

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 9 MARCH 2016

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MINUTES

MINUTES OF A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN MEETING ROOM ONE, COMMUNITY RESOURCE CENTRE, 21 CAMMILLERI STREET, BUSSELTON, ON 9 MARCH 2016 AT 5.30PM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 5.30pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

Cr Coralie Tarbotton
Cr Ross Paine
Cr Terry Best
Cr John McCallum
Cr Rob Bennett
Cr Paul Carter
Cr Robert Reekie
Cr Gordon Bleechmore

Officers:

Mr Mike Archer, Chief Executive Officer
Mrs Naomi Searle, Director, Community and Commercial Services
Mr Matthew Smith, Director, Finance and Corporate Services
Mr Martyn Glover, Acting Director, Planning and Development Services
Mr George Workman, Manager, Operations Services
Miss Lynley Rich, Manager, Governance Services
Miss Hayley Barge, Administration Officer, Governance

Apologies

Mr Oliver Darby, Director, Engineering and Works Services

Approved Leave of Absence

Nil

Media:

"Busselton-Dunsborough Times"
"Busselton-Dunsborough Mail"

Public:

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3. PRAYER

The prayer was delivered by Pastor Thomas Cooper from Freedom Church.

4. PUBLIC QUESTION TIME**Response to Previous Questions Taken on Notice**

Nil

Public Question Time

Nil

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

There has been a positive announcement regarding the Youth Activities Centre with funding being awarded, this will be of great benefit to the community.

Announcements by other Members at the invitation of the Presiding Member

Nil

6. APPLICATION FOR LEAVE OF ABSENCE

Nil

7. PETITIONS AND PRESENTATIONS

Petitions –

A petition seeking the City of Busselton change specific dog exercise areas, containing 114 signatures, of which 41 were verified as electors was presented which stated:

“We, the undersigned, all being electors of the City of Busselton, do respectfully request that the Council:

Change the classification of the beach and surrounding grassed area along Vincent St Old Dunsborough (noted as area 29B on the Dog Management Area Beaches Map 2015) from a Dog Exercise Area to a Dog Prohibited Area effective immediately.”

Council Decision

C1603/035

Moved Mayor G Henley, seconded Councillor J McCallum

That the petition be received and considered as part of the forthcoming review process of the Management of Dogs in Public Places, Including Beaches.

CARRIED 9/0

8. DISCLOSURE OF INTERESTS

Nil

9. CONFIRMATION AND RECEIPT OF MINUTES**Previous Council Meetings**9.1 Minutes of the Council Meeting held 24 February 2016**Council Decision****C1603/036** Moved Councillor J McCallum, seconded Councillor R Reekie

That the Minutes of the Council Meeting held 24 February 2016 be confirmed as a true and correct record.

CARRIED 9/0**Committee Meetings**9.2 Minutes of the Airport Advisory Committee Meeting held 12 February 2016**Council Decision****C1603/037** Moved Councillor G Bleechmore, seconded Councillor P Carter

- 1) That the minutes of the Airport Advisory Committee Meeting held 12 February 2016 be received.
- 2) That the Council notes the outcomes of the Airport Advisory Committee Meeting held 12 February 2016 being:
 - a) The Busselton Margaret River Airport – Airport Update Item is presented for Council consideration at Item 10.1 of this agenda.

CARRIED 9/09.3 Minutes of the Policy and Legislation Committee Meeting held 18 February 2016**Council Decision****C1603/038** Moved Councillor C Tarbotton, seconded Councillor R Reekie

- 1) That the minutes of the Policy and Legislation Committee Meeting held 18 February 2016 be received.
- 2) That the Council notes the outcomes of the Policy and Legislation Committee Meeting held 18 February 2016 being:
 - a) The Review of Purchasing Policy Item is presented for Council consideration at Item 10.2 of this agenda.
 - b) The Review of Applications for Exploration or Mining/Extraction Licenses for Coal within the City of Busselton Item is presented for Council consideration at Item 10.3 of this agenda.

CARRIED 9/0

9.4 Minutes of the Airport Advisory Committee Meeting held 26 February 2016**Council Decision****C1603/039** Moved Councillor T Best, seconded Councillor P Carter

- 1) That the minutes of the Airport Advisory Committee Meeting held 26 February 2016 be received.
- 2) That the Council notes the outcomes of the Airport Advisory Committee Meeting held 26 February 2016 being:
 - a) The Busselton Regional Airport – Noise Management Plan Review Item is presented for Council consideration at Item 10.4 of this agenda.

CARRIED 9/0**Late Item**

At this time with the agreement of all Members the Mayor approved the introduction of a Late Item for consideration by Council.

9.5 Minutes of the Special Meeting of Electors held 1 March 2016**Council Decision****C1603/040** Moved Councillor C Tarbotton, seconded Councillor J McCallum

That the minutes of a Special Meeting of Electors held 1 March 2016 be received.

CARRIED 9/0

ITEMS BROUGHT FORWARD AND 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.

Council Decision / Committee Recommendation and Officer Recommendation

C1603/041 Moved Councillor J McCallum, seconded Councillor T Best

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

- 10.1 Airport Advisory Committee - 12/02/2016 - BUSSELTON MARGARET RIVER AIRPORT - AIRPORT UPDATE
- 10.2 Policy and Legislation Committee - 18/02/2016 - REVIEW OF PURCHASING POLICY
- 10.4 Airport Advisory Committee - 26/02/2016 - BUSSELTON REGIONAL AIRPORT - NOISE MANAGEMENT PLAN REVIEW
- 14.1 LOCKE ESTATE VACANT LEASEHOLD SITE (ASSESSMENT OF EXPRESSIONS OF INTEREST AND PROPOSED LEASE AGREEMENT)
- 15.1 COUNCILLORS' INFORMATION BULLETIN

CARRIED 9/0

EN BLOC

10. REPORTS OF COMMITTEE

10.1 Airport Advisory Committee - 12/02/2016 - BUSSELTON MARGARET RIVER AIRPORT - AIRPORT UPDATE

SUBJECT INDEX: Commercial Services
STRATEGIC OBJECTIVE: Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT: Commercial Services
ACTIVITY UNIT: Commercial Services
REPORTING OFFICER: Manager, Commercial Services - Jennifer May
AUTHORISING OFFICER: Director, Community and Commercial Services - Naomi Searle
VOTING REQUIREMENT: Simple Majority
ATTACHMENTS: Nil

This item was considered by the Airport Advisory Committee at its meeting on 12 February 2016, the recommendations from which have been included in this report.

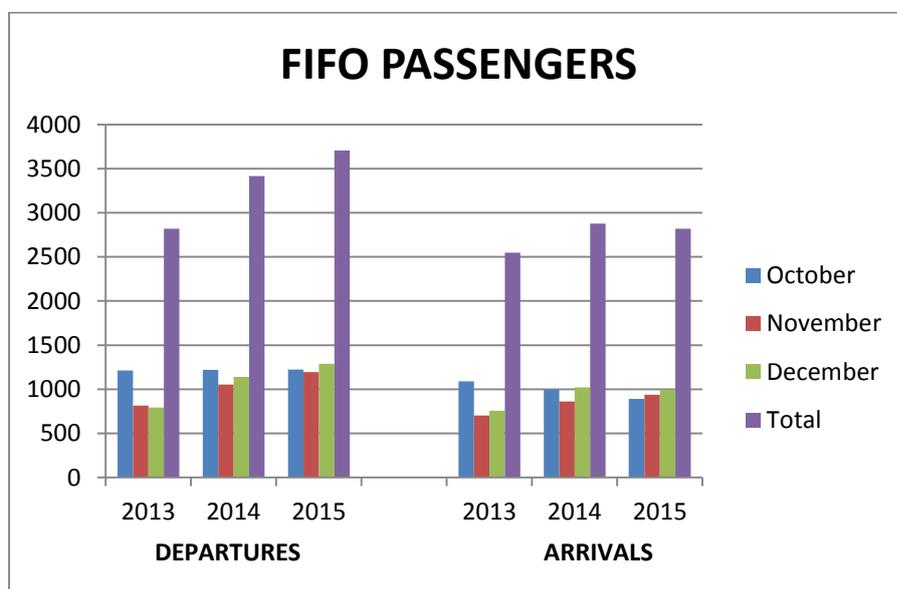
PRÉCIS

This report provides an overview on the Busselton-Margaret River Airport (BMRA) operations and activities for the reporting period 1 October to 31 December 2015.

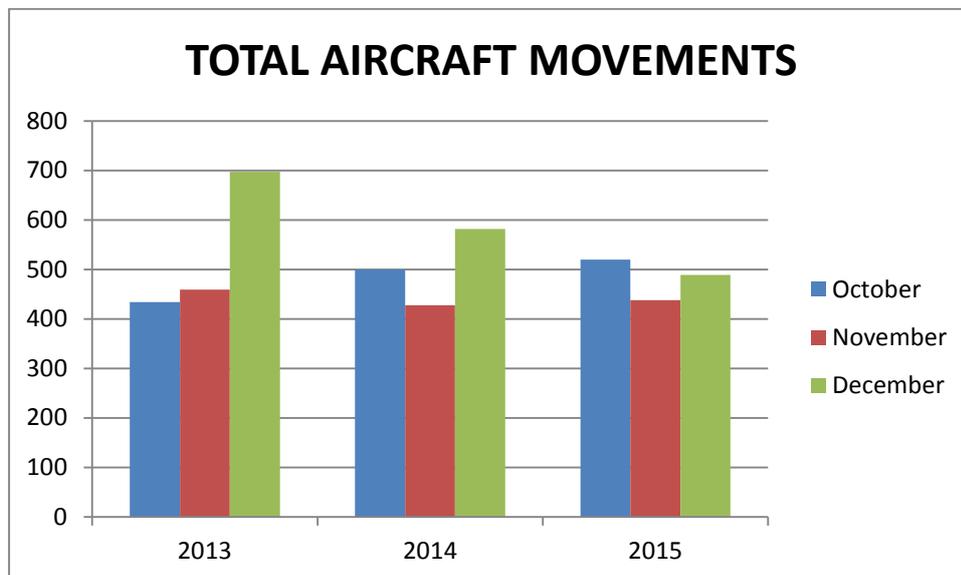
BACKGROUND

FIFO Charter passenger numbers have seen an overall (arriving and departing) increase through the BMRA in the last financial quarter which is consistent with the year to date trend. Below is a table indicating the number of FIFO Charter passengers arriving and departing through the airport for the reporting period 1 October 2015 to 31 December 2015 in comparison to previous years.

	Departing FIFO Passengers			Arriving FIFO Passengers		
	2013	2014	2015	2013	2014	2015
October	1213	1220	1222	1091	994	890
November	815	1054	1195	701	862	936
December	792	1141	1290	756	1021	994
Total	2820	3415	3707	2548	2877	2820



The total number of departing FIFO services is currently at 10 flights per week, a reduction of four (4) flights due to the withdrawal of the Ad Astral/ Marooomba flights to Karara mine site from 18 November 2015.



Total aircraft movements have seen a slight decrease for the months of October through December over the last three (3) years as depicted in the table above. This reduction is due to the withdrawal of the RPT services in December 2014 and Marooomba flights in December 2015.

Below is a table of Emergency Services usage of BMRA for the same period over the last two (2) years.

Emergency Service	October-December 2014	October-December 2015
Aero rescue	2	4
RFDS	70	76
SLSWA	109	84
Polair	6	8
Helitac	21	11
Fixed wing water bombers	0	2

Busselton Aero Club Aerofest 2016

Airport Officers are in consultation with the Busselton Aeroclub in preparation for the 2016 Aerofest to be held at the airport on Sunday 6 March 2016. This event will provide the community the chance to get up close to recreational, general aviation, military and emergency services aircraft and pilots and is expected to attract up to four thousand (4000) visitors. Additionally there will be water bombing displays, helicopter joy rides and numerous aviation and non-aviation stalls. The City is supporting this event by waiving the landing fees and has allocated \$5k in event sponsorship, funded through the commercial and industrial differential rate.

Noise Management Plan (NMP) Compliance reporting

Since the start of the reporting period of 23 June 2015, five (5) of the allowable twelve (12) CEO approved non-conforming activities have been authorised to date and six (6) instances of non-conforming activities have been reported to OEPA where aircraft operators have performed unauthorised operations in accordance with the NMP.

Busselton Airport Desktop Emergency Exercise

City of Busselton Officers conducted a Desktop Emergency Exercise as per CASA; MOS 139, Section 10.8.4.3 on the 1 December 2015 which included all local emergency services to test and review the emergency procedures for the BMRA Aerodrome Emergency Plan. The desktop was considered a successful and valuable exercise with a number of key actions recorded to improve the emergency response and procedures for the aerodrome.

AV8 Charity Event

The City has received a request from AV8 Charity Flight, the event organiser for the AV8 Charity Flight to raise funds for Variety WA, to waive the landing fees and passenger facilitation fees for an event to be held on 30th April 2016. The event comprises of two F100 aircraft, with expected passenger numbers of 200 who fly down to Busselton and spend the day in the region. The fundraising proceeds go to the Variety Club of WA and specifically with this event funds going to the community such as schools and grants to individuals who have applied.

The total in waived fees, including landing fees and passenger fees, is expected to be \$5,600 (excl GST) not including staff time (approx. \$250) and as such requires Council endorsement. The City supported this event last year through the waiving of landing and passenger facilitation charges. Other sponsors for this event include Virgin Australia Regional Airlines (VARA) and Margaret River Busselton Tourism Association (MRBTA).

STATUTORY ENVIRONMENT

The BMRA operates in accordance with the following: The Aviation Transport Security Act 2004, Aviation Transport Security Regulations 2005, CASA MOS 139, Council's Transport Security Plan and City policies and procedures.

RELEVANT PLANS AND POLICIES

There are no policy implications with this report.

FINANCIAL IMPLICATIONS

At 31 December 2015 the BMRA recorded a surplus of \$115,770 (excluding depreciation of \$108,740). The half yearly revenue and expenditure figures are reported below:

Year	Revenue	Operating Cost (incl Depreciation)	Net Position (incl Depreciation)	Depreciation	Net Position (excl Depreciation)
Mid 2015/16	\$481,119	-\$474,089	\$7,030	-\$108,740	\$115,770

The City has received a total of \$227,037 in landing fees for the period July 2015 – December 2015 and the year to date actual revenue received is slightly down compared to the year to date budget allocation due to \$49,814 outstanding in landing fees, of which \$36,000 can be attributed to Virgin Australia Regional Airlines (VARA). Since 31 December 2015, the City has received \$42,880 in landing fees taking the total landing fees revenue to date to \$269,916.

A total of \$94,478 has been received for the period in passenger facilitation fees, with approximately \$52,960 outstanding. While the loss of the RPT F50 services had resulted in a loss of revenue, there has been an increase in departing FIFO passenger numbers resulting in slightly increased passenger

fees revenue. Since 31 December 2015, the City has received \$48,145 in passenger facilitation fees taking the total passenger fees to \$142,623.

Car parking fees received to the end of December 2015 total \$131,880, this is down compared to the year to date budget of \$151,458 resulting from a decrease in car parking usage due to passengers carpooling and lost revenue from incorrect usage of the car park ticketing system.

The total expenditure budget allocated for the 2015/2016 financial year is \$948,540 (including depreciation) with actual expenditure to 31 December 2015 being \$474,089 (including depreciation). This is lower than the year to date budget projection of \$518,860 due to non-critical operational works being delayed.

Long-term Financial Plan Implications

There are no financial implications as a result of this report.

STRATEGIC COMMUNITY OBJECTIVES

The BMRA is consistent with following the City of Busselton's strategic Objectives:

Well Planned, Vibrant and Active Places:

- Infrastructure Assets that are well maintained and responsibly managed to provide for future generations;
- Connected City of Busselton Transport options that provide greater links within our district and increase capacity for community participation.

RISK ASSESSMENT

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework. The assessment sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls, has been identified as medium or greater. No such risks were identified.

CONSULTATION

Consultation with Department of Transport, South West Development Commission, Aviation Projects, Government agencies, Airport stakeholders, Office of Transport Security (OTS), Civil Aviation Safety Authority (CASA), Virgin Australia Regional Airline, the Busselton Aero Club, Emergency Service Agencies, Albany, Esperance, Geraldton Airports and Australian Airports Association has been occurring on a regular basis concerning many topics and issues relating to the Airport.

OFFICER COMMENT

Airport staff and the Stakeholder Engagement and Communication Officer (Airport Development Project Management Team) are continuing to work with the City's IT department in the development of an Airport website which is expected to be ready for release in late February 2016.

Other maintenance and projects include:

- Airport officers are working with the City Business System Team to development of a Crane/ Airspace Assessment system to provide City Officers a better understanding of airspace penetration and Obstacle Limitations Surface restrictions in regard to crane and building

applications which will be required for the development of the Airport and future industrial and residential developments.

- An extensive Mowing/slashing program of the Airport precinct has been completed to minimise the fire risk during the fire season.
- Commencement of the Airside weed spraying program.
- Development of a dedicated helicopter parking area in the vicinity of the hanger precinct.

CONCLUSION

The last three (3) months have been a busy period in airport operations with a number of operational and infrastructure improvements taking place including, mowing /slashing prior to the fire season, removal of all airside farm fences to improve access and aircraft safety and the completion of the staff room.

OPTIONS

The Airport Advisory Committee chooses not to accept the Officers report.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not Applicable.

Council Decision / Committee Recommendation and Officer Recommendation

C1603/042

Moved Councillor J McCallum, seconded Councillor T Best

That the Council:

1. Receives and notes the Airport operations report.
2. Endorses the waiving of landing and passenger facilitation fees for the AV8 Charity Flight to be held on 30th April 2016 to raise funds for Variety Club of WA for 2 F100 aircraft and estimated 200 passengers to the total value of \$5,600 (excl GST).

CARRIED 9/0

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10.2 Policy and Legislation Committee - 18/02/2016 - REVIEW OF PURCHASING POLICY

SUBJECT INDEX:	Purchasing
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Manager, Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Matthew Smith
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Existing Purchasing Policy Attachment B WALGA Model Purchasing Policy

This item was considered by the Policy and Legislation Committee at its meeting on 18 February 2016, the recommendations from which have been included in this report.

PRÉCIS

The City of Busselton's Purchasing Policy has been reviewed due to changes to the *Local Government (Functions and General) Regulations 1996*. This report recommends adoption of a revised policy which will ensure compliance with the amended statutory framework.

BACKGROUND

The City of Busselton's Purchasing Policy ("Purchasing Policy") provides the framework for purchasing decisions made by the City of Busselton and defines the procedures that must be followed for purchasing in accordance with the value of transactions. The Purchasing Policy was initially implemented in March 2007 and has subsequently been subject to updates in July 2012 and May 2014. The 2012 and 2014 reviews, undertaken in accordance with the City's ongoing policy review process, resulted in minor variations aimed at improving practices and procedures.

The statutory framework for procurement of goods and services by local governments is established under Part 4 of the *Local Government (Functions and General) Regulations 1996* ("the Regulations"). With the aim of improving the purchase and tendering practices of local governments, the Regulations were amended with effect 1 October 2015. In addition to increasing the tender threshold, the amendments provide for local governments to appoint a panel of pre-qualified suppliers, and make other minor changes (which are discussed in more detail under the Officer Comment section of this report).

These changes prompted a review of the Purchasing Policy to ensure compliance with the Regulations. The recently revised Western Australian Local Government Association ("WALGA") Model Purchasing Policy (Attachment A) has also been utilised extensively as part of this review.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* (the Act) it is the role of the Council to determine the City's policies. In terms of Regulation 11A(1) of the Regulations a local government is to implement a purchasing policy in relation to contracts for supply of goods or services where the consideration under the contract is, or is expected to be, \$150, 000 or less. Such a policy must, among other things, make provision in respect of —

- the form of quotations acceptable;
- the minimum number of oral quotations and written quotations that must be obtained; and
- the recording and retention of purchasing records.

It is also now a requirement of the Regulations that a local government adopts and implements a policy for panels of pre-qualified suppliers in accordance with Regulation 24AC(1)(a) of the Regulations.

RELEVANT PLANS AND POLICIES

The current WALGA Model Purchasing Policy has been considered for the purposes of reviewing and updating the Purchasing Policy.

FINANCIAL IMPLICATIONS

Adoption of the proposed updated Purchasing Policy will not have any direct financial implications. Establishing, maintaining and managing panels of pre-qualified suppliers in accordance with the new regulatory requirements imposed by the amended Regulations could require a higher level of staff involvement and internal resources in order to meet all the statutory requirements required for operating a panel. The use of such panels is however at the City's discretion.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The proposed changes to the Purchasing Policy align with Strategic Community Objective 6.2 which requires for the City's governance systems to deliver responsible, ethical and accountable decision making.

RISK ASSESSMENT

The proposed changes to the Purchasing Policy are designed to ensure compliance with the relevant statutory framework and are therefore designed to mitigate compliance risks.

CONSULTATION

City officers consulted with and sought guidance from WALGA with regards to the changes to the Purchasing Policy.

OFFICER COMMENT

Many of the proposed changes to the Purchasing Policy are required as a consequence of amendments to the Regulations which came into effect on 1 October 2015.

Changes to tender and purchasing thresholds

The tender threshold has been increased from \$100,000 to \$150,000. If the contract for goods or services is expected to be more than \$150,000 a public tender process is required. The Purchasing Policy currently provides for the following thresholds for purchases up to \$100,000:

3.6 Purchasing Thresholds

Where the value of procurement for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-

	<i>Amount of Purchase</i>	<i>Model Policy</i>
3.6.1	<i>Up to \$1,000</i>	<i>Direct purchase from suppliers requiring only one verbal quotation</i>
3.6.2	<i>\$1,001 - \$4,999</i>	<i>Obtain at least two verbal or written quotations</i>
3.6.3	<i>\$5,000 - \$19,999</i>	<i>Obtain at least two written quotations</i>
3.6.4	<i>\$20,000 - \$39,999</i>	<i>Obtain at least three written quotations</i>
3.6.5	<i>\$40,000 - \$99,999</i>	<i>Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations)</i>
3.6.6	<i>\$100,000 and above</i>	<i>Conduct a public tender process</i>

Considering the increase in the tender threshold to \$150,000, the following changes to the purchasing thresholds for the purchase of goods and services under this threshold are proposed:

	<i>Amount of Purchase</i>	<i>Requirements</i>
6.3.1	<i>Up to \$5000</i>	<i>Purchase directly from a suitable supplier after obtaining at least one (1) oral or written quotation</i>
6.3.2	<i>\$5,001 - \$14,999</i>	<i>Obtain at least two (2) written quotations from suitable suppliers following a brief outlining of the specified requirement</i>
6.3.3	<i>\$15,000 - \$49,999</i>	<i>Obtain at least three (3) written quotations from suppliers following a brief outlining of the specified requirement</i>
6.3.4	<i>\$50,000 - \$149,999</i>	<i>Obtain at least three (3) written quotations from suppliers by way of a formal request for quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the guidelines stated within the Policy.</i>
6.3.5	<i>Over \$150,000</i>	<i>Conduct a public tender process in accordance with the statutory requirements under the Local Government Act 1995 and Local Government (Functions and General) Regulations 1996</i>

Since the current purchasing thresholds were determined, the City's annual budget and the scope of the City's operations have significantly increased. The proposed adjustments to the purchasing thresholds are generally consistent with the WALGA Model Purchasing Policy, noting the City has an additional level, and are considered necessary to enable City staff to efficiently implement the City's annual budget and deliver on the City's day-to-day operations and major projects.

Panels of pre-qualified suppliers

The Regulation amendments introduce the ability for local governments to create a panel of pre-qualified suppliers and to a large extent formalise current practices for establishing 'tender panels'. In terms of these provisions local governments have to invite prospective suppliers to apply by giving State-wide public notice, make available a range of detailed information about the proposed panel and outline in a written policy how the panel will operate. The policy and/or the detailed information required to be available under each invitation to join a panel must outline how the panel will operate; how each supplier will be invited to quote; how consistent communication with the panel will be achieved and how quotes and purchases from suppliers will be retained and recorded. These changes have been incorporated into the proposed Purchasing Policy in part 9 of the Policy.

Other changes

A range of minor changes to the Purchasing Policy are proposed. Some of these changes are made as a result of the amendments to the Regulations while other changes are intended to improve day-to-day operations and efficiencies. These changes include:

- a reference to the anti-avoidance requirements under Regulation 11 of the Regulations in the Purchasing Policy in section 6.11.
- changes in section 7.7 reflecting the changes to Regulation 16 of the Regulations which has been amended to require that when tenders are opened there must be at least two employees of the local government present, or one local government employee and at least one person authorised by the Chief Executive Officer.
- Pursuant to Part 4 of the Regulations, the City is not required to publicly invite tenders if the goods or services are to be procured from:
 - An Australian Disability Enterprise; or
 - A person registered on the Aboriginal Business Directory published by the Small Business Development Corporation, provided the expected value of the goods or services to be purchased is \$250,000 or less.

These exemptions, which both are contingent on the demonstration of value for money, have been incorporated under parts 10 and 11 of the proposed Purchasing Policy.

The opportunity has already been taken to “tidy up” the policy by removing some provisions which do nothing more than replicate requirements of the Regulations, sometimes in a manner which does not fully reflect the complexity of the Regulations. The sections relating to “Tender Closing Date” and “No Tenders Received” are examples of this.

CONCLUSION

The proposed changes to the Purchasing Policy ensure compliance with recent amendments to the Regulations and provide a best practice approach to purchasing for the City of Busselton.

OPTIONS

The Council may consider a range of possible changes to the policy, other than where it reflects statutory requirements. In particular, Council could alter the purchasing requirements and thresholds for purchases of a value less than \$150,000.00.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The revised policy would be effective immediately upon adoption by the Council.

Council Decision / Committee Recommendation and Officer Recommendation

C1603/043 Moved Councillor J McCallum, seconded Councillor T Best

That the Council adopts the Purchasing Policy:

239	City of Busselton Purchasing Policy	
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1 PURPOSE

This policy provides a best practice approach to purchasing for the City of Busselton (the “City”). It also ensures compliance with the *Local Government Act 1995* (“the Act”) and the *Local Government (Functions and General) Regulations 1996* (“the Regulations”).

2 SCOPE

This policy provides the framework for all purchasing decisions made by employees of the City and defines the procedures that must be followed for purchasing in accordance with the value of the transaction.

3 POLICY CONTENT

3.1 Objectives

The objectives of the Purchasing Policy are to ensure that all purchasing activities:

- * demonstrate that best value for money is attained for the City;
- * are compliant with relevant legislations, including the Act and the Regulations;
- * are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the City;
- * mitigate probity risk, by establishing consistent and demonstrated processes that promotes openness, transparency, fairness and equity to all potential suppliers;
- * ensure that the sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment;
- * are conducted in a consistent and efficient manner across the City and that ethical decision making is demonstrated; and
- * to establish a written policy as required under Regulation 11A and to address the particular requirements of Regulation 24AC(1)(a) of the Regulations for the purposes of establishing panels of pre-qualified suppliers.

