

CITY OF BUSSELTON

MINUTES OF THE COUNCIL MEETING HELD ON 13 OCTOBER 2021

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MINUTES

MINUTES OF A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 13 OCTOBER 2021 AT 5.30PM.

1. <u>DECLARATION OF OPENING / ACKNOWLEDGEMENT OF COUNTRY / ACKNOWLEDGEMENT OF VISITORS / DISCLAIMER / NOTICE OF RECORDING OF PROCEEDINGS</u>

The Presiding Member opened the meeting at 5.30pm.

The Presiding Member noted this meeting is held on the lands of the Wadandi people and acknowledged them as Traditional Owners, paying respect to their Elders, past and present, and Aboriginal Elders of other communities who may be present.

2. ATTENDANCE

Presiding Membe	<u>:r:</u>	Members:		
Cr Grant Henley	Mayor	Cr Kelly Hick Cr Sue Riccelli Cr Ross Paine Cr Kate Cox Cr Paul Carter Cr Phill Cronin Cr Jo Barrett-Ler Cr Lyndon Miles		

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Oliver Darby, Director, Engineering and Works Services
Mr Paul Needham, Director, Planning and Development Services
Mrs Naomi Searle, Director, Community and Commercial Services
Mr Tony Nottle, Director, Finance and Corporate Services
Mrs Emma Heys, Governance Coordinator
Ms Melissa Egan, Governance Officer

Apologies:
Nil
Approved Leave of Absence:
Nil
Media:

Public:

0

3. PRAYER

The prayer was delivered by Pastor Paul Colyer of the Busselton Baptist Church.

4. APPLICATION FOR LEAVE OF ABSENCE

Nil

5. <u>DISCLOSURE OF INTERESTS</u>

The Mayor noted that a declaration of impartiality interest had been received from:

• Cr Jo Barrett-Lennard in relation to Agenda Item 15.1 'Marketing and Events Reference Groups Outcomes'.

The Mayor advised that, in accordance with regulation 22(2)(b) of the *Local Government* (Model Code of Conduct) Regulations 2021, this declaration would be read out immediately before 15.1 was discussed.

6. ANNOUNCEMENTS WITHOUT DISCUSSION

Announcements by the Presiding Member

The Mayor invited Deputy Mayor Cr Kelly Hick and Cr Lyndon Miles, whose term as Councillors is coming to an end, to address the meeting.

The Mayor thanked Cr Hick and Cr Miles for their four years of service to the Council.

7. QUESTION TIME FOR PUBLIC

Response to Previous Questions Taken on Notice

The following questions were taken on notice by the Council at the 22 September 2021 Ordinary Council meeting:

7.1 Mr Keith Sims

Question

The survey document [for the BPACC] states a \$37 rate increase. When you calculate the 2.5% rate increase to be added, that makes it \$84. Why are incomplete figures used for documents, including the survey?

Response

(provided by Mr Tony Nottle, Director Finance and Corporate Services)

The figures are not incomplete. The figures need to be used in context to which the questions were raised. As previously explained, these are two different calculations you are referring to. The first (the "estimated" \$37 increase) was used to explain within the community survey what costs as a dollar value "over and above" the current LTFP predictions the average ratepayer may experience due to the increased costs of the construction of the BPACC. The current LTFP already factored in a borrowing cost of \$15 million. Other different figures have been provided in response to your previous question about "what, as a percentage of rates, are the costs of the principle and interest costs of the loan (the whole \$26.7million)". These were based on the assumptions and averages as detailed in previous correspondence.

Question Time for Public

7.2 Mr Keith Sims

Question

Can you please confirm if the \$2.5 million from the sale of properties on Chapman Road, Ambergate, will be allocated to the BPACC project?

Response

(Mayor)

This money will go into the New Infrastructure Reserve.

Question

The sale of the library was \$2.6 million. What other saleable assets does the City own?

Response

(Mr Mike Archer, Chief Executive Officer)

We do own freehold title land around the district, at Port Geographe, Berryman Road. There is probably about 20 blocks, but there is no signal to sell any land.

Question

When does the City expect the results from the revised tenders for the BPACC to come back to Council for consideration?

Response

(Mr Archer)

When we have completed the due diligence, possibly 3 or 4 weeks.

Question

Can the City confirm, in addition to the \$58 rate increase, another \$40 arising from the \$1.2 million operating loss, making a total of \$98?

Response

(Mr Tony Nottle, Director Finance and Corporate Services) I will take that question on notice.

7.3 Ms Anne Ryan

Question

The City is prosecuting landowners for non-compliance of approvals with conditions from the City. Can you advise how much the City has spent on City of Busselton versus Bishop court case?

Response

We will have to take that question on notice.

Question

Why did the City pursue this case?

Response

(Mayor)

The decision to prosecute was based on a number of complaints and a number of instances that the Council determined was worthy of pursuing.

Question

Why did the City not pursue a fine which was a maximum of \$200,000 and \$25,000 per day for a total of 39 days?

Response

(Mayor)

The course of action was determined after receiving and considering legal advice.

Question

Why did the City not assist Mr Bishop to remediate his land?

Response

(Mayor)

It is not up to the City to remediate private land.

Question

I refer to the items on tonight's agenda regarding building heights. Does Council feel if more community consultation had been conducted, that these issues could have been ironed out without costing rate payers exorbitant amounts?

Response

(Mayor)

We always endeavour to consult with the community as broadly as possible, especially in planning amendments, and it is not always possible to get everyone to the table until it affects them directly and the issues are raised.

8. <u>CONFIRMATION AND RECEIPT OF MINUTES</u>

Previous Council Meetings

8.1 <u>Minutes of the Council Meeting held 22 September 2021</u>

COUNCIL DECISION

C2110/050 Moved Councillor P Carter, seconded Councillor K Hick

That the Minutes of the Council Meeting held 22 September 2021 be confirmed as a true and correct record.

CARRIED 9/0

Committee Meetings

8.2 <u>Minutes of the Policy and Legislation Committee Meeting held 22 September 2021</u>

COUNCIL DECISION

C2110/051 Moved Councillor K Cox, seconded Councillor L Miles

That the Minutes of the Policy and Legislation Committee Meeting held 22 September 2021 be noted.

CARRIED 9/0

9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

Petitions

Nil

Presentations

Mr Tony Sharp, Dunsborough Progress Association, spoke with respect to Agenda Item 13.1 - 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'.

Mr Sharp was opposed to the recommendation.

Mr Paul Kotsoglo, Managing Director, Planning Solutions, spoke with respect to Agenda Item 13.2 'Amendment No. 40 (Modifications to the Zoning Table) - Consideration For Final Adoption'.

Mr Kotsoglo was opposed to the recommendation.

Mr Jim Litis, Director, Primewest, spoke with respect to Agenda Item 13.2 'Amendment No. 40 (Modifications to the Zoning Table) - Consideration For Final Adoption'.

Mr Litis was opposed to the recommendation.

Deputations

Nil

10. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (WITHOUT DISCUSSION)

Nil

11. ITEMS BROUGHT FORWARD

ADOPTION BY EXCEPTION RESOLUTION

At this juncture, the Mayor advised the meeting that, with the exception of the items identified to be withdrawn for discussion, the below items be adopted en bloc, i.e. all together.

COUNCIL DECISION

C2110/052 Moved Councillor P Cronin, seconded Councillor J Barrett-Lennard

That the Committee Recommendation in relation to item 12.3 and Officer Recommendations in relation to items 14.1, 16.1 and 17.1 be carried 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:

CARRIED 9/0

EN BLOC

12.3 <u>Policy and Legislation Committee - 22/9/2021 - SOUTH WEST DESIGN REVIEW PANEL AND</u> ADOPTION OF PROPOSED LOCAL PLANNING POLICY 4.13 - DESIGN REVIEW

STRATEGIC THEME LIFESTYLE - A place that is relaxed, safe and friendly with services and

facilities that support healthy lifestyles and wellbeing.

STRATEGIC PRIORITY 2.8 Plan for and facilitate the development of neighbourhoods that

are functional, green and provide for diverse and affordable housing

choices.

SUBJECT INDEX BUSINESS UNITLocal Planning Policy
Development Services

REPORTING OFFICER Manager Development Services - Lee Reddell

AUTHORISING OFFICER Director, Planning and Development Services - Paul Needham

NATURE OF DECISION Legislative: adoption of "legislative documents" such as local laws,

local planning schemes and local planning policies

VOTING REQUIREMENT Simple Majority

Attachment B Schedule of Submissions
Attachment C Revised Policy for adoption

E

This item was considered by the Policy and Legislation Committee at its meeting on 22/9/2021, the recommendations from which have been included in this report.

The committee recommendation was moved and carried.

COUNCIL DECISION

C2110/053 Moved Councillor P Cronin, seconded Councillor J Barrett-Lennard

That the Council:

- 1. Pursuant to Clause 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopt as final LPP 4.13 : Design Review, as set out at Attachment C.
- 2. Publish a notice of adoption in a newspaper circulating within the Scheme area in accordance with clause 4 of Part 2 of Schedule 2 Deemed Provisions for Local Planning Schemes of the Planning and Development (Local Planning Schemes) Regulations 2015 of the Policy set out in 1 above.

CARRIED 9/0

EN BLOC

OFFICER RECOMMENDATION

That the Council:

- 1. Pursuant to Clause 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopt as final LPP 4.13 : Design Review, as set out at Attachment C.
- Publish a notice of adoption in a newspaper circulating within the Scheme area in accordance with clause 4 of Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the Planning and Development (Local Planning Schemes) Regulations 2015 of the Policy set out in 1 above.

EXECUTIVE SUMMARY

Council is asked to consider final adoption of *LPP 4.13*: *Design Review* as set out in Attachment C, which since being initiated by Council, has been publicly advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations'). A minor change is recommended, addressing an issue identified in one of the submissions.

BACKGROUND

Design Review Panels (DRPs) are groups of independent experts who advise on the design quality of a project or development proposal. DRPs have been operating in Australia for over 20 years and 80% of Perth's metropolitan local governments have established a DRP, which are now reinforced through the State Government's Design WA initiative.

State Planning Policy 7.0 'Design of the Built Environment' (SPP 7.0) states that planning authorities, including local government, should establish or arrange access to design review processes to review:

- complex planning proposals;
- proposals identified as benefitting from design review; or
- matters as set out in the Regulations or recommended in the Design Review Guide.

Officers have been working with other local authorities within the South West region to establish a South West Design Review Panel (SWDRP). A Memorandum of Understanding (MOU) and Terms of Reference (TOR) have been prepared by the participating local governments. The advantages of a SWDRP are lower costs and a larger pool of experts to draw from, thus improving the potential pool of expertise and lowering the risk of conflict of interest.

The proposed Policy was drafted to achieve three things:

- 1. establish a 'head of power', in creating a relationship between the development assessment and design review process;
- 2. outline the types of applications that will require design review; and
- 3. outline process on fees and charges.

At this point in time, there is commitment to a SWDRP from the following local governments:

- City of Bunbury
- Shire of Augusta Margaret River
- Shire of Harvey
- Shire of Collie

Draft LPP 4.13: Exempt Development (Attachment A) was initiated by Council on 12 May 2021 for the purposes of public consultation. The Policy was advertised via a notice placed in the local newspaper for four consecutive weeks and a portal was created on the City's Your Say platform website for the online lodgement of submissions. A total of two submissions were received.

OFFICER COMMENT

Design review is an independent and impartial evaluation process through which a panel of experts on the built environment assess the design of a proposal. DRPs can be used for development applications, major public works, structure plans, local development plans and design related local planning policies.

DRPs often contain a wide range of experience that can cover architecture, heritage, urban design, landscape architecture and planning. Their focus is principally on pre-lodgement advice, so that the DRP can influence the drafting of plans before the applicant is committed through fully worked up drawings.

In order for the SWDRP to function, an MOU has been drafted between the participating local governments. The MOU is an agreement between the parties to work together to establish and maintain a DRP. The MOU states that participating local governments will contribute equally to funding an Expression of Interest (EOI) process and ongoing member recruitment costs, after which the DRP will operate on a 'user pays' basis, where costs incurred presenting an item (such as panel member sitting fees) will be borne by the local government presenting an item.

Further operational guidance will be provided by way of the TOR document which sets out the role and stature of the DRP, governance, member appointment and responsibilities, remuneration, and meeting procedures. Importantly, the TOR refer to a Policy to establish the types of applications that will require design review, as well as a process around fees and charges.

A Policy is advantageous as it can be tailored from place to place to recognise the differences in development scale and frequency between local authorities. Under Part 3 of the Deemed Provisions of the Regulations, the City must have regard to a Policy in determining a development application, meaning the proposed Policy will provide a relationship between the development assessment and design review process.

Council approval for the MOU or TOR is not proposed given their operational nature.

Consultation

The draft Policy was advertised in the local newspaper for four consecutive weeks and a portal was created on the City's *Your Say* platform website for the online lodgement of submissions.

A total of two submissions were received which can be viewed in full in Attachment B.

In summary, the submissions raised the following queries and concerns:

- 1. Questioned whether residential development would be included;
- 2. Unclear who determines whether the design review process is triggered;
- 3. No definition for 'major development proposal';
- 4. Unclear what timeframes will apply;
- 5. Excludes ratepayers and residents from the decision making process.

In response to these submissions, the following comments are made:

Mixed-use development containing a residential component or Multiple Dwelling development is likely to trigger review by the SWDRP. There is no intention however to capture 'Single Houses', irrespective of scale or development value, through this process and it is noted that Single Houses are also excluded from the Development Assessment Panel decision making pathway. For the purpose of clarity, a note is to be added to the proposed Policy (Attachment C) which specifies that all Single Houses are excluded from consideration under the Policy.

- 2. City officers engaged in pre-application discussion with an applicant will determine, in consultation with the Director Planning and Development, whether an application is appropriate to be considered by the SWDRP.
- 3. No definition of 'major development' has been included in order to ensure there is the flexibility to request design review for any application that the City believes is of sufficient scale or importance to justify review by the SWDRP. It is expected that mixed use commercial development, Multiple Dwellings, significant tourism proposals, most mandatory DAP applications will be captured. There is also the ability to consider strategic planning projects such as Precinct Structure Plans or significant City led projects through this process.
- 4. Timeframes for provision of advice on reviewed projects will be set through the TOR. It is not intended that the SWDRP meetings be open to the public as it is considered likely that many developers will choose not to engage in the process based on concerns relating to commercial confidentiality prior to advice from the SWDRP on whether a design is likely to be supported and a decision can be made on whether to lodge a formal development application. It is noted however that the advice issued by the SWDRP for any application will be a public document and will be required to be addressed in consideration of any subsequent development application.
- 5. The design review process does not exclude rate payers and residents from the decision making process. The SWDRP is intended to offer advice only and has no decision making power. All applications reviewed by the SWDRP will be required to seek development approval through the normal development application pathway and given the nature of development captured through this process, it is expected that the vast majority, if not all of the applications which undertake review, will be advertised for public consultation.

Future Scheme Amendment

A Scheme Amendment may be appropriate at some point to introduce a trigger to require applicants of specified development to participate in the design review process, however this is not considered necessary at this time, given the level of positive buy-in from applicants to the informal design review processes being undertaken on significant development within the City currently. Officers will liaise with the Department of Planning Lands and Heritage on this matter and seek to introduce a relevant provision as part of the Scheme Review process or amendment if deemed necessary.

Statutory Environment

The key statutory environment is set out in the *Planning and Development Act 2005* and related subsidiary legislation, including the *City of Busselton Local Planning Scheme No. 21* (the Scheme) and the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), especially Schedule 2 (Deemed Provisions) of the Regulations, which form part of the Scheme.

Division 2, clause 4 sets out the procedure for making a local planning policy.

Relevant Plans and Policies

State Planning Policy 7.0 Design of the Built Environment (SPP7.0)

SPP7.0 states that planning authorities should establish or provide access to design review processes for complex planning proposals. This is set out in the WAPC's "Design Review Guide – Guidance for Local Governments to set up and operate a design review process".

Financial Implications

Establishment and Maintenance Costs

Estimates put establishment costs at \$5,000, covering advertising and circulating an Expression of Interest Campaign (EOI). This estimate is based on costings from the City of Stirling. The South West Development Commission have issued a \$3,000 grant towards establishment of the SWDRP with the remaining costs to be shared between the participating local governments.

In initial discussions between the participating local governments, an option to 'rotate' the hosting of the DRP was explored, such that the Cities of Bunbury and Busselton and the Shire of Augusta Margaret River take turns in hosting the DRP meetings and undertaking the administrative tasks, including preparing and circulating agendas, invites, taking minutes and formulating recommendations with the Panel Chair.

While this would reduce this workload to once quarterly, which is more manageable within existing staffing arrangements, upon reflection, it is considered more appropriate that the City of Busselton volunteer to trial hosting the DRP administrative function for a 12 month period from establishment. This is in order to ensure that the initial set up of administrative procedures, development of templates, workflow changes, records keeping guidelines, meeting and panel member arrangements, payment of panel sitting fees etc. are embedded for the sake of consistency and efficiency. It is also expected that the City of Busselton will generate the most demand for this service given the higher number of development applications processed by the City.

It is intended that an administration fee be charged to the participating local governments for each application reviewed through the DRP process to assist with covering staffing costs. The value of this fee is yet to be determined but will be reviewed and established through an agreed fee arrangement with participating local governments prior to establishment of the Panel. Before the end of the initial 12 month period, it is proposed that the City of Busselton review the workload impacts with a view to either continuing or suggesting alternate administrative arrangements be agreed.

Meeting Costs

The TOR sets the remuneration of the Panel Members, which is at \$500 per meeting for the chair and \$400 per meeting for other members, inclusive of preparation time. Costings have been based on five panel members, but this may be adjusted down depending on the outcomes of the EOI process. Based on this approach, one meeting would cost \$2,100.

The estimated budget for operating the SWDRP would be \$33,070 annually based on 12 meetings per year. Under the terms of the draft MOU, the meeting costs would be divided equally between those local governments with matters to be considered at a particular meeting. This model is yet to be tested through an EOI process however so there may need to be changes to the model if there is insufficient interest based on offering only one fee per meeting, irrespective of the number of matters to be considered.

Based on the details above, a budget allocation of \$35,470 for the 2021/22 financial year was requested through the budgeting process. This budget bid has not progressed as it appears to have been missed in the budget setting process but options for funding the City's costs through the existing consultancy budgets are being investigated. The costs to run the DRP process are expected to fluctuate dependent on the level of development proposed on any given year and could be returned to general municipal funds at budget review if unlikely to be expended in the financial year. It is noted that development applications the subject of Design Review are likely to generate significant application fees which would off-set the cost of the review. City projects referred to DRP would need to account for referral costs in the project budget.

Stakeholder Consultation

In accordance with the Regulations, it is proposed that a notice be placed in the local newspaper advising that LPP 4.13: Design Review has been adopted as final.

Risk Assessment

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

Options

As an alternative to the officer recommendation, the Council could:

- 1. Modify the Policy recommended to be adopted as final; or
- 2. Not to adopt the Policy recommended to be adopted as final.

CONCLUSION

It is recommended that Council support the proposed adoption of the Policy as described in this report.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Implementation of the officer recommendation would involve notification of the adopted Policy as outlined in the consultation section of this report above. It is expected that this will commence within one month of the Council decision.

Draft Policy for consultation

Local Planning Policy No. XX Design Review

Version: Proposed

1. Head of Power and Scope

This Policy has been adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions), Clause 4 and applies to development across the whole of the City.

The Panel will be established and operate consistent with the process outlined by the State Government Design Review Guide - Guidance for local governments (the Design Review Guide) as augmented by the adopted Terms of Reference.

2. Purpose

The purpose of this Policy is to:

- 2.1 Supplement the City's development assessment process and projects by providing design input from an independent panel of design experts; and
- 2.2 Ensure higher quality built form outcomes and an improved public realm through Design Review of development applications and City projects; and
- 2.3 Outline the types of applications of other planning documents that will require Design Review; and
- 2.4 Set out the weight afforded to the advice provided by a Panel; and
- 2.5 Establish process for fees and charges.

3. Interpretation

Terms should be interpreted in the same way as they would be interpreted if they were contained or within the Scheme, other than those terms defined below:

"Design Review" means an independent and impartial evaluation process in which experts on the built environment assess the design of a proposal.

"Panel" means a selected panel of experts who undertake a design review of a proposal.

"Scheme" means City of Busselton Local Planning Scheme No. 21

4. Policy Statement

4.1 THE DESIGN REVIEW PROCESS

- The City will use the Panel to undertake design review for matters outlined at Part
 4.2 of this policy;
- The establishment and operation of the Panel is to occur in accordance with an adopted term of reference;
- The Panel shall assess proposals against the design principles of State Planning Policy 7.0 Design of the Built Environment (WAPC, 2019);
- The Panel performs an advisory function and the decision maker shall give due regard to the Panel's advice. The Panel does not report on compliance with the Scheme or policies;

Draft Policy for consultation

17

Local Planning Policy No. XX Design Review

Version: Proposed

e) The City encourages proponents to undertake design review early in the design concept stage, prior to the submission of a development application. A number of referrals to the Panel may be required depending on the complexity of the proposal.

4.2 THRESHOLD

- a) The Design Review process may apply to:
 - All applications that meet the mandatory or optional requirement for Development Assessment Panels applications, where there is a design element that may impact on the character, appearance or streetscape of an area; or
 - Major development proposals where there is a design element that may have a significant impact on the character, appearance, or streetscape of an area at the discretion of the City; or
 - iii) Any other planning proposal (e.g. Scheme Amendment, Structure Plan, Precinct Plan, Local Planning Policy, Local Development Plan, Design Guidelines; or City project) relating to the design of development and places may be referred to the Panel at the discretion of the City.

The purpose of the Panel is to provide independent, expert advice on the design quality of the proposed development to the applicant, City officers, Council and the decision maker, to encourage innovative, high-quality designs that meet the needs of all stakeholders and the community.

4.3 FEES AND CHARGES

- a) No charge will be incurred by the proponent for up to three Design Reviews, provided at least one of those occur prior to lodgement of a development application.
- The proponent shall reimburse the City for the sitting fees of Panel members for all subsequent Panel meetings.
- Fees are to be paid to the City in accordance with Council's adopted schedule of fees and charges.

5. Review Details

Review Frequency		2 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE		Resolution #	

ATTACHMENT B - SUMMARY OF SUBMISSIONS DRAFT LOCAL PLANNING POLICY - DESIGN REVIEW

NUMBER	NAME AND ADDRESS	COMMENT	
1	T. Hodges Dunsborough	 I need more information regarding the THESHOLD as described in Clause 4.2 of the Draft. My queries are as follows: Will the Design Review Process be applicable to residential developments that require a development application, such as houses in Rural Residential areas within designated Landscape Value zones and also strata residential developments? Who, within the CoB structure determines if a design element may or may not impact on the character, appearance or streetscape of an area and therefore triggers the need for the Design Review Process? What is the definition of a 'major development proposal'? What kind of time frame will apply to the the Design Review Process, in terms of period of time lapse between making a submission and receiving a response? 	
2	L Nixon Quedjinup	4. What kind of time frame will apply to the the Design Review Process, in terms of period of time lapse between making a submission and receiving a response? It would appear that the stakeholders ie the ratepayers and local residents are now being completely excluded from any say in local developments - and especially those where their submissions over a number of years are completely disregarded by the CoB and its delegated staff authority on amendments to approved developments. Dunsborough Lakes abutment to Koopin Place, Quedjinup, is a classical example where approved design plans over the years are then "quietly" continuously amended, with no CoB Register as to the whys and wherefores, and how the adjoining landowners have been consulted or their submissions dealt with. Environmental, drainage and fire issues are "overridden" by the CoB to the detriment of the area and abutting land owners who in the case of Koopin Place, will now face adverse effects from drainage on metre high soil adjacent to their entry road; backyard BBQs and fire pits abutting their "high fire risk categorised" properties through the "sellling off of buffer zones" previously approved to prevent the above from happening. Submissions to the CoB have fallen on "deaf ears" and it appears "development at all costs" with landowners now required to seek legal opinion because "OUR" City of Busselton is not listening to the people who live within its boundaries. Koopin Place is not the only such development currently under the spotlight where the ratepayers are being ignored, resulting in legal action. The formation of an 'exclusive new Design Review Panel' will not solve the problem until the CoB listens to its ratepayers. Linda NIXON, OAM	

Revised Policy for adoption

Local Planning Policy No. 4.13 Design Review

Version: Proposed

1. Head of Power and Scope

This Policy has been adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions), Clause 4 and applies to development across the whole of the City.

The South West Joint Design Review Panel will be established and operate consistent with the process outlined by the State Government Design Review Guide - Guidance for local governments (the Design Review Guide) as augmented by the adopted Terms of Reference.

2. Purpose

The purpose of this policy is to:

- 2.1 Supplement the City's development assessment process and projects by providing design input from an independent panel of design experts; and
- 2.2 Ensure higher quality built form outcomes and an improved public realm through Design Review of development applications and City projects; and
- 2.3 Outline the types of applications of other planning documents that will require Design Review; and
- 2.4 Set out the weight afforded to the advice provided by a Design Review Panel; and
- 2.5 Establish process for fees and charges.

3. Interpretation

Terms should be interpreted in the same way as they would be interpreted if they were contained or within the Scheme, other than those terms defined below:

"Design Review" means an independent and impartial evaluation process in which experts on the built environment assess the design of a proposal.

"Panel" means a selected panel of experts who undertake a design review of a proposal.

"Scheme" means City of Busselton Local Planning Scheme No. 21

4. Policy Statement

4.1 THE DESIGN REVIEW PROCESS

- The City will use the Panel to undertake design review for matters outlined at Part 4.2 of this policy;
- The establishment and operation of the panel is to occur in accordance with an adopted term of reference;
- The Panel shall assess proposals against the design principles of State Planning Policy 7.0 Design of the Built Environment (WAPC, 2019);
- The Panel performs an advisory function and the decision maker shall give due regard to the panel's advice. The Design Review Panel does not report on compliance with the Scheme or policies;

Local Planning Policy No. 4.13 Design Review

Version: Proposed

The City encourages proponents to undertake design review early in the design concept stage, prior to the submission of a development application. A number of referrals to the Panel may be required depending on the complexity of the proposal.

4.2 THRESHOLD

- a) The Design Review Process may apply to:
 - All applications that meet the mandatory or optional requirement for Development Assessment Panels applications, where there is a design element that may impact on the character, appearance or streetscape of an area; or
 - Major development proposals where there is a design element that may have a significant impact on the character, appearance, or streetscape of an area at the discretion of the City; or
 - iii) Any other planning proposal (e.g. Scheme Amendment, Structure Plan, Precinct Plan, Local Planning Policy, Local Development Plan, Design Guidelines; or City project) relating to the design of development and places may be referred to the Design Review Panel at the discretion of the City.

The purpose of the panel is to provide independent, expert advice on the design quality of the proposed development to the applicant, City officers, Council and the decision maker, to encourage innovative, high-quality designs that meet the needs of all stakeholders and the community.

Note 1: All 'Single Houses' are excluded from consideration under this Policy.

4.3 FEES AND CHARGES

- a) No charge will be incurred by the proponent for up to three design reviews, provided at least one of those occur prior to lodgement of a development application.
- b) The proponent shall reimburse the City for the sitting fees of Design Review Panel members for all subsequent Design Review Panel meetings.
- Fees are to be paid to the City in accordance with Council's adopted schedule of fees and charges.

5. Review Details

Review Frequency			
DATE		Resolution #	
DATE		Resolution #	
	V-07-07-07-0		DATE Resolution #

14.1 RFT 04/21 ROAD NETWORK UPGRADE PEEL TERRACE / CAUSEWAY ROAD INTERSECTION UPGRADE STAGE 1

STRATEGIC THEME LIFESTYLE - A place that is relaxed, safe and friendly with services

and facilities that support healthy lifestyles and wellbeing.

STRATEGIC PRIORITY 2.12 Provide well maintained community assets through robust

asset management practices.

SUBJECT INDEX Tenders

BUSINESS UNIT Engineering and Technical Services

REPORTING OFFICER Manager, Engineering and Technical Services - Daniell Abrahamse

AUTHORISING OFFICER Director, Engineering and Works Services - Oliver Darby

NATURE OF DECISION Contractual: To enter into a contract e.g. a lease or the award of a

tender etc.

VOTING REQUIREMENT Simple Majority

ATTACHMENTS Attachment A Peel Terrace/Queen Street Upgrade - Stage 1A and

1B Concept Drawing ...

Attachment B Albert/Queen Street - Concept Drawing - Stage 2.

Adebe

Attachment C Published Under Separate Cover Confidential RFT

04/21 Tender Recommendation Report, Evaluations

and Panel Consensus Score Sheet

The officer recommendation was moved and carried.

COUNCIL DECISION

C2110/054 Moved Councillor P Cronin, seconded Councillor J Barrett-Lennard

That the Council:

- 1. Pursuant to RFT 04/21 Road Network Upgrade Peel Terrace/Causeway Road Intersection Upgrade Stage 1A Option 2, accept the tender from BCP Contractors Pty Ltd as being the most advantageous tender.
- 2. Delegates power and authority to the Chief Executive Officer to negotiate and agree minor variations in accordance with Regulation 20 of the *Local Government (Functions and General) Regulations* 1996.
- 3. Agrees to allocate an additional \$87,826 from the Major Traffic Improvements Reserve (Reserve #137) towards the Peel Terrace/Causeway Road Intersection Upgrade Stage 1A to ensure sufficient funding for the project.

CARRIED 9/0

EN BLOC

OFFICER RECOMMENDATION

That the Council:

- Pursuant to RFT 04/21 Road Network Upgrade Peel Terrace/Causeway Road Intersection
 Upgrade Stage 1A Option 2, accept the tender from BCP Contractors Pty Ltd as being
 the most advantageous tender.
- 2. Delegates power and authority to the Chief Executive Officer to negotiate and agree minor variations in accordance with Regulation 20 of the *Local Government (Functions and General) Regulations 1996*.
- 3. Agrees to allocate an additional \$87,826 from the Major Traffic Improvements Reserve (Reserve #137) towards the Peel Terrace/Causeway Road Intersection Upgrade Stage 1A to ensure sufficient funding for the project.

EXECUTIVE SUMMARY

The City of Busselton invited tenders under Request for Tender RFT 04/21 Road Network Upgrade - Peel Terrace/Causeway Road Intersection Upgrade - Stage 1A (RFT 04/21) for a suitably experienced and qualified contractor to upgrade the Peel Terrace/Causeway Road intersection.

This report recommends that Council:

- endorse the outcome of the evaluation panel's assessment;
- delegate power and authority to the CEO to negotiate and agree final terms and conditions with the successful tenderer, BCP Contractors Pty Ltd (BCP).

BACKGROUND

The project scope for RFT 04/21 is comprised of the following:

- (i) Upgrading of the Peel Terrace roundabout linking Causeway Road, upgrading the north bound lane of the roundabout form a single lane to a dual lane;
- (ii) All the associated earthworks for Stage 1A of this Task;
- (iii) Realigning the existing shared path along Causeway Road from the Vasse River bridge heading north along the western side of works;
- (iv) Drainage, water sensitive urban design principles to be applied where practicable; and
- (v) New road signs and line markings.

The contractors submitted two options to undertake the works:

- **Option 1:** Partial road closure of the intersection that will still allow through traffic.
- **Option 2:** Full road closure of the intersection during construction that will close the intersection completely during construction.

Both of these options were priced and Option 2 was found to be the cheaper option, as the construction period will be reduced from 14 weeks to 7 weeks.

A concept plan of the proposed works for Stage 1A and 1B can be seen at Attachment A. It should be noted that Stage 1B, comprising of a dedicated left slip lane through Victoria Square, will be undertaken as part of the Stage 2 works (see Attachment B) that includes upgrading the intersection of Albert Street and Queen Street.

The above-mentioned project forms part of the City's ongoing major road network improvements.

OFFICER COMMENT

On 21 August 2021, tenders were invited via TenderLink and advertised in 'The West Australian' newspaper. Tenders closed on 8 September 2021 and two (2) submissions were received:

- 1. BCP Contractors Pty Ltd (BCP); and
- 2. Leeuwin Civil Pty Ltd.

Assessment Process

In accordance with the City's procurement practices and procedures, assessments were carried out by an evaluation panel comprising City officers with relevant skills and experience. The assessment process included:

- (a) Assessing submissions received against relevant compliance criteria. The compliance criteria were not point scored. Each submission was assessed on a Yes/No basis as to whether each criterion was satisfactorily met. All tenders were deemed compliant; and
- (b) Assessing submissions received against the Qualitative Criteria weighted as detailed below.

Qualitative Criteria	Weighting
Relevant Experience	10%
Local Content	5%
Key Personnel Skills and Experience	10%
Respondents Resources	10%
Demonstrated Understanding	25%

The net price was scored using the 'Average Based Scoring Method' recommended by WALGA in the 'Local Government Purchasing and Tender Guide'.

The panel members individually assessed the qualitative criteria for each schedule, then met and applied an average to provide a final ranking. The qualitative and price scores were then added together to indicate the rankings.

Summary of Assessment Outcomes

Of the two submissions received for the two options, BCP ranked first on both the Qualitative Criteria and on price following application of Regional Price Preference for Option 2 – Full Road Closure. This resulted in BCP being ranked first overall. BCP demonstrated:

- a good range of relevant experience and ability to deliver projects of a similar nature in terms of the project scope of works;
- contributions to the local community;
- skilled and experienced staff with a strong understanding of the project requirements;
- extensive plant and equipment as well as details of material supply and a fully operational workshop to ensure plant and equipment is fully operational; and
- a very detailed project methodology provided, that satisfies the requirements of the project brief.

Option 2

Option 2 requires full closure of the intersection during the construction works and this option has been recommended for the following reasons:

- 1. The overall project cost will be dramatically reduced;
- 2. The project will be completed in seven weeks (full closure) vs fourteen weeks (partial closure);
- 3. This will result in savings on traffic management and the management and supervision of the project;
- 4. A cost benefit assessment of all the options indicated that the full closure option is most advantageous to the City.

Statutory Environment

Section 3.57 of the *Local Government* Act 1995 (the Act) requires a local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods and service. Part 4 of the *Local Government (Functions and General) Regulations* 1996:

- requires that tenders be publicly invited for such contracts where the estimated cost of providing the required goods and/or service exceeds \$250,000; and
- under Regulations 11, 14, 18, 20 and 21A, provides the statutory framework for inviting and assessing tenders and awarding contracts pursuant to this process.

The officer recommendation complies with the above-mentioned legislative requirements.

The estimated expenditure is in excess of \$500,000 which is above the Chief Executive Officer's delegated authority, therefore the award of the tender requires a decision of Council.

Relevant Plans and Policies

The City's Purchasing, Regional Price Preference, Occupational Safety and Health, and Asset Management policies, and the City's Engineering Technical Standards and Specifications, were all relevant to RFT 04/21, and have been adhered to in the process of requesting and evaluating this tender.

Financial Implications

The original costing for this project was \$610,000 and included some minor design works, service relocations and the construction works. The two tender submissions received were both in excess of the available budget. This is to some extent attributed to the current inflated construction costs due to the shortage of contractor resources and increased workloads.

The project is to be funded from the endorsed Peel & Queen Street Roundabout project which has a remaining budget of \$590,000. Expenditure to date has been used for services and design works. It is recommended that an amount of \$87,826 is drawn down from the Major Traffic Improvement Reserve (Reserve #137) to cover the balance of the overall project cost. The Major Traffic Improvement Reserve currently has an available balance of \$997,471 estimated at the end of the 2021/22 financial year. With the proposed amendment, the balance of the Major Traffic Improvement Reserve would be \$909,645.

Stakeholder Consultation

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

Risk Assessment

An assessment of the potential implications of implementing the officer's recommendation has been undertaken using the City's risk management framework, with the intention being to identify risks which, following implementation of controls, are identified as medium or greater. There are no such risks identified, with the preferred tenderer assessed as being capable of delivering the services to a suitable service level.

Options

As an alternative to the proposed recommendation, the Council could:

- 1. Determine not to accept the tender from BCP Contractors Pty Ltd and accept a tender(s) from the other Contractor who submitted; or
- 2. Decline to accept any tender.

CONCLUSION

The submission from BCP is considered the most advantageous to the City. It is recommended that BCP Contractors Pty Ltd be awarded the contract to deliver RFT 04/21 Road Network Upgrade - Peel Terrace/Causeway Road Intersection Upgrade - Stage 1A - Option 2.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If endorsed by Council, it is expected the City will enter into a contract with BCP Contractors Pty Ltd by mid October 2021.

The works are scheduled to commence after the December/January 2021/2022 school holiday and will be completed before Easter 2022.

Peel Terrace/Queen Street Upgrade - Stage 1A and 1B Concept Drawing

Attachment "A"



Attachment B



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16.1 COMMERCIAL LEASE - PORTION OF OLD COURTHOUSE ARTGEO COMPLEX

STRATEGIC THEME LEADERSHIP - A Council that connects with the community and is

accountable in its decision making.

STRATEGIC PRIORITY 4.3 Make decisions that respect our strategic vision for the District.

SUBJECT INDEX Agreements and Contracts

BUSINESS UNIT Corporate Services

REPORTING OFFICER Senior Leasing and Property Officer - Ann Strang **AUTHORISING OFFICER** Director Finance and Corporate Services - Tony Nottle

NATURE OF DECISION Contractual: To enter into a contract e.g. a lease or the award of a

tender etc.

VOTING REQUIREMENT Simple Majority

ATTACHMENTS Attachment A Premises Plan U

The officer recommendation was moved and carried.

COUNCIL DECISION

C2110/055 Moved Councillor P Cronin, seconded Councillor J Barrett-Lennard

That the Council:

- Advertises 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 adverse objections, authorise the CEO to enter into a lease and licence in accordance with recommendations 2 and 3 below.
- 2. Resolves to enter into a lease agreement, subject to the Minister for Lands approval, with P.B Collett & L SaeNguan (ABN 83 187 584 037) for a portion of Reserve 35361, being Lot 361, Deposited Plan 182761, Volume LR3013, Folio 834, 4 Queen Street, Busselton as shown hatched on Attachment A, subject to the terms and conditions of the lease including the following:
 - (a) term of 5 years, commencing within 2 months from the amendment to the Management Order for Reserve 35361;
 - (b) annual rent to commence at \$13,000 exclusive of GST and outgoings;
 - (c) rent to be reviewed by CPI on each anniversary;
 - (d) permitted use to operate a café and small bar subject to all necessary approvals being granted; and
 - (e) other commercial terms which are appropriate to the use of the leased premises.
- 3. Following approval from the Minister for Lands in relation to the proposed amendment to the Management Order over Reserve 35361 (the Reserve), authorise the Chief Executive Officer to enter into a licence with P.B Collett & L SaeNguan (ABN 83 187 584 037) of a further portion of the Reserve on the terms and conditions outlined in this report.

CARRIED 9/0

EN BLOC

OFFICER RECOMMENDATION

That the Council:

- 1. Advertises 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 adverse objections, authorise the CEO to enter into a lease and licence in accordance with recommendations 2 and 3 below.
- 2. Resolves to enter into a lease agreement, subject to the Minister for Lands approval, with P.B Collett & L SaeNguan (ABN 83 187 584 037) for a portion of Reserve 35361, being Lot 361, Deposited Plan 182761, Volume LR3013, Folio 834, 4 Queen Street, Busselton as shown hatched on Attachment A , subject to the terms and conditions of the lease including the following:
 - (a) term of 5 years, commencing within 2 months from the amendment to the Management Order for Reserve 35361;
 - (b) annual rent to commence at \$13,000 exclusive of GST and outgoings;
 - (c) rent to be reviewed by CPI on each anniversary;
 - (d) permitted use to operate a café and small bar subject to all necessary approvals being granted; and
 - (e) other commercial terms which are appropriate to the use of the leased premises.
- 3. Following approval from the Minister for Lands in relation to the proposed amendment to the Management Order over Reserve 35361 (the Reserve), authorise the Chief Executive Officer to enter into a licence with P.B Collett & L SaeNguan (ABN 83 187 584 037) of a further portion of the Reserve on the terms and conditions outlined in this report.

EXECUTIVE SUMMARY

The Old Post Office, which is located within the Old Courthouse at the Artgeo Cultural Complex (the Complex) has been leased as a café since 2010. The current lease expired on 30 June 2020 and the tenants have remained in occupation on a month by month basis.

The purpose of this report is to seek Council approval to offer a new lease to the current tenants, subject to the approval of the Minister for Lands, compliance with section 3.58 of the *Local Government Act 1995* (LGA), and future consideration for a licence to expand into their business into the Reserve.

BACKGROUND

In 2009, the Council considered a report detailing a business plan for the Complex which in part included a leasing component. On 25 November 2009, the Council resolved (C0911/41) to enter into a commercial lease for the Old Post Office and veranda for the purpose of tearooms.

In late 2013, the tenant at the time sold the business and assigned the remainder of the lease. In May 2015, the Council resolved (C1505/135) to enter into a further 5 year lease term with the new tenant. In October 2018, the tenants sold the business and assigned the remainder of the term of the lease to P.B Collett & L SaeNguan (the Tenants), trading as The Lockup Coffee House.

The City has been exploring new opportunities and ways to activate the Complex. City officers sought EOI's for a coffee lounge/licensed bar in the Complex. A number of informal enquiries were received along with the current tenant also keen to expand their offerings to include the sale of liquor. These opportunities have been hampered by the current purpose under the Management Order and limitations on the extent and type of commercial use permitted.

In January 2020, the Council resolved (C2001/011) to write to the Minister for Lands to request a revision to the Management Order in respect to Reserve 35361 to allow commercial leasing of the site and buildings, subject to the income generated being allocated towards the preservation and maintenance of the heritage buildings.

In accordance with the resolution, the City wrote to the Department of Planning, Lands and Heritage (DPLH) seeking an amendment to the Management Order. In response, DPLH advised that they generally do not support commercial use of Crown land and the City would need to demonstrate how the proposal fits in to a wider activation strategy for the cultural precinct. A copy of the draft Busselton Cultural Precinct Masterplan was provided to DPLH.

DPLH have since advised that there can be more scope with heritage listed buildings and that this proposal supports activation of the Precinct. A Management Order Deed is currently being prepared by DPLH. City Officers have been advised that the Management Order will be conditional upon the City entering into a Deed under which the City is accountable to DPLH on the annual income generated by the commercial operation and the nature and extent of the expenditure on the heritage aspect of the buildings.

On receipt of the new Management Order and execution of the appropriate agreement, there will be an opportunity to offer the Café proponents a licence of a further portion of the Reserve. The precise extent of the licensed area and the fee for this area will be the subject of negotiations between City officers and the Café owners, hence the proposal to authorise the CEO to enter into future negotiations and grant a licence to the Café proprietors when the City is in a position to do so.

OFFICER COMMENT

The current lease expired on 30 June 2020 and the Tenants have since occupied the building under holding over provisions since then. The Tenants are keen to secure a new lease for a further 5 years.

The area leased to the Tenants is the Old Post Office and the veranda area (as shown on attachment A). The current lease also allows for the use of the Magistrate Room within the Old Courthouse from time to time. The Tenants also hold an Outdoor Eating Facility Permit for the alfresco area at the front of the building. As the alfresco area is outside the Reserve boundary, the tenure in the form of a permit is appropriate for this space.

The café is well patronised during the day, however, with the café currently closed from midafternoon the remainder of the Complex has an appearance of also being closed at that time. Therefore, if it was viable for the café to remain open later in the day and early evening, this would be beneficial to both the City and the Tenant.

The Tenants have indicated a willingness to extend their opening hours if their offerings can include the sale of alcohol. They have also expressed an interest in expanding the café/bar area into a larger part of the Reserve if the opportunity arises.

Of more importance to the Tenants at this stage is the renewal of their lease of the existing café footprint. Negotiations in relation to their future proposal to expand into other parts of the Reserve will follow once the new Management Order is issued. Officers therefore suggest that the CEO be given authority to negotiate and enter into a licence of a further portion of the Reserve for the purpose of expanding the existing business and including the sale of alcohol throughout; the licence fee to be determined by a market valuation at the time.

It is proposed that the City enter into a new lease with the Tenants for a term of 5 years commencing within 2 months from the change to the Management Order. The annual rent is to commence at \$13,000 exclusive of GST.

Statutory Environment

Local governments are compliant with the LGA if the procedure under section 3.58(3) is followed. This requires the publishing of prior notice of the proposed disposition and invite submissions to be made. Any submissions received before the date specified in the notice must be considered.

Section 3.58(4) of the LGA requires that the disposition includes either a valuation not more than six months' old or a declaration by resolution that a valuation older than 6 months is considered a true indication of the value at the time of the disposition. A valuation of the proposed leased area was obtained on 17 June 2021.

The Commercial Tenancy (Retails Shops) Agreements Act 1985 (CTA) regulates commercial tenancy agreements relating to certain shops. The CTA applies to the café lease. The CTA regulates some of the provisions which may be contained in the lease including rent reviews, options to renew, trading hours and operation expenses.

The proposed lease and licence are over land vested with the City, the City has the power to lease or licence for periods of up to 21 years, subject to the consent of the Minister for Lands for the designated purpose of Community and Cultural.

Relevant Plans and Policies

The officer recommendation aligns to the Business Plan for operation of the ArtGeo Cultural Complex and the draft Busselton Cultural Precinct Masterplan.

Financial Implications

The market rental income for the café is valued at \$13,000 plus GST per annum. The Tenant will be responsible for all outgoings. All rental income will be directed towards the maintenance costs associated with the heritage buildings within the Complex.

Stakeholder Consultation

The City has worked with and now has support from the DPLH to offer commercial leasing of this portion of the Reserve and, once the new Management Order is issued and approved, the licence over a further portion.

Risk Assessment

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

Options

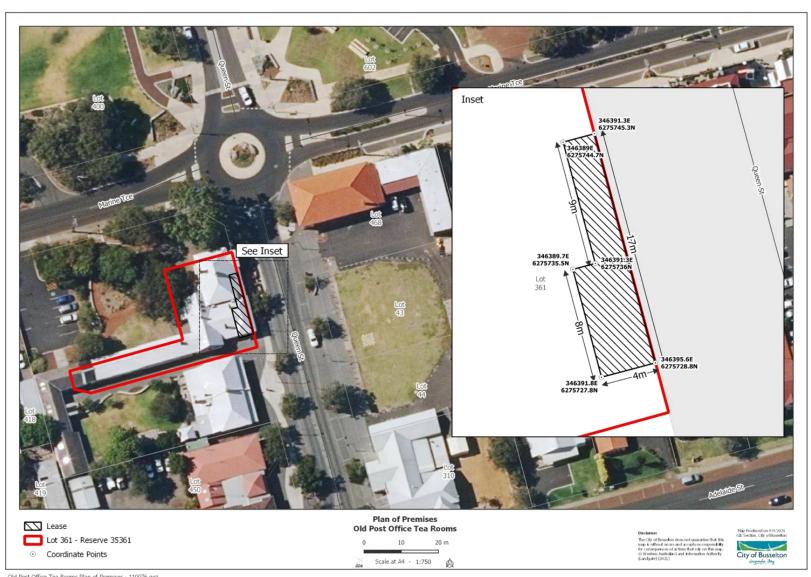
As an alternative to the proposed recommendation, the Council could resolve to not enter into a lease with the Tenants.

CONCLUSION

The opening of tearooms within the Old Post Office has created vibrancy and atmosphere at the Complex. The Tenants have demonstrated their ability to provide sustainable and consistent, quality services. They have helped to support an increase in visitor numbers to the Complex and to activate and add vibrancy to the Precinct overall. Their future plans include the establishment of a small bar and extended opening hours, all of which are supported at an officer level. For these reasons, it is recommended that the Council enter into a lease with the Tenants and facilitate future negotiations in relation to the extension of their business in the form of a licence over a further portion of the Land.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The City will enter into a lease within two months of the receipt of the new Management Order for Reserve 35361.



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Old Post Office Tea Rooms Plan of Premises - 110076.qgz

17.1 COUNCILLORS' INFORMATION BULLETIN

STRATEGIC THEME LEADERSHIP - A Council that connects with the community and is

accountable in its decision making.

STRATEGIC PRIORITY 4.2 Deliver governance systems that facilitate open, ethical and

transparent decision making.

SUBJECT INDEX Councillors' Information Bulletin

BUSINESS UNIT Executive Services

REPORTING OFFICER Reporting Officers - Various

AUTHORISING OFFICER Chief Executive Officer - Mike Archer

NATURE OF DECISION Noting: The item is simply for information purposes and noting

VOTING REQUIREMENT Simple Majority

ATTACHMENTS Attachment A Letter from Hon. John Carey MLA, Minister for Local

Government - Local Government Review Panel II

Attachment B Current Running State Administrative Tribunal

Reviews U

The officer recommendation was moved and carried.

COUNCIL DECISION

C2110/056 Moved Councillor P Cronin, seconded Councillor J Barrett-Lennard

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

17.1.1 Letter from Hon. John Carey MLA, Minister for Local Government - Local Government

Review Panel

17.1.2 State Administrative Tribunal Reviews

CARRIED 9/0

EN BLOC

OFFICER RECOMMENDATION

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

17.1.1 Letter from Hon. John Carey MLA, Minister for Local Government - Local Government Review Panel

17.1.2 State Administrative Tribunal Reviews

EXECUTIVE SUMMARY

This report provides an overview of a range of information that is considered appropriate to be formally presented to the Council for its receipt and noting. The information is provided in order to ensure that each Councillor, and the Council, is being kept fully informed, while also acknowledging that these are matters that will also be of interest to the community.

Any matter that is raised in this report as a result of incoming correspondence is to be dealt with as normal business correspondence, but is presented in this bulletin for the information of the Council and the community.

INFORMATION BULLETIN

17.1.1 Letter from Hon. John Carey MLA, Minister for Local Government - Local Government Review Panel

A letter from the Hon. John Carey MLA, Minister for Local Government, acknowledging the City's feedback to the Local Government Review Panel, is at Attachment A.

17.1.2 State Administrative Tribunal Reviews

A summary of the current State Administrative Tribunal Reviews is at Attachment B.



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Hon John Carey MLA Minister for Housing; Local Government

Our Ref: 78-02677

1 6 SEP 2021

Mr Mike Archer Chief Executive Officer City of Busselton Locked Bag 1 BUSSELTON WA 6280

Email: Melissa.Egan@busselton.wa.gov.au

Dear Mr Archer

Thank you for your letter dated 3 September 2021 regarding the City of Busselton's response to the recommendations of the Local Government Review Panel – Final Report. I appreciate the City taking the time to review and provide detailed feedback.

As you may be aware, I am considering further legislative reforms to the local government sector. While I am still developing specific proposals, these reforms are likely to be based on the themes of:

- 1. Earlier intervention, effective regulation and stronger penalties;
- 2. Reducing red tape, increasing consistency and simplicity;
- 3. Greater transparency and accountability;
- 4. Stronger local democracy and community engagement;
- 5. Clear roles and responsibilities; and
- 6. Improved financial management and reporting.

I am currently developing reform proposals considering the recommendations of various reports, including the Local Government Review Panel – Final Report. Specific reforms will require detailed consideration by Cabinet.

I look forward to continuing to work with the sector to effectively deal with emerging issues and to continue to provide for the good governance of their communities.

Yours sincerely

HON JOHN CAREY MLA

MINISTER FOR HOUSING; LOCAL GOVERNMENT

Current Running State Administrative Tribunal Reviews

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As at 28 September 2021

APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	RESPONSIBLE OFFICER	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	COMPLETED /
CITY OF BUSSELT	ON						
Lindberg v City of Busselton	4822 Bussell Highway, Busselton	October 2019	Review of a decision to give a direction under s.214.	Ben Whitehill / Lee Reddell	 Directions hearing on the 8 November 2019 against the decision of the City to give a direction under s.214. The matter was adjourned to a further directions hearing on 29 November 2019 in order to determine whether the application is misconceived or lacking in substance pursuant to s.47 of the State Administrative Tribunal Act 2004 Directions hearing on the 29 November 2019 where it was resolved: The application is amended by substituting Mr Doug Hugh Lindberg as applicant in place of Mr Johnson. The matter is listed for an on-site mediation on 6 January 2020. Mr Michael Johnson is invited to attend and participate in the mediation. Mediation on 6 January 2020 where it was resolved that: the applicant is to provide additional information to the respondent by 3 February 2020; The matter is listed for mediation on 13 February 2020. Mediation on 13 February where, following further discussion with the landowners and Mr Johnson, it was resolved to adjourn the proceeding back to a further directions hearing on 17 April 2020. Directions hearing on 5 June 2020. Directions hearing on 5 June was vacated and listed for a directions hearing on 7 August 2020. Directions hearing on 7 August 2020. Directions hearing on 6 November 2020. Directions hearing on 6 November 2020. Directions hearing on 5 February 2021. Directions hearing on 7 May 2021. Directions hearing on 7 May 2021 was vacated and listed for a directions hearing on 7 May 2021 was vacated and listed for a directions hearing on 7 Jugust 2020. Directions hearing on 7 May 2021 was vacated and listed for a directions hearing on 7 Jugust 2021 was vacated and listed for a directions hearing on 7 May 2021 was vacated and listed for a directions hearing on 7 May 2021 was vacated and listed for a directions hearing on 7 November 2021 whilst proceedings relating to the eviction of	Directions Hearing 5 November 2021	

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Attachment B

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Current Running State Administrative Tribunal Reviews	

13	Octo	ber 2	2021

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

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

12.2 Policy and Legislation Committee - 22/9/2021 - ANNUAL STATUTORY REVIEW OF **DELEGATIONS OF AUTHORITY**

STRATEGIC THEME LEADERSHIP - A Council that connects with the community and is accountable in its decision making. STRATEGIC PRIORITY 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making. **SUBJECT INDEX Delegations of Authority BUSINESS UNIT Governance Services** REPORTING OFFICER Governance Coordinator - Emma Heys **AUTHORISING OFFICER** Director Finance and Corporate Services - Tony Nottle **NATURE OF DECISION** Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations **VOTING REQUIREMENT Absolute Majority ATTACHMENTS** Attachment A DA1 - 01 Issuing notices U Attachment B DA1 - 02 Entry in an emergency !! Attachment C DA1 - 03 Abandoned vehicle wreck Attachment D DA1 - 04 Confiscated or uncollected goods. Attachment E DA1 - 05 Closure of thoroughfares USA Attachment F DA 1 - 07 Inviting Rejecting and Accepting Tenders Attachment G DA1 - 08 Expression of interest for goods and services U Attachment H DA 1 - 10 Panels of Pre-Qualified Suppliers DA1 - 11 Amendments to the consolidated parking Attachment I scheme U Attachment J DA1 - 12 Disposing of property (leases at the BMRA) Attachment K DA1 - 13 Dispose of sick or injured animal U Attachment L DA1 - 14 Power to defer, grant discounts, waive or write-off debts U Attachment M DA1 - 15 Rates and service charges ! L Attachment N DA1 - 16 Investment of surplus funds !! Attachment O DA1 - 19 Urgent legal representation 1 Attachment P DA1 - 20 Administer local laws (amended) !! **Line | DA1 - 20 Administer local laws (amended) | DA1 - 20 Administer local laws (amended) | DA1 - 20 Administer local laws (amended) Attachment Q DA1 - 21 Acquisition of Property !! Attachment R DA1 - 22A Disposition of property: other than by lease 🗸 🛣 Attachment S DA1 - 22B Disposition of property: leasing and licensing of land and buildings !! Like it is a simple of land and buildings !! Attachment T DA1 - 23 Payments from municipal fund or trust fund U Attachment U DA1 - 24 Affixing of the common seal. Attachment V DA2 - 01 The powers and duties of the local government pursuant to the Building Act 2011 🗓 Attachment W DA3 - 01 The powers and duties of the local

government pursuant to the Bush Fires Act 1954.

Attachment X DA3 - 02 Appointment of Bush Fire Control officers

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Attachment Y DA 3 - 03 To Institute a Prosecution or to Issue an Infringement (Committee Amendments) U Attachment Z DA 3 - 04 Variation of Prohibited and Restricted Burning Times (Committee Amendments) !! Attachment AA DA4 - 01 The powers and duties of the local government pursuant to the Cat Act 2011. Attachment AB DA5 - 01 The powers and duties of the local government pursuant to the Dog Act 1976 L Attachment AC DA6 - 01 The powers and duties of a local government pursuant to the Graffiti Vandalism Act 2016. Attachment AD DA7 - 01 Development control (amended) U Attachment AE DA7 - 02 Unauthorised development 1 Attachment AF DA8 - 01 Certificate of approval pursuant to the Strata Titles Act 1985 1 Attachment AG DA9 - 01 Criminal Procedure Act 2004 - Authorised and Approved Persons (delete) U Attachment AH DA10 - 01 Designated Authorised Officers (amended) Attachment Al DA10 - 02 Appoint authorised officer or approved officer (Asbestos Regulations) (amended) U Attachment AJ DA11 - 01 Meelup Regional Park Committee U Attachment AK DA11 - 02 Audit and Risk Committee (amended) U Attachment AL DA12 - 01 Prohibition orders (proposed) U Attachment AMDA12 - 02 Food Business Registration (proposed) Laboration Attachment AN DA12 - 03 Appoint authorised officers and designated officers (proposed) 🗓 🕍

This item was considered by the Policy and Legislation Committee at its meeting on 22/9/2021, the recommendations from which have been included in this report.

The committee recommendation was moved and carried.

COUNCIL DECISION C2110/057	Noved Councillor J Barrett-Lennard, seconded Councillor P Carter					
•	That the Council adopts the City of Busselton Delegations of Authority, inclusive of Committee amendments, as per Attachments A through to AN and as outlined in the table below:					
DELEGATION	CHANGES					
DA1 – 01 Issuing Notices	No changes					
DA1 – 02 Entry in an Emergency	No changes					
DA1 – 03 Abandoned vehicle wreck	No changes					
DA1 – 04 Confiscated or Uncollected Goods	No changes					
DA1 – 05 Closure of Thoroughfare	No changes es					

DA1 – 07 Inviting, Rejecting and Accepting Tenders	No changes
DA1 – 08 Expression of Interest for Goods and Services	No changes
DA1 – 10 Panels of Pre-Qualified Suppliers	Change to Conditions: Correction in Condition (b): 'connect' to 'connection'.
DA1 – 11 Amendments to the Consolidated Parking Scheme	No changes
DA1 – 12 Disposing of Property (Leases at the Busselton Margaret River Airport)	No changes
DA1 – 13 Dispose of sick or injured animals	No changes
DA1 – 14 Power to Defer, Grant Discounts, Waive or Write-Off Debts	No changes
DA1 – 15 Rates and Service Charges	No changes
DA1 – 16 Investment of Surplus Funds	No changes
DA1 – 19 Urgent Legal Representation	No changes
DA1 – 20 Administer Local Laws	Change to Conditions: Addition of condition to provide clarity in the function of each local law.
DA1 – 21 Acquisition of Property	No changes
DA1 – 22A Disposition of Property: Other than by Lease	No changes
DA1 – 22B Disposition of Property: Leasing and Licensing of Land and Buildings	No changes
DA1 – 23 Payments from Municipal Fund or Trust Fund	No changes
DA1 – 24 Affixing of the Common Seal	No changes

DA2 – 01 The Powers and Duties of the Local Government pursuant to the Building Act 2001	No changes
DA3 – 01 The Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954	No changes
DA3 – 02 Appointment of Bush Fire Control Officers	No changes
DA3 – 03 To Institute a Prosecution, or to Issue an Infringement	Change to Conditions: Express power to delegate has been corrected to s.59(3) of the Bush Fires Act 1954.
DA3 – 04 Variation of Prohibited and Restricted Burning Times	Change to Conditions: Express power to delegate has been corrected to s.17(10) of the Bush Fires Act 1954.
DA4 – 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011	No changes
DA5 – 01 The Powers and Duties of the Local Government pursuant to the Dog Act 1976	No changes
DA6 – 01 The Powers and Duties of a Local Government pursuant to the Graffiti Vandalism Act 2016	No changes
DA7 – 01 Development Control	Changes to Conditions: Various minor wording amendments to reflect contemporary terminology from the Regulations, delete reference to Developer Contribution Plans (now dealt with under the Scheme), and delete reference to Local Development Plans (WAPC has no power to approve or amend).
DA7 – 02 Unauthorised Development	No changes
DA8 – 01 Certificate of Approval pursuant to the Strata Titles Act 1985	No changes

DA8 - 01	No changes
Certificate of Approval	
pursuant to the Strata	
Titles Act 1985	
DA9 - 01	Remove – see new DA 10 – 02.
Criminal Procedure Act	
2004 – Authorised	
Persons	
DA 10 – 01	Change to Title:
Public Health Act 2016 –	To more clearly reflect the nature of the power being delegated.
Authorised Persons of	Addition of Conditions:
	To outline the requirements relating to authorised persons.
DA 10 – 02	Amended:
Appoint Authorised	Previously DA 9 – 01, the delegation has been amended to reflect
Officer or Approved	the correct head of power from which the delegation flows from,
Officer (Asbestos	being the Health (Asbestos) Regulations 1992.
Regulations)	
DA 11 – 01	No changes
Meelup Regional Park	
Committee	
DA 11 – 02	Amended:
Audit and Risk	Updated to include Risk to reflect the expansion of the Committee
Committee	to Audit and Risk, as per Council resolution C2109/201.
NEW DELEGATIONS	
DA 12 – 01	New instrument of delegation to formally delegate to the CEO the
Prohibition Orders	functions of a local government under section 118(2) of the Food
	Act 2008 – specifically in relation to Prohibition Orders.
DA 12 – 02	New instrument of delegation to formally delegate to the CEO the
Food Business	functions of a local government under section 118(2) of the Food
Registration	Act 2008 - specifically in relation to the registration of food
	businesses.
DA 12 – 03	New instrument of delegation to formally delegate to the CEO the
Appoint Authorised	functions of a local government under section 118(2) of the Food
	Act 2008 – specifically in relation to the appointment of authorised
Officers and Designated	Act 2008 – specifically in relation to the appointment of authorised

CARRIED 9/0

BY ABSOLUTE MAJORITY

Reasons:

The Committee recommended the retention of the maximum threshold of 500,000 in relation to the value of the contract or service under DA 1 - 07 and DA 1 - 10; corrections to the express powers for DA 3 - 03 and DA 3 - 04 under the Bush Fires Act 1954; and minor typographical amendments to various delegations.

