

Policy and Legislation Committee Agenda

7 September 2022

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city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 7 SEPTEMBER 2022

TO: THE MAYOR AND COUNCILLORS

NOTICE is given that a meeting of the Policy and Legislation Committee will be held in the Committee Room, Administration Building, Southern Drive, Busselton on Wednesday, 7 September 2022, commencing at 1.30pm.

The attendance of Committee Members is respectfully requested.

DISCLAIMER

Statements or decisions made at Council meetings or briefings should not be relied on (or acted upon) by an applicant or any other person or entity until subsequent written notification has been given by or received from the City of Busselton. Without derogating from the generality of the above, approval of planning applications and building permits and acceptance of tenders and quotations will only become effective once written notice to that effect has been given to relevant parties. The City of Busselton expressly disclaims any liability for any loss arising from any person or body relying on any statement or decision made during a Council meeting or briefing.



NAOMI SEARLE

A/CHIEF EXECUTIVE OFFICER

1 September 2022

CITY OF BUSSELTON

AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 7 SEPTEMBER 2022

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1. **DECLARATION OF OPENING, ACKNOWLEDGEMENT OF COUNTRY AND ANNOUNCEMENT OF VISITORS**

2. **ATTENDANCE**

Apologies

3. **PUBLIC QUESTION TIME**

4. **DISCLOSURE OF INTERESTS**

5. **CONFIRMATION AND RECEIPT OF MINUTES**



5.1 **Minutes of the Policy and Legislation Committee Meeting held 27 July 2022**

RECOMMENDATION

That the Minutes of the Policy and Legislation Committee Meeting held 27 July 2022 be confirmed as a true and correct record.

6. REPORTS

6.1 HOLIDAY HOMES AMENDMENT LOCAL LAW 2022

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Local Laws
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Acting Legal Coordinator - Briony McGinty
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Attachment A Holiday Homes Amendment Local Law 2022  

OFFICER RECOMMENDATION

That the Council:

1. Resolves to make the *City of Busselton Holiday Homes Amendment Local Law 2022* in accordance with section 3.12(4) of the *Local Government Act 1995*.
2. Authorises the Chief Executive Officer to carry out the processes required to make the *City of Busselton Holiday Homes Amendment Local Law 2022* in accordance with section 3.12(5) and section 3.12(6) of the *Local Government Act 1995*.

EXECUTIVE SUMMARY

In 2012, three interrelated key instruments were introduced by Council to regulate holiday homes – these included provisions in the local planning scheme, a local planning policy, and a local law. The local law has remained unchanged since 2012.

Throughout 2021/22 a full review of the regulatory framework covering holiday homes was conducted, resulting in several opportunities for change. On 23 March 2022, Council resolved to adopt a staged approach for proposed changes to the regulation of holiday homes. With regard to the *City of Busselton Holiday Homes Local Law 2012* (Local Law), Council resolved that amendments should be presented to Council for consideration as part of Stage 2. Stage 2 also required the development of a Council Policy to guide application of the Local Law, which will be presented via separate report.

In accordance with that resolution, an amendment to the Local Law was prepared (Amendment Local Law) for consideration by the Council. The Council resolved to initiate the law-making process and the matter is now brought back before Council to enable the Council to consider the submissions made and to determine whether to make the Amendment Local Law in accordance with section 3.12(4) of the *Local Government Act 1995* (the Act).

BACKGROUND

The Local Law was first gazetted in April 2012 and further amended in November 2012, (to address issues raised by the JSC during its scrutiny of the Local Law relating to clauses which attempted to regulate the use of waste receptacles).

It was introduced as part of a suite of changes to the holiday home regulatory framework which also included a local planning policy and local planning scheme amendments.

The Local Law created an annual registration system for those properties which had received development approval. This report only relates to the Local Law.

The Local Law, when introduced, was the second of its type in Western Australia, and largely followed a local law introduced by the City of Fremantle. The only other WA local government known to officers to have a local law dealing with holiday homes is the City of Wanneroo who introduced a local law in 2017.

As development approvals are generally granted in perpetuity, the annual registration system was seen as a way of generating ongoing management responsibility for owners, and allows the City to modify conditions of registration through an annual renewal process (although generally speaking, the conditions must be consistent with the relevant development approval). The Local Law creates an ability to cancel registrations in the event of serious non-compliance.

Over time issues relating to holiday homes have arisen that may not be sufficiently addressed through the current framework. At its meeting of 9 June 2021 Council resolved to conduct a review, by proposing a number of potential changes, and to consult with the community about these changes. Consultation was carried out for a period of seven weeks between 13 August 2021 and 4 October 2021, comprising a number of community information sessions, static displays, an extensive online document library, and an online survey. 553 survey responses and a further 18 written submissions were received and each proposed change gained support from the majority of respondents. The changes relevant to the Local Law (which have not already been addressed as part of Stage 1 through the updating of Conditions of Registration and introduction of a Code of Conduct) were expectations around managers' response times, discussed further under Officer Comment below.