4 ETHICS & INTEGRITY

All employees of the City shall observe the highest standards of ethics and integrity in undertaking purchasing activity and act in an honest and professional manner that supports the standing of the City of Busselton.

4.1 Purchasing principles

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- * full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- * all purchasing practices shall comply with relevant legislation, regulations, and requirements under the City policies, practices and procedures, and Code of Conduct;
- * purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently;
- * all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, practices and procedures, and audit

- requirements; and
- * any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed;

5 VALUE FOR MONEY

Value for money is determined when the consideration of price, risk and qualitative factors are assessed to determine the most advantageous outcome to be achieved for the City.

As such, purchasing decisions must be made with greater consideration than obtaining lowest price, but also to incorporate qualitative and risk factors into the decision.

An assessment of the best value for money outcome for any purchasing should consider:

- * all relevant whole-of-life costs and benefits; whole of life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;
- * the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;
- * financial viability and capacity to supply without risk of default. (Competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);
- * a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable;
- * the safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers;
- * purchasing of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility; and
- * providing opportunities for businesses within the City's boundaries to quote for providing goods and services wherever possible.

6 PURCHASING REQUIREMENTS

The requirements that must be complied with by the City, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy and associated purchasing procedures in effect at the City.

Purchasing that is \$150,000 or below in total value must be in accordance with the relevant thresholds detailed at section 6.3.

Purchasing that exceeds \$150,000 in total value must be put to public tender in accordance with the statutory requirements under the Regulations (unless a regulatory tender exemption is deemed suitable).

6.1 Purchasing Value Definition

Determining purchasing value is to be based on the following considerations:

- Exclusive of Goods and Services Tax (GST);
- The actual or expected value of a contract over the full contract period, including all options to extend; or the extent to which it could be reasonably expected that the City of Busselton will continue to purchase a particular category of goods, services or works and what the total purchased value is or could be reasonably expected to be. Best practice is if a purchasing threshold is reached within three years for a particular category of goods, services or works, then the purchasing requirement under the relevant threshold (including the tender

threshold) must apply; and

- Any variation to the scope of the purchase is limited to a 10% tolerance of the original purchasing value.

6.2 Purchasing from Existing Contracts

Where the City has an existing contract in place that relates to a particular good or service, it must endeavour to purchase required goods or services under that existing contract, to the extent that the scope of the contract allows. When planning the purchase, the City must consult its contract register in the first instance before seeking to obtain quotes or tenders.

6.3 Purchasing Thresholds

Where the value of procurement for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-

	Amount of Purchase	Requirements
6.3.1	Up to \$5000	Purchase directly from a suitable supplier after obtaining at least one (1) oral or written quotation from that supplier either from: <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.2	\$5,001 - \$14,999	Obtain at least two (2) written quotations from suitable suppliers following a brief outlining of the specified requirement. Quotations within this threshold may be obtained from: <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.3	\$15,000 - \$49,999	Obtain at least three (3) written quotations from suppliers following a brief outlining of the specified requirement. Quotations within this threshold may be obtained from: <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.4	\$50,000 - \$149,999	Obtain at least three (3) written quotations from suppliers by way of a formal request for quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the definition stated within this

		<p>Policy.</p> <p>The selection should not be based on price alone. Consideration should be given to qualitative factors such as quality, availability, accreditation requirements, time for completion or delivery, warranty conditions, technology, maintenance requirements, an organisation's capability, previous relevant experience and any other relevant factors. The quotations are to be evaluated by a panel with a minimum of two members with a mix of skills and experience relevant to the nature of the purchase.</p> <p>Quotations within this threshold may be obtained from:</p> <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.5	Over \$150,000	Conduct a public tender process in accordance with the statutory requirements under the Act and the Regulations.

6.4 \$ 150,000 and above

For the procurement of goods or services where the value exceeds \$150,000, it is a requirement to follow a public tender process in accordance with the statutory requirements under the Regulations (see also part 7 of this Policy).

6.5 Inviting tenders under the Tender Threshold

Where considered appropriate and beneficial, procurement of goods and services with a value of less than the tender threshold of \$150,000, may, in lieu of obtaining quotations, be done by way of a tender process in accordance with the statutory requirements under the Regulations. This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements.

6.6 Verbal Quotations

The general principles for obtaining verbal quotations are:

- * ensure that the requirement/specification is clearly understood by the employee seeking the verbal quotations;
- * ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote;
- * read back or confirm in writing the details to the supplier's contact person to confirm their accuracy; and
- * ensure the terms and conditions of the purchase are clear to both parties and that they are fair and reasonable and do not pose any unacceptable risk to the City.

6.7 Written Quotations

The general principles relating to written quotations are:

- * an appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion;
- * they should include general terms and conditions of contract that are appropriate and adequate for the purchase and which do not pose any unacceptable risk to the City;
- * requests to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond;
- * any new information that is likely to change the requirements should be offered to all prospective suppliers at the same time.
- * responses should be assessed for compliance, then against the selection criteria, and then value for money and all evaluations documented; and
- * respondents should be advised in writing as soon as possible after the final determination is made and approved.

6.8 Due Diligence

The responsible City officer is expected to demonstrate due diligence in seeking quotations and may determine that the process outlined for a higher transaction value may be appropriate to a purchase, despite it being of a lower value. As best practice the number of quotations, the contract conditions and level of evaluation required should be determined by the type and nature of the purchase and the associated risk and not purely its value. The value dictates the minimum requirements for the purchase.

In addition, it is recommended to use professional discretion and occasionally undertake market testing with a greater number or more formal forms of quotation to ensure best value robust evaluation are maintained.

6.9 Sole source of supply (monopoly suppliers)

Where the purchasing requirement is over the value of \$5,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the City is satisfied and can evidence that there is only one source of supply for those goods, services or works. The City must use its best endeavours to determine if the sole source of supply is genuine by exploring if there are any alternative sources of supply. If the view is formed that there is no alternative source of supply, a written justification to this effect must be endorsed by the Chief Executive Officer, prior to a contract being entered into.

From time to time, the City may publicly invite an expression of interest to effectively determine that one sole source of supply still genuinely exists.

6.10 Waiver of requirements

The Chief Executive Officer may, at his/her discretion, waive the requirements to obtain the number or nature of quotations set out in section 6.3. The responsible City officer must request such a waiver in writing, providing sufficient justification therefore, by way of a '*Waiver to the Purchasing Policy*' form or equivalent.

6.11 Anti-Avoidance

The City shall not enter into two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of \$150,000, thereby avoiding the need to follow the tender process under the Regulations.

6.12 Recordkeeping

The responsible City officer must ensure that all aspects of any procurement or purchase are properly documented and registered in the City's record keeping systems in accordance with all statutory requirements and relevant City practices and procedures.

7 REGULATORY COMPLIANCE - TENDERS

This part includes detail on the requirements of the Act and the Regulations for the public tender process. As these may change from time to time, it is the responsibility of the employee to inform themselves of the requirements of the relevant statutory requirements when conducting a tender process and not rely on this policy alone.

7.1 Tender exemption

An exemption to publicly invite tenders may apply in the following instances:

- * the purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement;
- * the purchase is from a Regional Local Government or another Local Government;
- * the purchase is acquired from a person registered on the WA Aboriginal Business Directory, as published by the Small Business Development Corporation, where the consideration under contract is worth \$250,000 or less and represents value for money;
- * the purchase is acquired from an Australian Disability Enterprise and represents value for money;
- * the purchase is from a pre-qualified supplier under a Panel established by the City; or
- * any of the other exclusions under Regulation 11 of the Regulations apply.

7.2 Tender Criteria

The City shall, before tenders are publicly invited, determine in writing the criteria by which tenders will be evaluated.

7.3 Advertising Tenders

Requests for tenders must be advertised in a state wide publication and, in addition, may also be advertised locally. The tender must remain open for a minimum of at least 14 days after the date the tender is advertised.

The notice must include;

- * a brief description of the goods or services required;
- * information as to where and how tenders may be submitted;
- * the date and time after which tenders cannot be submitted;
- * particulars identifying a person from who more detailed information as to tendering may be obtained. Detailed information shall include;
 - such information as the local government decides should be disclosed to those interested in submitting a tender;
 - detailed specifications of the goods or services required;
 - the criteria for deciding which tender should be accepted;
 - whether or not the local government has decided to submit a tender; and
 - whether or not tenders can be submitted by facsimile or other electronic means, and if so, how tenders may be submitted.

7.4 Issuing Tender Documentation

Approved tenders will be allocated a tender number, which shall be recorded in the City of

Busselton's Tender Register.

A written record will be kept of the details of all persons who request and are supplied with tender documentation.

7.5 Addendum to Tender

Clarifications, variations or adjustments to the tender documentation and/or the conditions of tender may be made by way of addendum after the tender has been publicly advertised but prior to the tender closing date. An addendum is to be given to all prospective tenderers who requested and have been supplied with tender documentation by the City and the responsible City officer must use his/her best endeavours to ensure that all addendums are acknowledged by the receiving persons.

7.6 Opening of Tenders

A lockable tender box is to be kept by the City and all tenders received by the City are to be placed in the tender box. No tenders are to be removed from the tender box, or opened, read or evaluated prior to the tender closing date.

Tenders are to be opened in the presence of at least two persons which can be either:

- (1) Two employees of the City; or
- (2) One employee of the City and another person authorised by the Chief Executive Officer for that purpose.

The details of all tenders received and opened shall be recorded in the Tender Register.

Tenders are to be opened in accordance with the advertised time and place. There is no obligation to disclose or record tendered prices at the tender opening, and price information should be regarded as commercial-in-confidence to the Local Government. Members of the public are entitled to be present.

7.7 Tender Evaluation

Tenders that have not been rejected shall be assessed by means of a written evaluation against the pre-determined criteria. The tender evaluation panel shall assess each tender that has not been rejected to determine which tender represents best value for money.

The evaluation panel must contain a minimum of three members and shall be established prior to the advertising of a tender. Panel members shall have a mix of skills and experience relevant to the nature of the purchase.

7.8 Notification of Outcome

Each tenderer is to be given notice in writing containing particulars of the successful tender or advising that no tender was accepted.

7.9 Tender Register

The City must maintain a tender register which is to include:

- (a) a brief description of the goods and services required;
- (b) particulars of —
 - (i) any notice by which expressions of interests from prospective tenderers was sought;

- and
- (ii) any person who submitted an expression of interest; and
 - (iii) any list of acceptable tenderers that was prepared under Regulation 23(4); and
- (c) a copy of the notice of the invitation to tender; and
 - (d) the name of each tenderer whose tender has been opened; and
 - (e) the name of any successful tenderer.

7.10 Minor Variation prior to awarding a contract

Prior to awarding a contract from a tender, the City may negotiate and agree on minor variations with the preferred tenderer. Any amendments must be incorporated into the contract with the chosen tenderer for the supply of the varied requirement. Any major variation will require a new and separate tender. A minor variation may not materially alter the specification or structure provided for by the initial tender.

8 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION PREFERRED SUPPLIERS PROGRAM

The Western Australian Local Government Association (WALGA) has a number of pre-qualified suppliers called WALGA preferred suppliers. Using WALGA preferred suppliers may be considered appropriate for particular procurement. This method of sourcing goods and services can simplify the process otherwise required for a request for quotation or request for tender, however, in all other respects purchasing via WALGA's preferred supplier panels must comply with this policy.

The City can make purchases from suppliers on a WALGA preferred supplier panel:

- * for purchases up to \$150,000; and
- * for purchases over \$150,000 in reliance on the exemption to the requirement for a public tender,

provided that:

- * the purchasing thresholds in section 6.3 are observed in relation to numbers of and types of quotation sought;
- * this purchasing policy is otherwise followed, in particular the principles of ethics, integrity and best value for money in section 4 and 5.

Note: WALGA terms and conditions are available for use in connection with requests for quotation via eQuotes, however consideration must be given to whether such terms and conditions are appropriate for the proposed purchase. If alternative terms and conditions are used then they must meet the requirements of this Policy.

9 PANELS OF PRE-QUALIFIED SUPPLIERS ("PANEL")

9.1 Background

In accordance with Regulation 24AC of the Regulations, the City may establish a Panel of Pre-qualified Suppliers ("Panel") where there is an ongoing need for particular goods or services. Using these Panels simplifies the process that would otherwise be required as part of a request for quotation. A Panel may be created where most of the following factors apply:

- the City determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;
- there are numerous potential suppliers in the local and regional procurement-related

- market sector(s) that satisfy the test of 'value for money';
- the purchasing activity under the intended Panel is assessed as being of low to medium risk;
- the Panel will streamline and will improve procurement processes;
- the City has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The City will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

9.2 Establishing a Panel

Should the City determine that a Panel is beneficial to be created, it must do so in accordance with Regulation 24AC of the Regulations.

Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Subject to 9.3(b), panels may be established for a minimum of 2 years and for a maximum length of time deemed appropriate by the City.

Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.

Where a Panel is to be established, the City will endeavour to appoint at least three (3) suppliers to each category, on the basis that best value for money is demonstrated. Where less than three (3) suppliers are appointed to each category within the Panel, the Panel category is not to be established.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the City must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

9.3 Distributing Work Amongst Panel Members

To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the City intends to:

- i. Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with section 9.3(a); or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- iii. Develop a ranking system for selection to the Panel, with work awarded in accordance with section 9.3 (b).

In considering the distribution of work among Panel members, the detailed information must also prescribe whether:

- a) each Panel member will have the opportunity to bid for each item of work under

the Panel, with pre-determined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items of work. Contracts under the Panel will be awarded on the basis of value for money in every instance; or

- b) work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD(5)(f) of the Regulations when establishing the Panel. The City is to invite the highest ranked Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined, an invitation to the next ranked Panel member is to be made and so forth until a contract is awarded to a Panel member for the work to be undertaken. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the City may then invite suppliers that are not pre-qualified under the Panel, in accordance with the purchasing thresholds stated in section 6.3 of this policy. When a ranking system is established, the Panel must not operate for a period exceeding 12 months.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which includes options to extend the contract.

9.4 Recordkeeping

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept in the City's records system in accordance with all statutory requirements and relevant practices and procedures.

10 PURCHASING FROM DISABILITY ENTERPRISES

Pursuant to Part 4 of the Regulations, the City is not required to publicly invite tenders if the goods or services are to be procured from an Australian Disability Enterprise, as registered on www.ade.org.au. This is contingent on the demonstration of value for money.

Australian Disability Enterprises may be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises.

A complete list of approved Disability Enterprises registered in Western Australia is available at www.wade.org.au.

11 PURCHASING FROM ABORIGINAL BUSINESSES

Pursuant to Part 4 of the Regulations the City is not required to publicly invite tenders if the goods or services are to be supplied from a person registered on the Aboriginal Business Directory published by the Small Business Development Corporation, provided the expected value of the goods or services to be purchased is \$250,000 or less. This is contingent on the demonstration of value for money.

Aboriginal businesses may be invited to quote for supplying goods and services under abovementioned threshold. A qualitative weighting may be afforded in the evaluation of quotes to provide advantages to Aboriginal owned businesses, or businesses that demonstrate a high level of aboriginal employment.

A complete list of persons registered on the Aboriginal Business Directory is available at

www.abdwa.com.au.

12 SUSTAINABLE PROCUREMENT AND CORPORATE SOCIAL RESPONSIBILITY

The City is committed to providing a preference to suppliers that demonstrate sustainable business practices and high levels of corporate social responsibility (CSR). Where appropriate, the City shall endeavour to provide an advantage to suppliers demonstrating that they minimise environmental and negative social impacts and embrace CSR. Sustainable and CSR considerations must be balanced against value for money outcomes in accordance with the City's sustainability objectives.

13 OPERATIONAL PRACTICES

Operational Practices, including standard documentation and more detailed information regarding procedures, may be prepared and endorsed by the Chief Executive Officer or their delegate for any action or process referred to in this City of Busselton Purchasing Policy. Any such Operational Practices shall comply with terms of the Act, the Regulations and this Policy.

Policy Background

Policy Reference No. – 239

Owner Unit – Corporate Services

Originator – Contracts and Tendering Officer

Policy approved by – Council

Date Approved –

Review Frequency – As required

Related Documents –

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

History

Council Resolution	Date	Information
	February 2016	Update policy in accordance with Amendments effective 01 October 2015 Version 4
C1405/123	14 May 2014	Update to Sustainable Procurement and purchases under the WALGA exemption Version 3
C1207/196	25 July, 2012	Update to policy format, City terminology and minor editing Version 2
C0703/069	28 March, 2007	Date of implementation of purchasing policy which replaces former Council policy 188/1 Tender Procedures. Version 1

CARRIED 9/0

EN BLOC

10.4 Airport Advisory Committee - 26/02/2016 - BUSSELTON REGIONAL AIRPORT - NOISE MANAGEMENT PLAN REVIEW

SUBJECT INDEX:	Busselton Margaret River Regional Airport
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Commercial Services
ACTIVITY UNIT:	Commercial Services
REPORTING OFFICER:	Manager, Commercial Services - Jennifer May
AUTHORISING OFFICER:	Director, Community and Commercial Services - Naomi Searle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Noise Management Plan - 2016 - DRAFT

This item was considered by the Airport Advisory Committee at its meeting on 26 February 2016, the recommendations from which have been included in this report.

PRÉCIS

This report presents the updated Busselton-Margaret River Regional Airport Noise Management Plan (2016) (NMP) following a review of the plan initiated by the State Government's decision to fund the upgrade of the Airport. The revised NMP will be advertised for public comment and be submitted to the Office of the Environmental Protection Authority as part of the environmental approval process for the Airport Development Project.

BACKGROUND

The concept of a Noise Management Plan (NMP) for the Busselton Regional Airport (BRA) was first initiated in 2009 when environmental consulting firm Strategen was engaged to prepare a NMP. This was in response to the first Fly in Fly out (FIFO) services commencing at the BRA and the need to address the restrictive hours of operations and conditions specified in Ministerial Statement 399 approved by the Minister for the Environment (October 1995). The key elements of Statement 399, that the then Shire of Busselton was looking to revise and seek approval from the Office of the Environmental Protection Authority (OEPA) and Minister for the Environment were;

"4.2 To achieve the objectives of condition 4.1, at all times during the operation of the aerodrome, the proponent shall ensure that noise emissions from the aerodrome activities, including emissions from aircraft using the aerodrome, do not cause noise levels at any residential premises in occupation to exceed an average of 55 dB(A)Ldn or a maximum of 65 dB L a slow, unless a specific variation to the maximum noise level is agreed to by the Minister for the Environment on advice of the Department of Environment and Conservation and following consultation with relevant agencies.

4.3 Where a variation has been granted by the Minister for the environment, as referred to in condition 4.2, the variation may only apply for operation between 0700 hours and 2200 hours, and the proponent shall ensure that the maximum noise level does not exceed 80 dB La slow and that the number of flights is limited "

A variation, described in condition 4.3 had been granted by the Minister for the Environment to allow two (2) flights per day between the hours of 0700 and 2200 with aircraft noise to be limited to 80 dB(A) to enable the first Skywest Airlines Fokker100 FIFO operations to commence.

Environmental consulting firm Strategen was engaged to prepare a draft NMP that was presented to the then Airport Advisory Group (AAG). The AAG was a working group made up of community members, three Shire Councillors, and representatives from the Busselton and Dunsborough Chambers of Commerce, Geographe Bay Tourism Association and the Busselton Aero Club.

The draft NMP was further developed by the AAG and in July 2010 a draft plan was presented to the Council for review and consideration. Furthermore, at this time the AAG was transitioned to an official committee of the Council, the Airport Advisory Committee (AAC), with four nominated Councillors. In October 2010, the newly formed AAC, requested City staff to review and update the draft NMP (developed by the AAG) and present a final draft to the Council for endorsement prior to being submitted to the OEPA for consideration. A final draft version of the NMP was presented to the Council for endorsement on 15 December 2010 followed by submission to the OEPA on the 1 February 2011.

A lengthy consultation period occurred with the OEPA, including a public consultation period of four weeks, prior to a final NMP being submitted to the OEPA Board for consideration and referral to the Minister of the Environment; Water for approval. The City of Busselton's Noise Management Plan (June 2012) was approved as part of Ministerial Statement 901 on the 22 June 2012.

As part of the annual compliance reporting detailed in the Ministerial Statement for the Busselton-Margaret River Regional Airport (BMRRA), the City of Busselton has the opportunity to review and submit proposed amendments or updates to the NMP. In a report presented to the Council at its meeting on 28 August 2013, City Officers presented a number of proposed changes, some were considered minor or not technical in nature and hence did not change the intent of the existing NMP. However, some of the proposed changes to the Hours of Operations were considered material under Condition 4-2 of the then Statement 901 and were advertised for public comment. Following Council endorsement, City Officers submitted a proposed, amended NMP to the OEPA for review and approval in September 2013.

The OEPA assessment resulted in the proposed material amendments being resubmitted by the City of Busselton as a Section 46 application under the Environmental Protection Act (1986), which occurred in March 2014. Following further discussions with the OEPA and gaining agreement on the proposed amendments, the City of Busselton submitted a final revised version of the NMP in December 2014, which came into effect in July 2015.

In June 2015, the State Government committed to funding the upgrade of the BRA. After reviewing a rigorous Business Case submitted by the South West Development Commission in 2013, and considering the views of the Steering Committee appointed by the then Minister for Transport to oversee the development of the Business Case, the Government publically committed to allocating funding for the redevelopment of the BRA.

The Airport Development Project Team was established soon after the funding announcement and one of the priority approval processes identified for the project was the environmental approvals required from the Minister of the Environment; Heritage. The environmental approvals specifically involve the City of Busselton applying to the Office of Environmental Protection Authority (OEPA) to amend the proposal description that underlies the current Ministerial Statement 1009 and submit a revised NMP that will allow for the proposed interstate air services resulting from the Airport Development Project. Following consultation with the OEPA, an Assessment of Proponent Information-Category A (API-A) is considered the most appropriate assessment application to amend the existing Ministerial Statement and implement a revised NMP.

As identified in the preparation of the Business Case and by the project team, one of the key constraints of the current NMP to future operations and viability of the BMRRA is the current hours of operations, hence Officers are proposing such changes. Officers are also recommending that the relevant sections of the NMP relating to noise acceptability, criteria, reduction measures and amelioration be updated to be in line with the recently updated Australian Standards *AS2021: Acoustics—Aircraft noise intrusion, Building Siting and Construction (2015)*. The recommended amendments to the NMP (2015) can be summarised into the following key areas listed below;

Description	Chapter(s) of the NMP	Comments relating to proposed NMP (2016)
Grammatical updates	All	Includes amendments such as airport name change (BRA-BMRRRA), typographical errors, index page update, addition of terms to 'Definitions page' etc These changes do not change the intent of the NMP (2015).
Inclusion of Airport Development Project information	Background (p3) Objectives for Development (p5)	Information relating to the upgrade of the Airport has been added as context in describing the future operations, expansion of infrastructure and objectives including management of aircraft noise.
Standard Operating hours	3.1.3 Standard Hours of Operations (p13-15)	<ol style="list-style-type: none"> 1. Number of operating categories has been reduced from five to three (See Table 3) – Light and General Aviation categories have been combined into one; Open& closed Charter Flights and RPT services have been combined into one category. 2. In combining the Light Aviation and General Aviation categories the requirement for light aviation / Single Engine Aircraft under 2000kg MTOW not to exceed 65dB(A) has been removed. 3. All operating categories have unrestricted operating hours subject to aircraft noise not exceeding 85dB(A) and aircraft >5,700kgs MTOW requiring approval to operate.
Flight Training	3.1.5 Flight Training Guidelines (p19-22)	<ol style="list-style-type: none"> 1. Aircraft type has been amended to include "Single engine aircraft" under 1500kgs MTOW 2. Single engine aircraft noise emissions has been changed from 'to be less than 65dB(A)' to 'to be less than 85 dB(A)'. 3. Times for flight training operations amended to Mon-Fri 8am – last light; Saturdays, Sundays and Public Holidays 9am -5pm.
Non-Conforming Activities	3.3.2 Approval for Non-Conforming Activity (p25-26)	Based on the assumption that the proposed amendments to the Standard Hours of operations are accepted this section will be deleted.
Methods for determining Noise Impacts and reduction measures	6.2 Noise reduction, Amelioration and Measures (p32-33)	<ol style="list-style-type: none"> 1. Added information relating to the City's decision to adopt the AS2021;2015 Acoustics – Aircraft noise intrusion – Building siting and construction. 2. Added information on the preparation and use

		of ANECs and N-contours for the developed Airport.
Noise Acceptability Criterion	6.2.1 Noise Reduction Parameters (p33)	Inserted the acceptability definitions and noise levels detailed in AS2021;2015 Section 2.3 and Table E1.
Noise Amelioration	6.2.2 noise Amelioration as a Noise Reduction Technique (p34)	Inserted the building site acceptability criteria detailed in AS2021;2015 Table 2.1 and Table E1.
Implementation of NMP	9.3 Implementation Priorities (p45)	Deleted this section as originally included to detail the implementation actions of the NMP approved in 2012.

Table 1: Summary of proposed amendments to the NMP.

STATUTORY ENVIRONMENT

The Noise Management Plan (22 June 2012) was approved by the then Minister for the Environment; Water after review and consideration by the Environmental Protection Authority. Compliance reporting and review of the NMP is defined under Ministerial Statement 1009; Busselton Regional Aerodrome.

As part of the Airport Development Project, the City of Busselton is required to seek environmental approvals for the project in accordance with the Environmental Protection Act (1986) from the Minister for the Environment; Heritage through the assessment processes of the OEPA. Following recent consultation with the OEPA, an Assessment on Proponent Information Category A (API-A) is considered the most appropriate process for the City to submit an application which will include the revised NMP. The City will submit the API-A referral application in accordance with the Environmental Protection Authority's Environmental Assessment Guideline 14 (EAG14) and the Environmental Protection Act (1986).

The BMRRA operates in accordance with the following: Aviation Transport Security Act 2004, Aviation Transport Security Regulations 2005, CASA MOS 139, Council's Transport Security Plan and City policies and procedures.

RELEVANT PLANS AND POLICIES

This report is in-line with the City of Busselton's current Noise Management Plan and processes for monitoring and reporting of aircraft movements and proposed changes to update the NMP.

FINANCIAL IMPLICATIONS

The Commercial Services Business unit has an approved operational budget allocated to the maintenance and upkeep of the facility and aviation related services. None of the recommended changes to the NMP are expected to have an additional cost implication to the operational budget.

The Airport Development Project, funded by the State Government and overseen by the Project Governance Committee (PGC) has a budget allocated for the project approval processes, including the environmental approvals being sought.

One of the possible future actions resulting from the approval of the recommended changes to the NMP could be to perform noise monitoring at residential properties in the vicinity of the Airport. As such a budget allocation for noise amelioration has been included in the Airport Development Project and will be considered at the appropriate time.