OFFICER RECOMMENDATION

That the Council adopts the City of Busselton Delegations of Authority as per Attachments A through to AN and as outlined in the table below:

DELEGATION	CHANGES
DA1 – 01 Issuing Notices	No changes

DA1 – 02	No changes
	No changes
Entry in an Emergency	
DA1 - 03	No changes
Abandoned vehicle wreck	
DA1 - 04	No changes
Confiscated or	
Uncollected Goods	
DA1 – 05	No changes
Closure of Thoroughfares	
DA1 – 07	Change to Conditions:
Inviting, Rejecting and	Increase contract value from \$500,000 to \$750,000 to reflect
Accepting Tenders	rising costs and in recognition of the increase to the tender
, -	threshold to \$250,000 per annum.
DA1 - 08	No changes
Expression of Interest for	
Goods and Services	
DA1 – 10	Change to Conditions:
Panels of Pre-Qualified	Correction in Condition (b): 'connect' to 'connection'.
Suppliers	, ,
DA1 – 11	No changes
Amendments to the	
Consolidated Parking	
Scheme	
DA1 – 12	No changes
Disposing of Property	
(Leases at the Busselton	
Margaret River Airport)	
DA1 – 13	No changes
Dispose of sick or injured	
animals	
DA1 – 14	No changes
Power to Defer, Grant	
Discounts, Waive or	
Write-Off Debts	
DA1 – 15	No changes
Rates and Service Charges	
DA1 – 16	No changes
Investment of Surplus	
Funds	
DA1 – 19	No changes
Urgent Legal	
Representation	
DA1 – 20	Change to Conditions:
Administer Local Laws	Addition of condition to provide clarity in the function of each
, tarring cor Local Laws	local law.
DA1 – 21	No changes
Acquisition of Property	TWO CHAINGES
/ requisition of Froperty	

DA1 – 22A Disposition of Property: Other than by Lease	No changes
DA1 – 22B Disposition of Property: Leasing and Licensing of Land and Buildings	No changes
DA1 – 23 Payments from Municipal Fund or Trust Fund	No changes
DA1 – 24 Affixing of the Common Seal	No changes
DA2 – 01 The Powers and Duties of the Local Government pursuant to the Building Act 2001	No changes
DA3 – 01 The Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954	No changes
DA3 – 02 Appointment of Bush Fire Control Officers	No changes
DA3 – 03 To Institute a Prosecution, or to Issue an Infringement	No changes
DA3 – 04 Variation of Prohibited and Restricted Burning Times	No changes
DA4 – 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011	No changes
DA5 – 01 The Powers and Duties of the Local Government pursuant to the Dog Act 1976	No changes
DA6 – 01 The Powers and Duties of a Local Government pursuant to the Graffiti Vandalism Act 2016	No changes

DA7 - 01	Changes to Canditions.
Development Control	Changes to Conditions: Various minor wording amendments to reflect contemporary terminology from the Regulations, delete reference to Developer Contribution Plans (now dealt with under the Scheme), and delete reference to Local Development Plans (WAPC has no power to approve or amend).
DA7 - 02	No changes
Unauthorised	
Development	
DA8 - 01	No changes
Certificate of Approval pursuant to the Strata Titles Act 1985	
DA8 – 01 Certificate of Approval pursuant to the Strata Titles Act 1985	No changes
DA9 – 01 Criminal Procedure Act 2004 – Authorised Persons	Remove – see new DA 10 - 02
DA 10 - 01	Change to Title:
Public Health Act 2016 –	To more clearly reflect the nature of the power being delegated.
Authorised Persons of	Addition of Conditions:
	To outline the requirements relating to authorised persons
DA 10 – 02	Amended:
Appoint Authorised	Previously DA 9 – 01, the delegation has been amended to reflect
Officer or Approved	the correct head of power from which the delegation flows from,
Officer (Asbestos	being the Health (Asbestos) Regulations 1992.
Regulations)	
DA 11 – 01 Meelup Regional Park	No changes
Committee	Assessed and
DA 11 – 02 Audit and Risk Committee	Amended:
Addit and Risk Committee	Updated to include Risk to reflect the expansion of the Committee to Audit and Risk, as per Council resolution C2109/201.
NEW DELEGATIONS	
DA 12 – 01	New instrument of delegation to formally delegate to the CEO the
Prohibition Orders	functions of a local government under section 118(2) of the <i>Food Act 2008</i> – specifically in relation to Prohibition Orders.
DA 12 – 02	New instrument of delegation to formally delegate to the CEO the
Food Business	functions of a local government under section 118(2) of the Food
Registration	Act 2008 – specifically in relation to the registration of food businesses.
DA 12 – 03	New instrument of delegation to formally delegate to the CEO the
Appoint Authorised	functions of a local government under section 118(2) of the Food
Officers and Designated	Act 2008 – specifically in relation to the appointment of
Officers	authorised officers and designated officers.

EXECUTIVE SUMMARY

The Local Government Act 1995 (the Act) requires all delegations of authority to the CEO under the Act to be reviewed by the delegator at least once every financial year. Additionally, delegations made under the Cat Act 2011 and the Dog Act 1976 are required to be reviewed once every financial year. This review is to fulfil those requirements.

This report propose new delegations under the *Food Act 2008*, in regards to prohibition orders, the registration of food businesses and the appointment of authorised/designated officers, which are not covered under by section 9.10 of the Act.

Delegations made under the *Building Act 2011* and the *Bushfire Act 1954* do not require an annual review, however officers have include these delegations in this year's review.

BACKGROUND

Delegations of authority are an integral part of the City's governance functions. Delegations of authority are an effective and efficient means of carrying out the functions or discharging the duties of the local government, by allowing decisions of Council to be made (with or without conditions) by the Chief Executive Officer, who in turn can delegate to other staff where appropriate.

Section 5.46(2) of the Act requires all delegations by Council to the CEO to be reviewed at least once each financial year. A review has been completed and this report details the outcomes of that review, and seeks Council's endorsement of the continuing and amended delegations of authority.

OFFICER COMMENT

The annual statutory review of delegated authorities over the last two years have included significant changes to the format of the delegations and delegations register. As a result of the review in 2020, the City settled on the position that delegations should clearly identify the powers and duties that are being delegated, by reference to both relevant sections and subsections.

This format provides transparency with respect to the powers that are being delegated within a section, where there is more than one, and assists with officer understanding, noting that the City's register of sub-delegations flow from these head delegations. This aligns with advice from WALGA that each provision that can be delegated should be delegated separately, to ensure clarity in Council's decision-making process.

This format has worked well in the last 12 months, achieving clarity in the decision-making chain and providing officers with confidence they are working within the scope of their powers. To this end, we are not seeking as a result of this year's review to make any wholesale changes to the format of the delegations or register.

Proposed Changes

The following changes have been identified as part of the review and are recommended for Council's adoption:

Delegation DA 1-07 Inviting, Rejecting and Accepting Tenders and DA 1-10 Panel of Pre-Qualified Suppliers have both been amended with proposed changes to Condition (c) and (b) respectively. The increase in the threshold to accept tenders and enter into contracts from a value not exceeding \$500,000 to \$750,000 is reflective of rising costs and in recognition of the increase to the tender threshold to \$250,000 per annum. This is particularly important in recognition of the City's multiyear contracts.

Delegation DA 7 – 01 Development Control has been amended with proposed changes to Condition 3:

- 1) Update the reference to Structure Plans and Activity Centre Plans to reflect contemporary terminology in the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) which now refer to Structure Plans as 'Standard Structure Plans'; and Activity Centre Plans as 'Precinct Structure Plans';
- 2) Delete reference to Developer Contribution Plans which are now dealt with in the Scheme and therefore require Council approval for initiation and adoption in any case; and
- 3) Delete reference to Local Development Plans (LDPs) which, while generally requiring WAPC approval for their preparation (e.g. as a condition of subdivision, as identified in an approved structure plan, where considered orderly and proper planning by the WAPC) there is actually no power for the WAPC to approve or amend an LDP in the Regulations. It is proposed in association with this change to update the sub-delegations in respect of LDPs to restrict their approval to the Director Planning and Development Services and the Manager Development Services only.

Previous delegation DA9 - 01 Criminal Procedure Act 2004, Authorised and Approved Persons has been retitled to DA10 - 02 Appoint Authorised Officer or Approved Officer (Asbestos Regulations) and amended to reflect the correct head of power from which the authority to appoint authorised persons flow from.

Proposed New Delegations

Officers are proposing the adoption of three new delegations of authority for specific powers and duties, pursuant to the functions of an enforcement agency (Local Government) under the *Food Act 2008*. These are:

- a. DA12 01 Prohibitions Orders
- b. DA12 02 Food Business Registration
- c. DA12 03 Appoint Authorised Officers and Designated Officers

The proposed delegations ensure efficiencies in the registration of food businesses and the appointment of authorised officers by the CEO in a timely manner to undertake enforcement functions under the *Food Act 2008*. The power to appoint authorised officers is prescribed by s1.22 of the *Food Act 2008*, as opposed to section 9.10 of the Act, which provides for the power to appoint authorised officers under different acts.

The proposed amendments to the delegations are summarised in the table below, and have been made to reflect efficiencies identified through the review process and/or due to recently legislative changes or updates.

DELEGATION	CHANGES
DA1 – 01 Issuing Notices	No changes
DA1 – 02 Entry in an Emergency	No changes
DA1 – 03 Abandoned vehicle wreck	No changes
DA1 – 04 Confiscated or Uncollected Goods	No changes
DA1 – 05 Closure of Thoroughfares	No changes
DA1 – 07 Inviting, Rejecting and Accepting Tenders	Change to Conditions: Increase contract value from \$500,000 to \$750,000 to reflect rising costs and in recognition of the increase to the tender threshold to \$250,000 per annum.
DA1 – 08 Expression of Interest for Goods and Services	No changes
DA1 – 10 Panels of Pre-Qualified Suppliers	Change to Conditions: Increase contract value from \$500,000 to \$750,000 to reflect rising costs and in recognition of the increase to the tender threshold to \$250,000 per annum. Correction in Condition (b): 'connect' to 'connection'.
DA1 – 11 Amendments to the Consolidated Parking Scheme	No changes
DA1 – 12 Disposing of Property (Leases at the Busselton Margaret River Airport)	No changes
DA1 – 13 Dispose of sick or injured animals	No changes
DA1 – 14 Power to Defer, Grant Discounts, Waive or Write-Off Debts	No changes
DA1 – 15 Rates and Service Charges	No changes
DA1 – 16 Investment of Surplus Funds	No changes
DA1 – 19 Urgent Legal Representation	No changes
DA1 – 20 Administer Local Laws	Change to Conditions: Addition of condition to provide clarity in the function of each local law.

DA4 04	T
DA1 – 21	No changes
Acquisition of Property	
DA1 – 22A	No changes
Disposition of Property:	The smallest
Other than by Lease	
	No shanges
DA1 – 22B	No changes
Disposition of Property:	
Leasing and Licensing of	
Land and Buildings	
DA1 – 23	No changes
Payments from Municipal	
Fund or Trust Fund	
DA1 – 24	No changes
	No changes
Affixing of the Common	
Seal	
DA2-01	No changes
The Powers and Duties of	
the Local Government	
pursuant to the Building	
Act 2001	
DA3 - 01	No changes
The Powers and Duties of	
the Local Government	
pursuant to the Bush	
Fires Act 1954	1
	No shares
DA3 - 02	No changes
DA3 – 02 Appointment of Bush Fire	No changes
DA3 – 02 Appointment of Bush Fire Control Officers	
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03	No changes No changes
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a	
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue	
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a	
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue	No changes
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement	
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement DA3 – 04 Variation of Prohibited	No changes
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement DA3 – 04 Variation of Prohibited and Restricted Burning	No changes
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement DA3 – 04 Variation of Prohibited	No changes
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DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement DA3 – 04 Variation of Prohibited and Restricted Burning Times	No changes No changes
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement DA3 – 04 Variation of Prohibited and Restricted Burning Times DA4 – 01	No changes No changes
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement DA3 – 04 Variation of Prohibited and Restricted Burning Times DA4 – 01 The Powers and Duties of the Local Government	No changes No changes
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement DA3 – 04 Variation of Prohibited and Restricted Burning Times DA4 – 01 The Powers and Duties of the Local Government pursuant to the Cat Act	No changes No changes
DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement DA3 – 04 Variation of Prohibited and Restricted Burning Times DA4 – 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011	No changes No changes No changes
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DA3 – 02 Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement DA3 – 04 Variation of Prohibited and Restricted Burning Times DA4 – 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011 DA5 – 01 The Powers and Duties of	No changes No changes No changes
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Appointment of Bush Fire Control Officers DA3 – 03 To Institute a Prosecution, or to Issue an Infringement DA3 – 04 Variation of Prohibited and Restricted Burning Times DA4 – 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011 DA5 – 01 The Powers and Duties of the Local Government pursuant to the Dog Act 1976 DA6 – 01 The Powers and Duties of	No changes No changes No changes No changes
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Development Control Various termin Control delete	ges to Conditions: us minor wording amendments to reflect contemporary nology from the Regulations, delete reference to Developer ibution Plans (now dealt with under the Scheme), and
termi Contr delete	nology from the Regulations, delete reference to Developer
Contr delete	- ,
delete	INDICIONAL PROPERTY OF A CORE VERNI CONTROL OF THE PROPERTY OF THE
	e reference to Local Development Plans (WAPC has no
l powe	r to approve or amend).
	anges
Unauthorised	
Development	
DA8 – 01 No ch	anges
Certificate of Approval	
pursuant to the Strata	
Titles Act 1985	
DA8 – 01 No ch	anges
Certificate of Approval	abc-
pursuant to the Strata	
Titles Act 1985	
DA9 – 01 Remo	ve – see new DA 10 - 02
Criminal Procedure Act	
2004 – Authorised	
Persons	
	ge to Title:
	ore clearly reflect the nature of the power being delegated.
	ion of Conditions:
	tline the requirements relating to authorised persons.
DA 10 – 02 Amen	
1	busly DA 9 – 01, the delegation has been amended to reflect
1	orrect head of power from which the delegation flows from, the <i>Health (Asbestos) Regulations 1992.</i>
Officer (Asbestos being Regulations)	the neutri (Aspestos) Regulations 1332.
	anges
Meelup Regional Park	anges
Committee	
DA 11 – 02 Amen	ded:
Audit and Risk Committee Update	ted to include Risk to reflect the expansion of the
	nittee to Audit and Risk, as per Council resolution
	9/201.
NEW DELEGATIONS	
DA 12 – 01 New i	nstrument of delegation to formally delegate to the CEO the
	ons of a local government under section 118(2) of the Food
Act 20	2008 – specifically in relation to Prohibition Orders.
DA 12 – 02 New i	nstrument of delegation to formally delegate to the CEO the
	ons of a local government under section 118(2) of the Food
Registration Act 2	008 – specifically in relation to the registration of food
.,	esses.
busine	
DA 12 – 03 New i	nstrument of delegation to formally delegate to the CEO the
DA 12 – 03 New i Appoint Authorised functi	nstrument of delegation to formally delegate to the CEO the ons of a local government under section 118(2) of the <i>Food</i>
DA 12 – 03 Appoint Authorised functi Officers and Designated Act 2	nstrument of delegation to formally delegate to the CEO the

Statutory Environment

Section 5.42 of the Act provides the Council with the ability to delegate powers and duties to its CEO. Some powers and duties cannot be delegated in accordance with Section 5.43 of the Act, such as matters that require an Absolute Majority decision of Council. Council has the right to impose conditions on any delegation it grants.

Section 5.16 of the Act provides the ability for powers and duties to be delegated to Committees.

Section 44 of the *Cat Act 2011* provides the power for the CEO to delegate the exercise of its functions and discharge of its duties to the CEO.

Section 10AA of the *Dog Act 1976* provides Council with the ability to delegate powers and duties to the CEO.

The *Local Government Act 1995*, the *Cat Act 2011* and the *Dog Act 1976* require the review of delegations at least once every financial year.

The *Building Act 2011* does not prescribe a review period for powers or duties delegated under its legislation, however officers have reviewed the relevant delegations as part of this annual review.

The *Bushfires Act 1954* does not prescribe a review period for powers or duties delegated under its legislation, however officers have reviewed the relevant delegations as part of this annual review.

The *Food Act 2008* does not prescribe a review period for powers or duties delegated under its legislation.

Section 5.46 of the *Local Government Act 1995* requires that all delegations are contained within a Register. The *Local Government (Administration) Regulations 1996* require that where a decision has been made under delegated authority, records of that decision must be kept in accordance with the Regulations.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation, the Council may choose:

- 1. Not to accept any amendments to the delegations; or
- 2. To request further amendments are made to the delegations.

CONCLUSION

The statutory review of delegations has been completed and it is recommended that Council adopt the proposed, continuing and amended delegations as per the Recommendation.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Delegation of Authority Register will be amended immediately following adoption by Council.

DA1 - 01 Issuing notices

DA 1 – 01 Issuing Notices

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.25, s.3.26	
FUNCTION	s.3.25(1) The power to give notices requiring certain things to be done by owner or occupier of land s.3.26(2) The power to do anything that is considered necessary to achieve, so far as is practicable, the purpose for which the notice was given s.3.26(3) The power to recover the cost of anything from an action under subsection (2)	
CONDITIONS	Nil	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C0806/188	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021		
PREVIOUS DELEGATION REFERENCE	LG3D - Notices requiring certai of land and additional powers	n things to be done by owner or occupier when notice is given	

DA1 - 02 Entry in an emergency

13 October 2021

DA 1 – 02 **Entry in an Emergency**

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.34
FUNCTION	s.3.34(1) The power to lawfully enter s.3.34(3) The power to use reasonable force s.3.34(4) To exercise the power of entry
CONDITIONS	Nil
POLICY	Nil
REFERENCE DOCUMENTS	Nil
SUB DELEGATION	

RECORD KEEPING	ECM – GOVN015 'Instrument of	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C0806/188	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021	January 2021	
PREVIOUS DELEGATION REFERENCE	LG3E – General procedure for	LG3E – General procedure for entering property	

DA 1 – 03 Abandoned vehicle wreck

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.40A
FUNCTION	s.3.40A(4) The power to declare that the vehicle is abandoned vehicle wreck
CONDITIONS	Disposal of a declared abandoned vehicle wreck is to be undertaken in accordance with Delegation DA1 – 04 Confiscated or Uncollected Goods
POLICY	Nil
REFERENCE DOCUMENTS	Nil
SUB DELEGATION	

RECORD KEEPING	ECM – GOVN015 'Instrument of	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1806/188	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021		
PREVIOUS DELEGATION REFERENCE	LG3F – Power to Remove and Wrecks may be taken	LG3F – Power to Remove and Impound; Abandoned Vehicle Wrecks may be taken	

DA 1 - 04 **Confiscated or Uncollected Goods**

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE		Act 1995 egation of some powers or duties to CEO tations on delegations to CEO
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.46, s.3.47, s.3.48,	
	s.3.46(1)	The power to refuse to allow
	impounded	goods to be collect until
	costs are paid	
	s.3.46(2)	The power to refuse to allow
	removed goods	to be collect until costs are paid
FUNCTION	s.3.47(1)	The power to sell or otherwise
FONCTION	dispose of	goods under s.3.43
	s.3.47(2)	The power to sell or otherwise
	dispose of	any vehicle
	s.3.47(2a)	The power to sell or otherwise dispose of
	impounded goods	
	s.3.48 Th	e power to recover impounding expenses
CONDITIONS	Nil	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument of	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C0806/188	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021	January 2021	
PREVIOUS DELEGATION REFERENCE	LG3G – Disposing of Uncolled	LG3G – Disposing of Uncollected Goods	

DA 1 – 05 Closure of Thoroughfares

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.50, s.3.50A	
FUNCTION	s.3.50(1) The power to close any thoroughfare, for a period not exceeding 4 weeks s.3.50(1a) The power to close any thoroughfare for a period exceeding 4 weeks s.3.50(6) The power to revoke an order s.3.50A The power to partially close a thoroughfare for repairs or maintenance	
CONDITIONS	Nil	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument of	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C0806/188	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021		
PREVIOUS DELEGATION REFERENCE	The second secon	LG3H – Closing of Certain Thoroughfares to Vehicles and Partial Closure of Thoroughfare for Repairs or Maintenance	

DA 1 – 07 Inviting, Rejecting and Accepting Tenders

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.18, s.3.57 Local Government (Functions and General) Regulations 1996 Regulations 11, 13, 14, 18, 20, 21A	
	s.3.18 The power to perform executive functions	
	Power to enter into a contract for the purchase of	
	goods and services	
	s.3.57 Tenders for providing goods or services	
	Regulation 11(1) The power to determine when tenders	
	have to be publicly invited	
	Regulation 11(2) The power to determine that a relevant	
	exemption applies	
	Regulation 13 Requirements when local government	
	invites tenders when not required to do so	
	Regulation 14(2a) The power to determine in writing, before	
	tenders are called, the criteria for	
	acceptance of tenders	
	Regulation 14(4)(a) The power to determine the information that is to be disclosed	
	Regulation 14(5) The power to vary tender information after public notice and provide notice of variation	
FUNCTION	to information	
	Regulation 18(4) The power to evaluate tenders, by written	
	evaluation, and decide which is the most	
	advantageous	
	Regulation 18(4a) The power to seek clarification from	
	tenderers in relation to information	
	contained in their tender submission	
	Regulation 18(5) The power to decline any tender	
	Regulation 18(6), (7) The power to accept another tender where	
	within 6 months of either accepting a	
	tender, a contract has not been entered into	
	or the successful tenderer agrees to	
	terminate the contract.	
	Regulation 20 The power to vary the requirements before entry	
	into contract	
	Regulation 21A The power to vary a contract for the supply of goods	
	or services	

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CONDITIONS	This delegation is limited to the power to enter into a contract for the purchase of goods and services. This delegation is subject to: (a) Complying with the requirements of the City of Busselton's	
	Purchasing Policy as it relates to tendering; (b) Following any applicable staff management practices and operational procedures; and (c) Not accepting any tender or entering into any contract having a value exceeding \$500,000\$500,000	
POLICY	Council Policy: Purchasing	
REFERENCE DOCUMENTS	Tender Register	
SUB DELEGATION		

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RECORD KEEPING	ECM – GOVN015 'Instruments of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1103/179	Recent Council Resolution C2101/010
RECENT ALTERATIONS	September 2021	
PREVIOUS DELEGATION REFERENCE	LG3J – Inviting Tenders and Rejecting and Accepting Tenders	

DA1 - 08 Expression of interest for goods and services

DA 1 - 08 **Expression of Interest for Goods and Services**

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.57 Local Government (Functions and General) Regulations 1996 Regulations 21, 23	
FUNCTION	s.3.57 The power to call tenders for providing goods or services Regulation 21 The power to determine when to seek Expressions of Interest and to invite Expressions of Interest for the supply of goods or services. Regulation 23(2) The power to determine when an Expression of Interest may be rejected Regulation 23(3) The power to consider an expression of interest that has not rejected	
CONDITIONS	Expressions of interest for goods and services may only be called where there is an adopted budget for the proposed goods or services.	
POLICY	Council Policy: Purchasing	
REFERENCE DOCUMENTS	Nil	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1606/139	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021	January 2021	
PREVIOUS DELEGATION REFERENCE	LG3K – Preliminary Selection of	LG3K – Preliminary Selection of Tenderers	

DA 1 - 10 Panels of Pre-Qualified Suppliers (Committee Amendments)

DA 1 – 10 Panels of Pre-Qualified Suppliers

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government (Functions and General) Regulations 1996 Part 4, Division 3	
FUNCTION	Regulation 24AB The power to establish panels of pre-qualified suppliers Regulation 24AC The power to set the requirements before establishing panels of pre-qualified suppliers Regulation 24AD The power to set the requirements when inviting persons to apply to join panel of pre-qualified suppliers Regulation 24AH The power to reject and accept applications to join panel of pre-qualified suppliers Regulation 24AJ The power to enter into contracts with pre-qualified suppliers	
CONDITIONS	This delegation is subject to: (a) Compliance with the requirements of the City of Busselton's Purchasing Policy as it relates to panels of pre-qualified suppliers; and (b) The contract value of any particular goods or services to be procured from a particular supplier or in connection with a particular project is not to exceed \$500,000.\$500,000.	
POLICY	Council Policy: Purchasing	
REFERENCE DOCUMENTS	Nil	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN051 'Instrument o	ECM – GOVN051 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1508/219	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	September 2021		
PREVIOUS DELEGATION REFERENCE	LG3M – Establishment of Pane	ls of Pre-Qualified Suppliers	

DA 1 – 11 Amendments to the Consolidated Parking Scheme

POWER / DUTY ASSIGNED TO	Local Government
TOTAL TOTAL DESCRIPTION	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO
	s.5.43 Limitations on delegations to CEO
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	City of Busselton Parking Local Law 2020
	Section 1.10
FUNCTION	s.1.10 Powers of Council
CONDITIONS	The Chief Executive Officer shall ensure Councillors are provided with details of all proposed amendments to the Scheme, and given a period of not less than 14 days to submit a written request to the CEO for the matter to be presented to Council before a delegation is exercised. Any two or more Councillors may consider a proposed amendment to the Consolidated Parking Scheme to be of strategic significance and/or high community interest and request the CEO in writing, to present the proposal to Council for consideration. If the request is supported, the proposed amendment shall be presented to the first practicable Council meeting for consideration. Note: any Councillor may also submit a notice-of-motion in relation to the withdrawal of delegation in relation to a particular proposal, but it would generally be expected that they would first seek to exercise the call-in provision as outlined above.
POLICY	Council Policy: Ranger and Emergency Services Approach to Regulator Functions
REFERENCE DOCUMENTS	City of Busselton Parking Local Law 2020
SUB DELEGATION	

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution Recent Council Resolution C1802/021 C2101/010	
RECENT ALTERATIONS	January 2020	
PREVIOUS DELEGATION REFERENCE	LG3N – Amendments to the Consolidated Parking Scheme	

DA 1 – 12 Disposing of Property (Leases at the Busselton Margaret River Airport)

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.18, s.3.58	
FUNCTION	s.3.18 The power to perform executive functions The power to dispose of property	
CONDITIONS	 s.3.58 The power to dispose of property This delegation is subject to: The property being located at the Busselton Margaret River Airport; The means of disposal being a lease; The term of the lease (including options) being up to a maximum of 20 years; The initial annual market rental value of the lease being less than: \$10,000.00 per annum for a ground lease; and \$50,000.00 per annum for any other lease; The disposition not being of a significant commercial and strategic nature; and At least every six months City officers must provide Councillors a summary and update of leases entered into under this delegation. 	
POLICY	Council Policy: Purchasing	
REFERENCE DOCUMENTS		
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1811/244		
RECENT ALTERATIONS	January 2021	January 2021	
PREVIOUS DELEGATION REFERENCE	LG30 – Disposing of Property (Airport)	LG3O – Disposing of Property (Leases at Busselton Margaret River Airport)	

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DA 1 – 13 Dispose of sick or injured animals

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.47A	
FUNCTION	s.3.47A The power to humanely destroy an animal and dispose of the carcass	
CONDITIONS	This delegation is only to be used where the all reasonable efforts to identify and contact an owner have been exhausted	
РОИСУ	Council Policy: Ranger and Emergency Services Approach to Regulatory Functions Council Policy: Rehoming of Impounded Dogs and Cats	
REFERENCE DOCUMENTS	Cat Act 2011 Keeping and Control of Cats Local Law 2014 Dog Act 1976 Dogs Local Law 2014	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'		
VERIFICATION	Initial Council Resolution Recent Council Resolution C1812/264 C2101/010		
RECENT ALTERATIONS	January 2021		
PREVIOUS DELEGATION REFERENCE	LG3Q – Authority to destroy an impounded sick or injured animal		

DA1 - 14 Power to defer, grant discounts, waive or write-off debts

DA 1 – 14 Power to Defer, Grant Discounts, Waive or Write-Off Debts

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.6.12	
FUNCTION	s.6.12(1)(b) The power to waive or grant concessions in relation to any amount of money s.6.12(1)(c) The power to write off any amount of money s.6.12(3) The power to determine conditions imposed on the granting of a concession	
CONDITIONS		
POLICY	Council Policy: COVID-19 Financial Hardship	
REFERENCE DOCUMENTS	City of Busselton COVID-19 Financial Hardship Brochure and FAQ's City of Busselton COVID-19 Financial Hardship Application Form	
SUB DELEGATION		

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RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution Recent Council Resolution C0806/188 C2101/010	
RECENT ALTERATIONS	January 2021	
PREVIOUS DELEGATION REFERENCE	LG6B – Power to Defer, Grant Discounts, Waive or Write-off Debts	

DA 1 – 15 Rates and Service Charges

POWER / DUTY ASSIGNED TO	Local Government		
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO		
DELEGATED TO	Chief Executive	Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.6.45, s.6.49, s.6.50, s.6.56, s.6.60, s.6.64, s.6.71, s.6.74, s.6.76		
	s.6.45(3) The power to impose an additional charge for instalments		
	<u>The power to enter into an agreement for the</u> payment of rates and service charges		
	<u>s.6.50</u>	The power to set rates or service charges due and payable	
	<u>s.6.56</u>	The power to recover, in court, rates or service charges due	
	s.6.60(4)	The power to recover the amount of the rate or service charge as a debt from the lessee if the rent is not paid in accordance with a	
	<u>s.6.64(1)</u>	notice The power to take possession of land and hold land against a person having an estate or interest in the land where rates or service	
FUNCTION	s.6.69(2)	charges have remained unpaid for at least three years The power to agree to the terms and	
	3.0.03(2)	conditions between parties and accept payment of the outstanding rates or service charges	
	<u>s.6.71</u>	The power to transfer land to Crown or local government	
	<u>s.6.74</u>	The power to have land vested in Crown if rate in arrears 3 years	
	s.6.76(4)	The power to extend the time for a person to make an objection to a rate records	
	s.6.76(5)	The power to consider any objection and disallow or allow it, wholly or in part	
CONDITIONS	Nil		
POLICY	Nil		
REFERENCE DOCUMENTS	Nil		
SUB DELEGATION			

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A ⁻	ttachment M	DA1 - 15 Rates and service charges

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C0806/188		
RECENT ALTERATIONS	January 2021	January 2021	
PREVIOUS DELEGATION REFERENCE	LG6C – Rates and Service Charg	LG6C – Rates and Service Charges	

DA 1 - 16 **Investment of Surplus Funds**

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.6.14	
FUNCTION	s.6.14(1) The power to invest money held in the municipal fund or trust fund that is not, for the time being, required for any other purpose	
CONDITIONS	Council approval is required for any investment in Managed Investments	
POLICY	Council Policy: Investment	
REFERENCE DOCUMENTS	Nil	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C0806/188	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021		
PREVIOUS DELEGATION REFERENCE	LG6D – Investment of Surplus I	LG6D – Investment of Surplus Funds	

DA 1 – 19 Urgent Legal Representation

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Council Policy: Legal Representation for Council Members and Employees	
FUNCTION		
CONDITIONS	 The authority to grant approval for applications for urgent legal representation for Council members and employees is limited to a maximum of \$10,000; An application approved by the CEO is to be submitted at the next ordinary meeting of Council; The determination must be made pursuant to Council Policy 'Legal Representation for Council Members and Employees'. 	
POLICY	Council Policy: Legal Representation for Council Members and Employees	
REFERENCE DOCUMENTS	Local Government Operational Guideline Number 14 April, 2016	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C0806/188	the state of the s	
RECENT ALTERATIONS	January 2021	January 2021	
PREVIOUS DELEGATION REFERENCE	LG5A – Provision of Urgent Leg	LG5A – Provision of Urgent Legal Services	

DA1 - 20 Administer local laws (amended)

DA 1 – 20 Administer Local Laws

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.18	
FUNCTION	s.3.18 The power to perform executive functions	
CONDITIONS	To perform the duties of the local government pursuant to the powers of each local law.Nil	
POLICY	Nil	
REFERENCE DOCUMENTS	City of Busselton Local Laws: Activities in Thoroughfares and Public Places and Trading Local Law 2015 Busselton Regional Airport Local Law 2012 Keeping and Control of Cats Local Law 2014 Cemeteries Local Law 2015 Waste Local Law 2016 Dogs Local Law 2014 Dust and Building Waste Control Local Law 2010 Health Local Law 1997 Holiday Homes Local Law 2012 Jetties Local Law 2014 Local Government Property Local Law 2010 Parking Local Law 2020 Standing Orders Local Law 2018	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'		
VERIFICATION	Initial Council Resolution C0806/188	Recent Council Resolution C2101/010		
RECENT ALTERATIONS	September 2021	September 2021		
PREVIOUS DELEGATION REFERENCE	The state of the s	LG3A – Executive Function – Determining Applications Under Local Laws and Enforcement of Local Law Provisions		

DA1 - 21 Acquisition of Property

DA 1 - 21 **Acquisition of Property**

POWER / DUTY ASSIGNED TO	Local Government		
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO		
DELEGATED TO	Chief Executive Officer		
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.18		
FUNCTION	s.3.18 The power to perform executive functions		
CONDITIONS	In accordance with s.5.43(d) of the Local Government Act 1995, the value of the property to be acquired shall not exceed \$100,000		
POLICY	Nil		
REFERENCE DOCUMENTS	Nil		
SUB DELEGATION			

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'		
VERIFICATION	Initial Council Resolution C1706/151	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021		
PREVIOUS DELEGATION REFERENCE	LG3B – Acquisition of Property		

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DA 1 – 22A

Disposition of Property: Other than by Lease

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.18, s.3.58 Local Government (Functions and General) Regulations 1996 Regulations 30	
FUNCTION	s.3.18 The por	wer to perform executive functions
FONCTION	<u>s.3.58(2)</u>	The power to dispose of property at a public auction or by public tender
	s.3.58(3)	The power to dispose of property by private treaty
	Regulation 30 (2)(a)(ii)	The power to determine an insignificant benefit
CONDITIONS	1. The value of the land to be disposed of shall not exceed \$20,000 other than if paragraph (2) applies; or 2. Where the property is land valued at less than \$100,000 and has been put to public auction or put out to tender and not sold, the land may be disposed of in accordance with Regulation 30 (2)(a) of the Local Government (Functions and General) Regulations 1996; and 3. The value of property other than land to be disposed of shall not exceed \$100,000; and 4. Where the value of property other than land does not exceed \$20,000 the property may be disposed of in accordance with Regulation 30 (3)(a) of the Local Government (Functions and General) Regulations 1996.	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C2006/050	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	June 2020 Rescission of DA 1 – 22: Adopti	June 2020 Rescission of DA 1 – 22: Adoption of DA 1 – 22A and DA 1 – 22B	
PREVIOUS DELEGATION REFERENCES	DA 1 – 22 – Disposing of Property	DA 1 – 22 – Disposing of Property LG3C – Disposing of Property	

DA 1 – 22B Disposition of Property: Leasing and Licensing of Land and Buildings

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POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.18, s.3.58	
FUNCTION	s.3.18 The power to perform executive functions s3.58(2) The power to dispose of property at a public auction or by public tender s.3.58(3) The power to dispose of property by private treaty	
CONDITIONS	 Leasing and licensing of land and buildings, including assignments of existing leases and licences and the renewal of a lease by a lessee, where — (a) The land and/or buildings are established sporting or community facilities (including on managed reserve land) and where any part of the land or building has been leased or licensed before by the City: or (b) The land and/or buildings are for the purpose of storage only and are of an area of not more than 100 square metres. The permitted use of the land or buildings must be consistent with: (a) The designated purpose of the property; or (b) The general or ancillary use of the land or buildings immediately prior to the entering into of a lease; or (c) If the land or building has recently been acquired or a new or amended management order has been made in respect of a managed reserve, the purpose for which the property hasbeen acquired or is to be managed. The value of the lease or licence (inclusive of all options or rights to renew or extend, but not including any provisions for holding over on a month by month basis) must not exceed \$25,000). The maximum term of the lease or licence, including any right by a lessee to assign the lease or licence or to sublease or sublicense the land and/or buildings shall not exceed 10 years (inclusive of all options or rights to renew or extend, but not including any provisions for holding over on a month by month basis). At least every six months City officers shall provide Councillors a summary and update of leases or licences entered into under this delegation. 	
POLICY	Nil Nil	

75 DA1 - 22B Disposition of property: leasing and licensing of land and buildings

REFERENCE DOCUMENTS	Nil
SUB DELEGATION	

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C2006/050		
RECENT ALTERATIONS	June 2020 Rescission of DA 1 – 22: Adopti	June 2020 Rescission of DA 1 – 22: Adoption of DA 1 – 22A and DA 1 – 22B	
PREVIOUS DELEGATION REFERENCES	DA 1 – 22 – Disposing of Proper LG3C – Disposing of Property	DA 1 – 22 – Disposing of Property LG3C – Disposing of Property	

DA 1 – 23 Payments from Municipal Fund or Trust Fund

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	Local Government Act 1995 s.6.10 Local Government (Financial Management) Regulations 1996 Regulation 12
FUNCTION	s.6.10 Financial management regulations Regulation 12(1) The power to make payments from municipal fund or trust fund
CONDITIONS	With respect to allocation of donations and sponsorship from the fund established for this purpose in accordance with the Council's tiered funding scheme, individual payments from this fund are not to exceed \$1,000 unless prior consultation with the Finance Committee has occurred.
POLICY	Nil
REFERENCE DOCUMENTS	Nil
SUB DELEGATON	

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021	
PREVIOUS DELEGATION REFERENCE	LG6A – Payments from the Municipal Fund or Trust Fund	

DA 1 – 24 Affixing of the Common Seal

S.		
POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Local Government Act 1995 s.9.49A	
FUNCTION	s.9.49A(2) The power to affix the common seal	
CONDITIONS	The CEO is authorised to affix the Common Seal to all documents that require it to be legally effective and to carry out the functions of a CEO.	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1005/169		
RECENT ALTERATIONS	January 2021	January 2021	
PREVIOUS DELEGATION REFERENCE	LG9B – Authorising the Affixing	LG9B – Authorising the Affixing of the Common Seal to Documents	

$\ensuremath{\mathsf{DA2}}$ - 01 The powers and duties of the local government pursuant to the Building Act 2011

BUILDING ACT 2011

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DA 2 – 01 The Powers and Duties of the Local Government pursuant to the Building Act 2011

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Building Act 2011 Part 8, Division 2, Section 96 Part 10, Section 127
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	The Building Act 2011
FUNCTION	The powers and duties of the local government pursuant to the Building Act 2011
CONDITIONS	Nil
POLICY	Nil
REFERENCE DOCUMENTS	Nil
SUB DELEGATION	

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution Recent Council Resolution C1110/334 C2101/010	
RECENT ALTERATIONS	August 2019	
PREVIOUS DELEGATION REFERENCE	BA1 – Powers of the Local Government pursuant to the Building Act 2011	

DA3 - 01 The powers and duties of the local government pursuant to the Bush Fires Act 1954

BUSH FIRES ACT 1954

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DA 3 – 01 The Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Bush Fires Act 1954 Part V, Section 48	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	The Bush Fires Act 1954	
FUNCTION	All powers of the local government pursuant to the Bush Fires Act 1954	
CONDITIONS	 Excludes the powers and duties that are subject to separate delegated authority within this Register as set out below: (a) DA 3 – 02 Appointment of Bush Fire Control Officers; (b) DA 3 – 03 Prosecutions and Infringements; (c) DA 3 – 04 Variation of Prohibited and Restricted Burning Times A delegation as per s.48 does not include the power to subdelegate 	
POLICY	Council Policy: Bush Fire Brigade Accounting Council Policy: Bush Fire Brigade Grievance Process Disciplinary Action Council Policy: Meetings of Bush Fire Brigades Council Policy: Membership of Bush Fire Brigades Council Policy: Qualifications of Bush Fire Brigades Officers Council Policy: Roles of Bush Fire Brigade Officers Council Policy: Code of Conduct, Bush Fire Brigade Objectives and Values	
REFERENCE DOCUMENTS	Annual Firebreak and Fuel Hazard Reduction Notice	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C969/0425	Recent Council Resolution C2101/010
RECENT ALTERATIONS	August 2019	
PREVIOUS DELEGATION REFERENCE	BF1 – The performance of any of the functions of the local government under the Act	

DA 3 – 02 Appointment of Bush Fire Control Officers

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Bush Fires Act 1954 Part V, Section 48 Delegation by Local Governments	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Bush Fires Act 1954 Part IV, Section 38	
FUNCTION	s.38 Local government may appoint bush fire control officer	
CONDITIONS	1. This delegation is limited to the appointment of members of volunteer bush fire brigades and the City Ranger and Emergency Services Staff; 2. In the case of appointment of members of volunteer bush fire brigades, the delegation shall only be exercised where there is a recommendation to appoint from the Bush Fire Advisory Committee; and 3. This delegation does not extend to the appointment of Chief or Deputy Bush Fire Control Officers.	
POLICY	Council Policy: Membership of Bush Fire Brigades Council Policy: Qualifications of Bush Fire Brigades Officers Council Policy: Roles of Bush Fire Brigade Officers Council Policy: Code of Conduct, Bush Fire Brigade Objectives and Values	
REFERENCE DOCUMENTS	Annual Firebreak and Fuel Hazard Reduction Notice	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C969/0425	Recent Council Resolution C2101/010
RECENT ALTERATIONS	August 2019	
PREVIOUS DELEGATION REFERENCE	BF2 – Appointment of Bush Fire Control Officers	

DA 3 – 03 To Institute a Prosecution, or to Issue an Infringement

	and the same of th	
POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Bush Fires Act 1954 Section 48 Delegation by Local Governmentss.59 (3) Prosecution of Offences	
DELEGATED TO	Chief Executive Officer Bush Fire Control Officer/s Director Planning and Development Manager Environmental Services Ranger and Emergency Services Coordinator Senior Ranger/s Ranger/s	
POWER / DUTY DELEGATED	The Bush Fires Act 1954	
FUNCTION	s.59 Prosecution of offences s.59A Alternative procedure – infringement notices	
CONDITIONS	 Rangers and Senior Rangers are prohibited from commencing a prosecution for an offence against the Bush Fire Act 1954; Rangers and Senior Rangers are prohibited from instituting legal proceedings pursuant to s.59A(3) of the Bush Fire Act 1954; and A delegation as per s.48 of the Bush Fire Act 1954 does not include the power to sub-delegate 	
POLICY	Council Policy: Ranger and Emergency Services Approach to Regulatory Functions	
REFERENCE DOCUMENTS	Annual Firebreak and Fuel Hazard Reduction Notice	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1812/264	Recent Council Resolution C2101/010
RECENT ALTERATIONS	August 2019	
PREVIOUS DELEGATION REFERENCE	BF3 – To Institute a Prosecution, or to Issue an Infringement	

DA 3 – 04 Variation of Prohibited and Restricted Burning Times

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Bush Fires Act 1954 Section 48 Delegation by Local Governments Section 17 (10)	
DELEGATED TO	Mayor Chief Bush Fire Control Officer	
POWER / DUTY DELEGATED	The Bush Fires Act 1954	
FUNCTION	s.17 Prohibited burning times may be declared by Minister s.18 Restricted burning times may be declared by FES Commissioner	
CONDITIONS	 The powers and duties pursuant to sections 17 and 18 of the Bush Fires Act 1954 are jointly delegated to the Mayor and Chief Bush Fire Control Officer; and Decisions under s.17 (7) must comply with the requirements of s.17(7B) and s.17(8). 	
POLICY	Nil	
REFERENCE DOCUMENTS	Annual Firebreak and Fuel Hazard Reduction Notice	
SUB DELEGATION		

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RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1812/264	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	August 2019		
PREVIOUS DELEGATION REFERENCE	BF4 – Variation of Prohibited a	BF4 – Variation of Prohibited and Restricted Burning Times	

$\ensuremath{\mathsf{DA4}}$ - 01 The powers and duties of the local government pursuant to the Cat Act 2011

CAT ACT 2011

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DA 4 – 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Cat Act 2011 Part 4, Division 2, Section 44	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	The Cat Act 2011	
FUNCTION	All powers and duties of a local government pursuant to the <i>Cat Act</i> 2011	
CONDITIONS	Nil	
POLICY	Council Policy: Rehoming of Impounded Dogs and Cats Council Policy: Ranger and Emergency Services Approach to Regulatory Functions	
REFERENCE DOCUMENTS	Keeping and Control of Cats Local Law 2014	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1310/285	Recent Council Resolution C2010/010	
RECENT ALTERATIONS	August 2019		
PREVIOUS DELEGATION REFERENCE	CA1 – The Powers and Duties of	CA1 – The Powers and Duties of the Cat Act 2011	

Attachment BB

DA5 - 01 The powers and duties of the local government pursuant to the Dog Act 1976

DOG ACT 1976

DA 5 – 01 The Powers and Duties of the Local Government pursuant to Dog Act 1976

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Dog Act 1976 Section 10AA	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	The Dog Act 1976	
FUNCTION	All the powers and duties of the local government pursuant to the <i>Dog</i> Act 1976	
CONDITIONS	Nil	
POLICY	Council Policy: Rehoming of Impounded Dogs and Cats Council Policy: Ranger and Emergency Services Approach to Regulatory Functions	
REFERENCE DOCUMENTS	Dogs Local Law 2014	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1310/285	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	August 2019		
PREVIOUS DELEGATION REFERENCE	DA1 – The powers and duties of authority to further delegate	DA1 – The powers and duties of the Dog Act 1976 including the authority to further delegate	

DA6 - 01 The powers and duties of a local government pursuant to the Graffiti Vandalism Act 2016

GRAFFITI VANDALISM ACT 2016

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DA 6 – 01 The Powers and Duties of a Local Government pursuant to the Graffiti Vandalism Act 2016

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Graffiti Vandalism Act 2016 Section 16
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	The Graffiti Vandalism Act 2016
FUNCTION	All the powers and duties of a local government pursuant to the Graffiti Vandalism Act 2016
CONDITIONS	Nil
POLICY	Nil
REFERENCE DOCUMENTS	Nil
SUB DELEGATION	

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1706/131	Recent Council Resolution C2101/010
RECENT ALTERATIONS	August 2019	
PREVIOUS DELEGATION REFERENCE	GV1 – Exercise of any of the local governments powers or the discharge of any of its duties under Part 3 of the <i>Graffiti Vandalism Act 2016</i>	

PLANNING AND DEVELOPMENT ACT 2005

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DA 7 – 01 Development Control

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Planning and Development Act 2005 s.162 Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	The Planning and Development (Local Planning Schemes) Regulations 2015	
FUNCTION	The powers and duties of the local government able to be delegated under clause 82, Schedule 2 – Deemed Provisions for local planning schemes.	
CONDITIONS	 'Call-in' provisions Any two or more Councillors may consider an application or proposal to be of strategic significance and/or high community interest and request the CEO in writing, to present the application or proposal to the Council for consideration. If the request is supported, the application shall be presented to the first practicable Council meeting for consideration. Note: Any Councillor may also submit a notice of motion in relation to the withdrawal of delegation in relation to a particular application, but it would generally be expected that they would first seek to exercise the call-in provision outlined above. Reconsideration of applications for development approval Prior to the determination of an application for reconsideration of an application for development approval (other than where a reconsideration is occurring pursuant to section 31 of the State Administrative Tribunal Act 2004 – see below), the CEO shall ensure that a copy of the reconsideration request, together with a report assessing the application, is circulated to all Councillors, giving a period of not less than 14 days before a delegated decision is made. "Reconsideration" is a not a defined term in the City of Busselton Local Planning Scheme No. 21 or the Planning and Development (Local Planning Scheme) Regulations 2015, however for the purposes of this delegation, the term relates to applications to: a) a request to-amend or delete conditions of a development approval, where City officers are not supportive of that request and informal discussion with the applicant has not resolved the issue; and 	

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b) to new development applications which are substantially the same as an earlier application refused under delegation.

This condition relates to applications to amend an approval where reconsideration of conditions is being requested, and also to new applications which are substantially the same as an earlier application refused under delegation (where the request is made within 60 days of the original determination date).

3. Standard Structure Plans, and Precinct Structure Plans, Activity Centre Plans, Local Development Plans, Developer Contribution Plans

Prior to making a recommendation to the Western Australian Planning Commission regarding adoption or amendment of a Structure Plan or Precinct Structure Plan, Activity Centre plan and/or Local Development Plan, the CEO shall ensure that a copy of the respective plan, together tighter with a report, setting out and explaining the recommendation proposed to be made under delegation, is circulated to all Councillors, giving a period of not less than 14 days before a recommendation is forwarded to the Commission.delegated decision is made.

These delegations do not extend to the making of recommendations to the Western Australian Planning Commission regarding adoption or amendment to the Developer Contribution

4. Local Planning Policies, Local Heritage List, Heritage Precincts
Decisions relating to adoption, revocation or amendment of local
Planning Policies, the Local Heritage List and/or Heritage Precincts
are not delegated.

Applications for review by the State Administrative Tribunal (SAT)

Where the original decision was made under delegation, a reconsideration decision pursuant to section 31 of the State Administrative Tribunal Act 2004 may also be made under delegation.

Where the original decision was made by the Council, a reconsideration decision pursuant to section 31 of the State Administrative Tribunal Act 2004 shall be presented to the Council for consideration, unless officers have first briefed Councillors and Councillors have indicated a general willingness to allow the decision to be made under delegation, in which case a decision may be made under delegation, provided that the 'call-in' provisions set out at Condition 1 above have not been exercised before the decision isn made_, and that Councillors have also been briefed on the matter as per Condition 6 below, to provide an opportunity for Councillors to exercise the 'call-in' provisions.

Note that where the original decision was made by a Development Assessment Panel, the Panel is the respondent in relation to any application for review.

6. Briefing and Reporting

Generally on a monthly basis (as agreed/determined by the Mayor and CEO), officers shall provide Councillors with an informal

DA7 - 01 Development control (amended)

	briefing on planning matters of strategic significant and/or high community interest, and on issues raised by Councillors. Each Friday, or in the case of Fridays which are public holidays, the next working day, a summary of applications received and determined in the preceding period (usually the preceding Friday to Thursday) shall be published on the City's website. Generally on a monthly basis, and generally as part of the agenda for every second ordinary Council meeting in any given month, a summary and update of planning and development-related State Administrative Tribunal matters involving the City shall be presented to Councillors as part of the 'Councillors Information Bulletin'.
POLICY	Nil
REFERENCE DOCUMENTS	Nil
SUB DELEGATION	

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1703/042	Recent Council Resolution C2101/010
RECENT ALTERATIONS	September 2021	
PREVIOUS DELEGATION REFERENCE	PDR1 – Development Control	

DA7 - 02 Unauthorised development Attachment EE

13 October 2021

DA 7 – 02 **Unauthorised Development**

POWER / DUTY ASSIGNED TO	Local Government		
POWER TO DELEGATE	Planning and Development Act 2005 Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO		
DELEGATED TO	Chief Executive Officer	Chief Executive Officer	
POWER / DUTY DELEGATED	The Planning and Development Act 2005 s.214		
FUNCTION	s.214(2) s.2.14(3) s.2.14(5)	The power to give written direction to stop or not recommence The power to give written direction to remove or restore The power to given written direction to execute the work	
CONDITIONS	Nil		
POLICY	Nil		
REFERENCE DOCUMENTS	Nil		
SUB DELEGATION			

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1106/199	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021	January 2021	
PREVIOUS DELEGATION REFERENCE	LG5B – Directions regarding un	LG5B – Directions regarding unauthorised development	

Attachment FF

DA8 - 01 Certificate of approval pursuant to the Strata Titles Act 1985

STRATA TITLES ACT 1985

DA 8 – 01 Certificate of Approval pursuant to the Strata Titles Act 1985

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Strata Titles Act 1985 s.25 Local Government Act 1995 s.5.42 Delegation of some powers or duties to CEO s.5.43 Limitations on delegations to CEO
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	Strata Titles Act 1985
FUNCTION	s.25 Certificate of Commission
CONDITIONS	Nil
POLICY	Nil
REFERENCE DOCUMENTS	Planning Bulletin 52/2009
SUB DELEGATION	

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1409/235	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	August 2019	August 2019	
PREVIOUS DELEGATION REFERENCE	STA1 – Certificate of Approval	STA1 – Certificate of Approval	

Attachment GG

DA 9 - 01

DA9 - 01 Criminal Procedure Act 2004 - Authorised and Approved Persons (delete)

CRIMINAL PROCEDURE ACT 2004	
Criminal Procedure Act 2004 - Authorised and Approved Persons	

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Criminal Procedure Act 2004 Part 2,
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	Health (Asbestos) Regulations 1992
FUNCTION	All the powers of an authorised person pursuant to the Health (Asbestos) Regulations 1992 All the powers of an approved persons pursuant to the Health (Asbestos) Regulations 1992
CONDITIONS	Authorised Persons: Authorised persons can issue infringement notices under the Criminal Procedure Act 2004 for breaches of the Health (Asbestos) Regulations 1992. Authorised Persons cannot withdraw or extend the pay period of an infringement notice issued under this legislation. Approved Persons: Approved persons can withdraw or extend the pay period of infringement notices issues under the Criminal Procedure Act 2004 for
	breaches of the Health (Asbestos) Regulations 1992. Approved Persons cannot issue infringement notices under this legislation.
POLICY	Nil
REFERENCE DOCUMENTS	Criminal Procedure Act 2004 Health (Asbestos) Regulations 1992
SUB DELEGATION	

RECORD KEEPING	ECM - GOVN001 'Authorised Delegation of Power/Authority'	
VERIFICATION	Initial Council Resolution C1703/061	Recent Council Resolution C2101/010
RECENT ALTERATIONS	January 2021	
PREVIOUS DELEGATION REFERENCE	CPA1 – Authorised Persons of t	the Criminal Procedure Act 2004

12.2 Attac

PUBLIC HEALTH ACT 2016

DA 10 – 01 Public Health Act 2016 - Authorised Persons of Designated Authorised Officers

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Public Health Act 2016 Section 21	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Public Health Act 2016 Section 24	
FUNCTION	s.24 Designation of authorised officers	
CONDITIONS	a. Subject to each person so appointed being: 1. Appropriately qualified and experienced; 2. Issued with a certificate, badge or identity card identifying the authorised officer. a-b. A Register of authorised offices is to be maintained in accordance with s.27 Nil	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1706/061	Recent Council Resolution C2101/010
RECENT ALTERATIONS	September 2021	
PREVIOUS DELEGATION REFERENCE	PHA1 – Section 21 under the Public Health Act 2016, Authorised Persons of the Public Health Act 2016	

DA10 - 02 Appoint authorised officer or approved officer (Asbestos Regulations) (amended)

DA 10 – 02 Appoint Authorised Officer or Approved Officer (Asbestos Regulations)

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POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Health (Asbestos) Regulations 1992 r.15D (7)
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	Health (Asbestos) Regulations 1992 r.15D
FUNCTION	r.15D(5) Infringement Notices Authority to appoint a person or classes of person as an authorised officer or approved officer for the purposes of the Criminal Procedure Act 2004 Part 2
CONDITIONS	Subject to each person so appointed being issues with a certificate, badge or identity card identifying the officer as a person authorised to issue infringement notices.
POLICY	Nil
REFERENCE DOCUMENTS	Nil
SUB DELEGATION	

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C1703/061		
RECENT ALTERATIONS	September 2021	September 2021	
PREVIOUS DELEGATION REFERENCE	DA 9 – 01 Criminal Procedure A Persons	DA 9 – 01 Criminal Procedure Act 2004 – Authorised and Approved Persons	

LOCAL GOVERNMENT ACT 1995

DA 11 – 01 Meelup Regional Park Management Committee

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Local Government Act 1995 s.5.16 Delegation of some powers and duties to certain committees s.5.17 Limits on delegation of powers and duties to certain committees
DELEGATED TO	Meelup Regional Park Management Committee
POWER / DUTY DELEGATED	Local Government Act 1995 s.3.18
FUNCTION	s.3.18 Performing executive functions
CONDITIONS	The above power or duty is to adopt plans, policies or documents that relate to the management of the park other than where those plans, policies or documents require adoption pursuant to a particular statutory power. The Committee may not make any decision that would require expenditure of funds contrary to the adopted budget and any decisions shall not be actioned until the Committee meeting minutes have been formally received and noted by the Council.
POLICY	Council Policy: Governance of Meelup Regional Park
REFERENCE DOCUMENTS	Meelup Regional Park Management Committee's Terms of Reference Working Group Terms of Reference
SUB DELEGATION	

RECORD KEEPING	ECM – GOVN015 'Instrument o	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution C0806/188	Recent Council Resolution C2101/010	
RECENT ALTERATIONS	January 2021	January 2021	
PREVIOUS DELEGATION REFERENCE	LG3I – Reserve Under the Cont	LG3I – Reserve Under the Control of the Local Government	

DA 11 – 02 Audit and Risk Committee

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Local Government Act 1995 s.5.16 Delegation of some powers and duties to certain committees s.5.17 Limits on delegations of some powers and duties to certain committees s.7.1B Delegation of some powers and duties to audit committees	
DELEGATED TO	Audit and Risk Committee	
POWER / DUTY DELEGATED	Local Government Act 1995 s.7.12A	
FUNCTION	s.7.12A(2) Authority to meet with the City's Auditor at least once every year on behalf of the Council s.7.12A(3) Authority to: a. Examine the report of the Auditor and determine matters that require action to be taken by the City; and b. Ensure that appropriate action is taken in respect of those matters. s.7.12A(4) Authority to review and endorse the City's report on any actions taken in response to the Auditor's report, prior to it being forwarded to the Minister.	
CONDITIONS	Delegation of s.7.12A(3) and s.7.12A(4) is not to be used where a Management Letter or Audit Report raises significant issues and the local governments meeting with the Auditor must be directed to the Council.	
POLICY	Nil	
REFERENCE DOCUMENTS	Terms of Reference: Audit and Risk Committee	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instrument of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution Recent Council Resolution C1001/015 C2101/010	
RECENT ALTERATIONS	January September 2021	
PREVIOUS DELEGATION REFERENCE	LG7A – Meeting with the Audit	cor

DA 12 - 01

Prohibition Orders

DA12 - 01 Prohibition orders (proposed)

Food Act 2008

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Food Act 2008 s.65, s.66, s.67	
FUNCTION	s.65(1) Prohibition orders s.66 Certificate of clearance to be given in certain circumstances s.67(4) Request for re-inspection	
CONDITIONS	In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.	
POLICY	Nil	
REFERENCE DOCUMENTS	Nil	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instruments of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution	
RECENT ALTERATIONS	Implementation September 2021	
PREVIOUS DELEGATION REFERENCE	Nil	

DA12 - 02 Food Business Registration (proposed)

Food Act 2008

DA 12 – 02 Food Business Registration

POWER / DUTY ASSIGNED TO	Local Government
POWER TO DELEGATE	Food Act 2008 s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations
DELEGATED TO	Chief Executive Officer
POWER / DUTY DELEGATED	Food Act 2008 s.110, s.112
FUNCTION	s.110(1) and (5) Registration of a food business Variation of conditions or cancellation of registration of food businesses
CONDITIONS	In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.
CONDITIONS	
	Department of Health CEO Guidelines, as amended from time to time.

RECORD KEEPING	ECM – GOVN015 'Instruments of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution	
RECENT ALTERATIONS	Implementation September 2021	
PREVIOUS DELEGATION REFERENCE	Nil	

DA12 - 03 Appoint authorised officers and designated officers (proposed)

Food Act 2008

98

DA 12 – 03 Appoint Authorised Officers and Designated Officers

POWER / DUTY ASSIGNED TO	Local Government	
POWER TO DELEGATE	Food Act 2008 s.118 Functions of enforcement agencies and delegation (2)(b) Enforcement agency may delegate a function conferred on it (3) Delegation subject to conditions [s.119] and guidelines adopted [s.120] (4) Sub-delegation permissible only if expressly provided in regulations	
DELEGATED TO	Chief Executive Officer	
POWER / DUTY DELEGATED	Food Act 2008 s.122, s.126	
FUNCTION	s.122(1) Appointment of authorised officers s.126(6), (7), (13) Infringement Officers	
CONDITIONS	In accordance with s.118(3)(b), this delegation is subject to relevant Department of Health CEO Guidelines, as amended from time to time.	
POLICY	Nil	
REFERENCE DOCUMENTS	 Appointment of Authorised Officers as Meat Inspectors Appointment of Authorised Officers Appointment of Authorised Officers – Designated Officers Only Appointment of Authorised Officers – Appointment of persons to assist with the discharge of duties as an Authorised Officer 	
SUB DELEGATION		

RECORD KEEPING	ECM – GOVN015 'Instruments of Council Delegation to CEO'	
VERIFICATION	Initial Council Resolution	
RECENT ALTERATIONS	Implementation September 2021	
PREVIOUS DELEGATION REFERENCE	Nil	

15.1 MARKETING AND EVENTS REFERENCE GROUP OUTCOMES

STRATEGIC THEME LIFESTYLE - A place that is relaxed, safe and friendly with services and

facilities that support healthy lifestyles and wellbeing.

STRATEGIC PRIORITY 2.5 Facilitate events and cultural experiences that provide social

connection.