Proposed amendments were presented to Council and, on 8 June 2022, Council resolved to give local public notice of the Amendment Local Law pursuant to section 3.12(3) of the Act. The Amendment Local Law is now referred back to Council for Council to consider any submissions made, and to determine whether to make the Amendment Local Law, in accordance with section 3.12(4) of the Act.

OFFICER COMMENT

Reducing Manager Response Time from 24 hours to 12 hours

The requirement for managers to respond to contact relating to a holiday home is provided through clause 3.4 of the Local Law which states:

"3.4 Contacting the manager

...

(1) The manager must respond within a reasonable time but in any event within 24 hours to any contact relating to the holiday home; ..."

Clauses 2.3(i)(ii), 2.3(j)(ii) and 2.6(k)(ii) also supplement this requirement.

The Amendment Local Law proposes a revised response time of 12 hours because a dilemma arises around a response time that may be considered reasonable. 'Reasonable' may be almost immediate for a management agency with multiple staff, but this might not be the case if a sole person is appointed as manager.

The question of reasonableness also applies to the potential to criminalise behaviour (the time to respond to a complaint), which may be disproportionate to the purpose sought to be achieved. For example, it may not be reasonable to criminalise a slow response to a complaint about an excessive number of vehicles parked at a property.

It may be considered reasonable to expect a quick response regarding an excessive number of noisy and disruptive holiday home occupants and guests during the night.

When the local law was first introduced, a 24 hour response time was considered reasonable and appropriate. Since then, there has been a rapid increase in the use of instantaneous communication such as smart phones and apps, allowing easier communication between parties. Requiring quicker response times to issues such as overflowing bins, barking dogs, and late night parties is seen as a proportionate response to the benefit of obtaining a holiday home approval.

Given the question of ‘reasonableness’, and the support for at least a maximum 12 hour response time, the proposed Amendment Local Law operates to revise the response time from 24 hours to 12 hours.

Updated Infringements Penalties

Penalties for breaches of the Local Law are currently set at between \$150 and \$400. The Act allows for maximum infringements of up to \$500. Given the current penalties were set some 10 years ago, it is recommended that appropriate increases are made. The Amendment Local Law proposes to raise penalties in line with Perth CPI from when the local law was first introduced (and penalties last amended). This represents an approximate \$50 increase in penalties.

Statutory Environment

Section 3.16 of the Act requires that within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended. The City developed and maintains a local law review program to ensure compliance with the requirements of Section 3.16.

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

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

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

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

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

Purpose: To regulate the registration and management of holiday homes within the district.

Effect: To control the use of holiday homes by reducing the time within which a manager must respond to issues.

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

Parliamentary Scrutiny

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

Relevant Plans and Policies

There is currently no policy guiding the application of the Local Law. However, a policy has been drafted and is the subject of a separate report to Council.

Financial Implications

Costs associated with the advertising and gazettal of the Amendment Local Law will come from the legal budget. These costs are unlikely to exceed \$2,000 and there are sufficient funds in the legal budget for this purpose.

In terms of the increase in modified penalties, the City is unlikely to see any significant increase in income, given the City's approach to its regulatory functions. Proposed increases are minor and based on a review of the City's existing amounts and a comparison of other local governments.

Making and implementing the Amendment Local Law should not have any other financial implications for the City.

Stakeholder Consultation

The Amendment Local Law was advertised publicly in local newspapers, on the City's website, on social media and on public notice boards for a minimum of 6 weeks in accordance with the requirements under section 3.12(3)(a) of the Act.

In accordance with section 3.12(3)(b) of the Act a copy of the Proposed Local Law was forwarded for consideration and comment to the Minister for Local Government. The DLGSC responded on behalf of its Minister and did not raise any concerns with the local law.

The consultation period resulted in 42 submissions providing feedback through the "Your Say" platform. Of those, 8 identified as community members, 2 as managers of one holiday home, 1 as a manager of multiple holiday homes, 20 as neighbours of holiday homes, and 10 as owners of holiday homes.

Some of the submissions spoke to the issue of holiday homes more broadly, such as their impact on housing affordability. Others spoke to issues not addressed by the Amendment Local Law such the existing conditions of registration.

Shortened response time

26 submitters stated they broadly supported the changes and 16 did not. However, of those 16 who said they did not support the overall changes, 7 stated they did not support the reduced response time as they felt that an even shorter response time should be required.

In addition, two submitters stated they did not support changes as they opposed the requirement to place a sign at the front of their premises with the number of the contactable manager, and two did not support the requirement to not leave dogs unattended.

Neither of these submissions spoke to the issue of the shortened response time. It should be noted that neither of these measures (signage or dogs) relate to this Amendment Local Law currently before Council.