Long-term Financial Plan Implications

An operational financial model was developed as part of the State Government Business Case proposal which incorporated a 10-year financial plan. The model considered revenues and costs associated with the upgraded facility, including up-front and recurrent capital and ongoing operational expenditure. The model demonstrates that the upgraded facility will be self-sustainable, generating a modest profit into the future, to be transferred into the City's Airport Infrastructure Renewal and Replacement Reserve at the end of each financial year. It should be noted however that the revenue projections were based on Regular Public Transport (RPT) aircraft being able operated beyond the current Standard Hours of Operations as governed through the NMP.

The Long Term Financial Plan (LTFP) is currently based on the current operations, and will require updating to reflect the Development Project, including ongoing operational and capital revenue and expenditure based on the funded project. This work has commenced.

STRATEGIC COMMUNITY OBJECTIVES

This report is consistent with the City of Busselton's Strategic Community Plan (2013) community goals and objectives;

Well Planned, Vibrant and Active Places:

1. Infrastructure assets that are will maintained and responsibly managed to provide for future generations.

Connected City:

2. Transport options that provide greater links within our district and increase capacity for community participation.

RISK ASSESSMENT

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework. The assessment identifies 'downside' risks only, rather than 'upside' risks as well. The table below describes identified risks where the residual risk, once controls have been identified, is identified as 'medium' or greater;

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Extending the Hours of Operation cause noise nuisance and complaints requiring noise monitoring and mitigation.	Monitor and assess any increase in aircraft traffic during the extended hours for the potential for noise complaints from the community.	Minor	Unlikely	Medium
NMP Public consultation results in OEPA API- A appeals process that could delay the commencement of the Development Project construction phases.	Community information sessions and private meetings held with members of the community on aircraft noise management. NMP public consultation period performed to assess community feedback.	Moderate	Unlikely	Medium

CONSULTATION

Officers will continue to consult with the OEPA, CASA, AirServices Australia, City of Busselton residents and wider community, airport users and stakeholders throughout the environmental approval process and Airport Development Project.

The City will utilise the API-A referral process to submit the revised NMP for approval. This process requires the City to complete a public and stakeholder consultation process prior to submitting the API-A application. As such the City of Busselton is undertaking the following public and stakeholder consultation;

Who	Meeting Forum	Description	Information Provided
Residents in vicinity of the Airport and/or near flight paths	Private meeting either at residents home or at the City offices.	<ul style="list-style-type: none"> Brief outline of the development project, objectives and infrastructure; Predicted flight movements; Predicted noise impacts including ANECs, N-Contours and flight paths Noise Management Plan review 	<ul style="list-style-type: none"> City's Noise brochure; City project Fact sheet; Information on External websites and agencies for further information.
Community information sessions	Information session for up to 12 people held at the City offices.	<ul style="list-style-type: none"> Brief outline of the development project, objectives and infrastructure; Predicted flight movements; Predicted noise impacts including ANECs, N-Contours and flight paths Noise Management Plan review 	<ul style="list-style-type: none"> City's Noise brochure; City project Fact sheet; Information on External websites and agencies for further information.
Decision Making Agencies (DMAs) engagement	Individual meetings with DMAs – Libby Mettam MLA Dept Of Water Dept Parks and Wildlife Dept of Transport	<ul style="list-style-type: none"> Brief outline of the development project, objectives and infrastructure; Predicted flight movements; Predicted noise impacts including ANECs, N-Contours and flight paths Noise Management Plan review 	<ul style="list-style-type: none"> City's Noise brochure; City project Fact sheet; Information on External websites and agencies for further information.
NMP Public Comment	Revised NMP	<ul style="list-style-type: none"> Revised NMP 	<ul style="list-style-type: none"> Revised NMP

	<p>advertised on the City's Airport website for public comment.</p>	<p>showing track changes advertised for 21 days for public comment.</p>	<ul style="list-style-type: none"> • Summary of changes and justification for changes • Information on API-a process
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Eighty seven letters were sent out to residential property owners in the vicinity of the airport inviting them to a private meeting regarding the Development Project and aircraft noise management associated with the BMRRA. A total of 8 meetings were booked with one resident cancelling prior to the meeting. The majority of feedback received from residents related to questions on flight paths and the possibility of flights late at night as well as asking to be kept informed of updates throughout the project.

Additionally, 1180 letters were sent out to property owners in residential areas approximately within 5km of the airport informing community members of the community information sessions and how to register. The community information sessions were also advertised in the local media. A total of five community sessions were held with between 10 and 14 people attending each session. As with the private meetings the main feedback received from the sessions related to questions on the flight paths and the possibility of flights late at night as well as requesting to be kept informed of updates throughout the project.

Following Council's consideration of the revised NMP, Officers will advertise the NMP for a period of 21 days from 14 March – 1 April 2016 on the City and Airport websites for public comment. All public submissions will be presented back to the Council and also included in the API-A referral application to be submitted to the OEPA.

OFFICER COMMENT

The NMP has now been in effect for over four years and has resulted in a positive impact for the BMRRA with increased charter services and a reduction in the number of noise complaints associated with the airport compared to previous years.

The initial review of the NMP provided an opportunity for the City to identify areas for improvement and make amendments to the plan that continued to safeguard the community and provide flexibility to airport users. As the BMRRA has now been identified strategically as a 'Gateway' airport for the South West Region and the upgrade to cater for interstate services has been funded, the second review of the NMP has considered current and future operations with appropriate controls allowing for flexibility in increased growth.

Officers are recommending a number of amendments to the current NMP, some of which are minor including grammatical and typographical changes and information relating to the Development Project, and therefore do not change the intent of the NMP. These amendments are considered minor in nature and under the current Ministerial Statement 1009 (condition 4.2) the CEO has the authority to approved these changes.

However, the proposed amendments to chapters 3.1.3 Standard hours of operation, 3.1.5 Flight Training Guidelines, 6.2 Noise reduction, Amelioration and measures are considered material and under condition 4.2 of Statement 1009 need to be considered by the OEPA for approval. These proposed amendments will be assessed by the OEPA through the API-A referral process. The proposed amendments are discussed below;

Standard hours of Operation

Officers recommend consolidating the number of different aircraft operating categories in this section. This is primarily to remove some of the confusion around the definitions of light and general aviation. The current NMP distinguishes between light and general aviation with light aviation aircraft being defined as single engine aircraft under 2000kg MTOW not exceeding 65dB(A) and general aviation including all other aircraft not included in the light aviation definition. There are instances where light aviation aircraft under 2000kgs MTOW exceed the 65dB(A) noise level and hence cause confusion for pilots leading to non-compliances. The current definitions also places responsibility on Airport staff for deciding if the noise level of light aircraft breaches the 65dB(A) based on published information which can be difficult to source. Hence, Officers are recommending that the light and general aviation categories are combined with the conditions that aircraft can have unrestricted operations, but do not exceed 85dB(A) and general aviation aircraft over 5,700kgs require prior approval to operate from in/out of the BMRRA.

Officers also recommend that the categories of open and closed charters and RPT services are combined into one category. The conditions proposed that apply to this category are for unrestricted operations with City approval and aircraft noise not to exceed 85dB(A). The justification for approved, unrestricted operations are to facilitate future interstate operations that may need to operate at 'back of clock' hours. In the City's initial discussions with airlines interested in potentially servicing future interstate services from the BMRRA, have indicated that until the BMRRA route demand has been established they may want to fly unutilised aircraft between the hours of 1100pm – 0200am depending on the destination (Melbourne or Sydney). To ensure that noise is managed effectively, the City of Busselton will have an approval process for all aircraft in this category operating in/out of the BMRRA. The proposed amendments to the standard hours of operation are listed below;

Operator / Aircraft Type	Current Standard Hours of Operation	Proposed Standard Hours of Operation	Proposed Conditions
Emergency Services	UNRESTRICTED	UNRESTRICTED	Emergency situations and normal flight patterns
Light Aviation/ General Aviation	Light Aviation Single Engine Aircraft under 2000kg MTOW not exceeding 65dB(A)* General Aviation (Any aircraft that does not comply with the Light Aviation definition)	UNRESTRICTED	(training flights require approval under the Flight Training Guidelines) Subject to noise not exceeding 85dB(A)* Flight Training approval required (only available for aircraft below 1500kg MTOW and flight training conditions apply) Aircraft above 5,700kgs MTOW – City approval required
	0700 to 1900 May – November		

<p>Open, Closed Charters, RPT/Commercial Operators</p>	<p>0600 to 2100 December - April Open and Closed Charter Flights</p> <p>0600 to 2200</p> <p>Regular Passenger Transport Flights</p> <p>0600 to 2300</p>	<p>UNRESTRICTED</p>	<p>Subject to noise not exceeding 85dB(A)*</p> <p>City approval required</p>
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Flight Training Guidelines

Officers recommend a number of amendments to this chapter. The first is to further define the type of aircraft that can perform flight training from the BMRRA by including ‘single engine aircraft’ under 1500kgs MTOW in the definition. This will ensure that flight training is restricted to the smaller light aircraft and hence minimise the noise impact from training. Further, the daily hours allowable for flight training have been amended to reflect an even spread of hours throughout the week and on public holidays.

Non-Conforming Activities

The current NMP allows for the CEO to approve twelve non-conforming activities per reporting year. Non-conforming activities are flight activities that operate outside of the standard hours of operations and approved for operations in support of delayed scheduled FIFO services and events such as the Variety Charity Bash or Leeuwin Concerts that occur annually. Based on the acceptance of the proposed amendments to chapter 3.1.3 Standard Hours of Operations, chapter 3.3.2 Non-Conforming Activities can be deleted from the NMP.

Noise Reduction, Amelioration and Measures

The current NMP (2015) approach to noise reduction, amelioration and noise criterion is based on the inclusion of building siting criteria and noise acceptability criteria from a number of different sources including the superseded Australian Standard 2021;2000. Officers recommended that the revised NMP be based on the AS2021;2015 standard and use a combination of criteria from the standard that relates to aerodromes with Australian Noise Exposure Forecast (ANEFs) and for aerodromes that do not have ANEFs.

The recommendations from government, regulatory bodies and the aviation industry for measuring and predicting noise impacts at Australian airports is broadly based on the use of the ANEF system. The ANEF system was developed in 1980 following results from surveys from the existing system in use in Australia at that time (the NEF system) which was then modified to suit Australian conditions and became termed the ANEF system. The ANEF system was developed as a land use planning tool aimed at controlling encroachment on airports by noise sensitive buildings. The system underpins Australian Standard AS2021 ‘Acoustics—Aircraft noise intrusion—Building siting and construction’. The Standard contains advice on the acceptability of building sites based on ANEF zones and for aerodromes do not have ANEFs (ANEFs are not considered a suitable tool for light aviation aerodromes that do not have jet aircraft operations), building site acceptability using decibel (dB(A)) levels.

The proposed amendments to this section of the NMP include a combined approach of using the ANEF zones and decibel levels to determine the acceptable, conditionally acceptable and unacceptable aircraft noise levels for buildings (including homes, units, flats) potentially impacted by

aircraft noise. The acceptability criteria vary depending on the type of land use. The Table below details the recommended criterion taken from AS2021; 2015 to be included in the NMP;

Outdoor Noise Criterion
<p>Noise Amelioration action is required where L_{Amax} regularly exceeds² –</p> <p>(1) 85dB(A); or</p> <p>(2) 80-85dB(A) for >15 events¹ per day; or</p> <p>(3) 75-80dB(A) for >30 events¹ per day; or</p> <p>Notes:</p> <p>(1) Each aircraft noise event occurring between 7pm and 7am is to be counted as 4 events.</p> <p>(2) Regularly exceeds consists of events arranged in or constituting a constant and definite pattern, especially with the same space between individual circumstances. Noise generated by Emergency Services Aircraft operating in emergency situations are not to be taken to count towards the monitored noise events for amelioration purposes.</p> <p>OR</p> <p>Table 2.1 Building Site Acceptability based on ANEF Zones in AS2021:2015; where a house, home, unit, flat, caravan park falls in the 20-25 ANEF zone</p>

Officers have used a combination of criterion from AS2021;2015 applicable to both aerodromes with and without ANEFs. This approach is to ensure that the community is provided with a suitable level of protection from aircraft noise.

CONCLUSION

The NMP has been in effect for over three years now and has been subject to one review. With the funding secured from the State Government to upgrade the BMRRRA and the required environmental approval process underway for the project, there is a need to update the current NMP. As such Officers have reviewed the NMP and are proposing amendments to a number of sections, in particular the standard hours of operations, flight training guidelines, noise reduction, amelioration and noise criterion measures. This report presents the proposed amendments to the NMP to be advertised for public comment for a period of 21 days and then to be included in the API-A referral application to the OEPA.

The proposed amendments have been drafted to allow and support the development of the BMRRRA, particularly with the funding announcement to upgrade the airport to operate interstate services to Melbourne and Sydney, and continue to provide protection to the community from aircraft noise. Areas included in NMP such as the noise complaints process and request for noise amelioration assessment have been reviewed and remain in place without any amendments. Where amendments are being proposed, Officers have also considered appropriate control measures such requiring approval for operations.

OPTIONS

The Council may choose not to support the Officers recommendation and;

1. Reject the second review and proposed amendments for the NMP; or
2. Support the review of the NMP however recommend alternative amendments to the NMP;

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The revised NMP will be advertised for public comment following Council endorsement for 21 days from 14 March – 1 April 2016 on the City and Airport websites for public comment. All public submissions will be presented back to the Council and also included in the API-A referral application to be submitted to the OEPA by the end of April 2016.

Council Decision / Committee Recommendation and Officer Recommendation

C1603/044 Moved Councillor J McCallum, seconded Councillor T Best

That the Council:

1. Notes and supports the second review of the Busselton-Margaret River Regional Airport (BMRRA) Noise Management Plan and the proposed amendments as per the attached draft BMRRA Noise Management Plan (2016).
2. Endorses the draft BMRRA Noise Management Plan (2016) for public comment for a period of 21 days with public submissions to be referred to Council for consideration.

CARRIED 9/0

EN BLOC

14.1 LOCKE ESTATE VACANT LEASEHOLD SITE (ASSESSMENT OF EXPRESSIONS OF INTEREST AND PROPOSED LEASE AGREEMENT)

SUBJECT INDEX:	Leases and Agreements
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Property and Compliance Services
REPORTING OFFICER:	Property Coordinator - Ann Strang
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Matthew Smith
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Plan of Leased Premises Attachment B Standard Locke Estate Lease Attachment C Confidential EOI Evaluation and Recommendation Report

PRÉCIS

Campsite 16 at the Locke Estate became vacant in September 2015 following the Australian Medical Procedures Research Foundation Limited's (Fresh Start) successful submission to lease campsite 14, and their resultant surrender of their lease of campsite 16.

The City advertised campsite 16 through an Expression of Interest (Eoi) process which commenced in September 2015 and closed on the 16 December 2015. A total of 3 submissions were received.

This report outlines the Eoi assessment process undertaken by City officers and makes a recommendation on the preferred proponent for consideration of Council.

BACKGROUND

Reserve 22674, Lot 5303, Caves Road, Siesta Park also known as the Locke Estate is an 'A class' crown reserve vested with the City for the designated purpose of 'Recreational Camp Sites and Group Holiday Accommodation'.

The Locke Estate consists of 16 campsites that are managed and operated by various not-for-profit organisations through leases entered into with the City of Busselton. When the leases expired on 30 November 2011, thirteen of the lessees renewed their lease for up to 21 years. Two lessees relinquished their sites and another remained vacant, leaving three sites available for lease. The City sought Expression of Interests (Eoi) from not for profit organisations for the vacant sites.

On 11 July 2012, the Council resolved (C1207/178) to enter into leases with St Mary's Community Care: for the Nurture Works BUZ (Build up Zone) for campsite 7; Regional Kids Inc and Workpower Inc. as joint tenants for campsite 12 and Australian Medical Procedures Research Foundation Limited (Fresh Start) for campsite 16.

In November 2013, the City received written notice from the Lake Jasper Project Aboriginal Corporation (Lake Jasper), one of the original thirteen lessees, of their intention to surrender their lease of campsite 14, on expiry of their first term. In 2011, at the time of entering into a new lease Lake Jasper was offered an initial 2 year term with a 19 year option. The 2 year term expired on the 30 November 2013 and, although Lake Jasper had been working toward achieving compliance with various lease conditions imposed, they gave notice of their intention to vacate the site, thus relinquishing the further option.

Once vacated, the City advertised the site through an EoI. Fresh Start, the lessee of campsite 16 were successful in their application and on the 25 March 2015, the Council resolved (C1503/072) to enter into a lease with them and to simultaneously accept the surrender of their lease of campsite 16. Fresh Start surrendered their lease of campsite 16 in early September 2015 and the City commenced an EoI process for the site.

Applications to lease a Locke Estate site are assessed against a set of detailed selection criteria designed to assess a prospective lessees' ability to meet the lease purpose and terms relevant to a Locke Estate campsite. These selection criteria were reviewed in June 2015. Essential compliance criteria which must be satisfied prior to an application being assessed were also determined in this review.

A report was presented to Council on 10 June 2015 detailing three essential compliance criteria that must be met prior to any assessment, being;

1. All future lessees are required to be a 'not for profit' incorporated body with either charitable, religious, cultural, recreational, sporting or other benevolent like nature objectives, and their constitution must prohibit members of the organisations being entitled or permitted to receive a pecuniary profit from the organisation.
2. Any proposal for use of the site by a future lessee must meet one or more of the following purposes:
 - (i) Groups participating in organised educational, cultural, religious or recreational activities and/or;
 - (ii) Financially disadvantaged persons who are otherwise not able to afford a holiday and/or;
 - (iii) Individuals or families requiring respite.

With the exception of the provision of temporary accommodation for people involved with or contracted to manage, improve and/or maintain the site, short stay holiday accommodation must not be made available to the general public.

3. If a development proposal is part of the submission it must be generally capable of being carried out given site constraints and requirement; including coastal setbacks and environment constraints etc.

The report also made recommendations on selection criteria to be used in the assessment of any future submissions. Council resolved (C1506/155) the following;

"That the Council:

Adopts the following set of standard selection criteria to be used to assess proposals in respect of Locke Estate (Reserve 22674) Lease sites which become available:

CRITERIA ONE: THE ORGANISATION'S ACTIVITIES AND PURPOSE

Weighting = 40%

- (a) An assessment of the objectives of the organisation and the services it delivers and the extent to which they meet the objectives of the prescribed uses set out in the standard Locke Estate Lease.*
- (b) An assessment of what the site is proposed to be used for and any services to be provided and how these meet the objects of the prescribed uses set out in the standard Locke Estate Lease.*

- (c) *An assessment of who will benefit from the proposal and the extent of benefit provided.*
- (d) *The extent to which the proposal would add value to the general social wellbeing of the community or would otherwise benefit the community.*

CRITERIA TWO: THE PROPOSED DEVELOPMENT AND USE OF THE SITE

Weighting = 30%

- (a) *An assessment of the concepts and plans of what is proposed to be done on the site including any development proposals for the site, and the extent to which this will help to meet the organisation's objectives for the site and support its use for the designated lease purposes.*
- (b) *An assessment of the extent to which any proposed use of the site complies with and/or takes into account the environmental and other land use factors affecting the site and otherwise meets the requirements of any relevant law.*
- (c) *An assessment of the information the organisation provides as to how it intends to deliver any proposed services/programs from the site and otherwise proposes to manage the site in accordance with standard lease requirements.*

CRITERIA THREE: THE ORGANISATION'S MANAGEMENT AND FINANCIAL CAPABILITY

Weighting = 30%

- (a) *An assessment of information provided in relation to proposed key personnel (persons or positions) their qualifications and/or experience as relevant to their proposal.*
- (b) *An assessment of the association's previous experience and success in managing other properties or otherwise carrying out uses/developments and/or providing services of the type proposed.*

An assessment of the organisation's financial resources and/or financial ability and plan to deliver the proposal which it has submitted. In order to assess this criteria information will need to be provided through a statement of the organisations financial capacity and resources from a suitably qualified person and this should also detail the extent to which the proposal is dependent on grant funding and the status of that funding and/or organisations belief of its capacity to achieve that grant funding and the basis for that belief."

These selection criteria were used in the EoI process for campsite 16.

City officers conducted an information session and open day on Friday 16 October 2015 as part of the process where interested parties were provided with details of the obligations that would be imposed on them. This included matters such as coastal protection, conservation management and obligations relating to the use of the site.

The EoI closed on Wednesday 16 December 2015. A total of 3 submissions were received. A summary of the submissions is set out in the Officer Comment section of this report. Further details of the submissions are set out in the confidential attachment to this report.

STATUTORY ENVIRONMENT

Section 3.54 of the Local Government Act 1995 (the 'Act') empowers the City to control and manage reserve land vested in it or placed under its control. Reserve 22674, Lot 5303, Deposited Plan 220583 Volume LR3088 Volume 423 known as the "Locke Estate" is vested with the City of Busselton with the power to lease for any term not exceeding 21 years for the designated purpose of

"Recreational Camp Sites and Group Holiday Accommodation" subject to the consent of the Minister for Lands.

The objects and purposes of any association which would be considered eligible to lease a site of the Locke Estate are such that they should always be exempt from the land disposition requirements of section 3.58 of the Act. There is therefore no particular statutory requirement which the City's Eol process must meet. The key legal requirement impacting on the selection criteria is the need to ensure any site is used for a purpose which is consistent with the designated purposes under the Reserve Management Order.

RELEVANT PLANS AND POLICIES

Nil

FINANCIAL IMPLICATIONS

The rent will be \$2500 per annum plus GST with annual rent increases of CPI or 3%, whichever is greater. This is the same rent which was applied to campsite 14, the most recently leased site. A contribution of \$4000 per annum from the Lessee for coastal protection works for up to a maximum of 12 years is also required.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The recommendation to enter into a lease with the preferred proponent aligns with the following City of Busselton strategic priorities:

Key Goal Area 1: Caring and Inclusive Community;

- A community that provides opportunities for youth to learn, grow, work and become health adults.

Key Goal Area 2: Well Planned, Vibrant and Active Places:

- Infrastructure assets are well maintained and responsibly managed to provide for future generations.

RISK ASSESSMENT

There are no identified risks of a medium or greater level associated with the officer recommendation.

CONSULTATION

The Eol process included an information day where City Officers provided interested parties with information about leasing, coastal protection, environmental health, fire management and rates.

The City also extended an invite to the unsuccessful proponents of the Eol for Campsite 14 to resubmit their Expression of Interest for Campsite 16. One proponent accepted the offer.

OFFICER COMMENT

The period for EoI opened in September 2015 and closed on 16 December 2015. A total of 3 submissions were received and the proponents and their proposals are summarised below:

The Church of Jesus Christ of Latter Day Saints

The organisation's proposal related to a campground for youth and their families within the Churches membership and the community. The information provided was limited. The proposal was submitted without copies of the organisation's structure, certificate of incorporation or their Constitution which meant the submission did not comply with the minimum documentation requirements of the EOI and it was therefore not assessed any further.

Legacy Fund of Perth Incorporated (Legacy)

Legacy are the lessees of the adjoining campsite with their proposal including the option for campsite 15 and 16 to work in conjunction with each other. Their submission discusses two options for the campsite, one of which they have requested remain confidential as it is in an early conceptual stage and involves other stakeholders. This proposal is detailed in the Confidential Attachment 'C' on page 7, but the proposed development includes communal facilities, conference room and up to 15 eco-style tents or chalets.

Their alternative proposal is an extension to their existing operations on campsite 15, primarily to provide accommodation and activities for respite purposes of the families of incapacitated and deceased ADF veterans.

Grand Lodge of Western Australian Freemasons Homes for the Aged Incorporated trading as Masonic Care WA (MCWA)

MCWA provides accommodation in various forms such as social housing rental villages, retirement villages and aged care facilities. Their accommodation providing's are located throughout Western Australia, catering for over 1200 West Australians. Predominantly they are seeking through their proposal to minimise the instances and effects of social isolation in the elderly, with their intent being to provide disadvantaged residents living in their social housing and retirement villages the opportunity to holiday in Busselton.

The proposed development of the site includes a single building comprising of a conference area and dormitory style accommodation, along with associated parking and an outdoor entertaining area.

The Process

In accordance with the published EoI document, the submissions were objectively assessed by City Officers against the selection criteria outlined in the background of this report. A panel of officers from appropriate disciplines within the organisation carried out an independent assessment of each submission with the result of those assessments contained in the Confidential Attachment 'C' on page 5.

This process resulted in the submission from MCWA being recommended. The detailed evaluation of the submissions is within the Confidential Attachment. Below is a summary of MCWA's submission as assessed against each of the selection criteria and why it ranked highest overall.

Criteria One: The Organisation's Activities and Purpose

MCWA's submission addressed each aspect of this criteria; their aim being to provide temporary accommodation for respite for elderly residents living in their retirement villages and care units throughout WA. The organisational objectives and services to be delivered by MCWA meet more than one of the prescribed uses expressed in the lease.

A key focus of their business model is to minimise the instances and effects of social isolation in the elderly by organising active social groups, fitness groups and classes as well as special events. The campsite would facilitate these activities and assist residents to integrate and meet people.

The site is also proposed to be used for accommodation in conjunction with seminars, workshops and development programmes for their Freemason members and their associated charitable partners. They specifically noted that holiday accommodation would not be provided to the general public.

Their submission ranks highly from a community development perspective and it is considered that the applicant can offer a worthy service to our ageing community.

The Legacy submission addressed the criteria to some extent, and whilst the proposal would benefit the wider community, it did not overall align as strongly with the reserve purpose or the prescribed uses in the Locke Estate lease.

Criteria Two: The Proposed Development and Use of the Site

MCWA's development proposal includes short stay accommodation being of modular construction. The accommodation would be dormitory style with associated amenities and a kitchen facility for around 30 people. A basic plan was submitted. Although not a detailed plan it shows all proposed development along with the associated car parking as being contained within the development zone of the lease, thus having no or minimal impact on the coastal setback zone and conservation zone. There is no proposal for caravan or camping on the site.

The submission demonstrated a very sound understanding of the terms of the lease, planning and building requirements. The site layout and development size is considerate of the environment and there is likely to be minimal changes, if any, required to the plan were they to be successful in securing the site.

In comparison, there are some concerns about the suggested density of Legacy's proposed development which would need to be worked through should they be offered the lease. This could also potentially impact on the size of the project and its viability.

Both submitters provided limited detail as to how they intend to deliver proposed services or programs from the site.

Criteria Three: The Organisation's Management and Financial Capability

Both MCWA and Legacy demonstrated a good level of management expertise. The MCWA own and manage a number of retirement villages and aged care facilities throughout WA. They have experienced key personnel and board in terms of management structure, which in turn would oversee the management of the campsite. Legacy have managed and maintained their existing campsite for over 50 years. Their partnership with the City in this regard has been a very amicable one.

Neither proponent provided detailed costings of their proposed development. However, considering the financial information provided in the MCWA submission, their proposal is well within their financial capabilities. They would not be reliant on grant funding to be able to meet the lease obligations in terms of development and completion timeframes.

Legacy on the other hand have noted in their submission that grant funding would be necessary for the success of their preferred submission. With regards to their alternate proposal, they have demonstrated good financial standing and the financial ability to use campsite 16 as an extension to their existing campsite.

