

ORDINARY COUNCIL MEETING 16 AUGUST 2023 ATTACHMENTS

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City of Busselton
Dogs Local Law 2023

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**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

City of Busselton

Dogs Local Law 2023

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Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Busselton resolved on ~~.....~~ to make the following local law.

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PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Busselton Dogs Local Law 2023*.

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1.2 Repeal

The *City of Busselton Dogs Local Law 2014* published in the *Government Gazette* on 26 November 2014 is repealed.

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1.3 Commencement

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

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1.4 Definitions

In this local law unless the context otherwise requires –

Act means the *Dog Act 1976*;

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

CEO means the Chief Executive Officer of the local government;

dangerous dog has the meaning given to it in the Act;

dog management facility has the meaning given to it in the Act;

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district means the area of the State that has been declared to be the district of the local government under the *Local Government Act 1995* and includes, for certain purposes provided for in the Act, other areas which although not being within the boundaries of the district are regarded for those purposes as being part of the district;

local government means the City of Busselton;

local planning scheme means a local planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district;

owner, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

person liable for the control of the dog has the same meaning as in section 3(1) of the Act;

development approval means an approval issued under the a local planning scheme;

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premises has the same meaning as in section 3(1) of the Act;

Deleted: pound means any facility, or any replacement facility, established as a pound by the local government under section 11(1) of the Act;¶

Regulations means the *Dog Regulations 2013*;

¶ **pound keeper** means a person appointed by the local government to perform all or any of the functions conferred on a "pound keeper" under this local law;¶

Schedule means a Schedule to this local law; and

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*.

1.5 Application

This local law applies throughout the district.

PART 2 - IMPOUNDING OF DOGS

2.1 Fees, charges and costs

The following fees, charges and costs are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995* –

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of authorised person at dog management facility

The **authorised person** is to be in attendance at the **dog management facility** for the release of dogs at the times and on the days of the week as are determined by the CEO.

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2.3 Release of impounded dog

- (1) A claim for the release of an **impounded** dog is to be made to the **authorised person** or, in the absence of the **authorised person**, to the CEO.
- (2) The **authorised person** is not to release an **impounded** dog to any person unless that person has produced, to the satisfaction of the **authorised person** (or in the absence of the **authorised person**, to the CEO) satisfactory evidence **they are** –
 - (a) the registered owner of the dog; or
 - (b) an agent acting on behalf of the registered owner of the dog; or
 - (c) an authorised representative of a registered animal rescue group collecting the dog for the purpose of rehoming it.

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PART 3 - REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must –
 - (a) cause that portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
 - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures the dog remains confined) and is fitted with a proper latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) An occupier who fails to comply with subclause (1) commits an offence.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been –
 - (a) licensed under Part 4 of this local law as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- ~~(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act –~~
 - ~~(a) 2 dogs over the age of 3 months and the young of those dogs under that age; or~~
 - ~~(b) If the premises is situated in an area zoned rural under the local planning scheme, 4 dogs over the age of 3 months and the young of those dogs under that age.~~

PART 4 - APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2 of this local law -

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<#>¶
<#>that he or she is the person identified as the owner on a microchip implanted in the dog.¶

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adjoining includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

premises means, in addition to the meaning given to it in section 3 of the Act, the premises described in the application for a licence; and

transferee means a person who applies for the transfer of a licence to her or him under clause 4.13.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1 of this local law, and must be lodged with the local government together with –

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the CEO, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs adopted or nominated by the local government;
- (e) the fee for the application for a licence referred to in clause 4.9(1); and
- (f) a copy of a development approval issued by the local government under a local planning scheme.

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4.3 Notice of proposed use

- (1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –
 - (a) once in a newspaper circulating in the district; and
 - (b) to the owners and occupiers of any premises adjoining the premises.
- (2) The notices in subclause (1) must specify that –
 - (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
 - (b) the application and plans and specifications may be inspected at the offices of the local government.
- (3) Where –

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the CEO, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a –

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements;

under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until –

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government is to have regard to –

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and

- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where –

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.
- (3) A licensee who fails to comply with the conditions of a licence commits an offence.

4.9 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.10 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

4.11 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.9(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.12 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence –
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of –
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be –
 - (a) made in the form determined by the local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with –
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 Notification

The local government is to give written notice to -

- (a) an applicant for a licence of the local government’s decision on her or his application;
- (b) a transferee of the local government’s decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.12(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.12 (2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

4.15 Objections and appeals

- (1) Where the local government makes a decision as to whether it will –
 - (a) grant an application for a licence;
 - (b) vary or cancel a licence; or
 - (c) impose or amend a condition to which a licence is subject,

the provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

- (2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

4.16 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

PART 5 - MISCELLANEOUS

5.1 Offence to excrete

- (1) A dog must not excrete on –
 - (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

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PART 5 - DOGS IN PUBLIC PLACES¶
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5.1 Places where dogs are prohibited absolutely¶
 ¶
 Designation of places where dogs are prohibited absolutely is dealt with in the Act.¶
 ¶
5.2 . Places which are dog exercise areas¶
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 Designation of places which are dog exercise areas is dealt with in the Act.¶
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(3) A person liable for the control of a dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 6 - ENFORCEMENT

6.1 Interpretation

In this Part -

infringement notice means the notice referred to in clause 6.5; and

notice of withdrawal means the notice referred to in clause 6.8.

6.2 Offences

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

6.3 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued.

6.4 Modified penalties

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -
 - (a) the offence does not involve a dangerous dog; or
 - (b) the offence involves a dangerous dog, but an amount does not appear in the fifth column directly opposite that offence.
- (3) The amount appearing in the fifth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the offence involves a dangerous dog.

6.5 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

6.7 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver

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¶ Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.¶

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to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgement.

6.8 Withdrawal of infringement notice

Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

6.9 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

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SCHEDULE 1 – APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT
[clause 4.2]

City of Busselton Dogs Local Law 2023

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I/we (full name)

of (postal address)

(telephone number)

(E-mail address)

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Apply for a licence for an approved kennel establishment at (address of premises)

.....

For (number and breed of dogs)

* (insert name of person) will be residing at the premises on and from (insert date)

* (insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at (insert address of residence) on and from (insert date).

Attached are -

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside -
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment**.

Signature of applicant

Date

* delete where inapplicable.

** see clause 4.2(d).

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act 1976.

OFFICE USE ONLY

Application fee paid on [insert date].

SCHEDULE 2 – CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[clause 4.8(1)]

An application for a licence for an approved kennel establishment may be approved subject to the following conditions -

- (a) Each kennel, unless it is fully enclosed, must have a yard attached to it.
- (b) Each kennel and each yard must be at a distance of not less than -
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption.
- (c) Each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government,
- (d) The minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder.
- (e) The floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached.
- (f) The upper surface of the kennel floor must be –
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government.
- (g) All kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government.
- (h) The kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor.
- (i) Where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel.

- (j) From the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position.
- (k) The walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zinalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government.
- (l) All external surfaces of each kennel must be kept in good condition.
- (m) The roof of each kennel must be constructed of impervious material.
- (n) All kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person.
- (o) All refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage.
- (p) Noise, odours, fleas, flies and other vectors of disease must be effectively controlled.
- (q) Suitable water must be available at the kennel via a properly supported standpipe and tap.
- (r) The licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

**SCHEDULE 3 – OFFENCES IN RESPECT OF WHICH MODIFIED PENALTIES
APPLY**

[clause ~~6.4~~]

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Item	Clause	Nature of offence	Modified penalty	Dangerous Dog Modified Penalty
1	3.1	Failing to provide means for effectively confining a dog	\$200	\$400
2	4.8	Failing to comply with the conditions of a licence	\$200	100
3	6.1(2)	Dog excreting in prohibited place	\$200	40

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This local law was made at the meeting of the Council of the City of Busseton on.....

Deleted: 12 November 2014

The Common Seal of the City of Busseton was affixed by authority of a resolution of the Council in the presence of –

GRANT DOUGLAS HENLEY, Mayor

Deleted: IAN WILLIAM STUBBS

ANTHONY GRAHAM NOTTLE, Chief Executive Officer

Deleted: MIKE STEPHEN LEE ARCHER

City of Busselton Dogs Local Law 2023

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SCHEDULE 1 – APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

SCHEDULE 2 – CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

SCHEDULE 3 – OFFENCES IN RESPECT OF WHICH MODIFIED PENALTIES APPLY

**LOCAL GOVERNMENT ACT 1995
DOG ACT 1976**

City of Busselton

Dogs Local Law 2023

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Busselton resolved onto make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Busselton Dogs Local Law 2023*.

1.2 Repeal

The *City of Busselton Dogs Local Law 2014* published in the *Government Gazette* on 26 November 2014 is repealed.

1.3 Commencement

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

1.4 Definitions

In this local law unless the context otherwise requires –

Act means the *Dog Act 1976*;

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

CEO means the Chief Executive Officer of the local government;

dangerous dog has the meaning given to it in the Act;

dog management facility has the meaning given to it in the Act;

district means the area of the State that has been declared to be the district of the local government under the *Local Government Act 1995* and includes, for certain purposes provided for in the Act, other areas which although not being within the boundaries of the district are regarded for those purposes as being part of the district;

local government means the City of Busselton;

local planning scheme means a local planning scheme made by the local government under the *Planning and Development Act 2005* which applies throughout the whole or a part of the district;

owner, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

person liable for the control of the dog has the same meaning as in section 3(1) of the Act;

development approval means an approval issued under the a local planning scheme;

premises has the same meaning as in section 3(1) of the Act;

Regulations means the *Dog Regulations 2013*;

Schedule means a Schedule to this local law; and

thoroughfare has the meaning given to it in section 1.4 of the *Local Government Act 1995*.

1.5 Application

This local law applies throughout the district.

PART 2 - IMPOUNDING OF DOGS

2.1 Fees, charges and costs

The following fees, charges and costs are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995* –

- (a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
- (b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and
- (c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of authorised person at dog management facility

The authorised person is to be in attendance at the dog management facility for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

- (1) A claim for the release of an impounded dog is to be made to the authorised person or, in the absence of the authorised person, to the CEO.
- (2) The authorised person is not to release an impounded dog to any person unless that person has produced, to the satisfaction of the authorised person (or in the absence of the authorised person, to the CEO) satisfactory evidence they are –
 - (a) the registered owner of the dog; or
 - (b) an agent acting on behalf of the registered owner of the dog; or
 - (c) an authorised representative of a registered animal rescue group collecting the dog for the purpose of rehoming it.

PART 3 - REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

- (1) An occupier of premises on which a dog is kept must –
 - (a) cause that portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
 - (b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;
 - (c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises (unless the gate is temporarily opened in a manner that ensures the dog remains confined) and is fitted with a proper latch or other means of fastening it;
 - (d) maintain the fence and all gates and doors in the fence in good order and condition; and
 - (e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.
- (2) An occupier who fails to comply with subclause (1) commits an offence.

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been –
 - (a) licensed under Part 4 of this local law as an approved kennel establishment; or
 - (b) granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act –
 - (a) 2 dogs over the age of 3 months and the young of those dogs under that age; or
 - (b) If the premises is situated in an area zoned rural under the local planning scheme, 4 dogs over the age of 3 months and the young of those dogs under that age.

PART 4 - APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2 of this local law -

adjoining includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

premises means, in addition to the meaning given to it in section 3 of the Act, the premises described in the application for a licence; and

transferee means a person who applies for the transfer of a licence to her or him under clause 4.13.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1 of this local law, and must be lodged with the local government together with –

- (a) plans and specifications of the kennel establishment, including a site plan;
- (b) copies of the notices to be given under clause 4.3;
- (c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the CEO, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
- (d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs adopted or nominated by the local government;
- (e) the fee for the application for a licence referred to in clause 4.9(1); and
- (f) a copy of a development approval issued by the local government under a local planning scheme.

4.3 Notice of proposed use

- (1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –
 - (a) once in a newspaper circulating in the district; and
 - (b) to the owners and occupiers of any premises adjoining the premises.
- (2) The notices in subclause (1) must specify that –
 - (a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
 - (b) the application and plans and specifications may be inspected at the offices of the local government.
- (3) Where –

- (a) the notices given under subclause (1) do not clearly identify the premises; or
- (b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the CEO, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 Exemption from notice requirements

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a –

- (a) permitted use; or
- (b) use which the local government may approve subject to compliance with specified notice requirements;

under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until –

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government is to have regard to –

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and

- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where –

- (a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or
- (b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

- (1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.
- (3) A licensee who fails to comply with the conditions of a licence commits an offence.

4.9 Fees

- (1) On lodging an application for a licence, the applicant is to pay a fee to the local government.
- (2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.
- (3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.
- (4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the *Local Government Act 1995*.

4.10 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

4.11 Period of licence

- (1) The period of effect of a licence is set out in section 27(5) of the Act.
- (2) A licence is to be renewed if the fee referred to in clause 4.9(2) is paid to the local government prior to the expiry of the licence.
- (3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.12 Variation or cancellation of licence

- (1) The local government may vary the conditions of a licence.
- (2) The local government may cancel a licence –
 - (a) on the request of the licensee;
 - (b) following a breach of the Act, the Regulations or this local law; or
 - (c) if the licensee is not a fit and proper person.
- (3) The date a licence is cancelled is to be, in the case of –
 - (a) paragraph (a) of subclause (2), the date requested by the licensee; or
 - (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.
- (4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

- (1) An application for the transfer of a valid licence from the licensee to another person must be –
 - (a) made in the form determined by the local government;
 - (b) made by the transferee;
 - (c) made with the written consent of the licensee; and
 - (d) lodged with the local government together with –
 - (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
 - (ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).
- (2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).
- (3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.
- (4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 Notification

The local government is to give written notice to -

- (a) an applicant for a licence of the local government's decision on her or his application;
- (b) a transferee of the local government's decision on her or his application for the transfer of a valid licence;
- (c) a licensee of any variation made under clause 4.12(1);
- (d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;
- (e) a licensee when her or his licence is renewed;
- (f) a licensee of the cancellation of a licence under clause 4.12 (2)(a); and
- (g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

4.15 Objections and appeals

- (1) Where the local government makes a decision as to whether it will –
 - (a) grant an application for a licence;
 - (b) vary or cancel a licence; or
 - (c) impose or amend a condition to which a licence is subject,

the provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

- (2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

4.16 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

PART 5 - MISCELLANEOUS

5.1 Offence to excrete

- (1) A dog must not excrete on –
 - (a) any thoroughfare or other public place; or
 - (b) any land which is not a public place without the consent of the occupier.
- (2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

- (3) A person liable for the control of a dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 6 - ENFORCEMENT

6.1 Interpretation

In this Part -

infringement notice means the notice referred to in clause 6.5; and

notice of withdrawal means the notice referred to in clause 6.8.

6.2 Offences

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

6.3 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding \$100 for each day or part of the day during which the offence has continued.

6.4 Modified penalties

- (1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.
- (2) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -
 - (a) the offence does not involve a dangerous dog; or
 - (b) the offence involves a dangerous dog, but an amount does not appear in the fifth column directly opposite that offence.
- (3) The amount appearing in the fifth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the offence involves a dangerous dog.

6.5 Issue of infringement notice

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

6.7 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgement.

6.8 Withdrawal of infringement notice

Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 3 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

6.9 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.

SCHEDULE 1 – APPLICATION FOR A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT
[clause 4.2]

City of Busselton Dogs Local Law 2023

I/we (full name)

of (postal address)

(telephone number)

(E-mail address)

Apply for a licence for an approved kennel establishment at (address of premises)

.....

For (number and breed of dogs)

* (insert name of person) will be residing at the premises on and from (insert date)

* (insert name of person) will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at (insert address of residence) on and from (insert date).

Attached are -

- (a) a site plan of the premises showing the location of the kennels and yards and all other buildings and structures and fences;
- (b) plans and specifications of the kennel establishment;
- (c) copy of notice of proposed use to appear in newspaper;
- (d) copy of notice of proposed use to be given to adjoining premises;
- (e) written evidence that a person will reside -
 - (i) at the premises; or
 - (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare; and
- (f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as, in the keeping of dogs at the proposed kennel establishment**.

Signature of applicant

Date

* delete where inapplicable.

** see clause 4.2(d).

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act 1976.

OFFICE USE ONLY

Application fee paid on [insert date].

SCHEDULE 2 – CONDITIONS OF A LICENCE FOR AN APPROVED KENNEL ESTABLISHMENT

[clause 4.8(1)]

An application for a licence for an approved kennel establishment may be approved subject to the following conditions -

- (a) Each kennel, unless it is fully enclosed, must have a yard attached to it.
- (b) Each kennel and each yard must be at a distance of not less than -
 - (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
 - (ii) 10m from any dwelling; and
 - (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption.
- (c) Each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government,
- (d) The minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder.
- (e) The floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached.
- (f) The upper surface of the kennel floor must be –
 - (i) at least 100mm above the surface of the surrounding ground;
 - (ii) smooth so as to facilitate cleaning;
 - (iii) rigid;
 - (iv) durable;
 - (v) slip resistant;
 - (vi) resistant to corrosion;
 - (vii) non-toxic;
 - (viii) impervious;
 - (ix) free from cracks, crevices and other defects; and
 - (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government.
- (g) All kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government.
- (h) The kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor.
- (i) Where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel.

- (j) From the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
 - (i) 2m; or
 - (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position.
- (k) The walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government.
- (l) All external surfaces of each kennel must be kept in good condition.
- (m) The roof of each kennel must be constructed of impervious material.
- (n) All kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorised person.
- (o) All refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage.
- (p) Noise, odours, fleas, flies and other vectors of disease must be effectively controlled.
- (q) Suitable water must be available at the kennel via a properly supported standpipe and tap.
- (r) The licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -
 - (i) at the premises; or
 - (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.

**SCHEDULE 3 – OFFENCES IN RESPECT OF WHICH MODIFIED PENALTIES
APPLY**
[clause 6.4]

Item	Clause	Nature of offence	Modified penalty	Dangerous Dog Modified Penalty
1	3.1	Failing to provide means for effectively confining a dog	\$200	\$400
2	4.8	Failing to comply with the conditions of a licence	\$200	
3	6.1(2)	Dog excreting in prohibited place	\$200	

This local law was made at the meeting of the Council of the City of Busselton on.....

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

ANTHONY GRAHAM NOTTLE, Chief Executive Officer



Delegation of authority

Delegation	DA 1 – 22C Disposition of Residential Property by Lease
Head of power	01 Local Government Act 1995
Delegator	Local Government
Express power to delegate	<i>Local Government Act 1995</i> s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO
Express power or duty delegated	<i>Local Government Act 1995</i> s.3.18, s.3.58
Function	To dispose of residential property by lease to a person.
Delegates	CEO
Conditions	The consideration under any residential property lease is not to exceed \$50,000 per annum.
Record keeping	
Date adopted	
Adoption references	



Terms of Reference

Committee: Policy and Legislation

Responsible Directorate: Finance and Corporate Services

Version: **Adopted**Draft

1. INTRODUCTION

- 1.1. The Policy and Legislation Committee (the Committee) is established under the powers given in Section 5.8 of the *Local Government Act 1995* (the Act).
- 1.2. The Committee is established for the purpose of assisting the Council to undertake its role under Section 2.7(2)(b) of the Act, to determine the local government's policies, and its legislative function in accordance with Division 2 of Part 3 of the Act.
- 1.3. The Committee shall act for and on behalf of Council in accordance with the provisions of the Act, local laws and policies of the City of Busselton and these Terms of Reference.

2. OBJECTIVE

- 2.1. The objectives of the Committee are:
 - a. to assist the Council to determine the local government's policies and to carry out its legislative function;
 - b. to consider new and review existing policies and delegations of the City of Busselton;
 - c. to review local laws and other delegated legislation made by the City of Busselton;
 - d. to consider reports proposed to be put to the Council with significant policy or legislative implications; and
 - e. to review and advise the Council on specific matters relating to policy or legislation as directed by the Council.

3. MEMBERSHIP

- 3.1. The Council will shall appoint five elected members to the Committee.
- 3.2. Council will shall appoint four elected members as deputy members of the Committee.
- 3.3. Membership of the Committee will shall, unless determined otherwise, cease on the day of the next ordinary Council election.
- 3.4. Council will shall appoint new members to the Committee, in accordance with paragraphs 3.1 and 3.2, at the next ma Special Meeting of the next ordinary Council meeting following the Council election.
- 3.5. The membership of a member may be ceased in accordance with the Act.

4. PRESIDING MEMBER

- 4.1. The Committee will shall appoint a Presiding Member and Deputy Presiding Member to conduct its business.

5. MEETINGS

- 5.1. The Committee ~~will~~ meet at least six times per year.
- 5.2. The Committee ~~will~~ report to Council in accordance with clause 2.10 of the *City of Busselton Standing Orders Local Law 2018*.
- 5.3. Notice of meetings ~~will~~ be given to members at least five days prior to each meeting, with the agenda papers to be provided to members not less than 72 hours prior to the meeting.
- 5.4. The Presiding Member ~~will~~ ensure that detailed minutes of all meetings are kept in accordance with the Part 14 of the *City of Busselton Standing Orders Local Law 2018*.
- 5.5. All members of the Committee ~~will~~ have one vote. If the vote of the members present is equally divided, the Presiding Member ~~will~~ cast a second vote.
- 5.6. Where the Committee makes a recommendation to the Council, the Chief Executive Officer ~~will~~ ensure that the recommendation is on the agenda of the next practicable ordinary Council meeting.

6. QUORUM

- 6.1. The quorum for a meeting ~~will~~ be at least 50% of the number of offices of membership, whether vacant or not.

7. DELEGATED POWERS

~~a. ; and~~

~~7.2. to note an item that does not require a recommendation to Council or further action~~ Pursuant to section 5.17 of the Act, the Committee is delegated the powers to ~~;~~

~~a. schedule and endorse the dates, times and locations of meetings to be held by the Committee;~~

~~7.3.7.1. to~~ refer a policy back to the Chief Executive Officer, or the Chief Executive Officer’s nominee, with a request for further information or amendments to be made to the policy.

~~7.4.7.2. Committee~~ recommendations, other than those made in accordance with the delegated powers in paragraph 7.1, are not binding on Council and must be endorsed by Council to take effect.

8. EVALUATION OF COMMITTEE’S EFFECTIVENESS

~~At the meeting of the Council prior to the ordinary Council elections, officers will present for the Council’s consideration, a review as to the effectiveness and ongoing relevance of the Committee. As a guide the following will be considered in the officers evaluation:~~

~~are the purpose and objectives of the Committee, as outlined in these terms of reference, being met?~~

~~should the purpose and objectives be amended?~~

~~is the Committee functioning effectively and as per the requirements of the Act?~~

~~are the Committee members regularly attending meetings?~~

~~do the the Terms of Reference require review, including membership.~~

~~8.1. At the meeting of the Committee prior to the ordinary Council elections, the Committee shall undertake review to evaluate its effectiveness, and as a guide the following should be determined:~~

~~a. are the Committee’s purpose and objectives being met?~~

~~b. should the purpose and objectives be amended?~~

~~c. is the Committee functioning effectively and as per the requirements of the Act?~~

- ~~d. are the Committee members regularly attending meetings?~~
- ~~e. review the Terms of Reference, including membership.~~

9. TERMINATION OF COMMITTEE

9.1. Termination of the Committee shall be by an absolute majority decision of Council.

10. APPROVAL

Council Adoption	DATE	8 September 2021	Resolution #	C2109/201
Previous Adoption	DATE	8 September 2021 25 September 2019	Resolution #	C2109/201 C1909/191



Council Policy

Council Policy Name: Swearing in of Elected Members
Responsible Directorate: Finance and Corporate Services **Version:** Adopted

1. PURPOSE

1.1. The purpose of this Policy is to outline the guidelines for the official swearing in ceremony to enable newly elected members to make a declaration in accordance with the provisions of the *Local Government Act 1995*.

2. SCOPE

2.1. This Policy is applicable to the elected member declaration and the Special Council Meeting of new and returning elected members following a local government election.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy titled "Swearing in of Elected Members"

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. It is recognised that those successfully elected through a local government election cannot participate in the transaction of business until they have made the elected member declaration, which is undertaken at a swearing in ceremony.
- 5.2. The swearing in ceremony should be held in the Council Chambers on the first Monday following an ordinary election.
- 5.3. The swearing in ceremony should be conducted in accordance with Section 2.29 of the *Local Government Act 1995*.
- 5.4. The swearing in ceremony is to be the first item of business at the Special Council Meeting with the following items to be considered in this order:
 - a. the election of the Mayor and Deputy Mayor;
 - b. the appointment of membership of Council’s Committees; and
 - c. the appointment of membership of elected member delegates to various other groups, including working parties and informal groups.
- 5.5. The Special Meeting of Council is to be conducted in accordance with the provisions of Section 5.8 and Schedule 2.3, Division 1 of the *Local Government Act 1995*.

- 5.6. At the conclusion of the Special Meeting of Council, an informal function will be held for elected members and their immediate partners and/or families, with invitations extended to the Chief Executive Officer, Directors and other relevant employees.
- 5.7. Where an extraordinary election for the Council is conducted or an extraordinary Mayoral or Deputy Mayoral vacancy occurs, due regard should be given to the significance of the required ceremonies and a special meeting or ceremony be arranged where practicable.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	25 September 2019	Resolution #	C1909/185
Previous Adoption	DATE	8 April 2015	Resolution #	C1504/081



Council Policy

Council Policy Name: Elected Member Fees, Allowances and Expenses

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

1. PURPOSE

- 1.1. The purpose of this Policy is to set out the fees, allowances, expense reimbursements and equipment that Elected Members are entitled to, to enable them to carry out their role effectively.

