

4.2 Fire fighting members

Fire fighting members are those persons being at least 16 years of age who undertake all normal brigade activities, and have completed the required training qualifications as determined by the local government.

4.3 Trainee members

Members joining a bush fire brigade shall be classified as trainee members until they have completed the required training qualifications as determined by the local government from time to time.

4.4 Associate members

Associate members are those persons who are willing to supply free vehicular transport for fire fighting members or fire fighting equipment, or who are prepared to render other assistance required by the bush fire brigade.

4.5 Cadet members

Cadet members are –

- (a) to be aged 11 to 15 years;
- (b) to be admitted to membership only with the consent of their parent or guardian;
- (c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (d) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (e) ineligible to vote at bush fire brigade meetings;
- (f) not to be assigned ranks under the Department’s rank structure.

4.6 Honorary life member

- (1) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.
- (2) No membership fees are to be payable by an honorary life member.

4.7 Notification of membership

No later than 30 Jun~~q~~ in each year, the bush fire brigade is to report to the Chief Fire Control Officer the name, contact details and type of membership of each brigade member.

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PART 5 – APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS

5.1 Rules to govern

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules.

PART 6 – EQUIPMENT OF BUSH FIRES BRIGADES

6.1 Policies of local government

The local government may make policies under which it –

- (a) provides funding to bush fire brigades for the purchase of protective clothing, equipment and appliances ~~and the provision of training~~; and
- (b) keeps bush fire brigades informed of opportunities for funding from other bodies.

6.2 Equipment in brigade area

Not later than 31 May in each year, the bush fire brigade is to report to the local government the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the brigade area (or at a station of the bush fire brigade).

6.3 Funding from local government budget

A request to the local government from the bush fire brigade for funding of protective clothing, equipment or appliance needs is to be received by the local government by ~~28 February~~ in order to be considered in the next following local government budget, and is to be accompanied by the last audited financial statement and a current statement of assets and liabilities of the bush fire brigade.

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6.4 Consideration in the local government budget

The local government may approve or refuse an application for funding depending upon the assessment of budget priorities for the year in question.

FIRST SCHEDULE

RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

PART 1 - PRELIMINARY

1.1 Interpretation

- (1) In these Rules, unless the context otherwise requires, where a term is used in these Rules and is defined in the local law, the Act or the Regulations, then the term is to be taken to have the meaning assigned to it in the local law, the Act or the Regulations, as the case may be.
- (2) In these Rules, unless the context otherwise requires –
- “**absolute majority**” means a majority of more than 50% of the number of:
- (a) brigade members of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the bush fire brigade; or
 - (b) brigade officers of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the Committee.
- “**Committee**” means the Committee of the bush fire brigade;
- “**local law**” means the City of Busselton Bush Fire Brigades Local Law; and
- “**normal brigade activities**” is defined by section 35A of the Act
- (3) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.
- (4) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

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PART 2 – OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

2.1 Objects of bush fire brigade

The objects of the bush fire brigade are to carry out –

- (a) the normal brigade activities; and
- (b) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

2.2 Committee to determine applications

Applications for membership are to be determined by the Committee.

2.3 Conditions of membership

In relation to any type of membership, as described in Part 4 of the local law, the bush fire brigade may establish policies pertaining to –

- (a) the qualifications required;
- (b) fees payable, if any;
- (c) a requirement to serve a probationary period;

- (d) procedures to be employed by the Committee prior to approval of an application for membership, and the Committee is to act within the parameters of any such policy in determining applications for membership.

2.4 Applications for membership

An application for membership must –

- (a) be in the form determined by the CEO;
- (b) be signed by the applicant;
- (c) provide the information required in the form; and
- (d) be forwarded to the Secretary.

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2.5 Decision on application for membership

- (1) The Committee may –
 - (a) approve an application for membership unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for membership.
- (2) If the Committee refuses to approve an application for membership, it is to give written reasons for the refusal, as soon as practicable after the decision is made, to the applicant and the advice that the applicant has the right to object to the local government.

Deleted: is to be in writing and is to be submitted to the Secretary and in the case of –
an application for firefighting membership is to be accompanied by a completed form in the form of that in Appendix I
an application for associate membership is to be accompanied by a completed form in the form of that in Appendix II
an application for cadet membership is to be accompanied by a completed form in the form of that in Appendix III

2.6 DFES to be notified of registrations

If any application for membership is approved, the Secretary of the bush fire brigade is to supply registration details to the City within 14 days of a person being admitted to membership in the form required by the City from time to time.

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2.7 Termination of membership

- (1) Membership of the bush fire brigade terminates if the member –
 - (a) dies;
 - (b) gives written notice of resignation to the Secretary;
 - (c) is, in the opinion of the Committee, permanently incapacitated by mental or physical ill-health;
 - (d) is dismissed by the Committee; or
 - (e) ceases to be a member or is taken to have resigned under subclause (2)
- (2) A brigade member whose membership fees are more than one year in arrears is to be taken to have resigned from the bush fire brigade.

2.8 Suspension of membership

- (1) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Committee, circumstances warrant suspending the member.
- (2) The period of suspension shall be at the discretion of the Committee.
- (3) Upon the expiry of the period of suspension the Committee may:
 - (a) extend the period of suspension;
 - (b) terminate the membership; or
 - (c) reinstate the membership.

2.9 Existing liabilities to continue

- (1) The resignation, or dismissal of a member under clause 2.7 does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

2.10 Member has right of defence

A brigade member is not to be dismissed under clause 2.7(1)(d) without being given the opportunity to meet with the Committee and answer any charges which might give grounds for dismissal.

2.11 Objection Rights

A person whose -

- (a) application for membership is refused under clause 2.5(1)(b);
- (b) membership is terminated under clause 2.7(1)(c), clause 2.7(1)(d) or clause 2.8(3)(b); or
- (c) membership is suspended under clause 2.8(1) or clause 2.8(3)(a),

has the right of objection to the local government which may dispose of the objection by -

- (a) dismissing the objection;
- (b) varying the decision objected to; or
- (c) revoking the decision objected to, with or without -
 - (i) substituting for it another decision; or
 - (ii) referring the matter, with or without directions, for another decision by the Committee.

PART 3 – FUNCTIONS OF BRIGADE OFFICERS

3.1 Chain of command during fire fighting activities

Subject to the Act and the local law, the command procedures to apply during fire fighting activities are as detailed in the local government's Bush Fire Operating Procedures.

3.2 Duties Of Captain

- (1) Subject to subclauses (2) and (3) below, the Captain is to preside at all meetings.
- (2) The Captain may appoint another brigade officer to preside at a meeting.
- (3) In the absence of the Captain, the meeting may elect another person to preside at the meeting.