Both organisations confirmed that they would be in a position to complete construction within three years of the lease commencement. However, due to Legacies preferred option being reliant on funding there was some concern that the project may not be developed to the extent as noted in their submission within this timeframe.

CONCLUSION

Based on the panel evaluation of each submission against the stated selection criteria, it is recommended that the lease for Campsite 16 at Locke Estate be offered to MCWA.

The MCWA submission ranks highly from a community development perspective with the proposal aiming to provide for the aged and disadvantaged, by offering respite to elderly and disadvantaged residents. The objectives and intent of the organisation also align with the City's Strategic Community Plan.

As can be seen from the scores in the confidential attachment both submissions have merit but MCWA's submission ranked the highest. The principal reason for this is because their proposal is more consistent with the permitted purpose of the reserve, the prescribed use of the lease and their concept fits well within the area available for development.

There will be obvious disappointment expressed by Legacy but if Council are comfortable with the recommendation to grant to a lease to MCWA then Legacy could still potentially instigate a similar, albeit smaller, project to that proposed in their submission on their existing site.

OPTIONS

Council may elect not to endorse the Officer recommendation and consider the following alternatives:

1. Resolve not to offer a lease to the recommended proponent and instead choose another proponent;
2. Resolve not to offer a lease to any of the proponents.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

A lease agreement would be forwarded to the Minister for Lands for consent by 31 March 2016. It is anticipated that the signing of the lease agreement would be on or before 1 June 2016. MCWA would then be required to submit a development application within 12 months of the commencement date.

Council Decision and Officer Recommendation**C1603/045**

Moved Councillor J McCallum, seconded Councillor T Best

That the Council:

1. Enter into a lease with the Grand Lodge of Western Australian Freemasons Homes for the Aged Incorporated trading as Masonic Care WA subject to the consent of the Minister for Lands for the occupation of a portion of Reserve 22674, Lot 5303, Deposited Plan 220583, Volume LR3088 Folio 423, Caves Road, Siesta Park as indicated in Attachment 'A', subject to the following;
 - a) The lease being consistent with the City's standard Locke Estate Lease Agreement at Attachment B;
 - b) The term of the lease commencing no later than 1 June 2016 and expiring on the 30 November 2032;
 - c) The annual rent to commence at \$2500.00 plus GST with annual rent increase of CPI or 3% whichever is greater;
 - d) As per Council Resolution C1007/271, for the first 12 years of the term of the lease (or a lesser period of time if so determined by a future Council Resolution), the lessee is required to pay Council \$4,000 per annum to be placed in an interest-bearing Reserve for future coastal works adjoining the Locke Estate (with any unspent funds to be returned to the lessees); and
 - e) All costs for the preparation of the lease to be met by the Lessee.

CARRIED 9/0**EN BLOC**

15. CHIEF EXECUTIVE OFFICER'S REPORT

15.1 COUNCILLORS' INFORMATION BULLETIN

SUBJECT INDEX:	Executive Services
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Executive Services
ACTIVITY UNIT:	Executive Services
REPORTING OFFICER:	Reporting Officers - Various
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A State Administrative Tribunal Appeals as at 18 February 2016 Attachment B Lord Mayor's Distress Relief Fund - Letter of Appreciation Attachment C Shire of Harvey - Letter of Appreciation

PRÉCIS

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

15.1.1 State Administrative Tribunal (SAT) Appeals

Attachment A is a list of the current State Administrative Tribunal Appeals involving the City of Busselton as at 18 February 2016.

15.1.2 Lord Mayors Distress Relief Fund – Letter of Appreciation

Correspondence has been received from the Lord Mayors Distress Relief Fund and is available to view in Attachment B.

15.1.3 Shire of Harvey – Letter of Appreciation

Correspondence has been received from the Shire of Harvey and is available to view in Attachment C.

15.1.4 Bay to Bay Newsletter – Email of Appreciation

Correspondence has been received from Mr Ed King in response to the February Bay to Bay newsletter and is detailed below.

Busselton ,

As a former resident of Busselton from 1966 to 1990 and still visiting regularly as my mother still resides there. I have seen a lot of developments and changes in that time. I would like to commend the current council for the way they are going about changes being made. You should all be

commended for the fantastic job you are doing as Busselton is truly a special place both in my heart and in the hearts of all who have visited and stayed in the town.

Regards

Ed King

Council Decision and Officer Recommendation

C1603/046 Moved Councillor J McCallum, seconded Councillor T Best

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

- 15.1.1 State Administrative Tribunal (SAT) Appeals
- 15.1.2 Lord Mayors Distress Relief Fund – Letter of Appreciation
- 15.1.3 Shire of Harvey – Letter of Appreciation
- 15.1.4 Bay to Bay Newsletter – Email of Appreciation

CARRIED 9/0

EN BLOC

ITEMS CONSIDERED BY SEPARATE RESOLUTION

At this juncture, in accordance with Clause 5.6 (3)(a) & (b) of the Standing Orders, those items requiring an Absolute Majority or in which Councillors had declared Financial, Proximity or Impartiality Interests were considered.

11. PLANNING AND DEVELOPMENT SERVICES REPORT

11.2 MEELUP REGIONAL PARK MANAGEMENT COMMITTEE- APPOINTMENT OF MEMBERS

SUBJECT INDEX:	Environmental Management Plans, Impact Studies and Reports
STRATEGIC OBJECTIVE:	An organisation that is managed effectively and achieves positive outcomes for the community.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Meelup Regional Park
REPORTING OFFICER:	Meelup / Environmental Management Officer - Kay Lehman
AUTHORISING OFFICER:	A/Director, Planning and Development Services - Martyn Glover
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

PRÉCIS

This report recommends the appointment of two new members to fill the vacancies for the Meelup Regional Park Management Committee.

BACKGROUND

At its ordinary meeting of 14 October 2015, and following earlier consideration and review by the Meelup Regional Park Management Committee (the Committee), a working group formed by the Council and consideration by the Council itself, the Council adopted revised governance arrangements and terms of reference for the Committee.

The revised terms of reference establish the membership of the Committee which includes six (6) community members, to be appointed by the Council. Following the re-formation of the Committee following the 2015 ordinary Council elections there were four (4) community members of the Committee immediately prior to that time with an interest in a continued involvement and these members have been reappointed by the Council.

The Committee's terms of reference set out the criteria and selection process for filling community member vacancies as follows:

1. The Mayor, Presiding Member of the Committee and Chief Executive Officer of Chief Executive Officer's nominee shall meet to discuss and agree the aims/objectives in terms of skills, background or interests, or mix of skills, background and interests, of the person(s) that it would be most appropriate and desirable to include on the Committee at that time, and the agreed direction in that regard shall be reflected in the process associated with the attraction and assessment of potential community members;
2. City Officers shall arrange to publicly advertise community member vacancies, seeking expressions-of-interest from suitable members of the community;
3. Interested members of the community shall be required to submit an expression-of-interest (1-2 pages long only) setting out what value they believe they would bring to the Committee and why they are interested in becoming a member;
4. The Mayor and the Presiding Member of the Committee shall meet again to assess the expression-of-interest that have been received, identify and agree the preferred candidates to fill one or more of the positions that are vacant at that time, (priority

- consideration will be given to existing members) following which City officers will present report to the Council reflecting the assessment of the Mayor and Presiding Member; and
5. If there are still vacant positions following the completion of the process set out above, the process will recommence.

Public advertising seeking expressions of interest from members of the community to fill the two (2) Committee vacancies closed on 15 January 2016.

STATUTORY ENVIRONMENT

The Meelup Regional Park Management Committee is created pursuant to the *Local Government Act 1995* ('the Act'), specifically via a resolution of the Council pursuant to sections 5.8, 5.9(2)(c) and 17(1)(c) of the Act.

The membership and deputy membership of Committees of Council must be determined by the Council in accordance with Section 5.10 and 5.11A of the *Local Government Act 1995*. In this regard, an Absolute Majority decision of the Council is required to appoint a person as a member or deputy member of a Committee.

RELEVANT PLANS AND POLICIES

The following is a list of key guiding documents, relevant to governance and operations of the Meelup Regional Park Management Committee:

1. Meelup Regional Park Management Order;
2. Meelup Regional Park Management Plan;
3. City of Busselton Standing Orders Local Law;
4. City of Busselton Code of Conduct;
5. City of Busselton Community Strategic Plan;
6. City of Busselton Long Term Financial Plan;
7. City of Busselton Adopted Annual Budget; and
8. City of Busselton Local Laws, Determinations and Council Policies.

FINANCIAL IMPLICATIONS

NA

Long-term Financial Plan Implications

NA

STRATEGIC COMMUNITY OBJECTIVES

This matter is considered relevant to Key Goal Area 6- Open and collaborative leadership and Strategic Objective 6.1 – A Council that engages broadly and proactively with its community. A Council that engages with its community through Committees with specific areas of interest that assist the Council to undertake its role.

RISK ASSESSMENT

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework. The assessment sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls has been identified, is medium or greater. No such risks were identified.

CONSULTATION

The Committee positions were advertised in December 2015/January 2016, in accordance with the Council adopted (resolution C1510/296) governance agreements and terms of reference, for the Meelup Regional Park Management Committee. The Mayor, Presiding Member of the Committee and Chief Executive Officer's nominee considered the expressions of interest that were received and recommend the appointment of from Ms Tracee Pickersgill and Mr Damien Jones as members on the Meelup Regional Park Management Committee.

OFFICER COMMENT

Ms Tracee Pickersgill is a local recreation/tourism business operator with an interest in Meelup Regional Park. Mr Damien Jones has a diverse technical background in mining and marine related industry with an understanding of the pressures on the Park and the need to manage and protect the local environment while maintaining services for the community.

CONCLUSION

In order to continue the valuable contribution to the City made by the Meelup Regional Park Management Committee, it is considered that the Committee should be returned to its full capacity of members.

OPTIONS

The Council may choose to review the expressions of interests, or if required, re-advertise member positions to gauge further interest.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Any decision of the Council in relation to this matter would be effective immediately.

Council Decision and Officer Recommendation

C1603/047

Moved Councillor C Tarbotton, seconded Councillor T Best

That the Council:

1. Appoints Ms Tracee Pickersgill as a member of the Meelup Regional Park Management Committee for a term of up to two years and ceasing on the day of the next ordinary Council election.
2. Appoints Mr Damien Jones as a member of the Meelup Regional Park Management Committee for a term of up to two years and ceasing on the day of the next ordinary Council election.

CARRIED 9/0

BY ABSOLUTE MAJORITY

10.3 Policy and Legislation Committee - 18/02/2016 - REVIEW OF APPLICATIONS FOR EXPLORATION OR MINING/EXTRACTION LICENSES FOR COAL WITHIN THE CITY OF BUSSELTON

SUBJECT INDEX:	Policy Development
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Manager, Governance Services - Lynley Rich
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Existing Policy Relating to Applications for Exploration or Mining/Extraction Licenses for Coal Within the City of Busselton

This item was considered by the Policy and Legislation Committee at its meeting on 18 February 2016, the recommendations from which have been included in this report.

PRÉCIS

The Council has had a policy in place since February 2012 setting out an approach to guide the City's response to applications for exploration and mining licenses for coal wholly or partially within the District of the City of Busselton. This review has been proposed through the Policy and Legislation Committee on the basis that a Councillor was seeking to move a notice of motion to review the policy, however, as the process of review is established through the Committee, the notice of motion process was deemed to not be required.

Recently, a presenter at a Council meeting requested the Council to consider extending the provisions of its policy to include conventional gas mining and the Mayor indicated in response that policies are reviewed through the Policy and Legislation Committee and that this could be considered through this Committee.

This report is presented to enable the Committee to make a recommendation to Council as to whether any changes to the policy are required. It is the recommendation of officers that if the Council deems there is sufficient concern to warrant consideration of a policy relating to conventional gas that the Council seek briefings and/or further information from relevant sources before determining whether it should extend the current coal related policy to conventional gas, adopt a separate but similar policy or to remain policy neutral. No changes are recommended to the policy at this time.

BACKGROUND

A representative of Gas Free South West WA through public question time at a Council meeting on 27 January, 2016 requested Council's consideration of extending its existing policy relating to coal mining to include conventional gas mining.

The development of the Council's policy position relating to coal mining occurred in 2011 in consultation with the Shire of Augusta-Margaret River through the established CapeROC partnership in response to applications for coal exploration licenses that were occurring at the time and significant community concern relating to the potential for coal mining or coal seam gas extraction to occur in the District.

At its meeting on 22 February 2012, the Council adopted a position of opposing the mining of coal (at mining application stage), on the basis of concerns about its potential impacts on groundwater and surface water quality and quantity, conflict with existing land uses such as tourism, recreation, agriculture and viticulture, and the potential for coal mining to impact on the character, attraction and quality of life of the region.

The Council also supported continued lobbying of the Minister for Mines and Petroleum and other relevant Parliamentarians against the granting of exploration licences for coal resources in the district of the City of Busselton and neighbouring Shire of Augusta-Margaret River on the basis that the City of Busselton opposes coal mining for the reasons in its policy, and an exploration licence may eventuate in a coal mining license. The policy was adopted in its current form (attached).

STATUTORY ENVIRONMENT

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

While the exact approvals required for conventional gas mining would vary depending upon the activity being undertaken, it is most likely that approval for a gas well would be required under the Petroleum and Geothermal Energy Resources Act 1967 and regulations associated with that Act. All approvals under that legislation are dealt with at a State Government level.

RELEVANT PLANS AND POLICIES

Council policy 043 currently applies to a process to guide the City's response to applications for coal related mining activity wholly or partially within the District of the City of Busselton. The Council has been requested to consider extending the application of this policy to include conventional gas mining.

FINANCIAL IMPLICATIONS

Not applicable with regard to the review of the policy, while noting that any decision to actively oppose conventional gas mining generally or applications specifically may have resourcing implications.

Long-term Financial Plan Implications

NA.

STRATEGIC COMMUNITY OBJECTIVES

This matter relates to responsible, ethical and accountable decision-making.

RISK ASSESSMENT

Not required.

CONSULTATION

It is recommended that if the Council seeks to consider a policy position relating to conventional gas mining that it be undertaken in consultation with relevant stakeholders.

OFFICER COMMENT

As identified in this report, the City currently has an established position relating to coal and coal seam gas including having requested consideration of amendments to legislation, planning frameworks and planning policies as well as a position to lodge objections relating to coal mining applications and require Council consideration of any coal seam gas application or notification. This was in response to a specific application at the time that caused significant community concern.

It must be noted that in relation to mining applications all approvals are dealt with at a State Government level. Depending upon the circumstances surrounding the application, there may not even be a requirement for the City to be consulted before an approval is issued.

The Council has been requested to consider whether the same concerns exist in relation to the mining of conventional gas, and if so, to consider what changes can be implemented to the existing policy provisions. It is recommended that if the Council seeks to consider policy changes that it first seek to consult with relevant stakeholders before proposing such changes to enable an informed decision to be made.

CONCLUSION

If the Council seeks to make any policy changes it is recommended that the Council obtain additional information as to the risks pertaining to conventional gas mining specifically before proceeding. However, this report relates to matters that are ultimately within the control of the State Government. No changes to the policy are recommended.

OPTIONS

The Council may be of the view that it currently has sufficient concerns to amend the current policy.

The Council may be of the view that it needs more information to determine whether there are sufficient concerns relating to conventional gas extraction before considering a policy position on this matter. If this is the case, it is recommended that other stakeholders be consulted before any policy changes are considered.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Immediately upon consideration by Council.

Note: Cr Paine had given notice of his intention to propose deferral of the item for a period of 12 weeks to allow other stakeholders to be consulted and additional information as to the risks pertaining to conventional and unconventional gas mining to be obtained. However in accordance with the Standing Orders, if a matter is identified for debate and it contains a recommendation from a committee, members shall first be given the option to debate the committee recommendation. On being given this option Cr Tarbotton indicated her intention to move the Committee Recommendation.

Council Decision / Committee Recommendation and Officer Recommendation

C1603/048 Moved Councillor C Tarbotton, seconded Councillor J McCallum

That the Council:

1. Does not make any changes to its policy position articulated in Council policy 043 at this time for the reasons outlined in the report.

CARRIED 8/1

Voting:

For the motion: Councillor R Bennett, Councillor T Best, Councillor G Bleechmore, Mayor G Henley, Councillor J McCallum, Councillor C Tarbotton, Councillor P Carter and Councillor R Reekie.

Against the motion: Councillor R Paine.

Note: As the motion was carried Cr Paine was not able to propose his alternative motion of which previous notice had been given.

11.1 ADOPTION OF MANAGEMENT PLAN FOR RESERVE 43008, DUNSBOROUGH

SUBJECT INDEX:	Environment Plans
STRATEGIC OBJECTIVE:	Our natural environment is cared for and enhanced for the enjoyment of the community and visitors.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Environmental Planning
REPORTING OFFICER:	Senior Environmental Officer, Natural Resource Management - Will Oldfield
AUTHORISING OFFICER:	A/Director, Planning and Development Services - Martyn Glover
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Reserve 43008 Management Plan Attachment B Schedule of Submissions - Reserve 43008

PRÉCIS

A Management Plan (the Plan) has been prepared for Reserve 43008, Dunsborough, for the purpose of fire management and to protect and enhance the environmental, social and heritage values of the reserve. The Plan (Attachment A) has been advertised for the purpose of public consultation for a period of 28 days which ended on the 28th October 2015. Further to the consultation process, the City has been awaiting advice from the Department of Aboriginal Affairs regarding compliance with the Aboriginal Heritage Act and formal approval for works within the reserve.

The Plan is intended to provide direction and guidance for the maintenance of fuel loads within the bushland while not impacting on Aboriginal cultural values and environmental values of the reserve. The plan will enable the City to implement actions such as fuel load reduction burning, upgrading of access tracks and revegetation of degraded areas within the reserve and is recommended to Council for adoption.

BACKGROUND

In November 2008, Council resolved (resolution C0811/325) that the City develops a reserve management plan for Dunsborough Crown Reserve 43008 that incorporates Aboriginal heritage management, environmental management, access management and fire management among other matters.

Reserve 43008 is vested in the City of Busselton for the purpose of “recreation, community centre and drainage”. The reserve contains the Naturaliste Community Centre. The Dunsborough Playing fields lie to the east and the Windlemere residential area lies to the west.

Residents in the Windlemere Estate have previously expressed concern about the fuel loads of the bushland in the reserve. The City assessed fuel loads in the reserve and as a result began some works to clear the western boundary (common with Windlemere residents). However, due to the potential to disturb Aboriginal cultural values of the site, that are protected under the Aboriginal Heritage Act 1972, it was necessary for the City to prepare a management plan that considers these values.

A primary consideration to the preparation of a management plan for Reserve 43008 or any works that disturb the ground, has been the presence of Aboriginal artefacts and the place having cultural significance. Parts of Reserve 43008, are registered Aboriginal heritage sites and no works that might disturb the heritage value of the site can occur without clearance from the (State) Department of Aboriginal Affairs. These matters have now been resolved through formal consultation with local Nyungar representatives.

The reserve bushland also has significant environmental values and contains very good Western Ringtail Possum Habitat, which must be recognized and managed appropriately. The plan therefore has been created to address the social, cultural, environmental and fire safety aspects of the reserve.

STATUTORY ENVIRONMENT

The Plan is intended to guide the City's approach to the management of Reserve 43008, currently managed by the City of Busselton as per Clause 3.54 of the Local Government Act, which provides the City the head of power for the purpose of controlling and managing land in the District.

The District Town Planning Scheme No.20 identifies the subject land as Reserve for Public Recreation. The recommendations within the management plan are consistent with the zoning.

The Aboriginal Heritage Act 1972(AHA), protects aboriginal Heritage sites in the reserve and indicates that any person who excavates, destroys, damages, conceals or in any way alters any Aboriginal site; commits an offence unless he is acting with the authorization of the Registrar under section 16 or the consent of the Minister under section 18.

RELEVANT PLANS AND POLICIES

Preparation of the Management Plan for Reserve 43008 is supported by the following Policies and Strategies:

Shire of Busselton Environment Strategy - Action 1.13 "Continue to prepare and implement reserve management plans" clearly supports the development and implementation of this plan.

Friends of Reserves Strategy – This plan has been developed in accordance with the Friends of Reserves Strategy, which provides guidance on the development of Reserve Management Plans.

Bushfire Strategic Plan – This plan recognizes the need for ongoing liaison with Department of Parks and Wildlife Officers regarding bush fire protection strategies and how they interface with environmental strategies, and to ensure hazard reduction burning is carried out strategically and on a variable rotation and in balance with public safety and environmental considerations, in accordance with FESA- Fire Services Learning Manual 3.17 and the City of Busselton Environmental Strategy Plan August 2004.

FINANCIAL IMPLICATIONS

Expenditure to implement the Management Plan will involve upgrading of the tracks within Reserve 43008 to a standard that can be used by fire fighting vehicles, some initial vegetation maintenance and access control.

Vegetation removal and clearing of fire breaks can be undertaken during the current financial year under account 421-10850-3280 - Implementation Management Plans, with the upgrading of tracks to be considered as part of future budget allocations.

General reserve and fire management activities within the reserve such as weed management and firebreak maintenance are ongoing activities that are considered within the annual budgeting process in order to meet the expectations of the community.

Long-term Financial Plan Implications

There are no long term financial implications arising from this plan.

STRATEGIC COMMUNITY OBJECTIVES

Preparation, adoption and implementation of the management plan for Reserve 43008 supports the City's Key Goal Area 5- 'Cared for and Enhanced Environment' and Community Objective 5.1 'Our natural environment is cared for and enhanced for the enjoyment of the community and visitors'.

RISK ASSESSMENT

An assessment of the potential implications of not implementing the officer recommendation has been undertaken using the City's risk assessment framework. The assessment sought to identify 'downside' risks only rather than 'upside' risks and where the risk, following implementation of controls has been identified is medium or greater.

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Reputational/ Financial Bush Fire in reserve causes damage to adjoining private property	Installation of firebreak and tracks to facilitate controlled burns to reduce fuel load and better access during a fire emergency. Woody weed removal to reduce fuel load	Major	Rare	Medium

CONSULTATION

During the development of the management plan, comment and input was sought from:

- Dunsborough Fire and Rescue;
- Dunsborough Bush Fire Brigade;
- Department of Fire and Emergency Services;
- City of Busselton Community Emergency Services Officer; and
- Local aboriginal representatives.

The plan has also been out for Community Consultation for a period of 28 days. Notification of Community Consultation period was placed in the Council for Community Notices in the local paper and letters were sent to adjoining landowners. The Community Consultation generated 5 responses which are outlined in the submissions table (Attachment B).

OFFICER COMMENT

This section of the report discusses the issues/actions within the plan that were raised during the public submissions period.

Summary of submissions

There were 5 individual submissions received.

One submission received was of a technical nature relating to the classification of fauna. This was factual information which was verified and has resulted in a few minor changes to Table 3 to correct the status of fauna listed in the table.

There were two submissions relating to fire concerns for residents in the Windlemere residential area. The remaining two submissions brought up a range of other matters that have been considered and commented on within the submissions table (Attachment B) but did not result in any recommended changes in the Management Plan.

Fire

A key objection raised on the subject of fire was to the planting of more vegetation and the potential of adding “fuel to fire” by planting of 700 mature Peppermint trees plus understory in the reserve.

Bushland can present a bushfire risk, however, the purpose of preparing the Management Plan was to propose measures that can be undertaken to reduce the bushfire risk such as:

- Removal of woody weeds which directly reduces the fuel available,
- Removal of solid heavy fuels which are harder to put out in a fire emergency,
- Upgrading access in the reserve for fire fighting vehicles and dividing the reserve into cells that can be burnt under cool conditions to reduce fuel loads,
- Installation of a fire break along the western boundary of the reserve common with private property in the Windlemere residential area,
- Clearing of overhanging vegetation around the Naturaliste Community Centre.

All of these actions are expected to result in acceptable fuel loads across the reserve, including the proposed revegetation areas. The proposal to revegetate an area of 1 hectare within the reserve was taken into consideration during the preparation of the plan and it will not significantly add to the fire risk when taken in context with these fire management recommendations.

Cultural centre

One submission suggested the clearing at the northern end of the reserve could be utilised for either heritage purposes (e.g. Aboriginal Heritage Centre), recreation and/or consideration as a potential pedestrian link to the Town Centre in the future. Its strategic location next to Caves Road and cleared ground offers potential cultural and social land use opportunities, including ability to facilitate connectivity between the playing fields, the Naturaliste Community Centre and the town in the future.

During the development of the plan the City undertook formal consultation with the local Nyungar representatives. The significance of the site is acknowledged and well documented however there is no recommendation for interpretation of the aboriginal significance of the site at present. Should interpretive information be identified as a priority in the future further consultation would need to occur.

Because there are many registered Aboriginal sites, future development of the reserve would be constrained because of the no ground disturbance buffer areas around existing artefact sites. However this may not prevent the use of parts of the reserve for cultural activities. It is expected that there will be an area near the soak at the northern end of the reserve that will have open space and shady parkland areas for informal uses. The Native Title Settlement is likely to generate many alternative opportunities for the SW claimants to determine their needs and locations for cultural interpretation.

The plan does discuss pedestrian access/links to town. There is also scope for additional links to be made around fire cells which already indicate places where there are already natural breaks within the vegetation on the reserve. Pedestrian paths/links are consistent with the purpose of the reserve and therefore can be proposed and implemented through consideration of the recommendations of this plan.

Section 18 approval for ground disturbing works

Through the formal aboriginal consultation process the Department of Aboriginal Affairs (DAA) advised the City to seek approval under Section 18 of the Aboriginal Heritage Act 1972, to enable the

City to implement the Plan and to undertake works to manage fire and other matters within the DAA Registered sites on Reserve 43008.

The City lodged the Section 18 application in time for the Aboriginal Cultural Materials Committee (ACMC) hearing in December. Formal approval has now been granted by the DAA with the conditions that the City:

- provide a written report to the Registrar of Aboriginal Sites within 60 days of the completion of the Purpose (implementation of the Plan), advising whether and to what extent the Purpose has impacted on all or any Registered sites located on the Land.
- act in accordance with the procedures in section 15 of the Aboriginal Heritage Act 1972, should skeletal remains suspected to be of Aboriginal origin, or any material suspected to be skeletal remains of Aboriginal origin be discovered during the approved works.

The City will carry out these conditions as required by the Minister of Aboriginal Affairs.

CONCLUSION

Reserve 43008 has significant Aboriginal Heritage and Environmental values. The Windlemere residential area to the west of the reserve is classified as Bush Fire prone and, as such, the City has considered what can be done to reduce the bush fire hazard in the reserve while not impacting on the cultural heritage and environmental values. The City recognizes that all of these aspects need to be managed in the reserve and therefore recommends the Management Plan for Reserve 43008 (Attachment A) be adopted by Council. The Plan will allow for the implementation of fuel reduction activities and upgrade of fire access infrastructure to the reserve, as well as, maintenance and enhancement of the bushland.