Therefore, in relation to the shortened response time, of those who specifically addressed the issue, 33 supported shortening the response time to either 12 hours or even shorter, and 4 did not support a shortened response time. In relation to those who did not support any shortening of the response time, concerns were raised regarding situations where staff illnesses or other practical issues may create difficulties in responding within that period. However, submissions in support pointed to the commercial benefit obtained by the running of a holiday home and the need to professionalise the industry.

Overall, the submissions indicate broad support for faster resolution of matters seriously impacting on amenity and enjoyment of property.

Increase in penalties

While most submissions were supportive of this change, three submissions spoke against it. One submission felt that the penalties should be \$1000. However, under the LG Act, the maximum infringement penalty that can be provided under a local law is \$500. One submission raised the concern that penalties do not provide a real deterrent, as people are unaware of the infringement penalties in any event. Another submission opposed the increase on the basis of the existing cost of living.

Generally this proposed change can also be seen to have broad community support.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve not to make the local law. However, for the reasons stated above, it is recommended to make the local law.
2. Resolve to make additional changes to the Amendment Local Law. However, if those changes are significant, the local law-making process would need to recommence from the start due to statutory requirements that any changes are not significantly different from what was originally proposed.

CONCLUSION

Since its gazettal the registration system created under the Local Law has provided another layer of oversight to the holiday home system. However, the issue of manager response times has been recognised, during the regulatory review, as in need of reconsideration.

The City has undertaken an extensive review of the Holiday Homes Local Law. The Amendment Local Law has been prepared and advertised publicly in accordance with the Act. No changes have been recommended to the Amendment Local Law originally presented to Council. It is recommended that Council resolve to make the Amendment Local Law.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should Council resolve to make the Amendment Local Law it will need to be gazetted and will come into operation 14 days after publication. The timeframe for completion of the gazettal process is approximately thirty days from the date of the Council resolution.

LOCAL GOVERNMENT ACT 1995

CITY OF BUSSELTON

HOLIDAY HOMES AMENDMENT LOCAL LAW 2022

Under the powers conferred by the *Local Government Act 1995*, and all other powers enabling it, the Council of the City of Busselton resolved on 21 September 2022 to make the following local law.

1. Title

This is the *City of Busselton Holiday Homes Amendment Local Law 2022*.

2. Commencement

This local law comes into operation 14 days after the day on which it is published in the *Government Gazette*.

3. Principal local law

This local law amends the *City of Busselton Holiday Homes Local Law 2012*, published in the *Government Gazette* on 30 April 2012.

4. Clause 2.3 amended

In clause 2.3(i)(ii) and 2.3(j)(ii), delete each reference to “24 hours” and insert:

12 hours

5. Clause 2.6 amended

In clause 2.6(k)(ii), delete “24 hours” and insert:

12 hours,

6. Clause 3.4 amended

In clause 3.4(2), delete “24 hours” and insert:

12 hours

7. Schedule 2 amended

In Schedule 2 –

- (a) delete the modified penalty of “\$400.00” and insert:

\$450.00

- (b) delete each modified penalty of “\$300.00” and insert:

\$350.00

- (c) delete the modified penalty of “\$200.00” and insert:

\$250.00



Dated this of 2022.

The Common Seal of the City of Busselton was affixed by authority of a resolution of the Council in the presence of—

GRANT DOUGLAS HENLEY, Mayor

, A/Chief Executive Officer

6.2 COUNCIL POLICY: REGISTRATION OF HOLIDAY HOMES

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Council Policy
BUSINESS UNIT	Governance
REPORTING OFFICER	Compliance Coordinator - Bob Wallin
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Draft Council Policy: Regulation of Holiday Homes  

OFFICER RECOMMENDATION

That the Council adopt the draft Council Policy: Regulation of Holiday Homes (Attachment A).

EXECUTIVE SUMMARY

This report presents a new Council Policy – Registration of Holiday Homes (the Policy) (Attachment A). The Policy has been prepared to provide guidance for implementing the *City of Busselton Holiday Homes Local Law 2012* (Local Law). Amendments to the Local Law are being considered as a separate agenda item.

BACKGROUND

Council at its 23 March 2022 meeting resolved to:

“... Implement changes to the regulatory framework for holiday homes in three stages:

(a) Stage one:

Changes to conditions or registration and introduction of a code of conduct as generally described in this report.

(b) Stage two:

(i) Initiate amendments to the Holiday Homes Local Law 2012, to be presented via a separate report during the first half of 2022.

(ii) Concurrently, develop a Council Policy to guide application of the local law.

(c) Stage three:

Draft and initiate advertising of formal changes relating to holiday home provisions in Local Planning Scheme No.21 and Local Planning Policy No. 4.1: Holiday Homes, to be presented via a separate report, once uncertainties relates to the state level regulatory framework have been resolved.”

The draft Policy contained in Attachment A has been prepared to satisfy item (b)(ii) above.