SUBJECT INDEX MERG Funding
BUSINESS UNIT Commercial Services

REPORTING OFFICER Events Coordinator - Peta Tuck

AUTHORISING OFFICER Manager Community and Recreation Services - Dave Goodwin

NATURE OF DECISION Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies);

funding, donations and sponsorships; reviewing committee

recommendations

VOTING REQUIREMENT

Simple Majority

ATTACHMENTS Nil

Niil

DISCLOSURE OF INTEREST			
Date	13 October 2021		
Meeting	Council		
Name/Position	Cr Jo Barrett-Lennard, Councillor		
Item No./Subject	13.1 Marketing and Events Reference Group Outcomes		
Type of Interest	Impartiality Interest		
Nature of Interest	I declare an Impartiality Interest in relation to Agenda Item 13.1 as I am on		
	the board of the Busselton Chamber of Commerce, which is one of the		
	recommended recipients of funding.		

The officer recommendation was moved and carried.

COUNCIL DECISION

C2110/058 Moved Councillor K Hick, seconded Councillor P Cronin

That the Council endorses funding allocations towards the following events, to be funded from the 2021/22 Events Budget:

Event	Funding Allocation
Australia Day – Busselton celebration	Up to \$5,000
Best Cabernet Sauvignon Award – Margaret River Wine Awards	\$5,000
Mitchell Park re-opening event	\$3,000
WA State Dirt Kart Titles	\$3,000
Busselton Chamber of Commerce – 2021 Business Excellence Awards	\$10,000
Totals	Up to \$26,000

CARRIED 9/0

OFFICER RECOMMENDATION

That the Council endorses funding allocations towards the following events, to be funded from the 2021/22 Events Budget:

Event	Funding Allocation
Australia Day – Busselton celebration	Up to \$5,000
Best Cabernet Sauvignon Award – Margaret River Wine Awards	\$5,000
Mitchell Park re-opening event	\$3,000
WA State Dirt Kart Titles	\$3,000
Busselton Chamber of Commerce – 2021 Business Excellence Awards	\$10,000
Totals	Up to \$26,000

EXECUTIVE SUMMARY

A meeting of the Marketing and Events Reference Group (MERG) was held on Wednesday 1 September 2021. This report presents the recommendations from this meeting.

BACKGROUND

At the Ordinary Meeting of Council held on 13 April 2011, Council resolved (C1104/114) to endorse the implementation of a differential rating system whereby properties rated industrial and commercial across the City would directly contribute toward the City's continued support of tourism, marketing and event activities. The City also established a key stakeholders' reference group, known as the 'Marketing and Events Reference Group' (MERG), to make recommendations to Council with respect to the marketing and events budget allocations.

At its meeting on 22 June 2011, Council resolved (C1106/201) to introduce a 3% differential rate on 'industrial' and 'commercial' rated properties, which has increased over time to 10%. The proceeds from the differential rate are allocated towards funding events and marketing.

The 2021/22 budget for marketing and events totals \$1,196,700. The proposed breakdown of this budget is as follows:

- \$924,900 Events
- \$231,800 Marketing and economic development initiatives
- \$40,000 City led events

This excludes budget allocations for Leavers Week, administration, and events staffing.

A MERG meeting was held on Wednesday 1 September 2021, with the following key matters presented:

- Update on events held since the last meeting on 27 April 2021 and upcoming major events.
- Consideration of funding applications for the 2021/22 events and marketing budgets.

OFFICER COMMENT

Supporting the development and attraction of new events throughout the year, the City's Events Sponsorship Programme promotes the City of Busselton as an attractive event tourism destination. At the MERG meeting held on 1 September 2021, a range of requests for events funding were considered as outlined below:

Requests for Funding – 2021/22 Events Budget

Five (5) applications were received, requesting funding totalling \$37,000.

Rotary Club – Australia Day

At the MERG meeting on 27 April 2021, members considered a request for multi-year funding from the Rotary Club of Geographe Bay for the Australia Day celebrations in 2022, 2023 and 2024. Previous funding for this event had been for an annual amount of \$3,000, the requested funding for the years 2022–2024 was for an increase from \$3,000 to \$6,000 per year. The reason given for the requested increase was to allow the Rotary Club to pay a party hire business to supply, deliver and set up the chairs and tables for the community breakfast, citing an ageing membership making it harder for them to undertake this task themselves.

It was decided at the meeting to defer a recommendation on the requested funding until officers had a chance to speak to the Rotary Club further. Feedback had also been received that participation numbers have been declining, and collaboration may be required to look at ways to revitalise the event.

Officers have now met with Rotary members, who have suggested the following changes to revamp the Australia Day event, including moving the citizenship ceremony from 7.00am to 8.30am to encourage more people to attend, providing more entertainment and activities for children, and promoting the event more through print and social media. They will also pay Vasse Lions Club to set up the chairs and tables for them.

To assist with these new initiatives, City officers will assist the Rotary Club to find other funding avenues to apply for.

The MERG recommendation is to fund the Rotary Club an amount of \$3,000 in 2022, with an option to fund an additional \$2,000 if they are unsuccessful in securing funding from other sources. This is to be funded from the 2021/22 Events Budget. This will be a single year agreement to allow officers to review the success of the changes before locking in a multi-year agreement.

Margaret River Wine Association Best Cabernet Sauvignon Trophy Sponsorship

The City has been approached by the Margaret River Wine Association to renew their sponsorship of the Best Cabernet Sauvignon Trophy at the Langton's Margaret River Wine Show on 29 October 2021. Support of this trophy by the City of Busselton was well received in 2020, and acted to highlight and celebrate the high number of quality wineries within the City of Busselton municipality. At the City's request, the awards night has been moved to a venue within the City, at Swings and Roundabouts. The City has been recognised throughout the year as a sponsor and member of the Margaret River Wine Association.

The MERG recommendation is to support the requested funding of \$5,000, to be allocated from the 2021/22 Events Budget.

Mitchell Park Re-opening Event

The redevelopment of Mitchell Park is expected to be completed by the end of September, with planning now underway for an opening event on Saturday 9 October from 1pm – 4pm. The event will be community focussed, with local entertainers invited to perform and CBD businesses encouraged to participate. The Building Busselton Town Team will be assisting with scheduling activities for the event.

The MERG recommendation is to allocate up to \$3,000 for the Mitchell Park opening event, to be funded from the 2021/22 Events Budget.

WA State Dirt Kart Titles

The Busselton Dirt Kart Club has been selected to host the WA State Titles for go-karting, on the weekend of 5-7 November 2021.

The event attracts more than 200 competitors and approximately 800 spectators for the three days of racing. There is no camping on site for the event, with most visitors staying for an extended period in accommodation.

The State Titles were last held in Busselton in November 2017, where they attracted more than 1,500 visitors over the weekend.

Busselton Dirt Kart Club have requested sponsorship of \$3,000 from the City. The MERG recommendation is for the allocation of \$3,000 to be funded from the 2021/22 Events Budget, for the 2021 WA State Dirt Kart Titles.

Busselton Chamber of Commerce (BCCI) - 2021 Business Excellence Awards

The City has received a request from the Busselton Chamber of Commerce (BCCI) to sponsor the 2021 Business Excellence Awards. The aim of the Awards is to:

- Encourage businesses to evaluate their current business practices, look for further opportunities and seek best practice methods to assist their business to remain sustainable or to seek growth.
- Recognise as role models the significant contribution businesses and organisations are making throughout region.
- Acknowledge the contribution that businesses and organisations are having in the growth and sustainability of the local economy.
- Reward the effort and success that business and organisations are achieving in the Capes Region with recognition and prizes designed to build capacity in their business.
- Promote sponsors and presenters as responsible corporate citizens helping to build business communities throughout the Capes Region.

BCCI have requested funding of \$20,000, consisting of the following:

- \$15,000 Judging process: contributing towards the estimated costs of \$14,200 for three expert judges over a 5-day judging period, plus the awards night and the time required to respond to applicants post event; and \$1,600 for accommodation, meals and transport for judging period and awards night.
- \$5,000 Gold Sponsorship of the awards as per previous years.

In previous years, these awards have been allocated \$5,000 in sponsorship funding.

The MERG recommendation is for the allocation of \$10,000 towards the 2021 Business Excellence Awards, to be allocated from the 2021/22 Events Budget. This allocation consists of \$5,000 towards the judging process costs plus \$5,000 for Gold Sponsorship of the awards.

In summary, the MERG recommends the following:

Event	Requested	MERG Recommendation
Australia Day – Busselton celebration	\$6,000	Up to \$5,000*
Best Cabernet Sauvignon Award –	\$5,000	\$5,000
Margaret River Wine Awards		
Mitchell Park re-opening event	\$3,000	\$3,000
WA State Dirt Kart Titles	\$3,000	\$3,000
BCCI – 2021 Business Excellence Awards	\$20,000	\$10,000
Totals	\$37,000	Up to \$26,000

^{*} MERG recommendation is to fund the Rotary Club an amount of \$3,000 in 2022, with an option to fund up to an additional \$2,000 if they are unsuccessful in securing funding from other sources.

Statutory Environment

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

Relevant Plans and Policies

The officer recommendation aligns with the City's Events Policy which provides event organisers with information on the event application and approval process and event sponsorship guidelines.

Financial Implications

At the Council meeting on 26 July 2021, Council resolved (C2107/138) to include an allocation of \$1,196,700 in the 2021/22 Marketing and Events Budget, which contains the following allocations:

- \$924,900 towards event sponsorships,
- \$231,800 towards Marketing and Economic Development initiatives, and
- \$40,000 towards City run events.

In addition to the above allocation for event sponsorships, an amount of \$55,500 was carried over from the 2020/21 Events Budget due to the approved carry-over of \$38,000 from the CinefestOZ 2020 event and the rescheduling of two events into the 2021/22 financial year (Raising the Vibe concert - \$5,000; Margaret River Region Open Studios - \$12,500). Therefore, the overall 2021/22 Events Budget is \$980,400.

A total amount of \$735,000 is currently committed from the 2021/22 Events Budget through multiyear agreements and Round 1 of the Event Sponsorship Program. In addition, \$110,000 is allocated towards the development of the Winter Wonderland event. This leaves a balance of \$135,400 in the 2021/22 Events Budget for Round 2 of the Event Sponsorship Program and any further event attraction or initiatives. This balance includes funds from cancelled events.

In addition to the \$231,800 allocated towards Marketing and Economic Development initiatives, an amount of \$45,000 was carried over from the 2020/21 Marketing Budget due to two (2) funded projects not having been completed (Tourism Information Bay Signage \$5,000; Event Strategy review \$40,000). Therefore, the overall 2021/22 Marketing Budget is \$276,800.

Funds currently committed from the 2021/22 Marketing Budget total an amount of \$158,625, which is comprised of:

- Airport Marketing Reserve \$50,000;
- Busselton Performing Arts and Convention Centre \$50,000;
- Update of the City's Events Strategy \$40,000;
- Update of tourism signage \$5,000; and
- Allocations through Round 1 \$13,625.

This leaves a balance of \$118,175 remaining for any further initiatives.

There is also a balance of \$219,852 remaining in the Marketing and Area Promotions Reserve, as well as \$200,000 carried over for the development of the electronic billboard.

Stakeholder Consultation

Consultation has been undertaken with representatives from the Busselton and Dunsborough Yallingup Chambers of Commerce and Industry, the Margaret River Busselton Tourism Association and Busselton Jetty Inc.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. The officer recommendation does not introduce any risks identified as being of a high or medium level.

Options

Council may choose not to support the recommendations made by MERG and resolve not to endorse part or all of the recommendations.

CONCLUSION

The MERG has been established by Council to make recommendations on the way in which funds raised through the industrial and commercial differential rate for the purposes of events and marketing are allocated. This report contains the recommendations made at the 1 September 2021 MERG meeting which, if endorsed by Council, will result in the continuation of high quality events being held within the region, supported by successful marketing promotions. All recommendations support Council's vision of being recognised as the 'Events Capital WA'.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Following Council's decision, the outcomes will be communicated to MERG members and the relevant event/marketing bodies for their information and implemented where required.

ITEMS FOR DEBATE

12.1 <u>Policy and Legislation Committee - 22/9/2021 - LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2021</u>

STRATEGIC THEME LEADERSHIP - A Council that connects with the community and is

accountable in its decision making.

STRATEGIC PRIORITY 4.2 Deliver governance systems that facilitate open, ethical and

transparent decision making.

SUBJECT INDEX Local Laws

BUSINESS UNIT Corporate Services

REPORTING OFFICER Legal Officer - Briony McGinty

AUTHORISING OFFICER Director Finance and Corporate Services - Tony Nottle

NATURE OF DECISION Legislative: adoption of "legislative documents" such as local laws,

local planning schemes and local planning policies

VOTING REQUIREMENT Simple Majority

ATTACHMENTS Attachment A Local Government Property Amendment Local Law

2021

Attachment B Consolidated LG Property Local Law incorporating

proposed changes marked up. 🖺

This item was considered by the Policy and Legislation Committee at its meeting on 22/9/2021, the recommendations from which have been included in this report.

Prior to the meeting, Cr Paine foreshadowed a motion that was different to the committee recommendation. In accordance with clause 10.18(7) of the City's *Standing Orders Local Law 2008*, this was taken to be an alternative motion and the committee recommendation was considered first.

SUBSTANTIVE MOTION

That the Council:

1. Commences the law-making process for the City of Busselton Local Government Property Amendment Local Law 2021, with clauses 5.1(1)(a)(i)-(ii) amended to refer to being under the age of 10 years and a responsible person over the age of 16 years; the purpose and effect of the local law being as follows:

Purpose: To regulate the care, control and management of local government property (except thoroughfares) by amending sections of the *Shire of Busselton Local Government Property Local Law 2010*.

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.

- 2. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the Local Government Act 1995, by:
 - (a) Giving local public notice of the Amendment Local Law; and
 - (b) Giving a copy of the Amendment Local Law and public notice to the Minister for Local Government.

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.

LAPSED

FOR WANT OF A MOVER

The committee recommendation lapsed for want of a mover and the foreshadowed alternative was moved and carried.

COUNCIL DECISION

C2110/059 Moved Councillor R Paine, seconded Councillor P Cronin

That the Council:

1. Commences the law-making process for the City of Busselton Local Government Property Amendment Local Law 2021, with clauses 5.1(1)(a)(i)-(ii) amended to refer to being under the age of 12 years and a responsible person over the age of 16 years; the purpose and effect of the local law being as follows:

Purpose: To regulate the care, control and management of local government property (except thoroughfares) by amending sections of the Shire of Busselton Local Government Property Local Law 2010.

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.

- 2. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the Local Government Act 1995, by:
 - (a) Giving local public notice of the Amendment Local Law; and
 - (b) Giving a copy of the Amendment Local Law and public notice to the Minister for Local Government.
- 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.

CARRIED 9/0

Reasons:

It was considered that clauses 5.1(1)(a)(i)-(ii) of the *Property Amendment Law* should reflect the recommendations of the Coroner, being that a primary school child should not be unsupervised.

OFFICER RECOMMENDATION

That the Council:

 Commences the law-making process for the City of Busselton Local Government Property Amendment Local Law 2021, the purpose and effect of the local law being as follows:

Purpose: To regulate the care, control and management of local government property (except thoroughfares) by amending sections of the *Shire of Busselton Local Government Property Local Law 2010*.

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.

- 2. Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the Local Government Act 1995, by:
 - (a) Giving local public notice of the Amendment Local Law; and
 - (b) Giving a copy of the Amendment Local Law and public notice to the Minister for Local Government.
- 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.

EXECUTIVE SUMMARY

The Shire of Busselton Local Government Property Local Law 2010 (Property Local Law) was first published in the government gazette in 2010, with little change since. Throughout the first half of 2021 a statutory review of the Property Local Law was conducted pursuant to section 3.16 of the Local Government Act 1995 (the Act). On 9 June 2021, Council resolved that, among other things, amendments were required to the Property Local Law and that a local law amendment should be initiated.

In accordance with that resolution, an amendment to the Property Local Law has been prepared (Amendment Local Law) for consideration by the Council. It is recommended that the Council initiates the law-making process and authorises the CEO to give local public notice of the Amendment Local Law.

BACKGROUND

The Property Local Law was introduced in 2010 and further amended in 2011. At that time, the Property Local Law replaced the outdated Reserves and Foreshores Local Law which covered a limited subject matter. The impetus for the Property Local Law was to better regulate use of public spaces, with particular emphasis on vegetation protection. The Property Local Law largely adopted the WALGA model and is consistent with similar local laws of many other local governments across the State.

Section 3.16 of the Act requires that local laws are reviewed every 8 years to consider whether or not a local law under review should be repealed or amended. As part of this review process, submissions may be made to the local government in relation to the local law under review. During the public consultation phase for the statutory review of the Property Local Law in 2021, the City did not receive any submissions. However, given the local law covers a significant subject matter of broad and regular application, an extensive internal review was conducted by officers which identified various matters requiring attention.

Those matters which were recommended for detailed review in the June 2021 report to Council were as follows:

Launching and/or Landing of Drones (Schedule 2, clause 2.2)

The City has no control over airspace, which, under the current legislation, is reserved for the Civil Aviation Safety Authority. Therefore, the City cannot regulate drone usage in the air. However, there is the capacity, if the City chooses, to regulate launching and/or landing of drones from local government property.

Under the current Property Local Law, the City has the ability to regulate launching and/or landing motorised model aeroplanes from local government property. It is open to interpretation as to whether a drone could be classified as a motorised model aeroplane, which could cause some ambiguity around this capacity. Therefore, it is recommended to strengthen and clarify those provisions of the Property Local Law to enable regulation.

The Amendment Local Law does not seek to change the current position with regard to how the City regulates drone usage. However, it seeks to clarify that, if the City choses to do so, it could restrict the use of drones on local government property pursuant to a determination process. This change will allow Council to designate particular areas where the launching and landing of drones may, for example, be prohibited, permitted, or permitted subject to various conditions.

Exercise Classes on Reserves (clause 3.13 (1)(d))

The review noted that permits for "boot camps etc." under the Property Local Law are currently only required on beaches or at City owned pools or recreation centres. There are other City facilities/venues currently being used for these activities — for example City managed ovals. It is therefore recommended that the City consider introducing provisions to clarify the City's powers to regulate these types of activities, in order to respond to conflicts of use, where appropriate.

<u>Swimming Pool – increase to minimum age requirements (clause 5.1)</u>

Currently, the Property Local Law restricts entry to children under 10 years old unless accompanied by a responsible person over the age of 12. It is recommended that the City considers amending the age requirements so that children under the age of 12 will not be permitted entry unless accompanied by a person over the age of 18. This age limit is above the Minimum Entry Age requirements under the Code of Practice for swimming pools (issued under the *Health Act 1911*), being that a child under 10 must be accompanied by a person 16 years or older, but is in line with industry benchmarking and more recent understandings of best practice.

Penalties (Schedule 1)

Penalties for breaches of the Property Local Law are currently set at (mostly) \$200. The Act allows for maximum infringements of up to \$500. Given the current penalties were set over 10 years ago, it recommended that appropriate increases are made. If the City was to raise penalties in line with Perth CPI from when the local law was first introduced (and penalties last amended), this would represent an approximate \$50 increase in penalties. A review of other local government's practices suggests this represents a modest increase.

OFFICER COMMENT

The Property Local Law has operated effectively since its gazettal. The Property Local Law is based on the WALGA model but was modified to accommodate the particular circumstances of the locality. However, during the statutory review conducted during 2020/2021, various opportunities for improvement have been identified. The matters identified during the review are as discussed in the background section of this report and have been incorporated into the attached Amendment Local Law.

Statutory Environment

Local Government Act 1995

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

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

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

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

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

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

Purpose: To regulate the care, control and management of local government property (except thoroughfares) by amending sections of the *Shire of Busselton Local Government Property Local Law 2010.*

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.

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

Parliamentary Scrutiny

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

Relevant Plans and Policies

The following policies are used to assist in the application of the Property Local Law:

- Commercial Use of City Land and Facilities;
- Community Hire of City Property; and
- Private Work on City Land, including private coastal protection work on City Land.

Financial Implications

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

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

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

Stakeholder Consultation

Should Council resolve to commence the process of making the Amendment Local Law, public submissions will be invited as part of the statutory consultation process prescribed under section 3.12(3) of the Act.

The submission period must run for a minimum period of 6 weeks after which the Council, having considered any submissions received, may resolve to adopt the proposed local law or a law which is not significantly different.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could choose to vary the provisions of the Property Local Law in any number of ways. However, for the reasons outlined in this report, the Amendment Local Law is the form of local law recommended at this stage.

There will be further opportunity for considering and making changes to the Amendment Local Law following the public consultation process outlined above, provided the changes are not significantly different from what is currently proposed. If any changes are of a significant nature the Amendment Local Law would need to be re-advertised.

CONCLUSION

It is recommended that the Council initiate the law-making process and authorise the CEO to commence advertising the Amendment Local Law.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Within two weeks of the Council decision to commence the law-making process, the Amendment Local Law will be advertised for public comment. The statutory consultation period is a minimum of six weeks and following the close of the advertising period a report will be submitted to the Council for further consideration which, depending on the number and nature of submissions received, could be within three months.

City of Busselton

LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2021

Local Government Act 1995

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City of Busselton

Local Government Amendment Property Local Law 2021

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Local Government Property Amendment Local Law 2021

Local Government Act 1995

City of Busselton

Local Government Property Amendment Local Law 2021

Under the powers conferred on it by the *Local Government Act 1995* and under all powers enabling it, the Council of the City of Busselton resolved on [add date] to make the following local law.

1. Short title

This is the Local Government Property Amendment Local Law 2021.

2. Commencement

This local law commences on the 14^{th} day after the day on which it is published in the Government Gazette.

3. Local law amended

This local law amends the Shire of Busselton Local Government Property Local Law 2010.

4. Clause 1.1 amended

In clause 1.1, delete "Shire of Busselton Local Government Property Local Law 2010" and insert:

City of Busselton Local Government Property Local Law 2010

5. Clause 1.5 amended

In clause 1.5 -

- (a) delete the definition of "Shire"; and
- (b) insert, in their appropriate alphabetical sequence:

"City" means the City of Busselton;

"drone" means a powered aerial vehicle that does not carry a human operator and is piloted remotely;

6. Clause 2.2 amended

In clause 2.2(2)(b), delete "Shire's offices" and insert:

City's offices

7. Clause 2.7 amended

In clause 2.7(1)(b), delete "fly or use a motorised model aeroplane;" and insert:

fly or use a motorised model aeroplane, helicopter, drone or other similarly remotely piloted device;

Clause 2.8 amended 8.

In clause 2.8(1) -

- (a) at the end of paragraph (g), delete "and";
- (b) at the end of paragraph (h), insert:

and

- (c) after paragraph (h), insert:
 - fly or use a motorised model aeroplane, helicopter, drone or other similarly remotely piloted device.

9. Clause 3.13 amended

In clause 3.13(1)(d), after "beach," insert:

reserve,

10. Clause 5.1(1) amended

In clause 5.1(1)(a)(i) and (ii) -

delete each reference to "12 years" and insert: (a)

18 years

(b) delete each reference to "10 years" and insert:

12 years

11. Various references to "Shire" amended

In the provisions listed in the Table, delete "Shire" (each occurrence) and insert:

City

T	a	b	l	e

Clause 1.5 definitions of –	Clause 3.10(4)		
"authorised person"	Clause 3.13(1)(f)		
"CEO" "Council" "district" "local government property"	Clause 3.14(2)		
	Clause 5.3(1)		
	Clause 5.4 (heading and text)		
"Manager"	Clause 9.1		
"person"			
Clause 1.7	Clause 9.4 (heading and subclauses (1) and (2))		
Clause 2.7(1)(f)(iii)	Clause 9.7 (heading)		
Clause 2.8(1)(f)(ii) and (h)	Clause 9.9(3)		

Clause 2.9(1)	Schedule 2 –						
Clause 3.1	(a) opening words;						
Clause 3.4(1)(b) and (f)	(b) clause 1.1;						
Clause 3.4(2)(k)	(c) clause 2.1(b); (d) clause 2.4(a); and						
Clause 3.5(1)	(e) clause 2.5(1).						
Clause 3.7							

12. Schedule 1 amended

In Schedule 1, delete the Table and insert:

CLAUSE	DESCRIPTION	MODIFIED PENALTY S
2.4	Failure to comply with determination	\$250
3.6	Failure to comply with conditions of permit	\$250
3.13(1)	Failure to obtain a permit	\$250
3.14(3)	Failure to obtain permit to camp outside a facility	\$250
3.15(1)	Failure to obtain permit for liquor	\$250
3.16	Failure of permit holder to comply with responsibilities	\$250
4.2(1)	Behaviour detrimental to property	\$250
4.3	Taking, Injuring, Killing any Fauna	\$375
4.4	Removing, damaging, interfering, with any flora or planting or depositing any flora	\$375
4.5	Under influence of liquor or prohibited drug	\$250
4.7(2)	Failure to leave local government property	\$250
4.8(1)	Tethering animal to tree etcetera or permitting animal to enter local government property	\$250
4.9	Depositing or discarding waste on local government property	\$250
4.10	Taking a glass container within 5m of pool, to a children's playground or within local government property as indicated by a sign	\$250
4.11(2)	Failure to comply with sign on local government property	\$250
5.2	Consuming food or drink in prohibited area	\$250
5.5	Failure to comply with sign or direction on beach	\$250
5.6	Unauthorised entry to fenced or closed local government property	\$250
5.7	Gender not specified using entry of toilet block or change room	\$250
6.1(1)	Unauthorised entry to function on local government property	\$250
8.5	Making a false or misleading statement	\$250
9.6	Failure to comply with notice	\$250

Dated [add date]

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

MICHAEL STEPHEN LEE ARCHER
Chief Executive Officer

Mayor

Council 12.1

Attachment B

118 13 October 2021 Consolidated LG Property Local Law incorporating proposed

changes marked up

This is an un-official compilation of the <u>City</u> of Busselton Local Government Property Local Law 2010 as it has effect on and after xxxxxxx.

See the Notes at the end for more details.

Deleted: Shire

eleted: Shire

Deleted: 5 April 2011

<u>City</u> of Busselton Local Government Property Local Law 2010

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Local Government Act 1995

City of Busselton	Deleted: Shire

Local Government Property Local Law 2010

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Local Government Act 1995

City of Busselton

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Local Government Property Local Law 2010

Under the powers conferred on it by the Local Government Act 1995 and under all other powers enabling it, the Council of the Shire of Busselton resolved on 11 February 2010 to make the following local law.

Part 1 - Preliminary

Citation 1.1

This local law may be cited as the City of Busselton Local Government Property Local Deleted: Shire Law 2010.

1.2 Commencement

This local law commences on the 14th day after the day on which it is published in the Government Gazette.

1.3 Application

This local law applies -

- throughout the district; and
- along the district's western and northern boundary, from the high water mark at ordinary spring tides, for a distance of 200 metres seawards towards the Indian Ocean, as approved by the Governor under section 3.6 of the Act per notice published in the Government Gazette, No. 149, on 18 August 2009, page 3243.

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The following local laws are repealed-

- Local Law Relating to Poundage Fees, published in the Government Gazette (a) on 14 April 1939;
- Local Law Relating to Caravan Parks and Camping Grounds, published in the Government Gazette on 24 December 1975; and
- Local Law Relating to Reserves and Foreshores, published in the Government Gazette on 17 January 1986 and as amended and published in the Government Gazette on 20 July 1990, 24 December 1993 and 13 May 1994.

1.5 Definitions

In this local law -

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"Ac	t" means the Local Government Act 1995;			
"ap	plicant" means a person who applies for a permit under clause 3.2;			
"authorised person" means a person appointed by the City under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;		(Deleted: Shire	
	nt" means any ship, vessel or structure capable of being used in navigation by r, however propelled or moved, and includes a jet ski;			
"bu	ilding" means any building which is on local government property and includes a -			
(a)	hall or room;			
(b)	corridor, stairway or annexe of any hall or room; and			
(c)	jetty;			
"CE	O" means the chief executive officer of the <u>City</u> ;		Deleted: Shire	
"Cit	y" means the City of Busselton;			
	nmencement day" means the day on which this local law commences under see 1.2;			
"Council" means the council of the City:		(Deleted: Shire	
matt	"date of publication" means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;			
"determination" means a determination made under clause 2.1;				
"district" means the district of the City;			Deleted: Shire	
"drone" means a powered aerial vehicle that does not carry a human operator and is piloted remotely;				
"function" means an event or activity characterised by all or any of the following -				
(a)	formal organisation and preparation;			
(b)	its occurrence is generally advertised or notified in writing to particular persons;			
(c)	organisation by or on behalf of a club;			
(d)	payment of a fee to attend it; and			
(e)	systematic recurrence in relation to the day, time and place;			
the g	ecent exposure" means the revealing to view of those parts of the body, especially tenitals, which by law and convention should be covered by clothing under the n circumstances;			

"liquor" has the meaning given to it in section 3 of the Liquor Control Act 1988;

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	local g	government property" means anything except a thoroughfare –			
 (a) which belongs to the <u>City</u> or in which the <u>City</u> has an interest; 				Deleted: Shire	2
				Deleted: Shire	
((b)	of which the <u>City</u> is the management body under the Land Administration Act 1997; or	(Deleted: Shire	13.
((c)	which is an 'otherwise unvested facility' within section 3.53 of the Act.			
"	local p	public notice" has the same meaning as in section 1.7 of the Act;			
n	nanage	ger" means the person for the time being employed by the <u>City</u> to control and a pool area or other facility which is local government property and includes son's assistant or deputy;	(Deleted: Shire	
"	permi	t" means a permit issued under this local law;			
	permi	it holder" means a person who holds a valid permit;			
	persor	n" does not include the <u>City</u> ;	(Deleted: Shire	
s	tructur of or us	rea" means any swimming and wading pools and spas and all buildings, res, fittings, fixtures, machinery, chattels, furniture and equipment forming part and in connection with such swimming and wading pools and spas which are overnment property;			
		ations" means the Local Government (Functions and General) tions 1996;			
		includes a notice, flag, mark, structure or device approved by the CEO or an sed person on which may be shown words, numbers, expressions or symbols;	(Deleted: "Shire" means the Shire of Busselton; ¶	
0	r acros	iding equipment" means any device or toy used to or assist a rider in moving in as waves or the water surface, and includes surfboard, boogey board, windsurfer, it, canoe, kite surfer, inflatable toy or similar device but not a boat;			
		ig" means the selling or hiring, or the offering for sale or hire of goods or s, and includes displaying goods for the purpose of –			
(a)	offering them for sale or hire;			
(b)	inviting offers for their sale or hire;			
(c)	soliciting orders for them; or			
(d)	carrying out any other transaction in relation to them.			
		imed Property Register" means the register kept by an attendant of any ned belongings under Division 4 of Part 5 of this local law;			
66	vehicl	e" includes –			
(a)	every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and			
(b)	an animal being ridden or driven,			

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but excludes -

- a wheel-chair or any device designed for use, by a physically impaired person on a footpath;
- (d) a pram, a stroller or a similar device; and
- (e) a boat.

"waste" includes matter

- (a) whether liquid, solid, gaseous or radioactive and whether useful or useless, which is discharged into the environment; or
- (b) prescribed by regulations under the Waste Avoidance and Resource Recovery Act 2007 to be waste.

1.6 Interpretation

In this local law a reference to local government property includes a reference to any part of that local government property.

.7 Overriding power to hire and agree

Despite anything to the contrary in this local law, the CEO or an authorised person, on behalf of the $\underline{\text{City}}$ may -

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- (a) hire local government property to any person; or
- enter into an agreement with any person regarding the use of any local government property.

Part 2 - Determinations in respect of local government property

Division 1 - Determinations

2.1 Determinations as to use of local government property

- (1) The Council may make a determination in accordance with clause 2.2 -
 - setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
 - prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
 - (c) as to the matters in clauses 2.7(2) and 2.8(1); and

Deleted: 2.8(2)

- (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2
 - (a) are to be taken to have been made in accordance with clause 2.2;

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- (b) may be amended or revoked in accordance with clause 2.6; and
- (c) have effect on the commencement day.

2.2 Procedure for making a determination

- The CEO or an authorised person is to give local public notice of the Council's intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that
 - (a) the Council intends to make a determination, the purpose and effect of which is summarised in the notice:
 - a copy of the proposed determination may be inspected and obtained from the <u>City</u>'s offices; and

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- (c) submissions in writing about the proposed determination may be lodged with the CEO within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide
 - to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - to amend the proposed determination, in which case subclause (5) will apply; or
 - (c) not to continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the Council -
 - (a) is to consider those submissions; and
 - (b) is to decide -
 - (i) whether or not to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice –
 - (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).

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A decision under subclause (3) or (4) is not to be delegated by the Council.

2.3 Discretion to erect sign

The CEO or an authorised person may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

2.4 Determination to be complied with

A person must comply with a determination.

2.5 Register of determinations

- The CEO is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.
- (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination, the CEO is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Division 2 - Activities which may be pursued or prohibited under a determination

2.7 Activities which may be pursued on specified local government property

- A determination may provide that specified local government property is set aside as an area on which a person may –
 - (a) take, ride or drive a vehicle, or a particular class of vehicle;
 - fly or use a motorised model aeroplane, helicopter, drone or other similarly remotely piloted device;
 - use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (d) launch, beach or leave a boat;
 - (e) take or use a boat, or a particular class of boat;
 - (f) play or practice -
 - (i) golf or archery;

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(ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or

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 a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the <u>City</u>, may cause injury or damage to a person or property;

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- (g) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and
- (h) wear no clothing.
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular
 - (a) the days and times during which the activity may be pursued;
 - that an activity may be pursued on a class of local government property, specified local government property or all local government property:
 - that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;
 - (d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;
 - may specify that the activity can be pursued by a class of persons or all persons; and
 - (f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

- A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—
 - (a) smoking on premises;
 - riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
 - taking, riding or driving a vehicle on the property or a particular class of vehicle;
 - riding or driving a vehicle of a particular class or any vehicle above a specified speed;
 - (c) taking or using a boat, or a particular class of boat;
 - (f) the playing or practice of—
 - (i) golf, archery, pistol shooting or rifle shooting; or

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		(ii)	a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the <u>City</u> may cause injury or damage to a person or property;	Deleted: Shire			
	(g)		aying or practice of any ball game which may cause detriment property or any fauna on the property;	Deleted: and			
	(h)	has en	versing of sand dunes or land which in the opinion of the <u>City</u> vironmental value warranting such protection, either absolutely ept by paths provided for that purpose; and	Deleted: Shire			
	<u>(i)</u>		use a motorised model acroplane, helicopter, drone or other rly remotely piloted device.				
(2)	A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –			Deleted: ¶			
	(a)	the day	ys and times during which the activity is prohibited;				
	(b)		activity is prohibited on a class of local government property, ed local government property or all local government property;				
	(c)		activity is prohibited in respect of a class of vehicles, boats, ment or things, or all vehicles, boats, equipment or things;				
	(d)	that an	activity is prohibited in respect of a class of persons or all ss; and				
	(c)	may d	istinguish between different classes of the activity.				
(3)	In this clause –						
	"premises" means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.						
			Division 3 - Transitional				
Signs (aken to	be deter	minations				
(1)	local la be and except	aw of the have eff to the ex	rected on local government property has been erected under a City that is repealed by this local law, then it is to be taken to ect as a determination on and from the commencement day, etent that the sign is inconsistent with any provision of this local remination made under clause 2.1.	Deleted: Shire			

Clause 2.5 does not apply to a sign referred to in subclause (1).

Part 3 - Permits

Division 1 - Preliminary

3.1 Application of Part

This Part does not apply to a person who uses or occupies local government property under a written agreement with the City to do so.

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Division 2 - Applying for a permit

3.2 Application for permit

- Where a person is required to obtain a permit under this local law, that person must apply for the permit in accordance with subclause (2).
- (2) An application for a permit under this local law must -
 - (a) be in the form determined by the CEO;
 - (b) be signed by the applicant;
 - (c) provide the information required by the form; and
 - (d) be forwarded to the CEO together with any fee imposed by the Council under sections 6.16 to 6.19 of the Act.
- (3) The CEO or an authorised person may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.
- (4) The CEO or an authorised person may require an applicant to give local public notice of the application for a permit.
- (5) The CEO or an authorised person may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the requirements of subclause (3) or (4) have not been satisfied.

3.3 Decision on application for permit

- (1) The CEO or an authorised person may -
 - approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the CEO or an authorised person approves an application for a permit, he or she is to issue to the applicant, a permit in the form determined by the Chief Executive Officer.
- (3) If the CEO or an authorised person refuses to approve an application for a permit, he or she is to give written notice of that refusal to the applicant.

The CEO or an authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.

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Division 3 - Conditions

3.4 Examples of conditions

- Examples of the conditions that the CEO or an authorised person may impose on a permit are conditions relating to -
 - (a) the payment of a fee;
 - (b) compliance with a standard or a policy adopted by the Lity;

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- (c) the duration and commencement of the permit;
- (d) the commencement of the permit being contingent on the happening of an event;
- (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- the approval of another application for a permit which may be required by the \underline{City} under any written law; (f)

- the area of the district to which the permit applies; (g)
- where a permit is issued for an activity which will or may cause (h) damage to local government property, the payment of a deposit or bond against such damage; and
- (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the CEO or an authorised person.
- Examples of the type and content of the conditions on which a permit to hire local government property may be issued include
 - when fees and charges are to be paid;
 - (b) payment of a bond against possible damage or cleaning expenses or
 - (c) restrictions on the erection of material or external decorations;
 - (d) rules about the use of furniture, plant and effects;
 - limitations on the number of persons who may attend any function in (e) or on local government property;
 - (f) the duration of the hire;
 - the right of the CEO or an authorised person to cancel a booking (g) during the course of an annual or seasonal booking, if the CEO or an authorised person sees fit;

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a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the Liquor Control Act 1988;

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- whether or not the hire is for the exclusive use of the local government (i) property;
- the obtaining of a policy of insurance in the names of both the CEO or (j) an authorised person and the hirer, indemnifying the CEO or the authorised person in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and
- the provision of an indemnity from the hirer, indemnifying the City in (k) respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

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3.5 Imposing conditions under a policy

In this clause -

"policy" means a <u>City</u> policy adopted by the Council under section 2.7 of the Act containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).

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- (2) Under clause 3.3(1)(a) the CEO or an authorised person may approve an application subject to conditions by reference to a policy.
- The CEO or an authorised person must give to the permit holder a copy of the policy or, at the discretion of the CEO or the authorised person, the part of the policy which is relevant to the application for a permit, with the form of permit (3) referred to in clause 3.3(2).
- An application for a permit is not to be taken to have been approved subject to the conditions contained in a policy until the CEO or an authorised person gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.
- Sections 5.94 and 5.95 of the Act apply to a policy and, for that purpose, a (5)policy is deemed to be information within section 5.94(u)(i) of the Act.

Compliance with conditions 3.6

Where an application for a permit has been approved subject to conditions, the permit holder must comply with each of those conditions, as amended.

Division 4 - General

3.7 Agreement for building

Where a person applies for a permit to erect a building on local government property an authorised person, on behalf of the <u>City</u>, may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.

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3.8 Duration of permit

A permit is valid for one year from the date on which it is issued, unless it is -

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 3.12.

3.9 Renewal of permit

- A permit holder may apply to the CEO in writing prior to expiry of a permit for the renewal of the permit.
- (2) The provisions of this Part must apply to an application for the renewal of a permit as though it were an application for a permit.

3.10 Transfer of permit

- (1) An application for the transfer of a valid permit is -
 - (a) to be made in writing;
 - (b) to be signed by the permit holder and the proposed transferee of the permit:
 - to provide such information as the CEO or an authorised person may require to enable the application to be determined; and
 - (d) to be forwarded to the CEO together with any fee imposed by the Council under sections 6.16 to 6.19 of the Act.
- (2) The CEO or an authorised person may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the CEO or an authorised person approves an application for the transfer of a permit, the transfer may be effected by an endorsement on the permit signed by the CEO or the authorised person.
- (4) Where the CEO or an authorised person approves the transfer of a permit, the <u>City</u> is not required to refund any part of any fee paid by the former permit holder.

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3.11 Production of permit

A permit holder must produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

3.12 Cancellation of permit

- (1) Subject to clause 9.1, a permit may be cancelled by the CEO or an authorised person if the permit holder has not complied with -
 - (a) a condition of the permit;
 - (b) a direction under clause 3.16(b); or

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(c) a determination, or a provision of any written law, which may relate to the activity regulated by the permit.

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- (2) On the cancellation of a permit, the permit holder
 - must return the permit as soon as practicable to the CEO; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

Division 5 - When a permit is required

3.13 Activities needing a permit

- A person must not without a permit
 - subject to subclause (3), hire local government property; (a)
 - (b) advertise anything by any means on local government property;
 - erect, on local government property, a structure for public amusement (c) or for any performance, whether for gain or otherwise;
 - teach, coach or train, for profit, any person on a beach, reserve, in a pool area or in an indoor recreation facility which is local government (d)
 - (e) carry on any trading on local government property unless the trading is conducted
 - with the consent of a person who holds a permit to conduct a function, and where the trading is carried on in accordance with the permit; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
 - (f) unless an employee of the City in the course of her or his duties or on an area set aside for that purpose
 - drive or ride or take any vehicle on to local government (i) property; or
 - (ii) park or stop any vehicle on local government property;
 - conduct a function on local government property; (g)
 - charge any person for entry to local government property, unless the (h) charge is for entry to land or a building hired by a voluntary non-profit organisation;
 - (i) light a fire on local government property except in a facility provided for that purpose;
 - (j) parachute, hang glide, abseil or base jump from or on to local government property;
 - (k) erect a building or a refuelling site on local government property;

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- make any excavation on or erect or remove any fence on local government property;
- (m) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;

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- depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
- conduct or take part in any gambling game or contest or bet, or offer to bet, publicly, or
- (p) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The CEO or an authorised person may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.14 Permit required to camp outside a facility

In this clause –

"facility" has the meaning given to it in section 5(1) of the Caravan Parks and Camping Grounds Act 1995.

(2) This clause does not apply to a facility operated by the <u>City</u>.

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- (3) A person must not without a permit -
 - (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the CEO or an authorised person may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the Caravan Parks and Camping Grounds Regulations 1997.

3.15 Permit required for possession and consumption of liquor

- A person must not, on local government property, consume any liquor or have in her or his possession or under her or his control any liquor, unless –
 - (a) that is permitted under the Liquor Control Act 1988; and
 - (b) a permit has been obtained for that purpose.

(2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 6 - Responsibilities of permit holder

3.16 Responsibilities of permit holder

A holder of a permit must, in respect of local government property to which the permit

 ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;

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- comply with a direction from the CEO or an authorised person to take the action specified in the direction for the purpose of maintaining public safety;
- (c) leave the local government property in a clean and tidy condition after its use:
- (d) report any damage or defacement of the local government property to the CEO or an authorised person; and
- (e) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the *Liquor Control Act 1988* for that purpose.

Part 4 - Behaviour on all local government property

${\it Division~1-Behaviour~on~and~interference~with~local~government~property}$

4.1 Behaviour which interferes with others

A person must not, in or on any local government property, behave in a way which -

- is likely to interfere with the enjoyment of a person who might use the property or who might otherwise lawfully be on the property; or
- interferes with the enjoyment of a person using, or otherwise lawfully on, the property.

4.2 Behaviour detrimental to property

- A person must not in or on local government property, behave in a way that is or might be detrimental to the property.
- (2) In subclause (1) -

"detrimental to the property" includes -

 removing any thing from the local government property such as a rock, a plant or a seat provided for the use of any person; and

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(b) destroying, defacing or damaging any thing on the local government property, such as a plant, a seat provided for the use of any person or a building.

4.3 Fauna

- A person must not take, injure or kill any fauna that is on or above any local government property, unless that person is authorised to do so under a written law or by the CEO or an authorised person.
- (2) In this clause -
 - "animal" means any living thing that is not a human being or plant; and
 - "fauna" means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal –
 - (a) any class of animal or individual member;
 - (b) the eggs or larvae; or
 - (c) the carcass, skin, plumage or fur.

4.4 Flora

- Unless authorised to do so under a written law or with the written approval of the CEO or an authorised person, a person must not –
 - remove, damage or interfere with any flora that is on or above any local government property; or
 - (b) plant or deposit any flora on local government property.
- (2) In this clause
 - "flora" means all vascular plants, seeds and other flora, whether living or dead.

4.5 Intoxicated persons not to enter local government property

A person must not enter or remain on local government property while under the influence of liquor or a prohibited drug.

4.6 No prohibited drugs

A person must not take a prohibited drug on to, or consume or use a prohibited drug on, local government property.

4.7 Refusal of entry and removal

- If the CEO or an authorised person considers that a person has behaved in a manner contrary to the provisions of this Part, the CEO or authorised person may –
 - (a) refuse to allow that person to enter local government property; and

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- if the person is on local government property, direct the person to leave the local government property.
- (2) A person who has been refused entry or who has been directed to leave under subclause (1) must immediately leave the local government property quickly and peaceably.
- (3) If a person fails to comply with subclause (2), the CEO or an authorised person may remove the person, or arrange for the person to be removed, from the local government property.

4.8 Animals

- A person must not—
 - (a) tether any animal to a tree, shrub, tree guard, wall or fence; or
 - (b) permit any animal to enter upon or into any local government property,

unless authorised by a permit.

- (2) The CEO or an authorised person may, by the placement of an approved sign, prohibit dogs from being in a children's playground or in the vicinity of a children's playground.
- (3) This clause does not apply to a guide dog used for the assistance of visually impaired persons and is subject to the provisions of section 8 of the Dog Act 1976 and section 66J of the Equal Opportunity Act 1984.

4.9 Waste

- A person must not deposit or discard waste on local government property except—
 - (a) in a place or receptacle set aside by the CEO or an authorised person for that purpose and subject to any conditions that may be specified on the receptacle or a sign, such as a condition in relation to the type of waste that may be deposited; or
 - (b) at the Busselton Waste Facility, Rendezvous Road Busselton and the Dunsborough Waste Facility, Vidler Road Dunsborough, and subject to directions issued from time to time by the CEO or an authorised person for the orderly and proper use of those waste facilities in relation to hours of business, separation of waste into designated receptacles, prohibition of the deposit of certain types of refuse or waste, and conduct of persons or persons in charge of vehicles while on the site.

4.10 Glass containers

Unless authorised by a permit or by the CEO or an authorised person, a person must not take a glass container—

 (a) within 5m of the edge of a swimming pool on local government property;

- (b) on to a children's playground; or
- (c) within any area of local government property as indicated by a sign.

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Division 2 - Signs

4.11 Signs

- The CEO or an authorised person may erect a sign on local government property –
 - (a) specifying any conditions of use which apply to that property; or
 - (b) for any other purpose relevant to this local law, including giving notice of a breach of clause 4.4 and substituting a sign for flora that has been removed, damaged or interfered with contrary to clause 4.4.
- (2) A person must comply with a sign erected under subclause (1).
- (3) A condition of use specified on a sign erected under subclause (1) is -
 - (a) not to be inconsistent with any provision of this local law or any
 - (b) to be for the purpose of giving notice of the effect of a provision of this local law.

Part 5 - Matters relating to particular local government property

Division 1 - Swimming pool areas

5.1 When entry must be refused

- (1) A Manager or an authorised person must refuse admission to any person who -
 - (a) in her or his opinion is -

(i)	under the age of 12 years and who is unaccompanied by a		Deleted: 0	
	responsible person over the age of 18 years;		Deleted: 2	
(ii)	under the age of 12 years and who is accompanied by a	-1	Deleted: 0	
	responsible person over the age of 18 years where the	Lane C	Deleted: 2	
	responsible person is incapable of or not providing, adequate supervision of or care for that person;			

- suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
- (iv) under the influence of liquor or a prohibited drug; or
- (b) is to be refused admission by the CEO or an authorised person for breaching a clause of this local law.

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- (2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must –
 - (a) direct the person to leave; and
 - (b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

5.2 Consumption of food or drink may be prohibited

A person must not consume any food or drink in an area where consumption is prohibited by a sign.

Division 2 - Beaches

5.3 Powers of authorised persons or surf life saving club members

 An authorised person employed by the <u>City</u> may perform all or any of the following functions in relation to a beach – Deleted: Shire

- (a) patrol any beach;
- (b) carry out any activity on any beach;
- (c) erect signs designating bathing areas and signs regulating, prohibiting or restricting specified activities on the whole or any part of a beach or in or on the water adjacent to the beach and to direct persons on the beach or in or on the water to comply with such signs;
- (d) temporarily enclose any area with rope, hessian, wire or any other means for the conduct of surf life saving club activities; and
- direct persons to leave the water adjacent to a beach during dangerous conditions or if a shark is suspected of being in the vicinity of a beach.
- (2) Subject to sub clause (3), the CEO may, where the power to appoint authorised persons has been delegated under section 5.42 of the Act, appoint under section 9.10 of the Act a member or members of a surf life saving club to perform all or any of the functions listed in subclause (1).
- (3) A person appointed by the CEO under subclause (2) must have been recommended by the surf life saving club as competent to perform the functions referred to in that subclause in respect of which they are authorised.
- (4) Under subclause (2), the CEO may appoint members generally, or in relation to particular times, days or months.

5.4	Authority of City	employee to	prevail
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If the CEO has authorised a person under clause 5.3(1) and a member of a surf life saving club under clause Error! Reference source not found, in relation to the same beach, where they could perform a function referred to in clause 5.3(1) contemporaneously, the authority of an authorised person employed by the City under clause 5.3(1) is to prevail.

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5.5 Persons to comply with signs and directions

A person must -

- (a) not act in contravention of any sign erected on a beach under clause 5.3(1)(c);
- (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf life saving club activities, unless he or she is a member of the club or has obtained from the club permission to enter;

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- (c) comply with any direction given under clause 5.3(1)(c) or 5.3(1)(e);
- (d) not interfere with, obscure, obstruct, or hang any item of clothing or towel on a flag, sign, notice or item of life saving equipment.

Division 3 - Fenced or closed property

5.6 No entry to fenced or closed local government property

A person must not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the CEO or an authorised person.

Division 4 - Toilet blocks and change rooms

5.7 Only specified gender to use entry of toilet block or change room

- Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by –
 - females, then a person of the male gender must not use that entry of the toilet block or change room;
 - (b) males, then a person of the female gender must not use that entry of the toilet block or change room; or
 - (c) families, then persons who are not immediate members of a family must not use that entry of the toilet block or change room where it is already being used by a different family.
- (2) Clause 5.7(1)(a) and (b) does not apply to children under the age of 6 years when accompanied by a parent or guardian.

5.8 Hire of lockers

- (1) A person may hire a locker in or near a changeroom for the purpose of safekeeping articles on the conditions that -
 - it is the responsibility of the person hiring the locker to lock the locker once the articles to be stored are placed in the locker and to return the key to the attendant; and

(b) on receiving a receipt given in respect of the hire of the locker, an attendant is to hand to that person the key for the locker described in the receipt in order to remove the articles from the locker.

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- (2) A person must not store in any locker a firearm or offensive weapon or any article or substance that has been unlawfully acquired or which is a substance or article within the meaning of 'dangerous goods' under the *Dangerous Goods* Safety Act 2004.
- (3) An attendant or authorised person may open and inspect the contents of a locker at any time, where the attendant or authorised person reasonably suspects that a breach of this local law has occurred.

5.9 Unclaimed property in locker

- If an article in a locker is not claimed or collected within 48 hours after the date of hire, the article may be removed by an attendant or authorised person.
- (2) An attendant or authorised person must record in the Unclaimed Property Register, with respect to each article removed from a locker –
 - (a) a description of the article removed;
 - (b) the time and date the article was removed; and
 - (c) the time and date recorded on the original receipt.
- (3) An attendant or authorised person must ensure that an article removed from the locker is stored at the place determined by the CEO or an authorised person.
- (4) An attendant or authorised person may deliver to a person an article recorded in the Unclaimed Property Register on receiving –
 - (a) satisfactory evidence of the person's right to obtain the article;
 - (b) an accurate description of the article being claimed; and
 - (c) payment of any outstanding fees or storage charges.
- (5) A person who receives delivery of an article form the Unclaimed Property Register must, by way of acknowledging receipt of the article, write his or her name and address and sign his or her name in the Unclaimed Property Register.

5.10 Use of shower or bath facilities

A person may use a shower or bath facility in changerooms only on conditions that -

- (a) the facilities must be used by the person only for the purpose of cleansing, bathing and washing themselves;
- (b) use of the facilities must be restricted to a maximum period of 15 minutes or such lesser time as required by an attendant; or
- (c) the facilities must not be used for the purpose of laundering or washing any clothing or other articles.

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Part 6 - Fees for entry on to local government property

6.1 No unauthorised entry to function

- A person must not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except –
 - (a) through the proper entrance for that purpose; and
 - (b) on payment of the fee chargeable for admission at the time.
- The CEO or an authorised person may exempt a person from compliance with subclause (1)(b).

Part 7 - Objections and Review

7.1 Objection and appeal rights

Division 1 of Part 9 of the Act applies to a decision under this local law to grant, renew, amend or cancel a permit or consent.

Part 8 - Miscellaneous

8.1 CEO and authorised person to be obeyed

A person on local government property must obey any lawful direction of the CEO or an authorised person and must not in any way obstruct or hinder the CEO or an authorised person in the execution of her or his duties.

8.2 Persons may be directed to leave local government property

The CEO or an authorised person may direct a person to leave local government property where she or he reasonably suspects that the person has contravened a provision of any written law.

8.3 Disposal of lost property

An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the CEO or an authorised person in any manner he or she thinks fit.

8.4 Decency of dress

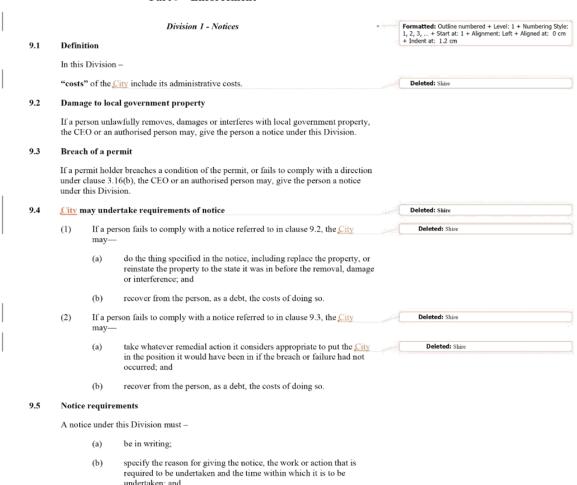
Where an authorised person considers that the clothing of any person on local government property is not proper and adequate to prevent indecent exposure, the authorised person may order that person to put on adequate clothing and that person is to comply with the order immediately.

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8.5 False or misleading statement

A person must not make a false or misleading statement in connection with an application for a permit under clause 3.2 under this local law.

Part 9 - Enforcement



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be given to the person referred to in clause 9.2 or 9.3, as the case may be.

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9.6 Offence to fail to comply with notice

A person who fails to comply with a notice given to him or her under this local law commits an offence.

9.7 <u>City</u> may undertake requirements of notice

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If a person fails to comply with a notice given to him or her under this local law, the CEO or an authorised person may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs of doing so.

Division 2 - Offences and penalties

9.8 Offences and general penalty

- 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.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

9.9 Prescribed offences

- An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is the amount specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, the <u>City</u> should be satisfied that –

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- (a) commission of the prescribed offence is a relatively minor matter; and
- (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

9.10 Form of notices

- For the purposes of this local law -
 - (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
 - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and

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(c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

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(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

9.11 Evidence of a determination

- In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a certified copy of an extract from the register.
- (2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.
- (3) Subclause (2) does not make valid a determination that has not been properly

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$Schedule\ 1-Prescribed\ of fences$

CLAUSE	DESCRIPTION	MODIFIED PENALTY S	
2.4	Failure to comply with determination	\$250	Deleted: 0
3.6	Failure to comply with conditions of permit	\$250	Deleted: 0
3.13(1)	Failure to obtain a permit	\$250	Deleted: 0
3.14(3)	Failure to obtain permit to camp outside a facility	\$250	Deleted: 0
3.15(1)	Failure to obtain permit for liquor	\$250	Deleted: 0
3.16	Failure of permit holder to comply with responsibilities	\$250	Deleted: 0
4.2(1)	Behaviour detrimental to property	\$250	Deleted: 0
4.3	Taking, Injuring, Killing any Fauna	\$3 <u>75</u> ,	Deleted: 00
4.4	Removing, damaging, interfering, with any flora or planting or depositing any flora	\$3 <u>75</u> ,	Deleted: 00
4.5	Under influence of liquor or prohibited drug	\$250	Deleted: 0
4.7(2)	Failure to leave local government property	\$250	Deleted: 0
4.8(1)	Tethering animal to tree etcetera or permitting animal to enter local government property	\$250	Deleted: 0
4.9	Depositing or discarding waste on local government property	\$250	Deleted: 0
4.10	Taking a glass container within 5m of pool, to a children's playground or within local government property as indicated by a sign	\$250	Deleted: 0
4.11(2)	Failure to comply with sign on local government property	\$250	Deleted: 0
5.2	Consuming food or drink in prohibited area	\$250	Deleted: 0
5.5	Failure to comply with sign or direction on beach	\$250	Deleted: 0
5.6	Unauthorised entry to fenced or closed local government property	\$250	Deleted: 0
5.7	Gender not specified using entry of toilet block or change room	\$250	Deleted: 0
6.1(1)	Unauthorised entry to function on local government property	\$250	Deleted: 0
8.5	Making a false or misleading statement	\$250	Deleted: 0
9.6	Failure to comply with notice	\$250	Deleted: 0

Consolidated LG Property Local Law incorporating proposed changes marked up

Schedule 2 - Determinations

The following determinations are to be taken to have been made by the City under clause 2.1. Deleted: Shire

Part 1 - Preliminary

Definitions

In these determinations unless the context otherwise requires

"local law" means the Local Government Property Local Law made by the City.

1.2 Interpretation

Where a term is used but not defined in a determination and that term is defined in this local law then the term is to have the meaning given to it in this local law.

Part 2 - Application

Vehicles on local government property

- Unless under the authority of a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless
 - (a) the local government property is clearly designated as a road, access way or
 - the vehicle is driven by a City employee, authorised person or contractor engaged by the City, who is engaged in providing a service, maintaining or making a delivery in connection with the local government property;

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- the person is driving an emergency vehicle in the course of his or her duties; or
- the vehicle is a motorised wheelchair.
- A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour, or in such a manner as to cause danger to any person. (2)

2.2 Motorised model aeroplanes, toys or ships

A person must not use, launch or fly a motorised model aeroplane, toy, ship, glider or rocket that is propelled by mechanical, hydraulic, combustion or pyrotechnic means on or from local government property except where a permit or a determination specifies a particular local government property.

Children's playgrounds

The Council may set aside a public reserve or any portion of a public reserve as a children's playground.

12.1 Attachment B

Consolidated LG Property Local Law incorporating proposed changes marked up

- (2) The Council may limit the ages of persons who are permitted to use a children's playground and the CEO or an authorised person may crect a sign under clause 2.3 of this local law to that effect on or in the immediate vicinity of the playground.
- (3) A person over the age specified in that sign, other than a person having the charge of a child or children in the playground, must not use a playground or interfere with the use by children of the playground.

2.4 Launching and retrieval of boats

 Λ person must not take onto, launch from, or retrieve a boat on local government property except where a permit or a determination specifies a particular local government property unless –

 the person is a <u>City</u> employee, authorised person or contractor engaged by the <u>City</u> and who is engaged in providing a service, maintaining or making a delivery in connection with the local government property; Deleted: Shire Deleted: Shire

- (b) the person is in charge of a boat engaged in rescue services or dealing with an emergency;
- (c) the local government property is a boat ramp that is delineated by a sign to

2.5 Activities prohibited on local government property

 A person is prohibited from playing or practising archery, pistol or rifle shooting on local government property except on land which is reserved by the <u>City</u> for that purpose, or as otherwise provided by determination or permit.

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- (2) A person is prohibited from playing or practising golf, on local government property except on the Dunsborough and Districts Country Club, Reserve No. 34894.
- (3) A person must not use or ride a bicycle or wheeled recreational device, skateboard, or sand board on any local government property except on an area specified by a sign erected on the local government property.
- (4) Λ person must not use or take on to, a spear gun, hand spear, gidgie or similar device on any local government property.

2.6 Fish cleaning

A person must not shell, gut, seale or clean fish, shellfish or any other animal, or deposit or discard waste from any fish, shellfish or other animal on local government property.

2.7 Waste

A person must not deposit or discard waste on local government property except -

 in a place or receptacle set aside by the CEO or an authorised person for that purpose and subject to any conditions that may be specified on the receptacle or sign in relation to the type of waste that may be deposited or other conditions; or

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changes marked up

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at the Busselton Waste Facility, Rendezvous Road Busselton and the Dunsborough Waste Facility, Vidler Road Dunsborough, and subject to directions issued from time to time by the CEO or an authorised person for the orderly and proper use of those waste facilities in relation to hours of business, separation of waste into designated receptacles, prohibition of the deposit of certain types of refuse or waste, and conduct of persons or persons in charge of vehicles while on the site.

Dated 16 February 2010

The Common Seal of the Shire of Busselton was affixed by authority of a resolution of the Council in the

MATTHEW SMITH, A/Chief Executive Officer IAN STUBBS, President

Notes

This is a compilation of the <u>Cirv</u> of Busselton Local Government Property Local Law 2010 and includes any amendments referred to in the following table.

Local laws and amendments come into operation on the 14th day after the day of publication in the gazette

unless a later day is specified: s 3.14 of the Local Government Act 1995.