OPTIONS

The Council may determine not to adopt the Management Plan for Reserve 43008, however, this may result in lost impetus to manage all aspects contained in the plan (environmental, cultural and fire safety) in an integrated manner.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Management Plan for Reserve 43008 will be made available to the public by posting it on the City of Busselton website following the Council decision to support the officer recommendation. Actions of the Management Plan for Reserve 43008 will be implemented as funding is made available and suitable conditions to implement actions such as prescribed burning.

OFFICER RECOMMENDATION

That the Council adopt the Management Plan for Reserve 43008 (Attachment A), to guide the future fire management and to protect and enhance the environmental, social and heritage values of the reserve.

Note: Officers put forward a revised Officer Recommendation for Council consideration.

Council Decision and Revised Officer Recommendation

C1603/049

Moved Councillor G Bleachmore, seconded Councillor T Best

That Council:

1. Adopt the Management Plan for Reserve 43008 (Attachment A), to guide the future fire management and to protect and enhance the environmental, social and heritage values of the reserve.

2. The fire management and weed control actions within the Management Plan commence as soon as possible.
3. Future revegetation replicate the existing native density and provide for future maintenance requirements.

CARRIED 9/0

11.3 FURTHER CONSIDERATION OF OMNIBUS AMENDMENT NO 1. TO LOCAL PLANNING SCHEME NO. 21 - CONSIDERATION FOR FINAL APPROVAL

SUBJECT INDEX:	Town Planning Schemes and Amendments
STRATEGIC OBJECTIVE:	A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT:	Strategic Planning and Development
ACTIVITY UNIT:	Strategic Planning and Development
REPORTING OFFICER:	Manager, Strategic Planning and Development - Matthew Riordan
AUTHORISING OFFICER:	A/Director, Planning and Development Services - Martyn Glover
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

PRÉCIS

At its Meeting on 10 February 2016, the Council was to consider for final approval Omnibus Amendment No. 1 to Local Planning Scheme 21 (gazetted on 21 October 2014) following extensive public consultation.

The Council resolved, however, to defer consideration of the Amendment until the Meeting of 9 March 2016, in accordance with an Alternative Recommendation put forward by Councillor Henley, viz:

'That the Council defers Item 10.1 for a month until the 9 March, 2016 Council meeting.'

This was for the reason of deferring consideration of the matter until after the Special Meeting of Electors to be held on Tuesday 1 March 2016.

The Special Meeting of Electors was requested by petition from electors. While the meeting request was not compliant with the requirements of the Local Government Act, in good faith the meeting was requested by Councillors of the City of Busselton. The matter was included for Council consideration on the agenda of the meeting for 10 February, 2016 enabling the Council to either make a determination on the amendment or to defer the matter for purposes of the electors' meeting. The Council resolved to defer the matter.

The purpose of the request submitted to the Mayor for the special meeting was stated as being:

'The matter for discussion is the Local Planning Scheme No 21 – Omnibus [Amendment] 1, as it appears on the City of Busselton website'

Since the resolution of the Council on 10 February 2016, the Chief Executive Officer and senior City officers have further discussed the matter. Despite the careful and comprehensive preparation of the Amendment over the past 18 months, and its endorsed adoption for extensive public consultation, officers consider that the matter of consideration of the amendment for final approval best requires deferment until a Council meeting in April, 2016.

The main reason for this recommendation is to allow officers sufficient time (if and as required) to fully consider, act upon and provide additional recommendations to the Council - and for Councillors to duly consider those recommendations. In this regard, any outcomes from the Electors' Meeting, including its minutes, could be presented to the Council on 23 March, 2016 and should the Council make any decisions in response to any outcomes of the Electors' Meeting, these could be appropriately drafted for inclusion in the amendment to be considered for final approval at a subsequent meeting.

BACKGROUND

At its meeting of 26 August 2015, the Council considered Omnibus Amendment No. 1 to the City of Busselton Local Planning Scheme No. 21 (LPS21) and adopted it for public consultation.

The Amendment recommends a significant number of mostly minor changes to LPS21. The various changes proposed are seen as necessary for the more efficient and effective administration of the Scheme, to better reflect the Council's identified and endorsed strategic direction, and to provide positive, rational and effective guidance for future land use and development across the District.

The intent, purpose and scope of the changes recommended in the Amendment are to:

- Implement the recommendations of the CapeROC initiative that investigated providing a more 'liberal' and consistent approach to regulation of development in the rural zones of the Augusta-Margaret River and Busselton Schemes, noting that the Shire of Augusta-Margaret River has now already completed a similar exercise;
- Implement a number of the recommendations from the City of Busselton 'Local Commercial Planning Strategy', 'Local Cultural Planning Strategy' and subsequent Conceptual Plans for the Busselton City Centre and Dunsborough Town Centre (both finally adopted by the Council in January 2014);
- Rationalise and clarify the delineation and mapping of the Scheme Area boundary along the coastline;
- Correct textual anomalies that occurred during the conversion of District Town Planning Scheme No. 20 into 'Model Scheme Text-compliant' form as Local Planning Scheme No. 21; and to update/correct other essentially minor Scheme matters generally;
- Relax building height controls across the City;
- Place a prohibition on the development of new 'drive-through facilities' within the 'Business' zone; and
- Address a number of mapping corrections that have been identified as being needed through the process of adopting the new Local Planning Scheme, along with other minor modifications to the Scheme Maps.

STATUTORY ENVIRONMENT

1. Omnibus Amendment No. 1

The *Planning and Development Act 2005* outlines the relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been taken into account in preparing and processing this amendment.

The *Planning and Development (Local Planning Schemes) Regulations 2015*, which came into operational effect on 19 October 2015, identifies three different levels of amendments – basic, standard and complex. As the identification of the amendment type occurs at the time of formal initiation, which in this case occurred prior to the adoption of the Regulations, it is not now necessary to identify the amendment level at this later stage. Notwithstanding this, Omnibus Amendment No. 1 will now be progressed for final adoption as though it were a 'standard' amendment under the Regulations.

Omnibus Amendment No. 1 is considered to be fully consistent and compliant with all requirements of the relevant statutory environment.

2. Special Meeting of Electors

The Special Meeting of Electors was requested per the powers of s.5.28 of the LGA. Whilst the petition received by the Mayor did not conform with, or comply to, the requirements of the LGA, the Council elected to hold the meeting in any event, in accordance with its powers under s.5.28(1)(b), viz:

5.28. Electors' special meetings

- (1) A special meeting of the electors of a district is to be held on the request of not less than —
 - (a) 100 electors or 5% of the number of electors —whichever is the lesser number; or
 - (b) 1/3 of the number of council members.

Subsequent sections of the LGA prescribe matters concerning the following:

- 5.29 Convening electors' meetings
- 5.30 Who presides at electors' meetings
- 5.31 Procedure for electors' meetings
- 5.32 Minutes of electors' meetings
- 5.33 Decisions made at electors' meetings.

Section 5.33 is of particular relevance given the particular circumstance of the Special Meeting of Electors, which was requested by certain electors on the basis of the following:

'The matter for discussion is the Local Planning Scheme No 21 – Omnibus [Amendment] 1, as it appears on the City of Busselton website'.

This section states:

5.33. Decisions made at electors' meetings

- (1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —
 - (a) at the first ordinary council meeting after that meeting; or
 - (b) at a special meeting called for that purpose,whichever happens first.
- (2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.

RELEVANT PLANS AND POLICIES

The key policy implications with respect to the Amendment proposal are:

- Local Commercial Planning Strategy;
- Local Cultural Planning Strategy;
- Busselton City and Dunsborough Town Centre Conceptual Plans; and
- Planning in Bushfire Prone Areas.

Each of these plans and strategies (inter alia) was commented upon in considerable detail in the Agenda report for the Meeting of 10 February 2016. In the interests of brevity in this 'supplementary' report, however, please refer to that original Agenda item for any further information.

FINANCIAL IMPLICATIONS

There are considered to be no direct financial implications arising from the implementation of the Officer Recommendation.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The proposed amendment is considered to be consistent with the following community objectives of the City's *Strategic Community Plan 2013* –

- 2.2 *A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections; and*
- 3.1 *A strong, innovative and diverse economy that attracts people to live, work, invest and visit.*

RISK ASSESSMENT

The implementation of the Officer Recommendation herein will involve a deferral of formal consideration for final approval of Amendment 1 to LPS21 by the Council. Apart from delaying the finalization and subsequent implementation of an important statutory and strategic process prepared in the best interests of the due and proper planning and administration of the City of Busselton, no significant risks have been identified.

CONSULTATION

In the interests of brevity in this 'supplementary' report, please refer to the original Agenda item (of 10 February 2016) for further detailed information in respect to the extensive public consultation process that was undertaken by the City in regard to this Amendment.

In relation to this, the following is provided in summary:

- A 'Schedule of Submissions' was provided in the original Agenda report (10 February 2016). That Schedule outlines the submissions received and provides detailed Officer comments and recommendations to the Council in respect to each.
- A 'Schedule of Modifications' was also provided in the original Agenda report (of 10 February 2016). This Schedule addresses pertinent issues raised in the submissions and provides a list of recommended modifications to the Amendment (as it was advertised) as a result of these. There were a total of eight recommended modifications made to the Council in this Schedule.
- The public consultation undertaken fully complied with the *Planning and Development (Local Planning Schemes) Regulations 2015*, which require:
 - a) public notice to be provided in a local newspaper;
 - b) a copy to be provided in the administration offices of the subject local government;

- c) a notice to be provided to relevant Government agencies;
- d) the Amendment itself, along with *notice* of that proposed Amendment, to be provided on the subject local government website;
- e) consultation and advertising as directed by the WA Planning Commission, and in any other way the subject local government considers appropriate.

Submissions on the Amendment were invited for 42 days, between 4 November and 16 December 2015. These dates were purposefully chosen and advertised to end *before* Christmas and the majority commencement of school holidays in order to avoid, as much as practicable, that otherwise busy period for electors, businesses and other interested parties.

In addition to the above, the advertising undertaken for the Amendment involved:

- Correspondence sent directly to almost 1,800 landowners, including:
 - those affected by site-specific rezonings;
 - those within the Busselton city centre and Dunsborough town centre and those in residential areas proposed for, or abutting, the A74 and R80 areas recommended in the Amendment;
 - those within 150m of the 'Mean High Water Mark';
 - all relevant Government agencies.

NOTE: This correspondence was tailored to the specific part of the Amendment relating to a particular property concerned (e.g. those situated in the Dunsborough Town Centre were sent a letter tailored to the matters of particular relevance to them), although the mail out further advised landowners in respect to the considerable balance of matters addressed in the Omnibus Amendment (each letter included a 'summary information' sheet).

- Notice provided to relevant business and community groups, such as the Busselton and Dunsborough chambers of commerce;
- Signage installed on land affected by more substantial and site-specific rezonings (e.g. Armstrong Reserve in Dunsborough, Dawson Drive in Yallingup, Ford Road in Geographe etc);
- Notice placed in the Busselton Dunsborough Mail 'Council for the Community' section, on 4 November 2015;
- Hard copies of the proposed Omnibus Amendment provided at the front counter of the City's Administration office and in both the Busselton and Dunsborough public libraries;
- The complete document, along with the summary information sheet, was placed in digital format on the City's public website, in the 'Public Consultations' section.

OFFICER COMMENT

The most relevant and substantive issues raised during the public consultation period between 4 November and 16 December 2016 were detailed and comprehensively addressed for the information of Councillors in the Agenda report prepared for the Meeting of 10 February 2016. Please refer to that Agenda report for additional information and background.

In brief, however, these issues concerned:

1. 'Additional Use' A74 area and Dunsborough Town Centre R80 coding;
2. Dunsborough Town Centre Height and R-AC3 rezoning in the CBD;
3. Site-specific rezonings:
 - Caves Road, Wilyabrup,
 - Quindalup Youth Hostel,

- Requests for extension of A74 area (Geographe Bay Road, Dunsborough and North along West Street, Busselton),
 - Dunsborough Lakes Estate, land proposed for inclusion in DCA1.
4. 'Drive-through facilities' being prohibited within the 'Business' zone; and
 5. 'Other' (being a technical textual correction and improvement only).

Detailed recommendations in regard to all of these issues, in both the body of the original Agenda report (10 February 2016) and accompanying Schedule of Submissions, were provided for the consideration of the Council at that Meeting.

Due to the Special Meeting of Electors that has been requested, and the date of 1 March, 2016 selected by the Mayor (in accordance with the requirements of the LGA), the opportunity may also be provided in the interim for officers to further brief or discuss with Councillors these and other pertinent matters.

To reiterate then, the recommended *deferral* of consideration of the Omnibus Amendment proposal will enable:

- City officers sufficient time (if and as required) to consider, act upon and provide additional recommendations to the Council in respect to any outcomes from the Special Meeting of Electors on 1 March 2016;
- Councillors reasonable opportunity to consider and address any decision(s) made at the Special Meeting of Electors, along with subsequent information and advice provided in relation to this by City officers;
- Any directly relevant and/or important incidental matter(s) that might arise for the consideration or re-consideration of the Council in regard to the Amendment to be properly and fully addressed.

CONCLUSION

The purpose of Omnibus Amendment 1 is to improve the functionality and currency of Local Planning Scheme 21 by refining, updating and correcting provisions and mapping where these have been found to be deficient. A significant number of essentially minor changes have been introduced that reflect the endorsed recommendations of previous strategic studies and outcomes (e.g. the Local Cultural Planning Strategy (2011), the Local Commercial Planning Strategy (2011) and the City/Town Centre Conceptual Plans for Busselton and Dunsborough).

The detailed information and explanatory rationales provided within the Agenda report on 10 February 2016 (and in the *initial* report to the Council, on 26 August 2015) address the continuing orderly and proper planning of the City of Busselton.

To further ensure this, the Amendment was further refined and improved following the extensive public consultation process, and a small number of adjustments were subsequently recommended to the Council in a Schedule of Modifications.

In summary, the changes as described in the Agenda report of 10 February 2016 and reflected in the Schedule of Modifications therein were as follows:

	Decision	Advertised as:	To be modified as:
1.	Recommendation 1.1 mm Removing the use classes 'Poultry Farm', Recreation Agriculture', 'Recreation Area' and 'Rural	1.1 mm Removing the use classes 'Poultry Farm', Recreation Agriculture', 'Recreation Area'	That recommendation 1.1 mm of the decision be amended to state:

	Enterprise' and associated permissibilities.	and 'Rural Enterprise' and associated permissibilities.	"Removing the use classes 'Poultry Farm', Recreation Agriculture', 'Recreation Area' and 'Rural Enterprise', associated permissibilities and associated references throughout the Scheme."
2.	<p>Recommendation 2.6:</p> <p>Amend Schedule 2 'Additional Uses' by –</p> <p>a. Inserting an Additional Use (No. A74) provision as follows, and amend the Scheme maps accordingly:</p> <p><i>[Please refer to extensive Table in original Recommendation]</i></p>	<p>2.6 Amend Schedule 2 'Additional Uses' by –</p> <p>a. Inserting an Additional Use (No. A74) provision as follows, and amend the Scheme maps accordingly:</p> <p><i>[Please refer to extensive Table in original Recommendation]</i></p>	<p>That recommendation 2.6a of the decision be amended to include the following additional condition in the 'Conditions' column:</p> <p><i>"5. Urban design guidelines (and/or Special Provisions) shall be prepared and adopted as a Local Planning Policy to address the following matters in relation to any proposed development:</i></p> <ul style="list-style-type: none"> - <i>Appropriate building setbacks to prevent or suitably mitigate overshadowing or overlooking of neighbouring properties;</i> - <i>Built form articulation, architectural design, function, bulk, scale, massing, grain, signage and surveillance (in relation to the streetscape, surrounding buildings, adjoining land uses and the overall character and amenity of the subject development area);</i> - <i>Vehicular access, and the location of crossovers/provision of onsite car parking;</i> - <i>Roofscapes, skylines and service installation sites to ensure minimal visual intrusion.'</i>
3.	<p>Recommendation 2.6:</p> <p>Amend Schedule 2 'Additional Uses' by –</p> <p>a. Inserting an Additional Use (No. A74) provision as follows, and amend the Scheme maps accordingly:</p> <p><i>[Please refer to extensive Table in original Recommendation]</i></p>	<p>2.6 Amend Schedule 2 'Additional Uses' by –</p> <p>a. Inserting an Additional Use (No. A74) provision as follows, and amend the Scheme maps accordingly:</p> <p><i>[Please refer to extensive Table in original Recommendation]</i></p>	<p>That recommendation 2.6a of the decision be amended to include Lot 81 (18) Geographe Bay Road, Dunsborough into the Additional Use (No. A74) provision.</p>
4.	<p>Recommendation 2.6:</p> <p>Amend Schedule 2 'Additional Uses' by –</p> <p>a. Inserting an Additional Use (No. A74) provision as follows, and amend the Scheme maps accordingly:</p> <p><i>[Please refer to extensive Table in original Recommendation]</i></p>	<p>2.6 Amend Schedule 2 'Additional Uses' by –</p> <p>a. Inserting an Additional Use (No. A74) provision as follows, and amend the Scheme maps accordingly:</p> <p><i>[Please refer to extensive Table in original Recommendation]</i></p>	<p>That recommendation 2.6a of the decision be amended to include Lots 1 (28), 2 (30) and 3 (32) West Street, Busselton into the Additional Use (No. A74) provision.</p>
5.	<p>Recommendation 2.8:</p> <p>Amend the Scheme Maps by:</p>	<p>2.8 Amend the Scheme Maps by:</p>	<p>That recommendation 2.8f of the</p>

	f. Modifying the residential density coding to R80 over Lots 51 and 87 to 102 Chieftain Crescent, Lots 86 and 162 Chester Way, Lots 139 to 141 Lorna Street, Lots 1-9 (20) and 115 to 127 Geographe Bay Road, Lots 1-17 (3) Dunn Bay Road, Lots 1 & 2 (4), 5 (2), 17, 18, 41 to 43 Prowse Way, Lots 3 and 4 Greenacre Road and Lot 60 (191) Naturaliste Terrace, Dunsborough.	f. Modifying the residential density coding to R80 over Lots 51 and 87 to 102 Chieftain Crescent, Lots 86 and 162 Chester Way, Lots 139 to 141 Lorna Street, Lots 1-9 (20) and 115 to 127 Geographe Bay Road, Lots 1-17 (3) Dunn Bay Road, Lots 1 & 2 (4), 5 (2), 17, 18, 41 to 43 Prowse Way, Lots 3 and 4 Greenacre Road and Lot 60 (191) Naturaliste Terrace, Dunsborough.	decision be amended to include Lot 81 (18) Geographe Bay Road, Dunsborough for modifying the residential density coding to R80 .
6.	Recommendation 5.17 Lot 21 (3806) Caves Road, Wilyabrup	5.17 Rezone portion of lot from 'Recreation' Reserve to 'Agriculture'.	That recommendation 5.17 of the decision be amended to correctly state as follows: "Rezone portion of lot from 'Recreation' Reserve to 'Viticulture and Tourism'."
7.	Recommendation 5.31 Lot 42 (201) Geographe Bay Road, Quindalup	5.31 Rezone from 'Public Purpose' Reserve to 'Special Purpose – Youth Hostel'.	That recommendation 5.31 of the decision be amended to state as follows: "Rezone from 'Public Purpose' Reserve to ' Special Purpose - Hostel '."
8.	Recommendation 5.53: Lot 44 Chapman Hill Road, Kalgup	5.53 Rezone from 'Public Purpose' Reserve to 'Agriculture'	That recommendation 5.53 of the decision be deleted and subsequent recommendations be re-numbered accordingly.

OPTIONS

Should the Council not wish to support the Officer Recommendation to defer consideration of this matter, it could consider the following option:

1. The Council could adopt Omnibus Amendment No 1 for final approval, in accordance with the original Officer Recommendation of 10 February 2016 or subject to revised or additional modification(s) to those recommended in the accompanying 'Schedule of Modifications'.

The Council is advised that, should it decide to adopt the Amendment for final approval, subject or not to any revised or additional modifications, that Amendment will then be provided accordingly to the Western Australian Planning Commission/Hon. Minister for Planning with a request for formal endorsement and gazettal.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the Officer Recommendation will require the deferment of any formal consideration for final approval of the Amendment by the Council until April 2016.

OFFICER RECOMMENDATION

That the Council :

1. Defers consideration of Omnibus Amendment No. 1 for final approval until April 2016, in order to allow the Council to formally consider the outcomes of a Special Electors' Meeting convened for 1 March, 2016 and any other relevant matters before proceeding with final consideration of the amendment.

Note: Councillor Henley proposed an alternative motion for Council consideration.

MOTION

Moved Mayor G Henley, seconded Councillor J McCallum

That Council:

- A. Pursuant to s.75 of Part V of the *Planning and Development Act 2005*, resolves to adopt proposed Omnibus Amendment No. 1 to the City of Busselton Local Planning Scheme No. 21 for final approval, with the exception of recommendation 4.5 (Drive Through Facilities in Business Zone) and recommendation 5.58 (Dunsborough Lakes Developer Contributions), in accordance with the modifications proposed in the 'Schedule of Modifications' at Attachment B., for the purposes of:

1. CapeROC Initiative

1.1 Amending Table 1 "*Zoning Table*" by –

a. Amending the following Use Class titles:

- i. 'Agriculture' to read 'Agriculture – Extensive';
- ii. 'Intensive Agriculture' to read 'Agriculture – Intensive';
- iii. 'Animal Husbandry' to read 'Animal Husbandry – Intensive';
- iv. 'Chalet Development' to read 'Chalet';
- v. 'Residential Enterprise' to read 'Home Business';
- vi. 'Cottage Industry' to read 'Industry – Cottage';
- vii. 'Rural Industry' to read 'Industry – Rural';
- viii. 'Place of Public Worship' to read 'Place of Worship';
- ix. 'Roadside Stall' to read 'Rural Stall';
- x. 'Forestry' to read 'Tree Farm'; and
- xi. 'Veterinary Hospital' to read 'Veterinary Centre';

and associated references throughout the Scheme accordingly.

- b. Inserting the use classes 'Ancillary Accommodation', 'Brewery', 'Exhibition Centre', 'Park Home Park', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm'.
- c. In relation to the 'Residential' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'P';

- d. In relation to the 'Residential' zone and in relation to the use class 'Park Home Park', insert the symbol 'A';
- e. In relation to the 'Residential' zone and in relation to the use class 'Brewery', 'Exhibition Centre', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- f. In relation to the 'Business' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'D';
- g. In relation to the 'Business' zone and in relation to the use class 'Brewery' and 'Exhibition Centre', insert the symbol 'A';
- h. In relation to the 'Business' zone and in relation to the use class 'Park Home Park', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- i. In relation to the 'Restricted Business' zone and in relation to the use class 'Brewery' and 'Exhibition Centre', insert the symbol 'A';
- j. In relation to the 'Restricted Business' zone and in relation to the use class 'Ancillary Accommodation', 'Park Home Park', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- k. In relation to the 'Tourist' zone and in relation to the use class 'Park Home Park', insert the symbol 'D';
- l. In relation to the 'Tourist' zone and in relation to the use class 'Brewery' and 'Exhibition Centre', insert the symbol 'A';
- m. In relation to the 'Tourist' zone and in relation to the use class 'Ancillary Accommodation', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- n. In relation to the 'Industrial' zone and in relation to the use class 'Brewery', insert the symbol 'D';
- o. In relation to the 'Industrial' zone and in relation to the use class 'Ancillary Accommodation', 'Exhibition Centre', 'Park Home Park', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- p. In relation to the 'Agriculture' zone and in relation to the use class 'Ancillary Accommodation' and 'Rural Pursuit', inserting the symbol 'P';
- q. In relation to the 'Agriculture' zone and in relation to the use class 'Rural Produce Sales', inserting the symbol 'D';
- r. In relation to the 'Agriculture' zone and in relation to the use class 'Brewery', 'Exhibition Centre' and 'Wind Farm', inserting the symbol 'A';
- s. In relation to the 'Agriculture' zone and in relation to the use class 'Park Home Park', inserting the symbol 'X';
- t. In relation to the 'Agriculture' zone and in relation to the use class 'Industry – Cottage' and 'Rural Stall', replacing the symbol 'D' with the symbol 'P';

- u. In relation to the 'Agriculture' zone and in relation to the use class 'Chalet', replacing the symbol 'A' with the symbol 'D';
- v. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Ancillary Accommodation' and 'Rural Pursuit', inserting the symbol 'P';
- w. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Rural Produce Sales', inserting the symbol 'D';
- x. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Brewery', 'Exhibition Centre' and 'Wind Farm', inserting the symbol 'A';
- y. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Park Home Park', inserting the symbol 'X';
- z. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Agriculture – Intensive', 'Industry – Cottage' and 'Rural Stall', replacing the symbol 'D' with the symbol 'P';
- aa. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Animal Husbandry', 'Chalet' and 'Industry – Rural', replacing the symbol 'A' with the symbol 'D';
- bb. In relation to the 'Rural Residential' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'P';
- cc. In relation to the 'Rural Residential' zone and in relation to the use class 'Rural Pursuit', insert the symbol 'A';
- dd. In relation to the 'Rural Residential' zone and in relation to the use class 'Brewery', 'Exhibition Centre', 'Park Home Park', 'Rural Produce Sales' and 'Wind Farm', insert the symbol 'X';
- ee. In relation to the 'Rural Landscape' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'D';
- ff. In relation to the 'Rural Landscape' zone and in relation to the use class 'Rural Produce Sales' and 'Rural Pursuit', insert the symbol 'A';
- gg. In relation to the 'Rural Landscape' zone and in relation to the use class 'Brewery', 'Exhibition Centre', 'Park Home Park', and 'Wind Farm', insert the symbol 'X';
- hh. In relation to the 'Conservation' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'D';
- ii. In relation to the 'Conservation' zone and in relation to the use class 'Rural Produce Sales', insert the symbol 'A';
- jj. In relation to the 'Conservation' zone and in relation to the use class 'Brewery', 'Exhibition Centre', 'Park Home Park', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- kk. In relation to the 'Bushland Protection' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'D';

ll. In relation to the 'Bushland Protection' zone and in relation to the use class 'Brewery', 'Exhibition Centre', 'Park Home Park', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X'; and

mm. Removing the use classes 'Poultry Farm', 'Recreation Agriculture', 'Recreation Area' and 'Rural Enterprise' and associated permissibilities.