OFFICER COMMENT

There are 994 registered holiday homes within the City with the majority being located in residential neighbourhoods. Given the proliferation and distribution of this land use, it is essential that these businesses/operations are well regulated.

The objective of the Policy is to guide application of the Local Law and provide transparency of the decision making process for regulating holiday homes. The Policy seeks to ensure that holiday homes are managed and operated in a manner that is respectful to their neighbours and do not unreasonably impact on local amenity and safety.

The draft Policy includes a level of detail not usually applied. This level of detail is essential to reflect the intent of the Local Law, specifically clauses 2.4(4) and 2.7. These clauses provide the mechanism to use a Council Policy to define conditions not already specifically listed in clause 2.6 of the Local Law. The additional details proposed ensures that decisions made regarding imposing conditions or renewing or cancelling holiday home registrations can be sustained and defended successfully if tested by a State Administrative Tribunal review.

The draft Policy provides clear defined guidance on the scope and nature of conditions that the City will consider when issuing new holiday home registrations and considering renewal or cancellations and provides:

- a) High order direction and support for the City in enforcing compliance and defending decisions at the State Administrative Tribunal;
- b) Clearly defined and publically available information for managers/owners and attendants (occupants and guests) regarding expectations and obligations;
- c) Definition of the scope of matters that conditions will address including:
 - a. management of pets;
 - b. sleeping arrangements (confining within home);
 - c. storage and removal of rubbish;
 - d. signage/contact information;
 - e. maintenance and availability of services;
 - f. responsibilities of attendants to not cause nuisance to normal amenity in the area, including but not limited to noise, amplified music, smoke, odours, light and barking dogs; and
 - g. regulate and define responsibilities of owner/manager and attendants to achieve the above; and
- d) Detailing matters the City will consider when assessing renewal of holiday home registrations and cancellation.

Statutory Environment

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

Relevant Plans and Policies

The officer recommendation aligns to the adopted Compliance Policy.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could choose to not adopt the Policy and rely on the current Compliance Policy and amended Local Law. For the reasons outlined in the officer comment above, this option is not recommended. The Council could also choose to make changes to the proposed Policy.

CONCLUSION

The Policy: Registration of Holiday Homes (Attachment A) is presented to Council for Endorsement and will provide direction on how to consistently apply the amended Local Law.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented within one week of the gazettal of amendments to the *City of Busselton Holiday Homes Local Law 2012* Gazettal of the Local Law.



Council Policy

Council Policy Name: Regulation of Holiday Homes
Responsible Directorate: Planning and Development Services **Version:** DRAFT

1. PURPOSE

- 1.1. The purpose of this policy is to:
- Outline the overall framework through which the City of Busselton regulates Holiday Homes; and
 - Establish the high-level objectives for that framework; and Provide more detailed guidance for the application and enforcement of conditions of registration under the *Holiday Homes Local Law*, which forms an important part of the overall framework.

2. SCOPE

- 2.1. The Policy applies to all Holiday Homes within the municipal area.

3. DEFINITIONS

Term	Meaning
Holiday Homes	Short term use of residential homes, appropriately registered with the City of Busselton
Policy	This City of Busselton Council policy titled "Regulation of Holiday Homes"
Attendants	Means a person who is – (a) An occupant; or (b) A guest.
Guest	Means a person who is on the premises of a holiday home, for social purposes, at the invitation or with the permission of an occupant of the holiday home
Occupant	Means a person who is accommodated in a holiday home for no more than a total of 3 months in any one 12 month period.

4. STRATEGIC CONTEXT

- 4.1 This Policy links to Strategic theme 4. LEADERSHIP – A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically Strategic Priority 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

- 5.1. The City has chosen to regulate holiday homes, recognising both the impact that holiday homes can have on the amenity of neighbours and on housing availability, as well as the long-established nature of holiday homes in the District, and the important role that holiday homes play in the District's tourism industry. In developing and implementing its regulatory framework, the City will carefully consider and balance these key considerations.
- 5.2. The City regulates short term Holiday Homes through a framework that is inclusive of:
- City of Busselton Local Planning Scheme 21*;

6.2 Attachment A Draft Council Policy: Regulation of Holiday Homes

- b. *Local Planning Policy 4.1: Holiday Homes*;
- c. *City of Busselton Holiday Homes Local Law 2012*
- d. This Policy;
- e. City of Busselton Holiday Homes Conditions of Registration; and
- f. City of Busselton Holiday Homes Code of Conduct.

