



City of Busselton
Geographe Bay

Policy and Legislation Committee Agenda

24 August 2021

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city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 24 AUGUST 2021

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 Tuesday, 24 August 2021, commencing at 10.00am.

The attendance of Committee Members is respectfully requested.

DISCLAIMER

Statements or decisions made at Committee meetings 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 Committee meeting.



MIKE ARCHER

CHIEF EXECUTIVE OFFICER

19 August 2021

CITY OF BUSSELTON

AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 24 AUGUST 2021

TABLE OF CONTENTS

ITEM NO.	SUBJECT	PAGE NO.
1.	DECLARATION OF OPENING, ACKNOWLEDGEMENT OF COUNTRY AND ANNOUNCEMENT OF VISITORS	4
2.	ATTENDANCE	4
3.	PUBLIC QUESTION TIME.....	4
4.	DISCLOSURE OF INTERESTS	4
5.	CONFIRMATION AND RECEIPT OF MINUTES	4
5.1	Minutes of the Policy and Legislation Committee Meeting held 28 July 2021	4
6.	REPORTS	5
6.1	REALIGNMENT OF KING STREET AND BROWN STREET BEACH DOG MANAGEMENT AREAS.....	5
6.2	REVIEW OF COUNCIL POLICY: RISK MANAGEMENT	14
7.	GENERAL DISCUSSION ITEMS	20
8.	NEXT MEETING DATE	20
9.	CLOSURE	20

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 28 July 2021

RECOMMENDATION

That the Minutes of the Policy and Legislation Committee Meeting held 28 July 2021 be confirmed as a true and correct record.

6. REPORTS

6.1 REALIGNMENT OF KING STREET AND BROWN STREET BEACH DOG MANAGEMENT AREAS

STRATEGIC THEME	LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing.
STRATEGIC PRIORITY	2.3 Provide well planned sport and recreation facilities to support healthy and active lifestyles.
SUBJECT INDEX	Animal Management
BUSINESS UNIT	Environmental Services
REPORTING OFFICER	Ranger & Emergency Services Coordinator - Ian McDowell
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Attachment A Map - Overview of the Brown Street Dog Management Area Boundary   Attachment B Map - Overview of the King Street Dog Management Area Boundary   Attachment C Map - Proposed Realignment of the Brown Street Dog Management Area Boundary   Attachment D Map - Proposed Realignment of the King Street Dog Management Area Boundary  

OFFICER RECOMMENDATION

That the Council:

1. Resolves to adopt and implement after the giving of 28 days public notice, the following dog management areas:
 - (a) Pursuant to section 31(2B) of the *Dog Act 1976*, the beach area from the beach access path from the car park at Ford Road/Geographe Bay Road intersection to the wooden finger jetty approximately 90 metres east of Busselton Jetty (segment 6), as a seasonal dog exercise area;
 - (b) Pursuant to section 31(2B) of the *Dog Act 1976*, the beach area from the wooden finger jetty approximately 90 metres east of Busselton Jetty to the westernmost beach access steps between West and Gale Streets (segment 7), as a dog prohibited area;
 - (c) Pursuant to section 31(3A) of the *Dog Act 1976*, the beach area from the westernmost beach access steps between West and Gale Streets to the beach access point at the eastern end of the King Street car park (segment 9), as a dog exercise area; and
 - (d) Pursuant to section 31(2B) of the *Dog Act 1976*, the beach area from the beach access point at the eastern end of the King Street car park to the beach access from the Margaret Street car park (segment 10), as a seasonal dog exercise area.
2. Resolves to adopt the following with regard to the specified dog management areas in recommendation 1:

