

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

CITY OF BUSSELTON

MINUTES FOR THE COUNCIL MEETING HELD ON 14 AUGUST 2019

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MINUTES

MINUTES OF A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 14 AUGUST 2019 AT 5.30PM.

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

The Presiding Member opened the meeting at 5.30pm.

2. **ATTENDANCE**

Presiding Member:

Cr Grant Henley Mayor

Members:

Cr John McCallum Deputy Mayor
Cr Coralie Tarbotton
Cr Ross Paine
Cr Paul Carter
Cr Robert Reekie
Cr Kelly Hick
Cr Lyndon Miles

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Oliver Darby, Director, Engineering and Works Services
Mr Paul Needham, Director, Planning and Development Services
Ms Naomi Searle, Director, Community and Commercial Services
Mr Tony Nottle, Director, Finance and Corporate Services
Ms Sarah Pierson, Manager, Governance and Corporate Services
Ms Emma Heys, Governance Coordinator
Ms Melissa Egan, Governance Officer

Apologies:

Nil

Approved Leave of Absence:

Nil

Media:

“Busselton-Dunsborough Times”
“Busselton-Dunsborough Mail”

Public:

14

3. **PRAYER**

The prayer was delivered by Pastor Nigel Wittwer, of Hope Christian Church.

4. APPLICATION FOR LEAVE OF ABSENCE

Nil

5. DISCLOSURE OF INTERESTS

Nil

6. ANNOUNCEMENTS WITHOUT DISCUSSION**Announcements by the Presiding Member**

The Presiding Member announced the City of Busselton was the recipient of the 2019 Children's Environmental and Health Local Government Policy Award as part of Local Government Week.

7. QUESTION TIME FOR PUBLIC

Nil

8. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings****8.1 Minutes of the Council Meeting held 31 July 2019****COUNCIL DECISION**

C1908/142 Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Minutes of the Council Meeting held 31 July 2019 be confirmed as a true and correct record.

CARRIED 8/0

8.2 Minutes of the Special Council Meeting held 31 July 2019**COUNCIL DECISION**

C1908/143 Moved Councillor C Tarbotton, seconded Councillor P Carter

That the Minutes of the Special Council Meeting held 31 July 2019 be confirmed as a true and correct record.

CARRIED 8/0

Committee Meetings**8.3 Minutes of the Finance Committee Meeting held 25 July 2019****COUNCIL DECISION**

C1908/144 Moved Councillor R Reekie, seconded Councillor P Carter

That the Minutes of the Finance Committee Meeting held 25 July 2019 be noted and note the date in the Recommendation in the Agenda of '13 August 2019' is incorrect and should read '25 July 2019'.

CARRIED 8/0

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

Nil

Presentations

Mrs Jenny Christian, Christian Fletcher Gallery, Shop 4, 27 Dunn Bay Road, Dunsborough, presented as a party with an interest in Item 13.1 Application for Development Approval – DA19/0069 - Mixed Use Development – Lot 100, No. 24 Dunn Bay Road, Dunsborough. Mrs Christian was generally in disagreement with the Officer's Recommendation, specifically the height of the proposed building and the lack of carparking for the commercial tenancy.

Deputations

Nil

10. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (WITHOUT DISCUSSION)**11. ITEMS BROUGHT FORWARD****For the convenience of the Public**

Nil

Adoption by Exception Resolution

At this juncture the Mayor advised the meeting that with the exception of the items identified to be withdrawn for discussion, that the remaining reports, including the Committee and Officer Recommendations, will be adopted en bloc, i.e. all together.

COUNCIL DECISION AND COMMITTEE AND OFFICER RECOMMENDATION

C1908/145 Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Committee and Officer Recommendations in relation to the following agenda items be carried en bloc:

12.1 Finance Committee 25/07/2019 - INSURANCE FOR THE BUSSELTON JETTY

15.1 COMMUNITY SPORT AND RECREATION FACILITIES FUND - SMALL GRANTS ROUND APPLICATION JULY 2019

16.1 BUSSELTON FORESHORE HOTEL SITE 2 LOT AMENDMENT TO INCLUDE CARPARKING

16.2 CONSOLIDATION OF EXTRAORDINARY AND ORDINARY ELECTION

17.1 COUNCILLORS INFORMATION BULLETIN

CARRIED 8/0

ADOPTION BY EXCEPTION RESOLUTION

12. REPORTS OF COMMITTEE

12.1 Finance Committee – 25/07/2019 - INSURANCE FOR THE BUSSELTON JETTY

SUBJECT INDEX:	Financial Management - Insurance Policies
STRATEGIC OBJECTIVE:	Assets are well maintained and responsibly managed.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Finance and Corporate Services Support
REPORTING OFFICER:	Director Finance and Corporate Services - Tony Nottle
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

This item was considered by the Finance Committee at its meeting on 25 July 2019, the recommendations from which have been included in this report.

COUNCIL DECISION AND COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

C1908/146 Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council notes this report and information received regarding the potential insurance policy for the Busselton Jetty and continues to “self-insure” the Busselton Jetty as per Council resolution C1306/158.

CARRIED 8/0

PRÉCIS

The Finance Committee is requested to acknowledge this report on a recent quotation for insurance options for the Busselton Jetty. Due to the concern around limited coverage from “actions by the sea” and the actual costs of premiums and excess, City staff have continued with the status quo to “self-insure” the Busselton Jetty.

BACKGROUND

The City currently has a license agreement with the Department of Transport dated October 2009 for the construction and operation of the Busselton Jetty. Clause 11.2(b)(ii) of the agreement states:

“To the extent that it is commercially practical to do so and to the level of cover that is commercially realistic by reference to the funding and resources available, the Licensee will take out an appropriate insurance policy to the replacement or reinstatement of the Busselton Jetty against the Insured Risks to commence on the Date of Practical Completion of the refurbishment works...”

In June 2012, the City sought consideration by the DoT that the City “self-insure” the Jetty due to the fact that insurance options still did not cover adequately for damage caused by water through action by the sea, tidal wave or high water. Quotations that were received indicated an extremely high excess (up to \$6,000,000). The DoT responded in August 2012 advising that this would be acceptable. They also requested that they continue to be advised on future progress on the insurance situation.

Council considered a report specifically on the insurance of the Busselton Jetty in May 2013 and resolved (C1306/158):

That the Council:

- 1. seeks approval for self-insurance of the Jetty from the Department of Transport that includes an annual contribution to the Jetty Maintenance Reserve for that purpose.*
- 2. includes in the 2013/14 budget an allocation of \$60,000 to the Jetty Maintenance Reserve with an annual CPI incremental increase for the purposes of self-insuring the jetty.*
- 3. adds the Busselton Jetty to the City's insurance scheme and seeks a formal valuation of the structure in the event that the Department of Transport rejects the City's proposal for self-insurance and uses the budget allocation for self-insurance for insurance premiums.*

The DoT agreed to the then Shire's requests as per points 1 and 2.

In May 2014, the City sent correspondence to the Department of Transport notifying them that after seeking advice through its insurance broker, the City did not consider that it was commercially practical to take out an insurance policy for the replacement or the reinstatement of the Busselton Jetty.

As such the City has continued to allocate approximately \$60,000 per annum to the Busselton Jetty Insurance Reserve to insure against damage, rather than sign up to a specific policy.

The City has, over a number of years, continued to test the market via Local Government Insurance Services (LGIS), the results of which have shown that it has not been commercially viable to insure the jetty via means other than the status quo. City staff have once again requested LGIS to investigate the private market and consider an insurance policy for the Busselton Jetty.

STATUTORY ENVIRONMENT

The City of Busselton has a license for the erection, construction and maintenance for the Busselton Jetty from the DoT under section 7 of the *Jetties Act 1926*. The Jetty is constructed on Reserve 46715 which is Crown land reserved under section 41 of the *Land Administration Act 1997* for the purposes of "Recreation, Tourism and Heritage Protection."

The *City of Busselton Jetties Local Law 2014* provides management and control of activities on the jetties as defined within the Local Law.

RELEVANT PLANS AND POLICIES

The Busselton Jetty is central to the Busselton Foreshore Masterplan.

FINANCIAL IMPLICATIONS

The most recent advice in relation to the insurance of the Busselton Jetty indicates that LGIS could insure the Jetty under the current Property Scheme under the following conditions, particularly due to the type of asset:

- Assuming the liability of the Jetty is approximately \$60,000,000 (subject to a valuation);
- Included under the City's property schedule (Property Scheme);
- Standard annual aggregate of \$1,000,000 per Jetty for action by the sea;
- Total limit on all assets claimed (including Jetty) for any 1 event would be \$5,000,000;
- Jetty would be fully covered for earthquake, fire, cyclone, lightening etc;
- Annual contribution to add the Busselton Jetty would be \$78,000 plus GST;
- Subject to a minimum deductible excess of \$250,000; and
- On a short term arrangement to be re-assessed next year.

In summary, the most that the City of Busselton could claim for damage to the Jetty from action by the sea would be \$1,000,000 with a deductible excess of \$250,000. The value of the Jetty is estimated at around \$50,000,000, noting an appropriate valuation would need to be obtained to clarify this.

If the Busselton Jetty was damaged due to actions by the sea, it is highly likely that other jetties such as Quindalup, Dolphin Road etc. would also be damaged, along with a large amount of coastal infrastructure. As the maximum amount for any one event is \$5,000,000, it is probable that the City could still be at financial risk.

The current balance as at 1 July 2019 for the Jetty Insurance Reserve is \$365,698.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

The current LTFP allows for transfers of the amount of \$60,000 per annum (indexed) to the Busselton Jetty Insurance Reserve annually for the life of the plan. These funds are able to be used for repairs to the Jetty should damage occur.

STRATEGIC COMMUNITY OBJECTIVES

This proposal aligns with and supports the **Council's Key Goal Area 6** – 'Leadership' and more specifically **Community Objective 6.4** – 'Assets are well maintained and responsibly managed'.

