



## **ITEMS FOR DEBATE – COUNCIL MEETING 13 OCTOBER 2021**

### **ADOPTION BY EXCEPTION RESOLUTION**

#### **RECOMMENDATION**

That the Committee Recommendation for item 12.3 and the Officer Recommendations for items 14.1, 16.1 and 17.1 be adopted en bloc:

- 12.3 Policy and Legislation Committee - 22/9/2021 - SOUTH WEST DESIGN REVIEW PANEL AND ADOPTION OF PROPOSED LOCAL PLANNING POLICY 4.13 - DESIGN REVIEW
- 14.1 RFT 04/21 ROAD NETWORK UPGRADE PEEL TERRACE / CAUSEWAY ROAD INTERSECTION UPGRADE STAGE 1
- 16.1 COMMERCIAL LEASE - PORTION OF OLD COURTHOUSE ARTGEO COMPLEX
- 17.1 COUNCILLORS' INFORMATION BULLETIN

### **ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION (WITHOUT DEBATE)**

| <b>Item No.</b> | <b>Item Title</b>  | <b>Reason</b>  |
|-----------------|--|--|
| 12.2            | Policy and Legislation Committee - 22/9/2021 - ANNUAL STATUTORY REVIEW OF DELEGATIONS OF AUTHORITY | Absolute Majority required                                 |
| 15.1            | MARKETING AND EVENTS REFERENCE GROUP OUTCOMES  | Disclosure of Interest (impartiality) - Cr Barrett-Lennard |
| 20.1            | CEO PERFORMANCE REVIEW   | Confidential Item  |

## ITEMS FOR DEBATE

| Item No.<br>12.1  | Policy and Legislation Committee - 22/9/2021 - LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2021 | Pulled by<br>Cr Paine | Page 7 |
|---|---|-----------------------|--------|
| <p><b><u>ALTERNATIVE RECOMMENDATION</u></b></p> <p><b>That the Council:</b></p> <ol style="list-style-type: none"><li>1. Commences the law-making process for the <i>City of Busselton Local Government Property Amendment Local Law 2021</i>, with clauses 5.1(1)(a)(i)-(ii) amended to refer to being under the age of <b>12</b> years and a responsible person over the age of 16 years; the purpose and effect of the local law being as follows:<br/><br/>Purpose: To regulate the care, control and management of local government property (except thoroughfares) by amending sections of the <i>Shire of Busselton Local Government Property Local Law 2010</i>.<br/><br/>Effect: To control the use of local government property by updating minimum age requirements for entry to swimming pools, updating penalties, and clarifying other powers.</li><li>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"><li>a) Giving local public notice of the Amendment Local Law; and</li><li>b) Giving a copy of the Amendment Local Law and public notice to the Minister for Local Government.</li></ol></li><li>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.</li></ol> |   |                       |        |
| <p><b><u>REASONS FOR ALTERNATIVE</u></b></p> <p>The proposed age of 12 years is to align with the recommendations of the coroner following a drowning death at a public swimming pool, that lifeguards are not intended to replace the close supervision that is required for children, particularly primary school aged children. Primary school children are aged 12 years and less.</p>  |   |                       |        |
| <p><b><u>OFFICER COMMENT</u></b></p> <p>Officers have no objection to the proposed alternative motion, being in line with the officer recommendation to the Policy and Legislation Committee.</p>   |   |                       |        |
| <p><b><u>LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT</u></b></p> <p>Pursuant to regulation 11(da) of the <i>Local Government (Administration) Regulations 1996</i>, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.</p>   |   |                       |        |

|                                |   |  |                 |
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| <b>Item No.</b><br><b>13.1</b> | AMENDMENT NO. 50 TO LOCAL PLANNING SCHEME NO. 21 (LOT 81 (18), STRATA PLAN 17588 (20), AND LOTS 115 TO 127 (26-50) GEOGRAPHE BAY ROAD, DUNSBOROUGH) - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL | <b>Pulled by</b><br><b>Cr Riccelli</b> | <b>Page 125</b> |
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### ALTERNATIVE RECOMMENDATION

That the Council:

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts Amendment 50 to Local Planning Scheme No. 21 for final approval, in accordance with the modifications proposed in the Schedule of Modifications shown at Attachment E, **subject to the removal of Modifications 2, 3 and 4**, for the purposes of amending the Scheme map by modifying the residential density code from R80 to R60 over Lot 81 (18), Strata Plan 17588 (20) and Lots 115 to 127 (26-50) Geographe Bay Road, Dunsborough.
2. Advise the Western Australian Planning Commission that Amendment 50 is considered a 'standard' amendment pursuant to the *Planning and Development (Local Planning Schemes) Regulations 2015* as it is:
  - 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 would have minimal impact on land in the Scheme area that is not the subject of the amendment;
  - c) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.
3. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, endorses the Schedule of Submissions at Attachment D, which has been prepared in response to the public consultation process undertaken in relation to Amendment 50.
4. Upon preparation of the necessary documentation, refers the adopted Amendment 50 to the Western Australian Planning Commission for consideration and determination in accordance with the *Planning and Development Act 2005*.
5. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should **any** directions be given that modifications to Amendment 50 are required, **direct these modifications to be undertaken accordingly, on behalf of the Council, unless they are considered by officers likely 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. they shall be formally referred back to the Council for assessment and determination.**

### REASONS FOR ALTERNATIVE

The proposed clarification to the wording in the Scheme sought by officers appears to be inconsistent with the desired community objectives. I am concerned that the officers' intention to clarify LPS21 in regard to R Codes undermines the intention of the proposed Scheme Amendment and community survey and allows more discretion for higher buildings.

Whilst the community submitted a petition to limit the height of buildings along the foreshore from 4 storeys to 3 storeys, this response was primarily due to Planning Officers not supporting the 2 storey 150m high water line regulation, as well as a pressing need to address the proposed 4 storey development application. The community indicated that 3 storeys was preferable to 4 storeys, however in reality, the majority prefer to see future buildings along the foreshore not exceed 2 storeys.

The Supreme Court Case regarding this matter closed on Friday 8 October and a decision is pending. The conflicting regulations (R-Codes versus distance from high water mark) will be clarified by the Supreme Court decision and any modifications the City implements should be reflected by these findings. My alternative to recommendation 1 will ensure that no officer modifications are made at this stage, that we proceed with the recommendations suggested by the independent planning consultant Ms Judi Bell (whose report was very thorough and professional) and submit the relevant documentation to the WAPC as planned for consideration and determination.

Due to the serious concerns/petition raised by the community surrounding this issue and all potential future development in Dunsborough, alongside the pending Supreme Court decision, as well as the overall complexities previously discussed and identified, my proposed alternative to recommendation 5 ensures that any modifications (no matter how minor) come to Council for determination.

#### **OFFICER COMMENT**

##### Alternative to Recommendation No. 1 (or point 1 of the recommendation)

Under r.50(3) of the Regulations, the local government must pass a resolution to either (a) support the amendment without modification, or (b) support the amendment with proposed modification(s). Modifications are set out in a Schedule of Modifications – which explains not only the modifications to the amendment, but also their rationale – and that schedule should be adopted by the Council itself. As such, it would be preferable that, rather than deleting reference to the Schedule of Modifications, an alternative consistent with the apparent intent of the alternative motion would add to Recommendation No. 1, by setting out what changes should be made to the Schedule of Modifications. That could be worded most simply as follows (addition in bold) –

*In pursuance of the Planning and Development (Local Planning Schemes) Regulations 2015, adopts Amendment 50 to Local Planning Scheme No. 21 for final approval, in accordance with the modifications proposed in the Schedule of Modifications shown at Attachment E, for the purposes of amending the Scheme map by modifying the residential density code from R80 to R60 over Lot 81 (18), Strata Plan 17588 (20) and Lots 115 to 127 (26-50) Geographe Bay Road, Dunsborough, **subject to the deletion of Items 2-4 in the Schedule of Modifications.***

**Note:** *Following initial publication of the Items for Debate, Cr Riccelli agreed to amend the alternative recommendation in a manner consistent with the above – although very slightly different in detailed wording. As such, the issues addressed in the paragraphs above have now been addressed.*

In addition, it appears that the concerns do not substantially relate to Items 3 and 4 in the Schedule of Modifications, and they appear to relate mostly to part of Item 2 – i.e. the proposed inclusion of 'land coded...R80 or R60' in clause 4.3.2 of the Scheme (the balance of Item 2, and Items 3 and 4, are discussed briefly in the next paragraph). As the stated purpose of the amendment was to, amongst other things, apply a three storey height control as per the current R60 coding, it is not clear that the stated purpose can be achieved without resolving the inconsistency between the R60 coding and clause 4.8, with respect to land within 150 metres of the mean high water mark.