Compilation Table

Citation	Gazettal date
Shire of Busselton Local Government Property Local Law 2010	9 March 2010
Shire of Busselton Local Government Property Amendment Local Law 2011	22 March 2011
City of Busselton Local Government Property Amendment Local Law 2021	AXXXXXXXXX

13.1 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

STRATEGIC THEME LIFESTYLE - A place that is relaxed, safe and friendly with services and

facilities that support healthy lifestyles and wellbeing.

STRATEGIC PRIORITY 2.8 Plan for and facilitate the development of neighbourhoods that

are functional, green and provide for diverse and affordable housing

choices.

SUBJECT INDEX Local Planning Scheme No. 21 Amendments

BUSINESS UNIT Strategic Planning

REPORTING OFFICER Planning Officer - Joanna Wilkinson

AUTHORISING OFFICER Director, Planning and Development Services - Paul Needham

NATURE OF DECISION Legislative: adoption of "legislative documents" such as local laws,

local planning schemes and local planning policies

VOTING REQUIREMENT Simple Majority

ATTACHMENTS Attachment A Location Plan

Attachment G Scheme Amendment Man

Prior to the meeting, Councillor Riccelli foreshadowed a motion that was different to the officer recommendation. In accordance with clause 10.18(7) of the City's *Standing Orders 2018*, it was taken to be an alternative motion and moved first.

There was objection to the alternative motion and debate ensued.

SUBSTANTIVE MOTION

Moved Councillor S Riccelli, seconded Councillor G Henley

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, 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 following changes to the Schedule of Modifications:
 - (a) Deletion of Item 2;
 - (b) Replacement of 'within' with 'more than' in clause 4.8.1 (b) in Item 3; and
 - (c) Deletion of Item 4.
- 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 further or different 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.

6.43pm: At this time, Cr Barrett-Lennard moved a procedural motion to defer this item to the Ordinary Council Meeting on 27 October 2021.

COUNCIL DECISION

C2110/060 Moved Councillor J Barrett-Lennard, seconded Councillor R Paine

That this item be deferred to the next Ordinary Meeting of Council on 27 October 2021.

CARRIED 5/4

For the motion: Cr Barrett-Lennard, Cr Paine, Cr Cronin, Cr Carter, Cr Miles Against the Motion: Cr Riccelli, Cr Hick, Cr Henley, Cr Cox

OFFICER RECOMMENDATION

That the Council:

- 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, as set out at Attachment C.
- 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 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.

EXECUTIVE SUMMARY

The purpose of this report is to set out recommendations regarding the final adoption of Amendment No. 50 (the Amendment) to *Local Planning Scheme No. 21* (LPS 21), following consideration of the submissions received through the consultation process. The amendment proposes a reduction to the density coding of 23 residential lots fronting Geographe Bay Road on the Dunsborough foreshore, from R80 to R60. A location plan and aerial photograph are provided at Attachments A and B, respectively.

The Amendment was initiated by Council in February 2021 (C2102/021) following community interest in a recent development approval (DA 20/0624) in this locality, granted by the Regional Joint Development Assessment Panel (RJDAP). The majority of submissions to the Amendment demonstrate concern about future development in the locality and support for the proposed downcoding.

Officers recommend that Council seek finalisation of the Amendment in accordance with the modifications in the Schedule of Modifications provided at Attachment E.

BACKGROUND

Note: this section of the report has been drafted by an independent planning consultant who is not employed by the City. This consultant was engaged by the City to prepare the Amendment documents, draft comments and recommendations in respect of submissions received (Schedule of Submissions, Attachment D), and assist with the drafting of this Council report. Minor edits only have been made by officers and the consultant has indicated no objection to those edits. The views expressed in this section of the report do not necessarily reflect the views or understandings of City officers.

The Amendment was initiated by Council in response to community concerns about future development on Geographe Bay Road along the foreshore. This concern was prompted by the approval of DA 20/0624, a four storey apartment building on Lots 115 and 116 (26-28) Geographe Bay Road and Lots 139 and 140 (23-25) Lorna Street, by the RJDAP in February 2021. Objections to DA 20/0624 centred on the height and bulk of the proposed development in this foreshore precinct, which was regarded as important to the attraction and ambience of Dunsborough as a residential and tourist area.

Approval for the proposed development, including additional plot ratio requirements, setback dispensations and a parking reduction, was granted on the grounds that it satisfied the performance requirements of current state planning policies and was supported by a design assessment undertaken by consultants on behalf of the City. Some submitters indicated that they had been advised by the City that a three storey height limit would apply in this area as required in LPS 21.

This first apartment building development, as is often the case when areas are up-coded, demonstrated the potential and the impact of the R80 coding in this locality. The amalgamation of four lots for this development, their juxtaposition with Seymour Park and dual road access, enabled the design of a substantial four storey building on this site. Approval of this application highlighted the scope of height control provisions in LPS 21, providing for development above three storeys. It also raised wider concern about the ability of State and local planning instruments to achieve an acceptable design outcome in this locality without the support of a site-specific strategic framework and design guidelines for subdivision and development. Overall, there was significant concern about the transitioning of development in this area, and this approval was seen as an undesirable precedent for development along this sensitive foreshore strip.

The substantial increase in coding of lots from R15 to R80 was approved some four years ago as part of Amendment No. 1 to LPS 21. This change was justified at the time on the basis that it reflected the recommendations of a number of strategic plans and studies for the Dunsborough Town Centre. A proportion of the submissions opposed the coding change citing loss of "village" atmosphere as a result of the visual impact of increased height and bulk of buildings, increased noise and light, overshadowing, loss of privacy, and increased traffic and parking demand. The R80 coding was supported by the Council and approved by the Minister on the grounds that it reflected the strategic direction for the Town. It was considered that any negative impacts could be managed through the development approval process, the provisions of LPS 21 with regard to permitted heights, the Residential Design Codes (R-Codes), and comprehensive assessment within urban design guidelines. The City also indicated that it was committed to constructive engagement with the community to ensure transitional improvement in the town.

Since the approval of Amendment No.1 new state policies have been introduced to guide the design of residential buildings at a higher density. An urban design assessment which includes the subject lots (apart from Lot 81 (18) Geographe Bay Road) was completed in 2021 to assist with the preparation of a Precinct Structure Plan (PSP) for the Dunsborough Town Centre, but to date no specific design guidelines or special provisions have been prepared for this area. The City is actively engaged in the preparation of the PSP and preliminary consultation has revealed community concern about density and height of future development in the area.

Summary of Submissions to Amendment 50

A total of 114 submissions were received during public advertising of the Amendment, including one public objection and no agency objections. A Schedule of Submissions is provided at Attachment D.

The support for the Amendment followed several consistent themes. In the first place, submissions emphasised the need to retain the seaside village feel of Dunsborough particularly outside the Town Centre and along the foreshore. Great emphasis was placed on protecting and enhancing its small, intimate and unique character and the special qualities of the bay area. In this regard four storey development was seen as conflicting with this important objective and also perceived as likely to obstruct views to the foreshore coming from the Town Centre, block out northern sun to adjoining properties and contribute to increased traffic and parking problems.

There was general support for the R60 down-coding, in particular the three storey height control. R60 was seen by some respondents as achieving a balance between providing for manageable residential density and at the same time providing a transition between the Town Centre and the seafront. Some submissions indicated that further design controls should be implemented such as requiring greater setbacks for higher buildings to avoid solid walls opposite the foreshore and measuring setbacks from balcony lines rather than wall lines. A number of submissions favoured a two storey limit to maintain the low density environment along the foreshore.

Several submissions raised concerns about past assurances by the City that the height of the development would be limited to three storeys on the foreshore, through specific provisions in LPS 21 regarding development within 150 metres of the mean high water mark. The 'loophole' that allowed the approval of a four storey building approval was questioned and the importance of removing this to safeguard the future amenity of the foreshore locality.

Four submissions were received from owners of lots directly affected by the proposed down-coding to R60. Three of these, the owners of Lot 119 (34), Lot 122 (40) and Lot 126 (48) Geographe Bay Road, supported the coding of R60 citing concern with the impact of four storey buildings on the surrounding lots and the vista and views from the park and beachfront. The submissions emphasised the need to protect the space, peace and environment of the foreshore and the coastal feel and integrity of the town.

One objection to the Amendment was received on behalf of the owner of the four lots granted development approval for DA 20/0624. This submits that the Amendment should be modified and the R80 coding on this land retained as there is already a development approval in place, the proposed design is broadly consistent with an R80 coding, and the development approval is currently being implemented. It is argued that the land has unique characteristics abutting a public reserve, has dual frontage, constitutes a large development site and is in close proximity to the R-AC3 coding of the Town Centre. The submission also questioned the planning rationale behind the Amendment as the change from R80 to R60 is not apparently supported by strategic planning, planning principles or urban design modelling. Should the Amendment be modified over Lots 115 and 116 (26-28) Geographe Bay Road, given the unique attributes of the land and the fact that there is a development approval in place, the owner raises no objection to the down-coding of the remaining lots.

Current strategic direction for higher density residential development

There continues to be significant emphasis in State Government planning direction on increasing residential density in urban areas to provide for more diverse accommodation choices and to achieve a more sustainable footprint from an economic, environmental and social point of view. The approach of imposing higher density codings without adequate design control and guidance over existing residential areas has proved to be a "blunt instrument" in several cases with a corresponding adverse impact on urban form, streetscapes and the adjoining areas. Many initiatives in this regard throughout urban areas in WA have raised community concern prompting some successful attempts to reduce density codings and substantial review of State policy in the past few years. *State Planning Policy 7.0 – Design of Built Environment* (SPP 7.0) was gazetted in 2019 to address these issues more comprehensively. It identifies important design principles to be taken into consideration - context and character, landscape quality, built form and scale, functionality and build quality, sustainability, amenity, legibility, safety, community and aesthetics.

The R-Codes indicate that a local government may, with the approval of the WAPC, prepare local planning policies, local development plans, structure plans, and activity centre plans to deal with specific local circumstances. This acknowledgement of the need to protect sensitive and unique areas, such as coastal towns and foreshores, using these planning instruments reflects widespread practice in Australia and is of particular relevance to Dunsborough.

The Local Planning Strategy 2020 is the most recently endorsed strategic planning document for the City of Busselton, and recommends the continued growth of the Dunsborough Urban Area through the redevelopment and consolidation of the existing urban area, and identification of suitable areas for planned, progressive expansion. In this respect, it deals in broad terms with the issue of increased density and where it should be applied, but does not prescribe a specific density or built form outcomes.

It is intended that the PSP for the Dunsborough Town Centre, which is being progressed, will provide more guidance on how such development should occur in the Study Area. An Urban Design Assessment Report prepared by Urbis as part of the PSP process identified that the Town Centre had its own "sense of place" and a low key friendly atmosphere. The report came up with broad urban design objectives for identified precincts including the area the subject of the amendment defined as Dunn Bay East. Within this particular area it identified the potential for inconsistent streetscapes and the need to ensure that scale and transitioning between areas was properly managed. The Report was again broad in scope and not intended to be accompanied by specific recommendations to address the above design issues.

Future development along Geographe Bay Road

The application of the R80 coding in Amendment No. 1 to the local planning scheme, a substantial change from R15 coding in 2017, was based on broad recommendations in strategic documents including the objective of linking the town centre with the foreshore and providing for more activation from Dunn Bay Road southwards along Geographe Bay Road. The amendment created the opportunity for a range of mixed uses on the land coded R80 subject to the preparation of urban design guidelines or special provisions to address a range of issues. These included appropriate building setbacks, built form articulation, architectural design, function, bulk, scale, massing, grain, signage, vehicular access, and location of crossovers/provision of onsite car parking; roofscapes, skylines and service installation sites. This detailed guidance has not been undertaken to date and the assessment of DA 20/0624 was carried out using the R-Codes and a design assessment of the proposal by Urbis consultants.

The design assessment of DA 20/0624 specifically addressed design principles in the absence of local design guidelines and concluded that it was a suitable design response which largely met the design principles of SPP7.0. The assessment acknowledged in terms of context and character that the proposal departed from the existing two and three storey buildings in the vicinity, but considered it appropriate in the wider residential context of three storey structures across the Town Centre. It was also justified on the basis of its location close to Dunn Bay Road and its potential to provide a gateway entry and transition between the town centre and the foreshore. The assessment placed considerable emphasis on its advantageous siting next to Seymour Park which provided the opportunity not only for visual relief and containing the park edge but also surveillance and access for the gym and café uses. It also pointed out the opportunities for servicing, legibility and transitioning of building form offered by the larger lot size and its frontage to two streets.

The majority of the remaining R80 lots subject to the Amendment are between 800 and 900 square metres and are further removed from the Town Centre. Access is limited to Geographe Bay Road, there is no abutting open space and the interface is with R15 coded residential land. The lead up to and the processing of this Amendment has highlighted the need and demand for additional design controls to provide for more rigorous assessment of higher coded development along this portion of the Dunsborough foreshore. Whilst current State design policies and possible assistance by a Design Review Committee in the future may assist in development assessment, there is a need to address wider strategic issues than building design such as the transitioning of development with surrounding areas and articulating a clear vision for the future development of the Town.

Alternative Recommendations for Amendment No. 50

The alternative courses of action by the Council regarding the progress of the Amendment in terms of the *Planning and Development (Local Planning Schemes) Regulations 2015*, are to support the Amendment without modification, to support the Amendment with proposed modifications or not to support the Amendment.

The R60 coding if approved in this locality would reduce the prospect of development above three storeys on the remaining foreshore lots. This coding is not in conflict with the broad urban consolidation objective for the Dunsborough Town Centre and continues to reflect the strategic direction for mixed use and higher residential development in this locality. This would reflect the majority of views in submissions and signal the concern about the potential impact of the current R80 coding in this sensitive locality within the current planning framework. Given the constraints associated with developing the remaining lots and the progression of the PSP process this is unlikely to create any negative impact for landowners in the short term. It is recommended therefore that the Council resolve to seek final adoption of the Amendment.

The shortcomings of a blanket density code in this sensitive foreshore locality without supporting design guidance have been outlined above and it is recommended that the issue of more detailed analysis of potential development outcomes on the remaining lots be given priority as part of the PSP process or its recommendations for further action.

The proposed designation of the R60 coding on Lots 115 and 116 (26-28) Geographe Bay Road, whilst retaining the R80 coding on Lots 139 and 140 (23-25) Lorna Street, is potentially confusing given that the lots are being amalgamated to form one development site, with development approval for one building. In order to reflect a uniform coding over this development site, a modification to the Amendment to R80 or R60 should be required.

An R80 coding over the site would indicate the density approved for the apartment development. It would also represent an exception for this significant lot on the Dunsborough foreshore as Lots 81 and Strata Lots 1-9 across Dunn Bay Road and Lots 117- 127 Geographe Bay Road would remain coded R60. It is acknowledged that the site has some unique advantages for the design of a landmark commercial and residential development but a similar case could be argued for redevelopment of the site on the opposite corner of Dunn Bay Road.

If the R60 coding proceeds within this amendment, it will not affect the validity of the approval already issued. The development approval remains valid (notwithstanding any down-coding) unless the approval lapses and the development has not been substantially commenced. However, the development approval is the subject of an application for judicial review in the Supreme Court (unrelated to the proposed down-coding) and, depending on the outcome, this may impact on the validity of the approval.

Notwithstanding the concerns raised by the owner, it is recommended that the Amendment be modified to include Lots 139 and 140 in the R60 coding to reflect the overarching intention to downcode lots on the Dunsborough foreshore. It is envisaged that the PSP process will provide specific provisions and clearer guidance aimed at protecting the future of this unique foreshore location and this may prompt future amendments to the local planning scheme.

This recommendation for final approval and modification is made on the grounds that the proposed down-coding is not contrary to current strategic planning direction, reflects community concern about future development of this coastal locality, and will not cause a negative impact on future development of the area.

OFFICER COMMENT

Note: this section of the report has been drafted solely by Planning Officers who are employed by the City.

Recommended Modification to the Amendment – Scheme Map

Officers acknowledge that the proposal to down-code the subject lots from R80 to R60 broadly aligns with the strategic objective for urban consolidation and redevelopment in Dunsborough, and that it continues to allow for mixed use development in order to link the foreshore to the Town Centre.

In terms of mixed use development, land on the periphery of the Town Centre has been identified through a number of strategic documents, endorsed by Council, to allow for low-key commercial and service land uses to support the Town Centre. This was formally enacted through Amendment No. 1 and the introduction of 'Additional Use 74'. The recent *Dunsborough [Town] Centre Commercial Growth Analysis* (Pracsys, 2018), commissioned to inform the Dunsborough PSP, identified that that there will be a shortfall of commercial floor-space in the Dunsborough Town Centre, to meet future demand. Mixed use development of these peripheral sites, including the subject land, will contribute to alleviating the shortfall of future demand.

Officers agree that the proposed designation of R60 coding on Lots 115 and 116 (26-28) Geographe Bay Road, whilst retaining the R80 coding on Lots 139 and 140 (23-25) Lorna Street, is potentially confusing given that the four lots have been approved for amalgamation and will form one development site, with development approval for one building. Officers also understand that a significant number of people in the community have expressed concern with four storey development on the site.

Officers also agree that, in contrast to the communication around the application of the 'RAC-3' Coding to the 'Centre' Zoned portion of the Dunsborough Town Centre, where implications in terms of building height and density were made clear, the same cannot be said to the application of the R80 coding to areas on the periphery. In part as a result of that and also having considered the submissions, officers do support the application of the R60 coding to the bulk of the land subject of the amendment.

Reflecting the recommendation of the independent planning consultant, the Schedule of Modifications provided as Attachment E indicates support for application of the R60 coding across the whole of the site. City officers are not fully supportive of that recommendation, and there are some alternatives that the Council may wish to consider – as briefly outlined in the 'Options' section of this report.

Recommended Modification to the Amendment - Scheme Text

Officers have recommended three additional modifications that relate to height control clauses in LPS 21. The key reason for these additional modifications is to ensure that the fundamental intent of the amendment is reflected in the Scheme - i.e. to apply a three storey height control to the affected land. The proposed changes and the more detailed rationale for them is set out below.

 To update clause 4.3.2 to include reference to the R60 residential density coding, to clarify that building proposals are permitted under the relevant provisions of the R-Codes.

The policy aim of the Amendment is to allow R60 coded buildings, with a three storey height control, to be proposed and considered within the Amendment area. Submissions were broadly supportive of the R60/three storey height control. Current height controls in clause 4.8.1(a) require that a building containing more than two storeys must not be erected within 150 metres of the mean high water mark, which is contrary to the policy aim of the Amendment. Clause 4.8.3 is intended to provide the discretion to vary clause 4.8.1, however these modifications would provide further clarification to landowners and developers that the R-Codes can be applied.

2. To update clause 4.8.1 to clarify that the wording "except where otherwise provided for in the Scheme" applies to both parts (a) and (b) of the clause.

Currently, it is possible that the clause may be interpreted so that wording "except where otherwise provided for in the Scheme" is applied only to part (b) of clause 4.8.1.

3. To update clause 4.8.1 to clarify that building height is measured from natural ground level.

For proposals where a residential density coding has been designated, they would be measured consistently with 'Figure Series 7 – Building Height' of the Volume 1 of the R-Codes, or in accordance with '2.2 Building height' in Volume 2 of the R-Codes. For non-residential proposals, this also clarifies that building height would be measured from natural ground level (which is the reference point used in practice currently).

4. To update clauses 4.3.2 and 4.8.3 when referring to the R-Codes, to reflect amendments to Volume 1 and the introduction of Volume 2.

When drafted, clauses 4.3.2 and 4.8.3 referred to a version of the R-Codes that is now redundant. In 2019 the R-Codes was effectively split into two separate volumes and, the result is that Volume 1 still contains provisions for single houses, grouped dwellings and multiple dwellings in areas coded less than R40, however planning and design standards for multiple dwellings in areas coded R40 or greater, within mixed use development and/or activity centres, is now contained in Volume 2 – Apartments. Each volume uses different terminology when referring to design standards and performance principles, and the structure and format of Volume 2 is quite different from that of Volume 1.

In regard to providing direct reference in clause 4.3.2 to the 'Deemed-to-Comply' and 'Acceptable Outcome' provisions of Volumes 1 or 2 of the R-Codes, Parts 2.4 and 2.5 (Volume 1) and page IV (Volume 2) of the R-Codes explicitly allow for the standards in each policy to be applied with a degree of flexibility, and the exercise of judgement on the contextual merit of individual proposals. While direct reference is made in this clause to 'Deemed-to-Comply' and 'Acceptable Outcome', a proposal could still be assessed on 'Design Principles' and 'Element Objectives' of Volumes 1 or 2 of the R-Codes, as proposed in the modification to clause 4.8.3.

5. To clarify that clauses 4.3.2 and 4.8.3 should be read in accordance with amended versions of the R-Codes.

The R-Codes is subject to reasonably regular amendments (more so than many other State planning policies). This modification provides clarity that if specific parts of the R-Codes have been referenced in the Scheme, and the structure or format of the R-Codes is subsequently changed, then the stated part of the R-Codes should be read in accordance with the amended version of the R-Codes, which may be different to what is stated in the Scheme.

6. To update clause 4.8.3 to clarify that only buildings proposed on land where a residential density coding has been designated, are to be consistent with the relevant provisions of the R-Codes.

Clause 4.8.3 currently requires that applications proposing to exceed the height controls specified in clause 4.8.1 are to be assessed against the relevant criteria of clause 67 'Matters to be Considered' of the Deemed Provisions, and the relevant criteria of the R-Codes. However not all land within the City is zoned Residential and, it may not always be appropriate to assess development proposing to exceed the height controls against the relevant criteria of the R-Codes. In fact, it may be the case that none of the criteria are relevant.

Detailed Urban Design Guidelines

As discussed in the Background section above, Amendment No. 1 to LSP 21 up-coded the subject sites to R80, and at the same time the opportunity for mixed use development was created. Amendment No. 1 was gazetted in 2017, at a time when the State was developing new 'performance-based' urban design guidance through draft policies on the design of the urban environment and, more specifically, apartments within mixed use developments and/or activity centres. In many instances, as the State introduces and 'works through' policy reform, local governments can be delayed in their own development of complementary policy. Indeed the State planning policies 7.0: Design of the Built Environment and 7.3: Residential Design Codes Volume 2 – Apartments were not gazetted until, respectively, February and May 2019. Any work the City had done in this policy space prior to the gazettals may have been premature and rendered redundant during the time those policies were being formulated.

Officers accept and agree that detailed urban design guidelines for all of the subject lots will provide clarity around the design of future developments. In this regard, there is an opportunity to provide a nuanced approach in focused 'design response areas' through the Dunsborough PSP, in a manner that strategically provides for residential and commercial growth, and also listens and responds to community concern. A considerable amount of work in researching and collating information and data in respect to the preparation of the Dunsborough PSP has already been carried out, and it is anticipated that this will be presented to Council, for endorsement to advertise, later in 2021.

Statutory Environment

The key statutory documents relevant to this proposal include the *Planning and Development Act 2005*, the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the relevant objectives and provisions of the City of Busselton *Local Planning Scheme No. 21*. Each is discussed below under appropriate subheadings.

Planning and Development Act 2005

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

Planning and Development (Local Planning Schemes) Regulations 2015

The *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), which came into operational effect on 19 October 2015, identify three different levels of amendments – basic, standard and complex. The resolution of the local government is to specify the level of the amendment and provide an explanation justifying this choice. This Amendment is considered to be a 'standard' amendment.

Local Planning Scheme No. 21

The subject land is zoned 'Residential' with a residential density coding of R80; and, is identified in Schedule 2 'Additional Uses' no. A74. Land uses and conditions specified for A74 are:

LAND USE PERMITTED/SPECIFIED		CONDITIONS
Guesthouse Medical Centre	1.	The Additional Uses specified shall be deemed to be "D" uses for the purposes of the Scheme.
Office Consulting Rooms	2.	Shop' land uses may be permitted at ground floor level only and occupy 50% of total development floor space, up to a maximum area of 300m ² per lot.
Restaurant/Café Shop	3.	A nil setback to the street shall be considered for active frontages.
Tourist Accommodation	4.	The provisions of Clause 4.25 relating to cash in lieu of car parking shall apply.
	5.	Urban design guidelines (and/or Special Provisions) shall be prepared and adopted as a Local Planning Policy to address the following matters in relation to any proposed development:
		 a. Appropriate building setbacks to prevent or suitably mitigate overshadowing or overlooking of neighbouring properties;
		 Built form articulation, architectural design, function, bulk, scale, massing, grain, signage, and surveillance (in relation to the streetscape, surrounding buildings, adjoining land uses and the overall character and amenity of the subject development area);
		c. Vehicle access, and the location of crossovers/provision of onsite car parking;
		d. Roof scapes, skylines and service installation sites to ensure minimal visual intrusion.

Relevant Plans and Policies

The key policy documents relevant to this proposal are the *Dunsborough Town Centre Conceptual Plan 2014*, and the *Local Planning Strategy*. Each is discussed below under appropriate subheadings.

Dunsborough Town Centre Conceptual Plan 2014

This Plan shows land along Chieftain Court, Geographe Bay Road and Dunn Bay Road designated for potential expansion of low-key commercial development and increased residential density into adjoining streets which connect to the Town Centre and foreshore. It recommends that Dunsborough improves linkage with the foreshore by replacing low and intermittent activity with an area of interest and pedestrian amenity from the Town Centre.

City of Busselton Local Planning Strategy 2020

The LPS recommends the continued growth of the Dunsborough Urban Area through the redevelopment and consolidation of the existing urban area and identification of suitable areas for planned, progressive expansion. This objective to be achieved by urban consolidation and redevelopment (including increases in permissible residential density) in existing urban areas, especially in areas close to the Town Centre, high amenity areas, such as coastal locations, adjacent to open space, or areas close to significant community facilities.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

The Amendment was advertised for a period of 49 days ending 20 August 2021. During the advertising period it became apparent that direct written advice had not been sent to the 23 affected landowners. Each owner was contacted by telephone and email advising that the closing period for submissions would be extended by a further week.

A total of 114 submissions were received, from five government agencies and 96 different members of the public, including four affected landowners. Some members of the public provided two submissions of support, and 10 public submissions declared that they 'did not support' the proposal, however their comments indicated that they were in fact supportive. Each of these submitters was invited to clarify their views, and each provided a second submission, changing their view from 'do not support' to 'support'.

One public submission was a clear objection, and there were no objections received from Government agencies.

Risk Assessment

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

Options

As an alternative to the proposed recommendation, the Council could:

- 1. Resolve to not support the Amendment for final approval (and provide a reason for such a decision). The Council would need to make that as a recommendation to the Minister, setting out the rationale for the recommendation. The decision would then rest with the Minister, having also received and considered a recommendation on the amendment from the Western Australian Planning Commission.
- To make different or further modifications including, potentially, retaining the R80 coding over Lots 115 and 116 (26-28) Geographe Bay Road, and Lots 139 and 140 (23-25) Lorna Street, or retaining the R80 coding over the Lorna Street lots only, reflecting the amendment as advertised.

CONCLUSION

The Amendment concerns the potential future development of land along the Dunsborough foreshore, an iconic area of the South West and one that has merit for special design consideration. The coding of the land for R80 residential development in 2017, whilst reflecting broad strategic objectives, also placed reliance on LPS 21 and state residential development controls, and the use of specific design guidelines to guide future development. The recent approval of an apartment complex has demonstrated the potential impact of R80 coding, particularly in terms of height and bulk, in this sensitive foreshore location, and highlighted concerns about future development in this locality.

An R60 coding will continue to permit medium density development but will alleviate concerns about development exceeding three storeys. The Amendment proposal is not contrary to the strategic direction in state and local government policies and plans and reflects community concerns about the future development of this foreshore land, as it retains a medium density coding that will permit apartment and mixed-use development to occur, albeit at slightly lower density than is currently permissible. There is also the opportunity in future to provide more specific design guidance for the remaining lots in this locality and the townsite in the preparation of the PSP and further studies.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will involve the referral of Amendment No. 50 to the Western Australian Planning Commission for final approval and this will occur within one month of the resolution.



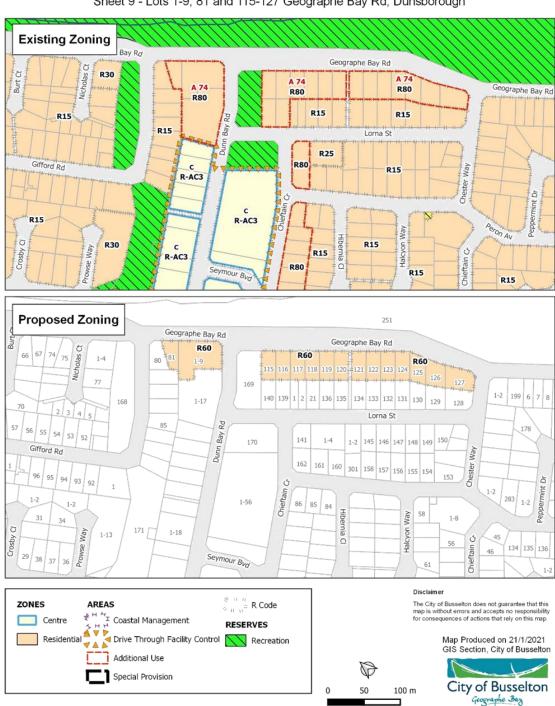
Aerial Photo



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SCHEME AMENDMENT MAP

City of Busselton Local Planning Scheme No.21 Proposed Rezoning Dunsborough Sheet 9 - Lots 1-9, 81 and 115-127 Geographe Bay Rd, Dunsborough



No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION			
Agend	Agency Submissions						
1.	Department of Planning Lands and Heritage Aboriginal Heritage Operations 140 William Street Perth WA 6000	A review of the Register of Places and Objects as well as the Aboriginal Heritage Database indicates that Lot 81 (18), Strata Plan 17588 (20), and Lots 115 to 127 (26-50), Geographe Bay Road, Dunsborough are within the public boundary of Aboriginal site ID 20764 (Caves Road Campsite) but not within the boundary administered by the Department of Planning, Lands and Heritage (DPLH). As such, the DPLH Aboriginal Heritage Operations does not have any comment to make regarding the query.		That the submission be noted.			
2.	Department of Fire and Emergency Services 20 Stockton Bend Cockburn Central WA 6164	Given the Amendment seeks to decrease the residential density code from R80 to R60 as per your correspondence, which may not be considered an intensification of land use, DFES agrees with the City of Busselton's assessment that the application of State of Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP 3.7) may not be required, in this instance. Please note that the application of SPP 3.7 is ultimately at the discretion of the decision maker. Thank you for providing us with the opportunity to make a submission, DFES has no further comments.		That the submission be noted.			
3.	Department of Planning Lands and Heritage Heritage Services 140 William Street Perth WA 6000	As there are no State Heritage Places within the proposed amendment area, there is no objection to the proposed amendment.		That the submission be noted.			
4.	ATCO GAS C/- 81 Prinsep Road Jandakot WA 6164	ATCO is not impacted by this amendment.		That the submission be noted.			

ATTACHMENT D AMENDMENT 50 TO LOCAL PLANNING SCHEME 21 SCHEDULE OF SUBMISSIONS

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Schedule of Submissions

No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
5.	Department of Education	No in principle objections to the proposed down-		That the submission be noted.
	151 Royal Street	coding		
	East Perth WA 6004			
Public	Submissions			
1.	Anthony Sharp	Support	Where reference is made to approval of a 4 storey	That the submission be noted.
	170 Lagoon Drive	When R80 zoning was introduced in Dunsborough,	building on the foreshore, this is in regard to	
	Yallingup WA 6282	the City of Busselton (COB) advised that building	development approval (DA20/0624) granted by the	
		height would be controlled by provisions in the local	JDAP for a four storey development located at Lots	
		planning scheme.	115 and 116 Geographe Bay Road (subject to this	
			amendment) and Lots 139 and 140 Lorna Street.	
		The approval of a 4 storey building on the foreshore		
		is contrary to this advice and will substantially		
		change the character of the area. To ensure		
		Dunsborough retains its unique character, the		
		foreshore must not have more than 3 storey		
		buildings.		
2.	Jacquie Happ	Support	Noted.	That the submission be noted.
	749 Caves Road	The Strategic Community Plan for Dunsborough		
	Anniebrook WA 6280	emphasises the need to stimulate the vibrancy of		
		the town without destroying its unique and		
		boutique characteristics and village feel. The R80		
		zoning and its potential building height of more than		
		3 storeys will not achieve this important objective.		
3.	Mike Foster	Support	Noted.	That the submission be noted.
	10 Naruo Court	4 storey development in Dunsborough does not		
	Dunsborough WA 6281	represent the feel of the town and is unnecessary.		
4.	Geoff Rocchi	Support	Noted.	That the submission be noted.
	16 Rocky Place	Residential development above 2 levels on		
	Quedjinup WA 6281	Geographe Bay road frontage will not maintain the		
		present low density environment and increase		
		parking requirements which cannot be		
		accommodated in the area.		
5.	Christine Emerson	Support	Where reference is made to the '4 storey	That the submission be noted.
	30 Hakea Way	4 storey development in this locality will be	development', see comment for public submission	
	Dunsborough WA 6281	overpowering, restricting the view of the sea along	no. 1.	

Schedule of Submissions

ATTACHMENT D AMENDMENT 50 TO LOCAL PLANNING SCHEME 21 SCHEDULE OF SUBMISSIONS

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No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
		Dunn Bay Road and does not fit the character of the town. R80 is inappropriate within 150 metres of the shoreline.		
6.	Michelle Cameron-Brown 7 Lorna Street Dunsborough WA 6281	Support 4 storey development would block out a lot of the northern sun on surrounding properties and is not in keeping with the look of the rest of the area.	The R-Codes volumes 1 & 2 provide requirements for overshadowing of adjoining lots, between lots of the same and differing densities.	That the submission be noted.
7.	Bruce Cameron-Brown 7 Lorna Street Dunsborough WA 6281	Support A 4 storey building would block 75% of our northern sun which was a prime concern when we purchased the block and designed our home. Development at this height will create unacceptable increased traffic in this area.	See comment for public submission no. 6.	That the submission be noted.
8.	David Buckingham 140 Summerville Crescent Yallingup Siding WA 6282	No not support The JDAP approval conflicts with local planning regulation and advice to residents regarding building heights designed to protect the natural shoreline of Geographe Bay for Dunsborough. It sets an undesirable precedent for future development along this pristine foreshore.	As the comments appear to be in support of the proposal, the submitter was invited to clarify his position. A second submission, in support of the proposal, was later lodged (see 11 below). Where reference is made to the JDAP, see comment for public submission no. 1.	That the submission be noted collectively with submission 11 below.
9.	Marina Leith 12/700 Caves Road Marybrook WA 6280	Support Very nice diversity.	Noted.	That the submission be noted.
10.	Jenny Fletcher 7 Okapa Rise Dunsborough WA 6281	Support R80 zoning is not in keeping with the relaxed village feel and pristine, unpopulated beaches of Dunsborough, so attractive to residents and tourists. R60 zoning (3 storey) is a more appropriate height for a small town.	Noted.	That the submission be noted.
11.	David Buckingham 140 Summerville Crescent Yallingup Siding WA 6282 (Second submission)	Support The JDAP approval conflicts with local planning regulation regarding building heights designed to protect the natural shoreline of Geographe Bay for Dunsborough. It sets an undesirable precedent for future development along this pristine foreshore.	See also public submission no. 8.	That the submission be noted collectively with submission 8 above.

Attachment D

No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
		Support reverting density to R60.		
12.	Maggie Anson 2 Muirfield Road Dunsborough WA 6281	Support Opposed to build up along coastal foreshore and support local regulation limiting building heights in this area.	Noted.	That the submission be noted.
13.	Alison Butler 3 Concord Brace Dunsborough WA 6281	Support When R80 zoning was introduced in Dunsborough, the COB advised that building height would be controlled by provisions in the local planning scheme. Approval of 4 storey buildings on the foreshore is contrary to this advice and will substantially change the character of the area.	Noted.	That the submission be noted.
14.	Nigel Smith 20 Howson Rise Yallingup WA 6282	Support An R60 zoning would enable a manageable population density, protect the open and natural character of the town and foreshore and manage this important transition zone between the town and the seafront.	Noted.	That the submission be noted.
15.	Philippa D'Arcy 6 Duffy Place Dunsborough WA 6281	Support R80 is not in keeping with the village atmosphere of Dunsborough. Support local regulation limiting building heights along the foreshore.	Noted.	That the submission be noted.
16.	Peter D'Arcy 6 Duffy Place Dunsborough WA 6281	Support R80 is not in keeping with the village atmosphere of Dunsborough. Support local regulation limiting building heights along the foreshore.	Noted.	That the submission be noted.
17.	Mark Webster Unit 4/9 Acorn Place Dunsborough WA 6281	Support 4 storeys along the foreshore is contrary to the intent of local regulations for height and will substantially change the character of the area. R60 and 3 storey height is a reasonable compromise allowing some room for increased development, but	Noted	That the submission be noted.

Attachment D

No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
		also requires stricter setback controls to minimise		
		impact on surrounding area.		
18.	Duncan Gardner 144 Glover Road	Support 3 storey development should be the maximum for	Noted.	That the submission be noted.
	Yallingup Siding 6282	Dunsborough town centre and 2 storeys for		
	Tuningap staring ozoz	residential areas.		
19.	Lizzie Nunn	Support	Where reference is made to the JDAP, see comment	That the submission be noted.
	47 Kawana Boulevard	At the time R80 zoning was introduced in	for public submission no. 1.	
	Dunsborough WA 6281	Dunsborough, the COB advised that building height		
		would be controlled by provisions in the local		
		planning scheme.		
		The approval of a 4 storey building by the JDAP on		
		the foreshore is contrary to this advice and		
		development at this scale will substantially change		
		the character of the area.		
20.	Athol Blight	Support	Noted.	That the submission be noted.
	44 Queens Crescent	R60 allows plenty of scope for medium density		
	Mount Lawley WA 6050	developments along the iconic foreshore without it		
	(Property owner:	being unsightly or out of character with the area.		
21.	17 Lorna Street, Dunsborough) Kristen Gadsdon	Support	Noted.	That the submission be noted.
21.	1 Norfolk Street	Mass dwellings are too commercial for this country	Noted.	That the submission be noted.
	Dunsborough WA 6281	town and limiting height to less than 3 storeys will		
	Samparagn Wrozer	effectively maintain the beauty of the bay.		
22.	Victoria Russell	Support	Noted.	That the submission be noted.
	29 Monclair Circuit	The amenity of our coastal town needs to be		
	Dunsborough WA 6281	protected by restricting large developments to		
		reflect the existing height restriction of 2 to 3		
22	Marine Boothers	storeys along Geographe Bay road.	At-t1	The Address of the Control of the Co
23.	Moira Buckley 283 Quedjinup Drive	Support High rise development along our foreshore is not	Noted.	That the submission be noted.
	Quedjinup WA 6281	wanted by the majority of the community. It does		
	Quedjillup WA 0201	not fit with our coastal village personality and will		
		not provide affordable housing for local families.		
24.	Tim Greay	Support	Noted.	That the submission be noted.
24.	IIII Greay	Зиррогі	Noteu.	That the submission be noted.

Schedule of Submissions

ATTACHMENT D AMENDMENT 50 TO LOCAL PLANNING SCHEME 21 SCHEDULE OF SUBMISSIONS

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No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
	51 Bina Place Quedjinup WA 6281	Rezoning to reduce building heights is supported to protect beach town vibe and avoid traffic and parking issues.		
25.	Patricia Roach 21 North Street Dunsborough WA 6281	Support 4 storey development will not maintain the seaside village atmosphere of Dunsborough and is contrary to the intent of local regulations for building heights along the foreshore.	Noted.	That the submission be noted.
26.	Marina Leith 12/700 Caves Road Marybrook WA (Second submission)	Support If designed properly can look fantastic and bring more life to the foreshore.	Noted.	That the submission be noted.
27.	Paul Dwyer P.O. Box 439 Yallingup WA 6282	Support Oppose built out urban development in Dunsborough and support retention of regional feel.	Noted.	That the submission be noted.
28.	Lincoln Trager 6/8 Nicholas Court Dunsborough WA 6281	<u>Do not support</u> Any developments over 3 storey will adversely impact the community and the feel of Dunsborough.	As the comments appear to be in support of the proposal, the submitter was invited to clarify his position. A second submission, in support of the proposal, was later lodged (see 36 below).	That the submission be noted collectively with submission 36 below.
29.	Holly Morrow Dunsborough WA 6281	Support Opposed to high rise development along the foreshore.	Noted.	That the submission be noted.
30.	Tania Sommerville 29 Diamante Boulevard Dunsborough WA 6281	Do not support Support keeping building heights to 3 storeys or lower along the foreshore to blend in with current development, prevent additional traffic and parking problems and risk of damage and pollution to the flora and beachfront.	As the comments appear to be in support of the proposal, the submitter was invited to clarify her position. A second submission, in support of the proposal, was later lodged (see 40 below).	That the submission be noted collectively with submission 40 below.
31.	Ingrid Spelman 22 Spyglass Cove Dunsborough WA 6281	Support R60 will ensure appropriate low scale development for Dunsborough foreshore and retain our village and traditional seaside character.	Noted.	That the submission be noted.
32.	Luke Gerson 11 Curtis Street Dunsborough WA 6281	Support A 3 storey height limit on Dunsborough foreshore will prevent overdevelopment, ensure minimum visual impact and retain the charm of the town.	Noted.	That the submission be noted.

Attachment D

No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
			,	
33.	Craig Beenham 182 Dunsborough Lakes Drive Dunsborough WA 6281	Support Buildings over 3 storeys are not needed in small country towns and ruin the aesthetics.	Noted.	That the submission be noted.
34.	Dan Bish 10 Killarney Road Dunsborough WA 6281	Support Building heights should be in keeping with the local aesthetic.	Noted.	That the submission be noted.
35.	Matthew Stewart 3 Kunzea Place Dunsborough WA 6281	Support This amendment will help keep development in check and protect the community of Dunsborough.	Noted.	That the submission be noted.
36.	Lincoln Trager 6/8 Nicholas Court Dunsborough WA 6281 (Second submission)	Support R60 density is supported.	See also public submission no. 28.	That the submission be noted collectively with submission 28 above.
37.	Kris Davis 11 Rivendell Court Dunsborough WA 6281	Support The bay and foreshore is an amazing spot and family space. Building height and traffic should be restricted to protect the coast and natural amenity of the location.	Noted.	That the submission be noted.
38.	Greg Milner 23 Gibson Drive Dunsborough WA 6281	Support This rezoning is required to prevent 4 storey buildings along the foreshore which would detract for coastal small town amenity. Apartment buildings allowed along the foreshore will be priced for millionaires and will not alleviate housing shortages for average people.	Where reference is made to '4 storey buildings', see comment for public submission no. 1.	That the submission be noted.
39.	Bradley Proctor 8 Pimelea Parade Dunsborough WA 6281	Support Dunsborough is a coastal town that benefits from a country feel and high rise buildings along the foreshore will detract from this vibe.	Noted.	That the submission be noted.
40.	Tania Sommerville 29 Diamante Boulevard Dunsborough WA 6281 (Second submission)	Support I do support the change.	See also public submission no. 30.	That the submission be noted collectively with submission 30 above.
41.	Penny De Cuyper 69 Ballyneal Loop	Support	Noted.	That the submission be noted.

ATTACHMENT D AMENDMENT 50 TO LOCAL PLANNING SCHEME 21 SCHEDULE OF SUBMISSIONS

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No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
	D			
	Dunsborough WA 6281	Buildings above R60 on the foreshore will change the coastal and visual aspect of Dunsborough.		
42.	Robert Anson 2 Muirfield Road Dunsborough WA 6281	Support Build up along the entire foreshore will overshadow the public open space and is contrary to local planning regulations.	Noted.	That the submission be noted.
43.	Bree Wiley 195 Quedjinup Drive Quedjinup WA 6281	Support Restriction to foreshore building height is imperative for protecting the beauty and integrity of our environment and community.	Noted.	That the submission be noted.
44.	Dale Wiley 195 Quedjinup Drive Quedjinup WA 6281	Support Will protect the integrity and beauty of our foreshore and environment.	Noted.	That the submission be noted.
45.	Georgina Marchesi 96 O'Byrne Road Quindalup WA 6281	Support R80 Zoning was introduced in Dunsborough, to allow for multi- purpose uses and greater population density in the area along the foreshore, not to permit buildings greater than 3 storeys. Approval of 4 storey buildings on the foreshore is contrary to local regulation and will substantially change the character of the area and its coastal village charm.	Noted.	That the submission be noted.
46.	Lynn Sadler 13 Marron Rise Yallingup WA 6282	Support Dunsborough's village feel, particularly along the foreshore, should be retained by limiting building heights to no higher than 3 storeys.	Noted.	That the submission be noted.
47.	Sherylee Tutt 15 Lochinvar Place Quindalup WA 6281	Support The rezoning of the foreshore area from R60 to R80 in 2017 should never have occurred. The current amendment will retain the low-rise development, a special and slower characteristic of this holiday destination.	Noted.	That the submission be noted.
48.	Brett Pescod 18 Bay View Crescent Dunsborough WA 6281	Support 4 storey buildings along the whole beach front could end up like the Gold Coast.	Noted.	That the submission be noted.

Attachment D

No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
49.	Helen Jones	Support	Noted.	That the submission be noted.
	40 Bayfield Court	Refining from R80 to R60 will contribute to retention		
	Yallingup WA 6282	of the Dunsborough village feel.		
50.	Alastair McMichael	Support	Noted.	That the submission be noted.
	3 Lorna Street	Any significant increase in density of development		
	Dunsborough WA 6281	along Geographe Bay Road between Dunn Bay Road		
		and Chester Way would reduce the amenity and		
		enjoyment of living in Lorna Street and be out of		
		character for the area.		
51.	Sarah Wright	Support	Noted.	That the submission be noted.
	10 Wentworth Loop	4+ storey developments will increase holiday rentals		
	Dunsborough WA 6281	affecting the laid back and strong community		
		lifestyle feel of this coastal country town.		
52.	Kathryn Pollard	Support	Noted.	That the submission be noted.
	10 Cygnet Cove	Dunsborough has a unique position in the West		
	Dunsborough WA 6281	Australian landscape of an east facing bay with a		
		delightful village atmosphere. High rise		
		development would spoil the ambience.		
53.	Kelly Lamp	Support	Where reference is made to '4 storey buildings', see	That the submission be noted.
	1972 Caves Road	This zoning change needs to happen to ensure that	comment for public submission no. 1.	
	Naturaliste WA 6281	more 4 storey buildings are not approved as this will		
		destroy the feel of the town.		
54.	Ruth Thomas	Support	Noted.	That the submission be noted.
	14 Waterville Road	The character and street scene of this part of		
	Dunsborough WA 6281	Dunsborough needs to be safeguarded to minimise		
		the visual impact of the urban area on the adjoining		
		coastal scene and skyline.		
55.	Victoria Viela	Support	Where reference is made to the approval of 'four	That the submission be noted.
	6 Glover Road	R80 zoning was introduced in Dunsborough, to allow	storey buildings', see comment for public	
	Yallingup Siding WA 6282	for multi-purpose uses and greater population	submission no. 1.	
		density in the area along the foreshore, not to		
		permit buildings greater than 3 storeys. Need to cap		
		heights at R60.		
		Approval of 4 storey buildings on the foreshore is		
		contrary to local regulation and will substantially		

Attachment D

No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
	T			
		change the character of the area and its coastal village charm.		
56.	Nita Pratt	Support	Noted.	That the submission be noted.
50.	43 Gibson Drive	Opposed to multi story buildings above 3 storeys too	Troca.	That the sabinission be noted.
	Dunsborough WA 6281	close to changing foreshore lines, and unpredictable		
		soil stability.		
57.	Annie Mussell	Support	Noted.	That the submission be noted.
	60 Sloan Drive	Support the reduction in permissible storeys along		
	Dunsborough WA 6281	the foreshore to preserve the beach side feel of		
		Dunsborough.		
58.	Jane Huxley	Support	Noted.	That the submission be noted.
	102 St Michael's Parkway	Any building higher than 3 storeys will detrimentally		
	Dunsborough WA 6281	affect the vibe of the coastal village of Dunsborough.	71 00 1 1 100 11 1	71.11
59.	Colleen Shanhun 13 Lorna Street	Support R80 development would increase loss of privacy and	The R-Codes volumes 1 & 2 provide requirements for privacy and overshadowing of adjoining lots,	That the submission be noted.
	Dunsborough WA 6281	natural light and shading of backyards. It would	between lots of the same and differing densities.	
	Dulisbolougii WA 0281	have a negative effect on coastal character of the	between lots of the same and differing densities.	
		area and neighbourhood and create an excessive		
		carbon footprint of tall buildings.		
60.	Therese Sayers	Support	Noted.	That the submission be noted.
	16 Chapman Street	Tall buildings and big developments with additional		
	Dunsborough WA 6281	traffic and parking needs will adversely impact on		
		the coastal holiday feel of Dunsborough and the low		
		key frontage to Geographe Bay which is unique and		
		accessible to all.		
61.	Richard Wain	Support High density living in Dunsborough is not and cannot	Noted.	That the submission be noted.
	138 Dunsborough Lakes Drive Dunsborough WA 6281	be supported by the infrastructure and services.		
	Dulisborough WA 6261	Nothing over 3 storeys should be allowed adjacent		
		to the beach as it is visually inappropriate.		
62.	Sarah Trager	Support Support	Noted.	That the submission be noted.
	Unit 6, 8 Nicholas Court	R60 zoning is in keeping with the feel of the town,		
	Dunsborough WA 6281	maximising the natural beauty of the Dunsborough		
		coastline while keeping the low key country feel to		
		the town.		
63.	Stacey Mills	Support	Noted.	That the submission be noted.

ATTACHMENT D AMENDMENT 50 TO LOCAL PLANNING SCHEME 21 SCHEDULE OF SUBMISSIONS

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Schedule of Submissions

No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION	
	138 Gifford Road	Large buildings and eyesores will negate the natural			
	Dunsborough WA 6281	beauty of the area and maintaining this charm is			
		essential to the community.			
64.	Andrew Saberton	Support	Noted.	That the submission be noted.	
	PO Box 1025	4 storey development is too high for the foreshore			
	Dunsborough WA 6281	area.			
65.	Geoffrey Forman	Support	Where reference is made to the 'proposed property	That the submission be noted.	
	Unit 4/20 Lorna Street	The position and height of the proposed property	development', see comment for public submission		
	Dunsborough WA 6281	development is out of character with the rest of	no. 1.		
		Dunsborough and sets an undesirable precedent for			
		other 4 storey buildings on the coast.			
		3 storey development will be a little more			
		acceptable on Geographe Bay Road and less of a car parking problem. Development should be restricted			
		to 2 storeys where Chieftain Crescent and Lorna St			
		meet to be in keeping with the area.			
66.	Mel Kent	Support	Noted.	That the submission be noted.	
00.	PO Box 618	Support building height restrictions on Geographe	Noted.	That the submission be noted.	
	Dunsborough WA 6281	Bay Road to protect our coastal, country town of			
	Dulisbolougii WA 0281	Dunsborough, unique to residents and visiting			
		tourists.			
67.	Kimberley Sadler	Support	Noted.	That the submission be noted.	
•/-	13 Marron Rise	Limit the amount of dwellings to minimize ecological		111111111111111111111111111111111111111	
	Yallingup WA 6282	impact of developments and protect village			
	3 -p	atmosphere along the foreshore.			
68.	Johannes Versluis	Support	Noted.	That the submission be noted.	
	6 Hebrides Close	Reduction of building height will maintain the			
	Quindalup WA 6281	pleasant feel of Dunsborough town, especially near			
		the beach front and improve the existing			
		streetscape of low-level buildings.			
69.	Andy Park	Do not support	As the comments appear to be in support of the	That the submission be noted collectively with	
	193 Yungarra Drive	R80 zoning was introduced in Dunsborough, to allow	proposal, the submitter was invited to clarify his	submission 74 below.	
	Quedjinup WA 6281	for multi - purpose uses and greater population	position. A second submission, in support of the		
		density in the area along the foreshore, not to	proposal, was later lodged (see 74 below).		
		permit buildings greater than 3 storeys.			

ATTACHMENT D AMENDMENT 50 TO LOCAL PLANNING SCHEME 21

SCHEDULE OF SUBMISSIONS

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Schedule of Submissions

No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
		Approval of 4 storey buildings on the foreshore is		
		contrary to local regulation and will substantially		
		change the character of the area and its coastal		
		village charm.		
		We need to cap heights at R60.		
70.	Tracey Plester	Support	Noted.	That the submission be noted.
	96 Kinross Loop	Coastal small country village vibe with beautiful,		
	Quindalup WA 6281	natural, unspoilt and not overdeveloped coastlines,		
		needs to be retained.		
71.	Bridget Haak	Support	Noted.	That the submission be noted.
	4 Newberry Road	4 storey buildings on the foreshore will hem in green		
	Dunsborough WA 6281	play-space and do nothing to enhance our village		
		atmosphere. Planning should reduce the built		
		environment on our coastline and be sensitive to		
		the landscape.		
72.	Paul Jordan	Support	Noted.	That the submission be noted.
	20 Swinley Approach	R80 zoning was introduced in Dunsborough, to allow		
	Dunsborough WA 6281	for multi -purpose uses and greater population		
		density in the area along the foreshore, not to		
		permit buildings greater than 3 storeys.		
		Approval of 4 storey buildings on the foreshore is		
		contrary to local regulation and will substantially		
		change the character of the area and its coastal		
		village charm.		

		Heights need to be capped at R60.		
73.	Sally Garnett	Support	Noted.	That the submission be noted.
	25 Hammond Road	The amendment will help retain the relaxed seaside		
	Yallingup WA 6282	feel by preventing high rise buildings along the		
		coastline which is out of character for our region.		
74.	Andy Park	Support	See also public submission no. 69.	That the submission be noted collectively with
	193 Yungarra Drive	I would like to amend my submission to "I do		submission 69 above.
	Quedjinup WA 6281	support."		
<u> </u>	(Second submission)			
75.	Kate Fysh	Support	Noted.	That the submission be noted.

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No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION	
	12 Big Rock Place Quedjinup WA 6281	Dunsborough is a holiday destination with a small community vibe. High rise buildings are unsightly along the coastline and R60 is more than high enough.			
76.	Annie Winchcombe 13 Cape Way Dunsborough WA 6281	Do not support 4 storey development on the beach front infringes on views and the amenity of our beachfront.	As the comments appear to be in support of the proposal, the submitter was invited to clarify his position. A second submission, in support of the proposal, was later lodged (see 109 below).	That the submission be noted collectively with submission 109 below.	
77.	Janine Gasbarri 193 Eagle Bay Road Naturaliste WA 6281	Support R60 will limit impact on foreshore and is in line with community wishes.	Noted.	That the submission be noted.	
78.	David Mills 56 O'Byrne Road Quindalup WA 6281	Support R60 development will prevent 4 storey development on foreshore.	Noted.	That the submission be noted.	
79.	Tony Jackson PO Box 226 Burswood WA 6100	Do not support Increase in density will detract from amenity of foreshore area and create traffic and parking problems.	As the comments appear to be in support of the proposal, the submitter was invited to clarify his position. A second submission, in support of the proposal, was later lodged (see 90 below).	That the submission be noted collectively with submission 90 below.	
80.	lan Smith 65 Peppermint Drive Dunsborough WA 6281	Support Reduction in coding is necessary to minimise onerous impacts of density development and increased traffic and parking in this sensitive coastal area.	Noted.	That the submission be noted.	
81.	Kevin and Julie Stanley 53 Pine Valley Pass Connolly WA 6027	Support R60 will allow development but also protect space, peace and environment of foreshore. Traffic noise and parking already a problem over weekends and summer period.	Owner of affected property Lot 122 (40) Geographe Bay Road, Dunsborough.	That the submission be noted.	
82.	Luke Pearce 5 Diamante Boulevard Dunsborough WA 6281	Support Reduction in height limit to 3 storeys is in keeping with general community feel of Dunsborough and will protect its unique attraction to residents and holidaymakers.	Noted.	That the submission be noted.	
83.	Chris Harding 23 Campion Way Quindalup WA 6281	Support 4 storey development is not consistent with retaining coastal atmosphere of Dunsborough	Noted.	That the submission be noted.	

Schedule of Submissions

ATTACHMENT D AMENDMENT 50 TO LOCAL PLANNING SCHEME 21 SCHEDULE OF SUBMISSIONS

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No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
84.	Peter Chandler	<u>Do not support</u>	As the comments appear to be in support of the	That the submission be noted collectively with
	85 Amberley Loop	Opposed to big developments for tourists in this	proposal, the submitter was invited to clarify his	submission 88 below.
	Dunsborough WA 6281	small family town.	position. A second submission, in support of the	
			proposal, was later lodged (see 88 below).	
85.	Patricia Roach	See submission 25	Noted.	That the submission be noted.
	21 North Street			
	Dunsborough WA 6281			
86.	Joy Watling	Support	Noted.	That the submission be noted.
	4 Peppermint Drive	No precedent for 4 storey buildings along and R80		
	Dunsborough WA 6281	will not enhance the streetscape of Geographe Bay		
		Road.		
87.	Julia Carrico	Support	Noted.	That the submission be noted.
	21 Moriarty Place	Height of buildings in Dunsborough needs to be		
	Yallingup WA 6282	capped at 3 storeys to reflect ambience of coastal		
		country town.		
88.	Peter Chandler	Support	See also public submission no. 84.	That the submission be noted collectively with
	85 Amberley Loop	I do support the change and don't want higher		submission 84 above.
	Dunsborough WA 6281	density and taller buildings in COB.		
	(Second submission)			
89.	Diane Alldis	Do not support	As the comments appear to be in support of the	That the submission be noted collectively with
	5/85 Reserve Street	Development should be limited to 2 storeys in close	proposal, the submitter was invited to clarify his	submission 91 below.
	Wembley WA 6014	proximity to beach front to blend with the	position. A second submission, in support of the	
		landscape, prevent overshadowing and retain the	proposal, was later lodged (see 91 below).	
		attractive charm of the town.		
90.	Tony Jackson	Support	See also public submission no. 79.	That the submission be noted collectively with
	PO Box 226	Comments per previous submission.		submission 79 above.
	Burswood WA 6100			
	(Second submission)			
91.	Diane Alldis	Support	See also public submission no. 89.	That the submission be noted collectively with
	5/85 Reserve Street	Comments per previous submission.		submission 89 above.
	Wembley WA 6014			
	(Second submission)			
92.	Lavan	Do not support	The alternative courses of action by the Council	It is recommended that the amendment be modified
	1 William Street	Acting on behalf of A & R Holdings, owner of affected	regarding the progress of the Amendment in terms of	to include Lots 139 and 140 (23-25) Lorna Street so
	Perth WA 6000	properties Lots 115 & 116 (26 & 28) Geographe Bay	the Planning and Development (Local Planning	that all four lots would be subject of the R60 coding.