2. SCOPE

- 2.1. This Policy is applicable to Elected Members in the performance of their functions and duties.
- 2.2. This Policy operates in accordance with and is limited by the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and the Local Government Chief Executive Officers and Elected Members Determination made under the *Salaries and Allowances Act 1975*.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Determination	the determination of the Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Elected Members as current from time to time
Elected Member	any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor
Policy	this City of Busselton Council policy titled "Fees, Allowances and Expenses for Elected Members"
Regulations	<i>Local Government (Administration) Regulations 1996</i>

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. In accordance with Division 8 of Part 5 of the Act, Elected Members are entitled to receive a fee for meeting attendance, to be reimbursed for expenses and/or be paid an allowance for certain types of expenses.
- 5.2. This Policy provides local government approval for payments not set out in the Act.
- 5.3. Fees and allowances under this Policy will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, Elected Members, for the purposes of budget development, will be requested to indicate their preferred payment method.
- 5.4. Reimbursements under this Policy must be submitted within three months of the expenses being incurred.

Elected Member fee

- 5.5. As per Section 5.99 of the Act, Elected Members will be paid an annual attendance fee in lieu of fees for attending meetings, with that fee being equal to the maximum fee set out in the Determination for the relevant Band.

Provision of equipment

- 5.6. Without limiting the application of any other clause in this Policy, the local government will provide to Elected Members access to reasonable resources to enable them to carry out their duties efficiently and effectively.
- 5.7. In accordance with Section 3.1 of the Act, in order to provide for the good government of persons in the District, new Elected Members will be provided upon request with the following equipment:
 - a. brief case up to the value of \$150;
 - b. standard-issue mobile telephone;
 - c. standard issue portable device, inclusive of mouse and power supply.
- 5.8. Any equipment (exclusive of City provided software) provided in accordance with this Policy can be retained by the Elected Member after serving a minimum of 24 months as an Elected Member. Equipment must be securely wiped by the City's IT department prior to retention.

Information and communication technology allowance

- 5.9. In accordance with the Determination, Elected Members will receive an annual information and communications technology allowance equal to the maximum allowance set out in the Determination to cover costs in relation to information and communications technology, for example telephone rental and call charges and internet service provider fees, and other costs of a kind prescribed by Regulation 32(1) of the Regulations.

Childcare expenses

- 5.10. In accordance with the 5.98(2)(a) of the Act Elected Members are entitled to be reimbursed childcare expenses incurred due to their attendance at:
 - a. a Council meeting
 - b. a meeting of a Committee of Council of which they are a member;
 - c. arranged briefing sessions and workshops within the district.

- 5.11. Reimbursement will be in accordance with the Determination, with the number of hours claimed limited to the actual length of the meeting plus a nominal time allowance for travel to and from the place of care.
- 5.12. Notwithstanding 5.11, reimbursement will be for the lowest minimum set rate of payment which provides coverage of the time calculated under paragraph 5.11.

Travel expenses

- 5.13. In accordance with the Act Elected Members are entitled to be reimbursed travel expenses incurred due to their attendance at:
- a. a Council meeting;
 - b. a meeting of a Committee of Council of which they are a member;
 - c. Electors' meetings;
 - d. civic receptions hosted by the City of Busselton;
 - e. visits by Ministers of the Crown or other distinguished visitors of similar status;
 - f. City organised inspection tours;
 - g. any City-convened meeting by the Mayor or CEO requiring Elected Member attendance, including briefing sessions, workshops and other forums;
 - h. Elected Member training courses;
 - i. City organised meetings with ratepayers;
 - j. functions and events sponsored to a value of \$10,000 or more by the City of Busselton, held within the boundaries of the City, and where a specific invitation has been issued by the City's administration. Additionally other events may be approved from time to time by the Mayor and the CEO;
 - k. functions and events where the Mayor is unable to attend and has requested another elected member to attend on his behalf. This includes attendance at functions within the district for the purposes of presenting awards / gifts;
 - l. functions and events for the purposes of receiving awards on behalf of the City;
 - m. seminars and conferences attended in the capacity of an Elected Member as approved by the City in accordance with Council Policy "Councillors Induction, Training and Professional Development";
 - n. meetings of community groups or other external organisations of which the Elected Member has been appointed the Council's representative / delegate by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel e.g. ministerial appointment to State Advisory Boards).
- 5.14. Reimbursement will be made available to Elected Members on the receipt of a certified claim form, in accordance with the Determination.
- 5.15. Where large distances are involved and when practicable, Elected Members are encouraged to use a City-owned motor vehicle in the first instance. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.
- 5.16. Subject to the approval of the Chief Executive Officer or delegate, Elected Members are entitled to use a City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only.

Expenses while away from home on sanctioned activities

- 5.17. Where an Elected Member is required to stay overnight away from their place of residence for City sanctioned activities (conferences, training, seminars, attendance at intrastate functions)

accommodation will be arranged and paid for by the City in consultation with the Elected Member, with the key consideration being cost effectiveness and proximity to the location at which the activity is being held.

- 5.18. The City will also meet the following expenses:
- a. cost of laundry for Elected Member and spouse or partner for greater than 5 nights;
 - b. reimbursement of taxi fares or other public transport where these directly relate to the activity and no other transport is provided. Reimbursement for an Elected Member's spouse or partner is subject to them being accompanied by the Elected Member;
 - c. reimbursement of a daily sustenance allowance per day, in accordance with the Public Service Award 1992 for Elected Member only;
 - d. specific conference / event related meals for Elected Member and spouse or partner.
- 5.19. Air travel where applicable will be arranged and paid for by the City in consultation with the Elected Member. Air travel will be economy only, via the most direct and cost effective route.
- 5.20. Where the City is unable to arrange for accommodation or air travel, Elected Members will be reimbursed for any reasonable costs incurred.

Hospitality expenses

- 5.21. Elected Members may, subject to the provision of receipts and approval by the Mayor, seek reimbursement of the reasonable costs of beverages or snack items during any meeting or function for which they are entitled to reimbursement of travel under paragraph 5.136.

Corporate attire expenses

- 5.22. Upon election or re-election, Elected Members will within the first year of their term be entitled to the following business attire, up to a value of \$750:
- a. Business suit (male – 2 pairs of trousers and 1 jacket); or
 - b. Business suit (female – 2 skirts, dresses or pants and 1 jacket); and
 - c. Business shirt / blouse – 3;
 - d. Business tie / scarf – 1; and
 - e. Business shoes – 1 pair.
- 5.23. Additionally, upon election or re-election Elected Members will be entitled to the following corporate attire:
- a. Corporate (City branded) casual / light weight fleecy jacket – 1;
 - b. Corporate (City branded) polo top – 1; and
 - c. Corporate (City branded) tie / scarf – 1.
- 5.24. In years two, three and four of their term, Elected Members will be entitled to reimbursement of costs associated with the dry cleaning, maintenance and / or replacement of business attire, up to a value of \$250 per annum.
- 5.25. All items of business attire which are City branded should be returned to the City on expiry of office.

Mayoral Allowance

- 5.26. In addition to their entitlements as an Elected Member under this Policy, the Mayor is eligible for a Mayoral allowance in accordance with the Act, with the allowance being equal to the maximum allowance set out in the Determination for the relevant Band

Provision of a Mayoral vehicle

5.27. The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity. The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only. Nothing in this section prevents the vehicle from being utilised in accordance with City fleet guidelines by other Elected Members, with the agreement of the Mayor.

5.28. The Mayor may additionally use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis, with reimbursement made to the City in one of the following ways:

- a. by deduction from the members allowance payment;
- b. by invoice.

5.29. The mileage rate will be determined by the State Salaries and Allowances Tribunal.

5.30. Unless Council approves otherwise, the Mayoral vehicle may only be used for private purposes for travel within the State of WA.

Deputy Mayor’s Allowance

5.31. In addition to their entitlements as an Elected Member under this Policy, the Deputy Mayor will be paid a Deputy Mayor's allowance in accordance with the Act and Determination.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Administration) Regulations 1996*
- 6.3. Salaries and Allowances Tribunal Determination for Local Government Chief Executive Officers and Elected Members (as current from time to time)
- 6.4. Local Government Department Circular 9-2011

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	27 August 2019	Resolution #	C1908/164



Council Policy

Council Policy Name: Fees, Allowances and Expenses for Elected Members

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

1. PURPOSE

- 1.1. The purpose of this Policy is to set out the fees, allowances, reimbursements and equipment that Elected Members are entitled to, to enable them to carry out their role effectively and efficiently.

2. SCOPE

- 2.1. This Policy is applicable to the purchase of all City of Busselton owned equipment for the specific and individual use of an Elected Member, the reimbursement of any expenses incurred by an Elected Member in the performance of their functions and duties, and fees and allowances provided to all Elected Members.
- 2.2. All matters approved in this Policy are in accordance with the relevant legislation, being the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* and the Local Government Chief Executive Officers and Elected Members Determination made under the *Salaries and Allowances Act 1975*.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Determination	the determination of the Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Elected Members as current from time to time
Elected Member	any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor
Policy	this City of Busselton Council policy titled “Fees, Allowances and Expenses for Elected Members”
Regulations	<i>Local Government (Administration) Regulations 1996</i>

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

Elected Members

- 5.1. In accordance with Division 8 of Part 5 of the Act Elected Members are entitled to receive a fee for meeting attendance, to be reimbursed for expenses and/or be paid an allowance for certain types of expenses. Certain payments are an entitlement in accordance with the Act, while others require specific local government approval.
- 5.2. Reimbursements under this Policy must be submitted within three months of the expenses being incurred.

Elected Member fee

- 5.3. As per Section 5.99 of the Act, Elected Members will be paid an annual attendance fee in lieu of fees for attending meetings referred to in Section 5.98(1) of the Act. In accordance with the Determination Elected Members shall be paid an annual fee within the Band established as set by Council when the annual budget is adopted.
- 5.4. The annual fee will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, and Elected Member, for the purposes of budget development, will be requested to indicate their preferred payment method.

Provision of equipment

- 5.5. Without limiting the application of any other clause in this Policy, the local government will provide to Elected Members access to resources to enable them to carry out their duties efficiently and effectively.
- 5.6. In accordance with Section 3.1 of the Act, in order to provide for the good government of persons in the District, any new Elected Member will be provided upon request with the following equipment:
 - a. brief case up to the value of \$150;
 - b. standard-issue mobile telephone;
 - c. standard issue portable device that will be upgraded from time to time, inclusive of standard equipment associated with the day-to-day use of the device.
- 5.7. Any equipment provided in accordance with this Policy can be retained by the Elected Member at the completion of their term of office or if they serve a minimum of 24 months as an Elected Member.

Information and communication technology allowance

- 5.8. In accordance with the Determination, Elected Members are eligible to claim an annual information and communications technology allowance.
- 5.9. This allowance is to cover an Elected Member's costs in relation to expenses that relate to information and communications technology, for example telephone rental and call charges and internet service provider fees, and are of a kind prescribed by Regulation 32(1) of the Regulations.
- 5.10. The information and communications technology allowance will be paid monthly or quarterly in arrears. The allowance will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, Elected Members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim the information and communications technology allowance and their preferred payment method.

Reimbursement of childcare expenses

- 5.11. In accordance with the 5.98(2)(a) of the Act an Elected Member who incurs childcare expenses due to their attendance at a Council meeting or a meeting of a formally constituted Council committee of which they are a member is entitled to be reimbursed.
- 5.12. In addition, pursuant to 5.98(2)(b) of the Act, an Elected Member who incurs childcare expenses due to their attendance as an Elected Member at arranged briefing sessions and workshops within the City of Busselton district is entitled to be reimbursed.
- 5.13. The extent to which childcare expenses incurred will be reimbursed will be in accordance with the Determination, with the number of hours claimed limited to the actual length of the meeting plus a nominal time allowance for travel to and from the place of care.
- 5.14. Notwithstanding 5.13, reimbursement will be for the lowest minimum set rate of payment which provides coverage of the time calculated under paragraph 5.13.

Reimbursement of travel expenses

- 5.15. In accordance with the Act an Elected Member who incurs expenses to travel to a Council meeting or a meeting of a formally constituted Council committee of which they are a member is entitled to be reimbursed. Elected Members can also be reimbursed for other types of travel in accordance with Regulation 32 of the Regulations.
- 5.16. The following list represents the meetings and other events for which Elected Members will be able to claim reimbursement in accordance with the Determination for incurring travel expenses:
- a. Council meetings - ordinary and special;
 - b. Committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;
 - c. Electors' meetings - annual and special;
 - d. civic receptions hosted by the City of Busselton;
 - e. visits by Ministers of the Crown or other distinguished visitors of similar status;
 - f. City organised inspection tours of matters arising before the Council or as a JDAP member;
 - g. any City-convened meeting by the Mayor or CEO requiring Elected Member attendance, including briefing sessions, workshops and other forums;
 - h. Elected Member training courses;
 - i. City organised meetings with ratepayers;
 - j. attendance at functions and events sponsored to a value of \$10,000 or more by the City of Busselton through the Marketing and Events Reference Group funding, held within the boundaries of the City, and where a specific invitation has been issued by the City's administration. Additionally other events may be approved from time to time by the Mayor and the CEO;
 - k. where the Mayor is unable to attend a function or event and has requested another elected member to attend on his behalf. This includes attendance at functions within the district for the purposes of presenting awards / gifts;
 - l. attendance at functions and events for the purposes of receiving awards on behalf of the City;
 - m. seminars and conferences attended in the capacity of an Elected Member as approved by the City in accordance with Policy 08 "Councillors Induction, Training and Professional Development";
 - n. meetings of community groups or other external organisations of which the Elected Member has been appointed the Council's representative / delegate by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel e.g. ministerial appointment to State Advisory Boards).

- 5.17. Where large distances are involved and when practicable, Elected Members are encouraged to use a City-owned motor vehicle in the first instance.
- 5.18. Reimbursement will be made available to Elected Members on the receipt of a certified claim form, in accordance with the Determination.
- 5.19. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.
- 5.20. Subject to the approval of the Chief Executive Officer or delegate, Elected Members are entitled to use a City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only.

Reimbursement of expenses while away from home on sanctioned activities

- 5.21. Expenses incurred for conferences, training, seminars, attendance at intrastate functions for the purposes of receiving awards and similar occasions requiring an Elected Member to stay overnight away from their place of residence will be reimbursed to the Elected Member or paid directly by the City subject to and in accordance with paragraphs 5.22 and 5.23.
- 5.22. Air travel (where applicable) and accommodation will be arranged and paid for by the City in consultation with the Elected Member, with the key consideration being cost effectiveness and, in relation to accommodation, proximity to the location at which the conference, training, seminar or similar occasion is being held.
- 5.23. While staying in accommodation provided by the City, the City will also meet the following expenses:
 - a. cost of laundry for Elected Member and spouse or partner for greater than 2 nights;
 - b. taxi fares or other public transport where these directly relate to the activity and no other transport is provided. Reimbursement for an Elected Member's spouse or partner is subject to them being accompanied by the Elected Member;
 - c. daily sustenance allowance per day, in accordance with the Public Service Award 1992 for Elected Member only;
 - d. specific conference / event related meals for Elected Member and spouse or partner.

Reimbursement of hospitality expenses

- 5.24. Elected Members may, subject to the provision of receipts and approval by the Mayor, seek reimbursement of the reasonable costs of beverages or snack items provided during any meeting or function for which they are entitled to reimbursement of travel under paragraph 5.15 and 5.16.

Corporate attire expenses

- 5.25. Upon election or re-election, Elected Members will within the first year of their term be entitled to the following business attire, up to a value of \$750:
 - a. Business suit (male – 2 pairs of trousers and 1 jacket); or
 - b. Business suit (female – 2 skirts, dresses or pants and 1 jacket); and
 - c. Business shirt / blouse – 3;
 - d. Business tie / scarf – 1; and
 - e. Business shoes – 1 pair.

- 5.26. Additionally, upon election or re-election Elected Members will be entitled to the following corporate attire:
- a. Corporate (City branded) casual / light weight fleecy jacket – 1;
 - b. Corporate (City branded) polo top – 1; and
 - c. Corporate (City branded) tie / scarf – 1.
- 5.27. In years two, three and four of their term, Elected Members will be entitled to reimbursement of costs associated with the dry cleaning, maintenance and / or replacement of business attire, up to a value of \$250 per annum.
- 5.28. All items of business attire which are City branded should be returned to the City on expiry of office.

Mayor

Mayoral Allowance

- 5.29. In addition to their entitlements as an Elected Member under this Policy, the Mayor is eligible for a Mayoral allowance in accordance with the Act. In accordance with the Determination the Mayor shall be paid an allowance within the Band established as set by Council when the annual budget is adopted.
- 5.30. The allowance will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Mayoral allowance and their preferred payment method.

Provision of a Mayoral vehicle

- 5.31. The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity. The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only. Nothing in this section prevents the vehicle from being utilised in accordance with City fleet guidelines by other Elected Members with the agreement of the Mayor.
- 5.32. The Mayor may also use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis with reimbursement made to the City in one of the following ways:
- a. by deduction from the quarterly members allowance payment;
 - b. an invoice provided to the Mayor.
- 5.33. The mileage rate will be determined by the State Salaries and Allowances Tribunal.
- 5.34. Unless Council approves otherwise, the Mayoral vehicle may only be used for private purposes for travel within the State of WA.

Deputy Mayor

Deputy Mayor's Allowance

- 5.35. In addition to their entitlements as an Elected Member under this Policy, the Deputy Mayor may be paid a Deputy Mayor's allowance in accordance with the Act. In accordance with the Determination the Deputy Mayor shall be paid 25% of the Mayoral allowance.

5.36. The allowance will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Deputy Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Deputy Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Deputy Mayor's allowance and their preferred payment schedule.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Administration) Regulations 1996*
- 6.3. Salaries and Allowances Tribunal Determination for Local Government Chief Executive Officers and Elected Members (as current from time to time)
- 6.4. Local Government Department Circular 9-2011

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	27 August 2019	Resolution #	C1908/164
Previous Adoption	DATE	12 December 2018	Resolution #	C1812/260



Council Policy

Council Policy Name: Elected Member Fees, Allowances and Expenses for Elected Members

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

1. PURPOSE

1.1. The purpose of this Policy is to set out the fees, allowances, expense reimbursements and equipment that Elected Members are entitled to, to enable them to carry out their role effectively ~~and efficiently~~.

2. SCOPE

2.1. This Policy is applicable to ~~the purchase of all City of Busselton owned equipment for the specific and individual use of an Elected Member, the reimbursement of any expenses incurred by an Elected Member~~s in the performance of their functions and duties, ~~and fees and allowances provided to all Elected Members~~.

2.2. ~~All matters approved in t~~This Policy operates ~~are~~ in accordance with and is limited by the relevant legislation, being the Local Government Act 1995, and the Local Government (Administration) Regulations 1996 and the Local Government Chief Executive Officers and Elected Members Determination made under the *Salaries and Allowances Act 1975*.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Determination	the determination of the Salaries and Allowances Tribunal for Local Government Chief Executive Officers and Elected Members as current from time to time
Elected Member	any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor
Policy	this City of Busselton Council policy titled "Fees, Allowances and Expenses for Elected Members"
Regulations	<i>Local Government (Administration) Regulations 1996</i>

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

Elected Members

~~5.1. In accordance with Division 8 of Part 5 of the Act, Elected Members are entitled to receive a fee for meeting attendance, to be reimbursed for expenses and/or be paid an allowance for certain types of expenses.~~

~~5.1.5.2. This Policy provides local government approval for Certain payments not set out in the Act are an entitlement in accordance with the Act, while others require specific local government approval.~~

~~5.3. Fees and allowances under this Policy will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, Elected Members, for the purposes of budget development, will be requested to indicate their preferred payment method.~~

~~5.2.5.4. Reimbursements under this Policy must be submitted within three months of the expenses being incurred.~~

Elected Member fee

~~5.3.5.5. As per Section 5.99 of the Act, Elected Members will be paid an annual attendance fee in lieu of fees for attending meetings, with that fee being equal to the maximum fee set out in the Determination for the relevant Band referred to in Section 5.98(1) of the Act. In accordance with the Determination Elected Members shall be paid an annual fee within the Band established as set by Council when the annual budget is adopted.~~

~~5.4. The annual fee will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, and Elected Member, for the purposes of budget development, will be requested to indicate their preferred payment method.~~

Provision of equipment

~~5.5.5.6. Without limiting the application of any other clause in this Policy, the local government will provide to Elected Members access to reasonable resources to enable them to carry out their duties efficiently and effectively.~~

~~5.7. In accordance with Section 3.1 of the Act, in order to provide for the good government of persons in the District, any new Elected Members will be provided upon request with the following equipment:~~

- ~~a. brief case up to the value of \$150;~~
- ~~b. standard-issue mobile telephone;~~
- ~~c. standard issue portable device that will be upgraded from time to time, inclusive of mouse and power supply standard equipment associated with the day-to-day use of the device.~~

~~5.6.5.8. Any equipment (exclusive of City provided software) provided in accordance with this Policy can be retained by the Elected Member after serving t the completion of their term of office or if they serve a minimum of 24 months as an Elected Member. Equipment must be securely wiped by the City's IT department prior to retention.~~

Information and communication technology allowance

~~5.7. In accordance with the Determination, Elected Members will receive are eligible to claim an annual information and communications technology allowance equal to the maximum allowance set out in the Determination to -~~

~~5.8. —~~

- 5.9. ~~This allowance is to cover an Elected Member's costs in relation to expenses that relate to~~ information and communications technology, for example telephone rental and call charges and internet service provider fees, and ~~other costs are~~ of a kind prescribed by Regulation 32(1) of the Regulations.

~~The information and communications technology allowance will be paid monthly or quarterly in arrears. The allowance will be calculated on a pro-rata basis for any Elected Member who commences or ceases office during the month or quarter. Upon commencement of office, Elected Members, for the purposes of budget development, will be requested to indicate whether it is their intention to claim the information and communications technology allowance and their preferred payment method.~~

Reimbursement of childcare expenses

5.10. ~~In accordance with the 5.98(2)(a) of the Act an Elected Member~~ are entitled to be reimbursed who incurs childcare expenses incurred due to their attendance at:

- a. a Council meeting
 - b. ~~or a meeting of a formally constituted Council~~ Committee of Council of which they are a member;
 - c. arranged briefing sessions and workshops within the district.
- ~~a. is entitled to be reimbursed.~~

~~5.10. In addition, pursuant to 5.98(2)(b) of the Act, an Elected Member who incurs childcare expenses due to their attendance as an Elected Member at arranged briefing sessions and workshops within the City of Busselton district is entitled to be reimbursed.~~

5.11. ~~The extent to which childcare expenses incurred will be r~~Reimbursement~~d~~ will be in accordance with the Determination, with the number of hours claimed limited to the actual length of the meeting plus a nominal time allowance for travel to and from the place of care.

5.12. Notwithstanding 5.13~~1~~, reimbursement will be for the lowest minimum set rate of payment which provides coverage of the time calculated under paragraph 5.13~~1~~.

Reimbursement of travel expenses

5.13. ~~In accordance with the Act an Elected Member~~ are entitled to be reimbursed who incurs expenses to travel expenses incurred due to their attendance at:

- a. ~~to~~ a Council meeting;
- b. a meeting of a Committee of Council of which they are a member;
- ~~a. or a meeting of a formally constituted Council committee of which they are a member is entitled to be reimbursed. Elected Members can also be reimbursed for other types of travel in accordance with Regulation 32 of the Regulations.~~

~~5.13. The following list represents the meetings and other events for which Elected Members will be able to claim reimbursement in accordance with the Determination for incurring travel expenses:~~

- ~~a. Council meetings – ordinary and special;~~
Committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;
- ~~b.c.~~ Electors' meetings – annual and special;
- ~~c.d.~~ civic receptions hosted by the City of Busselton;
- ~~d.e.~~ visits by Ministers of the Crown or other distinguished visitors of similar status;
- ~~e.f.~~ City organised inspection tours of matters arising before the Council or as a JDAP member;
- ~~f.g.~~ any City-convened meeting by the Mayor or CEO requiring Elected Member attendance, including briefing sessions, workshops and other forums;
- ~~g.h.~~ Elected Member training courses;

~~h.i.~~ City organised meetings with ratepayers;

~~i.j.~~ ~~attendance at~~ functions and events sponsored to a value of \$10,000 or more by the City of Busselton ~~through the Marketing and Events Reference Group funding~~, held within the boundaries of the City, and where a specific invitation has been issued by the City's administration. Additionally other events may be approved from time to time by the Mayor and the CEO;

~~j.k.~~ ~~functions and events~~ where the Mayor is unable to attend ~~a function or event~~ and has requested another elected member to attend on his behalf. This includes attendance at functions within the district for the purposes of presenting awards / gifts;

~~k.l.~~ ~~attendance at~~ functions and events for the purposes of receiving awards on behalf of the City;

~~l.m.~~ seminars and conferences attended in the capacity of an Elected Member as approved by the City in accordance with Council Policy 08 "Councillors Induction, Training and Professional Development";

~~m.n.~~ meetings of community groups or other external organisations of which the Elected Member has been appointed the Council's representative / delegate by Council resolution (except where the other body pays the elected member for meeting attendance and/or travel e.g. ministerial appointment to State Advisory Boards).

~~5.14.~~ Reimbursement will be made available to Elected Members on the receipt of a certified claim form, in accordance with the Determination.