RISK ASSESSMENT

An assessment of the potential implications of implementing the officer recommendation, that is to continue to self-insure the Jetty, has been undertaken using the City's risk assessment framework.

The insurance proposal provided by LGIS is not considered to be an adequate treatment for this risk, as it will not, for the reasons outlined in this report, provide coverage which would adequately safeguard the financial risk to the City of an "action by the sea".

As outlined in the officer comment section of this report there are other risks associated with possible damage to the Jetty, primarily due to fire or damage as a result of impact from a water borne vessel, and the City not being able to adequately cover the costs of such damage. The risk of this is rated as medium (of major consequence but rare in terms of likelihood), and is expected to reduce over time as the City's Jetty reserve balances grow.

CONSULTATION

Correspondence with LGIS in relation to insurance cover has taken place over a period of time.

OFFICER COMMENT

The Finance Committee and Council has previously been provided with similar reports in relation to insurance of the Busselton Jetty. Scenarios were considered historically around the areas of risk for possible damage. These risks included usual insurable risks such as fire and damage from water borne vessels.

In a report to Council in June 2013, officers outlined the worst case scenarios of these types of risks.

The report stated:

“In relation to fire risk, officers consider that the risk of fire damage is limited to the timber sections at the start of the jetty (Section 1, which is 150m long) and up to the Underwater Observatory (Section 7 which is 100m long). The fire would be unlikely to spread outside of these areas as the rest of the jetty deck is now concrete and the piles are in isolated lateral pairs, effectively removing the fire path along the length of the Jetty. In addition, Fire Management Plans are in place to cover the Jetty in event of a fire. A total loss of the timber sections would attract a replacement value of approximately \$1.8m per 100m. This equates to approximately \$2.7m for the Section 1 and \$1.8m for section 7. The inclusions for fire, debris, professional fees and additional reinstatement costs applied at the same rate as LGIS would lift costs to \$3.5m for Section 1 and \$2.3m for Section 7.

In relation to structural damage, the most likely scenario covered by the insured risk able to cause significant damage or destruction is impact from water borne vessels. The cost of replacement of the concrete deck sections of the jetty are approximately \$1.4m per 100m. The current construction of the Jetty is structurally independent meaning that only those damaged section/s and perhaps those adjacent would require repair. The worst case probable scenario considered during the review was if a large boat impacted the jetty destroying or significantly damaging 150m of the jetty structure. The total replacement of 150m would cost approximately \$2.1m and applying the same debris, professional fee and reinstatement costs as above would result in total costs in the vicinity of \$2.7m. It is considered that the likelihood of such an event occurring is relatively low. The proposed Jetty Local Law limits boating access to the Jetty which assists to reduce the risk.”

The above information is still relevant today plus or minus CPI adjustments for construction costs.

Fire has previously been assessed as a tolerable and manageable risk, given the information documented above.

Seeing as “actions by the sea” are only covered up to a value of \$1,000,000 under the proposal from LGIS, and with a deductible excess of \$250,000, City officers are of the opinion that the proposal is not the most advantageous to the City.

The City’s LTFP indicates that by 2029 the Jetty Insurance Reserve will reach a balance of \$1,340,000. As this reserve balance grows, so does the City’s ability to adequately cover sections of the Jetty should damage be caused by a number of means, including wave action by the sea. While accepting the risks mentioned above, should the Jetty Insurance Reserve need to be accessed, it would also not jeopardise the financial caps put in place on the other jetty infrastructure within the City boundary.

CONCLUSION

Based on the fact that the option to insure under the LGIS Property Scheme would still provide limited cover for the Busselton Jetty, City officers have continued to maintain the status quo in regards to self-insuring the Busselton Jetty. The Finance Committee is requested to note this report and that officers will continue to test the market via LGIS to continue to look for a commercially viable insurance solution.

OPTIONS

The Committee could request City staff to investigate further insurance options on a regular basis in preparation for the 2020/2021 financial year.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

This report is to be noted by Council at its next meeting on 14 August 2019.

15. COMMUNITY AND COMMERCIAL SERVICES REPORT

15.1 COMMUNITY SPORT AND RECREATION FACILITIES FUND - SMALL GRANTS ROUND APPLICATION JULY 2019

STRATEGIC GOAL:	1. COMMUNITY: Welcoming, friendly, healthy
STRATEGIC OBJECTIVE:	1.3 A community with access to a range of cultural and art, social and recreational facilities and experiences.
SUBJECT INDEX:	CSRFF JULY 2019 - BUSSELTON HOCKEY STADIUM CLUB (INC)
BUSINESS UNIT:	Community Development
REPORTING OFFICER:	Club Development Officer - Pam Glossop
AUTHORISING OFFICER:	Director, Community and Commercial Services - Naomi Searle
NATURE OF DECISION	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Busselton Hockey Stadium Club Inc. Application Form - Lighting Upgrade

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1908/147 Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council submits the City of Busselton's Application, Busselton Hockey Stadium Club (Inc.) – Lighting Upgrade, to the Department of Local Government, Sport and Cultural Industries Community Sport and Recreation Facilities Fund and rates the Application as a priority 'B' project, rank number 1.

CARRIED 8/0

EXECUTIVE SUMMARY

Each year, local government authorities are required to rate and prioritise the Community Sport and Recreation Facilities Fund (CSRFF) submissions received within their municipality. Small grant applications must be submitted by local government authorities to the Department of Local Government, Sport and Cultural Industries (DLGSC) by 30 August 2019. The purpose of this report is to meet the CSRFF criteria, by outlining the submissions received for projects within the City for the current funding round and request that Council rates and ranks the applications prior to forwarding to DLGSC for final consideration.

BACKGROUND

The CSRFF program is administered by DLGSC and provides financial assistance of up to one third of the total capital cost for the development of well-planned facilities for sport and recreation.

In 2019/2020, the total project value for the small grant round is up to \$300,000 (excluding GST).

In order to assist with the evaluation of submissions to ensure projects are viable and appropriate, DLGSC has developed an assessment criteria. Accordingly, each submission is to be assessed against those criteria and local government authorities are required to rate and prioritise local submissions using the following guide:

RATE	DESCRIPTION
A	Well planned and needed by the municipality
B	Well planned and needed by the applicant
C	Needed by the municipality, more planning required
D	Needed by the applicant, more planning required
E	Idea has merit, more preliminary work needed
F	Not recommended

Applications for the current funding round must be assessed and submitted to the South West Office of DLGSC no later than 30 August 2019.

During September to December 2019, local applications (along with others received throughout the State) will be evaluated and ranked by relevant State Sporting Associations and the CSRFF Assessment Panel, prior to the outcome being announced. Funds for successful applications will become available around February 2020.

One (1) application was received for the July small grants round as follows:

Busselton Hockey Stadium Club (Inc.) – Upgrade of Lighting (Bovell Park, 28 Vasse Hwy, Bovell)

OFFICER COMMENT

One (1) application from the Busselton Hockey Stadium Club (Inc.) has been received for consideration in the current round of funding.

The project is to upgrade the field halogen lights which are obsolete and in need of replacing. As current lights do not meet competition standards, the proposed lighting upgrade will allow for increased participation from junior level through to State level games. It will be used predominantly for the South West League competition to be played at night.

The Club fully funded and replaced the synthetic hockey surface in March 2019 at a cost of \$310,091. This has left the Club's reserves depleted. The Club could contribute its part of the funding from its remaining reserves, but would prefer to leave some money in this account and has requested a self-supporting loan of \$80,000 from the City to contribute to the Club's financial contributions.

The Club has recently completed a series of strategic planning workshops coordinated by the City and funded through the Sport and Recreation Regional Every Club Grant. The Club has now a clear vision, objectives and strategies.

In the Club's Strategic Plan, it has clearly identified the following strategy:

Goal: To develop and maintain quality facilities which allow hockey to grow
Strategy: Upgrade of current light to meet state and national level lighting criteria
Outcome: Community Bids application and CSRFF application completed. Asset management plan completed.
When: March 2020
Priority: High

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 officer recommendation aligns to the following adopted plans and policies:

Social Plan 2015-2025 - a key goal of this Plan is to “create needed, quality, sustainable recreation and leisure facilities and services for our community”.

City of Busselton Strategic Community Plan 2017 (review 2019) and principally with the following strategic goals:

Community – Welcoming, friendly and healthy:

Community Objective: A community with access to a range of cultural and art, social and recreational facilities and experiences

Council strategy (e): Create sport and recreation hubs to service local and regional communities

Financial Implications

The application received from the Busselton Hockey Stadium Club (Inc.) is for the upgrade of lighting at the Busselton Hockey Stadium at a total cost of \$254,851 (ex GST), one third of which is requested through CSRFF. The Club has been allocated \$59,000 through the City’s Community Bids program and has a request to the City for a self-supporting loan of \$80,000 which is to be considered at the Finance Committee meeting on 15 August 2019. The Club would fund the balance of the project through its reserves.

Based on this, the proposed funding contribution is as follows:

Contribution Towards Project	Cost
City of Busselton – Community Bids	\$59,000
Busselton Hockey Stadium Club (Inc.)	\$30,901
Self-Supporting loan	\$80,000
CSRFF	\$84,950
Total project cost	\$254,851

It should be noted that the Busselton Hockey Stadium Club (Inc.) fully funded the cost of a replacement synthetic hockey turf of \$310,091 in February 2019 from its own reserves.

Stakeholder Consultation

Consultation has taken place between officers of the City and staff from the South West Office of DLGSC in regards to the funding submission received. Consultation has also taken place between City officers assessing the application and key contacts from the Busselton Hockey Stadium Club (Inc.).

Risk Assessment

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

No such risks have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Decide not to support the Busselton Hockey Stadium Club (Inc.) application received for the 2019/20 July CSRFF Small Grants funding.

If any Councillor is minded to any of the above options officers can assist on the drafting of a suitable alternative motion.

CONCLUSION

The application received for the 2019/20 CSRFF July Small Grants funding round shows sound reasoning and justification. It is recommended that this project be assessed as a 'high' priority and that it is '(B) Well planned and needed by the applicant' and a number one (1) priority for consideration in this round.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

DLGSC, South West Office staff will be advised in writing of the Council's decision before 30 August 2019 when the full contents of the application are forwarded to their regional office in Bunbury.