- (a) **Beach areas, including the beach only (i.e. from the limit of ephemeral vegetation or the toe of the seawall to the low water marks only, and not including vegetated foreshore areas, beach access paths or car parks) to be categorized as ‘Dogs Prohibited’, ‘Dog Exercise’ or ‘Seasonal Dog Exercise’ with those areas being defined as follows:**
- (i) **‘Dog Prohibited’ area pursuant to s.31(2B)(a) of the *Dog Act 1976* and means that dogs are prohibited at all times (except assistance dogs as defined in s.8 of the *Dog Act 1976*);**
 - (ii) **‘Dog Exercise’ area pursuant to s.31(2) of the *Dog Act 1976* and means that dogs are permitted, including off-leash, at all times except when approved, organised events are taking place, wherein dogs are to be prohibited unless specifically permitted by the City (except assistance dogs as defined in s.8 of the *Dog Act 1976*); and**
 - (iii) **‘Seasonal Dog Exercise’ area pursuant to s.31(2B)(b) of the *Dog Act 1976* and means dogs are prohibited between 9am and 5pm during the period 1 December to 28 February inclusive (except assistance dogs as defined in s.8 of the *Dog Act 1976*) but are otherwise permitted as per ‘Dog Exercise’ area as defined above.**

EXECUTIVE SUMMARY

Under the provisions of the *Dog Act 1976*, a local government may specify public areas within its district as areas where dogs are prohibited, prohibited at specified times (seasonal), or permitted to be exercised at all times, including off-leash. The Council adopted its current dog management controls in April 2015.

Each of the dog management areas along the City’s coastline was designated a unique identifying segment number. This report proposes to realign the boundary between:

- Segments 6 (dog seasonal) and 7 (dog prohibited) adjacent to the Busselton Foreshore from the skate park to the YCAB building; and
- Segments 9 (dog exercise) and 10 (dog seasonal) adjacent to the King Street foreshore reserve and car park.

In both cases, the primary reason for the changes proposed is physical changes to infrastructure since 2015 (changes to paths, car parks, buildings or similar).

BACKGROUND

Existing dog management areas, identification of which followed two rounds of extensive consultation, were adopted by the Council on 22 April 2015 (C1504/100). Each of the areas designated are identified by a segment number as shown on the City’s GIS mapping system.

They included the following beach areas under the care, control and management of the City:

- a. An area designated as ‘segment 6’ from the beach access path from the car park at Ford Road/Geographe Bay Road intersection to a point parallel with a seaward extension of Brown Street (seasonal dog exercise).
- b. An area designated as ‘segment 7’ from a point parallel with a seaward extension of Brown Street to the westernmost beach access steps between West and Gale Streets (dog prohibited).

Attachment A is an overview map of the boundary between segments 6 and 7 as adopted by the Council.

- c. An area designated as 'segment 9' from the westernmost beach access steps between West and Gale Streets to the beach access stairs on the eastern side of the King Street car park (dog exercise).
- d. An area designated as 'segment 10' from the beach access stairs on the eastern side of the King Street car park to the beach access from the Margaret Street car park (seasonal dog exercise).

Attachment B is an overview map of the boundary between segments 9 and 10 as adopted by the Council.

A dog prohibited area is one in which dogs (except assistance dogs) are prohibited at all times.

A dog exercise area is one in which dogs are permitted, including off-leash, at all times except when approved organised events are taking place in which case they are prohibited (except assistance dogs).

A seasonal dog exercise area is one in which dogs are permitted, including off-leash, except between 9am and 5pm from 1 December to 28 February inclusive each year, and when approved organised events are taking place in which case they are prohibited (except assistance dogs).

Works to upgrade the King Street car park, which included the provision of formal access points to the beach from the car park, were completed in late 2020. During summer months, matting is situated at the easternmost access point from the car park onto the beach to facilitate disabled access.

OFFICER COMMENT

Brown Street Boundary Realignment

Although there is access to the seasonal dog exercise area beach (segment 6) from a track adjacent to the northeast corner of the skate park, people with dogs coming from the main foreshore car park or the car park behind the Surf Lifesaving Club, often take a shortcut by accessing the beach in front of the YCAB building. This part of the beach (segment 7) is currently a dog prohibited beach and in taking the shortcut, those people are technically committing an offence. Although it is unlikely the City would issue an infringement under these circumstances, there is the potential for conflict between beach users when dog owners use the prohibited part of the beach as a shortcut to access the seasonal dog exercise beach.