~~5.14.5.15.~~ Where large distances are involved and when practicable, Elected Members are encouraged to use a City-owned motor vehicle in the first instance. Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.

~~5.15.5.16.~~ ~~Reimbursement will be made available to Elected Members on the receipt of a certified claim form, in accordance with the Determination.~~

~~5.16.5.17.~~ ~~Where a City vehicle is utilised, the travel reimbursement or travel allowance cannot be claimed.~~

~~5.17.5.18.~~ Subject to the approval of the Chief Executive Officer or delegate, Elected Members are entitled to use a City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only.

Reimbursement of eExpenses while away from home on sanctioned activities

~~5.18.~~ ~~Where an Elected Member is required to stay overnight away from their place of residence for City sanctioned activities (Expenses incurred for conferences, training, seminars, attendance at intrastate functions) for the purposes of receiving awards and similar occasions requiring an Elected Member to stay overnight away from their place of residence will be reimbursed to the Elected Member or paid directly by the City subject to and in accordance with paragraphs 5.22 and 5.23.~~

~~5.19.~~

~~5.20.5.19.~~ ~~Air travel (where applicable) and accommodation will be arranged and paid for by the City in consultation with the Elected Member, with the key consideration being cost effectiveness and, in relation to accommodation, proximity to the location at which the activity conference, training, seminar or similar occasion is being held.~~

~~5.21.5.20.~~ ~~While staying in accommodation provided by the City, t~~The City will also meet the following expenses:

- a. cost of laundry for Elected Member and spouse or partner for greater than 25 nights;

- b. reimbursement of taxi fares or other public transport where these directly relate to the activity and no other transport is provided. Reimbursement for an Elected Member's spouse or partner is subject to them being accompanied by the Elected Member;
- c. reimbursement of a daily sustenance allowance per day, in accordance with the Public Service Award 1992 for Elected Member only;
- d. specific conference / event related meals for Elected Member and spouse or partner.

5.21. Air travel where applicable will be arranged and paid for by the City in consultation with the Elected Member. Air travel will be economy only, via the most direct and cost effective route.

5.22. Where the City is unable to arrange for accommodation or air travel, Elected Members will be reimbursed for any reasonable costs incurred.

Reimbursement of Hospitality expenses

5.23. Elected Members may, subject to the provision of receipts and approval by the Mayor, seek reimbursement of the reasonable costs of beverages or snack items ~~provided~~ during any meeting or function for which they are entitled to reimbursement of travel under paragraph 5.13~~5~~ and 5.16.

Corporate attire expenses

5.24. Upon election or re-election, Elected Members will within the first year of their term be entitled to the following business attire, up to a value of \$750:

- a. Business suit (male – 2 pairs of trousers and 1 jacket); or
- b. Business suit (female – 2 skirts, dresses or pants and 1 jacket); and
- c. Business shirt / blouse – 3;
- d. Business tie / scarf – 1; and
- e. Business shoes – 1 pair.

5.25. Additionally, upon election or re-election Elected Members will be entitled to the following corporate attire:

- a. Corporate (City branded) casual / light weight fleecy jacket – 1;
- b. Corporate (City branded) polo top – 1; and
- c. Corporate (City branded) tie / scarf – 1.

5.26. In years two, three and four of their term, Elected Members will be entitled to reimbursement of costs associated with the dry cleaning, maintenance and / or replacement of business attire, up to a value of \$250 per annum.

5.27. All items of business attire which are City branded should be returned to the City on expiry of office.

Mayor

Mayoral Allowance

5.28. In addition to their entitlements as an Elected Member under this Policy, the Mayor is eligible for a Mayoral allowance in accordance with the Act, with the –allowance being equal to the maximum allowance set out in the Determination for the relevant Band ~~In accordance with the Determination the Mayor shall be paid an allowance within the Band established as set by Council when the annual budget is adopted.~~

~~5.29. The allowance will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Mayoral allowance and their preferred payment method.~~

Provision of a Mayoral vehicle

~~5.30-5.29.~~ The Mayor shall be provided with a City-owned motor vehicle for use in his or her official capacity.

The Mayor is entitled to use the City-owned motor vehicle for travel for personal reasons during the time when the vehicle is being used for City purposes, provided such use is of a minor incidental nature only. Nothing in this section prevents the vehicle from being utilised in accordance with City fleet guidelines by other Elected Members, ~~z~~ with the agreement of the Mayor.

~~5.31-5.30.~~ The Mayor may ~~additionally~~ ~~so~~ use the vehicle for private use for convenience or necessity on a cost recovery basis. Details of private use shall be recorded in a log book which shall be provided to the City on a quarterly basis, ~~z~~ with reimbursement made to the City in one of the following ways:

- a. by deduction from the ~~quarterly~~ members allowance payment;
- b. ~~by an invoice provided to the Mayor.~~

~~5.32-5.31.~~ The mileage rate will be determined by the State Salaries and Allowances Tribunal.

~~5.33-5.32.~~ Unless Council approves otherwise, the Mayoral vehicle may only be used for private purposes for travel within the State of WA.

Deputy Mayor

Deputy Mayor's Allowance

~~5.34-5.33.~~ In addition to their entitlements as an Elected Member under this Policy, the Deputy Mayor ~~will~~ ~~may~~ be paid a Deputy Mayor's allowance in accordance with the Act ~~z~~. ~~In accordance with the and~~ Determination ~~the Deputy Mayor shall be paid 25% of the Mayoral allowance.~~

~~5.35. The allowance will be payable monthly or quarterly in arrears and will be calculated on a pro-rata basis for any Deputy Mayor who commences or ceases office during the month or quarter. Upon commencement of office, the Deputy Mayor, for the purposes of budget development, will be requested to indicate whether it is their intention to claim a Deputy Mayor's allowance and their preferred payment schedule.~~

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Administration) Regulations 1996*
- 6.3. Salaries and Allowances Tribunal Determination for Local Government Chief Executive Officers and Elected Members (as current from time to time)
- 6.4. Local Government Department Circular 9-2011

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	27 August 2019	Resolution #	C1908/164
Previous Adoption	DATE	12 December 2018	Resolution #	C1812/260



Council Policy

Council Policy Name: Designation of Senior Employees and Acting CEO
Responsible Directorate: Finance and Corporate Services **Version:** Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to designate Senior Employees in accordance with Section 5.37(1) of the *Local Government Act 1995* and provide for the appointment of a Senior Employee as Acting Chief Executive Officer during periods of Leave by the Chief Executive Officer or by Council, such that the continuous and efficient execution of the City’s functions is maintained.

2. SCOPE

- 2.1. This Policy is applicable to the role of Chief Executive Officer of the City of Busselton and those employees designated as Senior Employees.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Leave	annual or personal leave for periods of up to six continuous weeks
Policy	this City of Busselton Council policy titled “Designation of Senior Employees and Acting CEO”

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 Priorities:
 - a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making; and
 - b. 4.4 Govern a professional organisation that is healthy, capable and engaged.

5. POLICY STATEMENT

- 5.1. In accordance with Section 5.37(1) of the Act, a local government may designate employees or persons belonging to a class of employees to be Senior Employees.
- 5.2. In accordance with Section 5.37(2) of the Act, the CEO is to inform the Council of each proposal to employ or dismiss a Senior Employee.
- 5.3. The Senior Employees of the City are designated as:
 - a. Director, Community Planning; and
 - b. Director, Business and Economic Development;
 - c. Director, Engineering and Environment;
 - d. Director, Corporate and Strategic Performance

- 5.4. The Council has determined that those appointed as a Senior Employee are suitably qualified to perform the role of Acting Chief Executive Officer.
- 5.5. Council recognises that the appointment of Senior Employees to the role of Acting Chief Executive Officer is an effective succession planning strategy, providing Senior Employees with valuable exposure to and experience in the functions of a Chief Executive Officer.
- 5.6. Senior Employees will be appointed to the role of Acting Chief Executive Officer at the discretion of the Chief Executive Officer subject to performance and dependent on availability and operational requirements.
- 5.7. Appointment of a Senior Employee to the role of Acting Chief Executive Officer will be determined by Council resolution:
 - a. for any periods exceeding six continuous weeks; or
 - b. in the event that the Chief Executive Officer is incapacitated or otherwise unable to make an appointment under paragraph 5.6.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *Local Government Act 1995*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	24 April 2019	Resolution #	C1904/075



Council Policy

Council Policy Name: Designation of Senior Employees and Acting CEO
Responsible Directorate: Finance and Corporate Services **Version:** Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to designate Senior Employees in accordance with Section 5.37(1) of the *Local Government Act 1995*.
- 1.2. The purpose of this Policy is to provide for the appointment of a Senior Employee as Acting Chief Executive Officer during periods of Leave by the Chief Executive Officer or by Council such that the continuous and efficient execution of the City’s functions is maintained.

2. SCOPE

- 2.1. This Policy is applicable to the role of Chief Executive Officer of the City of Busselton and those employees designated as Senior Employees.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
City	City of Busselton
Council	the Council of the City of Busselton
Leave	annual or personal leave for periods of up to six continuous weeks
Policy	this City of Busselton Council policy titled “Designation of Senior Employees and Acting CEO”

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 Priorities:
 - a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making; and
 - b. 4.4 Govern a professional organisation that is healthy, capable and engaged.

5. POLICY STATEMENT

- 5.1. In accordance with Section 5.37(1) of the Act, a local government may designate employees or persons belonging to a class of employees to be Senior Employees.
- 5.2. In accordance with Section 5.37(2) of the Act, the CEO is to inform the Council of each proposal to employ or dismiss a Senior Employee.

- 5.3. The Senior Employees of the City are designated as:
 - a. Director, Planning and Development Services;
 - b. Director, Community and Commercial Services;
 - c. Director, Engineering and Works Services; and
 - d. Director, Finance and Corporate Services

- 5.4. The Council has determined that those appointed as a Senior Employee are suitably qualified to perform the role of Acting Chief Executive Officer.

- 5.5. Council recognises that the appointment of Senior Employees to the role of Acting Chief Executive Officer is an effective succession planning strategy, providing Senior Employees with valuable exposure to and experience in the functions of a Chief Executive Officer.

- 5.6. Senior Employees will be appointed to the role of Acting Chief Executive Officer at the discretion of the Chief Executive Officer subject to performance and dependent on availability and operational requirements.

- 5.7. Appointment of a Senior Employee to the role of Acting Chief Executive Officer will be determined by Council resolution:
 - a. for any periods exceeding six continuous weeks; or
 - b. in the event that the Chief Executive Officer is incapacitated or otherwise unable to make an appointment under paragraph 5.6.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *Local Government Act 1995*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	24 April 2019	Resolution #	C1904/075
Previous Adoption	DATE	13 June 2018	Resolution #	C1806/114



Council Policy

Council Policy Name: Designation of Senior Employees and Acting CEO
Responsible Directorate: Finance and Corporate Services **Version:** ~~Adopted~~Proposed

1. PURPOSE

~~1.1.~~—The purpose of this Policy is to designate Senior Employees in accordance with Section 5.37(1) of the *Local Government Act 1995* ~~and~~ -

~~1.2.1.1.~~ ~~The purpose of this Policy is to~~ provide for the appointment of a Senior Employee as Acting Chief Executive Officer during periods of Leave by the Chief Executive Officer or by Council, such that the continuous and efficient execution of the City’s functions is maintained.

2. SCOPE

2.1. This Policy is applicable to the role of Chief Executive Officer of the City of Busselton and those employees designated as Senior Employees.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
City	City of Busselton
Council	the Council of the City of Busselton
Leave	annual or personal leave for periods of up to six continuous weeks
Policy	this City of Busselton Council policy titled “Designation of Senior Employees and Acting CEO”

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 Priorities:
 a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making; and
 b. 4.4 Govern a professional organisation that is healthy, capable and engaged.

5. POLICY STATEMENT

5.1. In accordance with Section 5.37(1) of the Act, a local government may designate employees or persons belonging to a class of employees to be Senior Employees.

5.2. In accordance with Section 5.37(2) of the Act, the CEO is to inform the Council of each proposal to employ or dismiss a Senior Employee.

- 5.3. The Senior Employees of the City are designated as:
 - a. Director, ~~Community Planning and Development Services; and~~
 - b. Director, ~~Community and Commercial Business and Economic Development Services;~~
 - c. Director, Engineering and ~~Environment; Works Services; and~~
 - d. Director, ~~Corporate and Strategic Performance Finance and Corporate Services~~
- 5.4. The Council has determined that those appointed as a Senior Employee are suitably qualified to perform the role of Acting Chief Executive Officer.
- 5.5. Council recognises that the appointment of Senior Employees to the role of Acting Chief Executive Officer is an effective succession planning strategy, providing Senior Employees with valuable exposure to and experience in the functions of a Chief Executive Officer.
- 5.6. Senior Employees will be appointed to the role of Acting Chief Executive Officer at the discretion of the Chief Executive Officer subject to performance and dependent on availability and operational requirements.
- 5.7. Appointment of a Senior Employee to the role of Acting Chief Executive Officer will be determined by Council resolution:
 - a. for any periods exceeding six continuous weeks; or
 - b. in the event that the Chief Executive Officer is incapacitated or otherwise unable to make an appointment under paragraph 5.6.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *Local Government Act 1995*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	24 April 2019	Resolution #	C1904/075
Previous Adoption	DATE	24 April 2019 13 June 2018	Resolution #	C1904/075 C1806/114



Council Policy

Council Policy Name: Closed Circuit Television Systems
 Responsible Directorate: Finance and Corporate Services
 Version: Adopted

1. PURPOSE

- 1.1. The purpose of this Policy is to establish the use of Closed-Circuit Television (CCTV) Systems and protocols for the management of recorded data.

2. SCOPE

- 2.1. This Policy is applicable to all CCTV Systems owned, managed or controlled by the City of Busselton

3. DEFINITIONS

Term	Meaning
CCTV System	is a system that comprises of CCTV cameras, information store, connections and applications for storage, retrieval and viewing of information
Policy	this City of Busselton Council policy titled "Closed Circuit Television Systems"

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 Priority:
 - a. 2.12: Provide well maintained community assets through robust asset management practices.

5. POLICY STATEMENT

- 5.1. The City uses CCTV Systems for the purpose of surveillance, protection and deterrence, and to assist in the management and protection of the City’s assets.
- 5.2. A MOU between the City of Busselton and WA Police is to establish the principles, protocols, roles and responsibilities regarding the access to viewing, release and copying of recorded footage and still photographs.
- 5.3. The release or viewing of recorded footage and still photographs to the WA Police is permitted subject to the terms and conditions contained within the MOU between the City and the WA Police.
- 5.4. The City’s CCTV systems will be registered on Cam-Map WA (operated by the WA Police Force).
- 5.5. Recorded data will be managed according to the City’s Recordkeeping Plan and State Records Act.
- 5.6. Unless specifically required under law or otherwise authorised by the CEO, the release of recorded footage and still photographs, other than to the WA Police, is expressly prohibited.
- 5.7. The Chief Executive Officer is to establish Operational Practices that ensure CCTV is operated effectively and in line with statutory requirements.
- 5.8. Recorded data will be managed according to the City’s Recordkeeping Plan and State Records Act.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Surveillance Devices Act 1998*
- 6.2. *State Records Act 2000*
- 6.3. MOU

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	13 June 2018	Resolution #	C1806/112



Council Policy

Council Policy Name: Closed Circuit Television Systems

Responsible Directorate: Finance and Corporate Services

Version: Adopted

1. PURPOSE

- 1.1. CCTV Systems are installed to assist in the management and protection of the City's assets.
- 1.2. The purpose of this Policy is to establish functional categorisation of CCTV Systems and protocols for the management of recorded data.

2. SCOPE

- 2.1. This Policy is applicable to all CCTV systems owned, managed or controlled by the City of Busselton for the purpose of surveillance, protection and deterrence.

3. DEFINITIONS

Term	Meaning
CCTV	Closed Circuit Television
CCTV System	is a system that comprises of CCTV cameras, information store, connections and applications for storage, retrieval and viewing of information
Policy	this City of Busselton Council policy titled "Closed Circuit Television Systems"
Public Area	includes— (a) any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property; and (b) local government property; but does not include premises
MOU	Memorandum of Understanding between the Minister of Police and the City of Busselton dated 10 May 2016 and as amended from time to time

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 Priority:
 - a. 2.12: Provide well maintained community assets through robust asset management practices.

5. POLICY STATEMENT

- 5.1. There are five categories of CCTV cameras:
 - a. Public Area permanent (Fixed);
 - b. Public Area portable (Temporary);
 - c. Vehicle-based (Mobile)
 - d. Buildings and Assets Permanent (Fixed)
 - e. Service/Staff Areas Permanent (Fixed)

- 5.2. A MOU between the City of Busselton and WA Police is to establish the principles, protocols, roles and responsibilities regarding the access to viewing, release and copying of recorded footage and still photographs.

- 5.3. The release or viewing of recorded footage and still photographs to the WA Police is permitted subject to the terms and conditions contained within the MOU between the City and the WA Police.

- 5.4. Unless specifically required under law, the release or viewing of recorded footage and still photographs other than to the WA Police is expressly prohibited.

- 5.5. The Chief Executive Officer is to establish Staff Management Practices and Operating Procedures that ensure CCTV is operated effectively in line with statutory requirements.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Surveillance Devices Act 1998*
- 6.2. *State Records Act 2000*
- 6.3. MOU

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	13 June 2018	Resolution #	C1806/112
Previous Adoption	DATE	9 October 2013	Resolution #	C1310/261



Council Policy

Council Policy Name: Closed Circuit Television Systems
 Responsible Directorate: Finance and Corporate Services
 Version: Adopted

1. PURPOSE

1.1. The purpose of this Policy is to establish ~~the functional use categorisation~~ of Closed-Circuit Television (CCTV) Systems and protocols for the management of recorded data.

2. SCOPE

~~2.1. This Policy is applicable to all CCTV Systems owned, managed or controlled by the City of Busselton for the purpose of surveillance, protection and deterrence, and to assist in the management and protection of the City's assets.~~

~~2.2.2.1.~~

3. DEFINITIONS

Term	Meaning
CCTV	Closed Circuit Television
CCTV System	is a system that comprises of CCTV cameras, information store, connections and applications for storage, retrieval and viewing of information
Policy	this City of Busselton Council policy titled "Closed Circuit Television Systems"
Public Area	includes— (a) any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property; and (b) local government property; but does not include premises
MOU	Memorandum of Understanding between the Minister of Police and the City of Busselton dated 10 May 2016 and as amended from time to time

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 Priority:

a. 2.12: Provide well maintained community assets through robust asset management practices.

5. POLICY STATEMENT

5.1. The City uses CCTV Systems for the purpose of surveillance, protection and deterrence, and to assist in the management and protection of the City's assets.

~~5.1. There are five categories of CCTV cameras:~~

- ~~a. Public Area permanent (Fixed);~~
- ~~b. Public Area portable (Temporary);~~
- ~~c. Vehicle-based (Mobile)~~
- ~~d. Buildings and Assets Permanent (Fixed)~~
- ~~e. Service/Staff Areas Permanent (Fixed)~~

5.2. A MOU between the City of Busselton and WA Police is to establish the principles, protocols, roles and responsibilities regarding the access to viewing, release and copying of recorded footage and still photographs.

5.3. The release or viewing of recorded footage and still photographs to the WA Police is permitted subject to the terms and conditions contained within the MOU between the City and the WA Police.

5.4. The City's CCTV systems will be registered on Cam-Map WA (operated by the WA Police Force).

5.5. Recorded data will be managed according to the City's Recordkeeping Plan and State Records Act.

5.6. Unless specifically required under law or otherwise authorised by the CEO, the release ~~or viewing~~ of recorded footage and still photographs, other than to the WA Police, is expressly prohibited.

5.7. The Chief Executive Officer is to establish Staff Management Practices and Operating Procedures Operational Practices that ensure CCTV is operated effectively and in line with statutory requirements.

~~5.7.5.8. Recorded data will be managed according to the City's Recordkeeping Plan and State Records Act.~~

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Surveillance Devices Act 1998*
- 6.2. *State Records Act 2000*
- 6.3. MOU

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	13 June 2018	Resolution #	C1806/112
Previous Adoption	DATE	13 June 2018 October 2013	Resolution #	C1806/112 C1310/261



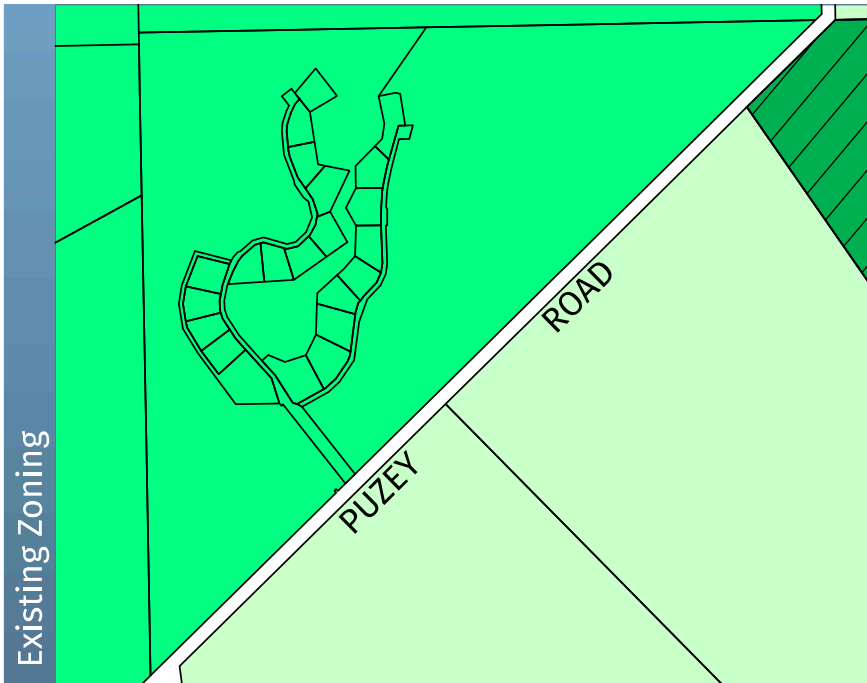
Disclaimer: Every effort has been made to make the information displayed here as accurate as possible. This process is ongoing and the information is therefore ever changing and cannot be disseminated as accurate. Care must be taken not to use this information as correct or legally binding. To verify information contact the City of Busselton office.

2/11/2022

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CITY OF BUSSELTON Town Planning Scheme No. 21 Amendment No. 54



LOCAL SCHEME RESERVES

 Recreation

LOCAL SCHEME ZONES

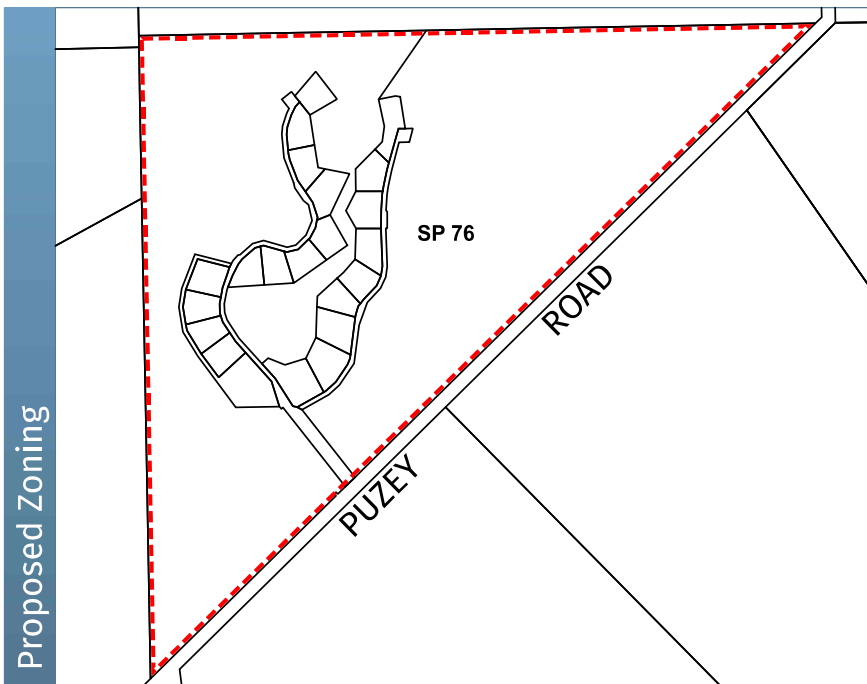
 Rural

 Viticulture/Tourism

OTHER CATEGORIES

 SP1 Special Provision Area

 No Zone



Mapping prepared by Harley Dykstra
21 Spencer Street, DUNBURY WA 6230
T: 08 9792 6000
Plan No. | 23284-01B Drawn | JW 23/05/23



Scale 1:10 000 @ A4
0 50m 100m 200m



CITY OF BUSSELTON

LOCAL PLANNING SCHEME No. 21

AMENDMENT No. 54

Strata Lots 20, 21, 31, 37, 46 and 47 on Survey-Strata
Plan 54626 (Lot 2883) Puzey Road, Wilyabrup

Planning and Development Act 2005**RESOLUTION TO ADOPT AMENDMENT TO
LOCAL PLANNING SCHEME****City of Busselton****Local Planning Scheme No. 21****Amendment No. 54**

RESOLVED that the Council, in pursuance of Section 75 of the Planning and Development Act 2005, amend the above local planning scheme by:

1. Amending Schedule 3 and including an additional Special Provision area, as follows:

No.	Particulars of Land	Zone	Special Provisions
SP76	Lot 2883 Puzey Road, Wilyabrup	Viticulture/Tourism	For Lots 20, 21, 31, 37, 46 and 47, as shown on the current Strata Plan 54626 (approved on 24 December 2021), one Chalet per lot is permitted as unrestricted length of stay.