3.3 Secretary

- (1) The Secretary is to -
- (a) be in attendance at all meetings and keep a correct minute and account of the proceedings of the bush fire brigade in a form which shall be available for inspection by brigade members at any reasonable time;
 - (b) answer all correspondence or direct it appropriately, and keep a record of the same;
 - (c) prepare and send out all necessary notices of meetings;
 - (d) receive membership fees, donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;

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(e) ensure an incident report form is submitted in the form required by the Department to the Chief Bush Fire Control Officer and the Department within 14 days after attendance by the bush fire brigade at an incident.	Deleted: complete and forward
(f) maintain a register of all current brigade members which includes each brigade member's contact details and type of membership.	
(g) provide no later than 30 June in each year, a report to the Chief Bush Fire Control Officer detailing the name, contact details and type of membership of each brigade member.	Deleted: 1 May
(2) Where a bush fire brigade attends an incident on more than one day, the incident report form is to be completed and forwarded under subclause (1)(e) within 14 days after the last day of attendance.	
3.4 Treasurer	Deleted: 4
The Treasurer is to –	
(a) receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;	
(b) pay accounts as authorized by the Committee;	
(c) keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;	
(d) be the custodian of all monies of the bush fire brigade; and	
(e) regularly inform the Secretary of the names of those brigade members who have paid their membership fees.	
(f) report on the financial position at meetings of the bush fire brigade or Committee.	
3.5 Brigade Training Officer	
(1) The Brigade Training Officer is responsible for the management and co-ordination of brigade training in conjunction with the local government, including the documentation of these activities. The position is not required to perform active operational duties and may be inclusive to an operational position held within the brigade.	Formatted: Normal Formatted: Font: (Default) Times New Roman Formatted: Indent: Left: 0 cm, Hanging: 1 cm Formatted: Font: (Default) Times New Roman
(2) Duties and Responsibilities of the Brigade Training Officer may include—	Formatted: Font: 11 pt
(a) Ensure brigade members maintain necessary skill levels equivalent to the competency standards required by the local government and as recommended by DFES;	Formatted: Indent: Left: 0 cm, Hanging: 1 cm
(b) Ensure regular training sessions are conducted within the brigade to maintain currency of qualifications and skills;	Formatted: Font: 11 pt
(c) Maintain accurate records of training undertaken by members and ensure that qualification and training updates are forwarded to the local government;	
(d) Provide mentoring for members who express an interest in training to encourage future facilitators.	
(e) provide, no later than 1 September of each year, a report to the local government of any identified training needs of the bush fire brigade.	Formatted: Normal, Indent: Left: 1.27 cm Formatted: Font: 11 pt
3.6 Equipment Officer	Formatted: Font: 11 pt, English (United States)
The Equipment Officer is responsible for the custody and maintenance in good order and condition of all protective clothing, equipment and appliances provided by the local government to the bush fire brigade (or of the bush fire brigade).	
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3.7. Storage of equipment	Deleted: 6
(1) The Equipment Officer may store all of the equipment of the bush fire brigade at a place approved by the Captain (the "station"). (2) If there is to be more than one station in the brigade area, the Equipment Officer is to appoint in respect of each station a person who is responsible for the custody and maintenance in good order and condition of all equipment and appliances at the station, subject to any direction of the Equipment Officer.	
| 3.8. Equipment Officer to report	Deleted: 7
| The Equipment Officer is to provide, no later than 30 Jun g , of each year, a report to the local government and bush fire brigade captain describing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the bush fire brigade area (or at a station of the bush fire brigade).	Deleted: 1 May

PART 4 – COMMITTEE

4.1 Management of bush fire brigade

- (1) Subject to the provisions of these Rules, the administration and management of the affairs of the bush fire brigade are vested in the Committee.
- (2) Without limiting the generality of subclause (1), the Committee is to have the following functions –
- (a) to recommend to the local government amendments to these Rules;
 - (b) to draft the annual budget for the bush fire brigade and present it at the annual general meeting of the bush fire brigade;
 - (c) to propose a motion for consideration at any meeting of the bush fire brigade;
 - (d) to recommend to the local government equipment which needs to be supplied by the local government to the bush fire brigade;
 - (e) to invest or place on deposit any of the funds of the bush fire brigade not immediately required to perform the normal brigade activities;
 - (f) to delegate to a person, as from time to time thought fit, any functions (being less than the total functions of the Committee) on any conditions it thinks fit;
 - (g) to do all things necessary or convenient in order to perform any of its functions and to secure the performance of the normal brigade activities by the bush fire brigade; and
 - (h) deal with membership applications, grievances, disputes and disciplinary matters.

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4.2 Constitution of Committee

- (1) The Committee of the bush fire brigade is to consist of the brigade officers being the Captain, Secretary, Treasurer, Bush Fire Control Officer, Brigade Training Officer, Equipment Officer and the Lieutenants and any other brigade members as may be determined by the Committee from time to time.
- (2) The brigade officers are to –
- (a) be elected at the annual general meeting of the bush fire brigade;
 - (b) hold office until the next annual general meeting; and
 - (c) be eligible for re-election at the next annual general meeting.
- (3) Any brigade officer may be removed from office by an absolute majority decision of the brigade members present in person or by proxy at a special meeting called for such a purpose.
- (4) The Committee may appoint a brigade member to fill a vacancy in any office arising from a resolution under subclause (3) or which has arisen for any other reason.

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PART 5 – MEETINGS OF BUSH FIRE BRIGADE

5.1 Ordinary meetings

- (1) Ordinary meetings may be called at any time by the Secretary by giving at least 7 days' notice to all brigade members and to the Chief Fire Control Officer, for the purpose of –
- (a) organising and checking equipment;
 - (b) requisitioning new or replacement equipment;
 - (c) organising field excursions, training sessions, hazard reduction programs, and the preparation of fire-breaks;
 - (d) establishing new procedures in respect of any of the normal brigade activities; and

- (e) dealing with any general business.
- (2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.2 Special meetings

- (1) The Secretary is to call a special meeting when 5 or more brigade members request one in writing.
- (2) At least 2 days' notice of a special meeting is to be given by the Secretary, to all brigade members and to the Chief Bush Fire Control Officer.
- (3) In a notice given under subclause (2) the Secretary is to specify the business which is to be conducted at the meeting.
- (4) No business is to be conducted at a special meeting beyond that specified in a notice given under subclause (2) in relation to that meeting.

5.3 Annual general meeting

- (1) At least 7 days' notice of the annual general meeting is to be given by the Secretary to all brigade members and to the Chief Bush Fire Control Officer.
- (2) At the annual general meeting the bush fire brigade is to –
 - (a) elect the brigade officers from among the brigade members;
 - (b) consider the Captain's report on the year's activities;
 - (c) adopt the annual financial statements;
 - (d) appoint an Auditor for the ensuing financial year in accordance with clause 5.6; and
 - (e) deal with any general business.
- (3) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (4) Business may be conducted at an annual general meeting notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.4 Quorum

- (1) The quorum for a meeting of the bush fire brigade is at least 50% of the number of offices (whether vacant or not) of member of the bush fire brigade.
- (2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.

5.5 Voting

Each brigade member is to have one vote, however in the event of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

5.6 Auditor

- (1) The brigade shall supply on request to the City the brigade's full financial records for the financial year.
- (2) The City may request the brigade's financial and accounting records for a review at any time.

Deleted: <#>At the annual general meeting a person, not being a brigade member, is to be appointed as the Auditor of the bush fire brigade for the ensuing financial year.¶
<#>The Auditor is to audit the accounts of the bush fire brigade not less than 7 days before the annual general meeting and is to certify to their correctness or otherwise and present a report at the annual general meeting.¶

PART 6 – MEETINGS OF COMMITTEE

6.1 Meetings Of Committee

- (1) The Committee is to meet for the despatch of business, adjourn and otherwise regulate its meeting as it thinks fit.
- (2) The Captain or Secretary may convene a meeting of the Committee at any time.