1.2 Modifying clause 4.5 "Exceptions to the zoning table" by amending clause 4.5.3(a) to read as follows:

"(a) within the Rural Residential zone on any lot less than 4,000 m² in area, any purpose other than a single house (including any incidental development), ancillary accommodation, guesthouse, holiday home (single house), home business, home office, home occupation, bed and breakfast or public utility;"

1.3 Amending clause 5.14 "Residential Enterprise" to read as follows:

"5.14 HOME BUSINESS

5.14.1 A home business shall –

- (a) not occupy an area greater than 50m², provided further that the area within which it is conducted is not visible from the street or a public place;*
- (b) be conducted only between the hours of 8.00am and 6.00pm on weekdays, 9.00am and 5.00pm on Saturdays and is not conducted on Sundays and public holidays;*
- (c) not have more than one advertising sign and the sign displayed does not exceed 0.2m² in area; and*
- (d) not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight.*

5.14.2 Where a local government grants planning approval for a home business, such planning approval –

- (a) must be personal to the person to whom it was granted;*
- (b) must not be transferred or assigned to any other person;*
- (c) does not run with the land in respect of which it was granted; and*
- (d) must apply only in respect of the land specified in the planning approval."*

1.4 Amending clause 5.16 "Cottage Industry" to read as follows:

"5.16 INDUSTRY – COTTAGE

An Industry – Cottage shall –

- (a) not occupy an area in excess of 100m²; and*

(b) *not display a sign exceeding 0.2m² in area.*”

1.5 Amending Schedule 1 “Interpretations” by –

- a. Removing the definitions ‘Poultry Farm’, ‘Recreation Agriculture’, ‘Recreation Area’, and ‘Rural Enterprise’;
- b. Amending the following definitions to read:
 - i. *“‘Abattoir’ means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;”*
 - ii. *“‘Animal Establishment’ means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry — intensive or veterinary centre;”*
 - iii. *“‘Hotel’ means premises the subject of a hotel licence other than a small bar or tavern licence granted under the Liquor Control Act 1988 including any betting agency on the premises;”*
 - iv. *“‘Market’ means premises used for the display and sale of goods from stalls by independent vendors;”*
 - v. *“‘Plant Nursery’ means premises used for propagation, the growing and either retail or wholesale selling of plants, whether or not ancillary products are sold therein;”*
 - vi. *“‘Reception Centre’ means premises used for hosted functions on formal or ceremonial occasions;”*
 - vii. *“‘Service Station’ means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for —*
 - (a) *the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or*
 - (b) *the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles;”*
 - viii. *“‘Tourist Accommodation’ means single occupancy accommodation units, which may be self-contained and may include associated central facilities for the exclusive use of guests, and includes serviced apartments;”*
 - ix. *“‘Winery’ means premises used for the production of viticultural produce and associated sale of the produce;”*
- c. Amending the following titles and definitions:
 - i. ‘Agriculture’ to read:

“‘Agriculture - Extensive’ means premises used for the raising of stock or crops but does not include agriculture — intensive or animal husbandry — intensive;”
 - ii. ‘Intensive Agriculture’ to read:

“*Agriculture – Intensive*’ means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with the following –

- (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;
- (b) the establishment and operation of plant or fruit nurseries; or
- (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);”

iii. ‘Animal Husbandry’ to read:

“*Animal Husbandry – Intensive*’ means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens;”

iv. ‘Chalet Development’ to read:

“*Chalet*’ means a dwelling forming part of a tourist facility that is –

- (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and
- (b) designed to accommodate short-term guests with no guest accommodated for periods totalling more than 3 months in any 12 month period;”

v. ‘Residential Enterprise’ to read:

“*Home Business*’ means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which –

- (a) does not employ more than 2 people not members of the occupier’s household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not involve the retail sale, display or hire of goods of any nature except where those goods are manufactured or produced at the residence;
- (d) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (e) does not involve the use of an essential service of greater capacity than normally required in the zone;”

vi. ‘Cottage Industry’ to read:

“*Industry – Cottage*’ means premises, other than premises used for a home occupation, that are used by the occupier of the premises for the purpose of carrying out a trade or light industry producing arts and crafts goods if the carrying out of the trade or light industry —

- (a) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (b) if the premises is located in a residential zone — does not employ any person other than a member of the occupier’s household; and
- (c) is compatible with the principal uses to which land in the zone in which the premises is located may be put;

and may include the wholesale and appointment only sale of products produced on site.”

vii. ‘Rural Industry’ to read:

“*Industry – Rural*’ means premises used —

- (a) to carry out an industry handling, treating, processing or packing rural products grown, reared or produced in the locality; or
- (b) for a workshop servicing plant or equipment used for rural purposes in the locality;”

viii. ‘Place of Public Worship’ to read:

“*Place of Worship*’ means premises used for religious activities such as a chapel, church, mosque, synagogue or temple;”

ix. ‘Roadside Stall’ to read:

“*Rural Stall*’ means a place, temporary structure or moveable structure used for the retail sale of agricultural produce produced on the property on which it is situated as an activity totally incidental to and dependent upon the principal use of the land for agricultural purposes;”

x. ‘Forestry’ to read:

“*Tree Farm*’ means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5;”

xi. ‘Veterinary Hospital’ to read:

“*Veterinary Centre*’ means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;”

d. Inserting the following new definitions:

- i. *“‘Brewery’ means premises used for the production and consumption of beer, cider or spirits but does not include any other land use defined elsewhere in this Schedule;”*
- ii. *“‘Exhibition Centre’ means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum;”*
- iii. *“‘Home Office’ means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation –*
 - (a) *is solely within the dwelling; and*
 - (b) *does not entail clients or customers travelling to and from the dwelling; and*
 - (c) *does not involve the display of a sign on the premises; and*
 - (d) *does not require any change to the external appearance of the dwelling;”*
- iv. *“‘Park Home Park’ means premises used as a park home park as defined in the Caravan Parks and Camping Grounds Regulations 1997 Schedule 8;”*
- v. *“‘Rural Produce Sales’ means any premises used for the purpose of retail sale of products which are grown, reared or produced on site, including a cellar door operation and retail sales associated with Industry – Cottage or Industry – Rural;”*
- vi. *“‘Rural Pursuit’ means any premises, other than premises used for agriculture — extensive or agriculture — intensive, that are used for —*
 - (a) *the rearing or agistment of animals; or*
 - (b) *the keeping of bees; or*
 - (c) *the stabling, agistment or training of horses; or*
 - (d) *the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or*
 - (e) *the sale of produce grown solely on the premises;”*
- vii. *“‘Wind Farm’ means premises used to generate electricity by wind force and any associated turbine, building or other structure but does not include anemometers or turbines used primarily to supply electricity for a domestic property or for private rural use;”*

2. Town Centre Strategies

2.1 Modifying clause 4.2.2 ‘Business zone’ Policies by –

Amending Policy (c) to read as follows:

“(c) To provide for medium to high density residential development within the Busselton City Centre and Dunsborough Town Centre.”

Inserting a new clause (d) as follows, and renumber subsequent clauses accordingly:

“(d) Within neighbourhood and local centres, to allow residential development only where it is a component of commercial development.”

2.2 Introduce a new sub-clause to clause 5.3.1 as follows:

“(i) On land coded R-AC3, Deemed-to-comply provision 6.1.1 C1 (Building Size) of the R-Codes is varied as per the provisions of clause 5.19.”

2.3 Amend clause 5.3.2 to read as follows:

“5.3.2 Building height provisions as specified under Table 3 and Table 4, and Deemed-to-comply provision 5.1.6 C6 and 6.1.2 C2 of the R-Codes do not apply, except for on land coded R-AC3. In all other areas, maximum building height requirements are required to comply with the provisions of clause 5.8 of the Scheme.”

2.4 Insert a new sub-clause under clause 5.8 ‘Height of Buildings’ to read as follows:

“5.8.9 For land in the Business zone where a residential density coding has been designated, the height of any building shall not exceed the height limits identified in the Residential Design Codes. Where a residential density coding has not been designated, the height of any building shall be determined in accordance with clauses 5.8.1 to 5.8.5.”

2.5 Amend clause 5.19 ‘Residential Development in the Business Zone’ to read as follows:

“5.19 DEVELOPMENT IN THE BUSINESS ZONE

Where land is zoned ‘Business’ 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:

- (a) 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*
- (b) Where a development incorporates a Restaurant, 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*
- (c) 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.”*

2.6 Amend Schedule 2 “Additional Uses” by –

- a. Inserting an Additional Use (No. A74) provision as follows, and amend the Scheme maps accordingly:

No.	PARTICULARS OF LAND	LAND USE PERMITTED/SPECIFIED	CONDITIONS
A74	-Lots 202 (1), 201 (3), 2 (5), 3 (7), 26 (8), 4 (9), 25 (10), 5 (11), 24 (12), 21 (13), 37 (14), 4 (15), 38 (16), 3 (17), 2 (19), 15-16	Guesthouse, Medical Centre, Office, Professional Consulting Rooms, Restaurant,	1. The Additional Uses specified shall be deemed to be “D” uses for the purposes of the Scheme.

<p>(20), 3 (21), 2 (23), and 12-13 (24) Duchess Street, West Busselton;</p> <p>-Lots 200 (29), 28 (37), 27 (41), 34 (43), 1-2 (45), 1 (47), 1 (55), 2 (57), 73 (59), 74 (61), 1-7 and 10-16 (63), 1-5 (69), 6 (71), and 5 (73) Gale Street, West Busselton;</p> <p>-Lots 2-3 (3), 128 (4), 129 (6), 1-3 (7), 1-2 (9), 1-7 (10), 1-6 (11), 130 (14), 30 (16), 29 (18), 28 (20), 27 (22), 26 (24) and 25 (26) Kent Street, West Busselton;</p> <p>-Lots 1 (34), 14 (40), 1-2 (42), 34 (44), 24 (48), 35 (52), 1-10 (54), 39 (58) and 42 (60) West Street, West Busselton,</p> <p>-Lots 51 and 87 to 102 Chieftain Crescent, Lots 86 and 162 Chester Way, Lots 139 to 141 Lorna Street, Lots 1-9 (20) and 115 to 127 Geographe Bay Road, Lots 1 to 17 (3) Dunn Bay Road, Lots 1 & 2 (4), 5 (2), 17, 18, 41 to 43 Prowse Way, Lots 3 and 4 Greenacre Road and Lot 60 (191) Naturaliste Terrace, Dunsborough</p>	<p>Shop, Tourist Accommodation</p>	<p>2. 'Shop' land uses may be permitted at ground floor level only and occupy up to 50% of total development floor space.</p> <p>3. A nil setback to the street shall be considered for active frontages.</p> <p>4. The provisions of Clause 5.23 relating to cash in lieu of car parking shall apply.</p>
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- b. Deleting Additional Use No. 63 relating to Lot 60 (House 191) Naturaliste Terrace, Dunsborough, and amend the Scheme maps accordingly.
- c. Deleting Additional Use No. 73 relating to Lot 8 (House 226) Naturaliste Terrace, Dunsborough, and amend the Scheme maps accordingly.

2.7 Amend Schedule 3 "Special provision areas" by –

- a. Modifying Special Provision 41 relating to Lots 15, 16, 24 & 38 Duchess Street, West Busselton to remove reference to "Limited Office Use" from within the "Zone" column.
- b. Deleting Special Provision 20 relating to Lot 1 (House 61) Dunn Bay Road, Dunsborough, and amend the Scheme maps accordingly.
- c. Deleting Special Provision 46 relating to Lots 1-11 (House 15) Dunn Bay Road, Dunsborough, and amend the Scheme maps accordingly.
- d. Deleting Special Provision 49 relating to Lot 202 (House 24) Dunn Bay Road, Dunsborough, and amend the Scheme maps accordingly.

2.8 Amend the Scheme maps by –

- a. Amend the Scheme in relation to land currently zoned 'Business' within the Busselton City Centre to include a residential density code of R-AC3, being:
 - i. Lots bound by Peel Terrace, Brown Street, West Street and Marine Terrace;
 - ii. The portion of Lot 73 Peel Terrace currently zoned 'Business'; and
 - iii. Lots 74 and 75 Peel Terrace;And subject to the following exclusions:
 - i. All lots also contained within the Adelaide Street Special Character Area;
 - ii. The portion of Lot 73 Peel Terrace currently reserved for 'Community Purposes'.
- b. Amend the Scheme map in relation to land currently zoned 'Business' within the Dunsborough Town Centre to include a residential density code of R-AC3, being:
 - i. Lots bound by Caves Road, Cape Naturaliste Road, Dunn Bay Road and Seymour Boulevard;
 - ii. Lots bound by Cape Naturaliste Road, Dunn Bay Road, Naturaliste Terrace and Reserve 42673;
 - iii. Lots bound by Dunn Bay Road, Naturaliste Terrace and Hannay Lane;
 - iv. Lots 1-7 (233) Naturaliste Terrace, Lots 1-17 (31) Dunn Bay Road, and Lot 104 (29) Dunn Bay Road.
- c. Rezoning land currently zoned 'Tourist' and 'Special Purpose' with frontage to Dunn Bay Road, Dunsborough to 'Business' and applying a residential density code of R-AC3.
- d. Rezoning land currently zoned 'Industrial' and 'Restricted Business' within the Dunsborough Town Centre to 'Business' and applying a residential density code of R-AC3, being:
 - i. Lots bound by Cape Naturaliste Road, Reserve 42673, Naturaliste Terrace and Reserve 42545.
- e. Rezoning Lot 106 (House No. 16) Cyrilleen Way, Dunsborough from 'Recreation' to 'Business' and applying a residential density code of R-AC3.
- f. Modifying the residential density coding to R80 over Lots 51 and 87 to 102 Chieftain Crescent, Lots 86 and 162 Chester Way, Lots 139 to 141 Lorna Street, Lots 1-9 (20) and 115 to 127 Geographe Bay Road, Lots 1-17 (3) Dunn Bay Road, Lots 1 & 2 (4), 5 (2), 17, 18, 41 to 43 Prowse Way, Lots 3 and 4 Greenacre Road and Lot 60 (191) Naturaliste Terrace, Dunsborough.

3. Scheme Area

- 3.1 Amend clause 3.1 'Scheme Area' to read as follows:

"1.3 SCHEME AREA

The Scheme applies to the Scheme area as shown on the Scheme maps, or to the Low Water Mark, if the Scheme map does not extend to or beyond the Low Water Mark.”

- 3.2 Amend clause 3.3 ‘Local Reserves’ to read as follows:

“3.3 LOCAL RESERVES

Local Reserves are delineated and depicted on the Scheme map according to the legend on the Scheme map, and in addition land between High Water Mark and Low Water Mark shall, unless identified otherwise in the Scheme map, be considered to be ‘Recreation Reserve’.”

- 3.3 Amending Schedule 1 “Interpretations” by –

- a. inserting the following new definitions:

- i. *““Low Water Mark”, in relation to tidal waters, means lowest water mark at spring tides.”*
- ii. *““High Water Mark”, in relation to tidal waters, means ordinary high water mark at spring tides.”*

- b. Amending the following definition to read:

““Mean High Water Mark’ means the demarcation line shown on the Scheme map as provided by Landgate on the day of 22 June 2015, that identifies the interface of the ocean and land, and shall exclude any demarcation of natural inland water systems or man-made harbours/canals.”

- 3.4 Amending Schedule 4, clause 5(d) of the ‘Eagle Bay Special Character Area’ to include the word “mean” in front of the words “high water mark”;

- 3.5 Amending the Scheme maps by –

- a. Aligning the Scheme area boundary to the Low Water Mark and including Lot 350 Queen Street, Busselton;
- b. Delineating the Mean High Water Mark as provided by Landgate on the day of 22 June 2015;

4. Miscellaneous Scheme Text Amendments

- 4.1 Modifying clause 4.4.2 by –

- a. Amending clause 4.4.2(a) to read as follows:

“(a) determine that the use is consistent with the objectives and policies of the particular zone and is therefore permitted; or”

- b. Amending clause 4.4.2(c) to read as follows:

“(c) determine that the use is not consistent with the objectives and policies of the particular zone and is therefore not permitted.”

- 4.2 Modifying clause 4.5 “Exceptions to the zoning table” by –

- a. Deleting clause 4.5.3(d) and renumbering subsequent clauses accordingly.
 - b. Introducing a new sub-clause to clause 4.5.4 to read as follows:

“(h) the use of land within the Rural Residential zone, identified for rural or primary production on an approved Subdivision or Development Guide Plan for the purposes of agriculture – intensive, subject to advertising pursuant to clause 10.4 of the Scheme.”
 - c. Amending clause 4.5.4(a) by removing reference to “multiple dwelling”.
- 4.3 Amending Table 1 “Zoning Table” in relation to the ‘Business’ zone and in relation to the use class ‘Community Centre’, replacing the symbol ‘D’ with the symbol ‘P’.
- 4.4 Deleting sub-clause 5.3.1(g) and renumbering subsequent clauses accordingly.
- 4.6 Amend clause 5.8.1 to read as follows:
- “5.8.1 A person must not erect any building that -*
- (a) contains more than two storeys or exceeds a height of 9 metres where land is within 150 metres of the mean high water mark; or*
 - (b) contains more than three storeys or exceeds a height of 12 metres where land is more than 150 metres from the mean high water mark, except where otherwise provided for in the Scheme.”*
- 4.7 Amending clause 5.18 “Permanent/Residential Occupation of Tourist Developments” to read as follows:
- “5.18 PERMANENT/RESIDENTIAL OCCUPATION OF TOURIST DEVELOPMENTS**
- 5.18.1 Outside the residential zone, occupation by any person of the following use classes approved under the Scheme as short stay accommodation is limited to a maximum of 3 months in any 12 month period. This applies to the following use classes:*
- (a) Guesthouse;*
 - (b) Chalet;*
 - (c) Caravan Park;*
 - (d) Park Home Park;*
 - (e) Tourist Accommodation.*
- 5.18.2 Notwithstanding the provisions of clause 5.18.1 and subject to consideration of the need to make available adequate tourist accommodation the local government may grant planning approval for the permanent occupancy of up to:*
- (a) 100% of caravan sites within a Caravan Park or Park Home Park on land in the Residential zone; and*

(b) 15% of caravan sites within a Caravan Park or Park Home Park on land in the Tourist zone.”

- 4.8 Deleting clause 5.29 “Fire Management in Rural Areas” and renumbering subsequent clauses and clause references accordingly.
- 4.9 Amending clause 5.35 “Setback Requirements in the Agriculture and Viticulture and Tourism Zones” by –
- a. Amending sub-clause 5.35.2 to read as follows:
- “In the Agriculture or Viticulture and Tourism zones, a building must not be constructed within 100 metres of Bussell Highway or Caves Road, or 60 metres of Vasse Highway without planning approval, which must not be granted unless the local government is satisfied that the development is consistent with all relevant provisions of the Scheme. Where the local government receives such application it shall forward the application to Main Roads Western Australia for comment and take such comments into consideration when determining the application.”*
- b. Deleting sub-clause 5.35.3 and renumbering subsequent clauses and clause references accordingly.
- 4.10 Amending Schedule 1 “Interpretations” by removing the definition ‘Health Care Professional’.
- 4.11 Amending Schedule 14 “Exempted Advertisements” by –
- a. Replacing the term “Information Sign” with “Information Panel” at (A)11.
- b. Inserting a new ‘Note’ after clause (B)1 to read as follows:
- “Note: Advertisements that advertise goods and services which are not produced, displayed or offered for sale, or which is otherwise not relevant to, the land upon which the advertisement is located, are prohibited as specified by clause 5.40.”*

5. Scheme Maps

Amending the Scheme maps as shown on the Scheme Amendment maps and as follows:

	Address	Details – The proposed modification
5.1	Implement Cadastre Changes to all Scheme maps	Scheme maps to be updated with the most up to date cadastre data
5.2	Lot 306 (1191) Vasse – Yallingup Siding Road, Quindalup	Rezone portion of lot from ‘no zone’ to ‘Agriculture’
5.3	Lot 307 (9122) Quindalup South Road, Quindalup	Rezone portion of lot from ‘no zone’ to ‘Agriculture’
5.4	Lot 308 (1105) Vasse – Yallingup Siding Road, Quindalup	Rezone portion of lot from ‘no zone’ to ‘Agriculture’
5.5	Lot 309 (26) Quindalup South Road, Quindalup	Rezone portion of lot from ‘no zone’ to ‘Agriculture’

	Address	Details – The proposed modification
5.6	Lot 310 (67) Quindalup South Road, Quindalup	Rezone portion of lot from 'no zone' to 'Agriculture'
5.7	Lot 3733 Coulls Road, Yallingup Siding	Rezone from 'no zone' to 'Agriculture'
5.8	Yallingup Special Character Area	Identify the Yallingup Special Character Area as shown on the Scheme Amendment map
5.9	Lot 1451 (461) Princefield Road, Ruabon	Rezone portion of lot from 'no zone' to 'Agriculture'
5.10	Lot 3124 Princefield Road, Abba River	Rezone from 'no zone' to 'Agriculture'
5.11	Lot 964 Yoganup Place, Yoganup	Rezone portion from 'Recreation' Reserve to 'Bushland Protection' and 'Agriculture'.
5.12	Lot 583 (910) Ludlow-Highergreen Road, Abba River	Rezone portion of the lot from 'Public Purpose' Reserve to 'Agriculture'
5.13	Lot 582 (459) Princefield Road, Abba River	Rezone portion of the lot from 'Public Purpose' Reserve to 'Agriculture'
5.14	Lot 687 Princefield Road, Abba River	Rezone portion of the lot from 'Public Purpose' Reserve to 'Agriculture'
5.15	Lot 26 Vasse Highway, Yoongarillup	Rezone portion of the lot from 'Public Purpose – Drain' Reserve to 'Agriculture'
5.16	Lot 1 (71) Boundary Road and Lot 109 (8113) Bussell Highway, Metricup	Rezone portion of lots from 'Agriculture' to 'Special Purpose – Caravan Park'
5.17	Lot 21 (3806) Caves Road, Wilyabrup	Rezone portion of lot from 'Recreation' Reserve to 'Agriculture'
5.18	Lot 2680 (811) Puzey Road, Wilyabrup	Rezone from 'Recreation' Reserve to 'Viticulture and Tourism'
5.19	Lot 1 (1092) Chapman Hill Road, Chapman Hill	Rezone from 'no zone' to 'Agriculture'
5.20	Lot 31 (261) Jindong-Treeton Road, Kaloorup	Rezone portion of lot from 'Recreation' Reserve to 'Agriculture' and the directly adjacent road reserve from 'Recreation' Reserve to 'no zone'
5.21	Portion of Lot 125 (3763) Caves Road, Wilyabrup	Rezone from 'Recreation' Reserve and 'no zone' to 'Viticulture and Tourism'
5.22	Lot 282 (516) Lindberg Road, Kalgup	Rezone portion from 'Recreation' Reserve to 'Agriculture'
5.23	Lot 3978 (980) Vasse Highway, Yoongarillup	Rezone from 'Recreation' Reserve to 'Special Purpose – Telephone Exchange'
5.24	Lot 100 (3) Caladenia Close, Lot 101 (6) Eagle Crescent and Lot 102 (23) Fern Road, Eagle Bay	Rezone portions of the lots from 'Public Purpose' Reserve to 'Residential R5'

	Address	Details – The proposed modification
5.25	Eagle Bay Special Character Area	Identify the Eagle Bay Special Character Area as shown on the Scheme Amendment map
5.26	Lot 999 (245) Cape Naturaliste Road, Dunsborough	Rezone from 'Special Purpose – School Site' to 'Special Purpose – Educational Establishment'
5.27	Lot 200 (1) Gifford Road and Lots 91 (3), 92 (3A), 93 (5A) and 94 (5) Hurford Street, Dunsborough	Rezone portions of the lots from 'no zone' to 'Residential R15', and remove the 'Recreation' Reserve designation and 'Landscape Value' Area from the Hurford Street road reserve
5.28	Old Dunsborough Special Character Area	Identify the Old Dunsborough Special Character Area as shown on the Scheme Amendment map
5.29	Dunsborough Landscape Value Area	Realign the 'Landscape Value' Area around the Dunsborough Residential zone, such that it is located between the 'Agriculture' zone and the 'Residential' zone, as shown on the Scheme Amendment map
5.30	Lot 600 (7) Armstrong Place, Dunsborough	Rezone from 'Recreation' Reserve to 'Special Purpose – Aged Person Housing'
5.31	Lot 42 (201) Geographe Bay Road, Quindalup	Rezone from 'Public Purpose' Reserve to 'Special Purpose – Youth Hostel'
5.32	Lot 2761 (29) Commonage Road, Quindalup	Rezone portion of lot from 'Public Purpose' Reserve to 'Agriculture'.
5.33	Quindalup Special Character Area	Identify the Quindalup Special Character Area as shown on the Scheme Amendment map
5.34	Lots 1 (29) and 2 (2/31) Wardanup Crescent, Yallingup	Rezone portion of the lots from 'no zone' to 'Residential R10'
5.35	Lot 5 (20) Elsegood Avenue and Lot 21 (9) Dawson Drive, Yallingup	Rezone from 'Tourist' to 'Residential R10', as shown on the Scheme Amendment map
5.36	Lot 15 Quindalup Siding Road, Quindalup	Rezone portion of lot from 'Recreation' Reserve to 'Agriculture'
5.37	Lots 40 (1721) and 41 (1701) Wildwood Road, Yallingup	Rezone portion of the lots from 'Public Purpose' Reserve to 'Viticulture and Tourism'
5.38	Lot 2000 Edith Cowan Court, Abbey and Lot 5614 Wagon Entrance, Broadwater (Reserve 48280)	Reserving from 'Residential R5', 'R20' and 'R30' to 'Recreation' Reserve
5.39	Lot 6 (2) Grace Court, West Busselton	Rezone from 'Public Purpose' Reserve to 'Special Purpose – Educational Establishment'
5.40	Lot 500 Grace Court, West Busselton	Rezone from 'Special Purpose – Various' to 'Special Purpose – Church Site, Educational Establishment, Child Care & Hall'

	Address	Details – The proposed modification
5.41	Lot 688 (1) Piano Box Boulevard and Lot 689 (34) Pickmore Circus, West Busselton	Rezone from 'no zone' to 'Residential R20'
5.42	Lot 501 (190) Bussell Highway, West Busselton	Rezone portion of lot from 'no zone' to 'Residential R15'
5.43	Lot 502 Bussell Highway, West Busselton (Reserve 41554)	Rezone portion of lot from 'no zone' to 'Recreation' Reserve
5.44	Lot 4691 (7) Kingfish Road, Broadwater	Rezone from 'Recreation' Reserve to 'Residential R15'
5.45	Lot 200 (165) Marine Terrace, Geographe	Rezone portion of lot from 'no zone' to 'Residential R15'
5.46	Lot 5016 (75) Ford Road, Geographe (Reserve 44384)	Rezone from 'Recreation' Reserve to 'Residential R20'
5.47	Lot 10 (86) Causeway Road and Lot 12 (69) Molloy Street, Busselton	Rezone portions of the lots from 'Special Purpose – Service Station' to 'Residential R20'
5.48	Lot 300 Leeuwin Boulevard, West Busselton	Rezone from 'Recreation' Reserve and 'no zone' to 'Residential R20'
5.49	Lot 2000 Deacon Walk, West Busselton	Reserve lot as 'Recreation' Reserve from 'Residential' zone
5.50	Lot 197 (1) MacKillop Avenue, West Busselton (MacKillop Catholic College)	Rezone from 'Public Purpose' Reserve to 'Special Purpose – Educational Establishment'
5.51	Lot 5320 (2) Kelly Drive, West Busselton (St Joseph's Primary School)	Rezone from 'Public Purpose' Reserve and 'no zone' to 'Special Purpose – Educational Establishment'
5.52	Lot 2002 Pinnacle Avenue, Ambergate (Reserve 50288)	Reserve portions of lot as 'Recreation' Reserve from 'Rural Residential' zone
5.53	Lot 44 Chapman Hill Road, Kalgup	Rezone from 'Public Purpose' Reserve to 'Agriculture'
5.54	Lot 16 Lindberg Road, Bovell	Rezone from 'no zone' to 'Agriculture'
5.55	Lot 25 (580) Vasse Highway, Yoongarillup	Rezone portion of lot from 'Public Purpose' Reserve to 'Agriculture'
5.56	Lot 60 (3908) Bussell Highway, Ruabon	Rezone in part from 'Recreation' Reserve to 'Agriculture'.
5.57	Lots 127 (30), 128 (28), 129 (24), 130 (18) and 135 (31) Old Timber Court, Reinscourt	Rezoning portions of lots from 'Conservation' to 'Rural Residential'
5.59	Lot 27 (606) Rendezvous Road, Vasse (Heron Lake)	Exclude lot from DCA 1 to be included within the Vasse Development Contributions Plan.