That is the rationale for the proposed inclusion of reference to R60 coded land in clause 4.3.2. As land which is to retain an R80 coding was not subject of *this* amendment, then it is considered the case to include a reference to R80 coded land is significantly less clear.

Should the Council wish to leave the inconsistency unresolved, however, Recommendation No. 1 could be worded as follows (addition in bold):

*In pursuance of the Planning and Development (Local Planning Schemes) Regulations 2015, adopts Amendment 50 to Local Planning Scheme No. 21 for final approval, in accordance with the modifications proposed in the Schedule of Modifications shown at Attachment E, for the purposes of amending the Scheme map by modifying the residential density code from R80 to R60 over Lot 81 (18), Strata Plan 17588 (20) and Lots 115 to 127 (26-50) Geographe Bay Road, Dunsborough, **subject to the deletion of references to 'R80 or R60' in Item 1 in the Schedule of Modifications.***

The balance of Modification 2 and the whole of Modification 4 merely updates references in the Scheme to the R-Codes, and clarifies that references are to the R-Codes, as amended. It would be somewhat unusual for such references to not be updated at the earliest opportunity. Modification 3 proposes the inclusion of a reference to 'natural ground level' as being the point from which height is measured – and clarifies what has been longstanding practice with respect to the affected clause, and is the normal basis on which height is measured.

It should be noted that Modification 1 in the published Schedule of Modifications refers to inclusion of Lots 139 and 140 Lorna Street in the amendment area and, as such, no departure from the Officer Recommendation is required to ensure that forms part of any Council resolution.

#### Alternative to Recommendation No. 5 (or point 5 of the recommendation)

The proposed changes to the wording of Recommendation No. 5 would mean that, even if the Minister supports, and only requires, the modifications recommended by the Council, then the matter would need to be subject of a formal Council report and decision before the Mayor and CEO could execute the amendment documents, which would ordinarily precede the Gazettal of the amendment. Under the legislation, there is no right of appeal or similar with respect to the Minister's decision, other than through political advocacy, either with the Minister or with other members of the Parliament, seeking support for a 'disallowance motion'. Parliament, however, can only disallow the amendment in its entirety, and cannot itself modify the amendment – which would mean that the R80 coding would actually remain in place, unless and until another amendment was progressed.

Also, the wording of Recommendation No. 5 in the Officer Recommendation does not provide for 'officer amendments'. It merely allows the Amendment to be finalised without the Council being *required* (although, in practice, there are means by which the Amendment could be Gazetted by the State in any case) to make a decision before the Minister's decision could be implemented – whilst allowing some, albeit quite limited, opportunity for advocacy by the City should the Minister not support the Council's modifications and/or propose other modifications not consistent with the Council's position. In practice, it is envisaged that officers would provide information to Councillors prior to arranging for execution of the amendment documents – as has occurred with some other amendments in the past.

#### **LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT**

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations* 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.

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| <p><b>Item No.</b><br/><b>13.2</b></p>   | <p>AMENDMENT NO. 40 (MODIFICATIONS TO THE ZONING TABLE) - CONSIDERATION FOR FINAL ADOPTION</p> | <p><b>Pulled by</b><br/><b>Cr Riccelli</b></p> | <p><b>Page 163</b></p> |
| <p><b><u>ALTERNATIVE RECOMMENDATION</u></b></p> <p><b>That the Council defer this item until the Ordinary Council Meeting to be held on 24 November 2021.</b></p>  |  |  |                        |
| <p><b><u>REASONS FOR ALTERNATIVE</u></b></p> <p>Further consideration, discussion and consultation needs to be undertaken to ensure any proposed modifications to the zoning table provides fair and equitable treatment to all relevant stakeholders.</p>   |  |  |                        |
| <p><b><u>OFFICER COMMENT</u></b></p> <p>Officers do not have any particular objection to deferral of the matter, if Councillors feel they need more time to understand the issues. Some discussions would be required, however, to determine and, if necessary, allocate time to allow that to occur. It is also considered that it may be better to defer the matter for a further 2 weeks, to 24 November, to allow for the preparation of an amended report should that be necessary – noting the agenda for the 10 November meeting would be expected to be published on 29 October.</p> |  |  |                        |
| <p><b><u>LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT</u></b></p> <p>Pursuant to regulation 11(da) of the <i>Local Government (Administration) Regulations</i> 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.</p>  |  |  |                        |