6.2 Quorum

No business is to be transacted at a meeting of the Committee unless a quorum of 3 brigade officers are present in person.

6.3 Voting

Each brigade officer is to have one vote, however in the case of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

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PART 7 – GENERAL ADMINISTRATION MATTERS

7.1 Fees

- (1) The membership fees, if any, for each type of member for the ensuing 12 months are to be determined by the bush fire brigade at the annual general meeting.
- (2) Subject to subclause (3), a member is to pay the membership fees for her or his type of membership on or before 1 May.
- (3) The bush fire brigade may exempt a brigade member, or a class of membership, from the payment of membership fees, for such period and on such conditions as the bush fire brigade may determine.

7.2 Funds

The funds of the bush fire brigade are to be used solely for the purpose of promoting the objects of the bush fire brigade.

7.3 Financial year

The financial year of the bush fire brigade is to commence on 1 July and is to end on 30 June of the following year.

7.4 Banking

- (1) The funds of the bush fire brigade are to be placed in a bank account and are to be drawn on ~~(whether electronically or otherwise)~~ only jointly by any 2 of the Captain, Secretary or Treasurer.
- (2) If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer are to ~~be~~ the two signatories referred to in subclause (1).

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7.5 Disclosure of interests

- (1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest (whether direct or indirect) he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.
- (2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.
- (3) Where the bush fire brigade or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

7.6 Disagreements

- (1) Any disagreement between brigade members may be referred to either the Captain or to the Committee.
- (2) Where a disagreement in subclause (1) is considered by the Captain or the Committee to be of importance to the interests of the bush fire brigade, then the Captain or the Committee, as the case may be, is to refer the disagreement to the annual general meeting, an ordinary meeting or a special meeting of the bush fire brigade.
- (3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

PART 8 – NOTICES AND PROXIES

8.1 Notices

- (1) Notices of meetings of the bush fire brigade are to be in writing and sent (by ordinary post or electronic communication) to the registered address of each brigade member.
- (2) Notices of meetings of the Committee may be given in writing in accordance with subclause (1) or by such other means as the Committee may decide (by an absolute majority) at a meeting of the Committee.
- (3) Any accidental omission to give notice of a meeting to, or non-receipt by a person entitled to receive such notice, is not to invalidate the meeting the subject of the notice or any resolutions passed at the meeting.
- (4) Where any notice other than a notice of meeting is to be given under these Rules, the notice is to be –
 - (a) in writing;
 - (b) unless otherwise specified, given to or by the Secretary;
 - (c) given by –
 - (i) personal delivery;
 - (ii) electronic communication;
 - (iii) post; or
 - (iv) facsimile transmission;
 - (d) taken to have been received, as the case may be –
 - (i) at the time of personal delivery;
 - (ii) on the following day following the receipt of the electronic communication;
 - (iii) 2 business days after posting; or
 - (iv) on the printing of the sender's transmission report.

8.2 Proxies

- (1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to so vote, the brigade member or the proxy shall give a notice in the form of that appearing in this clause, to the Secretary or the person presiding at the meeting before the start of the meeting at which the proxy is to be used.
- (2) A proxy is to be valid for the meeting for which it is given and for any adjournments of that meeting.
- (3) A proxy shall be valid for the number of votes to which the brigade member is entitled.
- (4) If the donor of the proxy does not give any indication of the manner in which the proxy is to vote, the proxy shall be entitled to vote or not vote as he or she thinks fit.
- (5) A proxy shall be entitled to speak on behalf of the donor of the proxy.
- (6) All forms appointing proxies deposited under subclause (1) are to be retained by the Secretary for not less than 28 days after the conclusion of the meeting to which they relate but if there is any objection to the validity of any vote at the meeting, they are to be retained until the determination of that objection.
- (7) The form appointing a proxy shall be in writing and signed by the brigade member appointing the proxy and shall be in or substantially in the form set out below -

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“PROXY

[INSERT NAME] BUSH FIRE BRIGADE

[ANNUAL] [EXTRAORDINARY] GENERAL MEETING
TO BE HELD ON [DATE]

I, _____,
Being a brigade member appoint _____
to be my proxy and vote on my behalf at the meeting of
the bush fire brigade to be held on [insert date] and at any
adjournment of it. The proxy shall vote as follows:

MOTION FOR AGAINST ABSTAIN
1.
2.

If there is no instruction to the proxy as to the way to vote,
the proxy shall exercise her or his discretion as to how to
vote or whether to vote at all. In respect of any vote taken
at the meeting on a matter which does not appear on the
agenda, the proxy shall exercise her or his discretion as to
the way he or she casts the vote or whether it is cast at all.
Date: _____

Signed: _____

NOTE: To be valid this proxy must be completed and
returned to the Secretary of the bush fire brigade (or the
presiding member) prior to the commencement of the
meeting for which the proxy is valid.

| Dated this day of 20,.....

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¶
APPLICATION FOR MEMBERSHIP - FIRE FIGHTING MEMBER¶
¶
I make application to be a fire fighting member of the Bush Fire Brigade.¶
¶
Applicant's Name . ¶
¶
My private address is . ¶
¶
¶
My business address is . ¶
¶
¶
Usual Occupation ¶
¶
I can be contacted on:¶
Telephone No: (Home) (Work) Mobile ¶
¶
Fax No: . (Home) (Work) ¶
¶
CB Radio . Channel Call Sign ¶
¶
If needed, I can provide my own transport to the scene of any outbreak. (This line to be struck out if not applicable)¶
¶
I hold a current driver's licence No
..... Classes¶
¶
I declare that I am at least 16 years of age and in good health with no known medical conditions which might limit my capacity to fight fires.¶
¶
I give these undertakings -¶
¶
to promote the objects of the bush fire brigade as far as is in my power;¶
to be governed by the provisions of the *Bush Fires Act 1954* and the Regulations made under that Act, and the local law and policies of the *insert name of local government*/relevant to fire control and bush fire brigades;¶
to use my best endeavours to give assistance in fire fighting measures when called upon and on such occasions to obey all orders and instructions issued by duly authorized officers of the bush fire brigade or the local government;¶
to comply with the Rules of the bush fire brigade.¶
¶
Date
.....
Applicant's signature¶
¶
Please list here any fire fighting equipment owned by you.¶
¶
.....
.....