2. Update the Scheme Maps accordingly.

The amendment is complex under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reason:

1. An amendment that is not consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Commission.

Dated this _____ day of _____ 20____ .

Anthony Graham Nottle
CHIEF EXECUTIVE OFFICER

DOCUMENT CONTROL

CONTROL VERSION	DATE	STATUS	DISTRIBUTION	COMMENT
A	04/07/2022	Draft	HD	Internal
B	28/07/2022	Draft	Client	For comment
C	05/08/2022	Final	Local Government	Lodgement
D	31/08/2022	Revised	Local Government	Include amendment number and additional information as requested
E	24/01/2023	Revised	Local Government	Changes made as per Council resolution
F	22/05/2023	Revised	Local Government	Changes made as per amendments required from WAPC resolution prior to advertising.

Prepared for: Owners of Lot 2883 Puzey Road
 Prepared by: LB
 Reviewed by: KS

Date: 24 January 2023
 Job No: 23284
 Ref: E

DISCLAIMER

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This document has been exclusively drafted. No express or implied warranties are made by the Consultant regarding the research findings and data contained in this report. All of the information details included in this report are based upon the existent land area conditions and research provided and obtained at the time the Consultant conducted its analysis.

Please note that the information in this report may not be directly applicable towards another client. The Consultant warns against adapting this report's strategies/contents to another land area which has not been researched and analysed by the Consultant. Otherwise, the Consultant accepts no liability whatsoever for a third party's use of, or reliance upon, this specific document.

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FS 536019

TABLE OF CONTENTS

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APPENDICES INDEX

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MINISTER FOR PLANNING

PROPOSAL TO AMEND A LOCAL PLANNING SCHEME

LOCAL AUTHORITY:	CITY OF BUSSELTON
PLANNING SCHEME:	LOCAL PLANNING SCHEME NO. 21
TYPE OF SCHEME:	DISTRICT PLANNING SCHEME
NO. OF AMENDMENT:	AMENDMENT NO. 54

AMENDING SCHEDULE 3 TO INCLUDE AN ADDITIONAL SPECIAL PROVISION AREA RELATING TO LOTS 20, 21, 31, 37, 46 AND 47 ON SURVEY-STRATA PLAN 54626 (LOT 2883) PUZEY ROAD, WILYABRUP

1 INTRODUCTION

This Scheme Amendment proposal seek to add an additional Special Provision Area to the City of Busselton Local Planning Scheme No. 21, in relation to Lots 20, 21, 31, 37, 46 and 47 on Survey-Strata Plan 54626 (Lot 2883) Puzey Road, Wilyabrup.

The existing survey-strata, also known as Wilyabrup Waters, consists of 21 tourist chalet lots, two larger agricultural lots and common property, located around two manmade lakes.

A subdivision application in 2020 approved an increase in strata lots from 16 (plus common property) to the existing 23 lots (plus common property).

It was following the approval of the re-strata that an anomaly was realised whereby residential development (or permanent stay) was not permitted under the existing Local Planning Scheme requirements.

Since that time the landowners have been in discussions with the City (and Department of Planning, Lands and Heritage) regarding this anomaly and the City agreed that they support in principle an amendment to the Scheme to allow for unrestricted length of stay over some of the lots. This is therefore the reason for this amendment.

It is also noted that in the existing Strata Scheme by-laws (Section 21 (8)), the following is stated:

"All lot owners and the Strata Company agree that any future Scheme Amendment or similar to allow for additional short stay accommodation units have unrestricted length of stay, specifically in relation to Lots 20, 21, 31, 46 and 47, is fully supported and permitted."

This is in addition to Section 21 (5) of the existing Strata Scheme by-laws which states:

"The survey strata scheme allows for lot 37 that contains (or will contain) buildings and infrastructure to be used for residential use, with unrestricted length of stay, in addition to short stay tourist accommodation unit rights".

This Scheme Amendment proposes to implement and allow for these initiatives.

2 BACKGROUND AND SITE CONTEXT

2.1 Property Location and Characteristics

The subject land is located 21km (approx.) south west of the Dunsborough town centre, and 11km (approx.) south of Yallingup. A location plan is provided in **Figure 1** below.

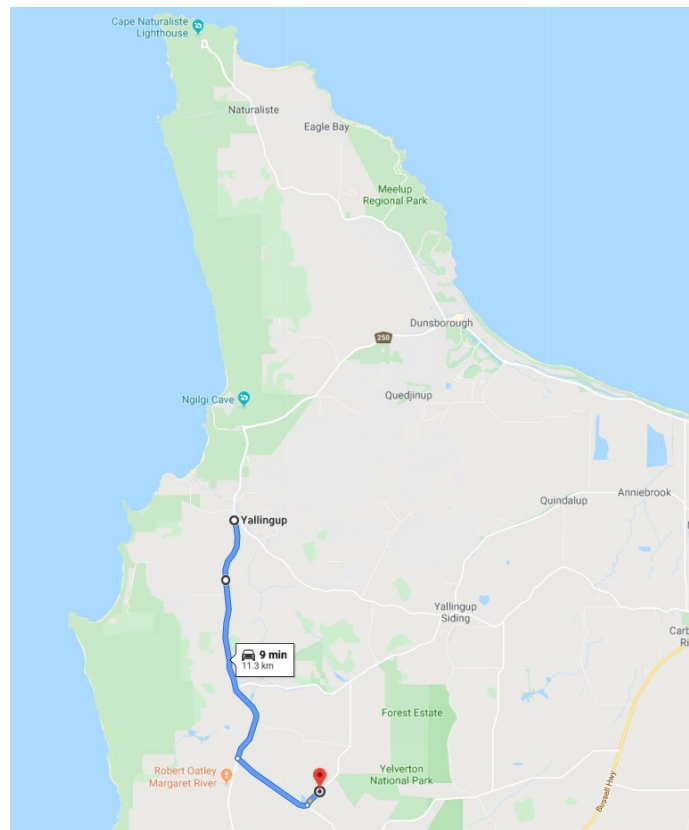


Figure 1 – Location Plan

(source: Google)

The subject land is located in a tourist/ viticulture/ rural area, predominately used for primary production, cottage industries such as breweries / viticulture and tourism purposes. Surrounding land uses include:

- Carpe Diem Vineyard to the west;
- Four Elements Farm Stay to the south west;
- Bootleg Brewery to the south;
- Viticulture / agriculture to the north and east; and
- Yelverton National Park to the north east.

2.2 Property Details

A copy of the relevant Survey-Strata Plan 54626 is included at **Appendix A**. The property details for the subject strata lots are as follows:

LOT NUMBER:	PLAN/DIAGRAM:	VOLUME/FOLIO:	LOT AREA:	REGISTERED PROPRIETOR:
20	SP54626	4013/377	2097m ²	Diane Jennifer D'Amico, Erico Giuseppe D'Amico
21	SP54626	4013/378	3525m ²	The Royale Australian Golf Club Pty Ltd
31	SP54626	4013/381	2931m ²	Accounting Management Services Pty Ltd
37	SP54626	4013/387	2000m ²	Candice Susan Dix, Christopher Mark Dix
46	SP54626	4013/396	20.14ha	Redray Holdings Pty Ltd
47	SP54626	4013/397	20.07ha	Catriona Sylvia Parker, Ian Michael Paterson Parker

2.3 Zoning

The subject land is zoned *Viticulture/Tourism* under the City of Busselton Local Planning Scheme No. 21 (LPS 21).

2.4 Land Use

The existing survey-strata, also known as Wilyabrup Waters, consists of 21 tourist chalet lots, two larger agricultural lots and common property, located around two manmade lakes.

3 LEGISLATION/PLANNING FRAMEWORK

3.1 Local Planning Strategy

The City of Busselton Local Planning Strategy (LPS) sets out the long term (25+ years) broad planning direction for the whole municipal area.

Under 'Theme 2: Activity centres and economy' in the LPS, one of the strategies outlined is as follows (section 8.2 (g)):

"To facilitate re-investment and the progressive updating of accommodation product, consider permitting unrestricted length of stay components for new development on Tourism zoned land within the Busselton-Vasse Urban Area and the Dunsborough Urban Area, consistent with the Local Tourism Planning Strategy and the WAPC relevant Planning Bulletin".

It is noted that the subject land is not within the Busselton-Vasse or Dunsborough urban areas. However the merits of the above strategy still apply to the subject land. The original strata was registered in February 2009 and in subsequent years failed to meet market expectations. The re-strata of the property in recent years has improved the viability of the strata and the purpose of this amendment is to further facilitate the development of the strata. As outlined in this proposal, the limited unrestricted length of stay proposed will benefit the primary use of short stay accommodation as well as the permissible commercial uses.

It is also noted that the WAPC Planning Bulletin referenced in the above strategy acknowledges that unrestricted length of stay proposals in tourism developments should be considered on their merits. Planning Bulletin 83/2013 (Planning for Tourism) specifically states,

"Proposals for non-tourist accommodation developments (such as permanent residential, commercial, retail, conference/ reception centre, restaurant/ café) within tourism sites, to facilitate the development of tourist accommodation, should be considered on a case by case basis."

As outlined in this proposal, this Scheme Amendment will simply allow for an anomaly of the current Scheme to be rectified whereby unrestricted length of stay can be considered for the subject land. The unrestricted length of stay (for specific lots) will still require future Development Applications to be considered on their merits at the applicable time.

3.2 Local Tourism Planning Strategy

The City of Busselton Local Tourism Planning Strategy (LTPS) aims to guide and coordinate sustainable tourism development from a land use planning perspective within the City of Busselton.

The LTPS classifies tourism sites into three categories- strategic tourism sites/ precincts, non-strategic tourism sites and tourist zoned land where alternative zonings may be considered. The subject land is not included in any of the three categories under the LTPS.

It is noted that the LTPS includes recommendations in relation to zoning framework and one aspect highlighted is the following (Section 3.4.6.1):

"The 'unrestricted length of stay' accommodation within predominantly tourism developments is not 'residential' development, and will not necessarily be subject of the same development standards as would apply to equivalent residential development, but there will need to be a case-by-case assessment and/or development of more detailed guidance in local planning policy, to establish appropriate development standards for unrestricted length of stay accommodation."

So again it is noted that where unrestricted length of stay is proposed, these proposals need to be determined on their individual merits. It is also again highlighted that this Scheme Amendment will simply allow for an anomaly of the current Scheme to be rectified whereby unrestricted length of stay can be considered for the subject land. The unrestricted length of stay (for specific lots) will still require future Development Applications to be considered on their merits at the applicable time.

3.3 Existing Strata Scheme by-laws

The Strata Scheme by-laws set out the operations and requirements of a strata under the Strata Titles Act.

The existing Strata Scheme by-laws for the Wilyabrup Waters development outline how the strata will operate also in terms of land uses. The by-laws allow for short stay accommodation, some commercial use, some agricultural use and some residential use for various lots. All of these uses can be considered by the City of Busselton under the Local Planning Scheme for the Viticulture/Tourism zone, with the exception of residential development (or permanent stay). This is the reason for this proposed Scheme Amendment and is outlined further in Section 3.2 below.

It is also noted that in the existing Strata Scheme by-laws (Section 21 (8)), the following is stated:

"All lot owners and the Strata Company agree that any future Scheme Amendment or similar to allow for additional short stay accommodation units have unrestricted length of stay, specifically in relation to Lots 20, 21, 31, 46 and 47, is fully supported and permitted."

This is in addition to Section 21 (5) of the existing Strata Scheme by-laws which states:

"The survey strata scheme allows for lot 37 that contains (or will contain) buildings and infrastructure to be used for residential use, with unrestricted length of stay, in addition to short stay tourist accommodation unit rights".

This Scheme Amendment now proposes to implement and allow for these initiatives.

3.4 City of Busselton Local Planning Scheme No. 21

This amendment seeks to rectify an anomaly whereby residential development (or permanent stay) cannot be considered by the City of Busselton under the Local Planning Scheme for the subject land.

It is noted that the existing Local Planning Scheme No. 21 allows for 'Single House' to be considered in the Viticulture/Tourism zone (it is a permitted use). However, since the subject land (the Wilyabrup Waters development) is a strata with common property, any dwellings developed on the land will be defined as a 'grouped dwelling' (as defined by the Residential Design Codes). 'Grouped dwelling' is currently listed as an 'X' use (i.e. not permitted) in the Viticulture/Tourism zone under Local Planning Scheme No. 21.

Another mechanism is therefore required in the Local Planning Scheme to allow for the consideration of residential development (permanent stay) for the subject land. It is therefore proposed to include an additional Special Provision area for the subject land, as outline in Section 4 below.

4 PROPOSED SCHEME AMENDMENT

This Scheme Amendment seeks to amend Schedule 3 of Local Planning Scheme No. 21 by including an additional Special Provision area which relates to the subject land.

It is proposed Schedule 3 of the Scheme Text be amended to include the following:

No.	Particulars of Land	Zone	Special Provisions
SP76	Strata Lots 20, 21, 31, 37, 46 and 47 on Survey-Strata Plan 54626 (Lot 2883) Puzey Road, Wilyabrup	Viticulture/Tourism	For Lots 20, 21, 31, 37, 46 and 47, as shown on the current Strata Plan 54626 (approved on 24 December 2021), one Chalet per lot is permitted as unrestricted length of stay.

The main reason for this proposed amendment is to address the anomaly in the current Local Planning Scheme which currently does not allow the City of Busselton to consider residential development (unrestricted length of stay) for the subject land, as outlined earlier.

Strata Lots 20, 21, 31, 37, 46 and 47 on Survey-Strata Plan 54626 have been included in this amendment to form part of the additional Special Provision area and allow for these lots to contain residential use (unrestricted length of stay). The following justification is provided:

- The landowners have been in discussions with the City (and Department of Planning, Lands and Heritage) regarding the anomaly and the City has previously agreed that they support in principle an amendment to the Scheme to allow for unrestricted length of stay over some of the lots;
- Lots 20, 21 and 31 are located close to the existing entry of Wilyabrup Waters and can provide an ongoing security measure in relation to those entering the development and parking on the adjacent common property (Lot 26);
- Lots 46 and 47 are the largest lots in the strata (20 hectares each) and can be used for agricultural uses which in turn will need to be operated and maintained. This will best be achieved by those living onsite;
- Under the existing Strata Scheme by-laws, Lot 37 has the right to allow for residential use, with unrestricted length of stay, in addition to short stay tourist accommodation unit rights;
- Under the existing Strata Scheme by-laws, Lots 20 and 21 have the right to allow for tourist commercial uses which in turn will need to be operated and maintained. This will best be achieved by those living onsite; and
- Under the existing Strata Scheme by-laws, Lots 31, 46 and 47 have the right to allow for a resident manager.

5 CONCLUSION

The information contained within this report substantiates the request for an additional Special Provision area in Schedule 3 of Local Planning Scheme No. 21 which relates to the subject land.

This amendment has been prepared following the receipt of in principle support from the City of Busselton. This amendment seeks to fix an anomaly in the Scheme whereby residential development (or permanent stay) cannot currently be considered under the existing Local Planning Scheme requirements for the subject land.

Overall, the existing agricultural tourism development of Wilyabrup Waters will benefit from some permanent residential use (unrestricted length of stay) in terms of security measures as well as practical onsite management and maintenance.

It is respectfully requested the proposed Scheme Amendment is initiated and adopted.

Planning and Development Act 2005

**RESOLUTION TO AMEND
LOCAL PLANNING SCHEME**

City of Busselton

Local Planning Scheme No. 21

Amendment No. 54

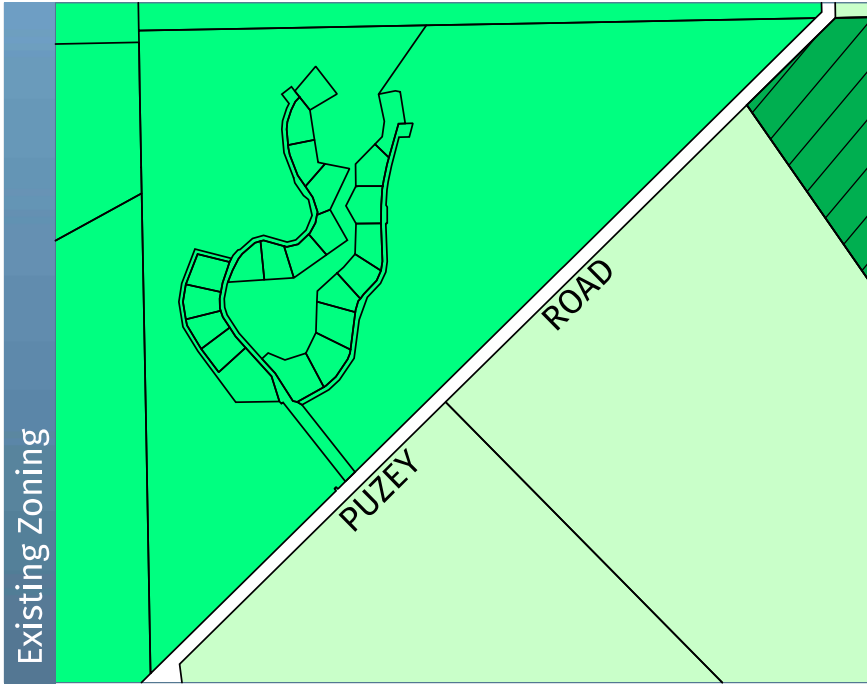
The City of Busselton under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above Local Planning Scheme by:

1. Amending Schedule 3 and including an additional Special Provision area, as follows:

No.	Particulars of Land	Zone	Special Provisions
SP76	Lot 2883 Puzey Road, Wilyabrup	Viticulture/Tourism	For Lots 20, 21, 31, 37, 46 and 47, as shown on the current Strata Plan 54626 (approved on 24 December 2021), one Chalet per lot is permitted as unrestricted length of stay.

2. Update the Scheme Maps accordingly.

CITY OF BUSSELTON Town Planning Scheme No. 21 Amendment No. 54



LOCAL SCHEME RESERVES

 Recreation

LOCAL SCHEME ZONES

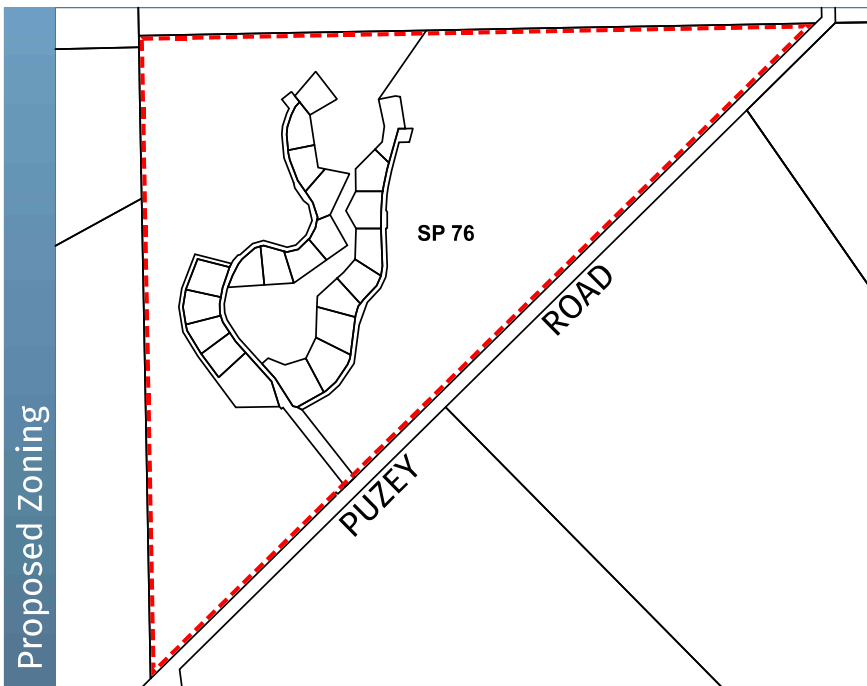
 Rural

 Viticulture/Tourism

OTHER CATEGORIES

 SP1 Special Provision Area

 No Zone



Mapping prepared by Harley Dykstra
21 Spencer Street, DUNBURY WA 6230
T: 08 9792 6000
Plan No. | 23284-01B Drawn | JW 23/05/23



Scale 1:10 000 @ A4
0 50m 100m 200m

ADOPTION

Adopted by resolution of the Council of the City of Busselton at the Meeting of the Council held on the

..... day of 20.....

.....
Grant Douglas Henley
MAYOR

.....
Anthony Graham Nottle
CHIEF EXECUTIVE OFFICER

FINAL APPROVAL

Adopted for Final Approval by resolution of the City of Busselton at the Meeting of the Council held on the day of 20..... and the Common Seal of the City of Busselton was hereunto affixed by the authority of a resolution of the Council in the presence of:

.....
Grant Douglas Henley
MAYOR

.....
Anthony Graham Nottle
CHIEF EXECUTIVE OFFICER

Recommended/Submitted for Final Approval

.....
Delegated under S.16 of the
Planning & Development Act 2005

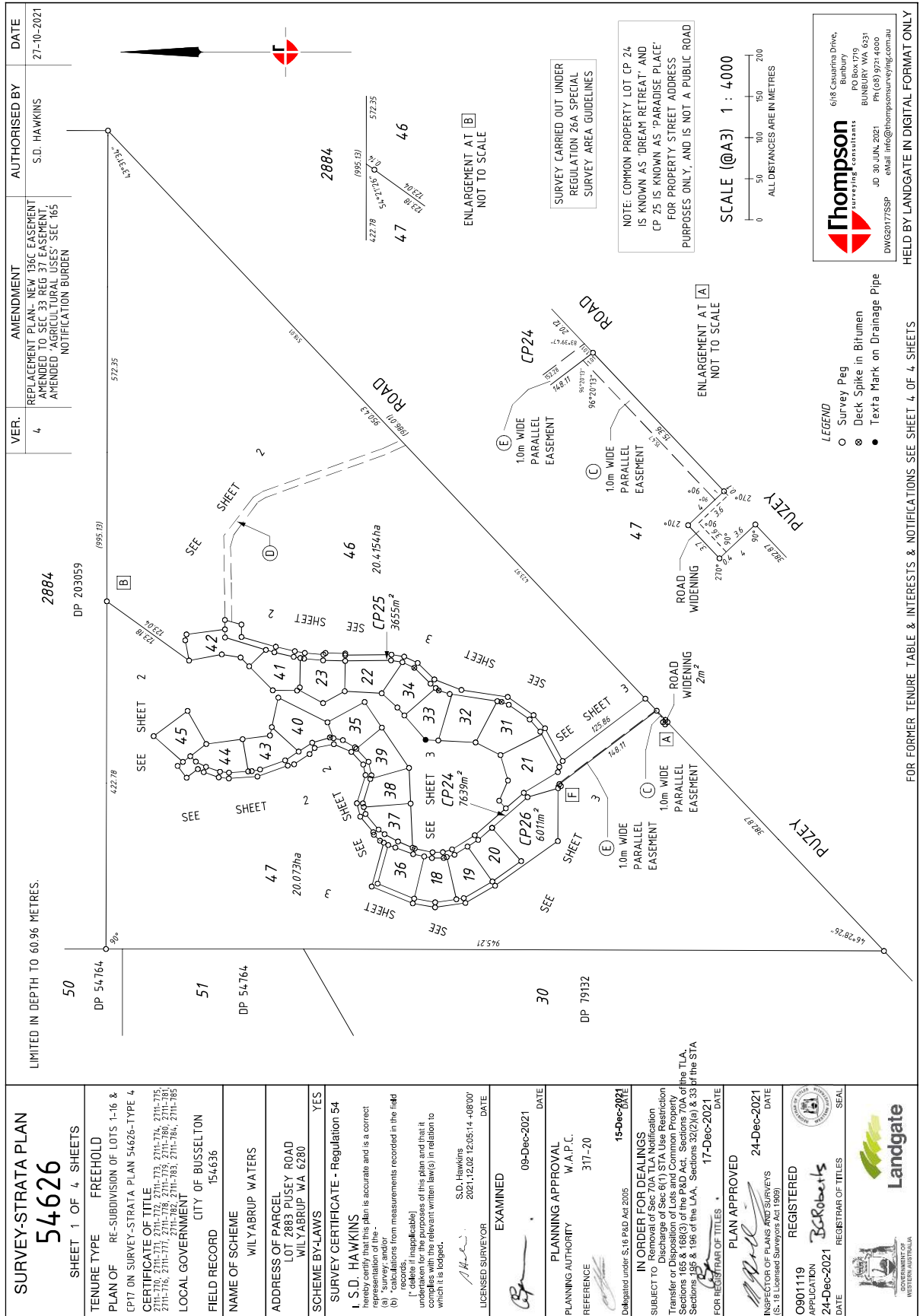
Date

Final Approval Granted

.....
HON. MINISTER FOR PLANNING

Date

APPENDIX A | SURVEY-STRATA PLAN 54626



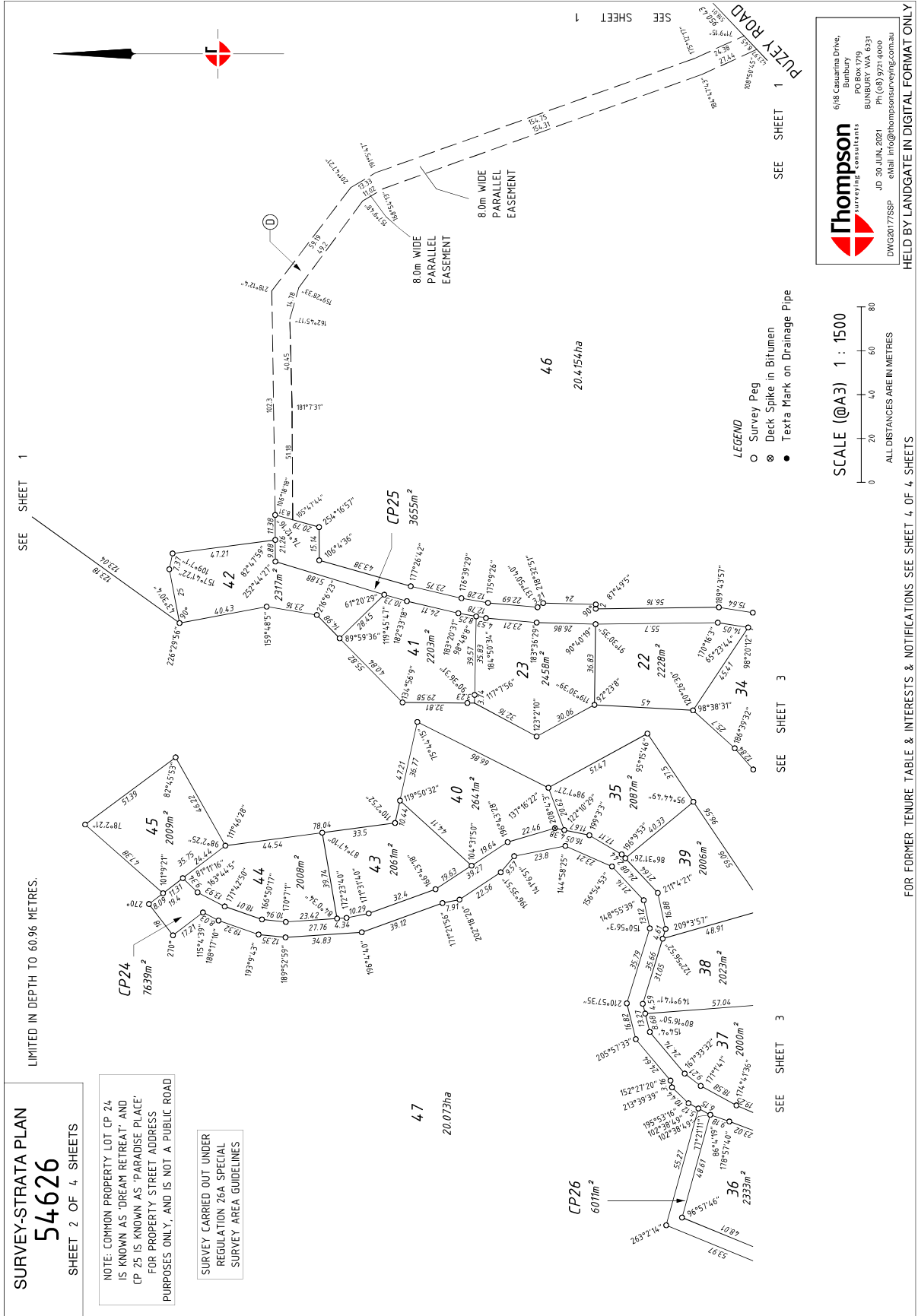
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LEGEND
 ○ Survey Peg
 ⊙ Deck Spike in Bitumen
 ● Texta Mark on Drainage Pipe