16. FINANCE AND CORPORATE SERVICES REPORT

16.1 BUSSELTON FORESHORE HOTEL SITE 2 LOT AMENDMENT TO INCLUDE CARPARKING

STRATEGIC GOAL:	4. ECONOMY Diverse, resilient, prosperous
STRATEGIC OBJECTIVE:	4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.
SUBJECT INDEX:	Agreements
BUSINESS UNIT:	Corporate Services
REPORTING OFFICER:	Property Management Coordinator - Sharon Woodford-Jones
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Quasi-Judicial: to determine an application/matter that directly affects a person's right and interests e.g. development applications, applications for other permits/licences, leases and other decisions that may be appealable to the State Admin Tribunal.
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Hotel Site and Land to be included in Lot excision for carparking Attachment B Structure Plan

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1908/148 Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council:

- 1. Support the inclusion of the area indicatively shown hatched black on the plan in Annexure A, being part of Lot 503 Reserve 38558 on Deposited Plan 402933, within the lease area of the hotel development proposed by Pacifica Developments Pty Ltd at Hotel Site 2 on the Busselton Foreshore Masterplan.**
- 2. Endorses the submission of a formal request by the City of Busselton to the Department of Planning, Lands and Heritage to incorporate within the area to be excised from Reserve 38558 for the creation of new lot 600 for the hotel development mentioned in Resolution 1, both the hotel site and the dedicated parking area as indicatively shown on the plan in Annexure A.**

CARRIED 8/0

EXECUTIVE SUMMARY

The purpose of this report is to seek Council support for the inclusion of additional land within the area to be excised from the foreshore reserve (carpark) to facilitate the development of Hotel Site 2. The new lot inclusive of the carpark will be the subject of a headlease granted to the City by the State and sublease in favour of the hotel developers. This is preferable to a lease of the hotel site and non-exclusive license of the carpark.

BACKGROUND

The Busselton Foreshore Masterplan (BFMP) adopted by Council on 28th March 2012 (C1203/073) identified potential sites for hotel/short stay accommodation. One of these particular sites being site number 2 as shown stippled black on the plan attached marked Attachment A (Hotel Site 2).

Following an expression of interest process to recruit potential hotel developers and/or operators of short stay accommodation, Council resolved on 22nd November 2017 (C1711/287) to nominate Pacifica Developments Pty Ltd (Pacifica) as 'preferred proponents'.

Hotel Site 2 currently forms part of Lot 503 on Foreshore Reserve 38558. In line with the current policy of the Department of Planning Lands and Heritage (DPLH), commercial leasing within this reserve requires excision of the area to be leased to create a separate lot. Similar to the creation of a new lot where the proposed family restaurant/microbrewery will be developed, the newly created lot will then be the subject of a headlease granted by the State of WA to the City of Busselton, enabling the City to offer a sublease to the relevant commercial operator.

City Officers are at the point of finalising a headlease for Hotel Site 2 (Headlease) with DPLH (representing the State of WA), and the broad terms of a development agreement and Sublease with Pacifica. Pacifica's proposal includes development of a 110 room four star rated hotel at Hotel Site 2, with a 30 bay carpark for exclusive use by hotel patrons adjacent to the hotel site (Hotel Carpark). During discussions with DPLH in relation to the Headlease, DPLH:

- Acknowledged the need to provide Pacifica with sufficient exclusive carparking for the proposed hotel development;
- Acknowledged the importance of providing Pacifica with security of tenure for the Hotel Carpark; and
- Indicated that a proposal for incorporation of the Hotel Carpark into Hotel Site 2 (that is the new Lot 600 to be created for that purpose), would be likely to be favorably considered.

The area identified as most appropriate for the Hotel Carpark is adjacent to Hotel Site 2, located immediately to the south (as shown hatched black on Attachment A). If approved, the State would then be in a position to grant the City a Headlease over an area sufficient to accommodate both the proposed hotel building and the Hotel Carpark, which in turn will enable the City to offer a Sublease of the same area to Pacifica.

In terms of the Busselton Foreshore Masterplan the area immediately to the south of Hotel Site 2 is currently being used (and has been earmarked for future use) as a carpark. The proposed design of the Hotel Carpark provides for:

- 30 carpark bays within this area to be incorporated into the (proposed) new lot 600 as Hotel Carpark; and
- The remaining (approximately 20) carpark bays being available for public car parking.

This report recommends that Council endorses a proposal to DPLH to incorporate the Hotel Carpark into the proposed new Lot 600.

OFFICER COMMENT

Pacifica recently unveiled their design for the hotel development at Hotel Site 2 and signed a Memorandum of Understanding committing to the concept. Within that concept they have identified that in a regional location like Busselton there is a need for dedicated parking bays to serve this type of hotel offering. To service the proposed 110 room facility Pacifica calculated that at a minimum they will require 30 parking bays. It is likely that there will be a similar need when the other Busselton Foreshore hotel/short stay sites are developed.

The key strategic interest of both the State and the City in this matter is striking a balance between:

- Providing adequate support to ensure the hotel development proceeds (including provision of sufficient space for dedicated car parking to support the development); and

- Ensuring sufficient public car parking within the Busselton foreshore precinct is available to serve the public at large and the needs of other businesses within this area.

Since inception of the Busselton Foreshore Masterplan development of one or more hotels within the Busselton Foreshore precinct had been planned for. The provision of the proposed quality accommodation in such a central and desirable location will be a significant asset for tourism in the region and is necessary to build on the potential created by several tens of millions of public investment in the Busselton Foreshore over the last decade. In addition, the proposed hotel development is expected to create a significant number of jobs over both the short and long term, which should have a positive impact on local business and benefit the local community. It will also require Pacifica to invest a significant amount of money in construction and fit out of the hotel building, estimated to be in excess of \$20 million. Pacifica's business modelling for this development indicates that, as a minimum, exclusive use of at least 30 dedicated parking bays (that is the Hotel Carpark) is required for their development to be economically viable.

So far as the overall parking strategy for the Busselton Foreshore area is concerned, there are a number of other factors to consider. The Busselton Foreshore Structure Plan identified two further sites on the Busselton Foreshore for future hotel/short stay accommodation:

- Site 9, where the "old" Busselton Tennis Club facilities are currently located. As the "new" Busselton Tennis Club facilities at Barnard Park are almost complete, it is expected that Site 9 will be vacated and handed back to the City during the next financial year. Indications are that there is currently no demand for a second hotel/short stay accommodation development on the Busselton Foreshore. Therefore the City intends over the short to medium term (next 3 – 5 years) to use at least a portion of Site 9 for public carparking.
- Site 11, located east of Hotel Site 2, has already been developed (and is currently being used) as a public car park. Based on the current economic climate and growth figures, indications are that any development of hotel/short stay accommodation at this location is unlikely to occur within the next 10 years.

Use of Sites 9 and 11 as public carparking, although not permanently, has significantly increased supply of public carparking within the Busselton Foreshore precinct. In addition there is also the capacity to provide overflow parking at Signal Park or, possibly in future and, if the need arises, portions of Barnard Park.

As part of the Busselton Activity Centre Plan, a high level parking strategy will be developed that considers planning an integrated approach between the foreshore, the Busselton Entertainment, Arts and Cultural Hub on Queen Street (BEACH) and the CBD. It has been identified that there are currently 1774 off-street and 849 on-street parking bays within a 10 minute walk of the proposed BEACH site and the Busselton Foreshore precinct. These numbers exclude the estimated additional 172 bays to be developed at Site 9 once the existing tennis facility has been vacated.

There are a large number of both on and off-street car bays available for public parking across the Busselton Foreshore precinct and adjoining Busselton city centre. In many ways they are overlapping areas for the purpose of parking supply and demand. Most of the time, there is limited overlap of peak demand in the two areas. In addition to these, the City has purchased and land banked approximately 9000m² of land on the south eastern side of the City centre for future parking supply. This parcel of land is within 10 minutes' walk of both the City centre and the Busselton Foreshore and, once sufficient demand has been determined, development of a public carpark on that land will commence. At that stage implementation of parking controls on more centrally located carparking will in all likelihood be considered to facilitate greater short term 'visitor' type parking amenity.

Given the above, City officers are satisfied that providing Pacifica with exclusive use of the proposed 30 dedicated hotel parking bays and incorporating this Hotel Carpark into the lease area for Hotel Site 2 will not adversely impact on amenity or parking requirements on the foreshore.

Pacifica have indicated that they wish to demark the proposed Hotel Carpark and install an automated access gate. Thus, under the proposed Sublease, formal approval of the City to the type of enclosure would be required before anything was to be constructed.

The option of a non-exclusive licence over the carparking area is not recommended for a number of reasons. Among them being the extent of Pacifica's investment into the hotel development, the fact that Pacifica's business modelling requires at least 30 dedicated on-site parking bays. A lease provides a more secure arrangement to assist with attracting investment.

Statutory Environment

There are no statutory issues relating to the Officer recommendation contained within this report. Section 3.58(3) of the Local Government Act 1995 (**LGA**) requires a local government to:

- a) *give local public notice of the proposed disposition by:*
 - *describing the property concerned;*
 - *giving details of the proposed disposition (including names of the parties concerned; the consideration to be received by the local government and the market value of the disposition);*
 - *inviting submissions to be made before a date to be specified in the notice, being a date not less than two weeks after the notice is first given.*
- b) *consider any submissions made to it before the date specified in the notice and, if a decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

Additionally, Sections 3.59(1) and (4) of the LGA requires that before a Local Government enters into a major land transaction, it is to prepare a business plan and seek public comment by giving state-wide public notice.

Once the terms of the proposed Sublease have been settled (subject at this stage on matters such as finalising the lease area), City officers will present Council with a further report for compliance with Sections 3.58 and 3.59 of the LGA and endorsement of the terms of the Headlease and proposed Sublease.