- 5.3. The City will apply conditions of registration that seek to ensure responsible management of holiday homes and the avoidance of unreasonable impacts on neighbour amenity. This may include conditions necessary to:
 - a. Manage pets to minimise disturbance to local amenity;
 - b. Ensure sleeping arrangements are contained within the confines of the holiday home;
 - c. Ensure suitable storage and removal of rubbish;
 - d. Specify signage standards and contact information;
 - e. Ensure suitable services are available and maintained;
 - f. Ensure that attendants do not cause nuisance to normal amenity of the area, including but not limited to noise, amplified music, smoke, odours, light and barking dogs; and
 - g. Regulate and define responsibilities of owner/managers and attendants to achieve the above.
- 5.4. Standard Conditions of Registration and Code of Conduct for Attendants are included in Annexure A and B, but may be subject to review on an ongoing basis at an administrative level to ensure policy objectives are achieved.
- 5.5. The City will consider renewal of Registration having regard to:
 - a. Volume and nature of breaches within the last 12 months;
 - b. Degree of control over breaches by managers/owners and attendants;
 - c. Responsiveness of managers/owners to resolve breaches;
 - d. Scale and impact of breach on local amenity and public safety; and
 - e. Scope to address breaches or impacts on amenity and public safety through variation of conditions.
- 5.6. The City will consider cancellation and/or non-renewal of a registration in the following circumstances:
 - a. Breaches of conditions that unreasonably impact on the amenity of neighbouring properties or the immediately locality and those breaches remain unresolved after contact by the City; and/or
 - b. There is a reasonable expectation of a sustained/ongoing impact to local amenity and safety.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Holiday Homes Local Law 2012*
- 6.3. City of Busselton Local Planning Scheme 21
- 6.4. Council Policy – Compliance

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	

ANNEXURE A

CONDITIONS OF REGISTRATION

This Registration of the Premises as a Holiday Home is subject to the following conditions:

1. This Registration is valid from the date on which this Certificate of Registration is issued and expires on 30 June 2022 unless cancelled through clause 2.14 of the Local Law.
2. The maximum number of Occupants who may be on the Premises at any time is [in accordance with DA number].
3. The maximum number of Attendants (which term includes Guests) who may be on the Premises after 10 pm is [in accordance with DA number].
4. An adequate supply of potable water is to be available to all Attendants of the Holiday Home at all times.
5. The Manager must ensure that each receptacle for rubbish and recycling is placed for collection on designated collection days and ensure that any additional rubbish that exceeds the receptacle is removed from the property.
6. Prior to commencement of any occupation of the Holiday Home, the Manager must provide all Occupants with the following:
 - a. the Code of Conduct; and
 - b. the Conditions of Registration.

The Manager must provide the City with proof of such notification upon request.

7. All Attendant's vehicles must be parked within the designated parking bays. No more than.... [in accordance with DA number] vehicles may be on the Premises at any time. Attendant's vehicles must not obstruct any street, thoroughfare, adjacent Premises or any other vehicle.
8. The Owner and Manager must ensure that the Premises displays a sign that:
 - a. is visible from the street;
 - b. displays a current telephone number upon which the Manager can be reached;
 - c. is located solely within the subject site; and
 - d. is no larger than 0.2m².

The Manager must provide the City with proof of such signage upon request.

9. Any activity at the Premises must comply with assigned noise levels within the *Environmental Protection (Noise) Regulations 1997*.
10. Any Attendant must not cause a nuisance to any other person or disrupt the normal amenity of the area. Nuisance includes, but is not limited to, noise, amplified music, smoke, odours, light and barking dogs.
11. Dogs must not be left unattended at the Premises at any time.
12. The Owner and Manager must inform the City in writing within 24 hours of any change or proposed change to details provided in relation to the Holiday Home or that would affect any condition imposed under the Local Law.

CONDITIONS OF REGISTRATION

13. The Manager must inform the City in writing within 24 hours of becoming aware of any breach of:
- these Conditions of Registration;
 - the Local Law;
 - the Code of Conduct; or
 - any other relevant law.

The Manager must also advise of action taken to address such a breach. If the Manager becomes aware of such breach on a weekend or public holiday, the City must be informed of such breach on the next business day.

14. A copy of the:
- Conditions of Registration;
 - approved Code of Conduct (Attachment A);
 - any emergency management procedures (including an approved Bushfire Emergency Evacuation Plan); and
 - Fire and BBQ Information (Attachment B),
- are to be affixed to the inside of the front door of the Premises at all times.
15. Any advertisement for the Holiday Home must specify:
- the maximum number of Occupants (which number must be consistent with the Conditions of Registration and development approval); and
 - no Guests are permitted at the Premises after 10pm.

Note:

*Any reference to "Local Law" in this Certificate of Registration means the **City of Busselton Holiday Homes Local Law 2012**. Words and expressions used in this Certificate of Registration shall have the same meaning as corresponding words and expressions in the Local Law.*

The Owner, Manager and each Attendant must comply with these conditions.

Definitions:

Attendant means a person who is an Occupant or a Guest.

Guest means a person who is at the Holiday Home for social purposes, at the invitation or with the permission of the Occupant of the Holiday Home.

Occupant means a person who is accommodated at the Holiday Home.



ANNEXURE B

CODE OF CONDUCT FOR HOLIDAY HOME AT

PROPERTY ADDRESS

(Electronic copy available on request)

1. Occupants to act lawfully

An occupant must not engage in conduct at the Holiday Home that contravenes—

- (a) criminal law; or
- (b) the Certificate of Registration.