FOR FORMER TENURE TABLE & INTERESTS & NOTIFICATIONS SEE SHEET 4 OF 4, SHEETS

TENURE TYPE FREEHOLD PLAN OF RE-SUBDIVISION OF LOTS 1-16 & CP17 ON SURVEY-STRATA PLAN 54626-TYPE 4 CERTIFICATE OF TITLE 2711-170, 2711-171, 2711-172, 2711-173, 2711-174, 2711-175, 2711-176, 2711-177, 2711-178, 2711-179, 2711-180, 2711-181, 2711-182, 2711-183, 2711-184, 2711-185, 2711-186, 2711-187, 2711-188, 2711-189, 2711-190, 2711-191, 2711-192, 2711-193, 2711-194, 2711-195, 2711-196, 2711-197, 2711-198, 2711-199, 2711-200, 2711-201, 2711-202, 2711-203, 2711-204, 2711-205, 2711-206, 2711-207, 2711-208, 2711-209, 2711-210, 2711-211, 2711-212, 2711-213, 2711-214, 2711-215, 2711-216, 2711-217, 2711-218, 2711-219, 2711-220, 2711-221, 2711-222, 2711-223, 2711-224, 2711-225, 2711-226, 2711-227, 2711-228, 2711-229, 2711-230, 2711-231, 2711-232, 2711-233, 2711-234, 2711-235, 2711-236, 2711-237, 2711-238, 2711-239, 2711-240, 2711-241, 2711-242, 2711-243, 2711-244, 2711-245, 2711-246, 2711-247, 2711-248, 2711-249, 2711-250, 2711-251, 2711-252, 2711-253, 2711-254, 2711-255, 2711-256, 2711-257, 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2711-958, 2711-959, 2711-960, 2711-961, 2711-962, 2711-963, 2711-964, 2711-965, 2711-966, 2711-967, 2711-968, 2711-969, 2711-970, 2711-971, 2711-972, 2711-973, 2711-974, 2711-975, 2711-976, 2711-977, 2711-978, 2711-979, 2711-980, 2711-981, 2711-982, 2711-983, 2711-984, 2711-985, 2711-986, 2711-987, 2711-988, 2711-989, 2711-990, 2711-991, 2711-992, 2711-993, 2711-994, 2711-995, 2711-996, 2711-997, 2711-998, 2711-999, 2711-1000			
LOCAL GOVERNMENT CITY OF BUSSELLTON	FIELD RECORD 154636	NAME OF SCHEME WILYABRUP WATERS	ADDRESS OF PARCEL LOT 2883 PUSEY ROAD WILYABRUP WA 6280
SCHEME BY-LAWS YES	SURVEY CERTIFICATE - Regulation 54	I, S.D. HAWKINS hereby certify that this plan is accurate and is a correct representation of the: (a) land and/or (b) measurements from measurements recorded in the field records; (I, delete if inapplicable) undertaken for the purposes of this plan and that it complies with the relevant written law(s) in relation to which it is lodged.	
LICENSED SURVEYOR EXAMINED 	S.D. Hawkins 2021, 12, 02 12:05:14 +0800 DATE	PLANNING APPROVAL W.A.P.C. REFERENCE 317-20	DATE 09-Dec-2021
Delegated under S.16 P&O Act 2005 IN ORDER FOR DEALINGS SUBJECT TO Removal of Sec 70A TLA Notification Discharge of Sec 6(1) STA Use Restriction Transfer of DP 203059 to the Registrar of Titles Sections 165 & 166(3) of the P&O Act, Sections 70A of the TLA, Sections 195 & 196 of the LAA, Sections 32(2)(a) & 33 of the STA	FOR REGISTRAR OF TITLES DATE 17-Dec-2021	PLAN APPROVED 	DATE 24-Dec-2021
O901119 APPLICATION 24-Dec-2021 DATE	REGISTERED 	REGISTRAR OF TITLES SEAL	REGISTRAR OF TITLES SEAL

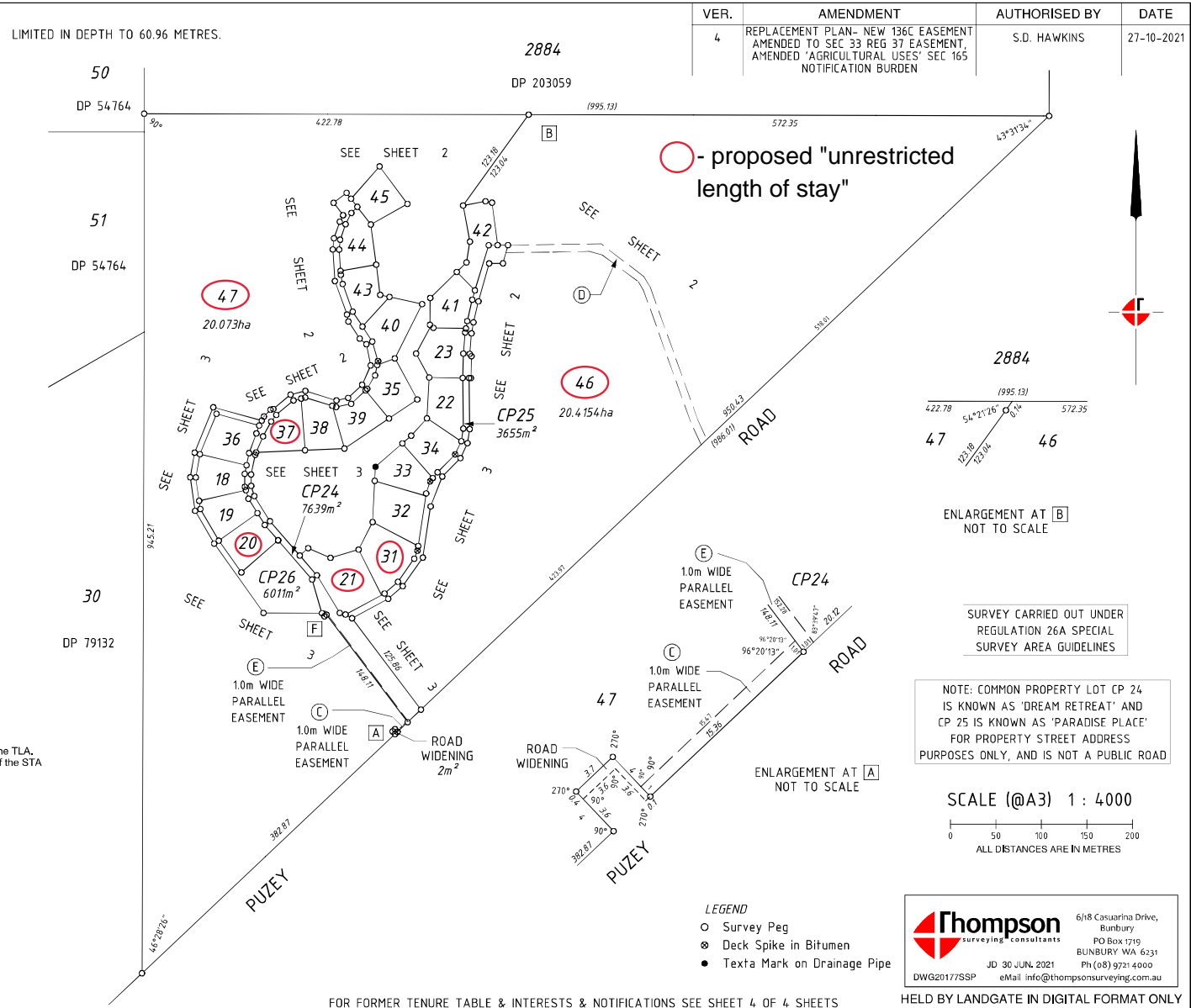




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<p>SURVEY-STRATA PLAN 54626 SHEET 1 OF 4 SHEETS</p>	
<p>TENURE TYPE FREEHOLD PLAN OF RE-SUBDIVISION OF LOTS 1-16 & CP17 ON SURVEY-STRATA PLAN 54626-TYPE 4 CERTIFICATE OF TITLE 2711-770, 2711-771, 2711-772, 2711-773, 2711-774, 2711-775, 2711-776, 2711-777, 2711-778, 2711-779, 2711-780, 2711-781, 2711-782, 2711-783, 2711-784, 2711-785 LOCAL GOVERNMENT CITY OF BUSSELTON FIELD RECORD 154636</p>	
<p>NAME OF SCHEME WILYABRUP WATERS</p>	
<p>ADDRESS OF PARCEL LOT 2883 PUSEY ROAD WILYABRUP WA 6280</p>	
<p>SCHEME BY-LAWS YES</p>	
<p>SURVEY CERTIFICATE - Regulation 54 I, S.D. HAWKINS hereby certify that this plan is accurate and is a correct representation of the - (a) "survey; and/or (b) "calculations from measurements recorded in the field records." (* delete if inapplicable) undertaken for the purposes of this plan and that it complies with the relevant written law(s) in relation to which it is lodged.</p> <p>S.D. Hawkins 2021.12.02 12:05:14 +08'00' LICENSED SURVEYOR DATE</p>	
<p>EXAMINED 09-Dec-2021 DATE</p>	
<p>PLANNING APPROVAL PLANNING AUTHORITY W.A.P.C. REFERENCE 317-20 15-Dec-2021 DATE Delegated under S.16 P&D Act 2005</p>	
<p>IN ORDER FOR DEALINGS SUBJECT TO Removal of Sec 70A TLA Notification Discharge of Sec 6(1) STA Use Restriction Transfer or Disposition of Lots and Common Property Sections 165 & 168(3) of the P&D Act, Sections 70A of the TLA, Sections 195 & 196 of the LAA, Sections 32(2)(a) & 33 of the STA 17-Dec-2021 DATE FOR REGISTRAR OF TITLES</p>	
<p>PLAN APPROVED 24-Dec-2021 DATE INSPECTOR OF PLANS AND SURVEYS (S. 18 Licensed Surveyors Act 1909)</p>	
<p>REGISTERED O901119 APPLICATION 24-Dec-2021 DATE REGISTRAR OF TITLES SEAL</p>	



Thompson surveying consultants
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Ph (08) 9721 4000
eMail info@thompsonsurveying.com.au
JD 30 JUN 2021
DWG2017/SSP

Attachment 5 – Schedule of Submissions
 PROPOSAL: AMD21/0054 – Lot 2883 (Strata Plan 54626) Puzey Road, Wilyabrup
 SUBMISSIONS CLOSE: 14 July 2023
 OFFICER: David Sands

Agency Submissions				
No.	Name and Address	Nature of Submission	Comment	Recommendation
1.	Department of Water and Environmental Regulation PO Box 261 Bunbury WA 6230	The Department has no comments to the proposal, in view that: <ul style="list-style-type: none"> • It is understood that the amendment seeks to rectify an anomaly, whereby residential development (or permanent stay) cannot be considered by the City of Busselton under the Local Planning Scheme for the subject land. 	Noted.	That the submission be noted.
2.	Department of Primary Industries and Regional Development Verschuer Place Bunbury WA 6230	The Department does not object to the proposed Scheme amendment No 54 to allow for unrestricted length of stay for the abovementioned lots.	Noted.	That the submission be noted.
3	Department of Health PO Box 8172 Perth Business Centre 6849	The DoH provides the following comment: 1. Water Supply and Wastewater Disposal <u>Potable Water</u> Potable water must be of the quality as specified under the Australian Drinking Water Guidelines 2011 (the Guidelines). For non-scheme water connected areas, the development is to have access to a sufficient supply of potable water that is of the quality specified under the Guidelines. The necessary requirements may downloaded from: http://ww2.health.wa.gov.au/Articles/A_E/Drinking-water-quality-management http://ww2.health.wa.gov.au/Articles/A_E/Drinking-water-guidelines-and-standards	Noted. Onsite wastewater requirements will be further assessed through the development application process in accordance with Government Sewerage Policy requirements.	That the submission be noted.

Attachment 5 – Schedule of Submissions
 PROPOSAL: AMD21/0054 – Lot 2883 (Strata Plan 54626) Puzey Road, Wilyabrup
 SUBMISSIONS CLOSE: 14 July 2023
 OFFICER: David Sands

		<p><u><i>On-Site Wastewater Disposal</i></u> Suitable provision for an adequate onsite effluent disposal area is to be accommodated in any planning approval. For onsite wastewater disposal systems to be approved, the site capability needs to be demonstrated to comply with the Government Sewerage Policy 2019, via a winter 'site-and-soil evaluation' in accordance with Australian Standard 1547 (AS/NZS 1547).</p> <p>The Site and soil evaluation for onsite wastewater management webpage has been updated based on Department of Water and Environmental Regulation, Planning and internal comments. Please use the updated version of each document: https://ww2.health.wa.gov.au/Articles/S_T/Site-and-soil-evaluation-for-onsite-wastewater-management</p> <p>The local Environmental Health Officer should be consulted about a proposal such as this amendment.</p>		
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[2021] WASC 29

JURISDICTION : SUPREME COURT OF WESTERN AUSTRALIA
IN CHAMBERS

CITATION : PENNOCK -v- CITY OF BUSSELTON [2021]
WASC 29

CORAM : ALLANSON J

HEARD : 21 DECEMBER 2020

DELIVERED : 12 FEBRUARY 2021

FILE NO/S : CIV 1888 of 2020

BETWEEN : ROWLAND CHARLES PENNOCK
First Applicant

ANNE MARIE PENNOCK
Second Applicant

AND

CITY OF BUSSELTON
Respondent

STUART LLOYD PHILLIPS
First Other Party

FIONA JANE PHILLIPS
Second Other Party

Catchwords:

Judicial review - Planning and development - Construction of local planning scheme - Where building height limit prescribed for special character area - Where provisions for special character area take precedence over any other

[2021] WASC 29

provisions of scheme - Whether building height limit subject to discretion to permit non-complying development

Judicial review - Discretion - Where application brought 18 months after decision - Whether explanation for delay - Whether remedy should be refused for unwarrantable delay

Legislation:

Nil

Result:

Application refused

Category: B

Representation:

Counsel:

First Applicant	: P G McGowan
Second Applicant	: P G McGowan
Respondent	: J Skinner
First Other Party	: P McQueen
Second Other Party	: No appearance

Solicitors:

First Applicant	: Williams & Hughes
Second Applicant	: Williams & Hughes
Respondent	: Thomson Geer - Perth
First Other Party	: Lavan
Second Other Party	: No appearance

Case(s) referred to in decision(s):

Australian Unity Property Ltd v City of Busselton [2018] WASCA 38; 237 LGERA 333

R v Commonwealth Court of Conciliation and Arbitration; Ex parte Ozone Theatres (Aust) Ltd [1949] HCA 33; (1949) 78 CLR 389

[2021] WASC 29

ALLANSON J

ALLANSON J:

Introduction

1 The applicants apply for judicial review of the decision of the City of Busselton to grant approval for a proposed development in Yallingup. The decision was made on 28 February 2019, under the City of Busselton Local Planning Scheme No 21. They seek remedies of certiorari and a declaration.

2 The proposed development is in an area known as the Yallingup Special Character Area for which special provision is made in sch 4 of the Scheme.

3 The applicants for judicial review are the registered proprietors of a property adjacent to the development.

4 The development application was made by Stuart Lloyd Phillips and Fiona Jane Phillips. Mr Phillips appeared as the other party in this action.

5 The City of Busselton appeared as the respondent to the application for judicial review.

6 The application is brought on the single ground that the respondent erred in law in granting development approval to a proposed development which exceeded 10 m above natural ground level when it had no power so to do by reference to cl 5.7.2 and sch 4 of the Scheme. The application was filed on 21 August 2020.

The evidence and submissions

7 The applicants relied on the affidavit of the first named applicant, Rowland Charles Pennock, sworn 21 August 2020.

8 The other parties relied on the affidavit of Stuart Lloyd Phillips, sworn 24 September 2020.

9 The City did not file evidence.

10 The factual issues related primarily to the question of the applicants' delay in bringing proceedings. The issue of validity of the development approval turned on the construction of the Scheme, and required no resolution of disputed facts.

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ALLANSON J

11 All parties filed written submissions and were heard on the application.

The development approval

12 The development approval was on an application by Mr and Ms Phillips, as owners of 39 Hammond Road, Yallingup, to build an over height single house with reduced setbacks on their land. The application was approved subject to conditions, including that the development 'shall be restricted to a maximum of 10.61 metres above the natural ground level'.¹

The legislative framework

13 The City of Busselton Local Planning Scheme No 21 is made pursuant to the *Planning and Development Act 2004* (WA).

14 Part 4 of the Scheme text sets out general development requirements.

15 Any development of land is to comply with the provisions of the Scheme.² By cl 4.2.2:

Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the R-Codes is to conform to the provisions of those Codes.

16 The Residential Design Codes or R-Codes are a State planning policy made under s 26 of the *Planning and Development Act*. The R-Codes apply to all residential development throughout Western Australia.³

17 Part 5 of the R-Codes provides for design elements that apply to single houses, and grouped and multiple dwellings in areas coded less than R40. The objectives of pt 5 include, relevantly, to ensure that development and design is appropriately scaled, particularly in respect to bulk and height, and is sympathetic to the scale of the street and surrounding buildings.

18 In preparing a local planning scheme, a local government is required to have due regard to the R-Codes, but a scheme may modify

¹ Affidavit of Rowland Charles Pennock, sworn 21 August 2020, RCP 2.

² Cl 4.1

³ R-Codes, cl 1.4.

ALLANSON J

their application.⁴ Clause 4.3 of the Scheme provides for variations and exclusions to the application of the R-Codes.

Special Control Areas

19 Part 5 of the Scheme text provides for special control areas shown on the Scheme map. By cl 5.1.2, 'the provisions applying to the special control areas apply in addition to the provisions applying to any underlying zone or reserve and any general provisions of the Scheme'.

20 Among the special control areas are those designated as a 'Special Character Area'. By cl 5.7:

5.7.1. The local government may devise development objectives, provisions and/or controls to reinforce, retain or change the characteristics, form and nature of a designated Special Character area, with such objectives, provisions and/or controls being specified in Schedule 4.

5.7.2 Where such objectives, provisions and/or controls are specified in Schedule 4 in relation to a designated Special Character area, those objectives, provisions and/or controls act in conjunction with the other provisions of this Scheme relevant to that area *with the exception that the provisions of Schedule 4 will take precedence over any other provisions of this Scheme.* (emphasis added)

21 Schedule 4 designates five areas as Special Character Areas, including the Yallingup Special Character Area. Item 2 of sch 4 sets out provisions that apply to subdivision and development within the Yallingup Special Character Area. Item 2(b) provides:

No residential development shall exceed a maximum height of 10 metres measured vertically from natural ground level at any point of the building except for Lot 105 Dawson Drive, which shall be limited to a maximum height that ensures that the building will not intrude into the skyline created by the dunal system when viewed from beach areas;

22 By cl 4.3.1(e):

All Special Character areas provided for in Schedule 4 and pursuant to clause 5.7 are excluded as necessary from the provisions of the R-Codes to the extent of any conflict between the standards set out in Schedule 4 and the R-Codes.

⁴ *Planning and Development Act s 77.*

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ALLANSON J

- 23 Clause 4.5 of provides for variations to site and development standards and requirements. In particular, by cl 4.5.1:

Except for development in respect of which the R-Codes apply, if a development is the subject of an application for development approval and does not comply with a standard or requirement prescribed under the Scheme (including a policy or plan adopted pursuant to the Scheme), the local government may, despite the noncompliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

- 24 At a general level, the question in this action is whether the City had a discretion to approve residential development that exceeded the maximum height prescribed in item 2, sch 4. The applicant did not contend that, if the City had that discretion, it exercised the discretion unreasonably or otherwise unlawfully.

Consideration

Construction principles

- 25 The principles relating to the construction of a scheme are not in doubt. They were recently restated by the Court of Appeal in *Australian Unity Property Ltd v City of Busselton*, where the court emphasised the imperative to give primacy to the language used, and said:

Context and purpose may affect the meaning of the language that Parliament has chosen to use. When the text is considered in its context, and having regard to the statutory purpose, it may be apparent that words are used with other than their ordinary meaning. The task of construction is not to make a fortress out of the dictionary. However, the meaning of the legislation must emerge from the statutory text, understood in its context and having regard to the statutory purpose being pursued.

In construing a planning scheme, it is also relevant to note that schemes are not usually drafted by Parliamentary counsel and are often expressed in terms which lack the precision of an Act of Parliament. Planning schemes should be construed broadly rather than pedantically and with a sensible practical approach. But the exercise remains one of identifying the objective meaning from a consideration of the legislative text, understood as a whole and in the context in which and purpose for which it was enacted.⁵

⁵ *Australian Unity Property Ltd v City of Busselton* [2018] WASCA 38; (2018) 237 LGERA 333 [83] - [84] (citation of authorities omitted).

[2021] WASC 29*ALLANSON J***The issues**

- 26 The critical issue is whether the maximum height limit in sch 4, item 2(b) excludes the general discretion to approve development despite non-compliance with the prescribed limit on building height. Clause 4.5.1 gives a local government power to approve an application, even where it does not comply with a standard or requirement prescribed under the Scheme. The City refers to the statement in cl 5.7.2 that the objectives, provisions and controls in sch 4 act in conjunction with the other provisions of the Scheme. But proper force should be given to the express provision in cl 5.7.2 that - as an exception to that general provision - the provisions of Schedule 4 take precedence over any other provisions of the Scheme.
- 27 It does not appear at all contentious that the height prescription in sch 4 takes precedence over that in cl 4.8.1, which provides for building height 'except where otherwise provided for in the Scheme'. Clause 5.7.2 is, however, of broader application and expressly provides for precedence over 'any other provision'. The precedence is not limited in any way, for example by reference to direct inconsistency. Nor is it helpful to distinguish between a development control and a provision 'mechanical in nature', as submitted by the other party.
- 28 The terms of cl 5.7.2 give the prescription of height limit in sch 4, Item 2(b), precedence over any other provision of the Scheme, and that includes precedence over the City's general power to approve development with a building height that does not comply with the provisions of the Scheme.
- 29 It was argued by the City that sch 4 and cl 4.8 operate together so that the 10 m limit in sch 4, item 2(b) is read into cl 4.8.1 and is subject to the specific discretion in respect to that clause that is provided in cl 4.8.3. Having regard to the Scheme text, that is not the way the provisions were intended to operate. Item 2(b) makes independent provision for the maximum height of a residential development in the Yallingup Special Character Area. It does not need to be read into cl 4.8, and is not subject to the discretion in cl 4.8.3 which applies 'in respect to' cl 4.8.1 and cl 4.8.2.
- 30 It was also argued on behalf of the City that to give the express provisions of sch 4 precedence, so that the standards for Special Character Areas were incapable of variation, would include commonly varied matters such as set-backs. The City submitted that, were that the

[2021] WASC 29

ALLANSON J

intention, it would have been noted in the Scheme. That, in my opinion, is what the Scheme has expressly done.