BUSH FIRE BRIGADES LOCAL LAW

BUSH FIRES ACT 1954

LOCAL GOVERNMENT ACT 1995

TABLE OF CONTENTS

PART 1 - PRELIMINARY

- 1.1 CITATION**
- 1.2 DEFINITIONS**
- 1.3 REPEAL**
- 1.4 APPLICATION**
- 1.5 COMMENCEMENT**

PART 2 – ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1 – Establishment Of A Bush Fire Brigade

- 2.1 ESTABLISHMENT OF A BUSH FIRE BRIGADE**
- 2.2 NAME AND OFFICERS OF BUSH FIRE BRIGADE**

Division 2 – Command at a fire

- 2.3 RANKS WITHIN THE BUSH FIRE BRIGADE**

Division 3 – Application of Rules to a bush fire brigade

- 2.4 RULES**

Division 4 – Transitional

- 2.5 EXISTING BUSH FIRE BRIGADES**

Division 5 – Dissolution of bush fire brigade

- 2.6 DISSOLUTION OF BUSH FIRE BRIGADE**
- 2.7 NEW ARRANGEMENT AFTER DISSOLUTION**

PART 3 - ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

Division 1 – Local government responsibility

- 3.1 LOCAL GOVERNMENT RESPONSIBLE FOR STRUCTURE**
- 3.2 OFFICERS TO BE SUPPLIED WITH ACT**

Division 2 – Chief Bush Fire Control Officer

- 3.3 MANAGERIAL ROLE OF CHIEF BUSH FIRE CONTROL OFFICER**
- 3.4 CHIEF BUSH FIRE CONTROL OFFICER MAY ATTEND MEETINGS**
- 3.5 DUTIES OF CHIEF BUSH FIRE CONTROL OFFICER**

Division 3 – Annual general meetings of bush fire brigades

- 3.6 HOLDING OF ANNUAL GENERAL MEETING**
- 3.7 NOMINATION OF BUSH FIRE CONTROL OFFICERS TO BUSH FIRE ADVISORY COMMITTEE**
- 3.8 NOMINATION OF BUSH FIRE CONTROL OFFICER TO THE LOCAL GOVERNMENT**
- 3.9 MINUTES TO BE TABLED BEFORE THE BUSH FIRE ADVISORY COMMITTEE**

Division 4 – Bush Fire Advisory Committee

- 3.10 FUNCTIONS OF ADVISORY COMMITTEE**
- 3.11 ADVISORY COMMITTEE TO NOMINATE BUSH FIRE CONTROL OFFICERS**
- 3.12 LOCAL GOVERNMENT TO HAVE REGARD TO NOMINEES**
- 3.13 ADVISORY COMMITTEE TO CONSIDER BUSH FIRE BRIGADE MOTIONS**

PART 4 – TYPES OF BUSH FIRE BRIGADE MEMBERSHIP

- 4.1 TYPES OF MEMBERSHIP OF BUSH FIRE BRIGADE**
- 4.2 FIRE FIGHTING MEMBERS**
- 4.3 TRAINEE MEMBERS**
- 4.4 ASSOCIATE MEMBERS**
- 4.5 CADET MEMBERS**
- 4.6 HONORARY LIFE MEMBER**
- 4.7 NOTIFICATION OF MEMBERSHIP**

PART 5 – APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS

- 5.1 RULES TO GOVERN**

PART 6 – EQUIPMENT OF BUSH FIRES BRIGADES

- 6.1 POLICIES OF LOCAL GOVERNMENT**
- 6.2 EQUIPMENT IN BRIGADE AREA**
- 6.3 FUNDING FROM LOCAL GOVERNMENT BUDGET**
- 6.4 CONSIDERATION IN THE LOCAL GOVERNMENT BUDGET**

FIRST SCHEDULE

PART 1 - PRELIMINARY

1.1 INTERPRETATION

PART 2 – OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

2.1 OBJECTS OF BUSH FIRE BRIGADE

2.2 COMMITTEE TO DETERMINE APPLICATIONS

2.3 CONDITIONS OF MEMBERSHIP

2.4 APPLICATIONS FOR MEMBERSHIP

2.5 DECISION ON APPLICATION FOR MEMBERSHIP

2.6 DFES TO BE NOTIFIED OF REGISTRATIONS

2.7 TERMINATION OF MEMBERSHIP

2.8 SUSPENSION OF MEMBERSHIP

2.9 EXISTING LIABILITIES TO CONTINUE

2.10 MEMBER HAS RIGHT OF DEFENCE

2.11 OBJECTION RIGHTS

PART 3 – FUNCTIONS OF BRIGADE OFFICERS

3.1 CHAIN OF COMMAND DURING FIRE FIGHTING ACTIVITIES

3.2 DUTIES OF CAPTAIN

3.3 SECRETARY

3.4 TREASURER

3.5 BRIGADE TRAINING OFFICER

3.6 EQUIPMENT OFFICER

3.7 STORAGE OF EQUIPMENT

3.8 EQUIPMENT OFFICER TO REPORT

PART 4 – COMMITTEE

4.1 MANAGEMENT OF BUSH FIRE BRIGADE

4.2 CONSTITUTION OF COMMITTEE

PART 5 – MEETINGS OF BUSH FIRE BRIGADE

5.1 ORDINARY MEETINGS

5.2 SPECIAL MEETINGS

5.3 ANNUAL GENERAL MEETING

5.4 QUORUM

5.5 VOTING

5.6 AUDITOR

PART 6 – MEETINGS OF COMMITTEE

6.1 MEETINGS OF COMMITTEE

6.2 QUORUM

6.3 VOTING

PART 7 – GENERAL ADMINISTRATION MATTERS

7.1 FEES

7.2 FUNDS

7.3 FINANCIAL YEAR

7.4 BANKING

7.5 DISCLOSURE OF INTERESTS

7.6 DISAGREEMENTS

PART 8 – NOTICES AND PROXIES

8.1 NOTICES

8.2 PROXIES

**BUSH FIRES ACT 1954
LOCAL GOVERNMENT ACT 1995**

City of Busselton

BUSH FIRE BRIGADES LOCAL LAW

Under the powers conferred by the *Bush Fires Act 1954* and under all other powers enabling it, the Council of the *City of Busselton* resolved on [insert date] to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the City of Busselton Bush Fire Brigades Local Law.

1.2 Definitions

(1) In this local law unless the context otherwise requires –

“**Act**” means the *Bush Fires Act 1954*;

“**brigade area**” is defined in clause 2.2(1)(b);

“**brigade member**” means any member referred to in clause 4.1;

“**brigade officer**” means a person holding a position on the committee of the bush fire brigade, whether or not he or she was appointed by the local government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

“**Bush Fire Advisory Committee**” means the persons appointed to a bushfire advisory committee in accordance with section 67 of the Act;

“**bush fire brigade**” is defined in section 7 of the Act;

“**Bush Fire Operating Procedures**” means the Bush Fire Operating Procedures adopted by the local government as amended from time to time;

“**CEO**” means the chief executive officer of the City of Busselton;

“**Council**” means the Council of the local government;

“**Department**” means the Department of Fire and Emergency Services of Western Australia;

“**district**” means the district of the local government;

“**fire fighting member**” means a registered operational member of a brigade and is defined in clause 4.2;

“**local government**” means the City of Busselton;

“normal brigade activities” is defined in section 35A of the Act;

“Regulations” means Regulations made under the Act; and

“Rules” means the Rules Governing the Operation of Bush Fire Brigades set out in the First Schedule.

- (2) In this local law, unless the context otherwise requires, a reference to –
- (a) a Bush Fire Control Officer;
 - (b) a Captain;
 - (c) a First Lieutenant;
 - (d) a Second Lieutenant;
 - (e) any additional Lieutenants;
 - (f) an Equipment Officer;
 - (g) a Brigade Training Officer;
 - (h) a Secretary.
 - (i) a Treasurer; or
 - (j) a Secretary / Treasurer combined,

means a person holding that position in a bush fire brigade.