2. Number of Occupants and guests

The maximum number of Occupants permitted at this Holiday Home is **NUMBER OF GUESTS**. No guests are permitted after 10pm.

3. Vehicles

- 3.1. The number of vehicles (including all motorised vehicles and trailers) parked at the Holiday Home must not exceed **NUMBER OF VEHICLES**.
- 3.2. Each vehicle used by an occupant or guest of the Holiday Home must be parked within the designated parking bays.

4. Obligations to neighbours

Each occupant who enters, uses or occupies the Holiday Home, including any outdoor areas, for example an outdoor entertainment area, deck, balcony, swimming pool or spa, must not act in a manner that could reasonably be expected to cause alarm, distress or nuisance to neighbours adjoining or in the vicinity of the Holiday Home, including but not limited to—

- (a) violence or threats;
- (b) loud aggressive behaviour including yelling, screaming or arguing;
- (c) excessively loud noise nuisance; and
- (d) overlooking or light spill.

5. Pets

Pets occupying the premises—

- (a) must not be left unattended; and
- (b) must be managed and not cause a nuisance (including a noise nuisance) to neighbours adjoining or in the vicinity of the Holiday Home.

6. General obligations

- 6.1. An Occupant or guest of the Holiday Home must not sleep or camp on the site in a tent, caravan, campervan or similar.
- 6.2. All rubbish produced by Occupants must be stored in a waste container, and removed weekly.




7. Responsibility to Manager

An Occupant must notify the Manager or the Manager's representative of any dispute or complaint about an occupant's behaviour as soon as possible after the dispute or complaint arises.

8. Responsibility for conduct of guests

An Occupant is responsible for the actions of all guests they invite onto the premises during the occupancy period, and must ensure guests comply with sections 1 - 6 of this code.

6.3 COUNCIL POLICY AMENDMENT: COMMUNITY HIRE OF CITY PROPERTY

STRATEGIC THEME	LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing
STRATEGIC PRIORITY	2.5 Facilitate events and cultural experiences that provide social connection.
SUBJECT INDEX	Council Policies
BUSINESS UNIT	Events and Cultural Services
REPORTING OFFICER	Venue Manager - Cultural Precinct - Sharon Custers
AUTHORISING OFFICER	Acting Director, Community and Commercial Services - Maxine Palmer
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Current Policy: Community Hire of City Property  Attachment B Proposed Amended Policy: Community Hire of City Property  Attachment C Proposed Amended Policy - Tracked Changes 

OFFICER RECOMMENDATION

That Council adopt the amended Council policy: Community Hire of City Property (Attachment B) to replace the current policy (Attachment A).

EXECUTIVE SUMMARY

This report presents an amended Council policy: Community Hire of City Property (the Policy) (Attachment B), with the policy having been amended to include community hire of the future performing arts and convention centre (BPACC working title) in Busselton. Officers recommend it replaces the current Council policy (Attachment A).

BACKGROUND

The City is undertaking to build a new performing arts and convention facility in Busselton. The venue will be a space for both commercial and community use and is planned to open at the end of 2023, with bookings expected to start being taken by the end of 2022.

In order to establish an equitable framework in which the BPACC may be able to be hired to community groups, officers are proposing an amendment be made to Council policy: Community Hire of City Property, to add the new performing arts and convention centre as a listed venue available for community hire. The amendment enables a reference for officers when determining how the City will encourage community use of the facility and for the community.

Funding received from Lotterywest in support of the performing arts and convention facility is also contingent on the City having a Council policy that aligns with, and encourages community use and accessibility of the new venue.

The inclusion of the venue as a space made available for community hire also aligns with Council's strategic goals and vision to ensure the BPACC becomes an important part of the fabric of the City of Busselton.

OFFICER COMMENT

It is proposed that Council endorse the amended Council policy: Community Hire of City Property, as at Attachment B, with the inclusion of the BPACC as a venue available for community hire; to support the Lotterywest funding requirements; and to provide clarity for the community and City staff regarding the community hire of the venue.

Statutory Environment

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

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the Officer Recommendation. The Policy will be administered within the approved budget for the venue and the forecast estimates in the City's Long Term Financial Plan, approved separately by Council on an annual basis.

Stakeholder Consultation

The BPACC Community Reference Group has provided feedback towards the development of the Policy, along with individual one-on-one conversations between the Venue Manager and key community stakeholders. Feedback from community stakeholders has been considered and included in the proposed policy.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:

1. Request additional community consultation or review before approving the amendments.
2. Request officers develop a separate Council policy relating to only the use of the new venue.

CONCLUSION

Officers recommend Council approve the amendment to Council policy: Community Hire of City Property to provide a framework for the equitable and fair use of the venue by the community.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be published on the City's website and implemented immediately upon Council's approval.