31 The error in the decision of the City is material and jurisdictional: the City had no power to approve a development application for a building height greater than 10 m.

The delay

32 Because of the delay in bringing the application, the applicants must obtain leave to proceed with the application.⁶ Quite apart from the limitation period prescribed by the Rules, the remedy of certiorari is discretionary, and the applicants' delay in seeking a remedy is a relevant factor to whether the discretion should be exercised in their favour.

33 The delay is long, and the explanation for it in the affidavit of Mr Pennock is inadequate.

34 Stephen Pennock, the applicants' son, is an architect. He corresponded with the City on their behalf during the development approval process. The decision to grant approval was made by the City on 28 February 2019, and notice of it was sent to Stephen Pennock but, apparently, he overlooked it.⁷

35 Mr Pennock says that he was first aware of the decision of the City on 1 May 2019.⁸

36 Stephen Pennock was provided with copies of the development approval plans on 9 May 2019.⁹

37 The applicants' first response was to discuss their concerns with the City, which agreed to review the development application.¹⁰ Between 29 May and 12 June 2019, the applicants corresponded with the City. The City agreed to conduct an independent review.¹¹

38 Mr Pennock also contacted Mr Phillips and asked him to consent to release of the survey plans.¹²

⁶ *Rules of the Supreme Court 1971* (WA) O 56 r 2(4).

⁷ Affidavit of Mr Pennock [19].

⁸ Affidavit of Mr Pennock [17].

⁹ Affidavit of Mr Pennock [21] - [22] and RCP 8.

¹⁰ Affidavit of Mr Pennock [23].

¹¹ Affidavit of Mr Pennock, RCP 10, RCP 12.

¹² Affidavit of Mr Pennock, RCP 11.

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39 By 14 June 2019, the applicants said they were obtaining legal advice.¹³

40 On 17 June 2019, and again on 19 August 2019, the applicants were advised that the City could not revoke development approval.¹⁴ They knew, or ought to have known, that they would need to act to set aside the approval.

41 Mr Pennock deposed that at no time during his correspondence with the City up to 19 August 2019 was he aware of his right to apply for judicial review, or aware of the limitation period.¹⁵ The applicants seemed, however, to be aware of legal options, writing to the other party on 18 June 2019 that they were considering options which 'may be costly for you and cause lengthy delays to the project'.¹⁶ This was in response to an email from Mr Phillips that he had been advised that to change his plans would require him to start again with regard to architectural and engineering fees.

42 On 8 August 2019, the applicants advised the City that they had sought advice and were giving notice that they would take steps to compel the City to stop the work.¹⁷

43 The applicants sought legal advice in August 2019 from the firm of Moharich & Moore.¹⁸ There were some delays caused by travel in late August and September 2019. In November 2019, the applicants instructed their solicitors to seek advice from counsel.¹⁹

44 For reasons not explained, the advice of counsel was not immediately obtained. Mr Pennock refers to correspondence with his solicitors regarding the briefing of a barrister to provide 'a further opinion'.²⁰ Because privilege has been claimed in relation to all the applicants' correspondence with their legal advisers, there is scant evidence before the court regarding the delay during this period.

¹³ Affidavit of Mr Pennock, RCP 10, 74

¹⁴ Affidavit of Mr Pennock, RCP 10, 65; RCP 16, 126.

¹⁵ Affidavit of Mr Pennock [42].

¹⁶ Affidavit of Mr Pennock, RCP 11, 77.

¹⁷ Affidavit of Mr Pennock, RCP 16, 128.

¹⁸ Affidavit of Mr Pennock [44] - [45].

¹⁹ Affidavit of Mr Pennock [29].

²⁰ Affidavit of Mr Pennock [55].

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ALLANSON J

45 A brief was provided to counsel on 28 February 2019, oral advice was apparently given in mid-March, and counsel's written advice was obtained on 27 March 2020.²¹

46 Mr Pennock then sought further advice through new solicitors, on 24 April 2020.²² Privilege having been asserted, the applicants do not explain why they sought a second opinion, other than by referring to 'inconsistency' in the opinions received.

47 Having obtained further advice on 10 June 2020, the applicants did not commence this action until 21 August 2020. In the interim, their solicitors corresponded with the City, including by giving notice of their intention to commence proceedings.²³

48 In effect, except perhaps for the period in which the applicants sought to have the City revoke its decision, the delay is not explained.

49 I would be prepared to excuse the delay while the applicants pursued other possible means of challenging the decision. But by 17 June 2019, the applicants had been advised that the City could not revoke its earlier decision.

50 Further, I am not satisfied that the applicants have been entirely open about when they first sought legal advice. But they were legally advised by August 2019 at the latest. They needed to take legal action, but did not do so for another year.

51 The other party refers to the prejudice caused by the delay. He does not contend the prejudice is gross, but it is real. In particular, the other party demolished the dwelling that was on the land between 23 March and 3 April 2020. That is more than six months after the applicants sought legal advice; more than a year after the decision giving approval.

52 The court will not readily refuse relief where it finds that a decision was made without power. But there is a well-established residual discretion to refuse to issue a writ of certiorari even where a jurisdictional error is established. The grounds for exercise of the discretion include where an applicant party has been guilty of 'unwarrantable delay': *R v Commonwealth Court of Conciliation and*

²¹ Affidavit of Mr Pennock [57] - [58].

²² Affidavit of Mr Pennock [59].

²³ Affidavit of Mr Pennock, RCP 19.

[2021] WASC 29

ALLANSON J

Arbitration; Ex parte Ozone Theatres (Aust) Ltd [1949] HCA 33; (1949) 78 CLR 389, 400.

53 What amounts to unwarrantable delay must depend on the particular facts. In the present case, on the facts set out above, the delay is long and inadequately explained.

54 The other party did not progress the development with any speed after the demolition. Like many projects, it was affected by the COVID-19 pandemic. But it is not for the other party to justify his delay.

55 There is no question of the City acting in bad faith or purporting to exercise a power or discretion which they knew was absent. The exchange of correspondence between officers of the City and the applicants discloses that the City officers believed the discretion to approve a non-complying development applied in the Special Character Areas. It is not an unreasonable construction of the Scheme, but it is not a construction I agree with.

56 In the circumstances, notwithstanding my findings on the absence of power to approve a non-complying development, I would refuse the relief sought by way of certiorari.


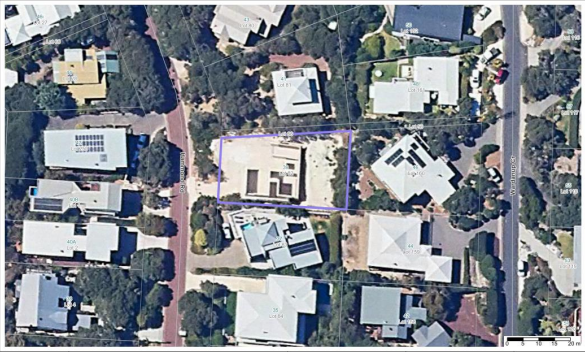


57 The remedy of a declaration is also at the discretion of the court. In the circumstances, where the approval will not be quashed, a formal declaration would be of no utility.

I certify that the preceding paragraph(s) comprise the reasons for decision of the Supreme Court of Western Australia.

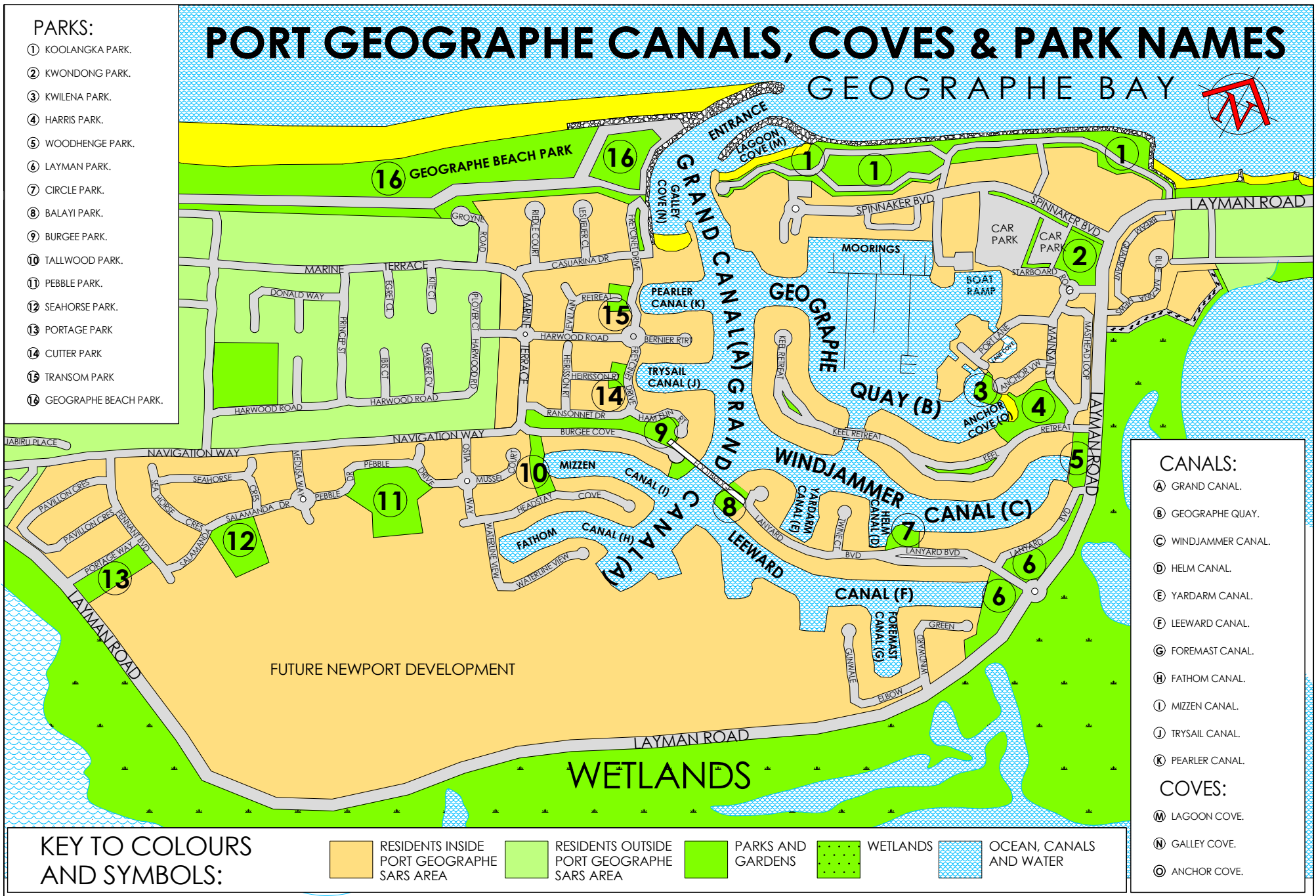
MG

Associate to the Honourable Justice Allanson

12 FEBRUARY 2021

ATTACHMENT B – Examples of Affected Properties	
Property and Application Details	Mapping
<p>SPECIAL CHARACTER AREA: Eagle Bay</p> <p>ADDRESS: 29 Carnarvon Castle Drive Eagle Bay</p> <p>REQUIREMENT: 20m front setback and 12m secondary setback</p> <p>PROPOSAL: reduced front and secondary street setbacks however all structures are contained within approved building envelope as per structure plan.</p> <p>OUTCOME: Application on hold while legal advice is sought as currently unclear whether discretion can be applied due to layering of controls (i.e – structure plan, local planning policy and Schedule 4).</p>	
<p>SPECIAL CHARACTER AREA: Yallingup</p> <p>ADDRESS: 39 Hammond Road Yallingup</p> <p>REQUIREMENT: 10m height requirement</p> <p>PROPOSAL: 10.61m height for portion of roof</p> <p>OUTCOME: Approved, however later subject to judicial review which found that while the City exercised discretion reasonably, also found discretion did not in fact exist.</p>	
<p>SPECIAL CHARACTER AREA: Quindalup</p> <p>ADDRESS: 1/188 Geographe Bay Road, Quindalup</p> <p>REQUIREMENT: 10m front setback</p> <p>PROPOSAL: demolish existing house currently at 6m setback and construct new dwelling at same 6m setback. Noted rear setback is constrained by existing dwelling at rear.</p> <p>OUTCOME: Application on hold while design is revised.</p>	
<p>SPECIAL CHARACTER AREA: Old Dunsborough</p> <p>ADDRESS: 4 Beach Rd, Dunsborough</p> <p>REQUIREMENT: 7.5m height limit</p> <p>PROPOSAL: Roof alterations from Dutch gable to gable roof resulting in small portion of roof exceeding 7.5m height limit by 500mm.</p> <p>OUTCOME: Revised plans lodged and subsequently approved. Applicant intends to lodge original plan when discretion re-introduced.</p>	
<p>SPECIAL CHARACTER AREA: Eagle Bay</p>	

<p>ADDRESS: 5 Kestrel St, Eagle Bay</p> <p>REQUIREMENT: All 'incidental development' set back 6m from rear boundary</p> <p>PROPOSAL: construction of below ground pool in north western corner with 1m setback.</p> <p>OUTCOME: Application withdrawn</p>	
<p>SPECIAL CHARACTER AREA: Yallingup</p> <p>ADDRESS: 1/48 Hammond Rd, Yallingup</p> <p>REQUIREMENT: site coverage of no greater than 40% of the lot area</p> <p>PROPOSAL: proposed site coverage of 45%, exceeding maximum by 23sqm.</p> <p>OUTCOME: Revised plans approved following consultation with City staff and redesign process.</p>	
<p>SPECIAL CHARACTER AREA: Quindalup</p> <p>ADDRESS: 204 Geographe Bay Road, Quindalup</p> <p>REQUIREMENT: front setback of 10m</p> <p>PROPOSAL: two grouped dwellings with proposed front setbacks of 7m and 5.5m respectively.</p> <p>OUTCOME: Revised plans approved following consultation with City staff and redesign process.</p>	



PGLOA Canals	Landgate	Alternative List One	Alternative List Two	Alternative List Three not in any preference Weston	Comments	Landgate Comments
Waterline Cove	Not accepted	Aqua Canal (Water in Latin)	Mussel Canal	Mika Maar - Moon wind	Not to nautical theme for the marina	
Gunwale Cove	Not accepted	Hull Canal (another word for Gunwale)	Foremast Canal	Mika - Moon	Not to nautical theme for the marina	
Burgee Cove	Not accepted	Coble Cove (traditional fishing boat)	Groyne Canal	Balayi - Look Out	Not to nautical theme for the marina	
Lanyard Canal	Not accepted	Vadium Canal (Gage in Latin)	Topmast Canal	Mikang - Moonlight	Not to nautical theme for the marina	
Keel Canal	Not accepted	Carina Canal (Keel in Latin)	Mooring Canal	Djinda - Star	Not to nautical theme for the marina	
Lanyard Cove	Not accepted	Gondola Cove (a small boat)	Tackle Canal	Djinda Maar - Starwind	Not to nautical theme for the marina	
Twine Cove	Not accepted	Dorey Cove (lightweight boat)	Yardarm Canal	Djidily Djoorabiny - Happy Grasshoppers	Not to nautical theme for the marina	
Freycinet East Cove	Not accepted	Trysall Cove (mast of a sailing vessel)	Helm Canal	Kwondong - Wild Peach	Park 2 - change from Marina	Park 2 - With regards to dual naming of dolphin, name proposed to be – Kwilena / Dolphin Park – we would not be supportive as all that this name is doing is offering the English translation which could be achieved through interactive signage. Our preferred name would be Kwilena Park. Additionally there is Dolphin Park West Busselton. To be considered to be named Koolangka Park - meaning Children.
Freycinet West Cove	Not accepted	Lugger Cove (a sailing vessel)	Chine Canal	Ngangk yira - Sunrise	Not to nautical theme for the marina	
Grand Canal	Accepted			Merrik - Enchantment	Not to nautical theme for the marina	
Marina Basin	Geographe Marina or Geographe Quay	Geographe Marina (preferred by Landgate)		Mangabitj - Mosquito	Park 10 - change from Tallwood Park	
Lagoon Cove	Accepted			Mardoo - Mouse	Not to nautical theme for the marina	
Anchor Cove	Accepted			Kerl - Boomerang	Not to nautical theme for the marina	
Deck Canal	Accepted			Booyi - Turtle	Not to nautical theme for the marina	
Sensation Cove	Accepted			Kaarlitj - noort - Dragonfly	Not to nautical theme for the marina	
PGLOA Parks	Landgate			Koona Moodji - Dung beetle	Not to nautical theme for the marina	
1. Spinnaker Park	Accepted	Koolangka - Children	Koolangka	Maambakort ngort - Seahorse	Not to nautical theme for the marina	
2. Marina Park	Accepted	Kwondong - Wild Peach	Kwondong	Maamang - Whale	Not to nautical theme for the marina	
3. Dolphin Park	Accepted	Dolphin Park - Kwilena (Dual naming)	Kwilena	Kwilena - Dolphin	Park 3 - Dual Naming	Kwilena Park
4. Keel Park	Accepted	Harris Park	information req	Yala - Prawn	Not to nautical theme for the marina	
5. Woodhenge Park	Accepted	Unchanged		Djilyara - Bees	Not to nautical theme for the marina	
6. Layman Park	Accepted	Unchanged		Minga - Insects	Not to nautical theme for the marina	
7. Circle Park	Accepted	Unchanged		Wooyan Kep - Blue Water	Not to nautical theme for the marina	
8. Footbridge Park	Accepted	Marina Park	Balayi	Kalang bidit - hot ants	Not to nautical theme for the marina	Balayi Park
9. Burgee Park	Accepted	Unchanged		Wandaberi - Conoe	Not to nautical theme for the marina	
10. Tallwood Park	Accepted	Mangabitj - Mosquito	Mangabitj	Kwooyer - Frog	Not to nautical theme for the marina	
11. Pebble Park	Accepted	Unchanged		Wgari - Salmon	Not to nautical theme for the marina	
12. Seahorse Park	Accepted	Unchanged		Koolangka - Children	Not to nautical theme for the marina	
13. Portage Park	Accepted	Unchanged		Kedelak-djet - Night flower	Not to nautical theme for the marina	
14. Cutter Park	Accepted	Unchanged		Mika - djet - Moon flower	Not to nautical theme for the marina	
15. Transom Park	Accepted	Unchanged		Bush Birds - Djerap		
				Wadjarlak - Red Wattle Bird	Not to nautical theme for the marina	
				Wooda - Common Bronzewing	Not to nautical theme for the marina	
				Waalitj - Wedge tailed Eagle	Not to nautical theme for the marina	
				Manitj - Western long billed Corella	Not to nautical theme for the marina	
				Maali - Black Swan	Not to nautical theme for the marina	
				Kaaka-baaka - Yellow billed spoonbill	Not to nautical theme for the marina	

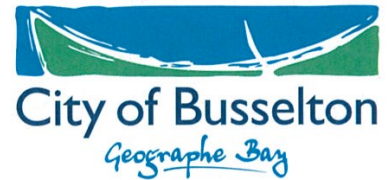
				Djakal-ngakal - Pink and Grey Galah	Not to nautical theme for the marina	
				Djer-djer - splendid fairy-wren	Not to nautical theme for the marina	
				Webb		
				Webb		
				Hill		
				Harris	Park 4 - from Keele Park	Park 4 – We don't support naming after families. The name will need to be assigned to one member of the Harris Family (or possibly 2 when for example a husband/wife, father/son combination where they are in reality not separate in their achievement). The name is also subject to the commemorative naming criteria of the Policy. Please provide more detail as we can provide in-principle support prior to you going to Council.
				Gabbi karnung - salt water		
				Carbern gidji - fishspear		
				Bumber - stingray		
				Cultur - Mullett		
				Buljan - Bream		
				Ealyark - Pilchard		
<p>Meeting held 7 November, attended by Peter Brinsden, Geoffrey Cocks and Darcy Buckle. 2 name changes emerged, Park 8 Balayi, Park 2 Koolangka these names to be taken back to to Committee. Then once agreed Jacquie will forward the selected names to Karie Karie for endorsement. Then Landgate to be consulted then a Council Report will be done this will now take place in early 2023.</p>						

As at 2 August 2023

TENDER INFORMATION	COUNCIL OR CEO DECISION	STATUS
<p>RFT09/23 GARDEN MAINTENANCE SERVICES Requirements – a Disability Services Enterprise to provide garden maintenance services. An exemption to the public advertising of tenders applies to Disability Services Enterprises under reg 11(2)(i) of the <i>Local Government (Functions and General) Regulations</i>.</p>	Council	Awarded at 26 July 2023 Ordinary Council Meeting.
<p>RFT10/23 ARBORICULTURE SERVICES Requirements – suitable contractor(s) to provide the City’s ongoing requirements for arboriculture services.</p>	Council	Advertised 14 June 2023, closed 6 July 2023 (6 tenders received). Included in the agenda of the August 2023 Ordinary Council Meeting.
<p>PQS05/23 PLANT AND EQUIPMENT HIRE Requirements – a panel of suppliers to provide the City’s ongoing requirements for plant and equipment</p>	CEO Delegated Authority	Advertised 10 June 2023, closed 4 July 2023 (31 applications received).
<p>RFQ39/23 STORMWATER PIPE RELINING Requirements – a suitable contractor to provide stormwater pipe relining services. An exemption to the public advertising of tenders applies to WALGA preferred suppliers under reg 11(2)(b) of the <i>Local Government (Functions and General) Regulations</i>.</p>	CEO Delegated Authority	WALGA preferred supplier scheme RFQ advertised 15 June 2023, closed 13 July 2023 (3 quotations received).
<p>RFT11/23 CHURCHILL PARK TURF Requirements – suitable contractor for the installation and maintenance of turf to Churchill Park.</p>	CEO Delegated Authority	Advertised 26 July 2023, closing 15 August 2023.

Your Ref:

Contact: Office of the Mayor
9781 0333



28 June 2023

Hon Roger H Cook

Premier: Minister for State and Industry Development, Jobs and Trade, Public Sector Management; Federal-State Relations

By email: wa-government@dpc.wa.gov.au

Dear Premier Cook,

APPOINTMENT AS PREMIER TO THE WESTERN AUSTRALIAN GOVERNMENT

On behalf of the City of Busselton, please accept our congratulations on your recent appointment as Premier of Western Australia.

We look forward to working with you and your Parliamentary colleagues to assist you in achieving your goals and aspirations for the residents of Busselton and the greater South West Region.

I would also like to take this opportunity to extend an invitation to you and the Cabinet to visit the City of Busselton where we would be honoured to host a future Regional Cabinet meeting at the Undalup Room at the Busselton Civic and Administration Centre.

Congratulations once again and I look forward to working with you in 2023 and keeping you updated with the City's future plans and projects.

Yours sincerely

A handwritten signature in black ink, appearing to read "G Henley".

Cr Grant Henley
MAYOR

All Communications to:

T (08) 9781 0444
E city@busselton.wa.gov.au

Locked Bag 1 Busselton WA 6280
www.busselton.wa.gov.au

***Where environment, lifestyle
and opportunity meet!***



Premier of Western Australia

Our Reference: 60-060723/MLU

Cr Grant Henley
Mayor
City of Busselton
C/O corne.lombard@busselton.wa.gov.au

Dear Cr Henley *Grant,*

Thank you for your letter regarding my recent appointment as the 31st Premier of Western Australia.

I am proud and honoured to be leading a strong Labor Cabinet team and be in the position to continue to govern this wonderful state.

Our experienced team will continue to deliver on the positive and responsible platform Western Australians voted for in 2021.

I look forward to addressing the challenges ahead and will continue to work hard to ensure the future success of the State in the years to come.

Once again, thank you for your support.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Roger Cook'.

ROGER COOK MLA
PREMIER

18 JUL 2023

2 Havelock Street, West Perth, Western Australia 6005
Telephone: +61 8 6552 5000 Facsimile: +61 8 6552 5001 Email: WA-Government@dpc.wa.gov.au
www.premier.wa.gov.au

City of Busselton	
CIO ID	
13 JUL 2023	
Property ID	Doc ID
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City of Busselton	

LGE 282

WESTERN AUSTRALIAN
Electoral Commission

Mr Tony Nottle
Chief Executive Officer
City of Busselton
Locked Bag 1
BUSSELTON WA 6280

Dear Mr Nottle

Councillor vacancy remain unfilled

I refer to your letter of 22 May 2023 advising of the resignation of Councillor Grant Henley effective 21 October 2023, therefore creating a vacancy on the council.

You indicated that council has requested permission for the vacancy to remain unfilled until the next ordinary election in October 2023.

Approval is given under section 4.16(4) of the *Local Government Act 1995* to defer filling this vacancy until the next ordinary local government elections.

If you have any further queries please contact Mr Phil Richards, Manager, Election Events on 9214 0443.