1.3 Repeal

The *By-laws of the Busselton Shire Council relating to the establishment, maintenance and equipment of Bush Fire Brigades for the Shire or any part of the Shire of Busselton*, published in the government gazette on 31 October 1968, are repealed.

1.4 Application

This local law applies throughout the district.

1.5 Commencement

This local law comes into operation on the 14th day after the date of its publication on the *Government Gazette*.

PART 2 – ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1 – Establishment of a bush fire brigade

2.1 Establishment of a bush fire brigade

- (1) The local government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.
- (2) A bush fire brigade is established on the date of the local government’s decision under subclause (1).

2.2 Name and officers of bush fire brigade

- (1) On establishing a new bush fire brigade under clause 2.1(1) the local government is to –
 - (a) give a name to the bush fire brigade;
 - (b) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (the “**brigade area**”); and
 - (c) appoint –
 - (i) a Captain;
 - (ii) a First Lieutenant;
 - (iii) a Second Lieutenant;
 - (iv) additional Lieutenants if the local government considers it necessary;
 - (v) a Brigade Training Officer;
 - (vi) an Equipment Officer;
 - (vii) a Secretary;
 - (viii) a Treasurer; or
 - (ix) a Secretary/Treasurer combined; and
 - (x) any other position deemed necessary for the effective management of brigade activities.
- (2) When considering the appointment of persons to the positions in subclause (1)(c), the local government is to have regard to the qualifications and experience which may be required to fill each position.
- (3) A person appointed to a position in subclause (1)(c) is to be taken to be a brigade member.
- (4) The appointments referred to in subclause (1)(c) expire at the completion of the first annual general meeting of the bush fire brigade.
- (5) If a position referred to in subclause (1)(c) becomes vacant prior to the completion of the first annual general meeting, then the local government is to appoint a person to fill the vacancy in accordance with subclause (2)

Division 2 – Command at a fire

2.3 Ranks within the bush fire brigade

- (1) Where under the Act and Bush Fire Operating Procedures members of the bush fire brigade have command of a fire, unless a bush fire control officer is in attendance at the fire, the Captain has full control over other persons fighting the fire, and is to issue instructions as to the methods to be adopted by the firefighters. In the absence of the Captain, the first Lieutenant, and in the absence of the first, the second Lieutenant and so on, in the order of seniority determined, is to exercise all the powers and duties of the Captain.
- (2) Where a bushfire control officer is in attendance at a fire which the members of the bush fire brigade have command of under the Act and the Bush Fire Operating Procedures, the most senior ranked bushfire control officer has full control over other persons fighting the fire and is to issue instructions as to the methods to be adopted by the fire fighters.

Division 3 – Application of Rules to a bush fire brigade

2.4 Rules

- (1) The Rules govern the operation of a bush fire brigade.
- (2) A bush fire brigade and each brigade member is to comply with the Rules as set out in Schedule 1.

Division 4 – Transitional

2.5 Existing Bush Fire Brigades

- (1) Where a local government has established a bush fire brigade prior to the commencement date, then on and from the commencement day –
 - (a) the bush fire brigade is to be taken to be a bush fire brigade established under and in accordance with this local law;
 - (b) the provisions of this local law apply to the bush fire brigade save for clause 2.2; and
 - (c) any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Rules.
- (2) In this clause –
“**commencement day**” means the day on which this local law comes into operation.

Division 5 – Dissolution of bush fire brigade

2.6 Dissolution of bush fire brigade

In accordance with section 41(3) of the Act, the local government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Operating Procedures or the Rules, or is not achieving the objectives for which it was established.

2.7 New arrangement after dissolution

If a local government cancels the registration of a bush fire brigade, alternative fire control arrangements are to be made in respect of the brigade area.

PART 3 - ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

Division 1 – Local government responsibility

3.1 Local government responsible for structure

The local government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

3.2 Officers to be supplied with Act

The local government is to supply each brigade officer with a copy of the Act, the Regulations, the Bush Fire Operating Procedures, this local law and any other written laws which may be relevant to the performance of the brigade officers’ functions, and any amendments which are made thereto from time to time.

Division 2 – Chief Bush Fire Control Officer

3.3 Managerial role of Chief Bush Fire Control Officer

Subject to any directions by the local government the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

3.4 Chief Bush Fire Control Officer may attend meetings

The Chief Bush Fire Control Officer or her or his nominee (who is to be a bush fire control officer) may attend as a non-voting representative of the local government at any meeting of a bush fire brigade.

3.5 Duties of Chief Bush Fire Control Officer

The duties of the Chief Bush Fire Control Officer include –

- (a) provide leadership to volunteer bush fire brigades;
- (b) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the local government;
- (c) liaise with the local government concerning fire prevention / suppression matters generally and directions to be issued by the local government to bush fire control officers (including those who issue permits to burn) bush fire brigades or brigade officers;
- (d) ensure that bush fire brigades are registered with the local government and that lists of brigade members are maintained.

Division 3 – Annual general meetings of bush fire brigades

3.6 Holding of annual general meeting

A bush fire brigade is to hold its annual general meeting prior to 31 May each financial year.

3.7 Nomination of bush fire control officers to Bush Fire Advisory Committee

At the annual general meeting of a bush fire brigade, a minimum of one brigade member is to be nominated to the Bush Fire Advisory Committee to serve as the bush fire control officer for the brigade area until the next general meeting.

3.8 Nomination of bush fire control officer to the local government

If the local government has not established a Bush Fire Advisory Committee, then at the annual general meeting of a bush fire brigade, the bush fire brigade is to nominate one brigade member to the local government to serve as the bush fire control officer for the brigade area until the next annual general meeting.

3.9 Minutes to be tabled before the Bush Fire Advisory Committee

- (1) The Secretary is to forward a copy of the minutes of the annual general meeting of a bush fire brigade to the Chief Bush Fire Control Officer along with a list of elected office bearers and their contact details within one month after the meeting.
- (2) The Chief Bush Fire Control Officer is to table the minutes of a bush fire brigade's annual general meeting at the next meeting of the –
 - (a) Bush Fire Advisory Committee; or
 - (b) Council, if there is no Bush Fire Advisory Committee,

following their receipt under subclause (1).

Division 4 – Bush Fire Advisory Committee

3.10 Functions of Advisory Committee

The Bush Fire Advisory Committee is to have the functions set out in section 67 of the Act and is to include such number of nominees of the bush fire brigades as is determined by the local government.

3.11 Advisory Committee to nominate bush fire control officers

As soon as practicable after the annual general meeting of each bush fire brigade in the district, the Bush Fire Advisory Committee is to nominate to the local government from the persons nominated by each bush fire brigade a person or persons for the position of a bush fire control officer for the brigade area.

3.12 Local government to have regard to nominees

When considering persons for the position of a bush fire control officer, the local government is to have regard to those persons nominated by the Bush Fire Advisory Committee, but is not bound to appoint the persons nominated.

3.13 Advisory Committee to consider bush fire brigade motions

The Bush Fire Advisory Committee is to make recommendations to the local government on all motions received by the Bush Fire Advisory Committee from bush fire brigades.