Relevant Plans and Policies

Busselton Foreshore Statement of Intent

On 8 June 2011 (C1106/180), the former Busselton Shire Council adopted a 'Statement of Intent' for the development of the Busselton Foreshore, recognising a balanced approach is required to ensure sustainable outcomes from public and private investment. The statement concluded "*the foreshore will be developed in a manner that respects Busselton's identity and heritage whilst providing economic, social, environmental and cultural benefits to the Shire (sic) and the South West region*". This statement was updated and reaffirmed by Council on 25 February 2015 (C1502/037).

Busselton Foreshore Master Plan (BFMP)

The most recent amendment to the BFMP was adopted by Council (C1602/031) on 24 February 2016 and identified three sites for hotels/short-stay accommodation.

Busselton Foreshore Structure Plan (BFSP) – SEE ATTACHMENT B

The change proposed to the area to be excised from Reserve 38558 is not considered to trigger any need to amend the BFSP adopted by Council in April 2016. Under current regulations, Structure Plans must be given due regard, but discretion is available to subsequent lands, subdivision and development approval decision makers.

Financial Implications

There will be no adverse financial implications on the City. If Council are supportive of the officer recommendation, the increase to the leased area will impact positively on the rent proposed to be charged under the proposed Sublease. It is also expected that this may impact on any rates that may apply to the property.

Other than the increase in rent and potential rate income over the proposed term of the Sublease, there are no long term financial plan implications.

Stakeholder Consultation

There has been continuous correspondence and dialogue with planning and land officers within the DPLH since the inception of this proposal.

DPLH have acknowledged and informally indicated that they are supportive of the suggestion to increase the footprint of the proposed hotel lot to include the Hotel Carpark within the proposed lease area for Hotel Site 2. This is provided due consideration has been given to providing appropriate levels of parking within the foreshore.

Risk Assessment

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

The following risks have been identified:

Slightly reduced number of parking bays may impact on the footfall to amenities and business within the Busselton Foreshore.			
Risk Category	Risk Consequence	Likelihood of Consequence	Risk Level
Environmental	Moderate	Unlikely	Medium

The provision of adequate spaces within close proximity of the foreshore and safe alternative pedestrian or cycle access is a risk control.

Options

As an alternative to the proposed recommendation the Council could:

1. The required carparking in a different location; and/or
2. A different form of tenure for the required carparking – e.g a non-exclusive licence to use the subject land for carparking, rather than incorporating it into the lease area. However for the reasons stated above in the Officer Comment these are not recommended.

If any Councillor is minded to any of the above options officers can assist on the drafting of a suitable alternative motion.

CONCLUSION

Pacifica's business model is based on securing tenure over both the hotel site and an area providing for at least 30 dedicated carparking bays. Incorporating the proposed Hotel Carpark into the lease area (new Lot 600 to be created for the hotel development) should provide Pacifica with sufficient security of tenure without having an adverse impact on existing and future demand for public carparking within the Busselton Foreshore precinct and/or City centre.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Officers will write to the DPLH within 10 working days of the date of the resolution requesting an amendment to the survey of Lot 600 to include the parking bays

16.2 CONSOLIDATION OF EXTRAORDINARY AND ORDINARY ELECTION

STRATEGIC GOAL:	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE:	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX:	Governance
BUSINESS UNIT:	Governance Services
REPORTING OFFICER:	Governance Officer - Melissa Egan Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Letter from WAEC

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1908/149 Moved Councillor J McCallum, seconded Councillor C Tarbotton

That the Council endorses the inclusion of the vacant Council position (2 year term) as part of the ordinary election to be held on 19 October 2019.

CARRIED 8/0

EXECUTIVE SUMMARY

Council received written notice from Councillor Robert Bennett advising of his resignation from office of Councillor of the City of Busselton, effective 30 June 2019. Cr Bennett's term is due to expire in 2021, leaving the City with a vacancy from 30 June 2019 until the elections in 2021.

Pursuant to Section 4.16(4) of the *Local Government Act 1995* (the Act), Council may, with approval of the Western Australian Electoral Commissioner include the now vacant office (two-year term) in the ordinary election to be held on 19 October 2019, as opposed to holding an extraordinary election. This report recommends that Council resolve to do this.

BACKGROUND

Local government ordinary elections are held on the third Saturday in October every two years. Elected members each serve a term of four years. The terms of five elected members will expire at the time of the 2019 Ordinary election.

Cr Bennett has formally resigned from his office of Councillor of the City of Busselton, effective 30 June 2019. Ordinarily, an extraordinary election would be required to fill Cr Bennett's vacancy. Section 4.16(4) of the Act provides however that if a member's office becomes vacant (in this instance, under s. 2.32(b) by resignation) after the third Saturday in January but before the third Sunday in July in an election year, the Council may, with the approval of the Electoral Commissioner, fix the ordinary elections day in the election year as the day for holding the poll for the extraordinary election.

OFFICER COMMENT

Consolidation of the extraordinary election with the ordinary election has been identified in discussions between the Mayor, CEO and Councillors as logistically efficient and cost effective, avoiding the financial burden of another separate election. The reduction in the number of Councillors to eight in the interim is not expected to significantly impact on the functioning of Council.

Officers have on this basis sought and obtained approval from the Western Australian Electoral Commissioner to include the vacancy created by Cr Bennett's resignation in the poll on the ordinary election to be held on 19 October 2019. Approval was granted on 17 July 2019 (Attachment A) and a Council decision is now required to formalise this.

Statutory Environment

Part 4 of the Act provides for the conduct of local government elections. Part 4, Division 6 of the Act provides for the postponement of elections to allow the consolidation of extraordinary and ordinary elections.

Pursuant to section 4.9 of the Act, the Mayor may fix the day to hold an extraordinary election. In circumstances however where Council is seeking to postpone and consolidate an extraordinary with an ordinary election, section 4.16(4) provides that Council, with the approval of the Electoral Commissioner, fix this date.

Relevant Plans and Policies

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

Financial Implications

The City of Busselton has provided in its Long Term Financial Plan for an ordinary election to be held every two years, with funding included in the 2019/2020 budget.

The officer recommendation, which will result in the consolidation of the extraordinary and ordinary elections, will allow for the one election thereby avoiding the financial cost of two separate elections in the year of an ordinary election.

Stakeholder Consultation

No external consultation, other than notification and approval obtained from the Electoral Commissioner, was undertaken or considered necessary 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. There are no risks of a medium or greater level identified.

Options

As an alternative to the proposed recommendation the Council could decide instead to conduct an extraordinary election for Cr Bennett's vacant office.

CONCLUSION

The Act provides for the consolidation of an extraordinary and an ordinary election. Approval has been sought from the Western Australian Electoral Commission for the vacancy created by Cr Bennett's resignation to be included in the poll of the 2019 ordinary election. Pursuant to the Act, a formal Council decision is now sought for this.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Council endorsement of the officer recommendation will be enacted immediately, with confirmation provided to the Western Australian Electoral Commission.

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

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

COUNCIL DECISION AND OFFICER RECOMMENDATION

C1908/150 Moved Councillor J McCallum, seconded Councillor C Tarbotton

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

- **17.1.1 State Administrative Tribunal Reviews**

CARRIED 8/0

EXECUTIVE SUMMARY

This report provides an overview of a range of information that is considered appropriate to be formally presented to the Council for its receipt and noting. The information is provided in order to ensure that each Councillor, and the Council, is being kept fully informed, while also acknowledging that these are matters that will also be of interest to the community.

Any matter that is raised in this report as a result of incoming correspondence is to be dealt with as normal business correspondence, but is presented in this bulletin for the information of the Council and the community.

INFORMATION BULLETIN**17.1.1 State Administrative Tribunal Reviews**

Attachment A is a list showing the current status of State Administrative Tribunal Reviews involving the City of Busselton.

ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION, WITHOUT DEBATE**13.1 APPLICATION FOR DEVELOPMENT APPROVAL - DA19/0069 - MIXED USE DEVELOPMENT - LOT 400, NO.24 DUNN BAY ROAD, DUNSBOROUGH**

STRATEGIC GOAL:	2. PLACE AND SPACES Vibrant, attractive, affordable
STRATEGIC OBJECTIVE:	2.1 Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
SUBJECT INDEX:	Development Applications
BUSINESS UNIT:	Development Services
REPORTING OFFICER:	Manager Development Services - Lee Reddell
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	Quasi-Judicial: to determine an application/matter that directly affects a person's right and interests e.g. development applications, applications for other permits/licences, leases and other decisions that may be appealable to the State Admin Tribunal.
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A LOCATION PLANS Attachment B ZONING PLAN Attachment C ADVERTISING PLANS Attachment D REVISED PLANS Attachment E R-CODES VOL 2 ASSESSMENT Attachment F SCHEDULE OF SUBMISSIONS

OFFICER RECOMMENDATION

That the Council:

- A. That application DA19/0069 submitted for development of Mixed Use Development (Multiple Dwellings, Holiday Home [Multiple/Grouped Dwelling] Restaurant/Cafes, Shops and Offices) is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.
- B. That Development Approval is issued for the proposal referred to (A) above subject to the following conditions –

General conditions

1. The development hereby approved shall be substantially commenced within two years from the date of this decision letter.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans, and except as may be modified by the following conditions.

Prior to commencement of any works conditions

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing –
 - 3.1 Details of the ground floor finished floor levels to achieve a minimum height of 20mm above the crest of Seymour Boulevard.
 - 3.2 Minimum floor to ceiling height of 3.3m shall be achieved for the ground floor level.