Attachment D

No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
	Acting on behalf of: A & R Holdings	 Road, Dunsborough and non-affected properties Lot 139 & 140 (23 and 25) Lorna Street, Dunsborough. Amendment 50 should be modified, so as to exclude the land owned by my client and to retain that land as coded R80 for the following reasons: there is already a development approval in place for this land, the proposed design is broadly consistent with an R80 coding and this development approval is currently being implemented. The land has unique characteristics (as compared to the other lots along Geographe Bay Road) in that it abuts a public reserve, has two street frontages, constitutes a large development site and is in very close proximity to the R-AC3 coded parts of the Dunsborough town centre. If such a modification is to occur, no objection is raised to the down-coding of the other lots along Geographe Bay Road. Amendment 1 approved in 2017 was informed by a significant amount of strategic planning and R80 was considered to be the appropriate coding. The current proposal to down-code to R60 is not justified by further strategic planning and is not supported by built form modelling or similar to demonstrate the practical benefits and potential impact in this locality. It appears to be almost entirely motivated by opposition to the recent approval of development of the four storey building. There would be no utility in down-coding this land to R60 if there is already a building on the land that has been constructed in accordance with an R80 coding. 	Schemes) Regulations 2015, are to support the Amendment without modification, to support the Amendment with proposed modifications or not to support the Amendment. The R60 coding if approved in this locality would reduce the prospect of development above three storeys on the remaining foreshore lots. This coding is not in conflict with the broad urban consolidation objective for the Dunsborough Townsite and continues to reflect the strategic direction for mixed use and higher residential development in this locality. This would reflect the majority of views in submissions and signal the concern about the potential impact of the current R80 coding in this sensitive locality within the current planning framework. Given the constraints associated with developing the remaining lots and the progression of the PSP process this is unlikely to create any negative impact for landowners in the short term. It is recommended therefore that the Council resolve to seek final adoption of the Amendment. The shortcomings of a blanket density code in this sensitive foreshore locality without supporting design guidance have been outlined above and it is recommended that the issue of more detailed analysis of potential development outcomes on the remaining lots be given priority as part of the PSP process or its recommendations for further action. The proposed designation of the R60 coding on Lots 115 and 116 (26-28) Geographe Bay Road, whilst retaining the R80 coding on Lots 139 and 140 (23-25) Lorna Street, is potentially confusing given that the lots are being amalgamated to form one	

ATTACHMENT D AMENDMENT 50 TO LOCAL PLANNING SCHEME 21 SCHEDULE OF SUBMISSIONS

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No NAME & ADDRESS NATURE OF SUBMISSION COMMENT RECOMMENDATION • It is my understanding that the existing R80 coding in this area was only quite recently put in place, via Amendment 1 being gazetted in 2017. this development site, a modification to the	
coding in this area was only quite recently put in one building. In order to reflect a uniform coding over	
It is accordingly unclear what practical benefits (if any) the City expects to achieve in downcoding this area to R6O, as proposed in Amendment to R8O or R6O should be required. An R8O coding over the site would indicate the density approved for the apartment development. It would also represent an exception for this significant lot on the Dunsborough foreshore as Lots 81 and Strata Lots 1-9 across Dunn Bay Road and Lots 117-127 Geographe Bay Road would remain coded R6O. It is acknowledged that the site has some unique advantages for the design of a landmark commercial and residential development but a similar case could be argued for redevelopment of the site on the opposite corner of Dunn Bay Road. If the R6O coding proceeds within this amendment, it will not affect the validity of the approval already issued. The evelopment approval remains valid (notwithstanding any down-coding) unless the approval lapses and the development has not been substantially commenced. However, the development approval is the subject of an application for judicial review in the Supreme Court (unrelated to the proposed down-coding) and, depending on the outcome, this may impact on the validity of the approval. Notwithstanding the concerns raised by the owner, it is recommended that the Amendment be modified to include Lots 139 and 140 in the R6O coding to reflect the overarching intention to down-code lots on the Dunsborough foreshore. It is envisaged that the PSP process will provide specific provisions and cleaver guidence aimed a protecting the future of	

Attachment D

No	No NAME & ADDRESS NATURE OF SUBMISSION		COMMENT	RECOMMENDATION
			this unique foreshore location and this may prompt future amendments to the local planning scheme. This recommendation for final approval and modification is made on the grounds that the proposed down-coding is not contrary to current strategic planning direction, reflects community concern about future development of this coastal locality, and will not cause a negative impact on future development of the area.	
93.	Kevina Stewart 49 Peppermint Drive Dunsborough WA 6281	Do not support Leave zoning as is to protect the low rise amenity of the area reduce the likelihood of additional traffic volume and noise.	As the comments appear to be in support of the proposal, the submitter was invited to clarify her position. A second submission, in support of the proposal, was later lodged (see 94 below).	That the submission be noted collectively with submission 94 below.
94.	Kevina Stewart 49 Peppermint Drive Dunsborough WA 6281 (Second submission)	Support The minimum number of additional dwellings should be permitted with a maximum height restriction of 3 storeys and ideally only 2 storeys.	See also public submission no. 93.	That the submission be noted collectively with submission 93 above.
95.	Richard Paterson 9 Koorabin Drive Yallingup WA 6282	Do not support High buildings are not in keeping with the Dunsborough "village" concept. If Fremantle can thrive with 3 storeys, so can Dunsborough.	As the comments appear to be in support of the proposal, the submitter was invited to clarify his position. A second submission, in support of the proposal, was later lodged (see 97 below).	That the submission be noted collectively with submission 97 below.
96.	Frank Gaschk 18 Windmills Close Yallingup WA 6282	Support Building height on the coast should be staged and stepped back to control coastal erosion impacts and avoid the expense of 'protecting' coastal infrastructure burdened on future generations. Support the regulation of building heights as apartment buildings are high risk hotspots during a respiratory viral pandemic and concentrate noise and disruption in the local community. The social amenity, liveability and attraction for tourism of Dunsborough will be visually and spatially impacted by the development of high concentration and	Noted.	That the submission be noted.

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No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION
		potentially monolithic structures along the		
		seaboard.		
97.	Richard Paterson	Support	See also public submission no. 95.	That the submission be noted collectively with
	9 Koorabin Drive	Comments per previous submission.		submission 95 above.
	Yallingup WA 6282			
98.	Douglas Kirsop	Support	Noted.	That the submission be noted.
	2 Smith Street	Development should be limited to R60 and 3 storeys along the beachfront to maintain character of the		
	Dunsborough WA 6281	area, protect future buildings from coastal erosion		
		and avoid pressure on facilities and services.		
99.	Warren Brown	Support	Noted.	That the submission be noted.
55.	53 Amberley Loop	Inappropriate to have high rise development directly	Noted.	mat the submission be noted.
	Dunsborough WA 6280	on the foreshore with potential overshadowing of		
	2	surrounding areas and devaluation of properties		
		behind the lots. Full consideration must be given to		
		the community impact and long term effects of the		
		decision.		
100	Terry Carmichael	Support	Noted.	That the submission be noted.
	6 Galley Ramble	High rise apartment development is not in keeping		
	Dunsborough WA 6281	with the village atmosphere, will disregard the		
		uniqueness of the fore shore and affects adjoining		
		areas.		
101	Allen Cooper	Support	Noted.	That the submission be noted.
	8 Patton Terrace	Reducing from R80 to R60 supports the current		
	Quindalup WA 6281	planning policy of restricting buildings to 3 storeys		
400	41 441	or less within 150 metres of the high water mark.		
102	Alana Milton	Support	Noted.	That the submission be noted.
	8 Staley Street	We need to preserve this unique town and fragile		
103	Quindalup WA 6281 Natasha Blefari	development from over development.	Noted.	That the submission be noted.
103	9 Buckingham Grove,	Support The height of buildings along the foreshore should	Noted.	rnat the submission be noted.
	Quediinup WA 6281	be limited to keep with the small town vibe of the		
	Quedjiliup WA 6281	area.		
	l	alca.		

No	NAME & ADDRESS	NATURE OF SUBMISSION	COMMENT	RECOMMENDATION						
Late S	Late Submissions									
104	Wayne Duyvestein 8 Shearers Close Quedjinup WA 6281	Support No 4 storeys should be permitted in Dunsborough and only 2 storeys on the foreshore.	Noted.	That the submission be noted.						
105	Fiona Duyvestein 8 Shearers Close Quedjinup WA 6281	Support Storeys to be limited as possible on foreshore and no high rise for Dunsborough or Busselton.	Noted.	That the submission be noted.						
106	Caron Reynolds 26 St. Michaels Parkway Dunsborough WA 6281	Support R80 and 4 storey development should not be permitted because of the impacts on the look and feel of the Dunsborough foreshore.	Noted.	That the submission be noted.						
107	Anthony David Sheard 26 Flora Terrace Watermans Bay WA 6020	Support Concern about the impact of 4 storeys building height and boundary wall heights and related shade issues on the locality and surrounding properties and the vista and views from the park and beachfront. The proposed change to an R60 coding will better mitigate these concerns, reflect the initial intent of all parties, and current intent of the community and councillors.	Affected owner - Lot 119 (34) Geographe Bay Road	That the submission be noted.						
108	Danielle Phipps 48 Geographe Bay Road Dunsborough WA 6280	Support Do not wish to see four-storey buildings neighbouring my residential property. The amendment reflects the changes desired by the community and the need to preserve the existing coastal feel and integrity of the town.	Affected owner – Lot 124 (44) Geographe Bay Road.	That the submission be noted.						
109	Annie Winchcombe 13 Cape Way Dunsborough WA 6281	Support Yes – I do not support R80 – but do support the change to R60.	See also public submission no. 76.	That the submission be noted collectively with submission 76 above.						

No.	Proposed Modification	Reason
1.	That the Amendment be modified to include Lots 139 and 140 (23-25)	The alternative courses of action by the Council regarding the
	Lorna Street.	progress of the Amendment in terms of the Planning and
		Development (Local Planning Schemes) Regulations 2015, are to
		support the Amendment without modification, to support the
		Amendment with proposed modifications or not to support the
		Amendment.
		The R60 coding if approved in this locality would reduce the prospect
		of development above three storeys on the remaining foreshore lots.
		This coding is not in conflict with the broad urban consolidation
		objective for the Dunsborough Townsite and continues to reflect the
		strategic direction for mixed use and higher residential development
		in this locality. This would reflect the majority of views in
		submissions and signal the concern about the potential impact of the
		current R80 coding in this sensitive locality within the current
		planning framework. Given the constraints associated with
		developing the remaining lots and the progression of the PSP process
		this is unlikely to create any negative impact for landowners in the short term. It is recommended therefore that the Council resolve to
		seek final adoption of the Amendment.
		seek final adoption of the Amendment.
		The shortcomings of a blanket density code in this sensitive
		foreshore locality without supporting design guidance have been
		outlined above and it is recommended that the issue of more
		detailed analysis of potential development outcomes on the
		remaining lots be given priority as part of the PSP process or its
		recommendations for further action.
		The proposed designation of the R60 coding on Lots 115 and 116
		(26-28) Geographe Bay Road, whilst retaining the R80 coding on Lots
		139 and 140 (23-25) Lorna Street, is potentially confusing given that

ATTACHMENT E AMENDMENT 50 TO LOCAL PLANNING SCHEME 21 SCHEDULE OF MODIFICATIONS

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Schedule of Modifications

the lots are being amalgamated to form one development site, with development approval for one building. In order to reflect a uniform coding over this development site, a modification to the Amendment to R80 or R60 should be required.

An R80 coding over the site would indicate the density approved for the apartment development. It would also represent an exception for this significant lot on the Dunsborough foreshore as Lots 81 and Strata Lots 1-9 across Dunn Bay Road and Lots 117- 127 Geographe Bay Road would remain coded R60. It is acknowledged that the site has some unique advantages for the design of a landmark commercial and residential development but a similar case could be argued for redevelopment of the site on the opposite corner of Dunn Bay Road.

If the R60 coding proceeds within this amendment, it will not affect the validity of the approval already issued. The development approval remains valid (notwithstanding any down-coding) unless the approval lapses and the development has not been substantially commenced. However, the development approval is the subject of an application for judicial review in the Supreme Court (unrelated to the proposed down-coding) and, depending on the outcome, this may impact on the validity of the approval.

Notwithstanding the concerns raised by the owner, it is recommended that the Amendment be modified to include Lots 139 and 140 in the R60 coding to reflect the overarching intention to down-code lots on the Dunsborough foreshore . It is envisaged that the PSP process will provide specific provisions and clearer guidance aimed at protecting the future of this unique foreshore location and this may prompt future amendments to the local planning scheme

ATTACHMENT E AMENDMENT 50 TO LOCAL PLANNING SCHEME 21 SCHEDULE OF MODIFICATIONS

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	SCHEDULE OF M	UD	IFICATIONS			
2.	That the Amendment be modified so that clause 4.3.2 of the Scheme is amended to state:	•	Update references to the R-Codes, to reflect amendments to Volume 1 and the introduction of Volume 2.			
	Building height provisions as specified under –	sions as specified under – • Clarify that the clause should versions of the R-Codes.				
	(a) Table 3 and Table 4, and Deemed-to-Comply provision 5.1.6 C6 and 6.1.2 C2 of Volume 1 of the R-Codes (as amended), and	•	Include reference to residential density codings R80 and R60, to clarify that building proposals exceeding two or three storeys, as			
	(b) Table 2.1, and Acceptable Outcome A2.2.1 of Volume 2 of the R-Codes (as amended);		the case may be, are permitted under the relevant provisions of the R-Codes.			
	do not apply, except for on land coded R-AC3, R80 or R60. In all other areas, maximum building height requirements are required to comply with the provisions of clause 4.8 of the Scheme.	•	Support the policy aim of the Amendment to allow R60 coded buildings, with a three storey height control, to be proposed and considered within the Amendment area.			
		•	Remove inconsistencies between clause 4.3.2, clause 4.8 and building height controls through the R-Codes, to ensure the intent of the Amendment is reflected in the Scheme. In regard to providing direct reference in this clause to the 'Deemed-to-Comply' and 'Acceptable Outcome' provisions of Volumes 1 or 2 of the R-Codes, Parts 2.4 and 2.5 (Volume 1) and page IV (Volume 2) of the R-Codes explicitly allow for the standards in each policy to be applied with a degree of flexibility, and the exercise of judgement on the contextual merit of individual proposals. While direct reference is made in this clause to 'Deemed-to-Comply' and 'Acceptable Outcome', a proposal could still be assessed on 'Design Principles' and 'Element Objectives' of Volumes 1 or 2 of the R-Codes, as proposed in modification 4 below to clause 4.8.3.			
3.	That the Amendment be modified so that clause 4.8.1 of the Scheme is amended to state:	•	Clarify that the wording "except where otherwise provided for in the Scheme" applies to both parts (a) and (b) of the clause.			
	Except where otherwise provided for in the Scheme, Aa person must not erect any building that –					

Schedule of Modifications

ATTACHMENT E AMENDMENT 50 TO LOCAL PLANNING SCHEME 21 SCHEDULE OF MODIFICATIONS

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- (a) contains more than two storeys or exceeds a height of 9 metres above natural ground level, where land is within 150 metres of the mean high water mark; or
- (b) contains more than three storeys or exceeds a height of 12 metres above natural ground level, where land is within 150 metres of the mean high water mark, except where otherwise provided for in the Scheme.
- Remove inconsistencies between clause 4.8 and other building height controls through the R-Codes, to ensure the intent of the Amendment is reflected in the Scheme.
- Clarify that building height is measured from natural ground level. For proposals where a residential density coding has been designated, they would be measured consistently with 'Figure Series 7 - Building Height' of the Volume 1 of the R-Codes, or in accordance with '2.2 Building height' in Volume 2 of the R-Codes. For non-residential proposals, this also clarifies that building height would be measured from natural ground level.
- That the Amendment be modified so that clause 4.8.3 of the Scheme is amended to state:

In respect to clauses 4.8.1 and 4.8.2 above, the local government, upon receipt of an application for development approval, may approve building heights which exceed those maximum height limitations as specified, subject to the local government being satisfied that the building height is consistent with the relevant assessment criteria specified under clause 67 of the Deemed Provisions and performance criteria specified under 5.1.6 (P6) and 6.1.2 (P2) of the R-Codes. For a building that is proposed on land where a residential coding has been designated, the local government must also be satisfied that the building height is consistent with -

- (a) the Design Principles specified under 5.1.6 P6 of Volume 1 of the R-Codes (as amended); or
- (b) the Element Objectives specified under O2.2.1-O2.2.4 of Volume 2 of the R-Codes (as amended).

- Clarify that only buildings proposed on land where a residential density coding has been designated, are to be consistent with the relevant provisions of the R-Codes.
- Update references to the R-Codes, to reflect amendments to Volume 1 and the introduction of Volume 2.
- Clarify that the clause should be read in accordance with amended versions of the R-Codes.
- Remove inconsistencies between clause 4.8 and other building height controls through the R-Codes, to ensure the intent of the Amendment is reflected in the Scheme.

13.2 <u>AMENDMENT NO. 40 (MODIFICATIONS TO THE ZONING TABLE) - CONSIDERATION FOR</u> FINAL ADOPTION

STRATEGIC THEME OPPORTUNITY - A vibrant City with diverse opportunities and a

prosperous economy.

STRATEGIC PRIORITY 3.2 Facilitate an innovative and diversified economy that supports

local enterprise, business, investment and employment growth.

SUBJECT INDEX Local Planning Schemes and Amendments

BUSINESS UNIT Strategic Planning

REPORTING OFFICER Senior Strategic Planner - Helen Foulds

AUTHORISING OFFICER Director, Planning and Development Services - Paul Needham

NATURE OF DECISION Legislative: adoption of "legislative documents" such as local laws,

local planning schemes and local planning policies

VOTING REQUIREMENT Simple Majority

ATTACHMENTS

Attachment A Schedule of Modifications Lack Attachment B Summary of Submissions Lack Attachment B

Attachment C Busselton City Centre Retail and Commercial Analysis !!

Attachment D Proposed Modifications to the Zoning Table !!

Prior to the meeting, Councillor Riccelli foreshadowed a motion that was different to the officer recommendation. In accordance with clause 10.18(7) of the City's *Standing Orders Local Law 2018*, it was taken to be an alternative motion and was moved first.

There was opposition to the alternative motion, debate ensued and the motion was carried.

COUNCIL DECISION

C2110/061 Moved Councillor S Riccelli, seconded Councillor P Carter

That the Council defer this item until the Ordinary Council Meeting to be held on 24 November 2021.

CARRIED 8/1

For the motion: Cr Riccelli, Cr Carter, Cr Henley, Cr Cox, Cr Miles, Cr Barrett-Lennard, Cr Hick, Cr Cronin Against the motion: Cr Paine

Reasons: 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.

OFFICER RECOMMENDATION

That the Council:

- 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, 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 -
 - (i) the symbol 'D' to the 'Regional Centre', 'Centre', 'Local Centre', 'Tourism', 'Rural' and 'Viticulture and Tourism' zones;
 - (ii) the symbol 'A' to the 'Rural Residential' zone; and
 - (iii) 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' -
 - (i) replace the symbol 'P' with the symbol 'X' in the 'Service Commercial' zone; and
 - (ii) 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;
- I) 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' -
 - (i) replace the symbol 'D' with the symbol 'X' in the 'Service Commercial', 'Light Industry', 'General Industry', 'Rural' and 'Viticulture and Tourism' zones; and
 - (ii) 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' -
 - (i) replace the symbol 'D' with the symbol 'X' in the 'Regional Centre', 'Centre' and 'Local Centre' zones; and
 - (ii) 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' -
 - (i) replace the symbol 'P' with the symbol 'D' in the 'Regional Centre', 'Centre', 'Local Centre' and 'Service Commercial' zones; and
 - (ii) 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' -
 - (i) replace the symbol 'D' with the symbol 'A' in the 'Regional Centre', 'Centre' and 'Local Centre' zones;
 - (ii) replace the symbol 'P' with the symbol 'D' in the 'Light Industry' zone;
 - (iii) replace the symbol 'X' with the symbol 'D' in the 'General Industry' zone; and
 - (iv) 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

- 4.19.1The 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.

EXECUTIVE SUMMARY

The Council is requested to consider adopting for final approval Amendment No. 40 to Local Planning Scheme No. 21 (the Scheme). The purpose of Amendment 40 is to review the permissibilities within the Zoning Table of the Scheme, along with a limited number of associated modifications to the Scheme provisions.

The main intent of the Amendment is to protect the primacy of the Busselton City and Dunsborough Town Centres, supporting key objectives of the Local Planning Strategy, by reducing the risk of potential retail leakage from the corresponding 'Regional Centre' and 'Centre' zones. The key aim is to ensure those centres are able to retain their vibrancy, attract new investment, and continue to the social, cultural and economic hearts of our growing community. Doing so requires not just ensuring that existing commercial floorspace continues to be viable (even though individual businesses will change and evolve over time), but also ensuring that new investment occurs, so that the centres can grow with their communities.

To a lesser extent, Amendment 40 also considers and addresses a number of land uses within the rural zones for their suitability, and the potential creation of *ad-hoc* commercial development or strips along highways in rural areas. Such development would undermine the rural and natural landscape character of the District, which is so important to maintaining the identity and attractiveness of the District, for residents and visitors alike.

The proposed Amendment was advertised for public comment between 7 October and 18 November 2020. The City received 19 public submissions, 14 of which did not support the proposal, three raised concerns or provided comment and 2 supported the proposed Amendment. Some modifications to the proposed Amendment are being recommended in response to the key concerns raised. The key modifications relate to reducing the extent to which land-use in the Service Commercial Zone would be restricted, and ensuring that it is clear that ancillary and incidental activity will continue to be permissible, even in instances where that activity, as a stand-alone use, would not (e.g. a small café / coffee station within a larger showroom development).

The purpose of this report is to recommend to the Council that Amendment 40 be adopted for final approval, subject to recommended modifications, and forwarded to the Western Australian Planning Commission (WAPC) for consideration.

BACKGROUND

Purpose of the Amendment

The Western Australian Planning Commission (WAPC) gave final endorsement to the *City of Busselton Local Planning Strategy* (LPS) early in 2020. The LPS identifies a range of planning aims, objectives and strategies, particularly around ensuring consolidation of the main centres and ensuring the continuation of the centres as the social and economic hearts of our growing community. Achieving that requires changes to the *City of Busselton Local Planning Scheme 21* (the Scheme), triggering a review of the Zoning Table to investigate current land use permissibilities and associated provisions.

Consideration was given to incorporating the proposed changes into the current Scheme Review process, as the City is working to the timely and effective preparation of, and smooth transition to, a new and replacement local planning scheme. However, it will be in the order of two or more years before the next Scheme is likely to be gazetted and become operational, and it is considered that the issues addressed in the Amendment need to be addressed more quickly.

As such, the matters contained herein are proposed to be dealt with more expeditiously, and as a targeted Amendment to the current Scheme.

Context

The local and regional tourism industry is of great importance to the City of Busselton, and to the State. Many visitors to the South West region choose to stay in Busselton and Dunsborough, establishing these centres as a base for exploring the wider region and surrounding attractions, and making the City of Busselton an important tourism destination for regional, interstate and international visitors.

Whilst there are many other attractors, both within our region and in many other places around Australia and around the world, an important and valuable part of the tourism experience is having vibrant, walkable, authentic town centre/main street or similar kinds of environments. Those environments also promote a strong sense of local community identity and social cohesion. A key part of the tourism experience is being to visit somewhere which looks and feels different to 'home'. In that context, it is critical that the City of Busselton continues to have centres that have their own feel and character, and are authentic hearts of the community.

For the City of Busselton, that means ensuring that our urban and landscape character looks and feels different to Perth (which is the dominant tourism market), and where a very significant amount of the commercial development is in commercial strips, visible from major roads and highways, or in 'shopping centres - car-dominated environments with little sense of place or local character. With rare exceptions, there has also been a failure to develop new town centre/main street or similar kinds of environments, or allow existing, more traditional centres to grow and consolidate. The same is, unfortunately, true in many of WA's other regional centres.

The tourism industry within the South West region is worth more than \$1.06 billion annually to the State's economy. The Busselton Jetty and Foreshore Precinct have also benefitted from substantial State, Federal, City and private investment over the last decade. Development has included the reconstruction of the Busselton Jetty (\$27M), the construction of coastal defences, award-winning playgrounds (including the skate park), as well as the Barnard Park Sports Precinct (with competition grade turf and new sport pavilion), together with a dedicated Youth and Community Activities Building, and Visitors Centre.

In total, there has been around \$70M of public investment in the Foreshore Precinct. That investment has and will continue to leverage significant private investment. That includes the development of the 'Shelter' microbrewery (circa \$4M), the current development of a 110 room, four star hotel (circa \$20M), as well as two, further, potential hotel development sites.

Busselton has also been experiencing increasing cruise ship visitations in recent years, with a resultant boost to the local economy. Subject to resolution of COVID-19 related issues, it is expected that Busselton will continue to play a major role in attracting the cruise ship industry and passengers to WA in future.

The next major public investments are the proposed Busselton Performing Arts and Convention Centre (BPACC) and Australian Underwater Discovery Centre (AUDC). The BPACC is set to be a key project to attract and support WA, interstate and international tourism and investment. Approximately \$38M may be invested in the construction of the BPACC. The BPACC, should development proceed, will further energise Busselton as a popular tourist, events and cultural centre, and play an important role in linking the Busselton Foreshore to the Busselton City Centre – consolidating the two precincts and creating a stronger economic cluster/agglomeration effect, to the benefit of both precincts and the broader economy. The AUDC, also a circa \$30M investment, would be a major addition to the iconic Busselton Jetty, and would be Australia's largest natural marine observatory, further enhancing the visitor experience at what is already one of Western Australia's most popular tourist destinations.

Supporting the investment in the Busselton area is the upgrading of the existing Busselton Margaret River Airport, which is now capable of facilitating air services to interstate destinations including Melbourne and Sydney, and in future international destinations as far away as China.

It is considered that the Jetty, Foreshore and City Centre need to form a coherent, integrated and activated, visitor, entertainment and retail precinct to optimise the economic and social benefits to the local and State economy, arising from the significant public and private investment that has occurred and is planned.

In combination, these projects not only establish high quality infrastructure and facilities for the benefit and enjoyment of our local community, but are also likely to further encourage and increase regional, interstate and international tourism. The Jetty/Foreshore precinct and Busselton generally are already one of the most highly visited areas state-wide and therefore are of great importance to the State's tourism industry. These and related projects could be undesirably affected in future if there was vacant shop/retail floor space within the Busselton City Centre, and the opportunity to build on that investment would also be undermined if future investment does not occur in the City Centre – and instead occurs in the nearby service commercial and light industrial areas.

The Busselton City Centre Retail and Commercial Analysis (Urbis, 2020) was prepared to inform the preparation of an Activity Centre Plan. The analysis reviews floor space demand and supply and provides recommendations for revitalisation of the City Centre. A copy of this analysis is provided at Attachment C.

The Retail and Commercial Analysis found that the decentralisation of retail by the development of 'shop' retail outside the 'Regional Centre' zone was having a significant negative effect on the vitality and success of retail uses within the City Centre. A key recommendation of the Analysis is to support the primacy of the City Centre to ensure it retains its role as the highest order retail, entertainment, leisure and commercial precinct in the area. A further recommendation suggests the inclusion of criteria within the Scheme to better manage the leakage of 'shop' retail from the City Centre. This outcome strongly reflects the aims and objectives of the City of Busselton Local Planning Strategy (LPS).

At the time of the Analysis, 17 vacant shops were identified in the City Centre with some recognised dispersal to cheaper alternative premises, including within warehouse and industrial tenancies. This comes at the opportunity cost of development in the Busselton City Centre and further out-of-centre development will continue to affect the ability to fill vacancies and encourage further development of the City Centre as the primary centre. Without stronger controls, 'leakage' will accelerate, further eroding passing trade and general vitality.

The Retail and Commercial Analysis identifies a high level of visitation from people who live outside the City of Busselton. This includes international and domestic visitors (intrastate and interstate). This level of visitation from people outside the local catchment area is very high compared to other regional city centres (such as Bunbury and Geraldton) and indicates that the Busselton City Centre has a significant level of spending generated by tourists. Preventing retail leakage and strengthening Busselton as the main activity centre, though, is vital to linking the Foreshore to the City Centre and will serve to underpin the significant public and private investment in both areas. This in turn will support the valuable tourism industry.

The Proposal

Amendment No. 29, gazetted on 7 July 2019, sought to generally align the Scheme with the Model Provisions of the Regulations through alignment of the zones and land-use definitions. Also included within Amendment 29 was the incorporation of a number of standard provisions into the Scheme for the Busselton City and Dunsborough Town Centres, in order to provide guidance to development within the new 'Regional Centre' (Busselton) and 'Centre' (Dunsborough) zones.

Amendment No. 21 was considered by the WAPC and the Minister concurrently with Amendment 29 as it also proposed changes to a number of definitions, including 'Shop' and 'Bulky Goods Showroom', which applied to certain properties on West Street and Chapman Hill Road.

A small number of unintended and undesirable outcomes from Amendment 29 as a result of direction from the Minister has resulted in the need for further consideration of land use permissibilities within the Zoning Table. These outcomes were particularly due to definition changes required to align with the Model Provisions contained within the Regulations.

The purpose of Amendment 40 is to address identified 'critical issues' by closing certain 'loopholes' or inconsistencies in the Scheme's Zoning Table, particularly looking at where land uses are currently permissible where they should not be, creating pressure on the Busselton and Dunsborough CBDs through potential retail and investment leakage to the 'Service Commercial' zone and, in some cases, the 'Light Industry' zone. The Amendment also considers quasi-industrial uses in rural areas, which can place unwelcome pressure on industry-zoned land and create ad-hoc commercial strips along major roads outside the urban centres.

In summary, Amendment 40 deals with two primary issues:

- 1. 'Shop' / 'Bulky Goods Showroom' definitions; and
- 2. Land Use Permissibilities / Zoning Table.

These issues are discussed in detail below.

1. 'Shop' / 'Bulky Goods Showroom' definitions

The Issue

A review of all land use definitions was undertaken during the assessment process for Amendment No. 29. The City was satisfied that the then-current definition of 'Showroom' (being the previous land use title for 'Bulky Goods Showroom') sufficiently met the purpose and intent of the Scheme and the desirable objectives of the applicable zones. The previous definition of 'Showroom' was as follows:

'Showroom' means any building or part of a building used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive spare parts, carpets, large electrical appliances, furniture, hardware or bulky goods but does not include the sale by retail of foodstuffs, liquor or beverages, items of clothing or apparel, magazines, newspapers, books or paper products, china, glassware or domestic hardware, or items of personal adornment.

A definition for 'Bulky Goods Showroom' that was compliant with the Regulations was introduced through Amendment 21 as required by the Minister, along with a revised definition of 'Shop', and these have served to alter the way in which these land uses would normally be considered.

Previously, the definition for 'Shop' was very broad, and that for 'Showroom' was very specific. In effect, a use was considered to be a 'Shop' unless it was more specifically defined elsewhere in the Scheme.

This position has now effectively been reversed, with a very broad definition for 'Bulky Goods Showroom':

'Bulky Goods Showroom' means premises –

- (a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes
 - (i) automotive parts and accessories;
 - (ii) camping, outdoor and recreation goods;
 - (iii) electric light fittings;
 - (iv) animal supplies including equestrian and pet goods;
 - (v) floor and window coverings;
 - (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;
 - (vii) household appliances, electrical goods and home entertainment goods;
 - (viii) party supplies;
 - (ix) office equipment and supplies;
 - (x) babies' and children's goods, including play equipment and accessories;
 - (xi) sporting, cycling, leisure, fitness goods and accessories;
 - (xii) swimming pools;

or

- (b) used to sell by retail goods and accessories by retail if
 - (i) a large area is required for the handling, display or storage of the goods; or
 - (ii) vehicular access is required to the premises for the purpose of collection of purchased goods.

Meanwhile, the definition for 'Shop' has been substantially narrowed:

'Shop' means premises other than a bulky goods showroom, a liquor store – large or a liquor store – small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.

The City considers there to be multiple issues associated with the current definition of 'Bulky Goods Showroom':

- The current wording provides for a broad definition, using ambiguous terms such as
 "recreation goods", "home entertainment goods", "office equipment and supplies",
 "children's goods" and "accessories", and does not explicitly require goods to be of a
 necessarily bulky nature.
- The presence of the "or" instead of an "and" between parts (a) and (b) of the definition separates the definition into two parts creating, in the City's opinion, a level of uncertainty in interpretation. The sale of goods found in part (a) are no longer required to be housed in a large area as required by part (b). Conversely, a premises does not need to include any of the items listed in part (a) but may require a large area for display and sale; meaning a supermarket, or any other large shop, arguably fits this definition regardless of whether it sells bulky goods.

- Due to the words "'Shop' means premises other than a bulky goods showroom..." a retail use would first need to be determined as to whether it fits into the definition for 'Bulky Goods Showroom'. Some examples of businesses that would previously have been considered as constituting a 'Shop' but now could arguably be considered as a 'Bulky Goods Showroom' include:
 - o a newsagent (under part (a)(ix), "office supplies");
 - o a children's clothing store (under part (a)(x), "children's goods"); and
 - o sports clothing and shoe store (under part (a)(xi), "sporting, cycling, leisure, fitness goods and accessories").
- The land use permissibility for 'Bulky Goods Showroom' was not modified through Amendment 21 and so was retained as a 'P' use (permitted) in the 'Service Commercial' zone and a 'D' use (discretionary) within the 'Light Industry' zone. This provides a potential gateway for inappropriate retail within the 'Service Commercial' and 'Light Industry' zones.

The LPS places strong emphasis on preventing retail activity, including bulky goods retail, from being located in industrial and service commercial areas. This position has been supported by the Retail and Commercial Analysis (provided at Attachment C). The alternative, and what has been experienced already to some degree, unfortunately, is the dispersal of retail businesses and investment out of the City Centre.

As mentioned earlier within this report, the local and regional tourism industry is of great importance to Busselton and the State. Tourists do not visit the area to drive around a car-dominated service commercial area. Instead, vibrant, pedestrian-focused, authentic town centre/main street environments are an important part of the visitor experience – as well as promoting a strong sense of local community identity and social cohesion.

Importantly, the tourism industry is a significant source of employment within both Busselton and the South West region. The complexities surrounding certain land use definitions and permissibilities mentioned previously are considered likely to have a very real impact on the tourism experience by potentially depleting the activity and vibrancy of our main centres. The Retail and Commercial Analysis identifies the significance of enhancing the tourism experience within the City Centre, enriching a sense of enjoyment, engagement and connectivity, and encouraging ongoing investment and holiday spending within the Centre.

Proposed Approach

In relation to the 'Bulky Goods Showroom' land use, proposed Amendment 40 was advertised with a three-pronged approach to correcting the anomalies currently present within the Scheme:

- Amend the permissibilities for such land uses from 'P' to 'D' in the 'Service Commercial',
 'Regional Centre' and 'Centre' zones, thereby requiring a Development Approval process
 to change the use of a building or premises to that use.
- 2. Amend clause 3.5 "Exceptions to the Zoning Table" by deleting sub-clauses 3.5.4(d) and (e) and replacing them with a new sub-clause inserted into clause 3.5.3 specifying that the sale of the following goods or products will be deemed an 'X' use in the 'Service Commercial', 'Light Industry' or 'General Industry' zones:
 - (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.

3. Amend the definition for 'Bulky Goods Showroom' by changing the "or" between parts (a) and (b) to "and", thereby creating a clear and meaningful link between the two parts of the definition to remove uncertainty and better address issues such as those mentioned previously.

Proposals 1 and 3, above, are discussed in the previous section in relation to the concerns held with the 'Bulky Goods Showroom' definition.

With regard to item 2 above, the existing sub-clauses 3.5.4(d) and (e) are inconsistent with the general intent and strategic direction set out in the LPS. Sub-clause 3.5.4(d), reproduced below, is proposed to be deleted, as it is problematic and often unworkable in terms of the development assessment process due to its non-specific nature and the difficulty in quantifying the impact of such a use on either the "nearby business centre" or the "industrial nature of the zone". Furthermore, the 'Bulky Goods Showroom' use is already a 'D' use in the 'Light Industry' zone and not permitted in the 'General Industry' zone.

The existing clause 3.5.4(d) states:

3.5.4 Notwithstanding the provisions of clause 3.3 and Table 1, the following development shall be deemed a "D" use –

...

- (d) development for the purposes of commercial premises for the retailing of bulky goods in the Light Industry or General Industry zones, subject to the local government being satisfied that -
 - (i) suitable land for the development is not available in any nearby business centre;
 - (ii) the development would not, by reason of the number of retail outlets which exist or are proposed on land within the Light Industry or General Industry zone, defeat the predominantly industrial nature of the zone; and
 - (iii) the proposed development will not detrimentally affect the viability of any business centre.

In order to resolve the concern that the 'Bulky Goods Showroom' definition could unnecessarily draw essential retail uses and activities away from the Centres, and also so as not to conflict with the 'Trade Supplies' definition, sub-clause 3.5.4(e) (shown below) is proposed to be modified and inserted into clause 3.5.3, which specifies uses that shall be deemed an 'X' use.

The existing sub-clause 3.5.4(e) states:

- 3.5.4 Notwithstanding the provisions of clause 3.3 and Table 1, the following development shall be deemed a "D" use
 - (e) excluding reference to a convenience store or lunch bar, the sale of goods or products by retail or wholesale to the public from land in the Light Industry or General Industry zone, provided that
 - (i) the goods or produce are manufactured or stored in bulk on the lot;

- (ii) not more than 50% of the gross floor area of building on the lot is used for the sale of such goods or produce; and
- (iii) the goods or produce sold are not -
 - (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;

The proposed modification to the sub-clause seeks to ensure the sale of these inappropriate goods (listed from 'I' to 'VI' above) will be excluded from the specific zones, 'Light Industry' and 'General Industry', with the addition of the 'Service Commercial' zone. Parts (i) and (ii) of the sub-clause are not proposed to be replicated as they could potentially cause conflict with the definition of 'Trade Supplies', which already provides a reasonably specific definition for development that is acceptable to be located in those zones. However, given that 'Convenience Store' is proposed to become an 'X' use in the 'Service Commercial' and industrial zones, it should be removed from the sub-clause. 'Service Station' remains as a 'D' use in these zones and so should be included with 'Lunch Bar'.

The proposed modification reads as follows:

- 3.5.3 Notwithstanding the provisions of clause 3.3 and Table 1, the following development shall be deemed an "X" use
 - (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.

This combination of modifying permissibilities, introducing a slight modification to the definition, and varying the relevant provisions within Part 3 of the Scheme, as discussed above, were considered to satisfactorily resolve the main concerns held by the City in relation to potential retail leakage from the main centres. These proposals can be found within the Officer Recommendation at sections 1, 2 and 3.

2. Land Use Permissibilities / Zoning Table

The Zoning Table was reviewed by the City with a focus on aligning the land use permissibilities with the objectives for the zones and the strategic directions of the LPS, such as maintaining the primacy and activity of the City and Town Centres. Some land use definitions were changed in order to be consistent with the Regulations as a directive from the Minister (for example, 'Bulky Goods Showroom', as described in the previous section), and are considered to carry potential risks to the primacy of the City and Town Centre in the absence of any timely review of the Zoning Table.

This review focussed on what were considered to be the most critical issues, such as modifications that should be introduced as soon as possible, rather than awaiting the full Scheme Review.

With the above matters in mind, the critical issues are considered to be:

- Consolidation of activity within the Busselton City and Dunsborough Town Centres, as well as avoiding retail leakage from the Centres, particularly into the 'Service Commercial' zone and, to a lesser extent, into the 'Light Industry' zone;
- Permissible uses where a development application should instead be required and assessed; and
- Quasi-industrial land uses in rural areas, causing leakage from the Industrial zones.

A table identifying a full list of the proposed changes for each land use, with justification provided, is shown at Attachment D, with the recommendations provided at sections 4, 5 and 6 of the Officer Recommendation.

In relation to the symbols used within the Zoning Table:

- 'P' is a permitted use provided the use complies with the relevant development standards;
- 'D' means the use is permitted if the local government has exercised its discretion by granting planning approval;
- 'A' means the use is permitted if the local government has exercised its discretion by granting planning approval following public consultation; and
- 'X' means the use is not permitted within that zone.

Discussion on some of the key changes are provided in greater detail below.

Aged Persons Home

'Aged Persons Home' is proposed to become an 'X' use (from an 'A' use) in the 'Rural' zone given the generally poorer levels of accessibility to services, infrastructure (e.g. dual use paths) and public transport in the rural areas, thus increasing reliance on vehicles. Often the residents of this land use have an increased reliance on such services and facilities and yet may have less of an ability to drive themselves. The proposal aims to factor in the appropriate location of this use with better access to associated services and facilities, in accordance with Theme 1, Strategy 'h' of the LPS.

Breweries and Wineries in the Industrial zones

The preferred location for a 'Brewery' and a 'Winery' is generally within the 'Light Industry' and 'General Industry' zones, provided these uses are predominately for the production, storage and distribution of the manufactured product. This is because these zones are usually located in areas with ready connection to services and utilities enabling the disposal of wastewater in an appropriate manner. These zones are also normally situated with appropriate separation distances to sensitive land uses.

In more recent times, an increase in the production of craft beer and the development of cellar door facilities has heightened the popularity of tasting facilities as tourist destinations and places of social interaction, resulting in a split of two predominant practices for both land uses – (1) production and (2) tourism/tastings/sales.

The latter has a tendency to place pressure on the scale of the development as business owners seek to cater for a growing number of customers by increasing floor areas, and often also seeking to provide commercial kitchens for the preparation and delivery of meals in association with these tastings.

The popularity of these businesses contributes to the economic vitality of the region, providing attractive venues for both tourists and locals alike. However, conflict can arise where these are not appropriately located. Increasing pressure for the provision of meals, with no restrictions to tasting sizes, results in the perception of these facilities as a 'Tavern' and/or a 'Restaurant/Café', being uses which are not appropriate to be located within the 'Service Commercial', 'Light Industry' and 'General Industry' zones.

The appropriate location of such commercial activity is within the City and Town Centres where walkability and an ability to activate the Centres beyond standard business hours contributes to increased vitality and patronage. Given the success of the 'Margaret River Wine Region', tourist-related uses also tend to be located within the 'Rural' and 'Viticulture and Tourism' zones. However, the 'Rural' and 'Viticulture and Tourism' zones do not tend to have access to services needed for the 'production' component of the business.

'Restaurant/Café', 'Tavern' and 'Reception Centre' are not uses typically associated with the Industrial zones, the Scheme objectives for which include providing for industrial, service and storage activities that generally cannot be located in other zones. Industrial-zoned land should be preserved primarily for that important purpose, whilst the introduction of more sensitive, amenity-based uses such as a 'Tavern' (for example) has the potential to compromise, or restrict, surrounding industrial land uses, contrary to the core purpose and intention of the zone.

The definition of 'Brewery' within the Scheme is for premises the subject of a Producer's Licence under the *Liquor Control Act 1988* and can include the manufacturing of beer, cider and/or spirits. Beer must have been brewed on the premises and generally the licence authorises the sale/supply of take-away liquor for consumption off the premises. The *Liquor Control Act* allows for tastings, subject to the provision of toilet facilities, and the licensee is authorised to sell/supply liquor, other than that liquor produced by the licensee, if the liquor is consumed ancillary to a meal in a dedicated dining area in the same premises (delivered at a table, or a fixed structure used as a table, with cutlery provided for the purpose of eating a meal).

A Producer's Licence generally restricts the vessel size in which alcohol can be served, although the Department of Racing, Gaming and Liquor (DRGL) has been known to allow an increase in tasting sizes if supported by the local government.

In these instances, tastings should be incidental to the production of the beer or wine (etc.) and therefore the hours of operation (for tasting and sales) should be limited and defined to ensure this. Concern that the use could be developed into a pseudo-'Restaurant', 'Tavern' or 'Reception Centre', where none of those uses are either currently permissible within the 'Service Commercial', 'Light Industry' and 'General Industry' zones, or are proposed to be made not-permissible through this Amendment 40, has been a leading factor in that ('tastings') use being deemed inappropriate and contrary to the objectives of those zones.

To ensure the Brewery or Winery facility operates in accordance with its stated intent and predominant use (being production), a number of restrictions are also proposed to be included within the relevant provision to ensure the use of the said facilities meet the objectives of the zones. These restrictions are proposed to include for the 'Light Industry' and 'General Industry' zones:

- The size of the tastings the measurements prescribed by the Liquor Control Regulations 1988 for 'sample quantities' has been assumed, being 50 ml for wine, 100 ml for beer/cider, and 15 ml for spirits.
- No consumption or service of food the provision of a meal quickly overtakes the
 original intention of the tastings as being incidental to the production of the liquor. It is
 not the intention of a Producer's Licence to facilitate a 'pseudo-restaurant', with inhouse dining facilities being considered inappropriate in the subject zones.
- The number of patrons it is recommended that maximum patronage is limited to 30 people at any one time, being the equivalent of one coaster bus, plus one or two groups of "walk-ins".
- Hours of operation to ensure the tasting facility operates as intended (an incidental
 use) and not as a makeshift tavern, a restriction on the number of customers visiting the
 site for the purpose of tasting and/or sales is proposed to be limited to between the
 hours of 12.00pm and 5.00pm Monday to Sunday, including public holidays.

Modifications to the Zoning Table have been proposed in the expectation that the proposed provision will be implemented into the Scheme, thereby better guiding and controlling the appropriate location of production facilities. The permissibilities for the 'Brewery' and 'Winery' land uses are being brought into closer relation with each other given the similarity of the main issues and considerations associated with them. The changes proposed in relation to these uses are as follows:

Zone/Use Class	Res	Reg Ctr	Ctr	Loc Ctr	Serv Com	Tour	L/ Ind	G/ Ind	Rural	Vit/ Tour	Rural Res	Rural Lsp	Cons	Bush Prtn
Brewery	Х	Α	Α	Α	ΑX	Α	D	D	Α	Α	Х	Х	Χ	Х
Winery	Х	DΑ	DΑ	DΑ	ĐΧ	Α	₽D	¥ D	D	D	Х	4 X	Х	Х

Both 'Brewery' and 'Winery' land uses are proposed to become prohibited within the 'Service Commercial' zone, given the recommended buffer distances identified by the Environmental Protection Authority in the 'Separation Distances between Industrial and Sensitive Land Uses' guidelines of 200 – 500 metres. This is due to the potential adverse impacts caused by odour, gases, noise and dust. This buffer distance would effectively rule out any 'Service Commercial' zoned site being used, given the relatively small areas of land covered by this zone and their generally close proximity to residential areas.

The tourism component of these particular uses would be more appropriately located within the 'Centre' zones, and it is proposed to bring the permissibilities for a 'Winery' land use into closer certainty with a 'Brewery' land use.

The proposed modification to 'Winery' permissibilities in the industrial zones, and the retention of the 'D' use for 'Brewery' within these zones, is based on an appropriate provision for the restriction of tastings and food service (etc.) being inserted into the Scheme.

Finally, 'Winery' is proposed to become an 'X' use within 'Rural Landscape' zone, aligning with 'Brewery', due to the more sensitive nature of such locations and the need to preserve and protect the integrity of the zone.

These proposals specific to Breweries and Wineries are listed at section 4e), 4ff) and 5 of the Officer Recommendation.

Car Park

A 'Car Park' is currently a 'D' use within the 'Regional Centre' and 'Centre' zones. The ideal locations for this land use are on the outer edges of the Centres, in order to encourage, pedestrian focused development within core commercial/retail areas that contributes to a vibrant City and Town Centre, thereby aligning with the objectives of the LPS while also providing improved development options within the central sites themselves. This is particularly the case in Dunsborough ('Centre' zone) where there is less available land for development/re-development.

The Additional Use 'A74' was created through Amendment No. 1 (gazetted 4 August 2017), which allows for a small number of low impact commercial uses within a limited and defined area of 'Residential' zoned land adjoining the Busselton City and Dunsborough Town Centre. The uses already included within 'A74' are 'Office', 'Guesthouse', 'Medical Centre', 'Consulting Rooms', 'Restaurant/Café', 'Shop' and 'Tourist Accommodation', all of which are 'discretionary'. Amendment 40 proposes to include 'Car Park' into this list of additional uses, thereby requiring the consideration of a development application to ensure appropriate design outcomes and control of potential amenity impacts on surrounding properties.

Hospital

A 'Hospital' is considered to be a 'vulnerable' land use under the bushfire planning framework. Given that the small number of 'Rural Landscape' zoned lots are all located within 'Bushfire Prone Areas' and are therefore unlikely to comply with the bushfire safety requirements for a 'vulnerable' land use, a 'Hospital' is not considered to be an appropriate land use within this zone.

Market

The definition of 'Market', as a "premises used for the display and sale of goods from stalls by independent vendors", has been particularly problematic in recent times, with difficulty in distinguishing that use from a 'Shop' use. Being essentially a retail use, 'Market' is proposed to be removed from zones such as the 'Service Commercial' zone, and industrial and rural zones, all of which would not normally allow for shop retail uses in any event.

Medical Centre

'Medical Centre' is proposed to change from a 'D' use to an 'X' use within the 'Light Industry' and 'General Industry' zones as this land use is not consistent with the underlying objectives of these zones. This land use would be better located within or close to main centres, where better access to complementary uses (e.g. pharmacies) and public transport is available.

Service Station

The 'Service Station' land use is a typical contributor to 'ribbon development' along major travel routes and is generally contrary to the recommendations of the LPS and the provisions of the Scheme when located in rural areas. Should a 'Service Station' be deemed a necessary land use in a particular location for strategic reasons, a targeted Scheme Amendment could be undertaken to enable a merits-based assessment for that land use on that particular site. There has been recent concern about development of new service stations in the City, and this change would provide greater control over this land use along highways in rural areas.

Miscellaneous

Other miscellaneous proposed changes worth highlighting are:

• A number of land uses typically have a social element and therefore should be focused within the main centres in order to encourage pedestrian visitation, associated spend and an active contribution to the overall viability and vitality of the CBDs. Any potential for such land uses to be situated within the 'Service Commercial' or 'Industrial' zones is proposed to be removed from the Scheme as they are contrary to the aims and objectives of these zones and the recommendations of the LPS.

These uses include:

- 'Amusement Parlour';
- 'Cinema/Theatre';
- 'Exhibition Centre';
- 'Hotel';
- 'Reception Centre';
- 'Restaurant/Café';
- 'Small Bar'; and
- 'Tavern'.
- Review of a certain land uses to ensure that appropriate levels of permissibility are in place, especially where their location may have the potential to cause nuisance to nearby residential dwellings and workplaces. These uses may typically be located within the 'Service Commercial' zone and/or industrial zones and, while there is no suggestion that they should not be located within these zones, their proximity to residential areas must be taken into reasonable account. Such uses include:
 - 'Garden Centre';
 - 'Motor Vehicle, Boat or Caravan Sales';
 - 'Motor Vehicle Repair'; and
 - 'Veterinary Centre'.

OFFICER COMMENT

The most relevant and substantive issues raised during the public consultation process can be addressed under the following headings:

- 1. Definition of 'Bulky Goods Showroom' land use
- 2. Permissibility of 'Bulky Goods Showroom' land use
- 3. Prohibiting sale of certain items (cl. 3.5.3(e))
- 4. Incidental uses and activities
- 5. "Domestic hardware"
- 6. Prohibiting land uses
- 7. Chapman Hill Road Industrial/Service Commercial and Enterprise Park (Dunsborough)
- 8. Miscellaneous modifications
- 9. Retail and economics data

1. Definition of 'Bulky Goods Showroom' land use

The primary reason for Amendment 40 is to address the potential leakage of shop/retail and other high intensity land uses, and future investment, away from designated Activity Centres, particularly the Busselton City Centre. A component of this issue is the concerns held by the City with the 'Bulky Goods Showroom' definition. The current definition is very broad and uncertain in terms of what types of business activity falls within this definition, and what activity falls within other uses, especially 'Shop'. Officers are of the strong view that the current definition could allow shop/retail operators to argue they should be allowed in the 'Service Commercial' zone due to the need for large showroom areas and vehicle access to receive goods.

This situation creates very significant risk of introducing activity that should be in an Activity Centre into zones that should be set aside for other purposes, and critically undermines the direction set out in the City's (recently) WAPC endorsed LPS. The outcome potentially caused by the current definition is also not aligned with draft SPP 4.2 that identifies shop/retail uses as those that should be located within Activity Centres. The proposed change to the definition by substituting the "or" with "and" between parts (a) and (b) is considered critical to avoid this issue.

The Amendment No. 40 is striving to better align the Scheme with the expectations of the LPS and to ensure development adheres to the State Planning Framework (including draft SPP4.2) by reducing out of centre development, protecting the primacy of activity centres and protecting land that is appropriate for Bulky Goods Showroom uses from being taken up by shop/retail uses.

Officers reinforce the importance of the proposed change to the 'Bulky Goods Showroom' definition to create the clear and meaningful link between the two parts of the definition as initiated by the Council.

2. Permissibility of 'Bulky Goods Showroom' land use

The Amendment proposes to modify the permissibility of this use from 'P' (permitted) to 'D' (discretionary) in the Centre zones and the 'Service Commercial' zone.

It should be made clear that the most appropriate location for *genuine* 'Bulky Goods Showroom' land uses is on the periphery of, or adjacent to, Activity Centres. In that respect, land in the 'Service Commercial' zone should be protected for land uses that are appropriately classified as 'Bulky Goods Showroom', and not shop/retail that would be better located within the Activity Centre. With this in mind, and subject to the definition for 'Bulky Goods Showroom' being amended (as discussed in the section above), requiring a Development Application to ensure the use was suitable for the 'Service Commercial' zone should not be necessary.

Therefore, following further consideration after the closure of the submission period, Officers recommend that the permissibility of this use within the 'Regional Centre', 'Centre' and 'Service Commercial' zones retain the designated 'P' permissibility. This recommendation is provided in the Schedule of Modifications at Attachment A (item no. 4).

However, as the 'Local Centres' tend to be smaller in area and in close proximity to residential zoned land, full consideration of the appropriateness of the use should be considered, particularly in relation to impacts off site. The proposed change of the permissibility to 'D' in this zone, as advertised, is therefore recommended.

3. Prohibiting sale of certain items (cl. 3.5.3(e))

With regard to the restriction of sales of certain products, proposed sub-clause 3.5.3(e) is recommended to be altered to remove reference to the 'Service Commercial' zone (listed as item no. 1 in Attachment A, Schedule of Modifications). This will reflect the existing clause 3.5.4(e)(iii) (which the proposed clause seeks to replace), in that it only refers to the 'Light Industry' and 'General Industry' zones. This recommended modification will reduce the proposed restrictions on the 'Service Commercial' zone, being located on the periphery of the Busselton City Centre and the recommended location for bulky goods/large format retail as identified by the draft SPP 4.2 Implementation Guidelines. The industrial areas are not the recommended location for shop/retail sales, as discussed at comment no. 1, above.

As with the above discussion regarding permissibilities of 'Bulky Goods Showroom' uses, this recommended modification is dependent on the change to the definition being supported.

Summary of recommended modifications related to 'Bulky Goods Showroom' land use

	Draft Amendment as advertised	Proposed Modification
1	<u>Permissibilities</u> for Bulky Goods Showroom from 'P' to 'D' in the 'Service Commercial', 'Regional Centre' and 'Centre' zones	Recommend remove change of permissibility for Bulky Goods Showroom such that the only change as a result of the Amendment is to the 'Local Centre' zone (from 'P' to 'D').
2	Modify <u>provision</u> to prohibit sale of certain items within the 'Service Commercial', 'Light Industry' and 'General Industry' zones (clause 3.5.3(e))	Remove 'Service Commercial' from the clause so that the clause only applies to the 'Light Industry' and 'General Industry' zones, consistent with existing clause 3.5.4(e)(iii).
3	Amend the Bulky Goods Showroom <u>definition</u> by replacing the "or" with an "and"	No proposed change

If the WAPC does not accept the proposed modification to the 'Bulky Goods Showroom' definition, Officers would recommend the Council seek the use to be prohibited within the 'Light Industry' zone and a 'D' use in the 'Service Commercial' zone, as well as the zone 'Service Commercial' being reinstated into the proposed clause 3.5.3(e).

4. Incidental uses and activities

Consideration has been given to whether proposed clause 3.5.3(e) should refer to the sale of products that are incidental to the main use. Several submissions received expressed concern that it is not explicit in the proposed clause that the prohibition would only apply where the main purpose of the activity is to sell those items listed in the clause.

It was initially considered this would be unnecessary as clause 3.3.3 exists in the Scheme –

3.3.3 A reference to a use that may be carried out only with development approval includes a reference to any use ordinarily ancillary, subsidiary or incidental to the predominant use for which approval is sought.

However, the beginning of clause 3.5.3 uses the words "notwithstanding the provisions of clause 3.3 and Table 1". These words are used to make clear which of two provisions is to prevail in the event of a conflict between those provisions. The use of those words could operate to exclude existing clause 3.3.3, provided above.

The City takes and expects to continue to take a fairly pragmatic approach towards incidental uses and activities, and it is seen as important to find ways to avoid losing reasonable flexibility. Therefore, in order to improve clarity for proponents, decision makers and tribunals, officers recommend that the following words are included at the end of the proposed clause:

"...or are ordinarily ancillary, subsidiary or incidental to the predominant use."

This recommendation is provided for within the Schedule of Modifications at Attachment A (item no. 3).

Consideration will need to be given as to how incidental uses will be dealt with during preparation of the new Local Planning Scheme No. 22 to ensure this flexibility is not lost.

5. "Domestic hardware"

There has been some misunderstanding within several submissions in relation to the term "domestic hardware", which is listed within proposed clause 3.5.3(e). This does not include hammers, tools and the like, in fact the existing clause 3.5.4(e) and proposed clause 3.5.3(e) both state "domestic hardware other than building supplies".

The term "domestic hardware" appears first within District Town Planning Scheme No. 20, which was gazetted in September 1999. The *Australian and New Zealand Standard Industrial Classification 1993* (ANZSIC) classified 'Domestic Hardware and Houseware Retailing' as those businesses that were engaged in retailing household items such as crockery, cutlery, cooking utensils, glassware and other general kitchenware items. The ANZSIC now identifies the retail sale of these items as 'Houseware Retailing' and consists of businesses mainly engaged in retailing kitchenware, china, glassware, silverware or other houseware goods. These are clearly the products that the original clause was targeting, given it was listed alongside china and glassware.

It is recommended that the term "domestic hardware" be updated to reflect the current reference of "houseware retailing" to avoid confusion and is therefore included in the Schedule of Modifications at Attachment A (item no. 2).

6. Prohibiting land uses

A number of submissions objected to the proposed downgrading of permissibilities to some uses, particularly in the 'Service Commercial' zone, and to a smaller extent, in the 'Light Industry' zone. Reasons for this objection cited the role of these uses in providing amenities for local workers and the detrimental impact on establishing new businesses in the area.

These uses that are proposed by Amendment 40 to become prohibited in these zones are identified as Activity Centre uses under draft SPP4.2 and are generally identified as not suited to either 'Service Commercial' or 'Light Industrial' areas. SPP4.2 (2010) states that commercial uses in industrial areas should be limited to meeting the core local convenience needs of workers. The Scheme allows for 'Lunch Bars' and 'Service Stations' in these zones, with the addition of 'Takeaway Food Outlets' in the 'Service Commercial' zone, and no change is proposed by the Amendment. These uses are allowed to sell food and beverage items, providing for the daily needs of workers and visitors to the respective areas.

The range of uses targeted by the Amendment are all identified as Activity Centre uses by the draft SPP4.2, grouped as 'Retail development', 'Entertainment, Education and Leisure facilities', 'Commercial uses' and 'Cultural/Tourism uses'. These uses are not required to address the daily needs of workers and visitors during working hours as would be appropriate for Service Commercial or Industrial areas. Both the Busselton and Vasse Light Industrial Areas, as well as the Busselton 'Service Commercial' area, are within relative close proximity to the respective Activity Centres to enable workers to make use of those particular amenities.

The principles set out in the WAPC's Activity Centres State Planning Policy 4.2 do not support these uses outside Regional Centre, District Centre and Centre zones where they can activate streets after hours, maintain investment and infrastructure in existing centres and avoid 'out of centre' development that would undermine the primacy and retail sustainability of the central Activity Centre areas and trade catchments.

Some of the uses that are proposed to have downgraded permissibilities are important components of developing a strong night-time economy. Allowing night-time uses such as restaurants, taverns and small bars to locate in the 'Service Commercial' and 'Light Industry' areas would be at the cost of having night-time uses in the City Centre and would limit the ability for the Busselton City Centre to attract and foster its own vibrant night-time economy. The uses should be clustered in order to function effectively. If these uses are spread, or develop 'out of centre', it would undermine that objective.

It is essential that developable land in 'Service Commercial' areas be protected to provide for 'Bulky Goods Showroom' and other more suitable uses. Draft SPP4.2 states that "the preferred location of bulky goods/large format retail is in precincts on the periphery of activity centres and the regional road and public transport networks", which aligns with the 'Service Commercial' zone provided along West Street and Bussell Highway.

For these reasons, there is no recommended modification to the Amendment in this regard.

7. Chapman Hill Road Industrial/Service Commercial and Enterprise Park (Dunsborough)

Two areas were identified in submissions as being exempt from the proposed changes as they are not specifically zoned 'Service Commercial' or 'Light Industry'. These areas are legacy matters which were created by allocating the 'Special Use' zone with 'Special Provisions' listed within the Scheme. The Special Provisions usually would refer to a Structure Plan to guide subdivision, development and land uses. The Regulations now require an alternative and consistent approach to development areas, by using the zones 'Urban Development' and 'Industrial Development'.

Amendment 28 recently (February 2021) introduced these zones to the Scheme and corrected the zoning of many of these development areas, including the Chapman Hill Road Industrial/Service Commercial precinct.

The Chapman Hill Road Industrial/Service Commercial precinct is located on the southern side of the Busselton Bypass and bordered by Chapman Hill Road to the east and the Vasse Diversion Drain and Ambergate North to the west. Initially identified to become a motor vehicle sales precinct, the area is now considered to be a "service commercial and mixed light industrial precinct".

The area was rezoned through Amendment 28 from 'Special Use' to 'Industrial Development', with 'Special Provision No. 48'. The special provision identifies the intent of the site and specifies certain land uses and their permissibilities, including 'Convenience Store', 'Medical Centre' and 'Bulky Goods Showrooms'. It is understood that these land uses were based on the Zoning Table at the time of the initial Scheme Amendment, replicating the uses that were permissible within the 'Service Commercial' and 'Light Industry' zones. Amendment 40 was unable to modify the requirements of the special provision given Amendment 28 was still progressing.

In order for development to take place, the 'Industrial Development' zone requires subdivision in accordance with an approved Structure Plan and 'hard zoning' thereafter. This 'hard zoning' would bring the subject parcels into line with the remainder of the Scheme by zoning the land as either 'Service Commercial' or 'Light Industrial', where identified by a Structure Plan, with development therefore being required to comply with the Zoning Table. Alternatively this could be corrected through the drafting of the new Scheme, whichever process occurs first.

Dunsborough Lakes Enterprise Park is currently zoned 'Special Use No. 24' with 'Special Provision No. 42'. Given the timing of previous Amendments 28 and 29 (that made changes to the zone and zone objectives of the Scheme) and concurrent modifications to the Structure Plan, the rezoning of Enterprise Park to 'Service Commercial' with an Additional Use for 'Office' is expected to be undertaken as a separate Basic Amendment or through the Scheme Review process. Multiple other issues are at play in the Dunsborough area, given there is not currently a specific 'Service Commercial' zoned area and the availability of land for relevant uses in Dunsborough is quite limited.

For these legacy areas, it would be inappropriate to make this a modification to Amendment 40, and given the risks to the Activity Centre hierarchy are relatively low, these areas will instead be subject to corrections in the new Scheme, or a separate, standalone Amendment.

8. Miscellaneous modifications

Officers recommend minor modifications to proposed clause 4.19 'Breweries and Wineries' to correct drafting errors.

The provision makes reference to the 'Service Commercial' zone as well as the 'Light Industry' and 'General Industry' zones, while the Amendment also proposes to make these uses 'not permitted' within the 'Service Commercial' zone. The Environmental Protection Authority Guidance Statement (Separation Distances between Industrial and Sensitive Land Uses (GS 3)) requirement for buffer distances essentially discounts the ability for this use to be established within the 'Service Commercial' zone, given the close proximity to residential areas. It is therefore recommended that reference to the 'Service Commercial' zone be removed from the clause to reduce confusion.