Yours sincerely

Robert Kennedy
ELECTORAL COMMISSIONER

10 July 2023

185032

Level 2, 111 St Georges Terrace PERTH WA 6000
GPO Box F316 PERTH WA 6841

T | (08) 9214 0400
F | (08) 9226 0577

E | waec@waec.wa.gov.au
W | www.elections.wa.gov.au



As at 27 July 2023

APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
CITY OF BUSSELTON						
Amber Cloud Pty Ltd v City of Busselton (DR 231/2021)	Lot 101 Wilyabrup Road, Wilyabrup	November 2021	Review of a decision to refuse or conditionally grant an application under a planning scheme (Single House)	<ul style="list-style-type: none"> • Directions hearing on the 12 November 2021 against the decision of the City to refuse a development application. The matter is listed for Mediation on 7 February 2022. • Mediation on 7 February 2022 where it was resolved that: <ul style="list-style-type: none"> - Additional information would be submitted to the City by 22 March; - Mediation listed for 5 April 2022. • Mediation on 5 April 2022 where it was resolved that: <ul style="list-style-type: none"> - Applicant to provide amended application on or before 8 July 2022; - Mediation scheduled 22 July 2022; - Respondent (the City) to reconsider on or before 18 November 2022; - Listed for directions hearing 25 November 2022. • Mediation on 22 July 2022 where it was resolved that: <ul style="list-style-type: none"> - Applicant to provide an updated suite of documents on or before 12 August 2022; - By 16 September 2022 the respondent is to provide to the applicant respondent comments and any referral agency comments; - Mediation is adjourned to 20 September 2022; - Respondent to reconsider on or before 18 November 2022; and - Listed for directions hearing 25 November 2022. • Mediation on 20 September 2022: <ul style="list-style-type: none"> - Applicant to provide an updated suite of documents on or before 4 October; - Mediation adjourned to 20 October 2022; - Respondent to reconsider on or before 18 November 2022; • Mediation listed for 20 October 2022 is vacated and relisted for 4 November 2022. The time to comply with the orders above to submit updated information is extended to 18 October 2022. • Mediation listed for 4 November was vacated and the following orders affirmed: <ul style="list-style-type: none"> - Respondent (the City) to reconsider on or before 18 November 2022; - Listed for directions hearing 25 November 2022. • Directions hearing on 25 November was vacated and the following orders affirmed: <ul style="list-style-type: none"> - Respondent (the City) to reconsider on or before 23 December 2022; - Listed for directions hearing on 9 December 2022. • Directions hearing on 9 December 2022 was vacated and the 	Directions Hearing on 25 August 2023.	

APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
				following orders affirmed: <ul style="list-style-type: none"> - Respondent (the City) to reconsider on or before 23 December 2022; - Listed for directions hearing on 3 February 2023. • Directions hearing on 3 February 2023 was vacated and relisted for directions hearing on 24 February 2023. • Directions hearing on 24 February 2023 was vacated and relisted for directions hearing on 17 March 2023. • Directions hearing on 17 March 2023 was vacated and relisted for directions hearing on 5 May 2023. • Directions hearing on 5 May 2023 was vacated and the following orders affirmed: <ul style="list-style-type: none"> • Respondent (the City) to reconsider on or before 16 June 2023; • Listed for directions hearing on 23 June 2023. • At the Directions hearing on 23 June 2023, it was ordered that: <ul style="list-style-type: none"> • The Applicant file any amended plans by 30 June 2023; • The Respondent file a statement of issues, facts and contentions (SIFC); and a statement of the reasons for the decision with supporting documents; • The Applicant to file a SIFC by reference to the Respondent's SIFC; and • Listed for directions hearing on 25 August 2023. 		
Silverlodge Pty Ltd v City of Busselton (CC 1054/2022)	585 Caves Rd Marybrook	August 2022	Review of a decision under the Caravan Parks and Camping Grounds Act 1995.	<ul style="list-style-type: none"> • Directions hearing listed for 23 September 2022 against the City reducing the number of licenced sites. • Directions hearing on 23 September 2022 was vacated and listed for a mediation on 18 October 2022. • Mediation on 18 October 2022: <ul style="list-style-type: none"> - Mediation adjourned to a further mediation on 17 November 2022. • Mediation on 17 November 2022 was vacated. Mediation listed for 22 December 2022. • Mediation on 22 December 2022: <ul style="list-style-type: none"> - Listed for a directions hearing on 31 January 2023. • Directions hearing on 31 January 2023 was vacated. Directions hearing on 3 March 2023 • Listed for directions hearing on 2 May 2023 • Directions hearing on 2 May 2023 was vacated. Relisted for a further directions hearing on 6 June 2023. • Listed for further directions hearing on 18 July 2023. • Directions hearing on 18 July 2023 was adjourned. Relisted for a further directions hearing on 29 August 2023. 	Directions Hearing on 29 August 2023	

APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
Happ & Anor v City of Busselton (DR 159/2022)	575 Commonage Road Quindalup	September 2022	Review of a direction by the City to stop and not recommence a development and to restore land to its state prior to the development	<ul style="list-style-type: none"> • Directions hearing listed for 14 October 2022. • Mediation listed for 1 November 2022 and further directions hearing on 4 November. • Mediation on 1 November referred to further mediation on 13 December 2022. Directions Hearing listed for 4 November vacated. • Direction hearing on 13 December 2022: <ul style="list-style-type: none"> • Orders that a further directions hearing take place on 20 January 2023. - Directions hearing on 20 January 2023 was vacated and re-listed for 3 March 2023. • Directions hearing on 3 March 2023: <ul style="list-style-type: none"> - By 14 April 2023 the parties have leave to file with the Tribunal and exchange any evidence expert or otherwise. - Further Directions hearing to take place on 28 April 2023 • Directions hearing on 28 April 2023 was vacated and re-listed for 4 August 2023 (to enable the City to assess a recently received development application) 	Directions Hearing on 4 August 2023	
Happ & Anor v City of Busselton (DR 197/2022)	575 Commonage Road Quindalup	November 2022	Review of direction 214(2) by the City	<ul style="list-style-type: none"> • Planning (General) Directions hearing listed for 25 November 2022. • Directions hearing on 25 November 2022 was vacated and listed for mediation on 13 December 2022. • Direction hearing on 13 December 2022: <ul style="list-style-type: none"> • Orders that a further directions hearing take place on 20 January 2023. • Directions hearing on 20 January 2023 was vacated and re-listed for 3 March 2023. • Directions hearing on 3 March 2023: <ul style="list-style-type: none"> - By 14 April 2023 the parties have leave to file with the Tribunal and exchange any evidence expert or otherwise. • Further Directions hearing to take place on 28 April 2023 • Directions hearing on 28 April 2023 was vacated and re-listed for 4 August 2023 (to enable the City to assess a recently received development application). 	Directions Hearing on 4 August 2023	
Forrest v City of Busselton (DR 101/2023)	Ludlow Park Road, Ludlow	June 2023	Review of a decision to refuse or conditionally grant an application under a planning scheme (Industry - Extractive)	<ul style="list-style-type: none"> • Directions hearing listed for 7 July 2023 • Listed for Mediation on 9 August 2023 	Mediation on 9 August 2023	
REGIONAL JOINT DEVELOPMENT ASSESSMENT PANEL						
NIL						

APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
NIL						



Our Ref: AMD21/0052 & DP22/0001
Your Ref: TPS/2943 & SPN/2342
Contact:

12 July 2023

Mr David Caddy
Statutory Planning Committee, Western Australian Planning Commission
Locked Bag 2506
Perth WA 6001

committees@dplh.wa.gov.au

Dear David

RE: DUNSBOROUGH PRECINCT STRUCTURE PLAN AND ASSOCIATED AMENDMENT NO. 52

I write as Mayor of the City of Busselton on behalf of the City of Busselton Council in relation to the Dunsborough Precinct Structure Plan (DPSP) and associated Amendment No. 52 to the City of Busselton Local Planning Scheme No. 21 currently with the Department of Planning, Lands and Heritage who will provide a recommendation for the Western Australian Planning Commission's for consideration. I understand it will soon be listed on the agenda of the Statutory Planning Committee and submit this letter as a submission in support of the DPSP and associated Amendment 52.

At its Ordinary Council meeting of 25 May 2022 the City of Busselton Council resolved to adopt the draft DPSP for advertising, along with Amendment 52, after making what it considered to be important changes to reflect the character desired by the Dunsborough community for its town centre.

A Precinct Structure Plan should aim to reflect the existing or desired future character of the local area. Defining the character of Dunsborough and the Dunsborough town centre is not a difficult task for the local community. When asked this question the same key words come up time and time again - Low-key; Coastal; Village. These words reflect the character that Dunsborough residents value for their community, for tourism, and want to preserve.

Respecting the community's vision for their town centre, the Council made a fundamental change to the DPSP and Amendment 52 - to change height controls from the proposed R-AC0 (four and five storeys) to R-AC4 (three storeys). Character is defined in the R-Codes as an important aspect of local identity, created through the combined effect of the following attributes:

1. The height, scale, setback, style and condition of existing buildings.
2. Land-uses and street based activity.
3. The physical form of the street including width and function, verges and footpaths.
4. Landscaping of the public and private realms.

Council considers that restricting building heights is imperative to preserving the desired character of the Dunsborough town centre.

All Communications to:

T (08) 9781 0444 Locked Bag 1 Busselton WA 6280
E city@busselton.wa.gov.au www.busselton.wa.gov.au

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The Dunsborough community holds widespread concern over the height, scale and bulk of developments in excess of three storeys in the town centre of Dunsborough. They have clearly and consistently expressed their opposition to any proposed large-scale, mixed-use apartment buildings in the town centre over three storeys in height; with recent development applications for two large scale apartment buildings on Dunn Bay Road resulting in the community lodging hundreds of responses against the height, scale and bulk of the developments to JDAP.

The advertised DPSP and Amendment 52, with the restriction on height to three storeys received strong levels of support from the community, and was adopted by Council at its Ordinary Council meeting of 21 December 2022, with further amendments to accurately reflect the principle objectives, vision and outcomes desired overall by the community submissions.

As set out in its objectives, the final adopted DPSP aims to achieve built form and landscape design that retains and enhances the unique village character and lifestyle value of the Dunsborough town centre. Council appreciates the growth of Dunsborough and its surrounds as inevitable and overall positive, and acknowledges a need to consider density and return on investment for new development proposals. It also believes that growth needs to be appropriately planned for and that density in development of up to three storeys, such as the experience in other three storey or height controlled coastal towns, (such as Margaret River, Byron Bay, Port Douglas and Noosa), should produce a satisfactory financial return while retaining the desired village character and lifestyle value of the town centre. It is after all this character that attracts people to live, visit and invest in Dunsborough, and it is this character that our community are so passionate about maintaining.

As stated in the adopted DPSP:

"In 2032, the Dunsborough Town Centre will be recognised as the premier seaside town in the South West Region that reflects an aesthetic that blends the beach and bush within an attractive human scaled village setting.

To effectively implement the vision developed in the PSP, the following direction statements have been prepared and are recommended:

- *Pedestrian accessibility will be afforded high priority.*
- *Connections between the Town Centre and Foreshore, and between the Town Centre and Dunsborough Lakes, will be improved.*
- *Delivery of additional car parking spaces, generally at the periphery of the Town Centre.*
- *Additional public spaces and alfresco dining areas will be developed.*
- *Additional street trees and landscaping will be provided and the management of environmental assets, including Dugalup Brook, improved.*
- *Building height will be relatively low-rise to maintain the character and coastal village atmosphere.*
- *Additional community events, markets and place-making will be supported."*

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The City of Busselton Council believes the DPSP and associated Amendment 52 before you will achieve this vision and result in the best outcome for Dunsborough as a premier State tourist destination. Therefore, on behalf of the Council I urge you to accept for final approval the DPSP and Amendment 52 as adopted by Council.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Grant Henley", written over a horizontal line.

Grant Henley
MAYOR, CITY OF BUSSELTON

All Communications to:

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E city@busselton.wa.gov.au

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www.busselton.wa.gov.au

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Our ref: TPS/2943
Enquiries: Cate Gustavsson (9892 7311)

Mayor Grant Henley
City of Busselton
Locked Bag 1 Busselton, WA 6280
Via eacouncil@busselton.wa.gov.au

Dear Grant

DUNSBOROUGH PRECINCT STRUCTURE PLAN AND ASSOCIATED AMENDMENT NO.52

Thank you for your letter of 12 July 2023 regarding the above matter.

I can advise that the Department of Planning, Lands and Heritage is currently assessing Amendment 52 to the City of Busselton Local Planning Scheme No. 21 and the associated Dunsborough Town Centre Precinct Structure Plan.

The Department will provide a recommendation on Amendment 52 to the Western Australian Planning Commission (WAPC). The Department is currently giving detailed consideration including building height and massing (bulk and scale), local character, public amenity, and the planning context applicable to Dunsborough as part of drafting its recommendations.

The WAPC will consider the Amendment prior to it being forwarded to the Minister for Planning for determination. The WAPC will consider both the issues raised in the submissions, and the City of Busselton's recommendations as outlined in your letter.

Regarding structure planning, the WAPC has sole responsibility for the consideration and approval of the related draft Precinct Structure Plan for the Dunsborough Town Centre. The Precinct Structure Plan is being assessed concurrently with Amendment 52, however, the final determination on the Precinct Structure Plan will be held until the Minister makes a determination on Amendment 52.

Given the complexity of the draft amendment and structure plan, it is anticipated that both will be presented to the WAPC for consideration in September 2023.

Yours sincerely

A handwritten signature in black ink, appearing to read "D. Caddy".

David Caddy
Chairman
Western Australian Planning Commission

3 August 2023

Postal address: Locked Bag 2506 Perth WA 6001 Street address: 140 William Street Perth WA 6000
Tel: (08) 6551 8002 info@dplh.wa.gov.au www.dplh.wa.gov.au
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2021 – 2023 OUTSTANDING COUNCIL RESOLUTION ACTIONS (organisational)				
OFFICE OF THE CEO				
Meeting Date	Subject	Responsible Officer	Resolution	Comments
25/01/2023	LOCALITY BOUNDARY AMENDMENT - VASSE/KEALY	Tony Nottle	<p><u>COUNCIL DECISION</u></p> <p>C2301/007</p> <p>That the Council, in relation to the proposed locality boundary realignment between Vasse and Kealy as depicted in Attachment A:</p> <ol style="list-style-type: none"> 1. acknowledge the community consultation process undertaken in accordance with the <i>Policies and Standards for Geographical Naming in Western Australia</i> and the final result of the survey being 82% support of total people surveyed as summarised in Attachment B; and 2. endorse the alignment proposed and request the Chief Executive Officer to provide a submission to the Minister for Lands requesting the amendment. 	<p>Action completed</p> <p>Letter and copies of engagement report and minutes requesting the amendment have been sent to Landgate.</p> <p>Landgate have written to the City confirming the request has been approved – formal letter to follow.</p>

FINANCE AND CORPORATE SERVICES				
Meeting Date	Subject	Responsible Officer	Resolution	Comments
8/12/2021	Audit and Risk Committee - 18/11/2021 - 2021 OFFICE OF AUDITOR GENERAL CYBER SECURITY AND GENERAL COMPUTER CONTROLS AUDIT	Allingham, Tim	<p><u>COUNCIL DECISION</u></p> <p>C2112/111</p> <p>That the Council:</p> <ol style="list-style-type: none"> 1. Notes the 2021 Office of Auditor General Information System Audit findings for the Information Systems and Cyber Security audits as per the attached documentation; and 2. Receives an update report on the implementation of Office of Auditor General recommendations as part of the 2022 interim audit report. 	<p>Action completed.</p> <p>An in-depth Auditor General Information Systems audit is underway currently, and will be reported in lieu of performing an interim review of last year's results.</p>
11/05/2022	Busselton Jetty Inc. Jetty Village Proposal	Woodford-Jones, Sharon	<p><u>COUNCIL DECISION</u></p> <p>C2205/099</p> <p>That the Council resolve to:</p> <ol style="list-style-type: none"> 1. Support the proposed Busselton Jetty Village project as outlined in this report ("Village Project"); and 2. Delegate power and authority to the Chief Executive Officer to negotiate and enter into a legal agreement with Busselton Jetty Inc. to formalize the arrangements for the delivery and operation of the Village Project, in accordance with the terms and conditions outlined in this report and subject to the approval of the Minister for Lands and the Department of Transport. 	<p>The Jetty Village concept will be significantly varied, therefore progression of the licence variation – which was agreed between the parties – is on hold.</p>

<p>11/05/2022</p>	<p>LEASING ARRANGEMENTS - GOOSE SITE LOT 432 FORESHORE PARADE</p>	<p>Strang, Ann</p>	<p><u>COUNCIL DECISION</u></p> <p>C2205/100</p> <p>That the Council:</p> <ol style="list-style-type: none"> 1. Resolves to surrender the special lease (I126938) dated 11 February 1993 between the City of Busselton and the State of WA, subject to a new head lease being granted in accordance with recommendation 2 and the Minister of Lands consent to recommendation 3 and 4. 2. Resolves to enter into a lease with the State of WA in relation to Lot 432, 15 Foreshore Parade, Busselton on the following terms and conditions: <ol style="list-style-type: none"> (a) Term of 50 years; (b) Rent commence at \$1,000 plus GST per annum; (c) Permitted purpose: Tavern/Restaurant/Café and other incidental uses; (d) Such further terms and conditions as agreed upon pursuant to recommendation 5. 3. Resolves to accept the surrender of the sublease (N202152) dated 3 January 2016 by Q & Z Group Pty Ltd (ACN 607 622 695) as trustee for the Qi & Eng Family Trust surrendering, subject to the Minister for Lands consent and a new Sublease being granted and entered into in accordance with recommendation 4. 4. Resolves to enter into a sublease subject to the Minister for Lands consent, with Q & Z Group Pty Ltd (ACN 607 622 695) as trustee for the Qi & Eng Family Trust for the whole of Lot 432, 15 Foreshore Parade, Busselton on the following terms and conditions: <ol style="list-style-type: none"> (a) Term up to 49 years and 11 months; (b) Rent \$50,546.02 exclusive of GST with a rent free period of up to 12 months; (c) rent to be reviewed annually on each anniversary in accordance with CPI, with market rent reviews to be undertaken every 5 years; (d) Permitted purpose: Tavern/Restaurant/Café and other incidental uses; (e) Such further terms and conditions as agreed upon pursuant to recommendation 5. 5. In respect to recommendations 2 and 4, delegates power and authority to the Chief Executive Officer to: <ol style="list-style-type: none"> (a) Negotiate and agree with the State of WA the further terms and conditions of the Head Lease as outlined in this report; and (b) Negotiate and agree with Q & Z Group Pty Ltd (ACN 607 622 695) as trustee for the Qi & Eng Family Trust the further terms and conditions of the sublease as outlined in this report. 	<p>The City has received the draft Head Lease from Department Planning, Lands and Heritage (DPLH). Officers have reviewed and returned the draft to DPLH with feedback and request for some minor adjustments. The City is unable to finalise the Sublease until the Head Lease is agreed.</p> <p><u>Still in progress – refer update below</u></p> <p>The DPLH have now reviewed the City's feedback on the draft Head Lease and have provided the City with an updated Head Lease for review.</p> <p>Item 7 to 9 of the resolution is now complete. The Tenants have resumed with rent payments based on their</p>
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			<p>6. Resolves to advertise the proposed disposition of property in accordance with section 3.58 of the Local Government Act 1995 for the terms and conditions outlined in this report and, if there are no objections, authorise the CEO to enter into a sublease in accordance with recommendation 4.</p> <p>7. Endorse to waive \$28,969.87 exclusive of GST from existing debt owed by Q & Z Group Pty Ltd (ACN 607 622 695) as trustee for the Qi & Eng Family Trust as rent relief for the period 1 April 2021 to 31 May 2021.</p> <p>8. Grants a discount of 50% rent relief to Q & Z Group Pty Ltd (ACN 607 622 695) as trustee for the Qi & Eng Family Trust as rent relief for the period 1 June 2021 to 30 October 2022.</p> <p>9. Grants Q & Z Group Pty Ltd (ACN 607 622 695) as trustee for the Qi & Eng Family Trust a rent free period commencing 1 November 2022 and expiring the earlier of (i) 30 October 2023 or (ii) the issue of Certificate of Completion.</p>	existing sublease agreement.
22/06/2022	VASSE COMMUNITY GARDENS AND VASSE AND DISTRICTS COMMUNITY CENTRE APPLICATION TO LEASE	Strang, Ann	<p><u>COUNCIL DECISION</u></p> <p>C2206/136</p> <p>That the Council:</p> <p>1. Endorse the excision of Lot 505, Deposited Plan 57391 from Crown Reserve 48251 for the creation of a new reserve designated for the purpose of “Recreation Trail, Recreation and Community” with power to lease or licence for any term not exceeding 21 years subject to consent of the Minister for Lands.</p> <p>2. Subject to recommendation 1 being implemented, resolves to enter into a lease, subject to the consent of the Minister for Lands, with Vasse Community Garden Inc (ABN 72 744 783 620) for a portion of Lot 505 on Deposited Plan 57391, Volume LR3159 Folio 873, Vasse as shown outlined blue on Attachment B, on the following terms and conditions:</p> <p>(a) The term of the lease to be 5 years with a 5 year option;</p> <p>(b) The rent to commence at \$240.00 inclusive of GST per annum and increased by \$5.00 on each anniversary;</p> <p>(c) A requirement for the Tenant establish and maintain a contingency fund for the purpose of asset management and capital improvements to the Premises; and</p> <p>(d) all costs associated with the preparation of the lease are to be met by the Tenant.</p> <p>3. Subject to recommendation 1 being implemented, resolves to enter into a lease, subject to the consent of the Minister for Lands, with Vasse and Districts Community Centre Inc (ABN 13 603 005 663) for a portion of Lot 505 on Deposited Plan 57391, Volume LR3159 Folio 873, Vasse as shown outlined red on Attachment C, on the following terms and conditions:</p> <p>(a) The term of the lease to be 5 years with a 5 year option;</p>	<p>A request was submitted to the Department Planning, Lands and Heritage (DPLH).</p> <p>The new management order was issued by Landgate in April.</p> <p>Both parties have been advised that the lease agreements can now be finalised.</p> <p>Not finalised.</p>

			<p>(b) The rent to commence at \$240.00 inclusive of GST per annum and increased by \$5.00 on each anniversary;</p> <p>(c) A requirement for the Tenant establish and maintain a contingency fund for the purpose of asset management and capital improvements to the Premises, and</p> <p>(d) all costs associated with the preparation of the lease are to be met by the Tenant.</p>	
22/06/2022	<p>PROSPECTIVE ACQUISITION BY CITY OF BUSSELTON OF LOT 100 SUES ROAD, YALYALUP FOR COMMUNITY PURPOSES</p>	<p>Botha, Cobus</p>	<p>COUNCIL DECISION</p> <p>C2206/172</p> <p>That the Council:</p> <p>1. Delegates power and authority to the Chief Executive officer to negotiate and enter into the following agreements with Cable Sands Pty Ltd in respect of Lot 100 Sues Road, Yalyalup (Property), substantially in accordance with the terms and conditions detailed in this report:</p> <p>(a) A contract of sale for acquisition of the Property by the City of Busselton; and</p> <p>(b) A lease of the Property, allowing Cable Sands Pty Ltd to continue mining operations on the Property and providing for staged handover of rehabilitated mining areas to the City.</p> <p>2. In respect of the proposed lease in resolution 1(b), delegates power and authority to the Chief Executive Officer to comply with and complete the public notice process under section 3.58(3) of the Local Government Act 1995.</p>	<p>Negotiations continuing.</p>

15/03/2023	Audit and Risk Committee - 8/3/2023 - OAG General Computer Controls Audit 2022	Allingham, Tim	<p><u>COUNCIL DECISION</u></p> <p>C2303/046</p> <p>That the Council:</p> <ol style="list-style-type: none"> 1. Acknowledge the findings identified in the audit report; 2. Acknowledge the register of actions being undertaken to mitigate the findings; and 3. Acknowledge that the CEO will provide a progress update to the November 2023 Audit and Risk Committee and 6-monthly thereafter. 	<p>Focus on the IT audit actions continues with 69 of the 101 tasks identified now complete.</p> <p>Progress update to be presented to ARC in November 2023.</p>
21/06/2023	Audit and Risk Committee - 7/6/2023 - CEO REVIEW OF SYSTEMS AND PROCEDURES (REG 17)	Pierson, Sarah	<p><u>COUNCIL DECISION</u></p> <p>C2306/111</p> <p>That the Council</p> <ol style="list-style-type: none"> 1. Accept the CEO’s Regulation 17 review of the appropriateness and effectiveness of the City of Busselton systems and procedures in relation to risk management, internal control and legislative compliance; and 2. request that the Chief Executive Officer provide quarterly updates to the Audit and Risk Committee on the progress of the recommendations for improvement identified as part of the review. 	<p>Quarterly update to be provided at the next Audit and Risk Committee meeting.</p>
21/06/2023	Policy and Legislation Committee - 10/5/2023 - BUSHFIRES BRIGADES LOCAL LAW	McGinty, Briony	<p><u>COUNCIL DECISION</u></p> <p>C2306/121</p> <p>That the Council:</p> <ol style="list-style-type: none"> 1. Commences the law-making process for the City of Busselton Bush Fire Brigades Local Law; the purpose and effect of the local law being as follows: <p>Purpose: To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.</p> <p>Effect: Bush fire brigades are created in accordance with the <i>Bush Fires Act 1954</i>.</p> <ol style="list-style-type: none"> 2. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the <i>Local Government Act 1995</i>, by: <ol style="list-style-type: none"> (a) Giving local public notice of the Proposed Local Law; and 	<p>Local public notice completed.</p> <p>Letters to Minister for LG and ES completed.</p> <p>Waiting for close of submission period before referring back to Council.</p>

			<p>(b) Giving a copy of the Proposed Local Law and public notice to the Minister for Local Government and the Minister for Emergency Services.</p> <p>3. Notes that the CEO, after the close of the public consultation period, will submit a report to the Council on any submissions received on the Proposed Local Law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.</p>	
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COMMUNITY AND COMMERCIAL SERVICES				
Meeting Date	Subject	Responsible Officer	Resolution	Comments
10/11/2021	Airport Advisory Committee - 20/10/2021 - BUSSELTON MARGARET RIVER AIRPORT OPERATIONS UPDATE	Russell, David	<p><u>COUNCIL DECISION</u> C2111/082</p> <p>That the Council receives and notes the Airport Operations Report and requests that the Chief Executive Officer investigates the potential for recreational helicopter flights to operate from the Busselton Jetty.</p>	Officers have liaised with a helicopter operator with respect to a helipad adjacent to the Busselton Jetty and the proponent is investigating options and costs.
8/12/2021	EXPRESSION OF INTEREST - RESERVE 46187 LOT 448 MARINE TERRACE; OLD TENNIS CLUB BUILDING	May, Jennifer	<p><u>COUNCIL DECISION</u> C2112/119</p> <p>That the Council:</p> <ol style="list-style-type: none"> 1. Acknowledges the receipt of two responses to a publicly advertised expression of interest process seeking a commercial operator to lease Reserve 46187 – Lot 448 Marine Terrace to operate a business venture consistent with the permissible building uses. 2. Nominates Geographe Bay Brewing Co. as the ‘preferred proponent’ for a period of 6 months, as potential future lessee of Reserve 46187 – Lot 448 Marine Terrace, Busselton. 3. Authorises the CEO to continue negotiations with the Department of Planning, Lands and Heritage to change the purpose of Lot 448 on Reserve 46187 and agree the terms of head lease with the State Government. 4. Subject to the outcome of recommendation 3 above, authorises the CEO to enter into negotiations for the terms and conditions of a sub-lease with Geographe Bay Brewing Co, including ground rent, lease term, asset management, potential landscaping proposals and any legal considerations to operate a commercial venture and return to Council with recommendations in relation to the heads of terms. 	Date has been extended to the 31 December 2023 to allow for negotiations with the preferred proponent including Head Lease, Sub-lease and agreement with DPLH.