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| Item No.<br>13.2 | AMENDMENT NO. 40 (MODIFICATIONS TO THE ZONING TABLE) - CONSIDERATION FOR FINAL ADOPTION | Pulled by<br>Officers | Page 163 |
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### AMENDED RECOMMENDATION

That the Council:

- I. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts Amendment No. 40 to the City of Busselton Local Planning Scheme No.21 for final approval, in accordance with the modifications proposed in the 'Schedule of Modifications' shown at Attachment A, **and subject to the inclusion of a further modification for an Additional Use for 'Office' over Units 1 to 5, No. 17 Bussell Highway, West Busselton (Strata Plan 27226)**, for the purposes of:
  1. Amending clause 3.5 "Exceptions to the Zoning Table" by:
    - a) Inserting a new sub-clause 3.5.3(e) as follows:
      - (e) *other than with respect to a Lunch Bar or Service Station, the sale of the following goods or products by retail or wholesale to the public from land in the Service Commercial, Light Industry or General Industry zone:*
        - (i) *foodstuffs, liquor or beverages;*
        - (ii) *items of clothing or apparel;*
        - (iii) *magazines, newspapers, books or paper products;*
        - (iv) *medicinal or pharmaceutical products;*
        - (v) *china, glassware or domestic hardware other than building supplies; or*
        - (vi) *items of personal adornment;*

*unless such goods are manufactured on the lot;*
    - b) Deleting sub-clause 3.5.4(d);
    - c) Deleting sub-clause 3.5.4(e); and
    - d) Renumbering sub-clause 3.5.4(f) to 3.5.4(d);
  2. Amending Table 1 "Zoning Table" by, in relation to the use class 'Bulky Goods Showroom', replace the symbol 'P' with the symbol 'D' in the 'Regional Centre', 'Centre', 'Local Centre' and 'Service Commercial' zones;
  3. Amending Division 2 of Schedule 1 "Interpretations" by modifying the definition of 'Bulky Goods Showroom' to replace "or" between parts (a) and (b) with "and";
  4. Amending Table 1 "Zoning Table" by –
    - a) In relation to the use class 'Aged Persons Home', replace the symbol 'A' with the symbol 'X' in the 'Rural' zone;
    - b) In relation to the use class 'Amusement Parlour', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial', 'Light Industry' and 'General Industry' zones;
    - c) Modifying the title 'Ancillary Accommodation' to read 'Ancillary Dwelling' and associated references throughout the Scheme accordingly;
    - d) Inserting the use class 'Art Gallery' and allocating –

- (1) the symbol 'D' to the 'Regional Centre', 'Centre', 'Local Centre', 'Tourism', 'Rural' and 'Viticulture and Tourism' zones;
  - (2) the symbol 'A' to the 'Rural Residential' zone; and
  - (3) the symbol 'X' to the 'Residential', 'Service Commercial', 'Light Industry', 'General Industry', 'Rural Landscape', 'Conservation' and 'Bushland Protection' zones;
- e) In relation to the use class 'Brewery', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' zone;
  - f) In relation to the use class 'Bus Depot', replace the symbol 'D' with the symbol 'X' in the 'Rural' zone;
  - g) In relation to the use class 'Cinema/Theatre', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial' zone;
  - h) In relation to the use class 'Convenience Store', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial', 'Light Industry' and 'General Industry' zones;
  - i) In relation to the use class 'Corner Shop' –
    - (1) replace the symbol 'P' with the symbol 'X' in the 'Service Commercial' zone; and
    - (2) replace the symbol 'D' with the symbol 'X' in the 'Light Industry' and 'General Industry' zones;
  - j) In relation to the use class 'Exhibition Centre', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' zone;
  - k) In relation to the use class 'Fuel Depot', replace the symbol 'P' with the symbol 'D' in the 'Light Industry' and 'General Industry' zones;
  - l) In relation to the use class 'Garden Centre', replace the symbol 'A' with the symbol 'X' in the 'Regional Centre', 'Centre', 'Local Centre' and 'Rural Residential' zones;
  - m) In relation to the use class 'Hospital', replace the symbol 'A' with the symbol 'X' in the 'Rural Landscape' zone;
  - n) In relation to the use class 'Hotel', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' zone;
  - o) In relation to the use class 'Liquor Store – Large', replace the symbol 'P' with the symbol 'D' in the 'Regional Centre', 'Centre' and 'Local Centre' zones;
  - p) In relation to the use class 'Liquor Store – Small', replace the symbol 'P' with the symbol 'D' in the 'Local Centre' zone;
  - q) In relation to the use class 'Market' –
    - (1) replace the symbol 'D' with the symbol 'X' in the 'Service Commercial', 'Light Industry', 'General Industry', 'Rural' and 'Viticulture and Tourism' zones; and
    - (2) replace the symbol 'A' with the symbol 'X' in the 'Rural Residential' zone;
  - r) In relation to the use class 'Medical Centre', replace the symbol 'D' with the symbol 'X' in the 'Light Industry' and 'General Industry' zones;