PART 4 – TYPES OF BUSH FIRE BRIGADE MEMBERSHIP

4.1 Types of membership of bush fire brigade

The membership of a bush fire brigade consists of the following –

- (a) fire fighting members;
- (b) trainee members;
- (c) associate members;
- (d) cadet members; and
- (e) honorary life members.

4.2 Fire fighting members

Fire fighting members are those persons being at least 16 years of age who undertake all normal brigade activities, and have completed the required training qualifications as determined by the local government.

4.3 Trainee members

Members joining a bush fire brigade shall be classified as trainee members until they have completed the required training qualifications as determined by the local government from time to time.

4.4 Associate members

Associate members are those persons who are willing to supply free vehicular transport for fire fighting members or fire fighting equipment, or who are prepared to render other assistance required by the bush fire brigade.

4.5 Cadet members

Cadet members are –

- (a) to be aged 11 to 15 years;
- (b) to be admitted to membership only with the consent of their parent or guardian;
- (c) admitted for the purpose of training and are not to attend or be in attendance at an uncontrolled fire or other emergency incident;
- (d) to be supervised by a fire fighting member when undertaking normal brigade activities as defined by paragraphs (c), (d), (e), (f) and (g) of section 35A of the Act;
- (e) ineligible to vote at bush fire brigade meetings;
- (f) not to be assigned ranks under the Department's rank structure.

4.6 Honorary life member

- (1) The bush fire brigade may by a simple majority resolution appoint a person as an honorary life member in recognition of services by that person to the bush fire brigade.
- (2) No membership fees are to be payable by an honorary life member.

4.7 Notification of membership

No later than 30 June in each year, the bush fire brigade is to report to the Chief Fire Control Officer the name, contact details and type of membership of each brigade member.

PART 5 – APPOINTMENT DISMISSAL AND MANAGEMENT OF MEMBERS

5.1 Rules to govern

The appointment, dismissal and management of brigade members by the bush fire brigade are governed by the Rules.

PART 6 – EQUIPMENT OF BUSH FIRES BRIGADES

6.1 Policies of local government

The local government may make policies under which it –

- (a) provides funding to bush fire brigades for the purchase of protective clothing, equipment and appliances and the provision of training; and
- (b) keeps bush fire brigades informed of opportunities for funding from other bodies.

6.2 Equipment in brigade area

Not later than 31 May in each year, the bush fire brigade is to report to the local government the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the brigade area (or at a station of the bush fire brigade).

6.3 Funding from local government budget

A request to the local government from the bush fire brigade for funding of protective clothing, equipment or appliance needs is to be received by the local government by 28 February in order to be considered in the next following local government budget, and is to be accompanied by the last audited financial statement and a current statement of assets and liabilities of the bush fire brigade.

6.4 Consideration in the local government budget

The local government may approve or refuse an application for funding depending upon the assessment of budget priorities for the year in question.

FIRST SCHEDULE

RULES GOVERNING THE OPERATION OF BUSH FIRE BRIGADES

PART 1 - PRELIMINARY

1.1 Interpretation

- (1) In these Rules, unless the context otherwise requires, where a term is used in these Rules and is defined in the local law, the Act or the Regulations, then the term is to be taken to have the meaning assigned to it in the local law, the Act or the Regulations, as the case may be.
- (2) In these Rules, unless the context otherwise requires –
 - “**absolute majority**” means a majority of more than 50% of the number of:
 - (a) brigade members of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the bush fire brigade; or
 - (b) brigade officers of the bush fire brigade, whether in attendance at the meeting or not, if the majority is required at a meeting of the Committee.
 - “**Committee**” means the Committee of the bush fire brigade;
 - “**local law**” means the City of Busselton Bush Fire Brigades Local Law; and
 - “**normal brigade activities**” is defined by section 35A of the Act
- (3) Subject to these Rules, where a decision is to be made by the bush fire brigade, then the decision may be made by a resolution passed by a simple majority of the brigade members who are present in person or by proxy at the meeting.
- (4) Subject to these Rules, where a decision is to be made by the Committee, then the decision may be made by a resolution passed by a simple majority of the brigade officers who are present in person or by proxy at the meeting.

PART 2 – OBJECTS AND MEMBERSHIP OF BUSH FIRE BRIGADE

2.1 Objects of bush fire brigade

The objects of the bush fire brigade are to carry out –

- (a) the normal brigade activities; and
- (b) the functions of the bush fire brigade which are specified in the Act, the Regulations and the local law.

2.2 Committee to determine applications

Applications for membership are to be determined by the Committee.

2.3 Conditions of membership

In relation to any type of membership, as described in Part 4 of the local law, the bush fire brigade may establish policies pertaining to –

- (a) the qualifications required;
- (b) fees payable, if any;
- (c) a requirement to serve a probationary period;
- (d) procedures to be employed by the Committee prior to approval of an application for membership,

and the Committee is to act within the parameters of any such policy in determining applications for membership.

2.4 Applications for membership

An application for membership must –

- (a) be in the form determined by the CEO;
- (b) be signed by the applicant;
- (c) provide the information required in the form; and
- (d) be forwarded to the Secretary.

2.5 Decision on application for membership

- (1) The Committee may –
 - (a) approve an application for membership unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for membership.
- (2) If the Committee refuses to approve an application for membership, it is to give written reasons for the refusal, as soon as practicable after the decision is made, to the applicant and the advice that the applicant has the right to object to the local government.

2.6 DFES to be notified of registrations

If any application for membership is approved, the Secretary of the bush fire brigade is to supply registration details to the City within 14 days of a person being admitted to membership in the form required by the City from time to time.

2.7 Termination of membership

- (1) Membership of the bush fire brigade terminates if the member –
 - (a) dies;
 - (b) gives written notice of resignation to the Secretary;
 - (c) is, in the opinion of the Committee, permanently incapacitated by mental or physical ill-health;
 - (d) is dismissed by the Committee; or
 - (e) ceases to be a member or is taken to have resigned under subclause (2)
- (2) A brigade member whose membership fees are more than one year in arrears is to be taken to have resigned from the bush fire brigade.

2.8 Suspension of membership

- (1) Membership of the bush fire brigade may be suspended at any time if, in the opinion of the Committee, circumstances warrant suspending the member.
- (2) The period of suspension shall be at the discretion of the Committee.
- (3) Upon the expiry of the period of suspension the Committee may:
 - (a) extend the period of suspension;
 - (b) terminate the membership; or
 - (c) reinstate the membership.

2.9 Existing liabilities to continue

- (1) The resignation, or dismissal of a member under clause 2.7 does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

2.10 Member has right of defence

A brigade member is not to be dismissed under clause 2.7(1)(d) without being given the opportunity to meet with the Committee and answer any charges which might give grounds for dismissal.

2.11 Objection Rights

A person whose -

- (a) application for membership is refused under clause 2.5(1)(b);
- (b) membership is terminated under clause 2.7(1)(c), clause 2.7(1)(d) or clause 2.8(3)(b); or
- (c) membership is suspended under clause 2.8(1) or clause 2.8(3)(a),

has the right of objection to the local government which may dispose of the objection by –

- (a) dismissing the objection;
- (b) varying the decision objected to; or
- (c) revoking the decision objected to, with or without –
 - (i) substituting for it another decision; or
 - (ii) referring the matter, with or without directions, for another decision by the Committee.