Another minor modification is recommended at proposed sub-clause 4.19.1(a) to modify the units from "mls" to "ml" to reflect the correct usage of the symbol for millilitre.

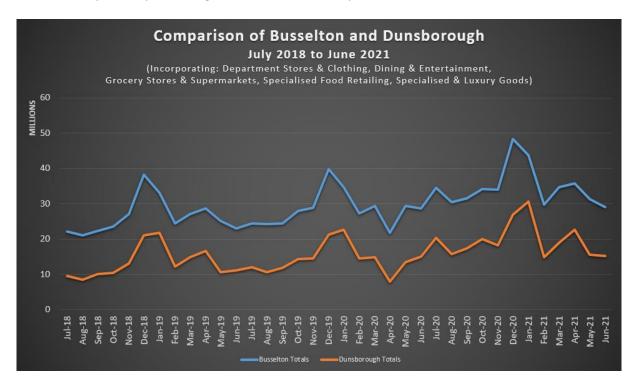
These recommended modifications are included within the Schedule of Modifications, provided at Attachment A (item no. 5).

9. Retail and economics data

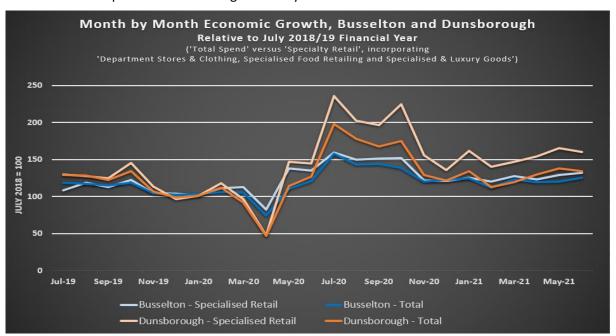
Some of the submissions identify, correctly, that the vacancy rate in the Busselton City Centre is relatively low at present – and that means that there is no need to be concerned about retail leakage and/or that further economic analysis is required to justify aspects of the amendment. Those contentions are flawed, for two key reasons.

Firstly, to achieve the strategic aims set out in the LPS, it is not sufficient to avoid having excessive vacancies in existing floorspace – it is also critical to see new investment and delivery of additional floorspace. In the case of both the Busselton City Centre and the Dunsborough Town Centre, there is substantial capacity to accommodate new development, on land that is Zoned but either undeveloped, or under-developed. Secondly, current experience in terms of demand in the City of Busselton economy is quite different to what has occurred in the past, and may well not be a good guide to what may occur in the future – some information to support that contention is set out below.

The graph below shows that the period July 2020 to January 2021 saw a period of extraordinary economic growth — with total spend in January 2021 in Busselton alone being nearly \$10M higher across the key retail spend categories relative to January 2020.



The additional graph below shows month-by-month comparisons, relative to the 2018/19 financial year (i.e. pre-COVID) – showing that in each month since July 2020, total local spend across the key retail categories has been at least 25% and as much as 200% higher than 2018/19. Whilst robust population and economic growth is expected to continue in the City of Busselton, the current period is, quite simply, not necessarily a good guide to what may occur in the future – and to be confident that our main centres can remain viable and attractive locations for investment, it is important that the planning framework send a clear message that those centres are the desired location for investment in shop retail and other high intensity land-uses.



Statutory Environment

The key elements of the statutory environment in relation to Amendment 40 are set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* and the *City of Busselton Local Planning Scheme No. 21*. This Scheme Amendment has been prepared having regard to the Act and the Regulations (and the Model Provisions and Deemed Provisions contained therein). Each is discussed below under appropriate subheadings.

Planning and Development (Local Planning Schemes) Regulations 2015

The Planning and Development (Local Planning Schemes) Regulations 2015 identifies three different levels of amendments – 'basic', 'standard' and 'complex'. The resolution of the local government is required to specify the level of the amendment and provide a brief explanation justifying this specification.

Amendment 40 is considered to be a 'standard' amendment, given it is consistent with the identified zone objectives provided for within the Scheme, and with the outcomes and recommendations endorsed in the Local Planning Strategy (2019), and will not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.

City of Busselton Local Planning Scheme No. 21

The proposal is considered to be generally consistent with the objectives of the zones under LPS21. The pertinent objectives of the most relevant zones are provided below.

Regional Centre

- a. To provide a genuine centre of community life, socially, culturally and economically.
- b. To ensure that development provides for activation of the street and public spaces, high quality design and a variety of land uses.

Centre

- a. To provide a genuine centre of community life, socially, culturally and economically.
- b. To ensure that development provides for activation of the street and public spaces, high quality design and a variety of land uses.

Service Commercial

- a. To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites.
- b. To provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in the Centre zones.
- c. To provide for development which will not result in a detrimental impact on surrounding commercial centres and has regard to the strategic importance and need to maintain the commercial primacy of the Regional Centre and Centre zones.

Light Industry

a. To provide for a range of industrial and service commercial uses generally compatible with urban areas, that generally cannot be located in other zones, whilst maintaining the commercial primacy of the Regional Centre and Centre zones. Rural

- a. To provide for the maintenance or enhancement of specific local rural character.
- f. To provide for development and expansion of the viticultural, winemaking and associated tourism activities and other industries related to agricultural activities, in addition to general rural pursuits, in a manner that does not cause adverse environmental impact.

Relevant Plans and Policies

The key policy implications with respect to the Amendment proposal are set out below, and discussed under appropriate sub-headings:

- State Planning Policy 4.2: Activity Centres for Perth and Peel (2010) and Draft State Planning Policy 4.2: Activity Centre (2020);
- City of Busselton Local Planning Strategy; and
- City of Busselton Local Commercial Planning Strategy.

State Planning Policy 4.2: Activity Centres for Perth and Peel (2010) and Draft State Planning Policy 4.2: Activity Centre (2020)

The main purpose of *State Planning Policy 4.2: Activity Centres for Perth and Peel* (SPP 4.2) is to specify broad planning requirements for the planning and development of new activity centres, and the redevelopment and renewal of existing centres in Perth and Peel. It is mainly concerned with the distribution, function, broad land use and urban design criteria of Activity Centres, and with coordinating their respective land use and infrastructure planning. Whilst it primarily contends with the Perth and Peel region, it can also be used as a guide regional centres.

In the time since the Amendment was considered for initiation by the Council, the WAPC advertised the draft revision of SPP 4.2. The draft SPP 4.2 clarifies the ability for the policy to be applied outside the region scheme areas, being at the discretion of the WAPC. The draft SPP should be used to guide the preparation and review of local planning proposals and have due regard to any relevant provisions relating to activity centres role, function and hierarchy in the Local Planning Framework and/or Regional Framework.

SPP 4.2 (including the advertised draft) encourages shop-retail uses to be located within a pedestrian friendly urban environment of an Activity Centre. Bulky goods retailing is cited as being unsuitable to the core of Activity Centres due to their large area and associated car parking requirements, corresponding low employment densities, and the need for freight vehicle access (clause 5.6.1(1)). Therefore, clusters of bulky goods retail should be located adjacent to or in close proximity to activity centres.

The draft SPP states that (Policy Measures 7.4) "Local planning schemes should ensure that desired activity centre uses are located within activity centres through appropriate zoning and use class permissibility." The draft SPP also provides a definition for 'Activity centre use(s)', reproduced below.

Activity centre use(s)

Includes (but not limited to) the following:

- Retail development: Shop, Bulky Goods Showroom, Liquor Store Small, Liquor Store Large, Market and Restricted Premises.
- Entertainment, Education and Leisure facilities: Amusement Parlour, Educational Establishment, Nightclub, Place of Worship, Recreation – Private, Restaurant / Café, Small Bar, Tavern.
- Commercial uses: Office, Medical Centre, Consulting Rooms.
- Services: Small scale automotive services and recycling services.
- Cultural / Tourism Uses: Art Gallery, Cinema / Theatre, Hotel Tourist Development.

Local Planning Strategy (LPS)

The LPS sets the long-term strategic planning direction for the whole of the District of the City of Busselton and provides the strategic rationale for decisions related to the progressive review and amendment of the Scheme. The LPS was adopted for final approval by the Council in September 2016 and was endorsed by the WAPC on 10 December 2019, subject to certain agreed modifications prior to endorsement by the DPLH. The DPLH formally endorsed the LPS on 13 March 2020.

'Theme 1' of the LPS, 'Settlement and Community', identifies the following relevant objectives and strategies:

Objective (a):

"The continued growth as the principal settlement in the District of the Busselton-Vasse Urban Area as a regional centre and the Dunsborough Urban Area as a major town through: the redevelopment and consolidation of the existing urban areas; and through the identification of suitable areas for planned, progressive expansion of those settlements."

Objective (c):

"The creation of compact, liveable and sustainable settlements that provide their residents with housing and lifestyle choice and affordability, a high quality of life, health and wellbeing and convenient access to high quality employment and services."

Strategy (h):

"Generally, but especially in urban growth areas, plan for housing choice, diversity, health, wellbeing and ageing in place, with a mix of housing types and lot sizes, with higher densities in proximity to activity centres and open space areas, and with identification of land for aged and dependent persons' housing and care facilities in proximity to activity centres in all medium-term urban growth areas."

Strategy (m): "Identify locations for the following particular significant community facilities –

Aged care facilities"

Strategy (r): "Do not support the following –

 Unplanned new settlements or urban growth areas, including through creation of new settlements not identified in the established settlement framework or new urban growth areas not identified in the urban growth area framework;

...

iii. Planning proposals that would significantly compromise the capacity of urban growth areas to accommodate planned growth;"

'Theme 2' of the LPS, 'Activity Centres and Economy', identifies the following relevant objectives and strategies:

Objective (d): "The continued growth of the Busselton City Centre and Dunsborough Town Centre as the main centres of the economic, social and cultural life of

the District."

Strategy (c): "...activity centres shall... be developed along predominantly 'main-street' lines, with activated public streets and high levels of pedestrian amenity..."

Strategy (j): "Support and pro-actively plan for industrial/service commercial area development... via... Preventing retail activity which can be located in activity centres from being located in industrial/service commercial areas..."

Strategy (p): "Do not support the following –

- i. unplanned new, or expansion of, existing activity centres not identified in the established activity centre framework;
- iii) significant shop retail or office uses locating outside activity centres;
- iv) retail activity, including bulky goods retail, outside activity centres unless there is a clear and compelling argument to do so..."

Table 4 'Industrial/Service Commercial Area Framework' identifies the prevention of establishing retail activity that should be located in Activity Centres as a key issue within the following areas:

- Strelly Street/Busselton Light Industrial Area;
- Bussell Highway Service Commercial;
- Chapman Hill Road Service Commercial; and
- Vasse Light Industrial, Services Commercial.

Local Commercial Planning Strategy (LCPS)

The Local Commercial Planning Strategy (LCPS), adopted by Council on 10 November 2010, provides the long term strategic land use planning and strategic direction for the development of commercial land within the District.

The LCPS considered and made recommendations on a number of matters relevant to Amendment 40:

Recommendation 9: "Further service commercial development along major roads,

including the Busselton Bypass, Bussell Highway and Causeway Road, other than that accommodated by existing zonings and/or

specifically supported by the Strategy is not supported."

Recommendation 11: "Control retail intrusion into the industrial areas of the shire,

particularly Strelly Street."

Recommendation 38: "Council should consider the need for an Amendment to the TPS to

restrict retail uses in the industrial zone to only that which is necessary as an ancillary component to the main industrial activity."

Financial Implications

There are no financial implications associated with the Officer Recommendation.

Stakeholder Consultation

The Amendment was advertised for 42 days, ending 18 November 2020, with notifications being sent directly to landowners within the 'Regional Centre' (Busselton City Centre), 'Centre' (Dunsborough Town Centre), 'Service Commercial' and 'Light Industry' zones.

Twelve government agency submissions were received with no substantive issues being raised. Nineteen public submissions were received which can be outlined as follows:

- Specific or general SUPPORT in relation to the matters proposed:
- Specific or general OBJECTION in relation to the matters proposed:
- Specific or general COMMENT or CONCERN in relation to the matters proposed: 3

The substance of objections and concerns can be broadly classified as follows:

- Changing the 'Bulky Goods Showroom' land use definition.
- Changing the permissibilities of the 'Bulky Goods Showroom' land use.
- The prohibition against the sale of certain products from the 'Service Commercial' and/or 'Light Industry' zones.
- The prohibition of land uses from the 'Service Commercial' and/or 'Light Industry' zones.

A number of the submissions were based on assumptions, sometimes incorrectly, surrounding the classification of land uses and 'incidental uses'.

A Summary of Submissions, along with officer comments in respect to each submission, is provided at Attachment B. The most substantive matters raised by the submissions are discussed in the Officer Comment section, above.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

The implementation of the officer recommendation will involve adopting the Amendment for final approval and referral to the Western Australian Planning Commission and Minister for Planning for final approval. No risks of a medium or greater level have been identified.

Options

As an alternative to the officer recommendation, the Council could:

- 1. Resolve to not support the Amendment for final approval (and provide a reason for such a decision). The Council would need to make that as a recommendation to the Minister, setting out the rationale for the recommendation. The decision would then rest with the Minister, having also received and considered a recommendation on the amendment from the Western Australian Planning Commission.
- 2. Seek further information before making a final determination.
- 3. Make different or further changes.

CONCLUSION

As a result of the assessment detailed above, officers are of the view that the proposal is generally consistent with the aims and objectives of the State and local planning policy framework. It is recommended that the Council provides a recommendation to the Western Australian Planning Commission to endorse the final approval of Amendment 40, subject to the modifications set out at Attachment A.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The implementation of the officer recommendation will involve the referral of Amendment 40 to the Western Australian Planning Commission for final approval and this will occur within 21 days of the resolution.

SCHEDULE OF MODIFICATIONS

AMD21/0040: Amendment No. 40

No.	Proposed Modification	Reason	
2.	Modify proposed clause 3.5.3(e) to remove reference to the 'Service Commercial' zone. (This is only supported by the Council provided that the proposed change to the definition of 'Bulky Goods Showroom' is approved by the Minister). Modify proposed clause 3.5.3(e) to replace the term "domestic hardware" with "houseware retailing".	To align the clause more closely with the existing clause 3.5.4(e). This modification is contingent upon the proposed change to the 'Bulky Good Showroom' definition being supported, in order to prevent undesirable shop/reta development from being located within the 'Service Commercial' zone. To reflect the current accepted term for that particularly type of retailing.	
3.	Modify proposed clause 3.5.3(e) to include, at the end of the clause, the words: "or are ordinarily ancillary, subsidiary or incidental to the predominant use".	The use of the words "notwithstanding the provisions of clause 3.3 and Table 1" at the beginning of the clause could operate to exclude existing clause 3.3.3 (which deals with ancillary or incidental activities). These proposed additional words are recommended in order to avoid losing any necessary flexibility and to provide clarity for proponents, decision makers and tribunals. Proposed modifications 1, 2 and 3 would have the following effect on proposed clause 3.5.3(e): "(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 houseware retailing other than building supplies; or (vi) items of personal adornment; unless such goods are manufactured on the lot or are ordinarily ancillary, subsidiary or incidental to the predominant use;"	

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Schedule of Modifications

No.	Proposed Modification	Reason
4.	Remove the change to permissibility of 'Bulky Goods Showroom' in the 'District Centre', 'Centre' and 'Service Commercial' zones, such that the use is retained as a 'P' use in these zones. (This is only supported by the Council provided that the proposed change to the definition of 'Bulky Goods Showroom' is approved by the Minister).	Consistent with SPP 4.2, an appropriately classified 'Bulky Goods Showroom' is an acceptable use on the periphery of an Activity Centre, consistent with the location of the Service Commercial zone. However, the location of the 'Local Centres' are such that a 'Bulky Goods Showroom' may not be an appropriate use, and one large Showroom could exhaust the whole of some of these 'Local Centres'. This modification is contingent upon the proposed change to the 'Bulky Goods Showroom' definition being supported. Should the change to the definition be unsuccessful, the Council would seek the use to be prohibited in the 'Light Industry' zone and a 'D' use in the 'Service Commercial' zone, in order to prevent undesirable shop/retail development from being located within these areas.
5.	Modify proposed clause 4.19 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,	Remove reference to the 'Service Commercial' zone to reflect the intention of the Amendment for 'Brewery' and 'Winery' land uses to be 'not permitted' within this zone. The Environmental Protection Authority Guidance Statement (Separation Distances between Industrial and Sensitive Land Uses (GS 3)) requirement for buffer distances essentially discounts the ability for this use to be established within the Service Commercial zone. Modify the units from "mls" to "ml" to reflect the correct usage of the symbol for millilitre.

N	Proposed Modification	Reason
	including public holidays, between the hours of 12.00pm	
	and 5.00pm."	

13 October 2021

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
Agen	cy Submissions			
1.	Department of Health (Environmental Health Directorate) PO Box 8172 Perth Business Centre WA 6849	No objection.	Noted.	That the submission be noted.
2.	ATCO Gas 81 Prinsep Road Jandakot WA 6164	No objection. Any change to a sensitive land use classification may necessitate additional protection to the existing gas network if it was not designed for that land use classification when constructed.	Noted. There are no changes proposed to individual developments as part of this Amendment. The proposals within this Amendment will apply to future developments.	That the submission be noted.
3.	Department of Jobs, Tourism, Science and Innovation Level 11, 1 William Street Perth WA 6000	Supportive of the principal objective of the Amendment which is to protect the retail primacy of the Busselton and Dunsborough town centres. The Department notes that the proposal has the supplementary benefit of protecting industrial zones ('Service Commercial', 'Light Industry' and 'General Industry' zones) from inappropriate retail development which may limit the operation of existing industrial land uses.	Noted.	That the submission be noted.
4.	Telstra (Telstra Plan Services) Locked Bag 3820 Brisbane QLD 4001	Telstra assets are located within the area of the proposal. Telstra recommends contacting Dial Before You Dig for a detailed site plan and engage a Telstra Accredited Plant Locator to determine the exact location of the asset.	Noted. There are no works proposed as part of this Amendment.	That the submission be noted.
5.	Department of Planning, Lands and Heritage (Heritage Services) Locked Bag 2506 Perth WA 6001	The majority of both State Registered Heritage Places and places included on the City of Busselton's Local Heritage List are located within the Centre Zone. It is noted that the intent to retain commercial and retail use in the centres may have a positive impact on the occupancy and ongoing use of heritage places. The proposed scheme amendment has been considered for its potential impact on heritage places within the Scheme area and it raises no concerns.	Noted.	That the submission be noted.

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
6.	Department of Mines, Industry Regulation and Safety 100 Plain Street East Perth WA 6004	This proposal raises no significant issues with respect to mineral and petroleum resources, geothermal energy, and basic raw materials.	Noted.	That the submission be noted.
7.	Main Roads WA PO Box 5010 Bunbury WA 6230	No objection.	Noted.	That the submission be noted.
8.	Department of Water and Environmental Regulation (South West Region)	No objection.	Noted.	That the submission be noted.
9.	Water Corporation (Development Services Branch) PO Box 100 Leederville WA 6902	In regards to the proposed R-AC3 code in the area east of Cammilleri Street between Peel Terrace and Adelaide Street. This area is serviced by a vacuum wastewater system that can't be upgraded without a significant rebuild of the entire system. The area is not suitable for any significant redevelopment that would increase the wastewater discharge flows as the cost to the developers would be quite significant. Therefore, the Water Corporation would not support the introduction of that zoning over this Land. **Terrace and Adelaide Street	There is no change proposed to density codes as part of this Amendment and there will not be a significant impact that may cause an increase in development or density in the area east of Cammilleri Street (either in the 'Regional Centre' zone or 'Residential' zone), directly due to the proposals within this Amendment. The R-AC3 code was introduced to the Busselton CBD through Amendment No. 1, gazetted in August 2017. The Water Corporation's submission at the time indicated that the density increases "may have implications for the water and sewerage systems in the locality" and that the proposed town centre zoning changes will be incorporated into a future review of water and wastewater planning for the area. The submission went on to state that consideration would be given by the Water Corporation for any upgrades to infrastructure and if upgrades to the local water and wastewater reticulation pipes will be needed at the development stage.	That the submission be noted.
		With regards to the discharge from Breweries and Wineries to the Water Corporation's wastewater	That the suitability of any site for the discharge of trade waste into the Water Corporation's wastewater system will	

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		system. Some of the light Industrial area is unsewered and some is served with a vacuum system. Therefore the suitability of the site will vary, the discharges to the Corporation's wastewater system will be subject to a trade waste application. Therefore it is recommended that the suitability of the site should be ascertained prior to a development proposal.	need to be ascertained prior to development is noted. This requirement will form part of any development application.	
10.	Department of Primary Industries and Regional Development (Sustainability and Biosecurity) 3 Baron-Hay Court South Perth WA 6151	No objection.	Noted.	That the submission be noted.
11.	Department of Biodiversity, Conservation and Attractions (South West Region) PO Box 1693 Bunbury WA 6230	No comment. It is considered that the proposal and any potential environmental impacts will be appropriately addressed through the existing planning framework.	Noted.	That the submission be noted.
12.	Department of Education (Asset Planning and Services) 151 Royal Street East Perth WA 6004	No objection. The City should ensure that all future development applications have due regard to the requirements of the WAPC's Development Control Policy 2.4 – School Sites and draft Operational Policy 2.4 – Planning for School Sites. A Development Application should not be supported if it would result in a land use that is incompatible with a nearby school site. The Department would welcome the opportunity to review any proposal on land that is within close proximity of a public school site.	The draft Operational Policy 2.4 states that land uses such as service stations, restricted premises, licensed premises (eg. taverns, small bars and liquor stores), consulting rooms and industrial uses are considered undesirable next to school sites. Existing school sites within the District are generally located amongst 'Residential' zoned properties, often separated by public open space and/or road reserve, with a small number of exceptions. The draft Operational Policy will be taken into account in the planning for future school sites.	That the submission be noted.

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION		
Publi	blic Submissions					
13.	E. Hanley 86 Commonage Road Dunsborough WA 6281	Dunsborough townsite's retail space is at capacity with no retail shops available. Spillage of retail sales outside of Dunsborough townsite is necessary.	 Previous changes to the Scheme have expanded the 'Centre' zone within the Dunsborough Town Centre, along with development incentives being incorporated into the Scheme, such as plot ratio and height controls. The Additional Use 'A74' on the residential fringe of the Town Centre allows for uses such as 'Shop', 'Office' and 'Consulting Rooms'. 	That the submission be noted.		
			There are also a number of vacant sites within the Town Centre that have not been developed. A Commercial Growth Analysis (Pracsys, October 2018) prepared to inform the drafting of the Dunsborough Precinct Structure Plan (PSP) estimated the distribution of floor space within the Dunsborough Town Centre. The analysis estimated 18% of net lettable area was found to be in vacant land. The Dunsborough PSP itself will likely consider development controls to address commercial floor space needs.			
			The need for additional retail space will be considered through this Precinct Structure Plan which will, amongst other things, plan for land requirements to support economic activities in considering the growth and development of the Dunsborough Town Centre.			
		Sought clarification on impact of proposed Amendment on the established business within Dunsborough Lakes Enterprise Park.	 Information was provided to the submitter that the proposed Amendment would not impact on the existing business. The subsequent response from the submitter did not indicate support or objection to the proposal. 			
14.	R. Prowse U4/12 Napoleon Promenade,	Support Amendment to promote use of properties in the retail centres.	1. Noted.	That the submission be noted.		
	Vasse WA 6280	Vasse Village should be included in preventing leakage from the city/retail centres.	The Amendment does potentially affect the Vasse Village Centre, but to a somewhat lesser degree than the Busselton and Dunsborough centres. The Vasse Village			

Summary of Submissions

SUMMARY OF SUBMISSIONS

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		3. There is currently unprecedented demand for residential properties, more agricultural land needs to be rezoned to residential in the Vasse/Dunsborough and greater Busselton areas to keep pace with the demand. If more residential property was available the growth of the area would take care of vacancies in these city centres.	Centre is divided into 'Local Centre' zone and 'Service Commercial' zone, based on the endorsed Activity Centre Plan (now referred to as a Precinct Structure Plan). Vasse Village Centre is identified as a 'Neighbourhood Centre' within the Local Planning Strategy (LPS). Of the 'Light Industry' and 'Service Commercial' areas of Vasse, the LPS identifies the prevention of retail activity being established where it could be located in activity centres. 3. The LPS, endorsed in 2020, sets out the long-term broad planning direction for the District. The LPS identifies areas for expansion, recognising areas of current urban growth, along with medium (10-15 years) and long (+25 years) term urban growth. Further to this, the LPS identifies a number of Planning Investigation Areas (PIA) (introduced by the Leeuwin-Naturaliste Sub-regional Strategy), for which further consideration for potential rezoning and subdivision will occur. The DPLH is currently preparing 'high level' reports for the WAPC on all PIAs, including Dunsborough, Abbey, Vasse North and Vasse South.	
15.	T. Huxley 27 Endicott Loop, Dunsborough WA 6281	Support Both towns are located in a regional area where people move to be in a place with a country feel, not high density, fast growing urbanisation of the area that detracts from the very reason the area is so desirable. Careful strategic planning and limiting of growth is needed to protect the viability of the natural amenity and surrounds we are here for. The town centres need to push back the desire for large commercial precincts, outside the centre zones to enable the village atmosphere to continue. Once the large	The concern for striking a balance between development and protection of the amenity that the community enjoy are matters relevant in developing the LPS and the upcoming Busselton and Dunsborough Precinct Structure Plans. Amendment 40 is focused on aligning permissibilities in the Scheme with the zone objectives and the LPS, particularly in terms of ensuring retail uses remain primarily in the Centre zones.	That the submission be noted.

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		department stores are allowed in, the smaller businesses		
		suffer and the devaluation of the area begins.		
16.	R.F. and J. Mountney	Objection.	Noted.	That the submission be noted.
	74-76 West Street,	1. The prohibition of land uses from the Service	1. Amendment 40 seeks to align uses more appropriately with	
	8 Bussell Hwy, Busselton WA 6280	Commercial and other zones will be detrimental to existing businesses and to the establishment of new businesses in the Scheme area. Local governments should be providing support and strengthening local economies, the effects of this prohibition are counterintuitive.	the objectives of the zones. The objectives of the 'Service Commercial' zone, for instance, includes: • to accommodate commercial activities that require good vehicle access and/or large sites, • provide a range of wholesale sales, showrooms, trades and services that are generally not appropriate or cannot be accommodated in the Centre zones, • provide for development which will not result in a detrimental impact on surrounding commercial centres and has regard to the strategic importance and need to maintain the commercial primacy of the Regional Centre and Centre zones. The Urbis Retail and Commercial Analysis, backed up by the peer review conducted by Pracsys, recommends that shop/retail uses need to be focused within the Centres and extols the benefits of co-locating retail together. This is also supported by the draft State Planning Policy 4.2 'Activity Centres', which identifies use classes that are considered to be 'Activity centre uses'.	That the proposed clause 3.5.3(e) is modified to remove reference to the 'Service Commercial' zone. That the proposed clause 3.5.3(e) is modified to replace the term "domestic hardware" with "houseware retailing". That the proposed clause 3.5.3(e) is modified to include, at the end of the clause, the words: "or are ordinarily ancillary, subsidiary or incidental to the predominant use".
		Evidence has not been presented which demonstrates the amendment would achieve its aim of stimulating the growth of the Busselton and Dunsborough city/town centres. The City's own retail consultant has identified several issues with the Busselton city centre which aren't caused by economic growth in the Service Commercial zone.	2. Multiple recommendations have been made by the Retail Analysis, divided into the following categories: Policy Controls Infrastructure Investment Placemaking and Council Initiatives Partnership and Advocacy This Amendment aims to address these issues in the context of other projects also planned such as the Busselton City Centre Precinct Structure Plan, including	modified such that the permissibility of 'Bulky Goods Showroom' in the 'Regional Centre', 'Centre' and 'Service Commercial' zones is retained as a 'P' use in these zones.

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
			urban design guidelines and the revitalisation of Mitchell Park. Other major projects include improving the connection between the Foreshore and the City Centre, upgrading the Busselton Margaret River Regional Airport and building a performing arts and convention centre. The City's economic development team focuses on assisting the development and growth of the local economy and supporting local businesses.	
		3. If, for example, a hardware store can't sell "domestic hardware", a stationery store can't retail "paper", a camping and outdoors store can't sell clothes, and a children's play centre can't have a small café for parents, these businesses won't move into the city centre where there is limited space and high rents — they will go to other local government areas or not establish themselves at all. Customers will drive to Bunbury or Perth to go to these stores, bypassing Busselton altogether.	3. A number of these examples would fall into the category of 'incidental activity'. Officers takes a fairly pragmatic approach towards incidental uses/activities and it is seen as important to find ways to avoid losing any necessary flexibility. Therefore, in order to improve clarity for landowners, proponents, decision makers and tribunals, officers recommend that the following words are included at the end of the proposed clause: "or are ordinarily ancillary, subsidiary or incidental to the predominant use."	
			This is particularly appropriate for the "camping and outdoors store" and "children's play centre" examples provided.	
			The term "domestic hardware" has been incorrectly interpreted as building supplies in a number of submissions. The term refers to items such as tableware, cooking utensils, bakeware and cutlery. There are several stores within the District whose core business is selling these goods; these businesses are appropriately classed as a 'Shop' and located within the CBD. A modification to proposed clause 3.5.3(e) is recommended to change the term "domestic hardware" to "houseware retailing". Further discussion on this matter, as well as 'incidental activities', is detailed within the report.	

PROPOSAL: Amendment No. 40 – Modifications to the Zoning Table (AMD21/0040) SUBMISSIONS CLOSED: 18th November 2020

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		4. The City's retail consultant Urbis proposes to improve	In terms of "limited space in the CBD", at the time of the Retail Analysis (completed early in 2020), a number of empty commercial spaces existed and Busselton was considered to have a relatively high vacancy rate. Through 2020 and 2021 the economic landscape is vastly different, largely caused by the COVID pandemic and resultant closed State and international borders. It is unknown how long this situation will continue, but is not expected to be sustainable. Nevertheless, the redevelopment of the Busselton Central Shopping Centre is intended to increase available retail floor space by approximately 6,000m². The Busselton City Centre is considered to be largely underdeveloped, with a generous area being zoned to the then 'Business' zone under District Town Planning Scheme No. 20 in 1999. Now the 'Regional Centre' zone, this area is roughly bound by the Foreshore/Marine Terrace, Brown Street, Peel Terrace and West Street. Suitable development sites are documented in the Busselton City Centre Conceptual Plan (2014) such as between Cammilleri and Brown Streets, and Albert and Peel Terrace, as well as areas between Duchess Street to Marine Terrace, outside the Queen Street core.	
		cross-visitation between the city centre and the Service Commercial area to "attract more visitors and more spending to the retail core" (page 24). This proposal will do the opposite and will harm the city centre, contrary to the recommendations of the City's own experts.	considered through development of the Busselton City Centre Precinct Structure Plan and recently approved modifications to Busselton Foreshore Structure Plan, strengthening connections, particularly pedestrian links, between the Foreshore and CBD.	

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		5. Our business relies in part on passing trade, and the more successful businesses there are in the area, the more people who go past our business and the better the trade. Prohibiting retailers from selling certain items and prohibiting certain land uses narrows which businesses which can go into the area, reducing trade and harming all retailers (not just the prohibited ones).	 5. The objectives of the 'Service Commercial' zone encourage businesses that require good vehicular access and/or large sites. A number of uses remain open for consideration within the zone and this is reflected within the Zoning Table, including: 'Bulky Goods Showroom' (provided land uses are classed appropriately) and 'Trade Supplies', 'Community Purpose', 'Consulting Rooms' and 'Medical Centre', 'Garden Centre', 'Motor Vehicle, Boat or Caravan Sales' and 'Motor Vehicle Repair', 'Service Station' and 'Motor Vehicle Wash', 'Takeaway Food Outlet', and others. 	
		6. The current zoning regulations comply with the planning framework which encourages bulky goods retailing and showrooms in the 'Service Commercial' area (Local Planning Scheme and Strategy) in areas adjacent to activity centres (SPP4.2).	6. The Amendment is aimed at ensuring genuine bulky goods retail meets the true intent for this land use and that land set aside for genuine bulky goods retail is protected from being taken up by shop/retail uses. Therefore the Amendment does not undermine the LPS and is not contrary to the aims of the Scheme. Out of centre development of shop/retail uses that undermines the hierarchy of activity centres should be discouraged, which is supported by the draft SPP4.2. The proposed modifications to the Amendment in relation to proposed sub-clause 3.5.3(e) and the permissibilities of the land use may reflect more certainty for appropriate development of bulky goods retailing within the 'Service Commercial' zone.	
17.	D. & K. Carroll 3/17 Bussell Highway, Busselton WA 6280	Objection. 1. The prohibition of land uses from the Service Commercial and other zones will be detrimental to existing businesses and to the establishment of new	This submission was identical to submission no. 16. Please refer to the Officer Comment adjacent to that submission.	That the submission be noted.

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		businesses in the Scheme area. Local governments should be providing support and strengthening local economies, the effects of this prohibition are counterintuitive.		
		Evidence has not been presented which demonstrates the amendment would achieve its aim of stimulating the growth of the Busselton and Dunsborough city/town centres. The City's own retail consultant has identified several issues with the Busselton city centre which aren't caused by economic growth in the Service Commercial zone.		
		3. If, for example, a hardware store can't sell "domestic hardware", a stationery store can't retail "paper", a camping and outdoors store can't sell clothes, and a children's play centre can't have a small café for parents, these businesses won't move into the city centre where there is limited space and high rents — they will go to other local government areas or not establish themselves at all. Customers will drive to Bunbury or Perth to go to these stores, bypassing Busselton altogether.		
		4. The City's retail consultant Urbis proposes to improve cross-visitation between the city centre and the Service Commercial area to "attract more visitors and more spending to the retail core" (page 24). This proposal will do the opposite and will harm the city centre, contrary to the recommendations of the City's own experts.		
		Our business relies in part on passing trade, and the more successful businesses there are in the area, the more people who go past our business and the better the trade. Prohibiting retailers from selling certain		

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		items and prohibiting certain land uses narrows which businesses which can go into the area, reducing trade and harming all retailers (not just the prohibited ones).		
		 The current zoning regulations comply with the planning framework which encourages bulky goods retailing and showrooms in the Service Commercial area (Local Planning Scheme and Strategy) in areas adjacent to activity centres (SPP4.2). 		
18.	A. Poppas 1/17 Bussell Hwy, Busselton WA 6280	Objection. 1. The proposed changes will not support or stimulate any economic growth in the CBD or encourage extra pedestrians due to the limited parking and limited shop rental space in the CBD. The CBD will shrink in pedestrian traffic and will actually be a detriment to existing businesses both in the CBD and in the service commercial area.	1. The comments provided within the submission have not been substantiated. In 2019 the City commissioned a Car Parking Utilisation and Turnover Survey to support the preparation of a Precinct Structure Plan for the Busselton City Centre. The purpose of the survey, together with a current and projected future needs analysis of car parking, was to assess the performance of the City's existing car parking management arrangements and also identify specific areas of under and over supply within the Busselton City Centre. The survey concluded that the Busselton City Centre does not have a shortage of parking supply. The survey also found that there is sufficient existing parking capacity to accommodate projected demand forecast for the next twenty years which supports assumptions in regard to likely Busselton Performing Arts and Cultural Centre (BPACC) parking demand. Furthermore, this indicates no requirement or impetus at this stage to construct additional car parking on the City's land at Harris Road in the near term.	That the submission be noted.

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
			Despite the perceived lack of parking in the Busselton CBD,	
			it is unlikely pedestrians need to walk more than 250	
			metres from a parked car to their intended destination.	
			Encouraging more pedestrians in the main street is proven	
			to increase vibrancy, passing/opportunistic purchases and	
			trade, and therefore additional spend in local businesses.	
			The Busselton CBD is to a significant degree	
			underdeveloped and has enormous potential for	
			expansion, within the bounds of the 'Regional Centre' zone.	
			The purpose of the Retail Analysis was to determine the	
			current and future level of floor space demand and supply	
			within the City Centre. The Analysis indicated that floor	
			space demand in the next five years will largely be taken up	
			by the expansion of Busselton Central. Over the 10 year period from 2024 to 2034 there is potential demand to	
			support another 3,600 sqm of retail space, although this	
			could be achieved through utilisation of existing vacant	
			retail tenancies or redevelopment of these sites.	
			The LPS includes the strategy (at 8.2(c)) to "support and	
			pro-actively plan for activity centre development to be	
			developed as centres of the social and cultural life of their	
			communities and not just as shopping centres".	
			Whilst the Amendment refers to the retention of	
			shop/retail within the Centre zones, the entertainment and	
			accommodation uses are also crucial within the City Centre	
			to strengthen the role of the Centre as the highest order	
			retail, entertainment, leisure and commercial precinct in	
			the Busselton District", as identified in the Retail Analysis.	
			Focusing these entertainment, leisure and accommodation	
			uses within the City Centre will assist in improving links with	
			the Foreshore, being the main tourism drawcard in the	
			area.	

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
	TO THE CONTROL OF THE	2. With all the businesses outlined in this amendment that are not permitted or discretionary there does not seem to be many options for any type of business or growth in the region.	2. The permissibility of land uses are categorised in accordance with the objectives of the zones concerned. In relation to uses that are permitted within the 'Service Commercial' zone, please refer to comments provided in response to submission number 16, at point 5. The officer comment at point 1, above, also discusses the potential for expansion within the 'Regional Centre' zone of the Busselton CBD and the importance of repurposing vacant tenancies.	
19.	K. Fennessy 2 Bussell Highway, Busselton WA 6280	Objection. 1. The prohibition of land uses from the Service Commercial and other zones will be detrimental to existing businesses and to the establishment of new businesses in the Scheme area. Local governments should be providing support and strengthening local economies, the effects of this prohibition are counterintuitive. 2. Evidence has not been presented which	This submission was identical to submission no. 16. Please refer to the Officer Comment adjacent to that submission.	That the submission be noted.
		demonstrates the amendment would achieve its aim of stimulating the growth of the Busselton and Dunsborough city/town centres. The City's own retail consultant has identified several issues with the Busselton city centre which aren't caused by economic growth in the Service Commercial zone.		
		3. If, for example, a hardware store can't sell "domestic hardware", a stationery store can't retail "paper", a camping and outdoors store can't sell clothes, and a children's play centre can't have a small café for parents, these businesses won't move into the city centre where there is limited space and high rents — they will go to other local government areas or not		

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
No.	NAME & ASSINESS	establish themselves at all. Customers will drive to Bunbury or Perth to go to these stores, bypassing Busselton altogether. 4. The City's retail consultant Urbis proposes to improve cross-visitation between the city centre and the Service Commercial area to "attract more visitors and more spending to the retail core" (page 24). This proposal will do the opposite and will harm the city centre, contrary to the recommendations of the City's own experts.	OTTICEN COMMENT	OTTECH RECOMMENDATION
		5. Our business relies in part on passing trade, and the more successful businesses there are in the area, the more people who go past our business and the better the trade. Prohibiting retailers from selling certain items and prohibiting certain land uses narrows which businesses which can go into the area, reducing trade and harming all retailers (not just the prohibited ones).		
		6. The current zoning regulations comply with the planning framework which encourages bulky goods retailing and showrooms in the Service Commercial area (Local Planning Scheme and Strategy) in areas adjacent to activity centres (SPP4.2).		
20.	J. Oldfield 33 Barlee Street & 34 Cook Street, Busselton WA 6280	Concerns. 1. There are Businesses in the LIA that have retail as part of their services. They work alongside the on-site fitting, storage, manufacturing side of the business and are the day to day office contact for that part of the business. They would be severely disadvantaged if the retail section had to move into the CBD. Two rents and extra staff to man the LIA premises would	In relation to 'incidental uses', please refer to comments provided in response to submission number 16, at point 3.	That the submission be noted. That the proposed clause 3.5.3(e) is modified to include, at the end of the clause, the words: "or are ordinarily ancillary, subsidiary or incidental to the predominant use".

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		make it impossible for such businesses to compete and continue to operate.		
		What happens to the businesses in the Bunnings complex if retail is banned? Or is that under a different heading? Does big business hold sway over small business?	 The majority of the uses within the 'Bunnings' complex are approved as 'Bulky Goods Showroom' uses (previously called 'Showroom'), along with a 'Recreation – Private' and 'Warehouse/Storage' facilities. These uses meet the current requirements of the Scheme as well as the proposed changes under Amendment 40. 	
21.	P. & S. loppolo 4/17 Bussell Highway, Busselton WA 6280	Objection. 1. The prohibition of land uses from the Service Commercial and other zones will be detrimental to existing businesses and to the establishment of new businesses in the Scheme area. Local governments should be providing support and strengthening local economies, the effects of this prohibition are counterintuitive.	This submission was identical to submission no. 16. Please refer to the Officer Comment adjacent to that submission.	That the submission be noted.
		2. Evidence has not been presented which demonstrates the amendment would achieve its aim of stimulating the growth of the Busselton and Dunsborough city/town centres. The City's own retail consultant has identified several issues with the Busselton city centre which aren't caused by economic growth in the Service Commercial zone.		
		3. If, for example, a hardware store can't sell "domestic hardware", a stationery store can't retail "paper", a camping and outdoors store can't sell clothes, and a children's play centre can't have a small café for parents, these businesses won't move into the city centre where there is limited space and high rents — they will go to other local government areas or not establish themselves at all. Customers will drive to		

SUMMARY OF SUBMISSIONS

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
NO.	NAIVIE & ADDRESS	Bunbury or Perth to go to these stores, bypassing Busselton altogether. 4. The City's retail consultant Urbis proposes to improve cross-visitation between the city centre and the Service Commercial area to "attract more visitors and more spending to the retail core" (page 24). This proposal will do the opposite and will harm the city centre, contrary to the recommendations of the City's own experts. 5. Our business relies in part on passing trade, and the more successful businesses there are in the area, the more people who go past our business and the better the trade. Prohibiting retailers from selling certain items and prohibiting certain land uses narrows which businesses which can go into the area, reducing trade and harming all retailers (not just the prohibited ones). 6. The current zoning regulations comply with the planning framework which encourages bulky goods retailing and showrooms in the Service Commercial	OFFICER CONNIVIENT	OFFICER RECONSIVIENDATION
		area (Local Planning Scheme and Strategy) in areas adjacent to activity centres (SPP4.2).		
22.	R.C. & A.E. Phillips 19 Bussell Highway, Busselton WA 6280	Objection. 1. The prohibition of land uses from the Service Commercial and other zones will be detrimental to existing businesses and to the establishment of new businesses in the Scheme area. Local governments should be providing support and strengthening local economies, the effects of this prohibition are counterintuitive.	This submission was identical to submission no. 16. Please refer to the Officer Comment adjacent to that submission.	That the submission be noted.

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		2. Evidence has not been presented which demonstrates the amendment would achieve its aim of stimulating the growth of the Busselton and Dunsborough city/town centres. The City's own retail consultant has identified several issues with the Busselton city centre which aren't caused by economic growth in the Service Commercial zone.		
		3. If, for example, a hardware store can't sell "domestic hardware", a stationery store can't retail "paper", a camping and outdoors store can't sell clothes, and a children's play centre can't have a small café for parents, these businesses won't move into the city centre where there is limited space and high rents — they will go to other local government areas or not establish themselves at all. Customers will drive to Bunbury or Perth to go to these stores, bypassing Busselton altogether.		
		4. The City's retail consultant Urbis proposes to improve cross-visitation between the city centre and the Service Commercial area to "attract more visitors and more spending to the retail core" (page 24). This proposal will do the opposite and will harm the city centre, contrary to the recommendations of the City's own experts.		
		5. Our business relies in part on passing trade, and the more successful businesses there are in the area, the more people who go past our business and the better the trade. Prohibiting retailers from selling certain items and prohibiting certain land uses narrows which businesses which can go into the area, reducing trade and harming all retailers (not just the prohibited ones).		

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		6. The current zoning regulations comply with the planning framework which encourages bulky goods retailing and showrooms in the Service Commercial area (Local Planning Scheme and Strategy) in areas adjacent to activity centres (SPP4.2).		
23.	Primewest (Busselton) Pty Ltd, Lot 300 Strelly Street, Busselton Represented by Planning Solutions	Objection. 1. Lack of evidence to support claim of impact due to retail leakage to 'Service Commercial' and 'Light Industry' zoned areas. None of the identified weaknesses and threats (in the Retail Analysis) relate to the primary purpose of Amendment 40 to reduce retail leakage.	 Noted. 1. It is agreed there is limited evidence in the Retail Analysis to support these impact claims. However, this does not mean that negative impacts do not exist, just that they have not yet been measured and, to be clear, measuring such impacts was not the fundamental purpose of the Retail Analysis. The Power Centre is identified as a competing centre that impacts the City Centre in the body of the Retail Analysis. The relationship between the 'Shop' (Discount Department Store) and 'Shop' (Supermarket) at the Power Centre and (current/predicted) vacancy levels lies in the missed opportunity for the City Centre to accommodate these or similar uses in either vacant spaces or otherwise developable land. Continued out of centre development would inhibit vacancies in the City Centre from being occupied as spend would be encouraged and undertaken elsewhere. Draft SPP 4.2 identifies the following outcome "The primacy of activity centres is reinforced, and out-of-centre development that undermines the hierarchy of activity centres is discouraged". This is a priority of the State Planning Framework as out of centre developments impact the viability and vibrancy of activity centres, which in turn affects vacancy levels. 	That the proposed clause 3.5.3(e) is modified to remove reference to the 'Service Commercial' zone. That the proposed clause 3.5.3(e) is modified to replace the term "domestic hardware" with "houseware retailing". That the proposed clause 3.5.3(e) is modified to include, at the end of the clause, the words: "or are ordinarily ancillary, subsidiary or incidental to the predominant use".
			Shop/retail uses in the identified areas are appropriate when developed to a scale that meets the needs of workers	

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			and visitors to Service Commercial and Light Industrial	
			areas (i.e. lunch bars, take away food outlets, and small	
			convenience stores such as those in Service Stations). This	
			is supported by SPP 4.2 that indicates commercial uses in	
			industrial areas should provide predominantly for the	
			needs of workers. As out of centre development is only	
			allowed in Mixed Business precincts when uses cannot be	
			accommodated in or adjacent to activity centres, it is	
			assumed that the same requirement to address worker	
			needs should be applied. The scale of development that has	
			occurred in the Power Centre is well beyond this level and	
			does compete with the Busselton City Centre.	
			Amendment 40 proposes to align the Zoning Table with the	
			zone objectives and the Local Planning Scheme, by ensuring	
			shop/retail uses remain focused within recognised and	
			identified Activity Centres.	
			,	
			With regard to the Retail Analysis, page 5 identifies as a	
			Challenge and a Threat: "As the Vasse Centre and the	
			Busselton Service Commercial area continue to consolidate	
			their role for convenience retail and showroom retail	
			respectively, it will be increasingly important for the	
			Busselton City Centre to consolidate and refine its role as	
			the highest order retail, entertainment, leisure and	
			commercial precinct in the Busselton District."	
			The objection does not acknowledge this statement within	
			the Retail Analysis. Regardless, the Amendment has	
			identified planning issues that need to be addressed	
			outside of the Retail Analysis. The purpose of the Analysis	
			was to support development of the Busselton Precinct	
			Structure Plan, not to specifically justify Amendment 40.	
			2. It is agreed there is a lack of analysis to support claims that	
		vacancies related to retail leakage to 'Service	retail leakage has led/leads to vacancies in the CBD.	

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		Commercial' and 'Light Industry' zoned areas. Businesses that have moved out of the Busselton City Centre into 'Service Commercial' areas are essentially 'Bulky Goods Showroom' uses and were not suited to the City Centre.	Conversely, the claim within the objection that vacancies are 'not high' in the Busselton City Centre is not substantiated either. The businesses identified in the submission that did relocate (Retravision and Carpet Court) are genuine 'Bulky Goods Showroom' uses and these are supported by the	
			Scheme. The recent shop/retail development in the 'Service Commercial' zone (the Power Centre) has occurred at the opportunity cost of development in the Busselton City Centre, meaning that vacancies in the City Centre might not necessarily have been created and/or could have more readily been filled had the out of centre development not occurred. Ongoing out of centre development would continue to undermine the consolidation and viability of the City Centre to continue successful development as the primary centre.	
			This outcome would strongly conflict with draft SPP4.2 wherein "The primacy of activity centres is reinforced, and out-of-centre development that undermines the hierarchy of activity centres is discouraged".	
		3. The Amendment will affect the ability to attract 'Bulky Goods Showroom' uses to Busselton.	3. The proposals within Amendment 40 allows for 'Bulky Goods Showroom' uses in activity centres, 'Service Commercial' and 'Light Industry' zones. Nevertheless, there are two components of the Amendment that could be perceived to discourage some operators from locating in Busselton; (1) the change to the 'Bulky Goods Showroom' definition, and (2) the restriction of sales of certain products.	
			A primary intention of Amendment 40 is to address the leakage of shop/retail from designated Activity Centres,	

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No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		4. Amendment 40 will affect the ability of Busselton to attract investment such as 'Shop' (Discount Department Store) and 'Shop' (Supermarket) if they were forced to located in the Busselton City Centre.	particularly the Busselton City Centre. The current definition of 'Bulky Goods Showroom' now includes a test that can be applied without restriction of the types of uses allowed. This could allow shop/retail operators to argue that they should reasonably be allowed in the 'Service Commercial' zone, due to a need for large showroom areas and vehicle access to receive goods. This is not aligned with draft SPP 4.2, which identifies shop/retail uses as those that should appropriately be located within Activity Centres. The proposed change to the definition of 'Bulky Goods Showroom', by substituting the "or" with "and" between parts (a) and (b), is considered critical clarifying this point. With regard to the restriction of sales of certain products, proposed sub-clause 3.5.3(e) is recommended to be altered to remove reference to the 'Service Commercial' zone. This will reflect the existing clause 3.5.4(e), in that it only refers to the 'Light Industry' and 'General Industry' zones. This will reduce the proposed restrictions on the 'Service Commercial' zone, being located on the periphery of the Busselton City Centre, and better align with the recommended locations for bulky goods/large format retail identified in the draft SPP 4.2 Implementation Guidelines. Industrial areas are not the recommended location for shop/retail sales, as discussed at comment no. 1, above. 4. The State Planning Framework, particularly through draft SPP 4.2, identifies that shop/retail uses that have located in the Power Centre would be better situated in Activity Centres such as the Busselton City Centre. This is reflected	
		,	in the fact that there are multiple supermarkets, and until recently a Discount Department Store, well-established in the City Centre There are a number of examples of more effective and appropriate locations where these uses could have been	

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			introduced. Busselton Central has had an extension approved that will support a Discount Department Store. The former Woolworths site could have been redeveloped to accommodate the Shop (Supermarket) or Markets now located at the Power Centre. The City has a significant landholding at Harris Road that could potentially be developed, and there are a number of other undeveloped areas in the City Centre well suited for such development within the following central blocks: • Between Cammilleri and Brown Streets • Between Albert St and Peel Tce • Between Duchess St and Marine Tce, outside the Queen Street core Suitable development sites were recognised and indicated in the Busselton City Centre Conceptual Plan (2014) have been readily available for reference by prospective business developers; as, too, City advice and assistance. The statement made by Deep End Services that these	
		5. Uses that are proposed to be prohibited are legitimate and appropriate uses in the 'Light Industry' zone in that they provide amenities for employees working within the light industrial areas, and allow flexible application of possible land uses within the zone ('amusement parlour', 'convenience store', 'market', 'medical centre', 'small bar', and 'tavern', with reference also to the limitations proposed on 'brewery' and 'winery' uses).	shop/retail uses would 'almost certainly' not have occurred but for the 'Service Commercial' and 'Light Industry' zone is considered to be factually incorrect. 5. These uses that are proposed by Amendment 40 to become prohibited in the 'Light Industry' zone are identified as Activity Centre uses under draft SPP4.2 and are generally identified as not suited to light industrial areas. SPP4.2 (2010) states that commercial uses in industrial areas should be limited to meeting the core local convenience needs of workers. Limitations on breweries and wineries relate to the ability of these uses to offer food and beverage services similar to a bar or restaurant, which are important Activity Centre uses. These uses would not assist the operation of	

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			businesses appropriate in the light industrial area, or meet the core daily needs of workers. Nor are they necessary given the light industrial areas of Busselton and Vasse are only a few minutes' drive from the Centres, unlike the Perth Metropolitan area. The Amendment proposes to instead promote the manufacture/production side of these particular land uses (breweries and wineries) in industrial areas.	
		6. Ambergate North/Chapman Hill Road and Dunsborough Lakes Enterprise Park are excluded from proposed restrictions as they are zoned 'Special Use' and not 'Service Commercial' or 'Light Industry'.	6. Officers acknowledge this is an issue that needs to be addressed. However, the areas identified in the submission are legacy areas guided by Structure Plans and it would be inappropriate to make this a modification to Amendment 40. Instead the development aims and objectives of these areas will be better aligned through the preparation of the new Scheme (LPS 22), or a standalone Amendment. This is discussed in greater detail within the Officer Report.	
		7. Use of State Planning Policy 4.2 Activity Centres for Perth and Peel (SPP 4.2) in the justification for Amendment 40. Asserts SPP 4.2 incorrectly referenced as it does not contain provision relating to primacy of CBDs and retail leakage. SPP 4.22 does not apply to the Busselton area.	7. First and foremost the Amendment document states that the main purpose of SPP 4.2 (2010) is to specify broad planning requirements for the planning and development of new Activity Centres and the redevelopment and renewal of existing centres in Perth and Peel. The Amendment document also states that while the SPP primarily contends with the Perth and Peel region, it can also be used as a relevant guiding policy for regional centres. SPP 4.2 (2010) is referenced as a relevant policy implication (as a guiding policy) under heading 2.2, but is not mentioned within the explanation and justification section in Part 4. SPP 4.2 (2010) contains a set of statements essentially aimed at the distribution of uses that will not undermine the hierarchy of Activity Centres. This includes a main objective of the policy in recognising the need for retail	

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	NAME & ADDRESS	NATURE OF SUBMISSION	hierarchy, structure and concentrating suitable commercial activity within Activity Centres. Section 5.6 of SPP 4.2 particularly refers to 'out of centre development' and states that land uses "likely to attract a significant number of employees or users and/or generate significant vehicle trips should generally be located in, or adjacent to, activity centres." Further, that "where such uses cannot be accommodated within, or adjacent to,	OTTICEN RECOMMENDATION
			activity centres development should be restricted to established Mixed Business or equivalent zones with good access to public transport, rather than being dispersed." The SPP goes on to make numerous statements about bulky goods retailing (section 5.6.1), including that such a retail use should not involve the sale of food, clothing or personal effects goods and that these uses should be located adjacent to, or in close proximity to, Activity Centres.	
			It has been noted within the Officer Report that the DPLH has recently released a revised version of SPP 4.2 for public comment. This draft SPP 4.2 specifically states that "the objectives, outcomes and measures of this policy may be applied outside of the abovementioned region scheme areas [Perth, Peel and Greater Bunbury], as applicable, to guide the preparation and review of local planning proposals. The application of this policy in such areas shall be at the discretion of the [WAPC] and have due regard to any relevant provisions relating to activity centres role, function and hierarchy in the Local Planning Framework".	
			SPP 4.2 and the draft SPP 4.2 are both given due regard in the formulation of this Amendment.	

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No.	NAIVIE & ADURESS	8. By restricting the types of bulky goods retailing that can be undertaken in the Busselton Light Industrial Area, the City is undermining its own Local Planning Strategy (LPS) and counter to the aims of the Scheme. The LPS encourages bulky goods retailing in the Busselton LIA. The proposed prohibitions (in the form of proposed clause 3.5) will create uncertainty and confusion for retailers and property owners. This will ultimately discourage large format retail from establishing in Light Industrial and Service Commercial sites and retailers would not be permitted to sell their full range of products. For example: Bunnings — unable to sell food at their café, sausage sizzle, hats, gloves, work boots or work wear, or any 'domestic hardware'. Spotlight — unable to sell paper products (cardboard, scrapbooks, napkins), glassware (jars, mirrors, drinking glasses, glass bakeware), clothing items (bath robes). A stationery supplier would not be able to sell paper products. Children's play centre will not be able to sell food or drinks for children or parents. An indoor recreation centre will not be able to sell food or drinks.	8. The Scheme allows 'Bulky Goods Showroom' uses in the 'Light Industry' zone as a 'D' use and this is not proposed to change. Proposed or potential uses should be correctly classified and be consistent with the current planning framework. The Amendment is aimed at ensuring genuine bulky goods retail meets the true purpose and intent for this land use and that land set aside for genuine bulky goods retail be protected from being taken up by shop/retail uses. Therefore, the Amendment does not undermine the LPS and is not contrary to the aims of the Scheme. The examples provided by the submission would each fall into the definition of 'incidental activities'. The Officer response to this matter of incidental activities, along with the meaning of 'domestic hardware', is provided at submission no. 16, comment 3.	
		9. The references in Amendment 40 claiming the definition of 'Bulky Goods Showroom' has broadened and 'Shop' has narrowed are unfounded. Deviation from the State definition will not align with State Government objectives.	9. The definition of 'Bulky Goods Showroom' has been broadened as the new definition allows for two considerations to assess the suitability of non-defined floor space uses. Shop/retail operators could argue they should be allowed in 'Service Commercial' and 'Light Industry' areas due to the need for large showroom areas and vehicle access for customers to receive goods. For instance, a supermarket could argue it requires a large space and vehicular access for the receipt of goods. In this way, the	

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10. (current land use definition is inconsistent with the WAPC endorsed LPS. The City seeks to collaborate constructively with the State Government to determine a suitable solution to ensure the 'Bulky Goods Showroom' definition does not undermine the planning framework, which clearly states that shop/retail uses should locate in Activity Centres. It is hoped that progressing this Amendment will initiate appropriate discussions. Amendment No. 40 is trying to ensure development adheres to the objectives and intent of the LPS and the State Planning Framework (including draft SPP 4.2) in protecting the primacy of Activity Centres by reducing out of centre development and protecting land that is highly appropriate for 'Bulky Goods Showroom' uses from being taken up by Shop/Retail uses. 10. As mentioned above, uses should be correctly classified and be consistent with the planning framework. The uses that are proposed to be altered to 'not permitted' within the 'Light Industry' zone (because they are typically associated with a social element) include 'Amusement Parlour', 'Small Bar' and 'Tavern'. Those that are essentially retail uses include 'Convenience Store', 'Corner Shop' and 'Market'. These social and retail uses are most appropriately located within the Centre zones, where they can be established within an appropriate walkable catchment and support similar uses and activities within the main business and retail Centre. 'Medical Centre' is also proposed to become 'not permitted' in the 'Light Industry' zone to ensure these developments are located so as to enable better access to other complementary services as well as public transport. This intention is entirely consistent with draft SPP 4.2, which identifies those uses as 'Activity	OFFICER RECOMMENDATION

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110.	TOWNE & TOO NESS	TWO CLE OF SOSMISSION	activity centres through appropriate zoning and use class permissibility." SPP 4.2 (2010) states that commercial uses in industrial areas should be limited to meeting the local convenience needs of workers. This matter was tested at the State Administrative Tribunal in Realcom Group Pty Ltd v Metropolitan Redevelopment Authority [2020] WASAT 150	
			in considering a Liquor Store in an industrial park. The Tribunal found that (58) "the 'day-to-day needs of local employees' refers to the needs of employees whilst performing their functions as employees during the normal course of their employment" and that this includes "services for the provision of food but not the provision of alcohol." This would include uses such as lunch bars and takeaway food outlets as currently provided for by the Scheme. No changes are proposed to the permissibility of these uses within these zones. These uses allow for multipurpose visits and provide suitable amenity for workers and visitors.	
			The limitations on breweries and wineries relate to their ability to offer food and beverage services similar to a bar or restaurant and is consistent with draft SPP4.2 which states these are Activity Centre uses. Both the Busselton and Vasse Light Industrial Areas are within relative close proximity to the respective Activity Centres to enable workers to make use of those particular amenities.	
		11. Amendment 40 is justified on a tenuous link that restricting uses will help promote the tourism industry. 'Service Commercial' and 'Light Industrial' operators are not targeting tourists.	11. A main intention of Amendment No. 40 is to reduce shop/retail development from occurring outside of designated Activity Centres, which is an objective of the draft SPP 4.2. This is to strengthen the primacy of the Busselton City and Dunsborough Town Centres and avoid out of centre development that could potentially dilute the efficiency of those Activity Centres.	