To reduce the potential for conflict between beach users, it is proposed to relocate the boundary between segments 6 and 7 to a point that aligns with the wooden finger jetty east of the Busselton Jetty. This point has been chosen as a logical landmark which, whilst still maintaining the beach either side of Busselton Jetty as a dog prohibited area, formalises the practice of people accessing the seasonal beach from an area of beach on which dogs are prohibited.

The impact of this during the summer period 1 December to 28 February each year is minimal as it would only have effect from 5pm to 9am each day. Note that, from 1 March to 30 November each year, dogs are permitted to be exercised off-leash at all times on all beaches that are designated as seasonal dog exercise beaches during the summer.

The proposed change would not impact on approved public events, including surf lifesaving competitions and/or training, at which time dogs are prohibited under the provisions of the Council's April 2015 resolution.

A recommendation of this report is to realign the boundary between segment 6 (seasonal dog exercise) and segment 7 (dog prohibited) to a point approximately 143 metres to the west of the existing boundary as shown on Attachment C.

King Street Boundary Realignment

When existing dog management controls were established in 2015, the only formal access to the beach abutting the King Street reserve was the beach access stairs on the eastern side of the car park. At the time, the car park did not have any formal access points to the beach so the access stairs to the east of the car park were used to delineate the boundary between the dog seasonal (beach to the west) and dog exercise (beach to the east) areas. The stairs were deemed to be the most logical landmark to describe the physical location of the boundary between the two areas.

Since the upgrade to the King Street reserve and car park, the eastern most beach access point in the car park, immediately in front of the two disabled parking bays, is used by most people including people with dogs, to access the beach. This was evidenced early in 2021 when several dog owners spoke to the City's Seasonal Dog Exercise Area Officer, and asked that the dog bag dispenser located on the pole at the beach access stairs be relocated to the car park for this reason.

The problem this creates is that when people use this point to access the dog exercise beach approximately 28 metres to the east of the boundary, between 9am and 5pm from 1 December to 28 February each year, they are technically committing an offence. Although it is unlikely the City would ever issue an infringement under these circumstances, there is the potential for conflict between beach users when dog owners use the seasonal beach as a thoroughfare at a time when dogs are prohibited.

A recommendation of this report is to realign the boundary between segment 9 (dog exercise) and segment 10 (seasonal dog exercise) to a point approximately 28 metres to the west of the existing boundary as shown on Attachment D.

Statutory Environment

The management and control of dogs in public areas is prescribed under the following sections of the *Dog Act 1976*:

Section 31(2B):

A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited:

- a. at all times; or*
- b. at specified times.*

Section 31(3A):

A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.

Section 31(3C):

At least 28 days before specifying a place to be:

- a. a place where dogs are prohibited at all times or at a time specified under subsection (2B); or*
- b. a dog exercise area under subsection (3A),*

a local government must give local public notice as defined in the Local Government Act 1995 section 1.7 of its intention to so specify.

Assistance dogs, and persons entitled to be accompanied by assistance dogs, are defined in section 8 of the *Dog Act 1976*. Under the provisions of section 8(2) a person mentioned in subsection (3):

- a. *is entitled to be accompanied by an assistance dog, in any building or place open to or used by the public, for any purpose, or in any public transport; and*
- b. *is not guilty of an offence by reason only that he or she takes that dog into or permits that dog to enter any building or place open to or used by the public or on any public transport.*

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

Due to the minor nature of the boundary realignment associated with this report, no external stakeholder consultation was required or undertaken. Pursuant to the requirements of section (3C) of the *Dog Act 1976* public notice of the intention to realign the boundaries is required at least 28 days prior to implementation.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve to maintain existing dog management controls at this location (leave the boundaries where they are).
2. Resolve to establish new dog management controls at these location (change the designation of the existing dog exercise and/or seasonal exercise areas).