PART 3 – FUNCTIONS OF BRIGADE OFFICERS

3.1 Chain of command during fire fighting activities

Subject to the Act and the local law, the command procedures to apply during fire fighting activities are as detailed in the local government's Bush Fire Operating Procedures.

3.2 Duties Of Captain

- (1) Subject to subclauses (2) and (3) below, the Captain is to preside at all meetings.
- (2) The Captain may appoint another brigade officer to preside at a meeting.
- (3) In the absence of the Captain, the meeting may elect another person to preside at the meeting.

3.3 Secretary

- (1) The Secretary is to –
 - (a) be in attendance at all meetings and keep a correct minute and account of the proceedings of the bush fire brigade in a form which shall be available for inspection by brigade members at any reasonable time;
 - (b) answer all correspondence or direct it appropriately, and keep a record of the same;
 - (c) prepare and send out all necessary notices of meetings;
 - (d) receive membership fees, donations and other monies on behalf of the bush fire brigade, and remit them to the Treasurer upon receipt;

- (e) ensure an incident report form is submitted in the form required by the Department to the Chief Bush Fire Control Officer and the Department within 14 days after attendance by the bush fire brigade at an incident.
- (f) maintain a register of all current brigade members which includes each brigade member's contact details and type of membership.
- (g) provide no later than 30 June in each year, a report to the Chief Bush Fire Control Officer detailing the name, contact details and type of membership of each brigade member.
- (2) Where a bush fire brigade attends an incident on more than one day, the incident report form is to be completed and forwarded under subclause (1)(e) within 14 days after the last day of attendance.

3.4 Treasurer

The Treasurer is to –

- (a) receive donations and deposits from the Secretary, and deposit all monies to the credit of the bush fire brigade's bank account;
- (b) pay accounts as authorized by the Committee;
- (c) keep a record of all monies received and payments made, maintain the accounts and prepare the balance sheet for each financial year;
- (d) be the custodian of all monies of the bush fire brigade; and
- (e) regularly inform the Secretary of the names of those brigade members who have paid their membership fees.
- (f) report on the financial position at meetings of the bush fire brigade or Committee.

3.5 Brigade Training Officer

- (1) The Brigade Training Officer is responsible for the management and co-ordination of brigade training in conjunction with the local government, including the documentation of these activities. The position is not required to perform active operational duties and may be inclusive to an operational position held within the brigade.
- (2) Duties and Responsibilities of the Brigade Training Officer may include—
 - (a) Ensure brigade members maintain necessary skill levels equivalent to the competency standards required by the local government and as recommended by DFES;
 - (b) Ensure regular training sessions are conducted within the brigade to maintain currency of qualifications and skills;
 - (c) Maintain accurate records of training undertaken by members and ensure that qualification and training updates are forwarded to the local government;
 - (d) Provide mentoring for members who express an interest in training to encourage future facilitators; and
 - (e) Provide, no later than 1 September of each year, a report to the local government of any identified training needs of the bush fire brigade

3.6 Equipment Officer

The Equipment Officer is responsible for the custody and maintenance in good order and condition of all protective clothing, equipment and appliances provided by the local government to the bush fire brigade (or of the bush fire brigade).

3.7 Storage of equipment

- (1) The Equipment Officer may store all of the equipment of the bush fire brigade at a place approved by the Captain (the “station”).
- (2) If there is to be more than one station in the brigade area, the Equipment Officer is to appoint in respect of each station a person who is responsible for the custody and maintenance in good order and condition of all equipment and appliances at the station, subject to any direction of the Equipment Officer.

3.8 Equipment Officer to report

The Equipment Officer is to provide, no later than 30 June of each year, a report to the local government and bush fire brigade captain describing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade which are generally available within the bush fire brigade area (or at a station of the bush fire brigade).

PART 4 – COMMITTEE

4.1 Management of bush fire brigade

- (1) Subject to the provisions of these Rules, the administration and management of the affairs of the bush fire brigade are vested in the Committee.
- (2) Without limiting the generality of subclause (1), the Committee is to have the following functions –
 - (a) to recommend to the local government amendments to these Rules;
 - (b) to draft the annual budget for the bush fire brigade and present it at the annual general meeting of the bush fire brigade;
 - (c) to propose a motion for consideration at any meeting of the bush fire brigade;
 - (d) to recommend to the local government equipment which needs to be supplied by the local government to the bush fire brigade;
 - (e) to invest or place on deposit any of the funds of the bush fire brigade not immediately required to perform the normal brigade activities;
 - (f) to delegate to a person, as from time to time thought fit, any functions (being less than the total functions of the Committee) on any conditions it thinks fit;
 - (g) to do all things necessary or convenient in order to perform any of its functions and to secure the performance of the normal brigade activities by the bush fire brigade; and
 - (h) deal with membership applications, grievances, disputes and disciplinary matters.

4.2 Constitution of Committee

- (1) The Committee of the bush fire brigade is to consist of the brigade officers being the Captain, Secretary, Treasurer, Bush Fire Control Officer, Brigade Training Officer, Equipment Officer and the Lieutenants and any other brigade members as may be determined by the Committee from time to time.
- (2) The brigade officers are to –
 - (a) be elected at the annual general meeting of the bush fire brigade;
 - (b) hold office until the next annual general meeting; and
 - (c) be eligible for re-election at the next annual general meeting.
- (3) Any brigade officer may be removed from office by an absolute majority decision of the brigade members present in person or by proxy at a special meeting called for such a purpose.
- (4) The Committee may appoint a brigade member to fill a vacancy in any office arising from a resolution under subclause (3) or which has arisen for any other reason.

PART 5 – MEETINGS OF BUSH FIRE BRIGADE

5.1 Ordinary meetings

- (1) Ordinary meetings may be called at any time by the Secretary by giving at least 7 days' notice to all brigade members and to the Chief Fire Control Officer, for the purpose of –
 - (a) organising and checking equipment;
 - (b) requisitioning new or replacement equipment;
 - (c) organising field excursions, training sessions, hazard reduction programs, and the preparation of fire-breaks;
 - (d) establishing new procedures in respect of any of the normal brigade activities; and
 - (e) dealing with any general business.

- (2) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (3) Business may be conducted at an ordinary meeting of the bush fire brigade notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.2 Special meetings

- (1) The Secretary is to call a special meeting when 5 or more brigade members request one in writing.
- (2) At least 2 days' notice of a special meeting is to be given by the Secretary, to all brigade members and to the Chief Bush Fire Control Officer.
- (3) In a notice given under subclause (2) the Secretary is to specify the business which is to be conducted at the meeting.
- (4) No business is to be conducted at a special meeting beyond that specified in a notice given under subclause (2) in relation to that meeting.