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			A strong retail and restaurant 'hub' within those Activity Centres, with activated public streets and high levels of pedestrian amenity, becomes much more attractive to the tourist market. When this outcome becomes eroded and fragmented because shop/retail and restaurant/café uses spread into the 'Service Commercial' and industrial zones, the ability for Centres to create that vibrant and attractive node for tourists reduces, with flow on effects for the local community.	
			Tourism is just one important aspect and consideration of Amendment 40. Uses allowed to locate within 'Light Industrial' areas and 'Service Commercial' areas should not be tourist attractors. An example is the 'Markets' at the Power Centre, being 'Service Commercial' zoned and likely to be a tourism attraction, where this development would have been better located within the City Centre to benefit from, and provide benefit to, complimentary land uses within a legible pedestrian precinct. Encouraging investment in the Centre is essential in creating new floor space that will link to the Foreshore. The City is using Amendment No. 40 to guide such developments to the Centre zones in future, instead of Service Commercial or Light Industrial areas, in alignment with the State Planning Framework.	
		12. The LPS has an inherent assumption that all retail (including 'Bulky Goods Showroom') should be located in the central area and any retailing established outside the central area is damaging.	12. The LPS has been developed through an extensive process, including consultation with the community, and endorsed by the WAPC as recently in March 2020. It is therefore considered to be a contemporary and relevant document.	
			Following initiation of Amendment 40, the draft SPP 4.2 was released for public comment. This document states that shop/retail uses should locate in activity centres and requires an 'impact test' for proposed shop/retail	

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			developments over a certain size, where these are proposed out of Centres. It is clear that the assumption that shop/retail uses should locate in activity centres is aligned with the State Planning Framework. Draft SPP 4.2 identifies 'Bulky Goods Showroom' uses as activity centre uses and also specifies that they should be located adjacent to an activity centre. Amendment 40 allows for <i>genuine</i> 'Bulky Goods Showroom' uses in appropriate zones outside of the City Centre ('Service Commercial' and 'Light Industry' zones).	
		13. Disagree with the Retail Analysis finding that there will be little to no demand for 'Bulky Goods Showroom' floor space despite strong population growth. If low 'Bulky Goods Showroom' projections were true the Council would have no concerns about future threats to the City Centre.	13. High levels of 'Bulky Goods Showroom' demand would not be addressed in the City Centre but in the 'Service Commercial' zone, and potentially, 'Light Industrial' areas. Amendment 40 proposes to limit shop/retail uses from developing in those 'Service Commercial' and 'Light Industrial' zones, as this will be key to ensuring these areas have sufficient available zoned land for their intended uses. As stated above, genuine 'Bulky Goods Showroom' uses are intended to be developed in 'Service Commercial' areas, and potentially 'Light Industrial' areas, in line with the planning framework.	
		Vacancy levels in the Busselton City Centre are not unusually high for a Town Centre and have decreased since 2018.	14. Neither the Retail Analysis nor the objection provide context to understanding what is a high or low performing Town Centre with regard to vacancies. The drop in vacancy appears to be linked to an increase in expenditure, likely associated with intrastate visitation due to COVID and is not likely reflective of the long-term health of the City Centre. Further modelling could feasibly be undertaken to better understand how the Busselton City Centre compares to high performing regional town centres and to regional town centres where high levels of out of centre development have been allowed to occur. However, this is not considered necessary, nor recommended at this time.	

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		15. The (former) Woolworths vacancy was not due to business decentralisation, without the vacant Woolworths floor space, vacancy would be only 8% of total floor space and that higher vacancy could be expected due to the economic downturn the State has experienced in the past 6 years. The large purpose-built Woolworths store is not easily adapted to the purpose of other tenants.	15. No, the Woolworths vacancy did not occur due to the Power Centre. However, Officers consider that the 'Shop' (Supermarket) or 'Market' could have been successfully developed at the former Woolworths site if it had not been allowed to develop at the Power Centre. The claim that the former Woolworths building is not easily adapted for other tenancies may be true for certain uses, however, new supermarkets have been opened in redeveloped buildings elsewhere. For example, at Altone Park shopping centre (Beechboro) a specialty supermarket (NP Oriental Supermarket) was recently redeveloped to accommodate an Aldi. It would seem feasible to modify an old Woolworths layout to accommodate the 'Shop' (Supermarket) use at the Power Centre. The site could also potentially house a market such as that at the Power Centre with appropriate redevelopment.	
		16. Vasse centre development was not identified as a factor affecting the Busselton City Centre.	The statement regarding the State's economic downturn is a moot point as the relevant industries are population driven and there has been population growth in the City of Busselton over this period. While the rate of growth may have slowed, the fact that there has been population growth and that vacancies have not been filled indicates that increased expenditure associated with such a trend is not making its way into the City Centre as preferred. 16. The Retail Analysis does state that the Vasse Village has had some impact, but this centre is part of the Activity Centre hierarchy and plays a role clearly defined role in providing for the daily and weekly shopping needs of its current and future surrounding population. Prof. SSP. 4.2 states that	
			future surrounding population. Draft SPP 4.2 states that shop/retail floor space should be distributed to provide equitable access for the community. The LPS has identified floor space allowances for the Vasse centre to meet local access needs for its catchment which would not undermine the Busselton City Centre. The Power Centre is an out of	

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		17. Amendment 40 did not acknowledge structural problems in the Busselton City Centre, including its own spatial pattern of development over many blocks, poor connections, the vacant (former) Woolworths and a lack of parking in key areas.	centre development and while the uses that have been developed at the site were allowed, they were contrary to the Activity Centre hierarchy and there is more than enough land to accommodate them in the City Centre. 17. Addressing structural problems of the Busselton City Centre was not the principal purpose of the amendment. This will be explored in far more detail through the preparation of the Busselton Precinct Structure Plan in 2022.	
		18. The Retail Analysis did not measure the benefit of having these retailers (Kmart, Aldi, Origins Market) in the Busselton economy.	18. The purpose of the Retail Analysis was not to assess the benefits of development. The turnover at the developments mentioned will only be partially additional to the expenditure that would have occurred without them (i.e. without 'Shop' (Supermarket) at the Power Centre, most consumers would likely have shopped at Supermarkets in the CBD; without the 'Shop' (Discount Department Store), most consumers would likely have shopped at the Discount Department Store that has now closed in the City Centre; etc.). It is not seen as plausible that many residents of the subject catchment would have chosen to drive to Bunbury to shop at the brand operators that are now located in the Power Centre instead of shopping locally as their offering is not that differentiated. Essentially, the out of centre shop/retail development that has occurred at the Power Centre has reduced the ability of	
		19. The uses at the Primewest Busselton site and in the 'Light Industry' zone in general do not compete with uses in the City Centre and are not suited to the City Centre.	the City Centre to have developed those uses. 19. Genuine 'Bulky Goods Showroom' and 'Trade Supplies' are currently a 'D' use in the 'Light Industry' zone and proposed to become a 'D' use in the 'Service Commercial' zone (from a 'P' use). Amendment 40 allows theses uses to locate outside the City Centre and even provides an additional	

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		20. The changes to land use permissibilities limit the potential for some uses that could work well in Light Industrial areas. This includes medical centres and convenience stores.	zoning for Trade Supplies (in the 'General Industry' zone, where it was previously a prohibited use). 20. The Retail Analysis identified the need to introduce suitable non-retail uses into the City Centre. 'Medical Centres' are identified as Activity Centre uses that should locate in activity centres. Allowing a 'Medical Centre' to open at the Primewest Busselton location (Strelly Street) could therefore actively undermine the ability of the City Centre to develop a new or additional viable 'Medical Centre'. The objection highlights that the Caltex located at the Primewest Busselton site currently addresses the convenience needs of the light industrial area. The Scheme, in its current form, allows for 'Lunch Bars' and 'Service Stations' to meet the needs of local worker populations. No change is being proposed through Amendment 40 in this	
24.	Realview Holdings Pty Ltd Lots 173-179, 181 and 182 West Street and Bussell Highway, West Busselton (Busselton Power Centre) Represented by Planning Solutions	Objection. 1. Lack of evidence to support claim of impact due to retail leakage to 'Service Commercial' and 'Light Industry' zoned areas. None of the identified weaknesses and threats (in the Retail Analysis) relate to the primary purpose of Amendment 40 to reduce retail leakage. 2. There is a lack of evidence to support claim of vacancies related to retail leakage to 'Service Commercial' and 'Light Industry' zoned areas. Businesses that have moved out of the Busselton City Centre into 'Service Commercial' areas are essentially 'Bulky Goods Showroom' uses and were not suited to the City Centre.	 Refer to comments provided in response to submission no. 23, at point 1, above. Refer to comments provided in response to submission no. 23, at point 2, above. 	That the submission be noted. That the proposed clause 3.5.3(e) is modified to remove reference to the 'Service Commercial' zone. That the proposed clause 3.5.3(e) is modified to replace the term "domestic hardware" with "houseware retailing". That the Amendment be modified such that the permissibility of 'Bulky Goods Showroom' in the 'Regional

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		3. Amendment 40 is inconsistent with previous planning	3. The Power Centre was always intended to be developed as	Centre', 'Centre' and 'Service
		at the Power Centre.	a Bulky Goods Showroom precinct with other uses that are considered suited to the 'Service Commercial' zone. As quoted in the submission, "the use class 'shop' is not a use that is permitted in the Restricted Business zone in response to the need to specifically provide for additional restricted business floor space". Amendment 40 seeks to protect the primacy of Activity Centres, as per the LPS and draft SPP 4.2, whilst ensuring 'Service Commercial' areas are able to accommodate 'Bulky Goods Showroom' and	Commercial' zones is retained as a 'P' use in these zones.
			other uses that should more appropriately be located in that zone.	
		4. The Amendment will affect the ability to attract 'Bulky Goods Showroom' uses to Busselton.	Refer to comments provided in response to submission no. 23, at point 3, above.	
		5. Amendment 40 will affect the ability of Busselton to attract investment such as 'Shop' (Discount Department Store) and 'Shop' (Supermarket) if they were forced to located in the Busselton City Centre.	Refer to comments provided in response to submission no. 23, at point 4, above.	
		6. Uses that are proposed to be prohibited are legitimate and appropriate uses in the 'Service Commercial' zone in that they provide amenities for employees working within the area, and allow flexible application of possible land uses within the zone ('amusement parlour', 'brewery', 'cinema/theatre'	 The original 'Restricted Business' zone (the precursor to the 'Service Commercial' zone) did not allow for 'Shop', as mentioned within the submission, with the land being zoned in order to "provide for additional restricted business floor space". 	
		'convenience store', 'corner shop', 'exhibition centre', 'hotel', 'market', 'motel', 'reception centre', 'restaurant/café', 'restricted premises', 'small bar', 'tavern' and 'winery', with reference also to the limitations proposed on 'brewery' and 'winery' uses). Also claim that these uses complement the current	The Scheme allows for 'Lunch Bars', 'Service Stations' and 'Takeaway Food Outlets' within this zone and no change is proposed by the Amendment. These uses are allowed to sell food and beverage items, providing for the daily needs of workers and visitors to Service Commercial areas.	
		uses at the Power Centre.	The uses 'Cinema/Theatre', 'Small Bar', 'Tavern', 'Restricted Uses', 'Amusement Parlour', 'Exhibition Centre' and 'Hotel' are all identified as Activity Centre uses by the	

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			draft SPP4.2 and should be located in an Activity Centre such as the Busselton City Centre. These uses are entertainment and accommodation uses that are not required to address the daily needs of workers and visitors during working hours as would be appropriate for Service Commercial areas (Brewery and Winery are addressed separately below).	
			It is essential that developable land be protected in Service Commercial areas, particularly the Power Centre, to provide for 'Bulky Goods Showroom' and other more suitable uses. Draft SPP4.2 states that "The preferred location of bulky goods/large format retail is in precincts on the periphery of activity centres and the regional road and public transport networks", which aligns with the Power Centre.	
			Allowing night-time uses to locate at the Power Centre would be at the cost of having night-time uses in the City Centre and would limit and off-set the potential for the Busselton City Centre to develop its own vibrant night-time economy.	
			Should a 'Brewery' or 'Winery' be serving the purpose of also providing for the night-time economy (i.e. serving food and beverages, playing music, etc) it would be much more appropriate for this use to be in the City Centre. Additionally, there is likely limited crossover between the Power Centre and the Busselton City Centre for such uses as walkability is compromised and it is not appropriate to encourage people to drive between night-time venues due to the likely consumption of alcohol. These uses are not required to meet the daily needs of workers and visitors to Service Commercial areas and should not, therefore, be provided for in these areas.	

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No.	NAME & ADDRESS	7. The Power Centre will not affect the tourism potential of the Busselton City Centre. There is cross visitation by non-residents and the Market at the Power Centre would attract further tourism that would visit the City Centre.	These types of uses are not in-line with the intention of the Power Centre which is to support 'Bulky Goods Showroom' uses, apart from the specific shop uses identified in the LPS21 (i.e. 'Shop' (Supermarket) and 'Shop' (Discount Department Store). The statements made in the submission regarding the complementary nature of night-time activities and the intention of the developer to continue creating shop/retail activities, demonstrates the need to implement clear planning guidance regarding these areas to preserve land suitable to 'Bulky Goods Showroom' and other uses that require a Service Commercial and Light Industrial zoning. 7. There is an inconsistency within the submission in that Planning Solutions indicate that non-residents visit the Power Centre and a 31% cross over to the Busselton City Centre is additional visitation, whereas Deep End Services state that the uses at the Power Centre are not related to tourists. It is agreed that the current uses at the Power Centre are not necessarily tourism attractors and that the	OFFICER RECOMMENDATION
		would visit the City Centre.	tourists. It is agreed that the current uses at the Power	
			have benefited from the co-location of similar uses in a pedestrian friendly environment. Further tourism development at the Power Centre could create a tourism destination that links to the foreshore, but bypass the City Centre (i.e. tourists visit the Power Centre	

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			as a tourism destination, undertake shopping at the Power Centre then go directly to the Foreshore, another tourist destination). This would seriously undermine the City's ability to create a strong and activated tourism link between the City Centre and the Foreshore. In addition, draft SPP4.2 identifies tourism uses as Activity Centre uses. Amendment 40 seeks to limit uses that further strengthen inappropriate tourism attraction of Service Commercial areas.	
		Ambergate North/Chapman Hill Road and Dunsborough Lakes Enterprise Park are excluded from proposed restrictions as they are zoned 'Special Use' and not 'Service Commercial' or 'Light Industry'.	Refer to comments provided in response to submission no. 23, at point 6, above.	
		9. Use of State Planning Policy 4.2 Activity Centres for Perth and Peel (SPP 4.2) in the justification for Amendment 40. Asserts SPP 4.2 incorrectly referenced as it does not contain provision relating to primacy of CBDs and retail leakage. SPP 4.22 does not apply to the Busselton area.	 Refer to comments provided in response to submission no. 23, at point 7, above. 	
		10. The reference in the Amendment to the LPS objective of reducing retail outside of activity centres is contradictory to the Retail Analysis that refers to the Service Commercial area and the Power Centre.	10. The submission attempts to suggest that the Power Centre could almost be considered part of the Busselton City Centre due to its inclusion in the Retail Analysis and statements from Officers that the Power Centre is on the 'fringe' of the City Centre. This overlooks the inclusion of the Dunsborough Town Centre in the analysis, which is clearly not part of the Busselton City Centre, and the purpose of the Service Commercial area. The Retail Analysis was correct to include the Service Commercial area and Power Centre in its analysis due to the significant concentration of shop-retail floor space that has developed there. The Power Centre has the third highest concentration of shop-retail floor space in the City (excluding unconsolidated Bussell Highway uses).	

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			This clearly supports the need to restrict shop/retail uses from developing outside of activity centres in future. While the Discount Department Store development at the Power Centre development was formally planned, the 'Shop' (Supermarket) development occurred through an effective 'loophole' in the Scheme (which has since been corrected). Similar types of developments should accordingly be discouraged in future.	
			Service Commercial areas need to be preserved for Bulky Goods Showroom uses and out of centre development of shop/retail uses that undermines the hierarchy of activity centres should be actively discouraged.	
		Specific examples of unintended and undesirable outcomes in relation to the outcome of Amendment 29 have not been demonstrated.	11. As explained in the Amendment report, these unintended and undesirable outcomes were due to definition changes required to align with the Model Provisions of the Regulations. The Amendment report explains this in detail in relation to the 'Bulky Goods Showroom' and 'Shop' definitions. Changes to the permissibility of the land uses 'Trade Supplies' and Takeaway Food Outlet' have also been proposed within Amendment 40, increasing levels of permissibility in some zones.	
		12. The references in Amendment 40 claiming the definition of 'Bulky Goods Showroom' has broadened and 'Shop' has narrowed are unfounded. Deviation from the State definition will not align with State Government objectives.	 Refer to comments provided in response to submission no. at point 9, above. 	
		13. Objects to the change of 'Bulky Goods Showroom' from a 'P' use to a 'D' use in Service Commercial areas as it inconsistent with the zone objectives, the expressed objective to provide for a range of showrooms. Where a planning proposal is consistent	13. It is acknowledged that having 'Bulky Goods Showroom' as a discretionary use could potentially increase 'red tape' for uses that should preferably locate in the 'Service Commercial' zone. It is therefore recommended to the Council that a modification to the Amendment be	

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		with the zone objectives, the use is appropriate and it should be a permitted use.	supported such that the permissibility of 'Bulky Goods Showroom' in the 'Service Commercial' and Centres zones reverts to a 'P' use, provided a suitable definition for the use can be implemented.	
		14. The proposed restriction on the sale of a variety of different products in the Service Commercial area is counter to the aims of the Scheme and prevent legitimate activities from occurring from our client's land. This will significantly impair economic growth and investment in the Service Commercial zone.	14. In relation to proposed clause 3.5.3(e), please refer to comments provided in response to submission no. 23, at point 3.	
		15. The policy position of Amendment 40 undermines the very basis on which the former Restricted Business zone was established.	15. This statement is incorrect. The original rezoning of the site was to create an area to specifically provide for additional restricted business floor space (showroom uses) while allowing for a Discount Department Store and not allowing for other shop/retail uses. Amendment 40 seeks to ensure land at in the Service Commercial zone will be preserved for 'Bulky Goods Showroom' uses, which is in line with the original 'Restricted Business' zoning.	
		16. Amendment 40 is justified on a tenuous link that restricting uses will help promote the tourism industry. 'Service Commercial' and 'Light Industrial' operators are not targeting tourists.	 Refer to comments provided in response to submission no. at point 11, above. 	
		17. The LPS has an inherent assumption that all retail (including 'Bulky Goods Showroom') should be located in the central area and any retailing established outside the central area is damaging.	17. Refer to comments provided in response to submission no. 23, at point 12, above.	
		18. Disagree with the Retail Analysis finding that there will be little to no demand for 'Bulky Goods Showroom' floor space despite strong population growth. If low 'Bulky Goods Showroom' projections	 Refer to comments provided in response to submission no. at point 13, above. 	

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		were true the Council would have no concerns about future threats to the City Centre.		
		19. Vacancy levels in the Busselton City Centre are not unusually high for a Town Centre and have decreased since 2018.	19. Refer to comments provided in response to submission no. 23, at point 14, above.	
		20. The (former) Woolworths vacancy was not due to business decentralisation, without the vacant Woolworths floor space, vacancy would be only 8% of total floor space and that higher vacancy could be expected due to the economic downturn the State has experienced in the past 6 years. The large purpose-built Woolworths store is not easily adapted to the purpose of other tenants.	Refer to comments provided in response to submission no. 23, at point 15, above.	
		21. Vasse centre development was not identified as a factor affecting the Busselton City Centre.	21. Refer to comments provided in response to submission no. 23, at point 16, above.	
		22. Amendment 40 did not acknowledge structural problems in the Busselton City Centre.	22. Refer to comments provided in response to submission no. 23, at point 17, above.	
		23. The Retail Analysis did not measure the benefit of having these retailers (Kmart, Aldi, Origins Market) in the Busselton economy.	23. Refer to comments provided in response to submission no. 23, at point 18, above.	
		24. The spatial extent and particular land requirements and parking requirements of uses that have developed in the 'Service Commercial' zone make them unsuitable for the Busselton City Centre.	24. This statement is true for the large format retail showrooms and car showrooms that have been identified in the submission. The retail uses, such as the Discount Department Store and supermarket, could have been successfully developed within the City Centre. This has been demonstrated by the fact that there are multiple supermarkets in the City Centre and space available for a discount department store within the approved Busselton Central redevelopment.	

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			The availability of significant landholdings within the City	
			Centre has been discussed in relation to submission no. 23 at point 4.	
			at point 4.	
			Activity Centre developments will be attracted to the City	
			Centre if there is sufficient demand to justify development	
			and operational costs. Allowing activity centre uses to develop outside of an Activity Centre because there is	
			cheaper land is contrary to the objectives of draft SPP4.2	
			that states these uses are supposed to locate in activity	
			centres. For instance, an operator may want to develop a	
			shopping centre on rural land along Bussell Highway as it would be cheap land with lots of room for development	
			and parking, but this would not be appropriate as it does	
			not align with the desired outcomes for that land or the	
			proposed uses.	
		25. With reference to the proposed changes to land use	25. The uses identified as 'not permitted' are uses that should	
		permissibilities in the Service Commercial zone:	locate in Activity Centres according to draft SPP4.2. A	
		The reclassification of many commercial land	'Service Commercial' zone is not meant to have the	
		uses to Not Permitted critically limits any	flexibility to develop with large amounts of shop/retail or	
		flexibility to develop the zone with a broad range of uses envisaged in the objectives to the	entertainment uses. With regards to the reference to "broad objectives of the zone", there were specific	
		zone.	restrictions on the amount of shop/retail uses at the Power	
		It restricts the Busselton Power Centre from	Centre with additional development meant to be for 'Bulky	
		developing as an orderly extension of the	Goods Showroom' uses.	
		Busselton's central area with the associated	The December Control is a state of the December City	
		economic and employment benefits.	The Power Centre is not an extension of the Busselton City Centre, it is a separate and distinct 'Service Commercial'	
		 It prohibits uses that may not find suitable land or premises for their activities in the Regional 	area. The Amendment does not restrict the Power Centre	
		Centre zone.	from developing 'Bulky Goods Showroom' uses as per the	
		The exercise of Council's discretion to previously	LPS21 zoning and locations considered suitable for this use	
		permitted uses (e.g. bulky goods showroom)	as identified in draft SPP4.2. In fact, a desirable outcome of	
		under the Service Business Zone could see	the Amendment would protect land that is suitable for these showroom uses from being developed as Activity	
		applications that are consistent with the long	Centre uses.	

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		term planning of the area refused on the basis of spurious strategic planning or economic impact grounds. It will undermine confidence in the planning system and reduce certainty in outcomes where most commercial uses are either prohibited or at Council's discretion.	The prohibited uses identified in the submission are shop/retail, entertainment and tourism-related, that are better suited to the City Centre. The availability of significant developable land areas within the Central area has been detailed previously (submission no. 23 at point 4). This is again supported by the planning framework.	
			The claim that applications for 'Bulky Goods Showroom' uses could be incorrectly rejected is not based on convincing evidence and assumes that the Council and City officers would not fairly assess applications.	
			There is no evidence that having 'Bulky Goods Showroom' as a discretionary use would undermine confidence in local planning. However, it is acknowledged that it could potentially increase red tape for uses that should locate in the 'Service Commercial' zone. It is therefore recommended to the Council that a modification to the Amendment be supported such that the permissibility of 'Bulky Goods Showroom' in the 'Service Commercial' and Centres zones reverts to a 'P' use, provided a suitable definition for the use can be implemented.	
		26. Amendment 40 would diminish the diversity and activity of the 'Service Commercial' zone if it restricted the development of take away food establishments and small family run business such as Health Freak Café. Their restriction in Service Commercial areas may not result in more or better businesses of this type in the Central Area.	26. 'Takeaway food outlets' have remained an 'A' use for 'Service Commercial' areas, so the objection is redundant. Takeaway uses have been identified as a 'D' in the 'Regional Centre' and 'Centre' zones to promote and encourage their development in the City Centre, particularly those without a drive-through facility. These uses are often found in city and town centres, generally without the drive through option, and this is seen as appropriate.	
			The "small family run restaurants" described in the submission will retain non-conforming use rights. However, these uses are best suited to the Busselton City Centre and	

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			identified as Activity Centre uses under draft SPP4.2. It is not intended that 'Service Commercial' areas have these types of uses to support diversity. The shop/retail uses that locate in these areas should serve the daily working hour needs of the worker and visitor populations. Given the daytime nature of 'Service Commercial' zones, Restaurant/Café uses are not considered necessary to meet the needs of these populations.	
			These uses are generally part of the night-time economy and the Retail Analysis identifies a lack of night-time activity in the City Centre. Allowing further out of centre development of these uses would hinder the City Centre's ability to attract and foster these uses and develop a stronger night-time economy as an outcome.	
25.	P. Kelly Large Format Retail Association 10/828 High Street, Kew East Vic 3102	Object 1. City is seeking to unfairly and illogically restrict Large Format Retail operators from locating in appropriately zoned locations.	 The City is not seeking to restrict Large Format Retail operators from locating in appropriately zoned locations. Amendment 40 allows 'Bulky Goods Showroom' uses in 'Service Commercial' and 'Light Industrial' areas as a 'D' use. 	That the proposed clause 3.5.3(e) is modified to remove reference to the 'Service Commercial' zone.
		Amendment No. 40 is inconsistent with the Local Planning Strategy (LPS).	2. Amendment 40 aligns with the objectives and strategies of the LPS by trying to prevent shop/retail uses from developing out of centre and by allowing for 'Bulky Goods Showroom' uses in 'Service Commercial' and 'Light Industrial' areas.	3.5.3(e) is modified to replace
		3. Amendment No. 40 is inconsistent with State Planning Policy 4.2.	3. Amendment 40's primary objective is to protect the primacy of the Busselton City Centre and reduce shop/retail leakage in the form of 'out-of-centre development'. Amendment 40 therefore aligns with SPP4.2, as well as the draft SPP4.2, which states the following outcome "The primacy of activity centres is reinforced, and out-of-centre development that	That the Amendment be modified such that the permissibility of 'Bulky Goods Showroom' in the 'Regional Centre', 'Centre' and 'Service Commercial' zones is retained as a 'P' use in these zones.

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		Amendment 40 is not supported by the Retail and Commercial Analysis.	 undermines the hierarchy of activity centres is discouraged". 4. The Retail and Commercial Analysis identifies the need to reduce retail leakage, the impact of out of centre development and vacancy levels in the Busselton City Centre. It does not provide analyses to support claims made in Amendment 40, as that was not its primary purpose. 	
		5. Strongly objects to the modification of the land use definition for 'Bulky Goods Showroom', to replace the word "or" between parts (a) and (b) with the word "and".'	5. The primary reason for Amendment 40 is to address the leakage of shop/retail from designated activity centres. The definition of 'Bulky Goods Showroom' has been broadened as it now includes a test that can be applied without restriction of the types of uses allowed. This could allow shop/retail operators to argue they should be allowed in the 'Service Commercial' zone due to the need for large showroom areas and vehicle access to receive goods. This is not aligned with draft SPP4.2 which identifies shop/retail uses as those that should be located within Activity Centres.	
			The proposed changes to the Scheme introduced by Amendment 40 seeks to ensure that development adheres to draft SPP4.2 and the State Planning Framework by protecting the primacy of Activity Centres by reducing out of centre development and protecting land that is most appropriate for Bulky Goods Showroom uses from being taken up by shop/retail uses.	
		6. Strongly objects to downgrading permissibility of 'Bulky Goods Showroom' and 'Trade Supplies' from 'P' (permitted) to 'D' (discretionary) within the 'Service Commercial' zone.	 It is agreed that 'Bulky Goods Showroom' and 'Trade Supply' uses are suited to 'Service Commercial' areas. The 'D' use still permits these uses and does not restrict their potential to develop in 'Service Commercial' areas. 	

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			There is no clear evidence that having 'Bulky Goods Showroom' as a discretionary use would undermine confidence in local planning. However, it is acknowledged that it could potentially increase red tape for uses that should preferably locate in the 'Service Commercial' zone. It is therefore recommended to the Council that a modification to the Amendment be supported such that the permissibility of 'Bulky Goods Showroom' in the 'Service Commercial' and Centres zones reverts to a 'P' use, provided a suitable definition for the use can be implemented.	
		7. Strongly objects to downgrading permissibility of 'Convenience Store', 'Corner Shop' and 'Restaurant/Café' land uses, prohibiting them within the 'Service Commercial', 'Light Industry' and 'General Industry' zones as it will lead to "single purpose precincts devoid of any form of food/drink offering".	7. The Scheme currently allows food and beverage options through a number of land uses including 'Lunch Bar' and 'Service Station' in all three subject zones, with 'Takeaway Food Outlet' uses also allowed in 'Service Commercial' areas. No changes are proposed to the permissibility of these uses within these zones. The uses accommodate multi-purpose visits and provide suitable and desirable local amenity for workers and visitors.	
		8. Strongly objects to the Modification of clause 3.5 of LPS21 ("Exceptions to the Zoning Table") to exclude the sale of selected product types (unless manufactured on the lot) within the 'Service Commercial', 'Light Industry' and 'General Industry' zones'.	In relation to proposed clause 3.5.3(e), please refer to comments provided in response to submission no. 23, at point 3, above.	
		9. The Bulky Goods Showroom industry is being held back by inconsistent zoning laws. Quotes Productivity Commission stating that over prescriptive planning can impact investment.	9. The report cited by the Large Format Retail Association from the Productivity Commission looks at the issues from a very narrow economic perspective. However, the report highlights that Bulky Goods Showroom uses have an advantage compared to shop/retail uses in that they are often allowed to be situated in different zoning areas than shop/retail uses, and that shop/retail operators recognise this advantage. This demonstrates why the City is	

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			concerned with allowing for too broad a definition of Bulky Goods Showroom uses. The prescriptiveness and potential adverse impact(s) of planning on investment in the Productivity Commission report is predominantly in reference to shop/retail uses, not Bulky Goods Showroom uses.	
		Amendment 40 fails to acknowledge the full scope of issues identified in the Retail Analysis. Claims that the Retail Analysis is being misrepresented as justification for misguided scheme modifications.	Amendment 40 does not need (to and would not be expected to) address all the challenges identified in the Retail and Commercial Analysis. It relates in particular to reducing future out of centre retail developments. The primary purpose of the Retail and Commercial Analysis was not necessarily to support Amendment 40, but to help better inform planning for the future Busselton Precinct Structure Plan.	
		Inconsistencies between Amendment 40 and the LPS with regards to Strelly Street/Busselton Light Industrial Area. States that the Amendment No. 40 undermines the LPS.	11. Amendment 40 allows for Bulky Goods Showroom uses in the locations mentioned as 'D' uses. This is consistent with Table 4 of the LPS. The Amendment does not undermine the LPS. This objection refers broadly to the 'modifications' made by Amendment 40, these are addressed below in specific sections.	
		12. The statement in Amendment 40 regarding SPP4.2 (Activity Centres) is misrepresentative of the policy, referencing "retail leakage" and "dilution".	12. SPP4.2 contains a set of statements that are essentially aimed at the distribution of uses that do not undermine the hierarchy of Activity Centres. Amendment 40 and SPP4.2 both seek to ensure the primacy of activity centres is protected and reinforced, and out-of-centre development that undermines the hierarchy of Activity Centres is discouraged.	
			This matter is further discussed in response to submission no. 23, at point 7, above.	

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		13. None of the weaknesses and threats identified in the	13. This is not supported. The weakness "Limited night time	
		Retail Analysis relate to the primary purpose of	economy drivers – few entertainment and leisure venues"	
		Amendment 40.	relates directly to Amendment No. 40. Activity Centre uses	
			such as restaurants, and entertainment uses such as small bars and taverns will be restricted in 'Service Commercial'	
			and 'Light Industrial' areas. These uses are important	
			components of developing a strong night-time economy,	
			but should be clustered in order to function effectively. If	
			these uses are spread, or develop 'out of centre', it would	
			undermine that objective. These uses are simply not suited	
			to 'Service Commercial' and 'Light Industrial' areas, nor are	
			they required to meet the daily working-hour needs of	
			workers and visitors to these areas.	
			Further, the weakness "Existing vacancies which detract	
			from the overall vibrancy and image of the Centre" relates	
			directly to Amendment No. 40 as further 'out of centre'	
			development would limit and otherwise hinder the	
			potential for the Busselton City Centre to attract and	
			support viable businesses to help activate and enhance the	
			core business environment and consolidate a successful	
			Centre. Draft SPP4.2 identifies the following outcome "The primacy of activity centres is reinforced, and out-of-centre	
			development that undermines the hierarchy of activity	
			centres is discouraged". This is a priority of the State	
			Planning Framework as 'out of centre' developments	
			adversely affect the viability and vibrancy of Activity	
			Centres, which in turn affects their vacancy levels.	
		14. There is only one reference to leakage in the Retail	14. Amendment 40 allows for 'Bulky Goods Showroom' in	
		Analysis and it refers to the Power Centre. The Power	suitably zoned areas, the intent is not to restrict these uses.	
		Centre is not the result of leakage due to a blurring of 'Bulky Goods Showroom' and shop/retail definitions	The 'Shop' (Discount Department Store) use was planned	
		but that it was allowed for as an 'Additional Use'	for this area originally with a clear intent for the remaining	
		under LPS21. The City is trying to restrict Large	land to be 'Bulky Goods Showroom' uses. This is clearly	
		Format Retail activities in suitably zoned areas.	stated in the Busselton Power Centre objecting submission	

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		15. The proposed changes to Clause 3.5 are unworkable	which quotes the following relating to the original intent of the Power Centre's 'Restricted Business' zoning: "The use class 'shop' is not a use that is permitted in the Restricted Business zone in response to the need to specifically provide for additional restricted business floor space, for which there is a significant shortage at this time." The 'Shop' (Supermarket) development at the Power Centre occurred through an effective 'loophole' in the Scheme (which has now been corrected). It was initially opposed for the same reasons that underpin Amendment 40; it facilitated undesirable and inappropriate retail leakage. The City has identified the clear potential for further retail leakage to occur through the model definition that has been developed in the Regulations and has drafted Amendment 40 accordingly. A principal aim and objective of the Amendment is to reduce shop/retail leakage from the Busselton City Centre and also preserve and protect 'Service Commercial' and 'Light Industrial' areas for the situation of more appropriate uses, such as genuine Bulky Goods Showroom.	
		for many 'Bulky Goods Showroom' operators and will not achieve the City's objectives. The changes will cause future Bulky Goods Showroom proponents to go elsewhere.	comments provided in response to submission no. 23, at point 3, above.	
		16. The use of a different definition (for 'Bulky Goods Showroom') would create red tape and uncertainty, acting as an impediment to investment in Busselton.	16. Having a 'non-model' definition does not necessarily increase red tape or create uncertainty. Were the model definition to allow shop/retail uses to locate in areas better suited to Bulky Goods Showroom uses it would likely increase the cost of land/rent for Bulky Goods Showroom and reduce available land in desirable areas for them to locate/establish. This would occur as shop/retail uses generate higher levels of revenue per m² compared to	

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			Bulky Goods Showroom uses and landowners could seek higher rents on this basis.	
		17. The use of the word 'and' would exclude legitimate 'Bulky Goods Showroom' uses that are not listed, for example stores that sell musical instruments. Further, the use of 'and' would exclude different formats of 'Bulky Goods Showroom' operators (i.e. those that only display on site and those that only deliver large items).	17. Stores that sell musical instruments could fit within the definition as 'home entertainment goods' (at (a)(vii)) or 'leisure goods' (at (a)(xi)). Musical instruments are generally bulky in nature and would be a good fit for the type of store that should be regarded as a genuine 'Bulky Goods Showroom' use and would therefore also comply with the proposed modified definition.	
			This is a good example of the broad nature of the existing definition. It also demonstrates why, without the 'and', it may be possible for a Supermarket business to argue that it meets the definition because it requires a large area to handle, display or store goods and that vehicular access is required to the premises to collect those goods.	
			The fundamental purpose of Amendment 40 is, in part, attempting to ensure development adheres to the State planning framework (including draft SPP 4.2) by protecting the primacy of Activity Centres by reducing 'out of centre' development and protecting land that is highly appropriate for Bulky Goods Showroom uses from being taken up by shop/retail uses.	
26.	M. Marks Bunnings Group Ltd 16-18 Cato Street, Hawthorn East, Vic 3123	Objection. 1. The prohibition of sale of certain products from land in the 'Service Commercial', 'Light Industry', and 'General Industry' zones includes many products sold by Bunnings Warehouse:	The submission is largely based on a misconception of the term 'domestic hardware' and how the Scheme interprets incidental activities.	That the submission be noted. That the proposed clause 3.5.3(e) is modified to replace the term "domestic
	Represented by J. Eden	 All domestic hardware Safety boots, gloves, hats, hi-vis clothing, and other protective workwear Bathroom mirrors (glassware) Moving boxes (paper products) 	The list of items provided by the submission would fall into the definition of incidental activities. The Officer response to incidental activities, along with 'domestic hardware', is provided at submission no. 16, comment 3.	hardware" with "houseware retailing". That the proposed clause 3.5.3(e) is modified to

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		Café, vending machines		include, at the end of the
		 Sausage sizzles and cake stalls for community 		clause, the words: "or are
		groups		ordinarily ancillary, subsidiary
				or incidental to the
		The above product types are an essential component		predominant use".
		of the Bunnings' brand and Bunnings will not operate		
		where the sale of certain product lines are prohibited.		
		While the existing Bunnings Warehouse will have the		
		benefit of non-conforming use rights, Bunnings will		
		not be able to open a new Bunnings Warehouse or		
		expand or relocate the existing Bunnings Warehouse		
		in the City of Busselton with the restrictions proposed		
		in Amendment No. 40. This would have a detrimental		
		impact on the employment self-sufficiency of the City		
		of Busselton if Bunnings (and other large format		
		retailers) are unable to establish themselves in		
		growth areas.		
		2. A Bunnings Warehouse, is not a shop/retail use that	2. The Amendment does not suggest that Bunnings would be	
		was, or would in the future be, located in the	an appropriate use for the City Centre. Should a new	
		Busselton City Centre. This is because tenancy sizes,	proposal for a Bunnings be put forward, it would likely be	
		parking, and access within the city centre	classified as 'Trade Supplies'.	
		environment are not appropriate for the products		
		sold in Bunnings Warehouse. Additionally, Bunnings		
		Warehouse is ideally collocated in areas with other		
		home and building supply stores, such as those in the		
		Home Depot at 115 Strelly Street.		
		Foodstuffs (community group sausage sizzle, café)	These items are deemed to be 'incidental' to the primary	
		and the sale of specialised safety clothing, bathroom	use. This concern has been addressed in response to	
		mirrors, and packing boxes in Bunnings Warehouse	submission no. 16, at point 3, above.	
		does not threaten retail in the 'Regional Centre' or		
		'Centre' zones.		

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		4. In attempting to support the 'Regional Centre' and 'Centre' zones, Amendment 40 will discourage and prevent large format retail from establishing in the 'Service Commercial', 'Light Industry', and 'General Industry' zones without any tangible benefit to retailers in the 'Regional Centre' and 'Centre' zones.	This concern has been addressed in response to submission no. 23, at point 3, above.	
27.	S. Logan Total Tools 11 Straughan Close, Lysterfield VIC 3156	Objection. 1. Amendment 40 seeks to modify clause 3.5 of LPS21 ("Exceptions to the Zoning Table") to exclude the sale of selected product types (unless manufactured on the lot) within the 'Service Commercial', 'Light Industry' and 'General Industry' zones. Total Tools stocks a wide range of products that would be arbitrarily prohibited by proposed clause 3.5 of LPS21, including: • Tools and domestic hardware (being the majority of products sold) • Safety apparel, such as hats and gloves • Hi-vis clothing • Protective workwear such as footwear and PPE The exclusions would prohibit the sale of a range of ancillary items stocked by Total Tools, including safety apparel. The inevitable result will be confusion and uncertainty, at best, as well as potentially lost tenants, inadvertent non-compliance, and unfair enforcement actions. As evidenced by the examples provided above, the proposed clause 3.5 product exclusions are simply unworkable for Total Tools, and will not achieve the City's objectives. Such an ill-conceived restriction has no place in a modern local planning scheme.	1. The submission appears to refer to a land use that would fall into the definition of 'Trade Supplies', being the retail sale of tools, equipment and machinery. The safety apparel and protective workwear etc., would be deemed incidental to the primary use. In relation to incidental activities, please refer to comments provided in response to submission number 16, at point 3.	That the proposed clause 3.5.3(e) is modified to replace the term "domestic hardware" with "houseware retailing". That the proposed clause 3.5.3(e) is modified to include, at the end of the clause, the words: "or are ordinarily ancillary, subsidiary or incidental to the predominant use".

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		2. The arbitrariness of the 'prohibited product types' is particularly problematic for Total Tools. Many of our products may be utilised in both trade/commercial and domestic situations. How does the City propose to differentiate between tools that are 'domestic hardware' and tools that are not?	 The term "domestic hardware" has been incorrectly interpreted as building supplies in a number of submissions. The Officer response to this matter is provided at submission no. 16, comment 3. 	
28.	A. Erceg Dbay Road Pty Ltd 320 Lord Street, Perth WA 6000 Represented by	Objection. 1. Strongly reject the City's assertions of leakage of commercial activity and the decentralisation of retail activity having a negative effect on the vitality and success of retail uses.	This concern has been addressed in response to submission no. 23, at point 1, above.	That the submission be noted.
	Planning Solutions	Land in the Dunsborough town centre is not threatened by activity elsewhere, has an appropriate mix of uses which attract investment.	 The Dunsborough Town Centre performs a secondary role to the Busselton City Centre, conforming to the hierarchical expectations and strategic direction of the LPS. A Commercial Growth Analysis conducted for the Dunsborough Town Centre by Pracsys (2018) acknowledges that the land uses in the core of the activity centre reflect the Town's role as a service centre for tourism. 	
			Dunsborough is currently experiencing a strong mix of development (and re-development) within the Town Centre, including recent applications to develop a prominent vacant site to accommodate a mixed use development featuring a 'Brewery', 'Tavern', 'Restaurant/Café', 'Shops' and 'Tourist Accommodation', and the proposed redevelopment of the existing motel and backpackers to a new Woolworths.	
		3. Strongly oppose forcing large format retailers to locate in the town centre. Creates issues for parking and access. Rent will increase. Without suitable alternatives, businesses will be forced to close or relocate outside of Busselton. Restriction of service	 The Scheme allows 'Bulky Goods Showroom' uses in the 'Light Industry' zone as a 'D' use and this is not proposed to change. The permissibility of this use in the 'Service Commercial' zone is recommended to be retained as 'P', 	

SUMMARY OF SUBMISSIONS

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		commercial and light industry areas will stop new retailers from establishing in the Busselton area, forcing customers to drive to Bunbury or Perth. Limits the potential for cross-visitation by customers who may also visit the centre while shopping the nearby service commercial precinct.	provided a suitable definition for the use can be implemented. Proposed or potential uses should be correctly classified and be consistent with the planning framework. The Amendment is aimed at ensuring genuine bulky goods retail meets the true purpose and intent for this land use and that land best set aside for genuine bulky goods retail is protected from being taken up by shop/retail uses.	
29.	M. Rowe Realmark Commercial 83 Birkdale St, Floreat WA 6014	Objection. 1. The prohibition of land uses from the 'Service Commercial' and other zones will be detrimental to existing businesses and to the establishment of new businesses in the Scheme area. Local governments should be providing support and strengthening local economies, the effects of this prohibition are counterintuitive. 2. The proposed prohibition of selected product types from the 'Service Commercial' and 'Light Industrial' zones is illogical and unworkable. Businesses aspiring to open new or relocated premises will be seriously impacted by these restrictions, and likely choose not to invest in the City as a result.		That the submission be noted. That the proposed clause 3.5.3(e) is modified to remove reference to the 'Service Commercial' zone. That the proposed clause 3.5.3(e) is modified to replace the term "domestic hardware" with "houseware retailing". That the Amendment be modified such that the permissibility of 'Bulky Goods Showroom' in the 'Regional Centre', 'Centre' and 'Service Commercial' zones is retained as a 'P' use in these zones.
		The current zoning and permissibility arrangements are consistent with the strategic planning framework, which encourages large format retailing in 'Service'	This matter is addressed in response to submission no. 16, at point 6, above.	

SUMMARY OF SUBMISSIONS

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		Commercial' and 'Light Industrial' areas (Local Planning Scheme and Strategy). 4. Realmark have also reviewed the Large Format Retail Association's submission in depth, and fully support the suite of issues that were identified throughout the submission.	4. Noted.	
Late :	Submissions			
30.	Pentek Holdings Pty Ltd, 226 Naturaliste Terrace, Dunsborough Represented by Planning Solutions	Objection. Report makes a number of claims on retail leakage which are not correct and proposes measures not necessary or beneficial and may harm future trade in the town centre. The town centre businesses rely on visitation by residents from within the wider area. The trade is drawn to a range of retail and services not just in the town centre, but also in the surrounding areas including Enterprise Park. Moving larger premises (such as hardware stores, office supplies, and the like) allows the vacated tenancy to be subdivided or the site redeveloped, creating opportunities for investment and new businesses to emerge. Amendment 40 will force large retailers to locate in the town centre. New larger retailers can't locate in the town centre unless vacancies arose and the tenancy met the retailer's requirements for floor area, frontage, car parking, and access by larger delivery vehicles and the like. This makes it infeasible for new large format retailers to enter the town centre. By prohibiting products sold by hardware stores, office supplies, workwear, and the like from	1. This matter is addressed in response to submission no. 23, at point 1, above. 2. Opportunities exist for consolidation and development of sites for larger retailers in both the Busselton and Dunsborough Centres, as is currently the case within the Dunsborough Town Centre with the recent Woolworths supermarket proposal.	That the submission be noted. That the proposed clause 3.5.3(e) is modified to include, at the end of the clause, the words: "or are ordinarily ancillary, subsidiary or incidental to the predominant use".

SUMMARY OF SUBMISSIONS

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		operating in service commercial areas, they simply will not establish new premises in these areas and customers attending these premises will continue to travel out of Busselton to Perth or Bunbury. This removes the opportunity for cross-visitation by customers also choosing to visit the town centre in the same trip and in turn limits the trading levels of businesses in the town centre.	The Officer response to incidental activities, along with 'domestic hardware', is provided at submission no. 16, comment 3.	
31.	Lot 1150 Pty Ltd, Lot 9001 Commonage Road, Dunsborough Represented by LB Planning	Submission specifically references a portion Lot 9001 Commonage Road, being the future extension of Dunsborough Lakes Enterprise Park. Highlights discrepancies that will arise should Amendment 40 be adopted in its current format. Site is zoned "Special Use (Dunsborough Lakes Development Area)" pursuant to the Scheme and land use is specified by the endorsed Structure Plan as 'Restricted Business' and 'Office'. A portion of the site is also identified as a "potential convenience site". Although the site's land use is essentially 'Service Commercial', its current use does not strictly fall within the Scheme provisions of the 'Service Commercial' zone, namely due to 'Office' being a non-permitted use under the Scheme. By virtue of proposed Amendment 40, this situation is further expanded as Amendment 40 proposes to remove the 'Convenience Store' use class from the 'Service Commercial' zone. While this proposed change will not directly affect the planning framework over the site in the short term, it will eventually when the land is developed and the City applies a hard zoning in accordance with the Scheme, via an amendment to the Scheme Map, as required by the WAPC. Given the ultimate hard zoning is likely to be	It is likely that through the preparation of a new and replacement Scheme (LPS22), Enterprise Park will be 'hard zoned' to the 'Service Commercial' zone, with an Additional Use permitted for 'Office'. A further Additional Use for 'Convenience Store' is likely to be identified over this site. This portion of Enterprise Park was identified as a preferred location for this use due to the allocated lot size (approximately 5,500m²), its location on Commonage Road and the dual road frontage. Another 'Convenience Store' site is located at the corner of Dunsborough Lakes Drive and Griffin Drive. This will likely be designated in the same way on the Scheme Map.	That the submission be noted.

No.	NAME & ADDRESS	NATURE OF SUBMISSION	OFFICER COMMENT	OFFICER RECOMMENDATION
		'Service Commercial' this will of course create either a		
		non-conforming use or restrict land use potential over		
		the future lots on site, which is inconsistent with the		
		intent of the Structure Plan.		
		It is therefore requested that an additional use right to		
		permit 'Office' and 'Convenience Store' use classes over		
		the site, be applied by way of a future scheme		
		amendment, prior to any future hard zoning to 'Service		
		Commercial' being applied to the land.		



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Busselton City Centre Retail and Commercial Analysis

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INTRODUCTION

Background

Urbis has been engaged to prepare a retail and commercial analysis for the Busselton City Centre to inform the preparation of an Activity Centre Plan. The purpose of the analysis is to determine the current and future level of floorspace demand and supply within the Busselton City Centre area, and to gain an understanding of the level of floorspace that will be required to satisfy development in the City Centre over the next 15 years.

The analysis also includes a profile of the City Centre's strengths and weaknesses and will provide recommendations to the City of Busselton on potential priorities for revitalisation and regeneration within the City Centre.

Our Approach

Urbis has used a variety of data sources to build an evidence base for the analysis:

- ABS census;
- Small Area Forecast Information (SAFi) forecasts
- Landgate sales data
- Uber Media Mobile Phone Ping Data
- Urbis Retail Benchmarks
- South West Planning and Land Use Survey

This report has been structured in the following way:

TRADE AREA ANALYSIS

Analysis of City Centre Retail Catchment

Ping Data Definition of Catchment

Analysis of Resident Demographics

RETAIL MARKET DEMAND ANALYSIS

Overview of Current Retail Supply and Mix

Analysis of Key Market Segments

Forecast of Retail Expenditure Acquirable by City Centre Retail Core

Forecast of Retail Floorspace Demand

NON-RETAIL DEMAND ANALYSIS

Overview of Current Nonretail mix

Analysis of Key Non-Retail Floorspace Types

Identification of Benchmark Per Capita Rates

Forecast of Future Floorspace Potential



ACP PRIORITIES & RECOMMENDATIONS

Identification of Key
Challenges and Opportunities

Identify of Guiding Objectives

Recommendations on Future Direction for Retail & Commercial Development in Busselton

Attachment C



ANALYSIS FINDINGS

Attachment C

KEY FINDINGS

- The decentralisation of retail in central Busselton is negatively affecting the ability of the City Centre to benefit from growth in the catchment and resulting in some diversion of
- There is a lack of a strong link between tourism infrastructure at the Busselton Foreshore and the City Centre's retail core.
- There are broader industry trends such as online retailing and evolving spending patterns which will influence the ability for the City Centre to expand floorspace and retail amenity.
- These factors are expected to support fewer development opportunities for additional retail space in the longer term than has been experienced historically. The retail strategy for the ACP Study Area over the next 15 years should largely focus on consolidation and enhancement of the mix and overall revitalisation of the precinct, rather than an increase in floorspace.
- There is an indicative undersupply of several non-retail uses in the City Centre, particularly commercial and entertainment/leisure focussed developments. These uses would provide new demand drivers in support of retail, better leverage the tourist market and generate greater activation of a night economy.
- . The City Centre continues to function as the main activity centre for the Busselton District and the surrounding communities and is a key employment node. Its retail role can be enhanced through a targeted strategy.

Note, this report is focused on longer term planning and did not take into account the potential impact of COVID-19.

CHALLENGES & THREATS

Economic Conditions

The recent economic downturn in Western Australia which filtered into the Busselton area and growth in online retailing have likely had significant impact on the performance of retail in Busselton. The current impact of COVID-19 on the economy and forecast growth in online retailing could result in further vacancy in the Busselton City Centre. A focus on consolidating activity in the key nodes will be critical to retain a suitable level of vibrancy, amenity and customer experience in the City Centre.

Decentralisation of Retail Activity.

As the Vasse Centre and the Busselton Service Commercial area continue to consolidate their role for convenience retail and showroom retail respectively, it will be increasingly important for the Busselton City Centre to consolidate and refine its role as the highest order retail, entertainment, leisure and commercial precinct in the Busselton District

Poor Connection Between Tourist & Retail Nodes

The foreshore and the City Centre retail core are separated, with only an estimated 28% of foreshore visitors going into the City Centre on the same day. Further, there is a modest range of significant tourist draws in the City Centre to encourage cross-usage and overall visitation levels.

Limited Potential for Retail Floorspace Expansion

Our analysis indicates that floorspace demand in the next five years will largely be taken up by the expansion of Busselton Central. Over the 10-year period from 2024 to 2034 there is potential demand to support another 3,600 sq.m of retail space however this could be achieved through utilisation of existing vacant retail tenancies or redevelopment of these sites.

STRENGTHS & OPPORTUNITIES

Opportunity for Commercial & Entertainment Focussed Developments

Our analysis indicates that the Busselton City Centre's primary catchment area has a lower volume of entertainment and commercial floorspace per capita than benchmarks. In the long term (to 2034), there is potential to support over 2,700 sq.m of additional entertainment floorspace, and 7,340 sq.m of commercial floorspace.

Revitalisation of Mitchell Park

The redevelopment of Mitchell Park in line with the Busselton Central expansion is likely to establish Mitchell Park as the focal point of the City Centre retail core area. This is key to encouraging activity on the main street from locals, workers and tourists.

Strong Population Outlook in the Longer Term

While the last few years have seen relatively weak population growth, the positioning of the centre as the key employment node in the region and significant activity centre support a strong long-term growth outlook.

ACTIVITY CENTRE PRECINCT POSITIONING

KEY FINDINGS

- Using activity centre planning principles, adjusted for the particular position of the Busselton City Centre area, we have identified some key objectives that should be pursued for the rejuvenation and future positioning of the City Centre. These objectives have been largely based on the key threats and opportunities that are facing the Busselton City Centre.
- Based on these objectives we have provided a number of recommendations for activity that could be implemented to assist achieving these objectives (see subsequent pages).

KEY OBJECTIVES

Objective	Rationale	
Make the Busselton City Centre an appealing place to be for residents and workers	The City Centre should be a place that people are comfortable spending time in, with good amenities, appropriate levels of shade and seating, and appealing events to draw people in. This means that the City Centre must cater to non-retail developments to acquire additional users and provide activities for them while they are in the area.	
	It will be important that the City Centre precinct continues to enhance its offering to residents so that it becomes a place that people are going to for more than basic convenience retail which can be provided at competing centres. Attractors that differentiate the City Centre from neighbourhood centres (such as cinemas and enhanced food and beverage retailing) should be a key part of the City Centre offering.	
Enhance tourism spending and connection	Making the City Centre more attractive for retail and leisure uses for the local residents and workers will also assist in making it somewhere that is more attractive to tourists. Improving streetscapes and overall amenity and adding new entertainment/leisure uses and cultural attractions will be important in better leveraging the tourist market.	
Maintain the Busselton City Centre status as a key regional centre in the Busselton District	The Busselton City Centre is a key employment node in the Busselton District, and broader South West region. To maintain this status, there should be focus on consolidating and establishing new employment opportunities and unique retail offerings.	
Support well-designed developments that add vibrancy to the City Centre	Cohesive design is key to maintaining a sense of 'place' throughout a precinct. Deliberate design can also support people spending time in the area.	
Support non-retail developments and greater density that will increase activity in the City Centre	To attract alternate visitor groups and increase overall activity in the City Centre, there should be a focus on strategies to encourage non-retail development (e.g. residential, hotel, offices, education, etc.) and general commercial activity. More workers, tourists and a local resident base will build a larger captive market for the City Centre's retail tenants.	

KEY FINDINGS

- Based on the analysis carried out in this report and our retail and City Centre experience, we have developed a list of recommendations that could be implemented by the City of Busselton to support a more resilient and vibrant City Centre.
- These recommendations have been divided into four categories which are listed and described in the table to the right.

RECOMMENDATION CATEGORIES

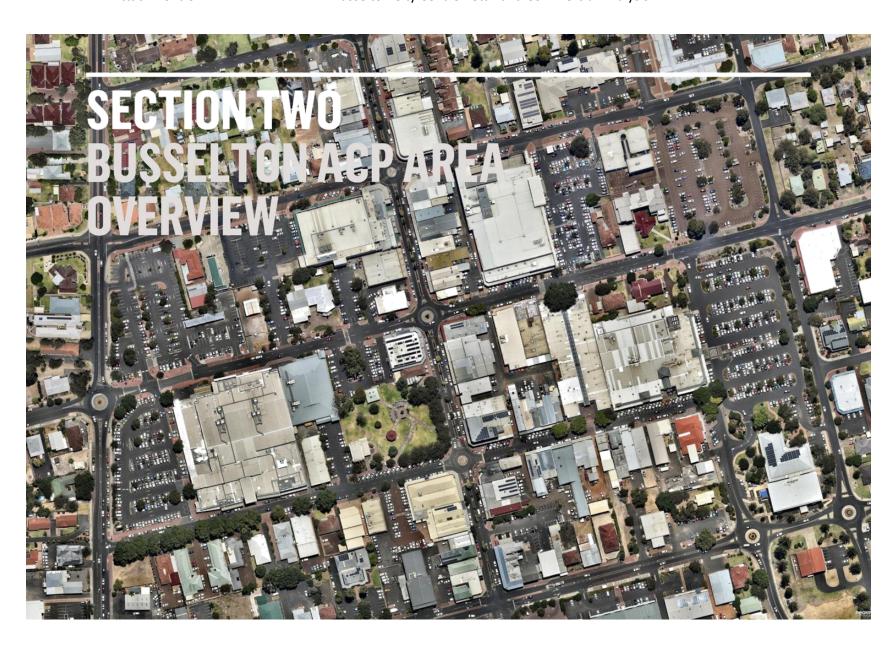
Category	Description
Policy Controls	Development can be influenced by adjusting planning controls to provide stronger guidance of the types, intensity and location of land uses, as well as introducing stronger development guidance to improve built form outcomes in order to align with the City of Busselton's criteria for good design.
Infrastructure Investment	Infrastructure investment is often necessary for activating and attracting users to certain areas where there aren't obvious user anchors.
Placemaking and Council Initiatives	Creating well designed places that are pleasurable to be in is key to generating and maintaining visitor traffic and will often have direct flow-on impacts to retail uses.
Partnership and Advocacy	The City of Busselton can look at public and private partnerships to achieve their goals.

OVERVIEW OF RECOMMENDATIONS

Category	Recommendation	Rationale
Policy Controls	Reduce the potential for development out of the City Centre	Retail in the City Centre has been impacted by shop retail development at the Power Centre on West Street largely in the form of a Kmart and an Aldi Supermaket. More proposed development that blurs the line between 'showroom' (large format) retail and 'shop' retail is proposed in this area. To sufficiently support the ongoing vibrancy and retail role of the City Centre, the City of Busselton could consider developing a clearer criteria that manages leakage of 'shop' retail from the Activity Centre Study Area. It should be noted that the City of Busselton has included strategies within the Local Planning
		Strategy (2019) to explicitly not support expansions outside of the activity centre network or support significant shop retail or office uses outside of activity centre boundaries.
Policy Controls	Promote clustering in precincts	City Centre retail precincts have a variety of uses in each area that do not necessarily fully complement each other. There is potential to create specific precincts in the activity centre plan with distinct visions and objectives that are embedded in planning controls. These precincts should not limit development to a narrow range of uses but rather encourage complementary uses that attract a diversity of visitation (e.g. time of day, market segments, etc.).
Policy Controls	Built Form Guidelines	The City Centre's retail core features a disparate retail form. Due to the unconsolidated nature of land ownership in the City Centre, there is an inconsistent built form approach between different land-owners, which is particularly pronounced as we move away from the main street core. Developing built form guidelines will help establish a pedestrian friendly streetscape and help to knit the inner core of the retail core together.
		Revised built form guidelines are expected to be developed as part of the urban design project of the ACP preparation process. Incentives on plot ratios and decreased parking ratios could also be developed to support design that exceeds the minimum guideline requirements. It should be noted that the Local Planning Scheme includes plot ratio incentives for mixed-use developments.
Policy Controls	Urban Strategy	City Centres evolve over time and the big picture can get lost in the detail. An urban strategy provides an opportunity to take a step back and identify key connections that need to be established or enhanced, identify clusters of uses that can be tied together or public open space that can be tailored to fit the community's needs and be leveraged to enhance commercial outcomes.

OVERVIEW OF RECOMMENDATIONS (CONTINUED)

Category	Recommendation	Rationale
Infrastructure Investment	Activate precinct focal points	With the redevelopment of Busselton Central, the City of Busselton is taking steps to develop Mitchell Park as a focal point for the City Centre that connects the main street and the shopping centres in Busselton. When undergoing the Mitchell Park redevelopment, opportunities to connect the main street to Busselton Central through landscape and streetscape design will be key.
Infrastructure investment	Focus on repurposing and redeveloping vacant tenancies	Retail vacancy in the City Centre is relatively high. While the potential to attract key major retailers (supermarkets, discount department stores) is low given the existing supply of these uses in the broader area, focus should be on repurposing and revitalising vacant tenancies rather than expanding the total floorspace supply (if these sites are appropriate for proposed uses). Nevertheless, the focus should be on encouraging development that optimises the potential performance of retailing in the City Centre.
Infrastructure Investment	Council led regeneration strategy	A regeneration strategy is likely to follow on from the ACP document and provide necessary detail on the form of discrete investments (such as streetscape improvements, laneway activation, land acquisition and / or public art) including staging and funding. This would need to be funded (fully or in part) to be effective and also include appropriate marketing and placemaking initiatives. An example of this is the City of Canning Regeneration program which directs \$76m in spending to provide essential infrastructure improvements to activate residential and commercial opportunities within the Canning City Centre.
Placemaking and Council Initiatives	Implement ongoing events schedule utilising Mitchell Park	Busselton already maintains a strong events schedule catering to the key demographics of residents in the region. Given the lack of night-time activation in the City Centre, the redevelopment is a good opportunity to have more of a focus on night-time events that can create vibrancy in the City Centre and support entertainment and food catering uses.
Placemaking and Council Initiatives	Improving linkages between Foreshore and City Centre Retail Core	Only 28% of foreshore visitors also visit the City Centre, with users typically needing to drive between locations or just skip the City Centre entirely. Expanding this cross-usage can be accomplished through improved wayfinding measures, increased branding activities, and a focus on providing City Centre wide events that link the City Centre rather than dedicated events at Signal Park and other Foreshore areas (e.g Busselton Foreshore Markets being held at Mitchell Park).
Partnership and Advocacy	Diversify visitors through promotion of non-retail uses	Private and public education providers, and commercial businesses should be key targets for future developments. Increasing the level of traffic from different user groups will support local retail businesses, and activate the City Centre at different times of the day. The City of Busselton can play a significant part in promoting the City Centre area to potential businesses that may be located in the broader region and would value a City Centre location.