- 3.3 Details of stormwater and surface water drainage. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 40m² of impervious area.
- 3.4 Details of the proposed loading bay facilities on Seymour Boulevard.
- 3.5 Details of the proposed bicycle parking facilities. The details shall include, as a minimum, the location, design and materials to be used in their construction.
- 3.6 Details of utility connections. Utilities are to be integrated into the design of the building such that they are accessible for servicing but not visually obtrusive.
- 3.7 A contribution of \$15,130.36 towards Road Network Upgrading in the Dunsborough precinct.
- 3.8 A contribution of \$7,974.40 towards Dual Use Path Network Upgrading in the Dunsborough precinct.
- 3.9 A contribution of \$44,492.00 towards community facilities in the Dunsborough precinct.
- 3.10 A contribution of \$394,037.05 as cash-in-lieu of 37 parking bays not provided on-site.
- 3.11 Satisfactory arrangements shall be made with the City to provide public art works within the development. This entails compliance with the Percent for Art provisions of the City's *Development Contribution Policy* via appropriate works up to a minimum value of 1% of the Estimated Cost of Development ("ECD") for the residential component. Where the value of on-site works is less than 1% of the ECD, a payment sufficient to bring the total contribution to 1% of the ECD is required.
- 3.12 A schedule of the final materials, finishes and colours. The schedule shall include details of the type of materials proposed to be used, including their colour and texture.
- 3.13 A Waste Management Plan (WMP). The WMP shall include specifications of the methods, facilities and management measures to be put in place for the storage, collection and disposal/collection of waste and rubbish generated by the development.
- 3.14 A Construction Management Plan (CMP). The CMP shall address the following:
 - a. Access to and from the site;
 - b. Delivery of materials and equipment to the site;
 - c. Storage of materials and equipment on the site;
 - d. Parking arrangements for contractors and subcontractors;
 - e. Management of construction waste; and
 - f. Other matters likely to impact on the surrounding properties.
- 3.15 A Landscape Plan. The plan shall include the following:-
 - a. the location, number, size and species type of existing and proposed trees and shrubs, including calculations for the landscaping area;
 - b. any lawns to be established;
 - c. any existing landscape areas to be retained;
 - d. those areas to be reticulated or irrigated; and
 - e. verge treatments.

- 3.16 A Tree Protection Plan (TPP) for the mature street tree to be retained on Chieftain Crescent as indicated on the approved site plan. The approved TPP shall be implemented before any of the substantive development is commenced and shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site. Within the areas so fenced, nothing shall be stored or placed, and the ground levels shall not be altered.**

Prior to Occupation/Use of the Development Conditions

- 4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition 3 have been implemented; and, the following conditions have been complied with –**
- 4.1 A minimum of 15 car parking bays to be made available and signed for the use of the ‘Multiple Dwellings’ or ‘Holiday Home’ component of the development with the remaining 9 car parking bays allocated as determined by the owner/s to apartments and tenancies within the development site only.**
- 4.2 Crossovers are to be located and constructed to the City’s specifications.**
- 4.3 All vehicle parking, access ways, footpaths and external lighting shall be constructed in accordance with the Australian Standards AS2890 in the form and layout depicted on the approved plans to the satisfaction of the City.**
- 4.4 The surface finish of the boundary wall abutting the adjoining lot is to be finished externally to the same standard as the rest of the development, to the satisfaction of the City.**
- 4.5 Exterior lighting shall be provided under all awnings, in parking areas and all entry points, prior to occupation of the development.**

Ongoing conditions

- 5. The works undertaken to satisfy Conditions 3 and 4 shall be subsequently maintained for the life of the development; and, the following conditions have been complied with –**
- 5.1 The following uses are hereby permitted for the development:**
- a. ‘Restaurant/Café’, ‘Shop’ or ‘Office’ at ground floor level;**
- b. Car parking at first floor level;**
- c. ‘Shop’ or ‘Office’ at second floor level;**
- d. ‘Multiple Dwelling’ or ‘Holiday Home (Multiple/Grouped Dwelling)’ at third and fourth floor levels.**
- 5.2 No signage is permitted above the ground floor façade of the building.**
- 5.3 No roller doors or screens are permitted to be installed to the frontages of the ground floor commercial tenancies.**

- 5.4 Landscaping and reticulation shall be implemented in accordance with the approved Landscape Plan and shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.
- 5.5 All glazing to street frontages is to be clear, non-tinted glazing and is not to be subsequently obscured by alternative window treatments, signage or internal shelves, to the satisfaction of the City.
- 5.6 All services and service related hardware, including antennae, satellite dishes and air conditioning units, being suitably located away from public view and/or screened to the satisfaction of the City.
- 5.7 Clothes drying shall not occur on open balconies at any time unless behind purpose built screening approved as part of the development.

COUNCIL DECISION AND AMENDED OFFICER RECOMMENDATION

C1908/151

Moved Councillor P Carter, seconded Councillor C Tarbotton

That the Council:

- A. That application DA19/0069 submitted for development of Mixed Use Development (Multiple Dwellings, Holiday Home [Multiple/Grouped Dwelling] Restaurant/Cafes, Shops and Offices) is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.
- B. That Development Approval is issued for the proposal referred to (A) above subject to the following conditions –

General conditions

1. The development hereby approved shall be substantially commenced within two years from the date of this decision letter.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans, and except as may be modified by the following conditions.

Prior to commencement of any works conditions

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing –
 - 3.1 Details of the ground floor finished floor levels to achieve a minimum height of 20mm above the crest of Seymour Boulevard.
 - 3.2 Minimum floor to ceiling height of 3.3m shall be achieved for the ground floor level.

- 3.3 Details of stormwater and surface water drainage. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 40m² of impervious area.
- 3.4 Details of the proposed loading bay facilities on Seymour Boulevard.
- 3.5 Details of the proposed bicycle parking facilities. The details shall include, as a minimum, the location, design and materials to be used in their construction.
- 3.6 Details of utility connections. Utilities are to be integrated into the design of the building such that they are accessible for servicing but not visually obtrusive.
- 3.7 A contribution of \$15,130.36 towards Road Network Upgrading in the Dunsborough precinct.
- 3.8 A contribution of \$7,974.40 towards Dual Use Path Network Upgrading in the Dunsborough precinct.
- 3.9 A contribution of \$44,492.00 towards community facilities in the Dunsborough precinct.
- 3.10 A contribution of \$394,037.05 as cash-in-lieu of 37 parking bays not provided on-site.
- 3.11 Satisfactory arrangements shall be made with the City to provide public art works within the development. This entails compliance with the Percent for Art provisions of the City's *Development Contribution Policy* via appropriate works up to a minimum value of 1% of the Estimated Cost of Development ("ECD") for the commercial component. Where the value of on-site works is less than 1% of the ECD, a payment sufficient to bring the total contribution to 1% of the ECD is required.
- 3.12 A schedule of the final materials, finishes and colours. The schedule shall include details of the type of materials proposed to be used, including their colour and texture.
- 3.13 A Waste Management Plan (WMP). The WMP shall include specifications of the methods, facilities and management measures to be put in place for the storage, collection and disposal/collection of waste and rubbish generated by the development.
- 3.14 A Construction Management Plan (CMP). The CMP shall address the following:
 - a. Access to and from the site;
 - b. Delivery of materials and equipment to the site;
 - c. Storage of materials and equipment on the site;
 - d. Parking arrangements for contractors and subcontractors;
 - e. Management of construction waste; and
 - f. Other matters likely to impact on the surrounding properties.
- 3.15 A Landscape Plan. The plan shall include the following:-
 - a. the location, number, size and species type of existing and proposed trees and shrubs, including calculations for the landscaping area;
 - b. any lawns to be established;
 - c. any existing landscape areas to be retained;
 - d. those areas to be reticulated or irrigated; and
 - e. verge treatments.

- 3.16 A Tree Protection Plan (TPP) for the mature street tree to be retained on Chieftain Crescent as indicated on the approved site plan. The approved TPP shall be implemented before any of the substantive development is commenced and shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site. Within the areas so fenced, nothing shall be stored or placed, and the ground levels shall not be altered.**

Prior to Occupation/Use of the Development Conditions

- 4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition 3 have been implemented; and, the following conditions have been complied with –**
- 4.1 A minimum of 15 car parking bays to be made available and signed for the use of the ‘Multiple Dwellings’ or ‘Holiday Home’ component of the development with the remaining 9 car parking bays allocated as determined by the owner/s to apartments and tenancies within the development site only.**
- 4.2 Crossovers are to be located and constructed to the City’s specifications.**
- 4.3 All vehicle parking, access ways, footpaths and external lighting shall be constructed in accordance with the Australian Standards AS2890 in the form and layout depicted on the approved plans to the satisfaction of the City.**
- 4.4 The surface finish of the boundary wall abutting the adjoining lot is to be finished externally to the same standard as the rest of the development, to the satisfaction of the City.**
- 4.5 Exterior lighting shall be provided under all awnings, in parking areas and all entry points, prior to occupation of the development.**

Ongoing conditions

- 5. The works undertaken to satisfy Conditions 3 and 4 shall be subsequently maintained for the life of the development; and, the following conditions have been complied with –**
- 5.1 The following uses are hereby permitted for the development:**
- a. ‘Restaurant/Café’, ‘Shop’ or ‘Office’ at ground floor level;**
- b. Car parking at first floor level;**
- c. ‘Shop’ or ‘Office’ at second floor level;**
- d. ‘Multiple Dwelling’ or ‘Holiday Home (Multiple/Grouped Dwelling)’ at third and fourth floor levels.**
- 5.2 No signage is permitted above the ground floor façade of the building.**
- 5.3 No roller doors or screens are permitted to be installed to the frontages of the ground floor commercial tenancies.**
- 5.4 Landscaping and reticulation shall be implemented in accordance with the**

approved Landscape Plan and shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

- 5.5 All glazing to street frontages is to be clear, non-tinted glazing and is not to be subsequently obscured by alternative window treatments, signage or internal shelves, to the satisfaction of the City.**
- 5.6 All services and service related hardware, including antennae, satellite dishes and air conditioning units, being suitably located away from public view and/or screened to the satisfaction of the City.**
- 5.7 Clothes drying shall not occur on open balconies at any time unless behind purpose built screening approved as part of the development.**

CARRIED 8/0

Reason: Clerical error in the wording of proposed condition 3.11. The Percent for Art contribution should relate to the 'commercial' component of the development rather than the 'residential' component of the development.