- s) In relation to the use class 'Motel', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' zone;
- t) In relation to the use class 'Motor Vehicle, Boat or Caravan Sales' –
  - (1) replace the symbol 'D' with the symbol 'X' in the 'Regional Centre', 'Centre' and 'Local Centre' zones; and
  - (2) replace the symbol 'P' with the symbol 'D' in the 'Service Commercial', 'Light Industry' and 'General Industry' zones;
- u) In relation to the use class 'Motor Vehicle Repair', replace the symbol 'P' with the symbol 'D' in the 'Light Industry' zone;
- v) In relation to the use class 'Reception Centre', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial' zone;
- w) In relation to the use class 'Residential Building', replace the symbol 'X' with the symbol 'D' in the 'Regional Centre' and 'Centre' zones;
- x) In relation to the use class 'Restaurant/Café', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial' zone;
- y) In relation to the use class 'Restricted Premises', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial' zone;
- z) In relation to the use class 'Service Station', replace the symbol 'A' with the symbol 'X' in the 'Rural' zone;
- aa) In relation to the use class 'Small Bar', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' and 'Light Industry' zones;
- bb) In relation to the use class 'Takeaway Food Outlet', replace the symbol 'A' with the symbol 'D' in the 'Regional Centre' and 'Centre' zones;
- cc) In relation to the use class 'Tavern', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' and 'Light Industry' zones;
- dd) In relation to the use class 'Trade Supplies' –
  - (1) replace the symbol 'P' with the symbol 'D' in the 'Regional Centre', 'Centre', 'Local Centre' and 'Service Commercial' zones; and
  - (2) replace the symbol 'X' with the symbol 'D' in the 'General Industry' zone;
- ee) In relation to the use class 'Veterinary Centre', replace the symbol 'P' with the symbol 'D' in the 'Service Commercial' zone;
- ff) In relation to the use class 'Winery' –
  - (1) replace the symbol 'D' with the symbol 'A' in the 'Regional Centre', 'Centre' and 'Local Centre' zones;
  - (2) replace the symbol 'P' with the symbol 'D' in the 'Light Industry' zone;
  - (3) replace the symbol 'X' with the symbol 'D' in the 'General Industry' zone; and
  - (4) replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' and 'Rural Landscape' zones;

5. Inserting new sub-clause 4.19 as follows, and renumbering subsequent clauses accordingly:

**4.19 BREWERIES AND WINERIES**

**4.19.1***The development of a Brewery or a Winery within the Service Commercial, Light Industry and General Industry zones shall be primarily for the production, storage and/or distribution of the product. The following restrictions shall apply –*

- (a) consumption of the product at the site shall be limited to tastings only, being incidental to the production of the product on site, with maximum serving sizes of:
  - (i) 50mls for wine;*
  - (ii) 100mls for beer/cider; and*
  - (iii) 15mls for spirits;**
- (b) no dining on the premises or the consumption or service of food shall take place;*
- (c) patronage at the site shall not exceed 30 people at any one time; and*
- (d) customers visiting the site for the purpose of tasting and/or sales are restricted to Monday to Sunday, including public holidays, between the hours of 12.00pm and 5.00pm.”*

6. Amending Additional Use No. 74 within Schedule 2 by inserting ‘Car Park’ within the list of land uses permitted.

- II. Advises the Western Australian Planning Commission that Amendment No. 40 is considered a ‘standard’ amendment pursuant to the *Planning and Development (Local Planning Scheme) Regulations 2015* for the following reasons:

- 1. An amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve;
- 2. An amendment that is consistent with a local planning strategy for the Scheme that has been endorsed by the Commission; and
- 3. An amendment that does not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.