Council Policy

Council Policy Name: Community Hire of City Property

Responsible Directorate: Finance and Corporate Services

Version: Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to provide a framework for equitable and consistent community access to City Property for one-off and seasonal hire.

2. SCOPE

- 2.1. This Policy applies to the one-off and seasonal hire of City Property for community purposes.
- 2.2. This Policy does not relate to events, approved outdoor eating areas, markets, buskers/street entertainers, leasehold use of land owned and managed by the City, or commercial use already covered by Council policy: Commercial use of City Land and Facilities.

3. DEFINITIONS

Term	Meaning
Community Facilities	halls, function venues and community centres owned and /or managed by the City
City Property	Community Facilities, Public Open Space, and Sporting Grounds.
Policy	this City of Busselton Council policy titled "Community Hire of City Property"
Public Open Space	parks, beaches and reserves owned and/or managed by the City
Sporting Grounds	ovals, reserves and hard courts owned and/or managed by the City

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 2. – LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priorities:
- 2.1: Recognise, respect and support community diversity and cultural heritage; and
 - 2.5: Facilitate events and cultural experiences that provide social connection.
- 4.2. This Policy links to Strategic Theme 3. – OPPORTUNITY – A vibrant City with diverse opportunities and a prosperous economy, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priority:
- 3.1: Work with key partners to facilitate the activation of our town centres, creating vibrant destinations and consumer choice.

5. POLICY STATEMENT

- 5.1. To facilitate community access and usage, the City makes available a range of Community Facilities, Public Open Spaces and Sporting Grounds for one-off and seasonal hire.
- 5.2. The objectives of this Policy are:
- a. provide a framework for the use of City Property which enables community programs, activities and services that provide social, recreational, health and wellbeing outcomes in line with the Council's Strategic Community Plan;
 - b. ensure fair and equitable access and use of City Property to community groups and residents; and
 - c. support priority use of City Property to locally based organisations, groups, and individuals for community purposes that deliver a direct benefit to the district.

Sporting Grounds

- 5.3. The City provides Sporting Grounds for seasonal hire in support of organised sport and recreational clubs. These include:
- a. Barnard Park
 - b. Bovell Park
 - c. Churchill Park
 - d. Lou Weston
 - e. Sir Stewart Bovell Sporting Complex
 - f. Vasse Playing Fields
 - g. Dunsborough Playing Fields

Public Open Spaces

- 5.4. The City facilitates the one-off hire of Public Open Spaces for general community use, including the following parks and beaches:
- a. Parks
 - i. Rotary Park
 - ii. Signal Park
 - iii. Mitchell Park
 - iv. Centennial Park
 - v. Dunsborough Lions Park
 - b. Beaches
 - i. Bunker Bay Beach
 - ii. Busselton Beach and Foreshore
 - iii. Dunsborough Beach and Foreshore
 - iv. Eagle Bay Beach
 - v. Meelup Beach
 - vi. Castle Rock Beach
 - vii. Point Piquet
 - viii. Smiths Beach
 - ix. Yallingup Beach

Community Facilities

- 5.5. The City facilitates the one-off hire of Community Facilities for general community and some commercial use. These include:
 - a. Undalup Room (City Civic and Administration Building)
 - b. Busselton Community Resource Centre
 - c. Youth & Community Activities Building (YCAB)
 - d. High Street Hall
 - e. Yallingup Hall
 - f. Churchill Park Hall
- 5.6. Applications for use will be assessed using criteria such as:
 - a. capacity of the venue, facility or public open space;
 - b. compatibility/suitability of the facility or property for the intended usage;
 - c. compatibility of use with other users and the surrounding community;
 - d. demand for the facility or property and usage history;
 - e. alignment of use with objectives of the Council's Community Strategic Plan;
 - f. the principles outlined in this Policy.
- 5.7. The City may limit the use of City Property by groups and organisations to ensure fair and equitable access.
- 5.8. The City may decline requests for bookings that it determines unsuitable.
- 5.9. The City may impose conditions on bookings.
- 5.10. Application forms, information sheets, rules and conditions of use and guidelines will support the implementation and interpretation of this Policy.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Liquor Licensing Act 1988*
- 6.3. *Shire of Busselton Local Government Property Local Law 2010*
- 6.4. Council Policy: Commercial Use of City Land and Facilities
- 6.5. City of Busselton Contract of Hire Form
- 6.6. Application to Sell and Consume Alcohol
- 6.7. Rules and Regulations – City Venues and Public Open Spaces
- 6.8. Function Facilities for Hire Guidelines

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	13 May 2020	Resolution #	C2005/128
Previous Adoption	DATE		Resolution #	



Council Policy

Council Policy Name: Community Hire of City Property
Responsible Directorate: Finance and Corporate Services
Version: DRAFT

1. PURPOSE

- 1.1. The purpose of this Policy is to provide a framework for equitable and consistent community access to City Property for hire.