EXECUTIVE SUMMARY

The City has received an application for a mixed use development incorporating up to 18 commercial tenancies and 14 apartments at 24 Dunn Bay Road, Dunsborough. Due to the nature of the issues requiring consideration and the level of community interest the application is being presented to Council for determination, rather than being determined by City officers acting under delegated authority.

Having considered the application, including submissions received, City officers consider that the application is consistent with the City of Busselton Local Planning Scheme No. 21 (the 'Scheme') and the broader, relevant planning framework, and it is recommended that the application is approved, subject to appropriate conditions, and in accordance with the revised plans submitted by the applicant with the aim of addressing some of the issues raised through public consultation.

BACKGROUND

The Council is asked to consider an application for a mixed use development at 24 Dunn Bay Road, Dunsborough. Key information regarding the application is set out below:

Landowner

Frandoco Pty Ltd

Applicant

Dane Design Australia

Site area

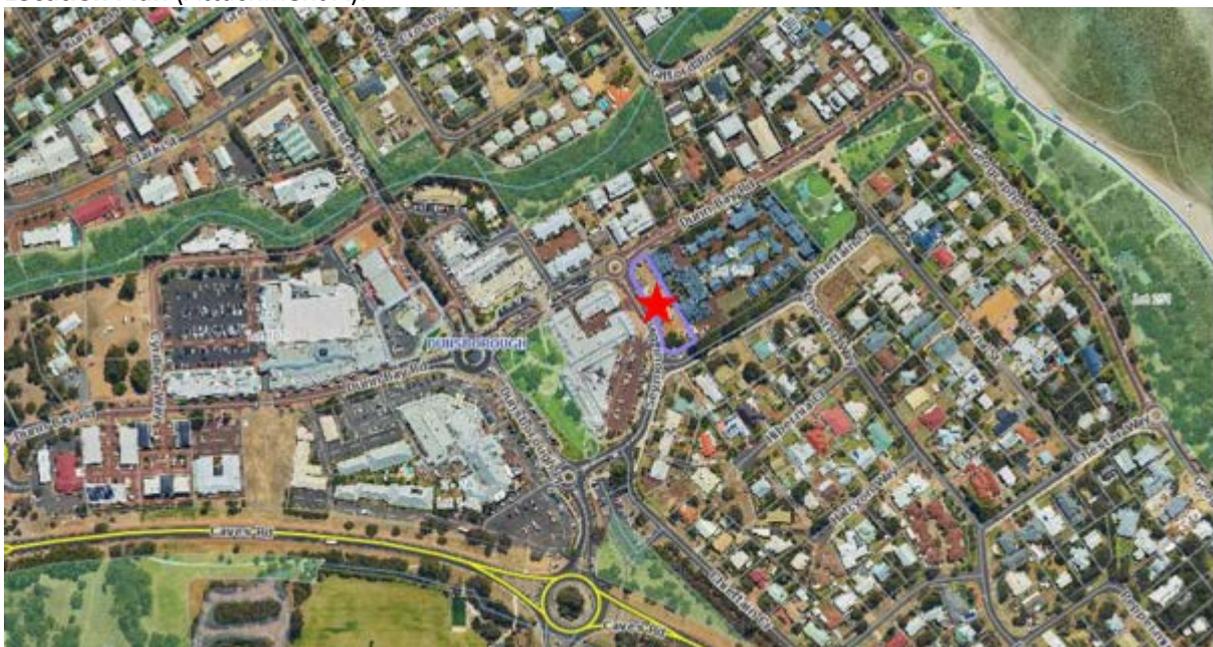
1750m²

General description of the site

No. 24 Dunn Bay Road has three street frontages being Dunn Bay Road to the north, Seymour Boulevard to the west and Chieftain Crescent to the south. The site is currently vacant and is located towards the eastern end of the Dunsborough town centre. The lot is bound by 'Centre' zoned land to the west, north and east which is developed with a mix of commercial uses including restaurants, shops, art galleries and tourism accommodation as well as a mix of residential development on Dunn Bay Road. To the south, on the opposite side of Chieftain Crescent, is Residential R80 (Additional Use 74) zoned land that is generally characterised by one and two storey dwellings, a number of which are used as registered Holiday Homes.

There are several public open space areas (parks and the foreshore) within easy walking distance of the site. A public car park with 2 hour time restrictions is located across Seymour Boulevard, with an all-day car park located approximately 130m south-west of the site.

Location Plan (Attachment A):



Zoning Map (Attachment B):



Brief description of proposed development

The proposal can be summarised as follows:

- Five storey mixed use development with two commercial levels, two residential levels and one level of car parking;
- Up to 18 commercial tenancies on the ground and second floors of the building to be used for Restaurant/Café, Shop and Office purposes;
- Full level of car parking and storage at first floor with 24 car bays, including one accessible bay;
- 14 one and two bedroom Multiple Dwellings located on the third and fourth floors which may also be used for Holiday Home purposes;
- Maximum overall building height of approximately 18.5m above natural ground level;
- Main pedestrian entry to the building from Seymour Boulevard;
- Ramped vehicle access to the first floor car park provided from Chieftain Crescent;
- Service court provided at ground level, adjacent to and under the vehicle ramp; and
- A mix of materials including masonry, timber look cladding, render, green walls, large glazed shopfronts and windows, metal balustrades and decorative screening to the car parking.

Revisions to Advertised Plans

A number of revisions were made to the plans after the public advertising period in response to consultation. A copy of the plans that were advertised are provided at Attachment C, and a copy of the revised plans, which Council are being asked to consider for approval, are provided at Attachment D.

The revisions to the plans principally include:

- Introduction of an awning that projects over the public realm to assist in breaking up the bulk of the building and provide improved pedestrian amenity – this change will be facilitated by the relocation of the bus bay on the eastern side of Seymour Boulevard which has been contemplated by the City previously but was not considered necessary at the time;
- Reduction in the depth of the roof profile to reduce perception of scale and mass;
- Canopy projections added to upper level northern and southern balconies to reduce the scale of the leading edge of the balconies and provide additional weather protection to floors below;
- Deletion of the central stair core, reducing the dominant vertical element on Seymour Boulevard;
- Lighter palette of colours and materials for the exterior facades;
- Reduction of one car bay in parking area to accommodate bin storage area;
- Deletion of ground level visitor bays and replacement with a deep soil planting area to enable canopy planting to provide shade for pedestrians and soften the appearance from the adjacent residential development and for people entering the town centre from Seymour Boulevard;
- Introduction of green planting walls to the exterior of the building;
- Use of louvres to screen the vehicle ramp and reduce headlight glare; and
- Minor changes to the servicing areas at ground level.

OFFICER COMMENT

The main issues considered relevant for detailed discussion in this report are the character and appearance of the development, car parking, traffic and access, the mix of uses and the impact on adjacent residential development. Each of these issues is addressed below.

Height, Character and Appearance

The proposed development comprises a five storey mixed use building, with a maximum height of approximately 18.5m high above natural ground level. While there are existing three storey residential and tourism developments within the town centre, the proposed building, should it be approved and constructed, would be the tallest development in Dunsborough to date.

While it is acknowledged that a number of objections raised concern with the proposed height of the building, citing concerns that the existing 'seaside village' look and feel of the town centre will be compromised, the Centre zoning anticipates medium density development, with the R-AC3 coding allowing up to 6 storeys or 21m in height as per Volume 2 of the R-Codes. The proposal therefore represents one storey and 2.5m less than the heights specifically supported by the zoning. It is further noted that Clause 4.8.1 of the Scheme contemplates maximum building heights of up to three storeys or 12m, on land more than 150m from the high water mark, except where otherwise provided for in the Scheme.

The design is considered an appropriate response within the Dunsborough town centre given future expectations regarding height that were established through the R-AC3 coding introduced by Scheme Amendment No. 1 in 2017. The proposed building height will not result in unreasonable visual bulk, privacy or shadowing impacts and will not adversely affect the streetscape character or pedestrian experience of the town centre. It is further noted that the Residential R80 / Additional Use 74 zoned lots at the edges of the Centre zone, including the lots on the southern side of Chieftain Crescent directly opposite the site, anticipate a mix of residential and commercial uses of up to four storeys in height and provide a transition between the Centre zone and the adjacent R15 residential lots.

The Dunsborough town centre is not considered to have a clearly defined architectural character, rather it includes a fairly eclectic mix of development including single-storey shopfronts, a big box supermarket and mall, commercial development wrapped with at grade car parking, contemporary mixed use development up to three storeys in height, tourism development and a mix of dwelling types. Arguably the 'character' of the Dunsborough town centre is more closely associated with the activity that occurs at the street level including active shopfronts, formal and informal alfresco dining, street art displays, events such as the markets in Lions Park etc.

In relation to the character and feel of the town centre, the proposal incorporates excellent passive surveillance and a good level of activity at ground level including a mix of tenancies suitable for food and beverage, shop or office purposes and will positively contribute to street level activation. The introduction of an awning which provides for pedestrian amenity, the potential mix of tenancies (some with alfresco space), extensive use of glazing for the commercial tenancies, above ground parking and the inclusion of residential windows and balconies facing the public realm ensure that the development will contribute to the sense of activity and safety on the street.

In relation to the physical appearance of the development, a high level of articulation is achieved with a mix of materials and colours, varied setbacks to shopfronts, walls and balconies, decorative screening to the car parking level and landscaping. The choice of materials, colours and finishes is considered to appropriately reference the broad coastal and landscape character of the area. Further, the building will be softened through the use of a street level awning (facilitated by the relocation of the adjacent bus bay on Seymour Boulevard) which assists in breaking up the bulk of the building, particularly from street level, the inclusion of a deep soil landscaping area in the south-west corner of the site where canopy planting can be achieved and the use of extensive green walls on the facades of the building.

Overall the proposal is considered to appropriately respond to the most important features of the varied town centre character, supports a positive pedestrian experience at ground level, provides a high level of articulation, reflects the future scale and character of the town centre envisaged by the zoning, represents an appropriate level of visual bulk from the public and private realms and contributes to a desired greening of the town centre and can be supported.