	Address	Details – The proposed modification
5.60	Map Legend	Insert the following into the Map Legend in alphabetical order under ‘Special Purpose’: “CECH CHURCH SITE, EDUCATIONAL ESTABLISHMENT, CHILD CARE & HALL” “EE EDUCATIONAL ESTABLISHMENT” “TE TELEPHONE EXCHANGE” “YH YOUTH HOSTEL”

B. Defer consideration of recommendation 4.5 and recommendation 5.58 (as following) until an Ordinary Meeting in April/May 2016 in order to allow for additional consultation and assessment to be carried out by relevant City officers:

4.5 a. Inserting a new clause 5.5.2 as follows and renumbering subsequent clauses and clause references accordingly:

“5.5.2 Notwithstanding clause 5.5.1 above, the following development is expressly prohibited:

(a) Drive-through facilities in the Business zone, as specified by clause 5.20; and

(b) Advertisements that advertise goods and services which are not produced, displayed or offered for sale, or which is otherwise not relevant to, the land upon which the advertisement is located, as specified by clause 5.40.”

b. Inserting a new clause 5.20 as follows and renumbering subsequent clauses and clause references accordingly:

“5.20 DRIVE-THROUGH FACILITIES IN THE BUSINESS ZONE

Drive-through facilities shall not be approved in the Business zone.”

c. Amending Schedule 1 “Interpretations” by inserting the following new definition:

“‘Drive-through facility’ means a facility incidental to another use, such as shop or takeaway food outlet, whereby a product or service is sold or provided direct to customers or patrons driving or seated in a motor vehicle.”

5.58	All lots within Dunsborough Lakes with the exception of Lot 9033 Commonage Road, Dunsborough	Include all areas of Dunsborough Lakes, with the exception of Lot 9033 Commonage Road, Dunsborough, within the ‘Dunsborough & Quindalup’ Precinct of DCA 1
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C. Pursuant to r.53 of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to endorse the ‘Schedule of Submissions’ at Attachment A prepared in response to submissions received on the proposed Omnibus Amendment No 1 following public consultation between 4 November 2015 and 16 December 2015.

- D. Pursuant to r.50(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to support the modifications to proposed Omnibus Amendment No. 1 shown in the 'Schedule of Modifications' at Attachment B, prepared to address issues raised in submissions received following public consultation and/or to clarify certain relevant matters.
- E. Pursuant to r.53 and r.55 of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to provide the proposed Omnibus Amendment No. 1 to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
- F. Pursuant to r.56 of the Planning and Development (Local Planning Schemes) Regulations 2015, should directions be given that modifications to the proposed Omnibus Amendment No 1 are required, these modifications are to be undertaken accordingly, on behalf of the Council, unless they are considered by Officers to be likely to significantly affect the purpose and intent of the proposed Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination.

Note: Cr Paine proposed an amendment to the motion for Council consideration.

AMENDMENT

Moved Councillor R Paine

To exclude recommendations 2.8a and 2.8b (inclusion of 'R-AC3' density coding in the Busselton and Dunsborough centres for land currently zoned 'Business'), recommendations 2.8c, 2.8d and 2.8e (inclusion of identified land in Dunsborough in the 'Business' zone, with an 'R-AC3' density coding), from the adopted Omnibus Amendment and consequential changes to other areas of the amendment.

MOTION LAPSED FOR WANT OF A SECONDER

Council Decision and Alternative Motion

C1603/050 Moved Mayor G Henley, seconded Councillor J McCallum

That Council:

- A. Pursuant to s.75 of Part V of the *Planning and Development Act 2005*, resolves to adopt proposed Omnibus Amendment No. 1 to the City of Busselton Local Planning Scheme No. 21 for final approval, with the exception of recommendation 4.5 (Drive Through Facilities in Business Zone) and recommendation 5.58 (Dunsborough Lakes Developer Contributions), in accordance with the modifications proposed in the 'Schedule of Modifications' at Attachment B., for the purposes of:

1. CapeROC Initiative

1.1 Amending Table 1 "*Zoning Table*" by –

a. Amending the following Use Class titles:

- i. 'Agriculture' to read 'Agriculture – Extensive';
- ii. 'Intensive Agriculture' to read 'Agriculture – Intensive';
- iii. 'Animal Husbandry' to read 'Animal Husbandry – Intensive';

- iv. 'Chalet Development' to read 'Chalet';
- v. 'Residential Enterprise' to read 'Home Business';
- vi. 'Cottage Industry' to read 'Industry – Cottage';
- vii. 'Rural Industry' to read 'Industry – Rural';
- viii. 'Place of Public Worship' to read 'Place of Worship';
- ix. 'Roadside Stall' to read 'Rural Stall';
- x. 'Forestry' to read 'Tree Farm'; and
- xi. 'Veterinary Hospital' to read 'Veterinary Centre';

and associated references throughout the Scheme accordingly.

- b. Inserting the use classes 'Ancillary Accommodation', 'Brewery', 'Exhibition Centre', 'Park Home Park', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm'.
- c. In relation to the 'Residential' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'P';
- d. In relation to the 'Residential' zone and in relation to the use class 'Park Home Park', insert the symbol 'A';
- e. In relation to the 'Residential' zone and in relation to the use class 'Brewery', 'Exhibition Centre', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- f. In relation to the 'Business' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'D';
- g. In relation to the 'Business' zone and in relation to the use class 'Brewery' and 'Exhibition Centre', insert the symbol 'A';
- h. In relation to the 'Business' zone and in relation to the use class 'Park Home Park', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- i. In relation to the 'Restricted Business' zone and in relation to the use class 'Brewery' and 'Exhibition Centre', insert the symbol 'A';
- j. In relation to the 'Restricted Business' zone and in relation to the use class 'Ancillary Accommodation', 'Park Home Park', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- k. In relation to the 'Tourist' zone and in relation to the use class 'Park Home Park', insert the symbol 'D';
- l. In relation to the 'Tourist' zone and in relation to the use class 'Brewery' and 'Exhibition Centre', insert the symbol 'A';
- m. In relation to the 'Tourist' zone and in relation to the use class 'Ancillary Accommodation', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';

- n. In relation to the 'Industrial' zone and in relation to the use class 'Brewery', insert the symbol 'D';
- o. In relation to the 'Industrial' zone and in relation to the use class 'Ancillary Accommodation', 'Exhibition Centre', 'Park Home Park', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- p. In relation to the 'Agriculture' zone and in relation to the use class 'Ancillary Accommodation' and 'Rural Pursuit', inserting the symbol 'P';
- q. In relation to the 'Agriculture' zone and in relation to the use class 'Rural Produce Sales', inserting the symbol 'D';
- r. In relation to the 'Agriculture' zone and in relation to the use class 'Brewery', 'Exhibition Centre' and 'Wind Farm', inserting the symbol 'A';
- s. In relation to the 'Agriculture' zone and in relation to the use class 'Park Home Park', inserting the symbol 'X';
- t. In relation to the 'Agriculture' zone and in relation to the use class 'Industry – Cottage' and 'Rural Stall', replacing the symbol 'D' with the symbol 'P';
- u. In relation to the 'Agriculture' zone and in relation to the use class 'Chalet', replacing the symbol 'A' with the symbol 'D';
- v. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Ancillary Accommodation' and 'Rural Pursuit', inserting the symbol 'P';
- w. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Rural Produce Sales', inserting the symbol 'D';
- x. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Brewery', 'Exhibition Centre' and 'Wind Farm', inserting the symbol 'A';
- y. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Park Home Park', inserting the symbol 'X';
- z. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Agriculture – Intensive', 'Industry – Cottage' and 'Rural Stall', replacing the symbol 'D' with the symbol 'P';
- aa. In relation to the 'Viticulture and Tourism' zone and in relation to the use class 'Animal Husbandry', 'Chalet' and 'Industry – Rural', replacing the symbol 'A' with the symbol 'D';
- bb. In relation to the 'Rural Residential' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'P';
- cc. In relation to the 'Rural Residential' zone and in relation to the use class 'Rural Pursuit', insert the symbol 'A';
- dd. In relation to the 'Rural Residential' zone and in relation to the use class 'Brewery', 'Exhibition Centre', 'Park Home Park', 'Rural Produce Sales' and 'Wind Farm', insert the symbol 'X';
- ee. In relation to the 'Rural Landscape' zone and in relation to the use class 'Ancillary

Accommodation', insert the symbol 'D';

- ff. In relation to the 'Rural Landscape' zone and in relation to the use class 'Rural Produce Sales' and 'Rural Pursuit', insert the symbol 'A';
- gg. In relation to the 'Rural Landscape' zone and in relation to the use class 'Brewery', 'Exhibition Centre', 'Park Home Park', and 'Wind Farm', insert the symbol 'X';
- hh. In relation to the 'Conservation' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'D';
- ii. In relation to the 'Conservation' zone and in relation to the use class 'Rural Produce Sales', insert the symbol 'A';
- jj. In relation to the 'Conservation' zone and in relation to the use class 'Brewery', 'Exhibition Centre', 'Park Home Park', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X';
- kk. In relation to the 'Bushland Protection' zone and in relation to the use class 'Ancillary Accommodation', insert the symbol 'D';
- ll. In relation to the 'Bushland Protection' zone and in relation to the use class 'Brewery', 'Exhibition Centre', 'Park Home Park', 'Rural Produce Sales', 'Rural Pursuit' and 'Wind Farm', insert the symbol 'X'; and
- mm. Removing the use classes 'Poultry Farm', 'Recreation Agriculture', 'Recreation Area' and 'Rural Enterprise' and associated permissibilities.

- 1.2 Modifying clause 4.5 "Exceptions to the zoning table" by amending clause 4.5.3(a) to read as follows:

"(a) within the Rural Residential zone on any lot less than 4,000 m² in area, any purpose other than a single house (including any incidental development), ancillary accommodation, guesthouse, holiday home (single house), home business, home office, home occupation, bed and breakfast or public utility;"

- 1.3 Amending clause 5.14 "Residential Enterprise" to read as follows:

"5.14 HOME BUSINESS

5.14.1 A home business shall –

- (a) not occupy an area greater than 50m², provided further that the area within which it is conducted is not visible from the street or a public place;*
- (b) be conducted only between the hours of 8.00am and 6.00pm on weekdays, 9.00am and 5.00pm on Saturdays and is not conducted on Sundays and public holidays;*
- (c) not have more than one advertising sign and the sign displayed does not exceed 0.2m² in area; and*
- (d) not involve the presence, use or calling of a vehicle more than 3.5 tonnes tare weight.*

5.14.2 *Where a local government grants planning approval for a home business, such planning approval –*

- (a) must be personal to the person to whom it was granted;*
- (b) must not be transferred or assigned to any other person;*
- (c) does not run with the land in respect of which it was granted;
and*
- (d) must apply only in respect of the land specified in the planning approval.”*

1.4 Amending clause 5.16 “Cottage Industry” to read as follows:

“5.16 INDUSTRY – COTTAGE

An Industry – Cottage shall –

- (a) not occupy an area in excess of 100m²; and*
- (b) not display a sign exceeding 0.2m² in area.”*

1.5 Amending Schedule 1 “Interpretations” by –

- a. Removing the definitions ‘Poultry Farm’, ‘Recreation Agriculture’, ‘Recreation Area’, and ‘Rural Enterprise’;
- b. Amending the following definitions to read:
 - i. *“‘Abattoir’ means premises used commercially for the slaughtering of animals for the purposes of consumption as food products;”*
 - ii. *“‘Animal Establishment’ means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry — intensive or veterinary centre;”*
 - iii. *“‘Hotel’ means premises the subject of a hotel licence other than a small bar or tavern licence granted under the *Liquor Control Act 1988* including any betting agency on the premises;”*
 - iv. *“‘Market’ means premises used for the display and sale of goods from stalls by independent vendors;”*
 - v. *“‘Plant Nursery’ means premises used for propagation, the growing and either retail or wholesale selling of plants, whether or not ancillary products are sold therein;”*
 - vi. *“‘Reception Centre’ means premises used for hosted functions on formal or ceremonial occasions;”*
 - vii. *“‘Service Station’ means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for –*
 - (a) the retail sale of petroleum products, motor vehicle accessories and*

- goods of an incidental or convenience nature; or
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles;”
- viii. *“Tourist Accommodation’* means single occupancy accommodation units, which may be self-contained and may include associated central facilities for the exclusive use of guests, and includes serviced apartments;”
- ix. *“Winery’* means premises used for the production of viticultural produce and associated sale of the produce;”
- c. Amending the following titles and definitions:
- i. ‘Agriculture’ to read:
- “Agriculture - Extensive’* means premises used for the raising of stock or crops but does not include agriculture — intensive or animal husbandry — intensive;”
- ii. ‘Intensive Agriculture’ to read:
- “Agriculture – Intensive’* means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with the following —
- (a) the production of grapes, vegetables, flowers, exotic or native plants, or fruit or nuts;
- (b) the establishment and operation of plant or fruit nurseries; or
- (c) the development of land for irrigated fodder production or irrigated pasture (including turf farms);”
- iii. ‘Animal Husbandry’ to read:
- “Animal Husbandry – Intensive’* means premises used for keeping, rearing or fattening of pigs, poultry (for either egg or meat production), rabbits (for either meat or fur production) or other livestock in feedlots, sheds or rotational pens;”
- iv. ‘Chalet Development’ to read:
- “Chalet’* means a dwelling forming part of a tourist facility that is —
- (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and
- (b) designed to accommodate short-term guests with no guest accommodated for periods totalling more than 3 months in any 12 month period;”
- v. ‘Residential Enterprise’ to read:
- “Home Business’* means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling

which –

- (a) does not employ more than 2 people not members of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not involve the retail sale, display or hire of goods of any nature except where those goods are manufactured or produced at the residence;
- (d) in relation to vehicles and parking, does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood; and
- (e) does not involve the use of an essential service of greater capacity than normally required in the zone;"

vi. 'Cottage Industry' to read:

"'Industry – Cottage' means premises, other than premises used for a home occupation, that are used by the occupier of the premises for the purpose of carrying out a trade or light industry producing arts and crafts goods if the carrying out of the trade or light industry –

- (a) will not cause injury to or adversely affect the amenity of the neighbourhood; and
- (b) if the premises is located in a residential zone — does not employ any person other than a member of the occupier's household; and
- (c) is compatible with the principal uses to which land in the zone in which the premises is located may be put;

and may include the wholesale and appointment only sale of products produced on site."

vii. 'Rural Industry' to read:

"'Industry – Rural' means premises used –

- (a) to carry out an industry handling, treating, processing or packing rural products grown, reared or produced in the locality; or
- (b) for a workshop servicing plant or equipment used for rural purposes in the locality;"

viii. 'Place of Public Worship' to read:

"'Place of Worship' means premises used for religious activities such as a chapel, church, mosque, synagogue or temple;"

ix. 'Roadside Stall' to read:

"'Rural Stall' means a place, temporary structure or moveable structure

used for the retail sale of agricultural produce produced on the property on which it is situated as an activity totally incidental to and dependent upon the principal use of the land for agricultural purposes;”

x. ‘Forestry’ to read:

“‘*Tree Farm*’ means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5;”

xi. ‘Veterinary Hospital’ to read:

“‘*Veterinary Centre*’ means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders;”

d. Inserting the following new definitions:

i. “‘*Brewery*’ means premises used for the production and consumption of beer, cider or spirits but does not include any other land use defined elsewhere in this Schedule;”

ii. “‘*Exhibition Centre*’ means premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature including a museum;”

iii. “‘*Home Office*’ means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation –

(a) is solely within the dwelling; and

(b) does not entail clients or customers travelling to and from the dwelling; and

(c) does not involve the display of a sign on the premises; and

(d) does not require any change to the external appearance of the dwelling;”

iv. “‘*Park Home Park*’ means premises used as a park home park as defined in the *Caravan Parks and Camping Grounds Regulations 1997* Schedule 8;”

v. “‘*Rural Produce Sales*’ means any premises used for the purpose of retail sale of products which are grown, reared or produced on site, including a cellar door operation and retail sales associated with Industry – Cottage or Industry – Rural;”

vi. “‘*Rural Pursuit*’ means any premises, other than premises used for agriculture — extensive or agriculture — intensive, that are used for —

(a) the rearing or agistment of animals; or

(b) the keeping of bees; or

(c) the stabling, agistment or training of horses; or

- (d) the growing of trees, plants, shrubs or flowers for replanting in domestic, commercial or industrial gardens; or
- (e) the sale of produce grown solely on the premises;”
- vii. *“‘Wind Farm’ means premises used to generate electricity by wind force and any associated turbine, building or other structure but does not include anemometers or turbines used primarily to supply electricity for a domestic property or for private rural use;”*

2. Town Centre Strategies

2.1 Modifying clause 4.2.2 ‘Business zone’ Policies by –

Amending Policy (c) to read as follows:

“(c) To provide for medium to high density residential development within the Busselton City Centre and Dunsborough Town Centre.”

Inserting a new clause (d) as follows, and renumber subsequent clauses accordingly:

“(d) Within neighbourhood and local centres, to allow residential development only where it is a component of commercial development.”

2.2 Introduce a new sub-clause to clause 5.3.1 as follows:

“(i) On land coded R-AC3, Deemed-to-comply provision 6.1.1 C1 (Building Size) of the R-Codes is varied as per the provisions of clause 5.19.”

2.3 Amend clause 5.3.2 to read as follows:

“5.3.2 Building height provisions as specified under Table 3 and Table 4, and Deemed-to-comply provision 5.1.6 C6 and 6.1.2 C2 of the R-Codes do not apply, except for on land coded R-AC3. In all other areas, maximum building height requirements are required to comply with the provisions of clause 5.8 of the Scheme.”

2.4 Insert a new sub-clause under clause 5.8 ‘Height of Buildings’ to read as follows:

“5.8.9 For land in the Business zone where a residential density coding has been designated, the height of any building shall not exceed the height limits identified in the Residential Design Codes. Where a residential density coding has not been designated, the height of any building shall be determined in accordance with clauses 5.8.1 to 5.8.5.”

2.5 Amend clause 5.19 ‘Residential Development in the Business Zone’ to read as follows:

“5.19 DEVELOPMENT IN THE BUSINESS ZONE

Where land is zoned ‘Business’ 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:

- (a) 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*

(b) Where a development incorporates a Restaurant, 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

(c) 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.”

2.6 Amend Schedule 2 “Additional Uses” by –

- a. Inserting an Additional Use (No. A74) provision as follows, and amend the Scheme maps accordingly:

No.	PARTICULARS OF LAND	LAND USE PERMITTED/SPECIFIED	CONDITIONS
A74	-Lots 202 (1), 201 (3), 2 (5), 3 (7), 26 (8), 4 (9), 25 (10), 5 (11), 24 (12), 21 (13), 37 (14), 4 (15), 38 (16), 3 (17), 2 (19), 15-16 (20), 3 (21), 2 (23), and 12-13 (24) Duchess Street, West Busselton; -Lots 200 (29), 28 (37), 27 (41), 34 (43), 1-2 (45), 1 (47), 1 (55), 2 (57), 73 (59), 74 (61), 1-7 and 10-16 (63), 1-5 (69), 6 (71), and 5 (73) Gale Street, West Busselton; -Lots 2-3 (3), 128 (4), 129 (6), 1-3 (7), 1-2 (9), 1-7 (10), 1-6 (11), 130 (14), 30 (16), 29 (18), 28 (20), 27 (22), 26 (24) and 25 (26) Kent Street, West Busselton; -Lots 1 (34), 14 (40), 1-2 (42), 34 (44), 24 (48), 35 (52), 1-10 (54), 39 (58) and 42 (60) West Street, West Busselton, -Lots 51 and 87 to 102 Chieftain Crescent, Lots 86 and 162 Chester Way, Lots 139 to 141 Lorna Street, Lots 1-9 (20) and 115 to 127 Geographe Bay Road, Lots 1 to 17 (3) Dunn Bay Road, Lots 1 & 2 (4), 5 (2), 17, 18, 41 to 43 Prowse Way, Lots 3 and 4 Greenacre Road and Lot 60 (191) Naturaliste Terrace, Dunsborough	Guesthouse, Medical Centre, Office, Professional Consulting Rooms, Restaurant, Shop, Tourist Accommodation	<ol style="list-style-type: none"> 1. The Additional Uses specified shall be deemed to be “D” uses for the purposes of the Scheme. 2. ‘Shop’ land uses may be permitted at ground floor level only and occupy up to 50% of total development floor space. 3. A nil setback to the street shall be considered for active frontages. 4. The provisions of Clause 5.23 relating to cash in lieu of car parking shall apply.

b. Deleting Additional Use No. 63 relating to Lot 60 (House 191) Naturaliste Terrace, Dunsborough, and amend the Scheme maps accordingly.

c. Deleting Additional Use No. 73 relating to Lot 8 (House 226) Naturaliste Terrace,

Dunsborough, and amend the Scheme maps accordingly.

2.7 Amend Schedule 3 “Special provision areas” by –

- a. Modifying Special Provision 41 relating to Lots 15, 16, 24 & 38 Duchess Street, West Busselton to remove reference to “Limited Office Use” from within the “Zone” column.
- b. Deleting Special Provision 20 relating to Lot 1 (House 61) Dunn Bay Road, Dunsborough, and amend the Scheme maps accordingly.
- c. Deleting Special Provision 46 relating to Lots 1-11 (House 15) Dunn Bay Road, Dunsborough, and amend the Scheme maps accordingly.
- d. Deleting Special Provision 49 relating to Lot 202 (House 24) Dunn Bay Road, Dunsborough, and amend the Scheme maps accordingly.

2.8 Amend the Scheme maps by –

- a. Amend the Scheme in relation to land currently zoned ‘Business’ within the Busselton City Centre to include a residential density code of R-AC3, being:
 - i. Lots bound by Peel Terrace, Brown Street, West Street and Marine Terrace;
 - ii. The portion of Lot 73 Peel Terrace currently zoned ‘Business’; and
 - iii. Lots 74 and 75 Peel Terrace;And subject to the following exclusions:
 - iv. All lots also contained within the Adelaide Street Special Character Area;
 - v. The portion of Lot 73 Peel Terrace currently reserved for ‘Community Purposes’.
- b. Amend the Scheme map in relation to land currently zoned ‘Business’ within the Dunsborough Town Centre to include a residential density code of R-AC3, being:
 - i. Lots bound by Caves Road, Cape Naturaliste Road, Dunn Bay Road and Seymour Boulevard;
 - ii. Lots bound by Cape Naturaliste Road, Dunn Bay Road, Naturaliste Terrace and Reserve 42673;
 - iii. Lots bound by Dunn Bay Road, Naturaliste Terrace and Hannay Lane;
 - iv. Lots 1-7 (233) Naturaliste Terrace, Lots 1-17 (31) Dunn Bay Road, and Lot 104 (29) Dunn Bay Road.
- c. Rezoning land currently zoned ‘Tourist’ and ‘Special Purpose’ with frontage to Dunn Bay Road, Dunsborough to ‘Business’ and applying a residential density code of R-AC3.
- d. Rezoning land currently zoned ‘Industrial’ and ‘Restricted Business’ within the Dunsborough Town Centre to ‘Business’ and applying a residential density code of R-AC3, being:

- i. Lots bound by Cape Naturaliste Road, Reserve 42673, Naturaliste Terrace and Reserve 42545.
- e. Rezoning Lot 106 (House No. 16) Cyrilleen Way, Dunsborough from 'Recreation' to 'Business' and applying a residential density code of R-AC3.
- f. Modifying the residential density coding to R80 over Lots 51 and 87 to 102 Chieftain Crescent, Lots 86 and 162 Chester Way, Lots 139 to 141 Lorna Street, Lots 1-9 (20) and 115 to 127 Geographe Bay Road, Lots 1-17 (3) Dunn Bay Road, Lots 1 & 2 (4), 5 (2), 17, 18, 41 to 43 Prowse Way, Lots 3 and 4 Greenacre Road and Lot 60 (191) Naturaliste Terrace, Dunsborough.

3. Scheme Area

- 3.1 Amend clause 3.1 'Scheme Area' to read as follows:

"1.3 SCHEME AREA

The Scheme applies to the Scheme area as shown on the Scheme maps, or to the Low Water Mark, if the Scheme map does not extend to or beyond the Low Water Mark."

- 3.2 Amend clause 3.3 'Local Reserves' to read as follows:

"3.3 LOCAL RESERVES

Local Reserves are delineated and depicted on the Scheme map according to the legend on the Scheme map, and in addition land between High Water Mark and Low Water Mark shall, unless identified otherwise in the Scheme map, be considered to be 'Recreation Reserve'."

- 3.3 Amending Schedule 1 "Interpretations" by –

- a. inserting the following new definitions:

- i. *"Low Water Mark", in relation to tidal waters, means lowest water mark at spring tides."*
- ii. *"High Water Mark", in relation to tidal waters, means ordinary high water mark at spring tides."*

- b. Amending the following definition to read:

"Mean High Water Mark' means the demarcation line shown on the Scheme map as provided by Landgate on the day of 22 June 2015, that identifies the interface of the ocean and land, and shall exclude any demarcation of natural inland water systems or man-made harbours/canals."

- 3.4 Amending Schedule 4, clause 5(d) of the 'Eagle Bay Special Character Area' to include the word "mean" in front of the words "high water mark";

- 3.5 Amending the Scheme maps by –

- a. Aligning the Scheme area boundary to the Low Water Mark and including Lot 350 Queen Street, Busselton;
- b. Delineating the Mean High Water Mark as provided by Landgate on the day of 22

June 2015;

4. Miscellaneous Scheme Text Amendments

4.1 Modifying clause 4.4.2 by –

- a. Amending clause 4.4.2(a) to read as follows:

“(a) determine that the use is consistent with the objectives and policies of the particular zone and is therefore permitted; or”

- b. Amending clause 4.4.2(c) to read as follows:

“(c) determine that the use is not consistent with the objectives and policies of the particular zone and is therefore not permitted.”