- III. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, endorses the Summary of Submissions at Attachment B, which has been prepared in response to the public consultation process undertaken in relation to Amendment No. 40.

- IV. Upon preparation of the necessary documentation, refers the adopted Amendment No. 40 to the Western Australian Planning Commission for consideration and determination in accordance with the *Planning and Development Act 2005*.

- V. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should directions be given that modifications to Amendment No. 40 are required, direct these modifications to be undertaken accordingly, on behalf of the Council, unless they are considered by Officers likely 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.

## **REASONS FOR AMENDMENT**

The proposed modification recommends an addition to the Schedule of Modifications at Attachment A of the report, seeking to introduce an Additional Use for 'Office' over Units 1 to 5, No. 17 Bussell Highway, West Busselton (Strata Plan 27226) in response to submissions and concern over the future use of these units.

These strata units were originally approved and built for use as 'Showroom/Warehouse' in 1994. However, given the unit sizes range from 129sqm to 223sqm, the design has not proven to be suited to those uses – and to a significant degree, the size and layout of premises is better suited to low-intensity office use. A number of years ago, the City made a decision to allow office use in some premises in Enterprise Park in Dunsborough for similar reasons – i.e. premises had been built and were ostensibly to be used for bulky goods retailing or industrial purposes, but in some cases they were 50sqm upstairs tenancies, clearly unsuited for those purposes. Relative to other premises in the area, most of the premises on the 17 Bussell Highway site also have less exposure to passing traffic on Bussell Highway – again, making them less suitable for use as showrooms and for bulky goods retailing.

The proposed Additional Use is not recommended to be extended across the full block due to the fact that the existing buildings do not have the same physical constraints, because of the significant effect that it could have on parking demand, and because of the presence of existing additional use rights on some other sites in the vicinity.

In terms of the existing buildings on other sites, with the exception of the food premises in the area (which are permissible land uses on their respective sites), they are relatively large premises, with good exposure to Bussell Highway – and they are currently being used successfully, mostly for existing and locally owned bulky goods retailing businesses that provide important services to the community.

In terms of the potential effect on car parking demand, the property at 7 Bussell Highway provides an example of the challenges that could arise if more of the existing buildings in the area were able to be used as offices. 7 Bussell Highway, consists of three separate premises, each a little under 400sqm in area, with a total building area a little under 1,200sqm, and 20 car bays in total on the subject property (generally reflecting the normal car provision standard for showroom floorspace of 1 bay per 50sqm of net lettable area (which excludes some parts of the building floorspace).

The three current tenants are *South West Cycles*, *Barbeques Galore* and *Anytime Fitness*. It is estimated that, in total, the maximum staff numbers of those three businesses combined would be 10-15. Office floorspace, however, can have significantly higher numbers of staff relative to the size of the premises, and it would not be unusual for office floorspace to generate parking demand as high as 3 or even 4 bays per 50sqm (in theory, office premises could in fact accommodate as many 1 staff member per 10sqm – although that level is unlikely to be reached).

Within the broader precinct, if even a small proportion of premises was to be used for office or other more intensive land uses, parking demand overall could significantly exceed supply, generating conflict between and negatively affecting other businesses and landowners in the area.

In addition, there are two existing additional use right designations that apply to land in the broader precinct. Additional Use 80 applies to the site that is now occupied by *Retravisio*n, and does allow for office uses, but was introduced through a site-specific amendment that sought to provide for the re-use and redevelopment of the former Busselton Squash Courts site. Additional Use 43 was introduced in the City's previous town planning scheme, and allows for the 'Restaurant/Café' land-use (and the site contains the *Urban Coffee House* and *Al Forno* businesses currently).

It is considered that some redevelopment of this precinct may be appropriate in future, but that applying an additional use designation across the whole of the precinct without a broader planning vision and process would not be appropriate.

**OFFICER COMMENT**

As per officer comment above.

**LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT**

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations* 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.