Car Parking, Traffic and Access

Clause 4.2.2 of LPP8A 'Car Parking Provisions' specifies that for development within the Business (now 'Centre') zone, 4 bays per 100m² of net lettable area (NLA) or 2.5 per 100m² of NLA for office uses only above ground floor is required for commercial uses, while residential parking shall be as per the R-Codes. Part 3.9 of the R-Codes specifies the provision of a minimum of 1 bay per one bedroom apartment and 1.25 bays per two+ bedroom apartment as well as 1 visitor bay per 4 dwellings up to 12 dwellings plus 1 visitor bay per 8 dwellings for the 13th dwelling and above.

The proposal includes a total commercial NLA at ground level of 728.43m² and at first floor of 633.48m². Using the office calculation for above ground tenancies which is considered appropriate for this development and site, the proposal generates a requirement for 29.1 bays for the ground level and 15.8 bays for the second floor, requiring a total of 45 bays for the commercial component of the development. The proposal also includes 10 x one bedroom apartments and 4 x two bedrooms apartments which generates a requirement of 19 bays (15 residential, 4 visitor) for the residential component of the development.

The applicant has indicated that they investigated the potential to excavate a basement car park on the site but the high water table and additional cost make this option unviable on this site. The proposal incorporates a total 24 car parking bays in the first floor car park which equates to a 40 bay shortfall. It is noted however that the revisions made to the plans after public consultation included the deletion of three visitor bays at the ground level of the development at the request of the City to enable the inclusion of a deep soil planting area for the site. Given the availability of public parking within easy walking distance of the site (including unrestricted parking) and the likelihood that demand for visitor parking associated with the residential component of the development will not significantly conflict with demand for public parking, the benefit of the deep soil landscaping area was considered to be of greater benefit to the development and the town centre generally than on-site visitor parking.

It is therefore considered reasonable to exclude the three deleted bays from the calculated shortfall, reducing it to a total of 37 parking bays.

Clause 4.2.3 of LPP8A indicates that development may provide up to 100% cash in lieu in limited circumstances. While it is acknowledged that there is often a shortage of bays within the town centre during busy periods, much of the time there is a surplus of car parking bays. Planning for peak parking demand is not a desirable urban design response as it often results in poor streetscape outcomes, with parking generally required to be accommodated at ground level, potentially reducing the benefits of active shopfronts and passive surveillance.

Clause 4.25.1 of the Scheme specifies that *"the intent of providing for the payment of cash-in-lieu of the provision of parking is to encourage comprehensive, consolidated and co-ordinated development, to enable better and safer management of pedestrian and vehicular traffic and to facilitate the provision of strategically and conveniently-located public parking facilities"*.

While it is acknowledged that the proposed shortfall is significant, the cash-in-lieu contribution for 37 bays equates to \$394,407 (as per the current rate which is indexed quarterly) which may enable the City to move forward with the purchase of new land and/or make use of existing City owner land to construct additional public car parking within proximity to the Dunsborough town centre sooner than otherwise anticipated.

The benefits of allowing a reduced number of parking bays on the site are that a lower level of traffic will be generated by the development and any future car parking installed by the City resulting from the cash-in-lieu contribution is more likely to be genuinely available to the public, rather than just visitors to this particular site.

The proposed access to the site from Chieftain Crescent is supported on the basis that the Scheme restricts access from Dunn Bay Road, the width of the property makes a ramp from Seymour Boulevard impractical and Chieftain Crescent has lower traffic movements meaning that there is less likelihood of conflict on this street. While it is noted that the ramp will be close to the intersection of Seymour Boulevard and Chieftain Crescent, Chieftain Crescent is able to accommodate an increase in vehicle movements and it is not expected that any significant conflict between the development and the intersection will result.

Mix of Uses

In respect of the proposed commercial land uses, it is considered appropriate to allow flexibility at the ground level of the development to use any of the tenancies for 'Restaurant/Café', 'Shop' or 'Office' as per the proposed uses listed in the development application. At the second floor of the development however, given the potential conflict between more noisy commercial uses (such as a Restaurant/Café) and the apartments on the floor above, it is considered appropriate to restrict uses at this level to 'Shop' and 'Office' purposes. A change of use application may be lodged with the City should a future tenant wish to carry out another commercial land use on this level, with potential amenity impacts considered as part of that application process.

It is expected that the mix of uses included in the development will generate an increased demand for other commercial services in the town centre. The provision of additional office space within the town centre for instance will generate extra activity for the nearby cafes, shops, banks, post office and business service providers. The complimentary activity that additional residential and commercial space in the town centre creates for other businesses is encouraged by the planning framework for the Centre zone through plot ratio bonuses provided for development that incorporates a range of uses and should be supported.

It is noted that the applicant has indicated an intention to use the apartments for either residential and/or short stay accommodation ('Holiday Home') purposes dependent on conditions at the time of completion. Given the site's location within the town centre, the likelihood that use for short stay accommodation will not negatively affect the amenity of any adjacent property, and the provision of residential car parking in accordance with the standard specified by the R-Codes, it is considered reasonable to allow the apartments to be utilised for either residential or short-stay purposes. This prevents the need for additional 'change of use' applications to be sought at a later date and provides a greater level of flexibility regarding uses. Holiday Home use would however still require registration under the City's Holiday Homes Local Law.

Impacts on Adjacent Residential Development

The proposal is not expected to have any unreasonable impacts on adjacent development by virtue of the site's location within the Centre zone, where more substantial development is expected, and the separation provided to the nearest residential properties on the southern side of Chieftain Crescent.

In respect to the relationship with the residential properties on the southern side of Chieftain Crescent, it is noted that a setback in excess of 11m is provided from the Chieftain Crescent boundary to the southern side of the development which assists in reducing the visual bulk impact of the building. The deep soil landscaping area in the south-west corner of the site will allow for canopy planting, and assist in softening development from the adjacent residential area. Further, the proposed use of louvres to the vehicle ramp will reduce headlight glare from vehicles exiting the property.

Traffic movement on Chieftain Crescent will increase as a result of the development however the limited number of parking bays to be provided on site ensures that this is kept to a minimum. The proposed development is considered a sensitive response to the residential abutments and can be supported in this regard.

Statutory Environment

The key statutory environment is set out in the Scheme, the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), Schedule 2 of which is the 'deemed provisions', which also functionally form part of the Scheme and State Planning Policy 7.3, Residential Design Guidelines, Volume 2 – Apartments. Key aspects of the Scheme, Regulations and Residential Design Codes relevant to consideration of the application are set out below.

Zoning

The site is zoned 'Centre'. The objectives of the 'Centre' zone are as follows -

- a. *To provide a genuine centre of community life, socially, culturally and economically.*
- b. *To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme or the Activity Centres State Planning Policy.*
- c. *To ensure that development provides for activation of the street and public spaces, high quality design and a variety of land uses.*
- d. *To provide for medium to high density residential development.*

The proposal is considered to satisfy the objectives of the zone. It is noted that the zoning has recently changed from 'Business' to 'Centre' through the gazettal of Scheme Amendment No. 29 on 7 June 2019. The objectives of the 'Centre' zone have been simplified and are more high level than the previous objectives and policies of the 'Business' zone but are broadly similar in their intent. It is noted that Scheme Amendment 29 also introduced specific development provisions for the Dunsborough town centre, at Part 4.21 of the Scheme.

Special Control Area designation/s

The site is subject to the 'Drive-Through Facility' Special Control Area. The proposal does not incorporate a drive-through facility and as such, the provisions of the Special Control Area are not relevant to this assessment.

Land-use and permissibility

The proposed development includes a mix of land uses which are defined as follows –

"Multiple Dwelling" a dwelling in a group of more than one dwelling on a lot where any part of the plot ratio area of a dwelling is vertically above any part of the plot ratio area of any other but:

- *Does not include a grouped dwelling; and*
- *Includes any dwellings above the ground floor in a mixed use development.*

"Holiday Home (Multiple/Grouped Dwelling)" means a grouped dwelling or multiple dwelling, which may also be used for short stay accommodation for hire or reward for no more than six people (but does not include a bed and breakfast, chalet, guesthouse, rural tourist accommodation or tourist accommodation).

"Office" means premises used for administration, clerical, technical, professional or similar business activities.

"Restaurant/Café" means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the Liquor Control Act 1988.

"Shop" means premises other than a bulky goods showroom, a liquor store – large or a liquor store – small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.

Multiple Dwelling is identified as a 'D' or discretionary use within the Centre zone.

Holiday Home is identified as an 'A' or advertised use within the Centre zone.

Office, Restaurant/Café and Shop are all 'P' or permitted uses within the Centre zone.

Matters to be considered

Clause 67 of the deemed provisions within the Regulations sets out 'matters to be considered' by a local government in considering an application for development approval. The following matters are considered to be relevant to consideration of this application -

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) *any approved State planning policy;...*
- (g) *any local planning policy for the Scheme area;...*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;...*
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;...*
- (s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following —*
 - (i) *public transport services;*
 - (ii) *public utility services;*

- (iii) storage, management and collection of waste;*
- (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
- (v) access by older people and people with disability;...*
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) any submissions received on the application;...*
- (zb) any other planning consideration the local government considers appropriate.*

The proposal generally complies with the relevant provisions noted above.

Residential Design Codes - Volume 2 Apartments

State Planning Policy 7.3 'Residential Design Codes - Volume 2 Apartments' applies to apartment and mixed-use developments and focuses on improved design outcomes. SPP7.3 replaces Part 6 of the R-codes which previously addressed design of multiple dwelling development.

The proposal generally satisfies the acceptable outcomes and/or element objectives of the guidelines and copy of the assessment can be found at Attachment E.