CONCLUSION

Existing dog management controls, for the beach segments below, were adopted by the Council in April 2015. Since then, there have been physical changes to the infrastructure (paths, car parks, buildings or similar) in the areas listed and as such it is sensible to make the following boundary realignments to reflect those changes:

- A realignment of the boundary 144 metres to the west of the existing boundary, between segments 6 (dog seasonal) and 7 (dog prohibited).
- A realignment of the boundary 28 metres to the west of the existing boundary, between segments 9 (dog exercise) and 10 (dog seasonal).

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Following endorsement of the boundary realignment by the Council, officers will arrange for the public notice requirements of the *Dog Act 1976* to be implemented within two weeks. The changes will come into force 28 days after the giving of the public notice, at which time arrangements will be made to move the sign delineating the boundary from its current location at the beach access stairs, to the new location at the eastern beach access point in the car park.

Overview of the Brown Street Foreshore Seasonal Dog Exercise Area Boundary



Overview of the King Street Beach Dog Exercise Area Boundary





Realignment of the Brown Street Foreshore Seasonal Dog Exercise Area Boundary



Realignment of the King Street Beach Dog Exercise Area Boundary



6.2 REVIEW OF COUNCIL POLICY: RISK MANAGEMENT

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Council Policies
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Proposed Policy: Risk Management  Attachment B Current Policy: Risk Management 

OFFICER RECOMMENDATION

That the Council adopt the amended Council Policy: Risk Management (Attachment A) to replace the current policy (Attachment B).

EXECUTIVE SUMMARY

This report presents a revised Council policy - Risk Management (the Policy) (Attachment A). The Policy has been revised as part of the City's regular cycle of review of its Council policies and is recommended for endorsement by Council. The current policy is included at Attachment B for reference.

BACKGROUND

The Policy was originally adopted in May 2006 to demonstrate the City's commitment to the development of a culture of risk-based decision making aimed at the effective management of potential opportunities and the reduction of the downside impacts of risk.

Since its adoption, the Policy has been reviewed five times, the latest in 2018, where the Policy was amended to incorporate the recommendations of Mr John Woodhouse's Review of Governance Systems and Processes conducted in 2017, including transfer into a new policy template. As a result of this review, the Policy's reference to the relevant Australian Standard was updated and the Policy renamed from 'Organisation Wide Risk Management' to simply 'Risk Management'.

OFFICER COMMENT

The City's internal Risk Management Committee (made up of the Director Finance and Corporate Services, the Manager Governance and Corporate Services, the Risk Systems Officer, and representatives from across the organisation) is currently conducting an annual review of the committee's effectiveness, including a review of the risk policy and the Committee's terms of reference.

The Risk Management Committee discussed the relevance of the Policy and whether, given that the City has an established Risk Management Framework and that reporting requirements in relation to risk exist under the *Local Government Act 1995* (the Act), it should be retained or rescinded. The committee felt that the Policy provides an important statement of commitment to the development and management of a risk management culture and the establishment and implementation of a risk management framework based on international standards of risk management (ISO 31000 Standard).

It also supports the functions of the Audit Committee of Council established under the Act, and the functions of the CEO in relation to risk and risk reporting. Officers are currently reviewing the terms of reference of the Audit Committee and will be proposing that the Committee be renamed Audit and Risk Committee and that its objectives be amended to more specifically include risk and more regular risk reporting. Given this, the Risk Management Committee felt that the Policy should be retained. It is recognised that the option of rescission was a valid one.

The Policy has been transferred into the City's recently updated policy template (to align with the review of the City's style guide), with minor amendments to further streamline the Policy. It is essentially a statement of commitment. The Strategic Context has also been amended to reflect the new Strategic Community Plan 2021 – 2031. The revised Policy can be seen at Attachment A.

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 local government policies. The Council does this on recommendation of a Committee it has established in accordance with section 5.8 of the Act.