15/02/2023	RESERVE 46187 LOT 448 MARINE TERRACE: OLD TENNIS CLUB BUILDING PREFERRED PROPONENT EXTENSION	May, Jennifer	<p><u>COUNCIL DECISION</u></p> <p>C2302/024</p> <p>That the Council extends the ‘preferred proponent’ status for Geographe Bay Brewing Co. as potential lessee of Reserve 46187 – Lot 448 Marine Terrace, Busselton until 31 December 2023.</p>	<p>Action completed.</p> <p>Extension to preferred proponent status has been extended.</p>
26 July 2023	Airport Advisory Committee - 14/06/2023 - REVIEW OF THE AIRPORT ADVISORY COMMITTEE	May, Jennifer	<p><u>COUNCIL DECISION</u></p> <p>C2307/61</p> <p>That the Council:</p> <ol style="list-style-type: none"> 1. notes the outcome of the evaluation of the Airport Advisory Committee’s (the Committee) effectiveness, in accordance with clause 8 of the Committee’s Terms of Reference; 2. acknowledge that while the Committee is operating effectively, increased information and training for members and more strategic involvement in LTFP and budget preparation would further improve its effectiveness and requests the CEO to consider how these can be actioned; 3. endorses the amendments proposed to the Committee’s Terms of Reference as per Attachment 1. 	<p>ToR updated on City Website - 3 August 2023</p>

<p>26/07/2023</p>	<p>BUSINESS DEVELOPMENT, EVENTS AND MARKETING PROGRAM OUTCOMES - JUNE 2023</p>	<p>Pulford, Peta</p>	<p>COUNCIL DECISION</p> <p>C2307/67</p> <p>That the Council:</p> <p>1. Endorses the following multi year funding allocation, to be funded from the 2024/2025 - 2026/2027 Events Budgets:</p> <table border="1" data-bbox="822 475 1825 775"> <thead> <tr> <th>Event Name</th> <th>Officer Recommendation (cash)</th> <th>Officer Recommendation (in kind)</th> </tr> </thead> <tbody> <tr> <td rowspan="3">IRONMAN WA 2024 - 2026</td> <td>2024/2025 \$200,000</td> <td>2024/2025 \$20,000</td> </tr> <tr> <td>2025/2026 \$200,000</td> <td>2025/2026 \$20,000</td> </tr> <tr> <td>2026/2027 \$200,000</td> <td>2026/2027 \$20,000</td> </tr> <tr> <td>TOTALS</td> <td>2024/2025 \$200,000</td> <td>2024/2025 \$20,000</td> </tr> <tr> <td></td> <td>2025/2026 \$200,000</td> <td>2025/2026 \$20,000</td> </tr> <tr> <td></td> <td>2026/2027 \$200,000</td> <td>2026/2027 \$20,000</td> </tr> </tbody> </table> <p>2. Endorses the following single year funding allocation, to be funded from the 2023/2024 Events and Marketing & Economic Development Budgets:</p> <table border="1" data-bbox="822 903 1832 1209"> <thead> <tr> <th>Event Name</th> <th>Officer Recommendation (2023/2024 Events Budget)</th> <th>Officer Recommendation (2023/2024 Marketing & Economic Development Budgets)</th> </tr> </thead> <tbody> <tr> <td>Busselton Chamber of Commerce & Industry – Business Excellence Awards 2023</td> <td>\$6,250</td> <td>\$6250</td> </tr> <tr> <td>TOTALS</td> <td>\$6,250</td> <td>\$6,250</td> </tr> </tbody> </table> <p>3. Endorses the allocation of grant funding from the Marketing and Economic Development Initiatives budget through two (2) funding streams:</p> <ol style="list-style-type: none"> a. Economic Development and Marketing Grants; and b. Quick Response Grants 	Event Name	Officer Recommendation (cash)	Officer Recommendation (in kind)	IRONMAN WA 2024 - 2026	2024/2025 \$200,000	2024/2025 \$20,000	2025/2026 \$200,000	2025/2026 \$20,000	2026/2027 \$200,000	2026/2027 \$20,000	TOTALS	2024/2025 \$200,000	2024/2025 \$20,000		2025/2026 \$200,000	2025/2026 \$20,000		2026/2027 \$200,000	2026/2027 \$20,000	Event Name	Officer Recommendation (2023/2024 Events Budget)	Officer Recommendation (2023/2024 Marketing & Economic Development Budgets)	Busselton Chamber of Commerce & Industry – Business Excellence Awards 2023	\$6,250	\$6250	TOTALS	\$6,250	\$6,250
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			<p>4. Delegates authority to the Chief Executive Officer to approve applications for the Economic Development and Marketing Grants and the Quick Response Grants funding streams.</p>																
21/06/2023	COMMUNITY ASSISTANCE PROGRAM 2022/2023 ROUND 4 OUTCOMES	Watts, Jessica	<p><u>COUNCIL DECISION</u> C2306/118 That the Council endorse the allocation of funding for the Community Assistance Program 2022/2023 Round 4 as outlined in the table below:</p> <table border="1"> <thead> <tr> <th>Applicant</th> <th>Requested</th> <th>Recommendation</th> </tr> </thead> <tbody> <tr> <td>Naturaliste University of the Third Age</td> <td>\$697.98</td> <td>\$697.98</td> </tr> <tr> <td>Dunborough Community Garden</td> <td>\$4,363.64</td> <td>\$4,363.64</td> </tr> <tr> <td>Dunborough Greenfield Community Group</td> <td>\$5,100.00</td> <td>0</td> </tr> <tr> <td>TOTAL</td> <td>\$10,161.62</td> <td>\$5,061.62</td> </tr> </tbody> </table>	Applicant	Requested	Recommendation	Naturaliste University of the Third Age	\$697.98	\$697.98	Dunborough Community Garden	\$4,363.64	\$4,363.64	Dunborough Greenfield Community Group	\$5,100.00	0	TOTAL	\$10,161.62	\$5,061.62	Action Completed.
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PLANNING AND DEVELOPMENT SERVICES												
Meeting Date	Subject	Responsible Officer	Resolution	Comments								
21/12/2022	AMENDMENT No.54 TO LOCAL PLANNING SCHEME No.21 (LOT 2883 PUZEY ROAD, WILYABRUP)	Sands, David	<p><u>COUNCIL DECISION</u></p> <p>C2212/308</p> <p>That the Council:</p> <p>1. In pursuance of the <i>Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations)</i> adopts Amendment 54 to the City of Busselton Local Planning Scheme 21 with modification for the purposes of:</p> <p>a) Inserting a new ‘Special Provision Area 76’ as follows:</p> <table border="1"> <thead> <tr> <th>No.</th> <th>Particulars of Land</th> <th>Zone</th> <th>Special Provisions</th> </tr> </thead> <tbody> <tr> <td>SP76</td> <td>Strata Lots 20, 21, 31, 37, 46 and 47 on Survey-Strata Plan 54626 (Lot 2883) Puzey Road, Wilyabrup</td> <td>Viticulture and Tourism</td> <td>For Lots 20, 21, 31, 37, 46 and 47, as shown on the current Strata Plan 54626 (approved on 24 December 2021), one Chalet per lot is permitted as unrestricted length of stay.</td> </tr> </tbody> </table> <p>b) Amending the Scheme Map accordingly.</p> <p>2. In accordance with Regulation 35 (2) of the Regulations, determines that Amendment No. 55 of the City of Busselton Local Planning Scheme No. 21 is a ‘complex amendment’ in accordance with r.34 of the Regulations as it is:</p> <p>a) an amendment that is not consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Commission.</p> <p>3. Note that, as the Amendment is in the opinion of the Council consistent with Part V of the <i>Planning and Development Act 2005 (Act)</i> and Regulations made pursuant to the Act, upon preparation of necessary documentation, the Amendment be referred to the Environmental Protection Authority (EPA) as required by the Act, and on receipt of a response from the EPA indicating that the Amendment is not to be subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the Regulations. In the event that the EPA determines that the</p>	No.	Particulars of Land	Zone	Special Provisions	SP76	Strata Lots 20, 21, 31, 37, 46 and 47 on Survey-Strata Plan 54626 (Lot 2883) Puzey Road, Wilyabrup	Viticulture and Tourism	For Lots 20, 21, 31, 37, 46 and 47, as shown on the current Strata Plan 54626 (approved on 24 December 2021), one Chalet per lot is permitted as unrestricted length of stay.	<p>Action completed.</p> <p>WAPC has approved advertising which has commenced.</p>
No.	Particulars of Land	Zone	Special Provisions									
SP76	Strata Lots 20, 21, 31, 37, 46 and 47 on Survey-Strata Plan 54626 (Lot 2883) Puzey Road, Wilyabrup	Viticulture and Tourism	For Lots 20, 21, 31, 37, 46 and 47, as shown on the current Strata Plan 54626 (approved on 24 December 2021), one Chalet per lot is permitted as unrestricted length of stay.									

			<p>Amendment is to subject to formal environmental assessment, this assessment is to be prepared prior to advertising of the proposal.</p> <p>4. Subject to the Western Australian Planning Commission’s advice that it considers the amendment suitable for advertising and the EPA determining that an environmental review is not required, resolve in accordance with Regulation 37 of the Regulations to proceed to advertise the amendment with modification in accordance with Regulation 38 of the Regulations.</p> <p>5. Prior to implementing the above, require the proponent to prepare revised amendment documents consistent with the modifications set out in the Parts above.</p>	
21/12/2022	DUNSBOROUGH PRECINCT STRUCTURE PLAN AND ASSOCIATED AMENDMENT 52 TO LOCAL PLANNING SCHEME NO. 21 - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL	Wilkinson, Joanna	<p><u>COUNCIL DECISION</u></p> <p>C2212/320</p> <p>That the Council:</p> <p>1. Pursuant to Part 4 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations), adopts the Dunsborough Precinct Structure Plan shown at Attachment B for final approval, in accordance with the modifications proposed in the Schedule of Modifications shown at Attachment G, subject to the following changes to the Schedule of Modifications –</p> <p><i>(Information removed for conciseness – for changes to the modifications see Council minutes)</i></p> <p>2. In pursuance of the Regulations, adopts Amendment 52 to Local Planning Scheme No. 21 for final approval, subject to the removal of the administrative error below, in accordance with the modifications proposed in the Schedule of Modifications shown at Attachment G, for the purposes of:</p> <p><i>(Information removed for conciseness – for proposed modifications see Council minutes)</i></p> <p>3. Pursuant to r.53 and Part 4 of Schedule 2 of the Regulations, endorses the Schedules of Agency and Public Submissions at Attachments D and E respectively, which have been prepared in response to the public consultation process undertaken in relation to the Dunsborough Precinct Structure Plan and associated Amendment No. 52, subject to the following changes to the Schedule of Public Submissions:</p> <p>Deletion of a portion of the text in column 3 from submissions no 34 (comment 8), 35 (comment 4), 156 (comment 4), 221 (comment 5), 275, 282, 311, and 313, as follows:</p>	Action completed Proposal submitted to the WAPC.

			<p>“Officers remain supportive of a departure from the blanket R-AC3 coding, but to a more nuanced approach rather than the R-AC4 coding across the whole of the DTC. Vol. 2 of the R-Codes allows for a flexible approach through the R-AC0 density code primary controls can be reflective of detailed context analysis, and provide for specifically tailored and nuanced intensity and scale of development through height and setback controls.</p> <p>A nuanced approach would provide some control over the suitability of proposals within the broader street block context. A blanket coding provides no guidance on preferred locations for reduced height and bulk, or preferred sites for larger scale development.–Related to this point, it is noted that landowners who have recently chosen to develop their site less intensely, expressed concern over the blanket control, particularly in relation to the lack of consideration for landmark sites in the broader streetscape and activity centre context.</p> <p>Some sections of the streetscape, particularly those with a narrower road reserve, would be less affected by buildings that are restricted to two storeys at the street interface (with setbacks for additional storeys) than the proposed R-AC4 coding potentially resulting in three storeys on all street fronts.</p> <p>A blanket coding that restricts buildings to a three storey height control may also result in a greater proportion of floorspace being allocated to residential development due to the higher rate of car parking required for commercial development, and potential for shorter developer payback periods for residential development.”</p> <ol style="list-style-type: none"> 4. Advise the Western Australian Planning Commission that Amendment no. 52 is considered a ‘standard’ amendment pursuant to r.34 of the Regulations as it is: <ol style="list-style-type: none"> (a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve; (b) an amendment that is consistent with a local planning strategy for the Scheme that has been endorsed by the Commission. 5. Upon preparation of the necessary documentation, refers the adopted Amendment no. 52 to the Western Australian Planning Commission for consideration and determination in accordance with the Planning and Development Act 2005. 6. Write to the State Government requesting inclusion of Lots 4, 6, 8, 10, 12 and 14 Clark Street, Dunsborough in a future infill sewerage program. 7. Note that the City will prepare a strategy to guide staging and implementation of the Dunsborough Precinct Structure Plan output plans. 	
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<p>15/03/2023</p>	<p>PROPOSED AMENDMENT 58 TO LOCAL PLANNING SCHEME 21 - LOT 6 COMMONAGE ROAD, QUINDALUP - INITIATION FOR COMMUNITY CONSULTATION</p>	<p>Koroveshi, Louise</p>	<p><u>COUNCIL DECISION</u></p> <p>C2303/041</p> <p>That the Council:</p> <ol style="list-style-type: none"> 1. Requires the following modifications to Amendment No. 58 of the City of Busselton Local Planning Scheme No. 21 prior to advertising: <p><i>(Information removed for conciseness – for modifications see Council minutes)</i></p> <ol style="list-style-type: none"> 2. Subject to the modifications detailed in Part 1 above, in accordance with Section 75 of the Planning and Development Act 2005, adopts Amendment No. 58 of the City of Busselton Local Planning Scheme No. 21 for advertising for the purposes of: <ol style="list-style-type: none"> (a) Rezoning Lot 6 Commonage Road, Quindalup from ‘Light Industry’ to ‘Urban Development’; (b) Amending Schedule 3 Special Provision Area 31; and (c) Amending the Scheme map accordingly. 3. In accordance with Regulation 35 (2) of the Planning and Development (Local Planning Schemes) Regulations 2015, determines that Amendment No. 58 of the City of Busselton Local Planning Scheme No. 21 is a ‘standard amendment’ in accordance with r.34 of the Regulations as it is: <ol style="list-style-type: none"> (a) an amendment that is consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Commission; and (b) an amendment that does not result in any significant environment, social, economic or governance impacts on land in the scheme area. 4. That as the amendment is in the opinion of Council, consistent with Part V of the Planning and Development Act 2005 (the Act) and the Regulations made pursuant to the Act, that upon preparation of the necessary documentation, refer the amendment to the Environmental Protection Authority (EPA) and upon receipt of a response that the amendment is not subject to formal environmental assessment, advertise the proposal for a period of 42 days. Where the EPA determines the amendment is to be subject to formal environmental assessment, the assessment is to be prepared prior to advertising of the draft amendment. 5. Prior to implementing the above, require the proponent to prepare revised amendment documents consistent with the modifications set out in the Parts above. 6. In accordance with Regulation 35A of the Planning and Development (Local Planning Schemes) Regulations 2015, when Amendment No. 58 takes effect, the approval of the Dunsborough Industrial Park Structure Plan (2000) is to be revoked. 7. Note that officers will not use delegation to adopt the structure plan and, prior to the item being presented to Council, officers will work through design considerations with the proponent that address: 	<p>Action not completed - awaiting submission from applicant prior to EPA referral.</p>
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			<ul style="list-style-type: none"> i. Retention of vegetation; ii. Visual management considerations; iii. Land-use/zoning mix; and iv. Road and lot layout and other urban design elements to reflect the desired future character of the site. 	
21/06/2023	Policy and Legislation Committee - 10/5/2023 - CONSOLIDATED PARKING SCHEME AMENDMENT - PROWSE WAY, DUNSBOROUGH	Ian McDowell	<p><u>COUNCIL DECISION</u></p> <p>C2306/109</p> <p>That the Council:</p> <ul style="list-style-type: none"> 1. Resolves, pursuant to clause 2.1(1)(a) of the City of Busselton <i>Parking Local Law 2020</i>, that the bend abutting 17 Prowse Way, Dunsborough be determined a no-stopping road or verge area as shown in the attached Line Marking and Sign Installation Plan (Attachment A); 2. Notes: <ul style="list-style-type: none"> (a) that the resolution will take affect after the giving of public notice by the CEO; and (b) the Consolidated Parking Scheme will be amended to reflect the resolution. 	<ul style="list-style-type: none"> 1. The Consolidated Parking Scheme has been amended to reflect this new restriction. 2. Public Notice of the amendment to the scheme was published on the City's website on Monday, 3 July 2023; and in the local newspaper on Friday, 7 July 2023. 3. A CRM has been raised and assigned to EWS to carry out the line marking, and install the regulatory signage. CRM WE23/1610 refers.

<p>21/06/2023</p>	<p>Policy and Legislation Committee - 10/5/2023 - PROPOSED LOCAL PLANNING POLICY: IDENTIFICATION OF COMPLEX DEVELOPMENT APPLICATIONS - CONSIDERATION OF ADOPTION FOR ADVERTISING</p>	<p>Needham, Paul</p>	<p><u>COUNCIL DECISION</u></p> <p>C2306/108</p> <p>That the Council, pursuant to clauses 3 and 4 of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, prepare and advertise Draft Local Planning Policy: Complex Development Applications (the Draft Policy) (Attachment A) as a draft local planning policy.</p>	
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<p>26/07/2023</p>	<p>AMENDMENT NO 59 TO LOCAL PLANNING SCHEME 21 LOT 200 (NO 1676) CAVES ROAD DUNSBOROUGH - CONSIDERATION FOR ADOPTION</p>	<p>Biggar, Justin</p>	<p><u>COUNCIL DECISION</u></p> <p>C2307/65</p> <p>That the Council:</p> <ol style="list-style-type: none"> 1. In pursuance of the <i>Planning and Development Act (Local Planning Schemes) Regulations 2015</i> (the Regulations) adopts Amendment 59 to the City of Busselton Local Planning Scheme 21 (the Scheme) for final approval, for the purposes of: <ol style="list-style-type: none"> a) Inserting the following particulars in ‘Schedule 3 - Special Provisions Areas’ of the Scheme; <table border="1" data-bbox="763 555 1798 708"> <thead> <tr> <th data-bbox="763 555 824 580">No.</th> <th data-bbox="882 555 1061 580">Particulars of land</th> <th data-bbox="1151 555 1205 580">Zone</th> <th data-bbox="1312 555 1491 580">Special Provisions</th> </tr> </thead> <tbody> <tr> <td data-bbox="763 592 824 617">SP77</td> <td data-bbox="882 592 1122 649">Lot 200 (No 1676) Caves Road Dunsborough</td> <td data-bbox="1151 592 1227 617">Tourism</td> <td data-bbox="1312 592 1798 708">Notwithstanding any other provisions of the Scheme, unrestricted length of stay shall be permitted for a ‘chalet’ on strata lots 6-13 and 48-51 as shown on Strata Plan 50936.</td> </tr> </tbody> </table> 2. Advises the Western Australian Planning Commission (WAPC) that Amendment 59 is considered a ‘standard amendment’ pursuant to the Regulations for the following reasons: <ol style="list-style-type: none"> a) An amendment that is consistent with the objectives of the ‘Tourism’ zone as set out within Local Planning Scheme 21. b) An amendment that is consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Commission. 3. Pursuant to r. 53 of the Regulations, endorses the Schedule of Submissions at Attachment 5, which has been prepared in response to the public consultation process. 4. Upon preparation of the necessary documentation, refers the adopted Amendment 59 to the WAPC for consideration and determination in accordance with the <i>Planning and Development Act 2005</i>. 5. Pursuant to r. 56 of the Regulations, should directions be given that modifications to Amendment 59 are required, direct these modifications to be undertaken accordingly, on behalf of the Council, unless they are considered by officers to significantly affect the purpose and intent of the Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination. 	No.	Particulars of land	Zone	Special Provisions	SP77	Lot 200 (No 1676) Caves Road Dunsborough	Tourism	Notwithstanding any other provisions of the Scheme, unrestricted length of stay shall be permitted for a ‘chalet’ on strata lots 6-13 and 48-51 as shown on Strata Plan 50936.	
No.	Particulars of land	Zone	Special Provisions									
SP77	Lot 200 (No 1676) Caves Road Dunsborough	Tourism	Notwithstanding any other provisions of the Scheme, unrestricted length of stay shall be permitted for a ‘chalet’ on strata lots 6-13 and 48-51 as shown on Strata Plan 50936.									

ENGINEERING AND WORKS SERVICES				
Meeting Date	Subject	Responsible Officer	Resolution	Comments
26/07/2023	RFT 09/23 PARKS AND RESERVES	Ferry, Iain	<p><u>COUNCIL DECISION</u></p> <p>C2307/66</p> <p>That the Council endorses the outcome of the evaluation panel's assessment of RFT 09/23 Garden Maintenance Services and accepts the tender from Activ Foundation Inc as most advantageous.</p>	Letter of Award sent to Activ.
21/06/2023	RFT 06/23 MECHANICAL SERVICES	Farrier, John	<p><u>COUNCIL DECISION</u></p> <p>C2306/116 Moved Councillor P Cronin, seconded Councillor J Richards</p> <p>That the Council</p> <ol style="list-style-type: none"> 1. endorses the outcome of the evaluation panel's assessment of RFT06/23 Mechanical Services and 2. accepts the tender from CBRE (GWSLA) Pty Ltd in respect of SP1 Mechanical Services to the City of Busselton Administration Building and SP2 Mechanical Services to all City of Busselton owned facilities and buildings (excluding the Administration building) as the most advantageous tender. 	



Council Policy

Council Policy Name: Appointment of Acting Chief Executive Officer
Responsible Directorate: Finance and Corporate Services **Version:** Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to provide for the appointment of persons to act as Chief Executive Officer (CEO) during periods of Leave by the CEO, such that the continuous and efficient execution of the City's functions is maintained.

2. SCOPE

- 2.1. This Policy is applicable to the role of CEO of the City of Busselton and anyone appointed to act as CEO.

3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
Leave	annual or personal leave for periods of up to six continuous weeks
Policy	this City of Busselton Council policy titled "Appointment of Acting Chief Executive Officer"

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 Priorities:
- a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making; and
 - b. 4.4 Govern a professional organisation that is healthy, capable and engaged.

5. POLICY STATEMENT

- 5.1. The Council has determined that persons appointed to the City's Director positions are suitably qualified to perform the role of Acting CEO.
- 5.2. Council recognises that the appointment of employees in Director positions to the role of Acting CEO is an effective succession planning strategy, providing valuable exposure to, and experience in, the functions of a CEO.
- 5.3. Directors will be appointed to the role of Acting CEO at the discretion of the CEO subject to performance, availability and operational requirements.
- 5.4. Appointment of an Acting CEO will be determined by Council resolution:
- a. for any periods exceeding six continuous weeks; or
 - b. in the event that the CEO is incapacitated or otherwise unable to make an appointment under paragraph 5.3.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *Local Government Act 1995*

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	N/A	Resolution #	N/A