Development standards

Clause 4.21.1 of the Scheme details provisions for development in the Regional Centre and Centre zones. The proposal is considered to generally comply with these provisions -

- (a) No residential uses shall be permitted at ground floor fronting Queen Street and Prince Street, Busselton and Dunn Bay Road and Naturaliste Terrace, Dunsborough;*
- (b) A nil front setback is to be provided to the development, unless otherwise designated in an Activity Centre Plan, or the development is providing for an associated alfresco space within the setback;*
- (c) Buildings shall be articulated to break up perceived bulk and provide visual interest, particularly with buildings occupying a large/long site frontage;*
- (d) At the ground floor level, developments shall address the street with a primary business entrance and a shop front façade;*
- (e) Ground floor commercial uses shall incorporate transparent glazing for 70% of all building frontages to adjacent streets;*
- (f) Upper levels shall be designed to promote informal surveillance of the street through the use of balconies and/or large windows;*
- (g) A minimum ceiling height of 3.3 metres shall be achieved for the ground floor level, whilst all other floors shall achieve a minimum ceiling height of 2.7 metres;*
- (h) Roller doors or screens of solid material on shop fronts will not be permitted, security measures should be located and installed internally behind the glazing line;*
- (i) Pedestrian shelter, through the provision of a verandah, awning or the like, shall be provided over the public footpath for the full width of the lot frontage;*
- (j) No vehicle accessways or carparking shall be provided between buildings and the street, or be visible from the street, unless required to provide access to car parking or loading areas behind buildings;*
- (k) No vehicular access to sites shall be taken from Queen Street, Prince Street or Kent Street (between Queen Street and Brown Street), Busselton or Dunn Bay Road or Naturaliste*

Terrace, Dunsborough, unless no alternative is available, in which case a single crossover width shall be no greater than 5 metres with a cumulative maximum width of 7 metres;

- (l) Vehicle crossovers and driveways shall be co-located wherever possible with adjoining properties;*
- (m) Vehicle access to developments shall be designed in a way which minimises potential pedestrian/vehicular conflict, clearly recognising the primacy of pedestrian amenity;*
- (n) Multi-storey car parks shall incorporate interactive street frontages, such as shops or other uses that promote activity and where car parking levels (including undercroft levels) are visible from a street or public space, high quality architectural detailing shall be incorporated into the façade of all floors;*
- (o) General plant, such as air-conditioning, television antennas, bins, hot water storage tanks, rain water tanks, satellite dishes and the like are to be adequately concealed and screened from the street or public view;*
- (p) Where land is zoned 'Regional Centre' or 'Centre', and is designated a residential density coding of R-AC3 the maximum plot ratio shall be 1.5, except for where the following incentives for mixed use development apply:
 - (i) Where residential or short-stay accommodation uses represent more than 25% of the plot ratio area of a proposed mixed use development, the maximum allowable plot ratio area may be 2.0; or*
 - (ii) Where a development incorporates a Restaurant/Café, Tavern or other similar use that will provide for informal social interaction the maximum allowable plot ratio area for the remainder of the development may be 2.0; and*
 - (iii) The plot ratio incentives set out in sub-clauses (a) and (b) above may be combined, provided that the total plot ratio area does not exceed 3.0.**
- (q) Signage and advertising shall not adversely detract from the architectural elements of the building, or visually dominate the building or the streetscape generally.*

Clauses 4.22 & 4.23 of the Scheme address the design of service access and service courts in the Regional Centre, Centre, Local Centre and Service Commercial zones.

The proposal generally complies with the relevant provisions noted above.

Clauses 4.24 & 4.25 of the Scheme address parking and cash in lieu within the Regional Centre, Centre, Local Centre and Service Commercial zones. Clause 4.25.1 states;

"The local government may, in respect of a use or development proposed within the Regional Centre, Centre, Local Centre or Service Commercial zones, require or accept the payment of cash-in-lieu of the provision of parking spaces on the lot of the proposed use or development. The intent of providing for the payment of cash-in-lieu of the provision of parking is to encourage comprehensive, consolidated and co-ordinated development, to enable better and safer management of pedestrian and vehicular traffic and to facilitate the provision of strategically and conveniently-located public parking facilities".

The proposal includes a shortfall in the required parking bays and seeks to make use of the cash-in-lieu provisions to address that shortfall. See detailed discussion on parking below in the 'Officer Comment' section of the report.

Relevant Plans and Policies

Relevant plans and policies must be given due regard in assessing the application, but cannot and do not bind the local government in determining an application for development approval. Plans and policies considered in the assessment of the application are set out below under appropriate subheadings.

State Planning Policy 7.0 – Design of the Built Environment

The State's lead design policy that elevates the importance of design quality across the whole built environment. It includes 10 principles for good design and establishes the framework for integrating design review as a part of the evaluation process.

Local Planning Policy 2C – Traffic Assessments

LPP2C indicates that proposals with over 10 dwellings, more than 250m² of shop floor space or more than 500m² of office floor space should provide a traffic statement that addresses the potential traffic impacts of the development. A traffic statement was not considered necessary for this development given the limited number of parking bays proposed and the context of the site.

Local Planning Policy 6B – Percent for Art

LPP6B identifies development that is required to provide public art as well as methods for determining the contribution and implementation. The policy applies to development with a value greater than \$1,000,000 however excludes residential, extractive industry and agricultural development. Only the commercial component of this development is subject to the public art provisions.

Local Planning Policy 6E – Road, Footpath and Cycle Network Upgrade Contribution

LPP6E applies to development or subdivision located within areas identified in the policy and requires a contribution for each additional dwelling or tourism unit developed for the purposes of upgrading the distributor road network in the City as well as upgrading the footpath and cycle network infrastructure. A condition requiring a contribution towards road, footpath and cycle networks is recommended should an approval be issued.

Local Planning Policy 6F – Drainage Infill Contribution

LPP6F applies to infill development where the design is unable to achieve management of stormwater on the subject site. The applicant has indicated that they will be able to contain drainage on the site as required and as such, no condition requiring a contribution is applicable.

Local Planning Policy 8A – Car Parking Provisions

LPP8A provides guidance on the City's requirements for the provision of car parking facilities for new development. The proposal does not satisfy the minimum number of parking bays required by the policy and as such, the cash in lieu provisions of the Scheme are proposed to be utilised. See detailed discussion on parking below in the 'Officer Comment' section of the report.

Local Planning Policy 8B – Social Impact Statement

LPP8B provides a framework for the identification of issues arising from development proposals that may impact on the social structure of the City. A social impact statement was provided with the application and was included in the information made available during the public consultation period.

Local Planning Policy 8C – Stormwater Management Provisions

LPP8C provides guidance on methods for achieving the safe and effective management of the quantity and quality of stormwater runoff. The applicant has indicated that appropriate on-site stormwater management should be possible however should an approval be issued, a condition requiring stormwater retention on-site or a suitable alternative to the satisfaction of the City is recommended.

Financial Implications

The recommendation of this report is the determination of an application for development approval.

There are no financial implications relevant to assessment of the application, except as relates to the proposed shortfall in onsite parking which triggers the need for a cash-in-lieu payment should the development go ahead. With a shortfall of 37 bays (see 'Officer Comment' section of report) a payment of approximately \$390,000 will be required. The City will be required to hold these funds in reserve until they can be appropriately expended on activity associated with the provision of new public car parking within Dunsborough.

Stakeholder Consultation

Clause 64 of the deemed provisions sets out circumstances in which an application for development approval must be advertised, and also sets out the means by which applications may be advertised. Given the scale of the proposed development, it was considered appropriate to advertise the development application.

The purpose of public consultation is to provide an opportunity for issues associated with a proposed development to be identified by those who potentially may be affected. A development application should not be approved or refused based on the number of submissions it receives, rather all applications must be determined on the merits of the particular proposal, including consideration of any relevant planning issues raised through consultation.

The application was open for submissions from 5 April 2019 to 1 May 2019 and was advertised in the following manner –

1. Information regarding the application was posted on the City's website;
2. A portal was created using the City's *YourSay* platform for the online lodgement of submissions;
3. Letters were sent to the Dunsborough Chamber of Commerce and Dunsborough Progress Association as well as a number of land owners within close proximity to the site;
4. Three advertising signs were erected on the site; and
5. A notice was placed in a local newspaper on 10 April 2019.

Submissions were received from a total of 129 people. 26 submissions are broadly supportive of the application, with 103 submissions objecting to the proposal. It is noted that it is generally quite rare to receive submissions of support for development applications and that to receive 26 is considered a reasonable indication that there is a level of support for such development in the community, notwithstanding there is also a level of concern.

A schedule of submissions is provided as Attachment F. The schedule identifies who submissions were received from and summarises the submissions. The issues raised have been grouped into common headings within the schedule for clarity given the number of submissions received.

The bulk of the submissions can generally be grouped as follows:

Support:

- Good design;
- Good mix of uses;
- Will contribute to more activity in the town centre; and
- Will help reduce urban sprawl.

Objections / concerns raised regarding:

- Building height;
- Character;
- Design;
- Parking, Congestion and Safety;
- Need for additional commercial and residential floor space;
- Amenity (privacy, overshadowing, noise, odour); and
- Insufficient landscaping.

Where issues are raised which are not able to be considered, as they do not relate to the relevant planning framework, the comment provided (note comments have been grouped given the number of submissions received) indicates that, but does not provide further commentary or discussion. That does not necessarily suggest that the issues are not genuine issues of concern to the submitter or more broadly, but they are unfortunately not issues that can or should be addressed in the assessment of the application.

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 significant risks have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Refuse the proposal, setting out reasons for doing so; or
2. Apply additional or different conditions.

If any Councillor is minded to any of the above options officers can assist on the drafting of a suitable alternative motion.

CONCLUSION

Subject to the inclusion of relevant conditions, the proposal is considered appropriate to support and it is accordingly recommended for approval.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The applicant and those who made a submission will be advised of the Council decision within two weeks of the Council meeting.

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. URGENT BUSINESS

Nil

20. CONFIDENTIAL REPORTS

Nil

21. CLOSURE

The Presiding Member closed the meeting at 5.40pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 42 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON TUESDAY, 27 AUGUST 2019.

DATE: _____ PRESIDING MEMBER: _____