5.3 Annual general meeting

- (1) At least 7 days' notice of the annual general meeting is to be given by the Secretary to all brigade members and to the Chief Bush Fire Control Officer.
- (2) At the annual general meeting the bush fire brigade is to –
 - (a) elect the brigade officers from among the brigade members;
 - (b) consider the Captain's report on the year's activities;
 - (c) adopt the annual financial statements;
 - (d) appoint an Auditor for the ensuing financial year in accordance with clause 5.6; and
 - (e) deal with any general business.
- (3) In a notice given under subclause (1), the Secretary is to specify the business which is to be conducted at the meeting.
- (4) Business may be conducted at an annual general meeting notwithstanding that it was not specified in a notice given under subclause (1) in relation to that meeting.

5.4 Quorum

- (1) The quorum for a meeting of the bush fire brigade is at least 50% of the number of offices (whether vacant or not) of member of the bush fire brigade.
- (2) No business is to be transacted at a meeting of the bush fire brigade unless a quorum of brigade members is present in person or by proxy.

5.5 Voting

Each brigade member is to have one vote, however in the event of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

5.6 Auditor

- (1) The brigade shall supply on request to the City the brigade's full financial records for the financial year.
- (2) The City may request the brigade's financial and accounting records for a review at any time.

PART 6 – MEETINGS OF COMMITTEE

6.1 Meetings of Committee

- (1) The Committee is to meet for the despatch of business, adjourn and otherwise regulate its meeting as it thinks fit.
- (2) The Captain or Secretary may convene a meeting of the Committee at any time.

6.2 Quorum

No business is to be transacted at a meeting of the Committee unless a quorum of 3 brigade officers are present in person.

6.3 Voting

Each brigade officer is to have one vote, however in the case of an equality of votes, the Captain (or person presiding) may exercise a casting vote.

PART 7 – GENERAL ADMINISTRATION MATTERS

7.1 Fees

- (1) The membership fees, if any, for each type of member for the ensuing 12 months are to be determined by the bush fire brigade at the annual general meeting.
- (2) Subject to subclause (3), a member is to pay the membership fees for her or his type of membership on or before 1 May.
- (3) The bush fire brigade may exempt a brigade member, or a class of membership, from the payment of membership fees, for such period and on such conditions as the bush fire brigade may determine.

7.2 Funds

The funds of the bush fire brigade are to be used solely for the purpose of promoting the objects of the bush fire brigade.

7.3 Financial year

The financial year of the bush fire brigade is to commence on 1 July and is to end on 30 June of the following year.

7.4 Banking

- (1) The funds of the bush fire brigade are to be placed in a bank account and are to be drawn on (whether electronically or otherwise) only jointly by any 2 of the Captain, Secretary or Treasurer.
- (2) If the Secretary/Treasurer is a combined position, the Captain and Secretary/Treasurer are to be the two signatories referred to in subclause (1).

7.5 Disclosure of interests

- (1) A brigade member shall disclose to the bush fire brigade or Committee any financial interest (whether direct or indirect) he or she may have in any matter being considered by the bush fire brigade or Committee, as appropriate.
- (2) If a financial interest has been disclosed under subclause (1), then the bush fire brigade or Committee, as appropriate, is to decide, in the absence of the brigade member who disclosed that interest, whether or not the brigade member is to be permitted to vote on that matter.
- (3) Where the bush fire brigade or Committee, as appropriate, decides under subclause (2), that a brigade member is not to be permitted to vote on a matter, and the brigade member votes on the matter, then her or his vote is to be taken to have no effect and is not to be counted.

7.6 Disagreements

- (1) Any disagreement between brigade members may be referred to either the Captain or to the Committee.
- (2) Where a disagreement in subclause (1) is considered by the Captain or the Committee to be of importance to the interests of the bush fire brigade, then the Captain or the Committee, as the case may be, is to refer the disagreement to the annual general meeting, an ordinary meeting or a special meeting of the bush fire brigade.
- (3) The local government is the final authority on matters affecting the bush fire brigade, and may resolve any disagreement which is not resolved under subclause (1) or (2).

PART 8 – NOTICES AND PROXIES

8.1 Notices

- (1) Notices of meetings of the bush fire brigade are to be in writing and sent (by ordinary post or electronic communication) to the registered address of each brigade member.
- (2) Notices of meetings of the Committee may be given in writing in accordance with subclause (1) or by such other means as the Committee may decide (by an absolute majority) at a meeting of the Committee.
- (3) Any accidental omission to give notice of a meeting to, or non-receipt by a person entitled to receive such notice, is not to invalidate the meeting the subject of the notice or any resolutions passed at the meeting.
- (4) Where any notice other than a notice of meeting is to be given under these Rules, the notice is to be –
 - (a) in writing;
 - (b) unless otherwise specified, given to or by the Secretary;
 - (c) given by –
 - (i) personal delivery;
 - (ii) electronic communication;
 - (iii) post; or
 - (iv) facsimile transmission;
 - (d) taken to have been received, as the case may be –
 - (i) at the time of personal delivery;
 - (ii) on the following day following the receipt of the electronic communication;
 - (iii) 2 business days after posting; or
 - (iv) on the printing of the sender's transmission report.

8.2 Proxies

- (1) Where under these Rules a brigade member may vote by proxy, in order for the proxy to so vote, the brigade member or the proxy shall give a notice in the form of that appearing in this clause, to the Secretary or the person presiding at the meeting before the start of the meeting at which the proxy is to be used.
- (2) A proxy is to be valid for the meeting for which it is given and for any adjournments of that meeting.
- (3) A proxy shall be valid for the number of votes to which the brigade member is entitled.
- (4) If the donor of the proxy does not give any indication of the manner in which the proxy is to vote, the proxy shall be entitled to vote or not vote as he or she thinks fit.
- (5) A proxy shall be entitled to speak on behalf of the donor of the proxy.
- (6) All forms appointing proxies deposited under subclause (1) are to be retained by the Secretary for not less than 28 days after the conclusion of the meeting to which they relate but if there is any objection to the validity of any vote at the meeting, they are to be retained until the determination of that objection.
- (7) The form appointing a proxy shall be in writing and signed by the brigade member appointing the proxy and shall be in or substantially in the form set out below -

“PROXY

[INSERT NAME] BUSH FIRE BRIGADE

**[ANNUAL] [EXTRAORDINARY] GENERAL MEETING
TO BE HELD ON [DATE]**

I, _____,

Being a brigade member appoint _____ to be
my proxy and vote on my behalf at the meeting of the bush fire
brigade to be held on [insert date] and at any adjournment of it.
The proxy shall vote as follows:

MOTION FOR AGAINST ABSTAIN

1.
2.

If there is no instruction to the proxy as to the way to vote, the
proxy shall exercise her or his discretion as to how to vote or
whether to vote at all. In respect of any vote taken at the
meeting on a matter which does not appear on the agenda, the
proxy shall exercise her or his discretion as to the way he or
she casts the vote or whether it is cast at all.

Date: _____

Signed: _____

NOTE: To be valid this proxy must be completed and returned
to the Secretary of the bush fire brigade (or the presiding
member) prior to the commencement of the meeting for which
the proxy is valid.

Dated this day of 20

11:23am: At this time, Mr McDowell left the meeting.

7. **NEXT MEETING DATE**

Wednesday, 26 July 2023.

8. **CLOSURE**

The meeting closed at 11:24am.

THESE MINUTES CONSISTING OF PAGES 1 TO 108 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 26 JULY 2023.

DATE: 26.7.23 PRESIDING MEMBER: Paine