In accordance with regulation 17 of the *Local Government (Audit) Regulations 1996*, the CEO is to review the appropriateness and effectiveness of a local government's systems and procedures in relation to risk management, as well as internal control and legislative compliance. This review was last reported to Council in June 2021.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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:

1. Propose further revisions to the Policy; or
2. Propose that the Policy be rescinded, given the City has an established Risk Management Framework, an Audit Committee of Council (proposed to be expanded to Audit and Risk), and that reporting requirements in relation to risk management exist under the Act.

CONCLUSION

The Policy has been reviewed by officers and was found to be of continuing importance and relevance as a statement of commitment to effective risk management. The revised Policy: Risk Management is presented to Council for its adoption.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be published to the City's website within one week of Council's adoption.



Council Policy

Council Policy Name: Risk Management

Responsible Directorate: Finance and Corporate Services

Version: Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to demonstrate the City of Busselton’s commitment to a culture of risk based decision making directed towards the effective management of potential opportunities and reduction of the potential impacts of risk.

2. SCOPE

- 2.1. This Policy is applicable to all City operations.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy titled “Risk Management”

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Key Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making - of the City’s Strategic Community Plan 2021 – 2031 and specifically the following Strategic Priority:
 - a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT


- 5.1. Risk management is defined in the ISO 31000 Standard as the coordinated activities to direct and control an organisation with regard to risk. The City of Busselton is committed to the effective management of risk and will implement a risk management framework based on the ISO 31000 Standard to achieve this.
- 5.2. The Council recognises that adequate resources are needed to implement a risk management framework that effectively manages risk.
- 5.3. The Council has established an Audit and Risk Committee to assist it in fulfilling its corporate governance, and stewardship responsibilities in relation to risk management.
- 5.4. The CEO is responsible for establishing risk management framework, systems and processes, and for reporting to the Audit and Risk Committee on risk and the appropriateness and effectiveness of the City’s systems and procedures.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. International Standard ISO 31000:2018 - Risk Management Guidelines
- 6.2. *Local Government (Audit) Regulations 1996*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	12 December 2018	Resolution #	C1812/259



Council Policy

Council Policy Name: Risk Management

Responsible Directorate: Finance and Corporate Services **Version:** Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to demonstrate the City of Busselton’s commitment to the development of a culture of risk based decision making directed towards the effective management of potential opportunities and reduction of potential impacts of risk.

2. SCOPE

- 2.1. This Policy is applicable to the City of Busselton and its operations.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy titled “Risk Management”

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 the following Strategic Priority:
 - a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making.

5. POLICY STATEMENT

- 5.1. Risk management is defined in the ISO 31000 Standard as the coordinated activities to direct and control an organisation with regard to risk.
- 5.2. The City of Busselton is committed to the effective management of risk and will implement a risk management framework based on the ISO 31000 Standard to achieve this. The Council recognises that adequate resources are needed to effectively manage risks.
- 5.3. The Council is responsible for:
 - a. ensuring that a Risk Management Policy has been developed and adopted;
 - b. ensuring the Chief Executive Officer has implemented the risk management framework; and
 - c. establishment of an Audit Committee to assist the Council in fulfilling its corporate governance, stewardship, leadership and control responsibilities in relation to risk management.
- 5.4. The Chief Executive Officer is responsible for:
 - a. communicating the Risk Management Policy throughout the City;
 - b. establishing risk management processes across the City’s operations;

6.2 Attachment B Current Policy: Risk Management

5.5. Reviewing the appropriateness and effectiveness of a local government’s systems and procedures in relation to risk management, internal control and legislative compliance not less than once every 3 financial years and reporting the results of that review to the audit committee as per Regulation 17 of the *Local Government (Audit) Regulations 1996*.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. International Standard ISO 31000:2018 - Risk Management Guidelines
- 6.2. Risk Management Framework
- 6.3. *Local Government (Audit) Regulations 1996*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	12 December 2018	Resolution #	C1812/259
Previous Adoption	DATE	12 October 2016	Resolution #	C1610/096

7. GENERAL DISCUSSION ITEMS

Nil

8. NEXT MEETING DATE

9. CLOSURE