4.2 Modifying clause 4.5 “Exceptions to the zoning table” by –

- a. Deleting clause 4.5.3(d) and renumbering subsequent clauses accordingly.

- b. Introducing a new sub-clause to clause 4.5.4 to read as follows:

“(h) the use of land within the Rural Residential zone, identified for rural or primary production on an approved Subdivision or Development Guide Plan for the purposes of agriculture – intensive, subject to advertising pursuant to clause 10.4 of the Scheme.”

- c. Amending clause 4.5.4(a) by removing reference to “multiple dwelling”.

4.3 Amending Table 1 “Zoning Table” in relation to the ‘Business’ zone and in relation to the use class ‘Community Centre’, replacing the symbol ‘D’ with the symbol ‘P’.

4.4 Deleting sub-clause 5.3.1(g) and renumbering subsequent clauses accordingly.

4.6 Amend clause 5.8.1 to read as follows:

“5.8.1 A person must not erect any building that -

(a) contains more than two storeys or exceeds a height of 9 metres where land is within 150 metres of the mean high water mark; or

(b) contains more than three storeys or exceeds a height of 12 metres where land is more than 150 metres from the mean high water mark, except where otherwise provided for in the Scheme.”

4.7 Amending clause 5.18 “Permanent/Residential Occupation of Tourist Developments” to read as follows:

“5.18 PERMANENT/RESIDENTIAL OCCUPATION OF TOURIST DEVELOPMENTS

5.18.1 Outside the residential zone, occupation by any person of the following use classes approved under the Scheme as short stay accommodation is limited to a maximum of 3 months in any 12 month period. This applies to the following use classes:

- (a) Guesthouse;*

- (b) *Chalet;*
- (c) *Caravan Park;*
- (d) *Park Home Park;*
- (e) *Tourist Accommodation.*

5.18.2 *Notwithstanding the provisions of clause 5.18.1 and subject to consideration of the need to make available adequate tourist accommodation the local government may grant planning approval for the permanent occupancy of up to:*

- (a) *100% of caravan sites within a Caravan Park or Park Home Park on land in the Residential zone; and*
- (b) *15% of caravan sites within a Caravan Park or Park Home Park on land in the Tourist zone.”*

4.8 Deleting clause 5.29 “Fire Management in Rural Areas” and renumbering subsequent clauses and clause references accordingly.

4.9 Amending clause 5.35 “Setback Requirements in the Agriculture and Viticulture and Tourism Zones” by –

- a. Amending sub-clause 5.35.2 to read as follows:

“In the Agriculture or Viticulture and Tourism zones, a building must not be constructed within 100 metres of Bussell Highway or Caves Road, or 60 metres of Vasse Highway without planning approval, which must not be granted unless the local government is satisfied that the development is consistent with all relevant provisions of the Scheme. Where the local government receives such application it shall forward the application to Main Roads Western Australia for comment and take such comments into consideration when determining the application.”

- b. Deleting sub-clause 5.35.3 and renumbering subsequent clauses and clause references accordingly.

4.10 Amending Schedule 1 “Interpretations” by removing the definition ‘Health Care Professional’.

4.11 Amending Schedule 14 “Exempted Advertisements” by –

- a. Replacing the term “Information Sign” with “Information Panel” at (A)11.
- b. Inserting a new ‘Note’ after clause (B)1 to read as follows:

“Note: Advertisements that advertise goods and services which are not produced, displayed or offered for sale, or which is otherwise not relevant to, the land upon which the advertisement is located, are prohibited as specified by clause 5.40.”

5. Scheme Maps

Amending the Scheme maps as shown on the Scheme Amendment maps and as follows:

	Address	Details – The proposed modification
5.1	Implement Cadastre Changes to all Scheme maps	Scheme maps to be updated with the most up to date cadastre data
5.2	Lot 306 (1191) Vasse – Yallingup Siding Road, Quindalup	Rezone portion of lot from 'no zone' to 'Agriculture'
5.3	Lot 307 (9122) Quindalup South Road, Quindalup	Rezone portion of lot from 'no zone' to 'Agriculture'
5.4	Lot 308 (1105) Vasse – Yallingup Siding Road, Quindalup	Rezone portion of lot from 'no zone' to 'Agriculture'
5.5	Lot 309 (26) Quindalup South Road, Quindalup	Rezone portion of lot from 'no zone' to 'Agriculture'
5.6	Lot 310 (67) Quindalup South Road, Quindalup	Rezone portion of lot from 'no zone' to 'Agriculture'
5.7	Lot 3733 Coulls Road, Yallingup Siding	Rezone from 'no zone' to 'Agriculture'
5.8	Yallingup Special Character Area	Identify the Yallingup Special Character Area as shown on the Scheme Amendment map
5.9	Lot 1451 (461) Princefield Road, Ruabon	Rezone portion of lot from 'no zone' to 'Agriculture'
5.10	Lot 3124 Princefield Road, Abba River	Rezone from 'no zone' to 'Agriculture'
5.11	Lot 964 Yoganup Place, Yoganup	Rezone portion from 'Recreation' Reserve to 'Bushland Protection' and 'Agriculture'.
5.12	Lot 583 (910) Ludlow-Highergreen Road, Abba River	Rezone portion of the lot from 'Public Purpose' Reserve to 'Agriculture'
5.13	Lot 582 (459) Princefield Road, Abba River	Rezone portion of the lot from 'Public Purpose' Reserve to 'Agriculture'
5.14	Lot 687 Princefield Road, Abba River	Rezone portion of the lot from 'Public Purpose' Reserve to 'Agriculture'
5.15	Lot 26 Vasse Highway, Yoongarillup	Rezone portion of the lot from 'Public Purpose – Drain' Reserve to 'Agriculture'
5.16	Lot 1 (71) Boundary Road and Lot 109 (8113) Bussell Highway, Metricup	Rezone portion of lots from 'Agriculture' to 'Special Purpose – Caravan Park'
5.17	Lot 21 (3806) Caves Road, Wilyabrup	Rezone portion of lot from 'Recreation' Reserve to 'Agriculture'
5.18	Lot 2680 (811) Puzey Road, Wilyabrup	Rezone from 'Recreation' Reserve to 'Viticulture and Tourism'
5.19	Lot 1 (1092) Chapman Hill Road, Chapman Hill	Rezone from 'no zone' to 'Agriculture'
5.20	Lot 31 (261) Jindong-Treeton Road, Koorup	Rezone portion of lot from 'Recreation' Reserve to 'Agriculture' and the directly adjacent road reserve from 'Recreation' Reserve to 'no zone'

5.21	Portion of Lot 125 (3763) Caves Road, Wilyabrup	Rezone from 'Recreation' Reserve and 'no zone' to 'Viticulture and Tourism'
5.22	Lot 282 (516) Lindberg Road, Kalgup	Rezone portion from 'Recreation' Reserve to 'Agriculture'
5.23	Lot 3978 (980) Vasse Highway, Yoongarillup	Rezone from 'Recreation' Reserve to 'Special Purpose – Telephone Exchange'
5.24	Lot 100 (3) Caladenia Close, Lot 101 (6) Eagle Crescent and Lot 102 (23) Fern Road, Eagle Bay	Rezone portions of the lots from 'Public Purpose' Reserve to 'Residential R5'
5.25	Eagle Bay Special Character Area	Identify the Eagle Bay Special Character Area as shown on the Scheme Amendment map
5.26	Lot 999 (245) Cape Naturaliste Road, Dunsborough	Rezone from 'Special Purpose – School Site' to 'Special Purpose – Educational Establishment'
5.27	Lot 200 (1) Gifford Road and Lots 91 (3), 92 (3A), 93 (5A) and 94 (5) Hurford Street, Dunsborough	Rezone portions of the lots from 'no zone' to 'Residential R15', and remove the 'Recreation' Reserve designation and 'Landscape Value' Area from the Hurford Street road reserve
5.28	Old Dunsborough Special Character Area	Identify the Old Dunsborough Special Character Area as shown on the Scheme Amendment map
5.29	Dunsborough Landscape Value Area	Realign the 'Landscape Value' Area around the Dunsborough Residential zone, such that it is located between the 'Agriculture' zone and the 'Residential' zone, as shown on the Scheme Amendment map
5.30	Lot 600 (7) Armstrong Place, Dunsborough	Rezone from 'Recreation' Reserve to 'Special Purpose – Aged Person Housing'
5.31	Lot 42 (201) Geographe Bay Road, Quindalup	Rezone from 'Public Purpose' Reserve to 'Special Purpose – Youth Hostel'
5.32	Lot 2761 (29) Commonage Road, Quindalup	Rezone portion of lot from 'Public Purpose' Reserve to 'Agriculture'.
5.33	Quindalup Special Character Area	Identify the Quindalup Special Character Area as shown on the Scheme Amendment map
5.34	Lots 1 (29) and 2 (2/31) Wardanup Crescent, Yallingup	Rezone portion of the lots from 'no zone' to 'Residential R10'
5.35	Lot 5 (20) Elsegood Avenue and Lot 21 (9) Dawson Drive, Yallingup	Rezone from 'Tourist' to 'Residential R10', as shown on the Scheme Amendment map
5.36	Lot 15 Quindalup Siding Road, Quindalup	Rezone portion of lot from 'Recreation' Reserve to 'Agriculture'
5.37	Lots 40 (1721) and 41 (1701) Wildwood Road, Yallingup	Rezone portion of the lots from 'Public Purpose' Reserve to 'Viticulture and Tourism'

5.38	Lot 2000 Edith Cowan Court, Abbey and Lot 5614 Wagon Entrance, Broadwater (Reserve 48280)	Reserving from 'Residential R5', 'R20' and 'R30' to 'Recreation' Reserve
5.39	Lot 6 (2) Grace Court, West Busselton	Rezone from 'Public Purpose' Reserve to 'Special Purpose - Educational Establishment'
5.40	Lot 500 Grace Court, West Busselton	Rezone from 'Special Purpose - Various' to 'Special Purpose - Church Site, Educational Establishment, Child Care & Hall'
5.41	Lot 688 (1) Piano Box Boulevard and Lot 689 (34) Pickmore Circus, West Busselton	Rezone from 'no zone' to 'Residential R20'
5.42	Lot 501 (190) Bussell Highway, West Busselton	Rezone portion of lot from 'no zone' to 'Residential R15'
5.43	Lot 502 Bussell Highway, West Busselton (Reserve 41554)	Rezone portion of lot from 'no zone' to 'Recreation' Reserve
5.44	Lot 4691 (7) Kingfish Road, Broadwater	Rezone from 'Recreation' Reserve to 'Residential R15'
5.45	Lot 200 (165) Marine Terrace, Geographe	Rezone portion of lot from 'no zone' to 'Residential R15'
5.46	Lot 5016 (75) Ford Road, Geographe (Reserve 44384)	Rezone from 'Recreation' Reserve to 'Residential R20'
5.47	Lot 10 (86) Causeway Road and Lot 12 (69) Molloy Street, Busselton	Rezone portions of the lots from 'Special Purpose - Service Station' to 'Residential R20'
5.48	Lot 300 Leeuwin Boulevard, West Busselton	Rezone from 'Recreation' Reserve and 'no zone' to 'Residential R20'
5.49	Lot 2000 Deacon Walk, West Busselton	Reserve lot as 'Recreation' Reserve from 'Residential' zone
5.50	Lot 197 (1) MacKillop Avenue, West Busselton (MacKillop Catholic College)	Rezone from 'Public Purpose' Reserve to 'Special Purpose - Educational Establishment'
5.51	Lot 5320 (2) Kelly Drive, West Busselton (St Joseph's Primary School)	Rezone from 'Public Purpose' Reserve and 'no zone' to 'Special Purpose - Educational Establishment'
5.52	Lot 2002 Pinnacle Avenue, Ambergate (Reserve 50288)	Reserve portions of lot as 'Recreation' Reserve from 'Rural Residential' zone
5.53	Lot 44 Chapman Hill Road, Kalgup	Rezone from 'Public Purpose' Reserve to 'Agriculture'
5.54	Lot 16 Lindberg Road, Bovell	Rezone from 'no zone' to 'Agriculture'
5.55	Lot 25 (580) Vasse Highway, Yoongarillup	Rezone portion of lot from 'Public Purpose' Reserve to 'Agriculture'
5.56	Lot 60 (3908) Bussell Highway, Ruabon	Rezone in part from 'Recreation' Reserve to 'Agriculture'.

5.57	Lots 127 (30), 128 (28), 129 (24), 130 (18) and 135 (31) Old Timber Court, Reinscourt	Rezoning portions of lots from 'Conservation' to 'Rural Residential'
5.59	Lot 27 (606) Rendezvous Road, Vasse (Heron Lake)	Exclude lot from DCA 1 to be included within the Vasse Development Contributions Plan.
5.60	Map Legend	Insert the following into the Map Legend in alphabetical order under 'Special Purpose': "CECH CHURCH SITE, EDUCATIONAL ESTABLISHMENT, CHILD CARE & HALL" "EE EDUCATIONAL ESTABLISHMENT" "TE TELEPHONE EXCHANGE" "YH YOUTH HOSTEL"

B. Defer consideration of recommendation 4.5 and recommendation 5.58 (as following) until an Ordinary Meeting in April/May 2016 in order to allow for additional consultation and assessment to be carried out by relevant City officers:

4.5 a. Inserting a new clause 5.5.2 as follows and renumbering subsequent clauses and clause references accordingly:

"5.5.2 Notwithstanding clause 5.5.1 above, the following development is expressly prohibited:

(a) Drive-through facilities in the Business zone, as specified by clause 5.20; and

(b) Advertisements that advertise goods and services which are not produced, displayed or offered for sale, or which is otherwise not relevant to, the land upon which the advertisement is located, as specified by clause 5.40."

b. Inserting a new clause 5.20 as follows and renumbering subsequent clauses and clause references accordingly:

"5.20 DRIVE-THROUGH FACILITIES IN THE BUSINESS ZONE

Drive-through facilities shall not be approved in the Business zone."

c. Amending Schedule 1 "Interpretations" by inserting the following new definition:

"Drive-through facility' means a facility incidental to another use, such as shop or takeaway food outlet, whereby a product or service is sold or provided direct to customers or patrons driving or seated in a motor vehicle."

5.58	All lots within Dunsborough Lakes with the exception of Lot 9033 Commonage Road, Dunsborough	Include all areas of Dunsborough Lakes, with the exception of Lot 9033 Commonage Road, Dunsborough, within the 'Dunsborough & Quindalup' Precinct of DCA 1
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C. Pursuant to r.53 of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to endorse the 'Schedule of Submissions' at Attachment A prepared in

response to submissions received on the proposed Omnibus Amendment No 1 following public consultation between 4 November 2015 and 16 December 2015.

- D. Pursuant to r.50(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to support the modifications to proposed Omnibus Amendment No. 1 shown in the 'Schedule of Modifications' at Attachment B, prepared to address issues raised in submissions received following public consultation and/or to clarify certain relevant matters.
- E. Pursuant to r.53 and r.55 of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to provide the proposed Omnibus Amendment No. 1 to the Western Australian Planning Commission with a request for the approval of the Hon. Minister for Planning.
- F. Pursuant to r.56 of the Planning and Development (Local Planning Schemes) Regulations 2015, should directions be given that modifications to the proposed Omnibus Amendment No 1 are required, these modifications are to be undertaken accordingly, on behalf of the Council, unless they are considered by Officers to be likely to significantly affect the purpose and intent of the proposed Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination.

CARRIED 9/0

Note: In accordance with Regulation 11(da) of the Local Government (Administration) Regulations 1996, the minutes of a Council meeting must include written reasons for a decision that is significantly different from the recommendation.

Reasons:

The Council was sufficiently informed to finally approve all of the elements of Omnibus Amendment 1 that require no further consideration, whilst deferring determination of recommendations 4.5 (Drive Through Facilities in Business Zone) and recommendation 5.58 (Dunsborough Lakes Developer Contributions) until an appropriate Meeting in April/May 2016 to allow for additional consultation and assessment by officers and the Council, and not defer the whole Omnibus Amendment further as had been recommended.

12. ENGINEERING AND WORKS SERVICES REPORT

Nil

13. COMMUNITY AND COMMERCIAL SERVICES REPORT

Nil

At this time with the agreement of all Members the Mayor approved the introduction of a Late Item for consideration by Council.

14. FINANCE AND CORPORATE SERVICES REPORT**14.2 UNDERTAKINGS IN RELATION TO AND AMENDMENT OF THE CITY OF BUSSELTON CEMETERIES LOCAL LAW 2015**

SUBJECT INDEX:	Local Laws
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Legal Services Coordinator - Cobus Botha
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Matthew Smith
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

This item is presented for consideration for acceptance as a late Item for the 9 March 2016 Council Meeting as the Joint Standing Committee require that the Council resolve to give these undertakings by 11 March 2016.

PRÉCIS

Following gazettal of the *City of Busselton Cemeteries Local Law 2015 (Cemeteries Local Law)* on 10 December 2015 the Joint Standing Committee on Delegated Legislation (JSC) notified the City by letter dated 25 February 2016 that a penalty imposed under clause 9.1 of the Cemeteries Local Law is inconsistent with the *Cemeteries Act 1986* and consequently requested Council to provide the JSC with certain undertakings in relation to interim enforcement of the relevant provision of Cemeteries Local Law pending amendment thereof.

The purpose of this report is for Council to consider the request from the JSC and to resolve to provide the requested undertakings and commence the process for amending the Cemeteries Local Law in accordance with these undertakings.

The JSC require that the Council resolve to give these undertakings by 11 March 2016, thus this matter is presented to the Council as a late item for its meeting on 9 March 2016.

BACKGROUND

Council resolved on 11 November 2015 to make the Cemeteries Local Law which was subsequently gazetted on 10 December 2015 and came into operation 14 days after its publication in the *Government Gazette*.

Clause 9.1 of the Cemeteries Local Law states that:

9.1 General

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$50.00 for every day or part of a day during which the offence has continued.

Section 42 of the *Interpretation Act 1984* allows the WA State Parliament to disallow a local law, which is a mechanism to guard against the making of subsidiary legislation that is not authorised or contemplated by the empowering enactment, has adverse effect on existing rights or ousts or modifies the rules of fairness. Parliament appointed the JSC to undertake an overseeing role on its behalf, which includes the power to scrutinise and recommend the disallowance of local laws to Parliament.

The JSC advised the City that it considered the Cemeteries Local Law at their meeting on 24 February 2016 and noted that, although Section 55(1)(p) of the *Cemeteries Act 1986* (**Cemeteries Act**) limits the further fine for a continued contravention of a local law to \$20 for every day or part of a day which the offence has continued, clause 9.1 of the Cemeteries Local law specifies a maximum penalty of \$50 for such an offence, which resulted in this provision of the Cemeteries Local Law being inconsistent with the Cemeteries Act. As a consequence the JSC requested Council to give the following undertakings:

- To amend the Cemeteries Local Law by no later than 25 August 2016, so that the correct limit for such a penalty is substituted in clause 9.1 of the local law;
- Not to enforce the continuing fine under clause 9.1 in the meantime;
- To make any consequential amendments to the local law that may be necessary;
- To provide the JSC with a copy of the minutes of the meeting at which Council resolve to provide these undertakings; and
- Where the Cemeteries Local Law is made publicly available, whether in hard copy or electronic form, to ensure that the local law is accompanied by a copy of these undertakings.

STATUTORY ENVIRONMENT

The JSC has the power to recommend to Parliament that a local law, which is considered not to be authorised or contemplated by the empowering enactment, be disallowed. Therefore should Council resolve not to provide the undertakings as requested, it may result in the Cemeteries Local law being disallowed by Parliament.

Section 3.12(8) of the *Local Government Act 1995* stipulates that the procedure for amending the text of a local law is the same as for making a local law. The procedure for making local laws is set out in sections 3.12 to 3.17 of the Local Government Act and regulation 3 of the *Local Government (Functions and General) Regulations 1996*. The person presiding at a Council meeting is to give notice of the purpose and effect of a proposed local law by ensuring that:

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

The purpose and effect of the proposed amendment Cemeteries Local Law are as follows:

Purpose:

To amend clause 9.1 of the *City of Busselton Cemeteries Local Law 2015* to ensure consistency with the *Cemeteries Act 1986*.

Effect:

Replacement of the penalty \$50 for a continuing offence under clause 9.1 of the *City of Busselton Cemeteries Local Law 2015* with a penalty of \$20 to achieve consistency with the relevant provisions under the *Cemeteries Act 1986*.

Statewide and local public notice is to be given by advertising the proposed amendment in accordance with the requirements of sections 3.12(3) and (3a) of the Local Government Act. The submission period must run for a minimum period of six weeks after which Council, having considered any submissions received, may resolve to make an amendment local law.

RELEVANT PLANS AND POLICIES

None

FINANCIAL IMPLICATIONS

Costs associated with the advertising and gazettal of an amendment local law will come from the 2015/16 budget. These costs are unlikely to exceed \$2,000 and there are sufficient funds in the legal budget for this purpose.

STRATEGIC COMMUNITY OBJECTIVES

The proposal aligns with the *City of Busselton Strategic Community Plan 2013* as follows:

6.2 Governance systems that deliver responsible, ethical and accountable decision making.

RISK ASSESSMENT

The requested undertakings and proposed amendment of the Cemeteries Local Law does not involve any significant changes from current practices and is therefore considered low risk.

CONSULTATION

If Council resolve to commence the law making process as recommended, public submissions will be invited as part of the statutory consultation process required by Sections 3.12 (3) and (3a) of the Local Government Act.

OFFICER COMMENT

Section 55 of the *Cemeteries Act 1986* provides local governments with the heads of power to make local laws that are necessary or convenient for the purposes of this act. In terms of Section 55(1)(p) a local law may provide that contravention of a local law constitutes an offence and provide for penalties not exceeding a fine of \$500 and, if the offence is a continuing one, to a further fine not exceeding \$20 for every day or part of a day during which the offence has continued.

Clause 9.1 of the Cemeteries Local Law, which was made in accordance with the provisions of Section 55(1)(p) of the Cemeteries Act, specifies the further fine for a continuing offence as “*not exceeding \$50 for every day or part of a day during which the offence has continued*”. The amount of \$50 (instead of \$20 as prescribed under the act) is a typographical error and clearly inconsistent with the maximum daily fine for a continuing offence specified in section 55(1)(p) of the *Cemeteries Act 1986*. In order to rectify this error the amount of \$50 in clause 9.1 of the Cemeteries Local Law will have to be replaced with \$20. No other amendments to the local law are required as a consequence of this change.

Therefore, for purposes of achieving consistency between the relevant provisions of the Cemeteries Local Law and the Cemeteries Act and avoid disallowance of the local law by Parliament, it is recommended that Council resolve to amend the Cemeteries Local Law in accordance with the JSC's requirements and to provide the JSC with the undertakings as outlined in this report.

CONCLUSION

The proposed amendment of clause 9.1 of the Cemeteries Local Law will achieve consistency between the local law and the relevant provisions under the *Cemeteries Act 1986*.

OPTIONS

Should Council resolve not to amend clause 9.1 of the Cemeteries Local Law or not to provide the undertakings as requested by the JSC, it will in all likelihood result in the Cemeteries Local Law being disallowed by Parliament. For this reason Council should not consider any option other than commencing the process for amendment of the Cemeteries Local Law and providing the JSC with the requested undertakings in accordance with the Officer Recommendation.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Council is requested to provide the required undertakings to the JSC by 11 March 2016. In accordance with these undertakings the required amendment of the Cemeteries Local Law has to be completed by 25 August 2016.

Council Decision and Officer Recommendation

C1603/051 Moved Councillor P Carter, seconded Councillor C Tarbotton

That the Council:

1. Provides, in relation to the *City of Busselton Cemeteries Local Law 2015*, the following undertaking to the Joint Standing Committee on Delegated Legislation:
 - a) To amend by no later than 25 August 2016 clause 9.1 of the local law by replacing the amount of \$50 with the amount of \$20;
 - b) Not to enforce the continuing fine under clause 9.1 of the local law until it has been amended in accordance with resolution 1(a) above; and
 - c) Where the local law is made publicly available, whether in hard copy or electronic form, ensure that the law is accompanied by a copy of these undertakings.
2. Commences the law-making process for amending the *City of Busselton Cemeteries Local Law 2015*, the purpose and effect of the amendment local law being as follows:

Purpose: To amend clause 9.1 of the *City of Busselton Cemeteries Local Law 2015* to ensure consistency with the *Cemeteries Act 1986*.

Effect: Replacement of the penalty \$50 for a continuing offence under clause 9.1 of the *City of Busselton Cemeteries Local Law 2015* with a penalty of \$20 to achieve consistency with the relevant provisions under the *Cemeteries Act 1986*.
3. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the *Local Government Act 1995*, by –
 - (i) giving Statewide public notice and local public notice of the proposed amendment of the local law; and
 - (ii) giving a copy of the proposed amendment local law and public notice to the Minister for Local Government.

4. That the CEO, after the close of the public consultation period, submit a report to the Council on any submissions received on the proposed amendment of the local law to enable the Council to consider the submissions made and to determine whether to make an amendment local law in accordance with section 3.12(4) of the Act.

CARRIED 9/0

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

17. CONFIDENTIAL REPORTS

The reports listed below are of a confidential nature, in accordance with section 5.23(2) of the Local Government Act 1995. These reports have been provided to Councillors, the Chief Executive Officer and Directors only.

Note: No discussion was required so the meeting was not closed to members of the public.

17.1 BUSSELTON CENTRAL SHOPPING CENTRE REDEVELOPMENT PROJECT

SUBJECT INDEX:	Townscape/Busselton
STRATEGIC OBJECTIVE:	Growth is managed sustainably and our environment is protected and enhanced as we develop.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Legal Services Coordinator - Cobus Botha
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Matthew Smith
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Confidential Council Report 8 July 2015 Attachment B Confidential Proposed Staging Plan Busselton Central Development

This item is confidential in accordance with section 5.23(2) (e)(ii) of the Local Government Act 1995, as it contains information relating to a matter that if disclosed, would reveal information that has a commercial value to a person, where the information is held by, or is about, a person other than the local government.

Council Decision and Officer Recommendation

C1603/052 Moved Councillor J McCallum, seconded Councillor P Carter

That the Council resolves to:

1. Extend the deadline by which the board of the Trust Company (Australia) Limited has to grant approval to proceed with acquisition of Lots 121 and 122 Kent Street and Lot 309 Prince Street until 23 December 2016.
2. Authorise the Chief Executive Officer to negotiate the further contract variations (as outlined in this report) and vary the contract of sale between the City and Trust Company (Australia) Limited accordingly.

CARRIED 9/0

18. QUESTIONS FROM MEMBERS

Nil

19. PUBLIC QUESTION TIME

Nil

20. NEXT MEETING DATE

Wednesday, 23 March 2016

21. CLOSURE

The meeting closed at 5.59pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 113 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 23 MARCH 2016.

DATE: 23/03/16

PRESIDING MEMBER: 