2. SCOPE

- 2.1. This Policy applies to the hire of City Property for community purposes.
- 2.2. This Policy does not relate to events, approved outdoor eating areas, markets, buskers/street entertainers, leasehold use of land owned and managed by the City, or commercial use already covered by Council policy: Commercial use of City Land and Facilities.

3. DEFINITIONS

Term	Meaning
Community Facilities	halls, function venues and community centres owned and /or managed by the City
Co-Presentation	when expenses and ticket income are shared between the venue and the hirer at an agreed % split
City Property	Community Facilities, Public Open Space, and Sporting Grounds
In-Kind Use	provision of the venue and/or staff resources without a fee to the user
Policy	this City of Busselton Council policy titled "Community Hire of City Property"
Public Open Space	parks, beaches and reserves owned and/or managed by the City
Sporting Grounds	ovals, reserves and hard courts owned and/or managed by the City

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 2. – LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing, of the City's Strategic Community Plan and specifically the following Strategic Priorities:
- a. 2.1: Recognise, respect and support community diversity and cultural heritage; and
 - b. 2.5: Facilitate events and cultural experiences that provide social connection.
- 4.2. This Policy also links to Strategic Theme 3. – OPPORTUNITY – A vibrant City with diverse opportunities and a prosperous economy, of the City's Strategic Community Plan and specifically the following Strategic Priority:
- a. 3.1: Work with key partners to facilitate the activation of our town centres, creating vibrant destinations and consumer choice.

5. POLICY STATEMENT

- 5.1. To facilitate community access and usage, the City makes available a range of Community Facilities, Public Open Spaces and Sporting Grounds for hire, including one-off and seasonal hire.
- 5.2. The objectives of this Policy are:
- a. provide a framework for the use of City Property which enables community programs, activities and services that provide social, recreational, health and wellbeing outcomes in line with the Council's Strategic Community Plan;
 - b. ensure fair and equitable access and use of City Property to community groups and residents; and
 - c. support priority use of City Property to locally based organisations, groups, and individuals for community purposes that deliver a direct benefit to the district.

Sporting Grounds

- 5.3. The City provides Sporting Grounds for seasonal hire in support of organised sport and recreational clubs. These include:
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 - d. Lou Weston
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Public Open Spaces

- 5.4. The City facilitates the one-off hire of Public Open Spaces for general community use, including the following parks and beaches:
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 - iii. Mitchell Park
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 - v. Dunsborough Lions Park
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 - vi. Castle Rock Beach
 - vii. Point Piquet
 - viii. Smiths Beach
 - ix. Yallingup Beach

Community Facilities

- 5.5. The City facilitates the one-off hire of Community Facilities for general community and some commercial use. These include:
- a. Undalup Room (City Civic and Administration Building)
 - b. Busselton Community Resource Centre
 - c. Youth & Community Activities Building (YCAB)
 - d. High Street Hall
 - e. Yallingup Hall
 - f. Churchill Park Hall

Cultural Precinct

- 5.6. The City facilitates the hire of the Cultural Precinct facilities for community use. These include:
- a. Busselton Performing Arts and Convention Centre (BPACC, working title)
 - b. Weld Theatre
 - c. Old Courthouse
 - d. Stables Studios
 - e. Stables Courtyard
 - f. Sergeants Quarters
- 5.7. Applications for community hire of City Property will be assessed using criteria such as:
- a. capacity of the venue, facility or public open space;
 - b. compatibility/suitability of the facility or property for the intended usage;
 - c. compatibility of use with other users and the surrounding community;
 - d. demand for the facility or property and usage history;
 - e. alignment of use with objectives of the Council's Community Strategic Plan;
 - f. the principles outlined in this Policy.
- 5.8. Further, specifically with reference to the Cultural Precinct
- a. applications may be made for In-Kind Use and Co-Presentation of events. The Venue Manager will determine the number of In-Kind Use and Co-Presentation opportunities available annually with In-Kind Use supported where there is demonstration of significant positive social impact;
 - b. fees for the use of meetings rooms within the BPACC will be waived for community hire pre, during and post an event being undertaken in the BPACC Auditorium;
 - c. agreements may be negotiated with resident non-for-profit community groups including free use of rehearsal spaces, dressing rooms and green rooms; and
- 5.9. The City may limit the use of City Property by groups and organisations to ensure fair and equitable access.
- 5.10. The City may decline requests for bookings that it determines unsuitable.
- 5.11. The City may impose conditions on bookings.
- 5.12. Fees and charges for the community hire of City Property will be as per the City's Fees and Charges, reviewed annually.
- 5.13. Application forms, information sheets, rules and conditions of use and guidelines will support the implementation and interpretation of this Policy.

6. RELATED DOCUMENTATION / LEGISLATION

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5. POLICY STATEMENT

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7. REVIEW DETAILS

Review Frequency		3 yearly		
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7. NEXT MEETING DATE

8. CLOSURE