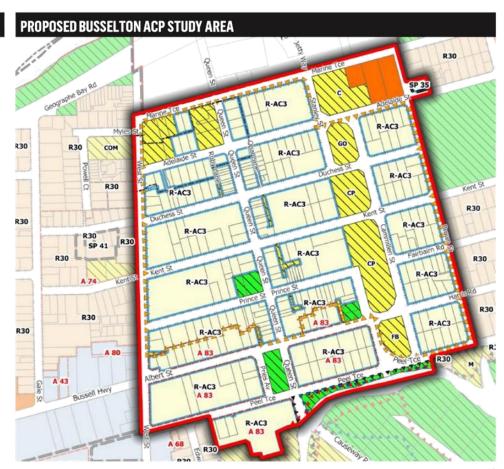


ACP AREA OVERVIEW

INTRODUCTION

KEY INSIGHTS

- The City of Busselton is working to prepare an Activity Centre Structure Plan. The proposed area that the Activity Centre Structure Plan will cover is outlined here.
- It should be noted that this ACP area does not include the Busselton Service Commercial area to the South-west, or the foreshore.

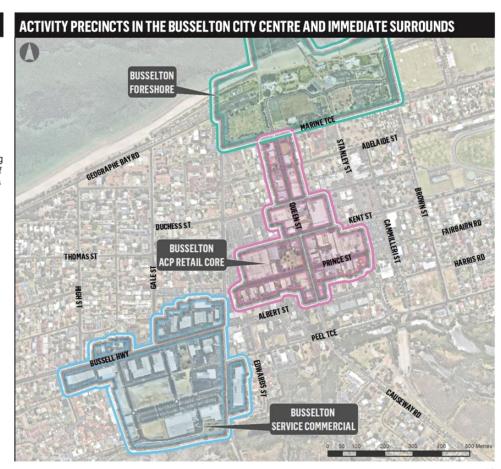


Source: City of Busselton 12

BUSSELTON CITY CENTRE CONTEXT

KEY INSIGHTS

- The Busselton City Centre and its surrounding area features the following sectors:
- Busselton ACP Retail Core This sector includes all retail areas in the Activity Centre Plan Study Area, including the three shopping centre locations and main street retail. This is expanded upon on page 14.
- Busselton Service Commercial Area This area includes the Power Centre development, which is comprised of a small Aldi based-shopping centre, a standalone Kmart, and a large volume of showroom retail, service industry and bulky goods floorspace.
- Busselton Foreshore This sector includes the Busselton Foreshore, the Busselton Jetty, and the associated play and open space areas. This sector also includes tourist focussed hospitality businesses, accommodation, and there is currently entertainment uses under construction.

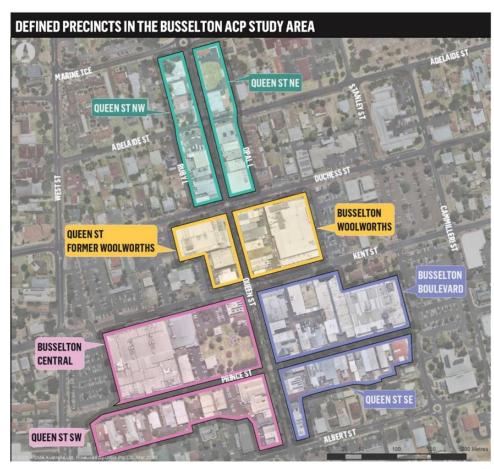


BUSSELTON ACP STUDY AREA OVERVIEW

KEY INSIGHTS

Attachment C

- . Urbis have divided the ACP Study Area into four distinct precincts and have analysed the mix of retail and commercial development within each.
- Busselton Central & SW Queen St This sector features the Busselton Central Shopping Centre, which is anchored by Coles and Target, which is the only Discount Department Store in the ACP Study Area. It should be noted that the status of this Target store is expected to close prior to the Busselton Central redevelopment in 2021, and is likely to be replaced by a number of smaller specialty stores.
- Busselton Boulevard and SE Queen St This sector features the Busselton Boulevard Shopping Centre which includes the second Coles store in the Activity Centre Study Area. This sector also features the specialty retail mall of Fig Tree Lane, and some key mini-major stores, such as the Reject Shop.
- **Busselton Woolworths and Former** Woolworths site - This sector includes a standalone Woolworths Shopping centre, with specialties located in the same building but fronting Kent St. This sector also features the vacant Woolworths supermarket site on Duchess
- NE & NW Queen St This sector is largely a main street strip that leads to the Foreshore precinct of Busselton. It features a number of restaurants and takeaway food options, as well as heritage buildings and commercial premises.



CITY POLICY REVIEW

KEY INSIGHTS

- A number of key planning and strategy documents have been reviewed in preparing this analysis.
- The key documents and how their findings have been used in the report are listed here.
- We have also reviewed a number of other Busselton documents, but these documents did not include information that was relevant to our analysis.

DOCUMENT REVIEW

Policy Document	Key Findings
Busselton Local Planning Strategy Report (2019)	This strategy informs the future direction of the Busselton City Centre and explains the vision for activity centres in the broader Busselton region. This has been used to broadly inform which developments we allow for in our analysis.
Busselton Local Commercial Planning Strategy (2011)	This strategy is key to informing the future planned retail developments in the Broader Busselton area, and when they are likely to see development.
chalogy (ESTI)	For this project, the scale and development triggers for development at the Ambergate centre, as well as the scale of other future centres have been taken into account when estimating market share changes for the City Centre.

CITY CENTRE STRENGTHS AND WEAKNESSES

STRENGTHS	
Major regional presence, access to a variety of demand drivers and critical mass of retail shops	Given its role as a key employment node and the most significant activity centre in the Southwest (with the exception of Bunbury), retailing in the Busselton City Centre has access to a variety of demand drivers, including local residents in the Busselton District, as well as workers and tourists. This supports the largest breadth and depth of retail shops and services in the Busselton district. The scale and variety of the retail offer is important to the retail role and performance of the City Centre. It should be noted that the Target store in Busselton Central is expected to close in 2021, in line with the national Target strategy or reducing their number of regional stores. In the case that the store closes and is not tenanted by a different discount department store, this would reduce the draw of the City Centre, particularly to local residents.
Compact retail precinct	The core retail area benefits from a reasonably compact layout, with a distance of no more than approximately 500 metres between the east/west and north/south boundaries.
Good distribution of major retailers	The major retailers (three supermarkets and Target) are well positioned within the City Centre to support a good distribution of foot traffic and activity generally across the City Centre. However, improving the connection of the key centres with the main street precincts would help to drive better overall activity in the City Centre.
Accessible car parking options	There are several dedicated car parks in the City Centre area largely associated with the main shopping centres as well as the usual complement of on-street carparking.
WEAKNESSES	
Limited night economy drivers	The offer in the City Centre is largely focussed on daytime trade and servicing residents and workers with few facilities driving visitation in the evening (e.g. entertainment, leisure, etc.)
Existing vacancies	There are currently 17 vacant shops in the City Centre which detracts from the overall vibrancy and image of the precinct. This is mostly an issue in the northern sectors of the City Centre.
Poor connection and significant distance between tourist nodes and retail nodes	There has been a substantial level of investment in the Busselton Foreshore over the past decade which has not translated to support for City Centre retailers. The Foreshore and retail core are poorly connected, due to the distance between the precincts.

CITY CENTRE THREATS AND OPPORTUNITIES

OPPORTUNITIES	
Strong population outlook	Busselton is one of the key employment nodes in the South-West and the key employment node in the City of Busselton. Busselton has a strong resident draw, and has enjoyed consistent population growth above the levels seen in comparable towns in the South-West. The Busselton LGA area also features many of the highest selling residential development estates in the south west area, and a high volume of developable land within close proximity to its City Centre.
Established and growing tourist market	Busselton and the Margaret River region attracts a high volume of tourists, particularly from domestic visitors. However, as international visitation to WA becomes a larger portion of total visitation (forecasted international tourist growth outpaces domestic growth across regional Western Australia), it is likely that international visitation will become a key opportunity.
THREATS	
Decentralisation of retail activity	As Busselton continues to expand there is inevitably a need for more retail floorspace to be developed to conveniently service these emerging communities and suburbs (e.g. Vasse Town Centre). It will be increasingly important for the retail core of the Busselton City Centre to consolidate its role as the highest order retail and commercial precinct in the region.
Online retailing	Online retailing continues to capture an increasing share of retail expenditure. Categories that have traditionally seen only low levels of diversion to online channels (e.g. food retailing, supermarkets) are now growing more strongly and challenges remain for fashion shops and other high exposure categories.

BUSSELTON CITY CENTRE FLOORSPACE SUMMARY

KEY INSIGHTS

- Overall, retail shops and services are concentrated in the Busselton Central & Busselton Boulevard precincts. Comparatively, the north-east and northwest portion of Queen Street does not feature an anchor retail tenant, and the retail offering is dominated by food catering establishments.
- The NE & NW Queen St Precinct features the highest number of vacant tenancies, though the highest volume of vacant floorspace is in Duchess St precinct due to the large tenancy formerly occupied by a Woolworths supermarket.
- It should be noted that the Target located at Busselton Central is likely to close in 2021, and is likely to be replaced by smaller specialty tenancies.

CITY CENTRE FLOORSPACE BY BUSSELTON ACP STUDY AREA PRECINCT

City Centre Precinct	Apparel	DDS	Food Catering	Food Retail	Homew a res	General Retail	Retail Services	Super market	Total
Busselton Central & Queen St SW	3,348	3,000	612	0	391	237	1,595	4,579	13,762
Busselton Boulevard & SE Queen St	2,801	0	1,851	740	78	2,730	1,133	3,149	12,480
Duchess St Woolw orths & Former Woolw o	504	0	952	1,254	28	169	382	3,159	6,448
NE & NW Queen St	466	0	753	0	0	154	201	0	1,574
Total ACP Precincts	7,119	3,000	4,168	1,994	497	3,289	3,310	10,887	34,264

Source: Urbis

VACANT TENANCIES BY BUSSELTON ACP STUDY AREA PRECINCT

Product Group	Description
Apparel	Clothes and accessories retail
DDS	Discount Dept. Stores (Target)
Food Catering	Restaurants, cafes, bars
Food Retail	Food vendors (bakers, butchers, green grocers)
Homewares	Kitchenware, Manchester
General Retail	Gifts, books, sporting goods
Retail Services	Service based stores (hairdressers, beauticians)
Supermarket	Supermarkets (inclusive of independent supermarkets)

City Centre Precinct	Vacant Tenancies	Vacant Floorspace (sq.m)
Busselton Central & Queen St SW	2	340
Busselton Boulevard & SE Queen St	4	1,047
Duchess St Woolw orths & Former Woolw orths	4	3,464
NE & NW Queen St	7	593
Total	17	5,444

Source: Urbis

BUSSELTON SUBURB LEASING PROFILE – RECENT LEASES

KEY INSIGHTS

- Retail tenancies in the Busselton City Centre core retail strips tend to see higher rental rates than nonretail tenancies (particularly non-retail tenancies located outside of the retail core).
- A snapshot of recent non-retail leases in the suburb of Busselton, which extends south of the City Centre, indicates that warehouse & industrial tenancies tend to see lower rental rates compared to tenancies that can be used as showrooms.

RECENT RETAIL LEASE SNAPSHOT, BUSSELTON SUBURB

Location	Lease Date	NLA (sq.m)	Rent p.a (\$)	Rent (\$)/sqm	Details
48A Prince Street	Nov-19	323	\$49,000	\$152	Dymocks
47 Prince Street	Oct-19	146	\$43,500	\$298	Fusion Jewellers
60 Kent Street	Aug-19	890	\$180,000	\$202	Reject Shop
21A Queen Street	Jun-19	103	\$35,400	\$344	Massage Parlour
17 Queen Street	Jun-19	165	\$35,400	\$215	Asian Grocer/Café
Unit 5 8-10 Prince Street	Apr-19	93	\$27,000	\$290	Flight Centre
Average		362	\$54,662	\$207	

Source: Real Commercial, Commercial Real Estate, Urbis

RECENT COMMERCIAL LEASES SNAPSHOT, BUSSELTON SUBURB

Address	Lease Date	NLA (sq.m)	Rent p.a (\$)	Rent (\$)/sqm	Details
2/15-17 Fairlawn Road	Jun-19	120	\$12,000	\$100	Warehouse & Industrial
40 Cook Street	May-19	1054	\$55,000	\$52	Warehouse & Industrial
4 Goldsmith Street	Mar-19	1501	\$72,000	\$48	Warehouse & Industrial
65B Strelly Street	Feb-20	130	\$19,500	\$150	Showroom/Workshop
Unit 2, 57 Cook Street	Jul-19	299	\$39,000	\$130	Showroom/Workshop
Unit 1, 57 Cook Street	Oct-17	316	\$42,000	\$133	Showroom/Workshop
Average		570	\$39,917	\$102	

Source: Real Commercial, Commercial Real Estate, Urbis

Note: This data is a snapshot of leased tenancies that featured complete information with the intention of determining lease rates, it is not intended to be taken as a comprehensive list of recently leased properties.

BUSSELTON CITY CENTRE LEASING PROFILE – ON THE MARKET

KEY INSIGHTS

- There are a number of vacant retail and office tenancies currently being marketed in the Busselton City Centre.
- This includes several retail tenancies within established shopping centres, such as two relatively small tenancies within Busselton Boulevard.
- Additionally, there were several tenancies available for lease at Primewest Busselton and the Busselton Homemaker Centre.
- Within the City Centre, there were several office tenancies available for lease across four properties.
- It should be noted that there could be more vacant tenancies available, but these are not being advertised.

SNAPSHOT TENANCIES AVAILABLE FOR LEASE, BUSSELTON SUBURB

Location	Vacant Tenancies	Size (sq.m)	Rent (\$)/sqm	Details
Busselton Boulevard	2	80 & 135	-	Specialty Tenancies
44-48 Queen Street	2	2833 & 453	*	Woolworths & Tavern
Busselton Homemaker Centre	1	1,750	-	Bulky Goods Tenancy
Primewest Busselton	2	511 & 439	\$205	Bulky Goods Tenancy
71 Kent Street	1	96	-	Office Tenancy
44 Prince Street	1	129	\$280	Office Tenancy
1/102 Queen Street	3	975	; = 1	Office Tenancy
100 Queen Street	2	16 & 20	-	Office Tenancy

Source: Real Commercial, Commercial Real Estate, Urbis

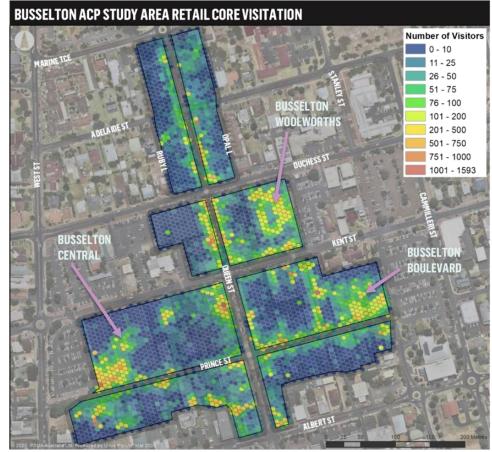
Note: This is a snapshot of available tenancies as of June 2020. It is likely there are other vacant tenancies that are not being leased by commercial agents, or have a tenant that will vacate their premises when their lease term ends

BUSSELTON CITY CENTRE VISITOR PROFILE

BUSSELTON ACP STUDY AREA VISITATION HOTSPOTS BY PRECINCT

KEY INSIGHTS

- Urbis has acquired mobile phone ping data for use in this project. The data is used in a number of ways throughout the report, the key uses being to determine:
- Visitor hot spots within the City Centre; and
- The geographic draw of visits to the ACP Study Area relative to the rest of the Busselton City Centre (Foreshore, Power Centre) and
- The main hot spots within the ACP Study Area precincts are the three shopping centre precincts that are anchored by supermarkets.
- In terms of main street activation, the areas attracting the highest levels of activity include:
- Queen Street between Duchess Street and Prince Street; and
- Prince Street and Kent Street east of Queen Street
- Mitchell Park provides a break in activation between Busselton Central and the Queen Street shopping strin
- Although less than within the core precincts, activation levels are reasonable on Queen Street extending northward from Duchess Street.



LOCATION OF VISITORS

KEY INSIGHTS

- North East and North West Queen Street broadly saw the lowest level of visitation, particularly from local residents, with approximately 50% of visitation coming from Greater Perth, interstate, or internationally.
- The Busselton Boulevard centre saw the highest level of visitation from people in the Busselton municipality compared to the other shopping centre anchored sectors of the City Centre.
- Residents in Dunsborough were more likely to travel to the Busselton Central Precinct than other parts of the City Centre, though a relatively low number of visitors to the City Centre came from the Dunsborough region overall.
- Visitation to the Busselton City Centre typically came from within the state, with a low proportion of non-resident visitors being from interstate or overseas.

PROPORTION OF VISITORS BY PLACE OF RESIDENCE

Location	Busselton Boulevard & SE Queen St	Busselton Central & SW Queen St	NE & NW Queen St	Woolworths & Former Woolworths	ACP Retail Core
Busselton municipality	56.1%	49.6%	31.3%	48.0%	49.3%
Dunsborough	3.2%	4.9%	2.7%	2.4%	3.5%
Other Regional Western Australia	13.7%	15.8%	15.9%	14.1%	14.8%
Greater Perth	20.0%	22.1%	36.8%	25.3%	23.7%
Interstate Visitors	4.0%	3.8%	7.1%	5.0%	4.5%
International Visitors	3.1%	3.8%	6.1%	5.3%	4.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Urbis, Uber Media Mobile Phone Ping Data

CROSS USAGE PATTERNS IN BUSSELTON CITY CENTRE

KEY INSIGHTS

- The cross usage tables on the right describe how visitors to a primary location (column headings), visit a second location (row headings). An example would be, in the top table to the right, 26% of Busselton Foreshore Visitors (column header) visited the Busselton Commercial Area (row header) as well.
- Some 28% of Busselton Foreshore visitors also visit the Busselton retail core in the same day. Their visits are distributed across the whole of the City Centre with a slightly higher proportion using the main shopping centres.
- Approximately 31% of visitors to the service commercial area (ALDI and Kmart) also go to the City Centre Retail Core in the same day. When they do go to the City Centre Retail Core, they tend to go to Busselton Central and the Busselton Boulevard Centre.
- The analysis indicates that there is cross-usage between the City Centre Retail Core, foreshore area and service commercial areas but the level of cross usage could be improved and initiatives to improve linkages between precincts have a high potential to attract more visitors and more spending to the retail core.

SECTOR CROSS USAGE, BUSSELTON CITY CENTRE PRECINCTS, RESIDENTS

Visitors	Who \	Wen	t to:
----------	-------	-----	-------

		Busselton ACP	Busselton Foreshore	Busselton Service Commercial Area	Total
E	Busselton ACP	100%	26%	30%	61%
	Busselton Commercial	100%	26%	30%	61%
	Busselton Boulevard	31%	8%	10%	19%
	Busselton Central Shopping Centre	29%	8%	12%	18%
	Busselton Woolworths	24%	7%	7%	14%
	Busselton - Queen Street SW (Prince St to Bussell Hwy)	19%	4%	7%	11%
	Busselton - Queen Street SE (Prince St to Bussell Hwy)	15%	4%	5%	9%
	Busselton - Queen St former Woolworths	8%	3%	2%	5%
	Busselton - Queen Street NE (Marine Tce to Dutchess St)	5%	3%	1%	3%
	Busselton - Queen Street NW (Marine Tce to Dutchess St)	4%	4%	1%	2%
E	Busselton Service Commercial Area	20%	14%	100%	41%
E	Busselton Foreshore	7%		5%	15%
1	Dunsborough Town Centre	4%	4%	6%	5%

SECTOR CROSS USAGE, BUSSELTON CITY CENTRE PRECINCTS, NON-RESIDENTS

Visitors Who Went to:

		ACP	Foreshore	Service Commercial Area	iotai
	Busselton ACP	100%	28%	32%	49%
	Busselton Commercial	100%	28%	32%	49%
	Busselton Central Shopping Centre	33%	9%	14%	16%
ö	Busselton Boulevard	29%	6%	10%	14%
went	Busselton Woolworths	25%	9%	8%	12%
ě	Busselton - Queen Street SW (Prince St to Bussell Hwy)	17%	4%	7%	8%
	Busselton - Queen Street SE (Prince St to Bussell Hwy)	12%	3%	5%	6%
AISO	Busselton - Queen Street NE (Marine Tce to Dutchess St)	11%	6%	3%	5%
4	Busselton - Queen Street NW (Marine Tce to Dutchess St)	10%	6%	3%	5%
	Busselton - Queen St former Woolworths	9%	4%	3%	4%
	Busselton Foreshore	24%		17%	42%
	Busselton Service Commercial Area	22%	14%	100%	34%
	Dunsborough Town Centre	8%	10%	10%	9%

Source: Urbis, Uber Media Mobile Phone Ping Data

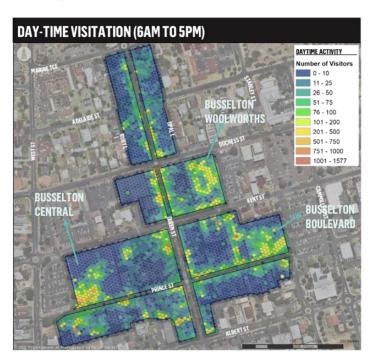
ACTIVATION BY TIME OF DAY

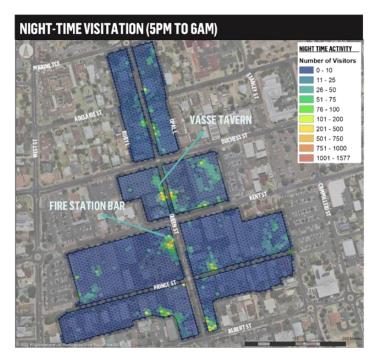
Day-time activation in the City Centre appears to largely be focussed around the key shopping centre areas, which are anchored by supermarkets and other significant majors.

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There is a major shift from night-time and day-time activation, particularly at the shopping centre areas, which do not see a high level of night-time activation.

Night-time activation has been focussed on some main street areas, namely the locations of bars and restaurants, such as the Fire Station Bar adjacent to Mitchell park and the strip of Queen Street between Duchess St and Kent St, where there are multiple restaurants and another bar.





Source: Urbis, Uber Media Mobile Phone Ping Data
This data is based on the aggregated visitation recorded over a 12 month period through to November 2019

RETAIL FLOORSPACE SUPPLY

KEY INSIGHTS

- While Busselton is the key activity centre within the broader Busselton region, there are several competing centres that have some impact on the retailing in the City Centre retail core.
- The Vasse Village is a recently developed neighbourhood centre that includes a supermarket and specialties.
- The West Street Centre (Power Centre) is comprised of an ALDI supermarket and a standalone Kmart.
- The two major supermarket brands are represented in the ACP Study Area retail core. Additional supermarket floorspace exists at the Power Centre in the form of an ALDI, and small independent supermarkets are located along Busselton Highway towards the Vasse Town Centre.
- Without capturing a higher portion of supermarket spending from tourists and residents, the Coles supermarket in Busselton Boulevard could potentially become vacant in the longer term if it becomes non-viable to retain two stores in close proximity to each other.

KEY COMPETING CENTRES

Development	Description	Growth Potential	Floorspace Summary (approx.)
Vasse Village	The Vasse Village centre is a newly developed neighbourhood centre, anchored by a Coles supermarket with convenience based specialty shops.	Likely to expand to 4,500-5,000 sq.m.	3,690 sq.m Retail Floorspace
West Street Centre (Power Centre)	The West Street Centre is a relatively new centre, located to the southwest of the Busselton City Centre on West Street. It features an ALDI supermarket and a standalone Kmart Discount Department Store.	Large volume of development land that will most likely be bulky goods or showroom retail.	8,800 sq.m Retail Floorspace
Dunsborough Town Centre	The Dunsborough Town Centre caters to the tourist and resident market in the Dunsborough and Yallingup area. It features a Coles supermarket and a Supa IGA as well as specialty stores and commercial uses.	Commercial analysis indicates potential shop/retail demand for an increase to 15,379sq.m by 2028.	12,500 sq.m Retail Floorspace
Unconsolidated Bussell Highway Uses	There are a number of local centres and retail developments to the west of the Busselton City Centre that include retail floorspace, though none are anchored by full-line supermarkets.	Unlikely to see major expansions, but tenancy changes could occur over time.	10,000 sq.m Retail Floorspace

FUTURE RETAIL DEVELOPMENTS

KEY INSIGHTS

- The key development planned to occur in the Busselton City Centre in the near future is the Busselton Central redevelopment. This redevelopment will expand the centre into the existing carpark area and increase retail floorspace by approximately 6,000 sq.m. Additionally, this development is expected to offer commercial development opportunities, as well as a new cinema and dining precinct. This development would leverage the amenity provided by Mitchell Park and provide a better physical and visual link to Queen Street.
- The recently developed Vasse Centre is expected to increase to include additional floorspace to reach its overall build-out volume in the next decade. As the centre will be oriented towards convenience retail, it is likely that the centre will increase the provision of takeaway food options and food retail options. This will likely have a moderate trading impact on the Busselton City Centre.
- There are a number of centres that have been identified as potential future centres that will enter the market when there is sufficient market demand. It should be noted that these are long term centres and are likely to see staged development in line with residential build out expectations.
- Whilst additional retail / commercial floorspace outside of the Busselton ACP Study Area will inevitably lead to reduced expenditure in the ACP Study Area, the orderly development of these centres will provide local convenience shopping options that will support the liveability of these areas. It is thus incumbent the desirability and diversity of the Busselton ACP Study Area is enhanced to ensure negative impacts are limited.

KEY RETAIL ACTIVITY CENTRES

Development	Description	Timing (year of operation)	Floorspace Addition
Busselton Central Redevelopment	Redevelopment of Busselton Central to include additional 6,215 sq.m of retail floorspace, largely in specialties. As well as a cinema and non-retail floorspace. While this development includes a relocation of the Target Discount department store, this store is scheduled to close in 2021, in which case it would be replaced with additional specialty stores	2022	Approximately 6,100 sq.m additional Retail Floorspace

POTENTIAL DEVELOPMENT OF OTHER CENTRES

Development	Description	Timing (year of operation)	Floorspace Addition
Vasse Village Build-out	Planning documents have allowed for a Vasse Village expansion up to 5,000 sq.m, while there are no plans for this it is likely as the local population grows.	2029	1,400 sq.m Additional Retail Floorspace
Ambergate	Ambergate is a future centre that will service the growing Ambergate Community, which is likely to accommodate upwards of 10,000 new residents	2034+	14,000 sq.m District Centre
Airport (neighbourhood centre)	This is a long-term future centre that is likely to see development as the Yalyalup region experiences population growth.	2034+	4,500 sq.m Neighbourhood Centre

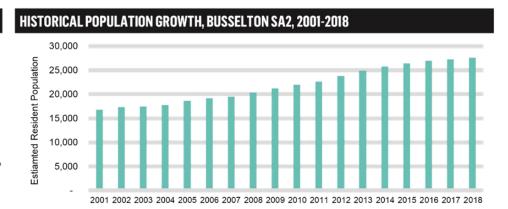


POPULATION & VISITATION OVERVIEW

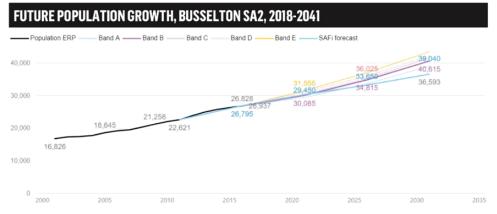
POPULATION TRENDS

KEY INSIGHTS

- In the Busselton SA2 (which includes the Busselton urban area bounded by Vasse to the west, capel to the northeast and Yalyalup to the South) there has been a strong level of growth experienced from 2001 through to 2016, as population increased at a rate of approximately 4% per annum. This is a rate of growth well above the level of population growth seen across the state, particularly areas outside of Greater Perth.
- However, this rate of growth slowed from 2016 onwards, with the growth rate falling substantially, to approximately 1.2% per annum from 2016 to 2018. The reduced population growth was partly driven by reduced international migration to Western Australia and an increase in the number of existing residents moving overseas and interstate.
- In the next 15-years, the resident population is expected to increase significantly to approximately 40,000 people by 2031 according to the State Government's population forecasts. It should be noted these population forecasts were based on historical growth rates that only included growth up to 2016 at the time of publication.
- Small Area Forecast Information (SAFi) also produce forecasts for areas across WA and have revised their population growth number down in the longer term (below the most conservative population forecast scenario for the state population forecasters).



Source: ABS Estimated Resident Population, cat. 3218.0



Source: ABS Estimated Resident Population, WA Tomorrow (2018), SAFi

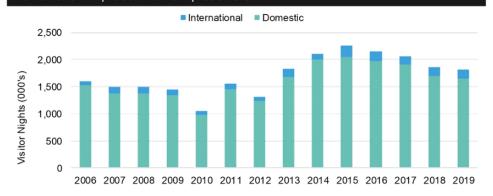
BUSSELTON VISITATION CONTEXT

KEY INSIGHTS

- From 2006 to 2016, visitation growth for the Busselton SA2 area was relatively strong, increasing by approximately 3.4% per annum during this period (according to Tourism Research Australia). This increase has broadly been in line with tourism growth experienced across WA.
- Since 2016, the overall visitor numbers have begun to decline but have remained above the longer-term average. Once again, this was aligned with trends in visitation across WA, with the key exception being that WA saw an uptick in visitation in 2019, while Busselton saw a continued decline.
- While international visitation is much less significant to the Busselton area than domestic visitors, the proportion has been trending upwards in recent years, with international visitors accounting for 8.5% of visitors in 2019 from 4.5% in 2006.

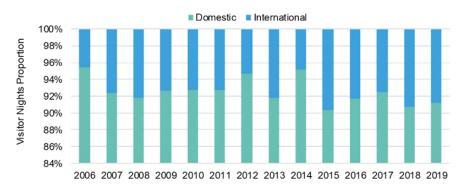
VISITOR GROWTH, BUSSELTON SA2, 2006-2019

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Source: TRA

VISITOR ORIGIN, BUSSELTON SA2, 2006-2019



Source: TRA

VISITATION OUTLOOK

KEY INSIGHTS

- Overall, the level of visitation generated by domestic visitors is not expected to grow substantially in the near term for WA as a whole, with the majority of tourist growth forecast to be in the international market (according to Tourism Research Australia).
- As the Busselton tourist market is dominated by domestic visitors, it is unlikely that over the next decade visitation will increase substantially, though we anticipate consistent growth in the Busselton tourist market from 2022 onwards. In addition to a steady continued growth, the proportion of international visitors is forecasted to increase, at a consistent rate through to 2029.
- The forecasts for the Busselton SA2 assume only a moderate lift in net visitation as a result of the Jetstar services at the Busselton Margaret River Regional Airport though there is potential for a more positive impact from these services.

VISITOR OUTLOOK, WA, 2008 - 2029 Domestic International 100 000 90 000 70 000 60 000 50 000 40 000 30 000 20 000

2008-09 2010-11 2012-13 2014-15 2016-17 2018-19 2020-21 2022-23 2024-25 2026-27 2028-29

Source: TRA

10 000

VISITOR OUTLOOK, BUSSELTON SA2, 2008 - 2029 Domestic International 2,500 1,500 1,500 0

2019

2021

2023

2025

Source: TRA

2011

2013

2015

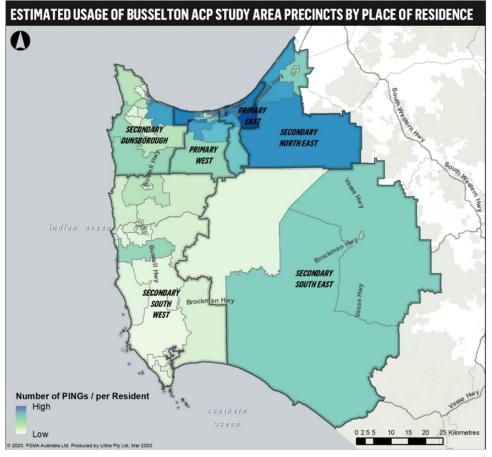
2017

TRADE AREA DEFINITION

MOBILE PHONE PING ANALYSIS

KEY INSIGHTS

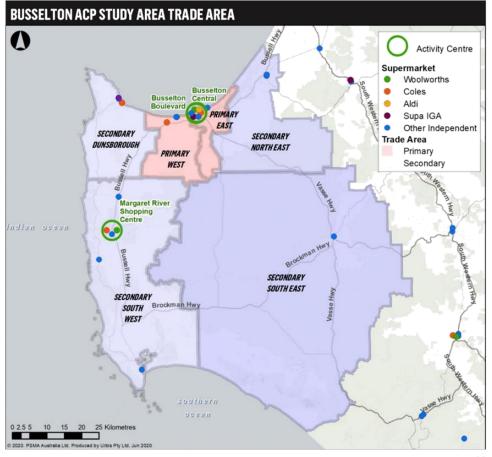
- The mobile phone ping data acquired by Urbis provides a data-based method of defining a trading area for the Busselton City Centre.
- Being such a significant activity centre in the City of Busselton, and the South West region generally, the trade area for the City Centre will be geographically broad.
- The resident areas that provide the highest number of visits per resident to the City Centre are largely focussed in the Busselton region, particularly residents located to the east of the City Centre, who have fewer options relative to residents located to the west, who have multiple local centres and the Vasse Centre to utilise.
- Dunsborough residents tend to visit the Busselton City Centre substantially less than Busselton residents, tending to use the Dunsborough Town Centre as their primary centre.
- While Nannup doesn't have a significant resident base, these residents are frequent users of the Busselton City Centre area.



TRADE AREA DEFINITION

KEY INSIGHTS

- Urbis has defined six distinct resident catchments as part of the overall resident catchment for the trade area of the Busselton ACP Study Area.
- The trade area defined by Urbis is largely based on the following factors:
- The supply and mix of retail in the Busselton ACP Study Area and at surrounding centres;
- The accessibility of the are compared to other centres:
- Physical barriers that may limit access; and
- Mobile phone ping data analysis that indicates key resident sectors and the level of visitation per capita from these sectors.



BUSSELTON ACP STUDY AREA VISITOR DISTRIBUTION

KEY INSIGHTS

- There is a high level of visitation from people who live outside of the resident trade area. This comprises international and domestic visitors (intrastate and interstate visitors).
- This level of visitation from people outside of the residential catchment is relatively high compared to other regional City Centres (such as Bunbury and Geraldton) and indicates that the Busselton City Centre has a significant level of spending generated by tourists.
- The next highest visitor base is the eastern visitor catchment, which sees a significantly higher number of visits per capita than residents located in the western primary – which is considered due to the presence of the Vasse centre in this area.
- Broadly, visitors in the secondary catchment are not significant users as a whole, though visitors in the north-east secondary catchment (Capel and outer Busselton) are frequent users on a per capita basis.

VISITOR PLACE OF RESIDENCE DISTRIBUTION, BUSSELTON ACP STUDY AREA

SectorName	Visits per 1,000 Pop	2018 Population	% of Total Visits
Beyond	0	e 6	38.9%
Primary East	423	13,934	32.9%
Primary West	238	14,272	19.0%
Secondary Dunsborough	66	10,229	3.8%
Secondary North East	127	3,891	2.8%
Secondary South East	93	1,392	0.7%
Secondary South West	22	15,671	1.9%

Source: Urbis Mobile Phone Ping Data

RESIDENT POPULATION OUTLOOK

KEY INSIGHTS

Attachment C

- The forecast resident population in the trade area is based on the following information:
- The latest Estimated Resident Population (ERP) figures to June 2018 (released by the ABS). This latest data is provided at a Statistical Area 1 (SA1) geography level, thus providing an accurate estimate of resident population for the trade area.
- New dwelling approvals data prepared by the ABS to June 2018. This data provides an indication of potential short-term dwelling development activity and resident population growth.
- Small Area Forecast Information (SAFI) prepared by .id Consulting (which also supplies population forecasts to the whole of WA).
- A review and analysis of current and proposed residential developments in the catchment area, particularly greenfield estate.
- Given the fact that population growth has been constrained in recent times, we expect this to continue in the near future, with population growth remaining below 1.5% per annum through to 2024, before beginning to increase towards 2% per annum through to 2034, largely led by residential growth in the primary catchment.

		Pop	ulation (r	10.) ¹		Annu	al Popula	tion Grow	th (%)
	2014	2019	2024	2029	2034	14-19	19-24	24-29	29-34
Primary:									
East	13,240	14,100	15,210	16,770	18,800	1.3%	1.5%	2.0%	2.3%
West	13,120	14,440	15,430	16,560	17,850	1.9%	1.3%	1.4%	1.5%
Total Primary	26,350	28,540	30,640	33,330	36,640	1.6%	1.4%	1.7%	1.9%
Secondary:									
Dunsborough	9,070	10,450	10,980	11,410	11,980	2.9%	1.0%	0.8%	1.0%
North East	3,700	3,940	4,200	4,560	5,000	1.3%	1.3%	1.7%	1.9%
South West	13,940	16,060	17,530	18,970	20,550	2.9%	1.8%	1.6%	1.6%
South East	1,360	1,410	1,460	1,530	1,600	0.7%	0.7%	0.9%	0.9%
Total Secondary	28,060	31,860	34,170	36,460	39,120	2.6%	1.4%	1.3%	1.4%
Main Trade Area	54,410	60,390	64,820	69,790	75,770	2.1%	1.4%	1.5%	1.7%

Source: SAFi, Landgate Urbis

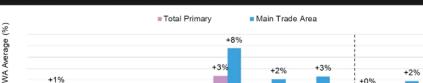
RESIDENT EXPENDITURE CHARACTERISTICS

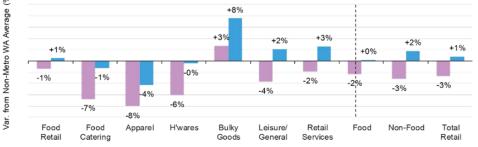
TRADE AREA RESIDENT EXPENDITURE

KEY INSIGHTS

Attachment C

- · Based on data from the 2016 Census of Population and Housing, the demographics of the catchment area reflect the established and rural nature of the area with a high representation of older residents and lower representation of young families, particularly in the primary catchment.
- Trade area residents are estimated to have moderately above average retail expenditure compared to the non-metro WA average (1% above). There is estimated to be a particularly higher level of spending on retail services (e.g. hairdressers, nail salons) and leisure and homewares goods and services.
- · Real spend per capita growth is expected to be 0.9% per annum through to 2024, before continuing at a rate of 1.0% per annum. This is slightly below the anticipated level of growth seen in the Perth Metropolitan area, in line with historical observed growth rates.





Source: ABS, Marketinfo, Urbis

TRADE AREA RESIDENT EXPENDITURE (\$2019, INCL. GST) Spend Food Leisure/ Retail Annual Pop Food Bulky Total Per Apparel H'wares Retail Catering Goods General Services Retail Growth Growth Capita Growth Primary: 2019 22 390 2024 221 43 35 24 56 15 437 2.3% 1.4% 0.9% 252 1.0% 2029 50 39 27 65 17 501 2.7% 1.7% 2034 290 57 580 3.0% 1.9% 1.0% Secondary: 2019 229 48 37 27 48 60 465 16 255 54 42 30 521 0.9% 2024 18 2.3% 1.4% 2029 285 60 33 585 1.0% 46 80 20 2.3% 1.3% 2034 321 37 23 661 2.5% 1.4% 1.0%

Source: ABS, Marketinfo, Urbis

BUSSELTON CITY CENTRE MARKET GROWTH

KEY INSIGHTS

- To determine the overall level of spending that could be potentially captured by the Busselton ACP Study area retail offering, we have estimated the capacity of spending available to primary catchment retail centres, and have applied an increasing online market share to overall spending in line with observed online retail market growth trends.
- The retention rates used for this analysis are broadly based on our analysis of the mobile phone ping data, and changes in these retention rates are based on new developments entering and leaving the market, in addition to a general rate of erosion that will occur if these developments within the trade area do not receive improvements / investment.
- A share of turnover sourced from beyond the trade area has been assumed, which takes into account the high level of visitation experienced by the retailers within the Busselton ACP study area, and by the south-west region generally.

TOTAL SPENDING AVAILABLE TO PRIMARY CATCHM	IENT CEN	TRES, 2019	(\$2019, IN	CL. GST)
	2019	2024	2029	2034
	(\$M)	(\$M)	(\$M)	(\$M)
Total Trade Area Spending	766.9	866.9	980.0	1117.3
Primary	350.2	396.0	452.3	522.3
Secondary	416.7	470.9	527.7	595.0
Forecast Online Market Share	10.0%	11.7%	13.4%	15.0%
Total Spending to Physical Retailers	690.2	765.5	849.0	949.7
Primary	315.2	349.7	391.9	444.0
Secondary	375.0	415.8	457.1	505.7
Total Spending Retained by Trade Area Centres	522.4	599.9	684.0	787.0
Primary (63% in 2019, increasing to 68% in 2034)	218.7	255.5	299.5	355.2
Secondary (76% in 2019, increasing to 77% in 2034)	303.6	344.4	384.5	431.8
Total Spending Retained by Primary Catchment Centres	234.6	272.1	314.4	368.5
Primary (83% in 2019, remaining at 83% in 2034)	180.6	210.6	246.6	293.2
Secondary (18% in 2019, declining to 17% in 2034)	54.0	61.5	67.8	75.3
Plus Turnover from Beyond TA (@ 30%)	100.5	116.6	134.8	157.9
Total Spending Available to Primary Catchment Centres	335.1	381.8	422.2	449.2
Spending Captured by Busselton ACP Area	209.9	243.4	<u>272.0</u>	<u>287.8</u>
Busselton ACP Area TA Market Share	27%	28%	28%	26%
Primary	33%	33%	32%	30%
Secondary	7%	8%	7%	7%

Source: Urbis, Marketinfo

Note: Market shares are assumes to erode slightly over the next 15 years in these calculations, which occurs due to degradation in existing buildings, and consumer preferences moving away from brands that lose relevance over time. Trade Area spending does not include Bulky Goods Expenditure

BUSSELTON CITY CENTRE MARKET GROWTH

KEY INSIGHTS

- The rate of turnover per square metre in the ACP area is estimated to be broadly below the rate of turnover per square metre in other centres within the primary catchment (Vasse Village and the Power Centre). This largely reflects the varying mix of and quality of retailers in the main street retail area.
- Overall, the Busselton City Centre is expected to attract an additional \$33M in retail turnover by 2024, which is largely a result of the Busselton Central expansion, which will attract additional retail spending from the residential catchment, but will also compete with main street retailers in the short term, and potentially lead to additional vacancies.
- The level of turnover per square metre at City Centre retailers is broadly below benchmark rates for comparable centres, and there is a relatively high rate of vacancy in the City Centre. Over time, it is likely that some of the floorspace demanded is likely to go to existing retailers in the form of increasing performance levels, rather than direct increases in floorspace.
- If the City were to progress initiatives that increased the level of draw to the City Centre, particularly from visitors that are already visiting the broader Busselton district and the South West (in line with the placemaking initiatives outlined on page 9 of this document to enhance the linkages between the foreshore and the City Centre), there is potential to attract additional entertainment and food catering retailers (bars and cafes), that would increase vibrancy in the City Centre, and assist with consolidating the City Centre as a key dining and entertainment area.

RETAIL TURNOVER SHARE AND TURNOVER PER SQ.M RATE IN PRIMARY CATCHMENT, 2019 (\$2019, INCL. GST)

Primary Catchment Centres	Share of Primary Catchment Floorspace (%)	Share of Primary Catchment Turnover (%)	Turnover per sq.m (\$)
Busselton ACP Area	66.4%	61.8%	\$6,184
Other Centres (Vasse, Power Centre, Bussel Highway Centres)	33.6%	38.2%	\$7,562

Source: Urbis, Marketinfo

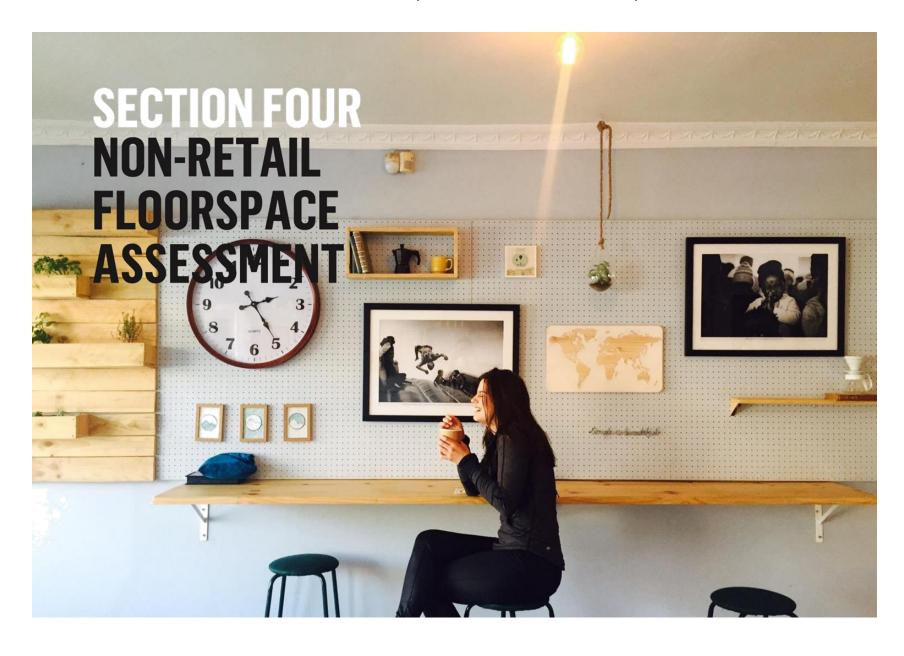
BUSSELTON CITY CENTRE RETAIL TURNOVER AND NET FLOORSPACE DEMAND, 2019-2034 (\$2019, INCL. GST)

	2019 (\$M)	2024 (\$M)	2029 (\$M)	2034 (\$M)
Potential Spending Captured by Busselton ACP Retail	<u>210.0</u>	<u>241.4</u>	<u>270.5</u>	<u>287.0</u>
Additional Expenditure Captured	-	31.4	29.2	16.5
Additional Floorspace Demand (sq.m)	(+)	4,047	3,668	2,024
Proposed ACP Area Floorspace Additions (sq.m)	-	6,215	-	-
Net Floorspace Demand (sq.m)	-	-2,168	1,500	3,524

Source: Urbis, Marketinfo,

Note: The net floorspace demand figure is cumulative and includes any excess floorspace demand from the preceding period.

Attachment C



NON-RETAIL FLOORSPACE PER CAPITA RATIO BENCHMARKS

KEY INSIGHTS

- Broadly, the Busselton ACP Study Area's primary catchment has a lower rate of entertainment floorspace per capita and a lower rate of office floorspace provision per capita than the South-West region total.
- 'Other retail' which is largely made up of bulky goods and non-shop retail showroom uses is supplied at higher rates than the South-West region; as is health floorspace.
- This indicates a potential undersupply of entertainment and office floorspace within the primary catchment for the ACP Study Area.

FLOORSPACE PER 100 RESIDENTS, 2018

Region	Entertainment	Health	Office	Other Retail
South-west Region	52	27	217	65
ACP Primary Catchment	34	32	158	81
Variation from South-west Region	-35%	18%	-27%	26%

Source: Planning and Land Use Survey – South West (2018), ABS Estimated Resident Population Note: this is based on floorspace within commercial complexes

FLOORSPACE PER CAPITA GAP

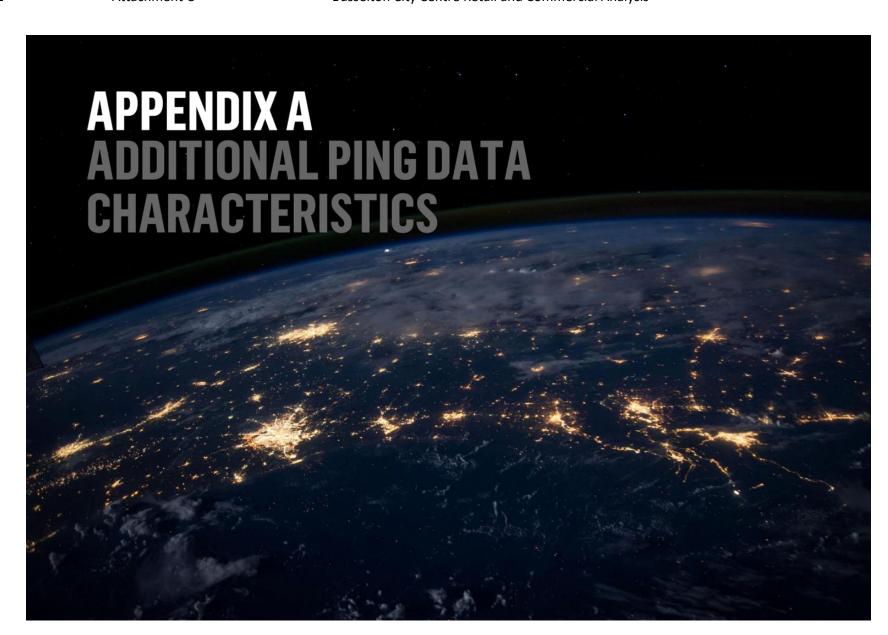
KEY INSIGHTS

- Due to recent expansions in bulky good retail outside of the City Centre retail core at the West Street Site, and the high provision of health & community services per capita in the City Centre primary trade area (as described on page 43), there is likely to be minimal growth in these sectors over the next 15 years.
- There is likely to be potential to increase entertainment and commercial office floorspace in the area, due to the relatively low provision of this floorspace in the City Centre trade area currently, and the population growth in the coming 15 years.
- There could be approximately 2,730 sq.m of entertainment floorspace and 7,340 sq.m of office floorspace allowed for in the ACP area due to population growth by 2034. It is likely that the majority of this floorspace can be provided within the ACP Study area.
- These uses would support a more vibrant City Centre that is activated consistently at all times of the day, which would support the retailers that currently exist, and would support an increasing level of food catering based floorspace provision in the future.

FLOORSPACE PER 100 RESIDENTS, ACP STUDY AREA PRIMARY CATCHMENT, SOUTH-WEST PROVISION LEVELS, 2018-2034

Year	Entertainment	Health	Office	Other Retail
2018 (Actual)	9,627	9,018	45,054	23,188
2034	12,359	9,800	52,395	23,677
Growth 2018-2034	2,732	782	7,341	489

Source: Planning and Land Use Survey - South West (2018), ABS Estimated Resident Population, SAFi, Urbis



INTERNATIONAL VISITOR ANALYSIS

KEY INSIGHTS

- Mobile phone ping data was used to determine visitor seasonality.
- International visitation tended to be highly seasonal, with December and January being the most popular months for visiting, and the winter months being the least popular.
- In terms of the countries people came from, Asian countries topped the rankings, with the UK and New Zealand also being popular spots. It should be noted that visitors from mainland china would not be captured in mobile phone data, but we believe they would be significant contributors to visitation.

INTERNATIONAL VISITOR SEASONALITY

323



Source: Urbis, Uber Media Mobile Phone Ping Data

INTERNATIONAL VISITOR COUNTRY OF ORIGIN Singapore Malaysia Thailand 6.49% New Zealand 5.27% Indonesia 5.22% United Kingdom 4.27% Taiwan 4.24% Hong Kong 3.47% 3.31% Canada Greece 1.46% Turkey 1.41% Italy 1.32% Philippines | 1.32% Vietnam France 1.13%

Note: China is excluded from this analysis, due to the fact that government censorship prevents installation of relevant applications that provide ping data for analysis

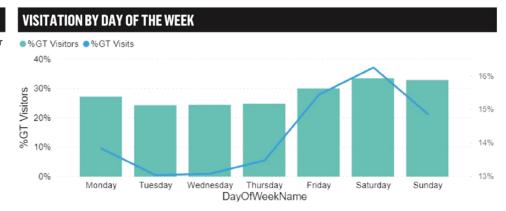
Source: Urbis, Uber Media Mobile Phone Ping Data

S. Korea 1.13%

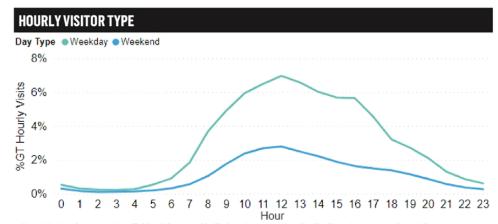
BUSSELTON CITY CENTRE VISITATION CHARACTERISTICS

KEY INSIGHTS

- Saturday and Sunday are the most popular days for visits to the Busselton City Centre, while Tuesday and Wednesday are the least popular.
- The centre is most visited during business hours, with the majority of visits happening between 9am and 5pm.
- There is still a significant proportion of visits to the ACP Study Area in the hours of 6-8pm, though it drops off significantly afterwards.
- On the weekend, the City Centre does not see a substantial volume of night-time visitation, with the number of people in the City Centre steadily dropping off from 12pm onwards.



Source: Urbis, Uber Media Mobile Phone Ping Data



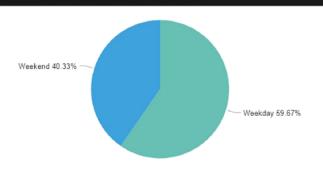
Note: blank refers to unclassifiable visitors, and is likely to be proportionally distributed amongst other visitor types Source: Urbis, Uber Media Mobile Phone Ping Data

BUSSELTON FORESHORE VISITOR CROSS USAGE

KEY INSIGHTS

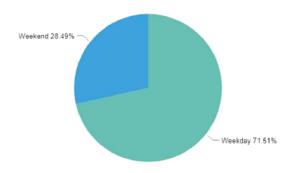
 Users at the Busselton Foreshore tended to visit the foreshore on the weekend, while Busselton City Centre visitors had a more even distribution of visitation, with the same proportion of people visiting the centre on weekends and weekdays.

BUSSELTON FORESHORE VISITS BY DAY OF THE WEEK

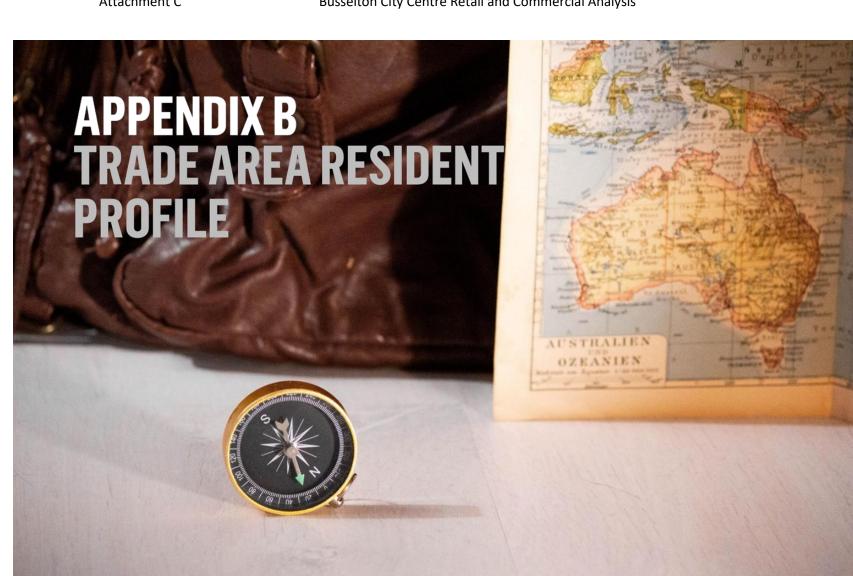


Source: Urbis, Uber Media Mobile Phone Ping Data

BUSSELTON ACP STUDY AREA RETAIL CORE VISITS BY DAY OF THE WEEK



Source: Urbis, Uber Media Mobile Phone Ping Data



TRADE AREA RESIDENT PROFILE

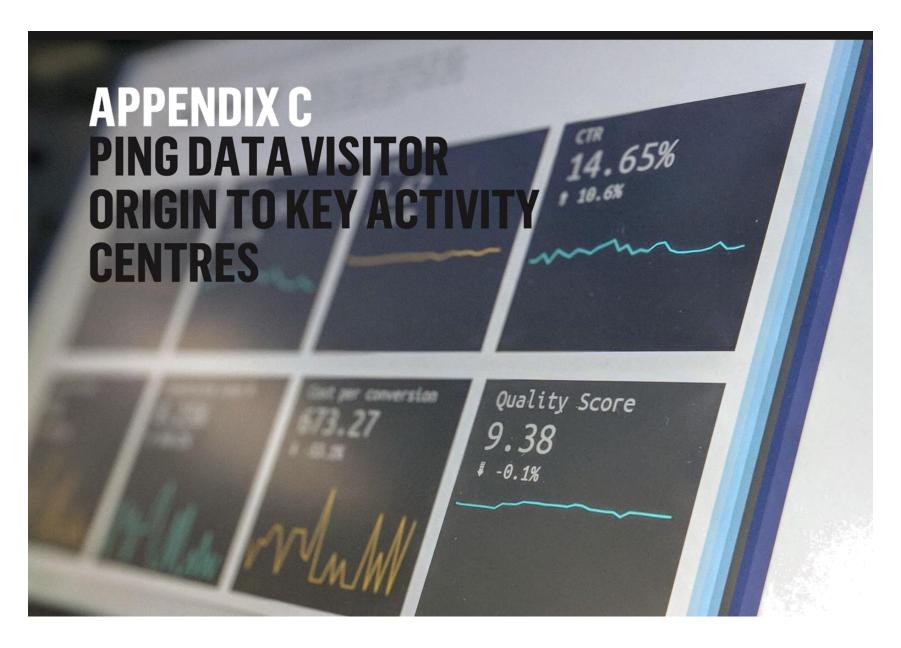
	Total	Total	Main Trade	Total Trade	Non-Metr
	Primary	Secondary	Area	Area	WA
ncome Metrics:					
Per Capita Income	34,306	36,672	35,526	35,526	40,640
Var. From Non-Metro WA Average	-16%	-10%	-13%	-13%	-
Avg. H'hold Income	77,236	85,457	81,375	81,375	89,077
Var. From Non-Metro WA Average	-13%	-4%	-9%	-9%	-
Age Profile:					
Aged 0-14	19.8%	21.6%	20.7%	20.7%	20.2%
Aged 15-24	10.6%	8.1%	9.3%	9.3%	10.7%
Aged 25-39	15.6%	19.2%	17.5%	17.5%	20.2%
Aged 40-59	26.6%	28.8%	27.7%	27.7%	28.3%
Aged 60+	27.4%	22.4%	24.8%	24.8%	20.5%
Average Age	40.0	38.1	39.1	39.1	37.2
Household Metrics:					
% Family Households	0.0%	0.0%	0.0%	0.0%	0.0%
% Owned Outright	35.2%	34.6%	34.9%	34.9%	32.5%
Average Household Size	2.45	2.48	2.47	2.47	2.51
Other Metrics:					
% White Collar Workers	59.9%	62.4%	61.3%	61.3%	57.2%
% Overseas Born	19.4%	21.8%	20.6%	20.6%	19.9%

Source: ABS Census (2016), Urbis

CHANGE IN RESIDENT CHARACTERISTICS

	Total Primary	Main Trade Area	Total Trade Area	Non-Metro WA	MTA Var. (% pt diff.)
Income Metrics:					
Per Capita Income	+53.1%	+48.4%	+48.4%	+56.1%	-7.7% pts
Household Income	+43.2%	+43.1%	+43.1%	+44.4%	-1.3% pts
Age Profile:					
% 0-14 years	-1.9% pts	-1.2% pts	-1.2% pts	-2.8% pts	+1.6% pts
% 15-24 years	-1.0% pts	-1.4% pts	-1.4% pts	-1.3% pts	-0.1% pts
% 25-39 Years	-1.8% pts	-2.2% pts	-2.2% pts	-0.5% pts	-1.7% pts
% 40-59 Years	-0.3% pts	-1.1% pts	-1.1% pts	-0.5% pts	-0.6% pts
% 60+ Years	+5.1% pts	+5.8% pts	+5.8% pts	+5.0% pts	+0.9% pts
Average Age	+2.8%	+3.6%	+3.6%	+4.3%	-0.7% pts
Household Metrics:					
% Family Households	+0.0% pts	+0.0%pts	+0.0% pts	+0.0%	+0.0% pts
% Owned Outright	+1.2% pts	+0.7%pts	+0.7% pts	-0.2% pts	+0.9% pts
Average Household Size	-2.3%	-1.2%	-1.2%	-2.7%	+1.5% pts
Other Metrics:					
% White Collar	+2.4% pts	+2.3%pts	+2.3% pts	-0.2% pts	+2.5% pts
% Born Overseas	+3.8% pts	+3.9% pts	+3.9% pts	+4.2% pts	-0.3% pts

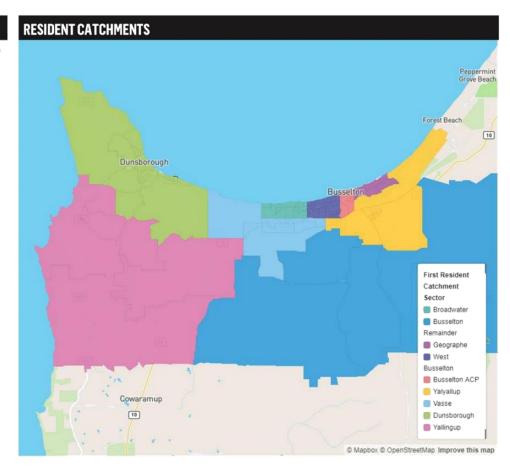
Source: ABS Census (2016), Urbis



BUSSELTON ACP STUDY AREA RESIDENT CATCHMENTS

KEY INSIGHTS

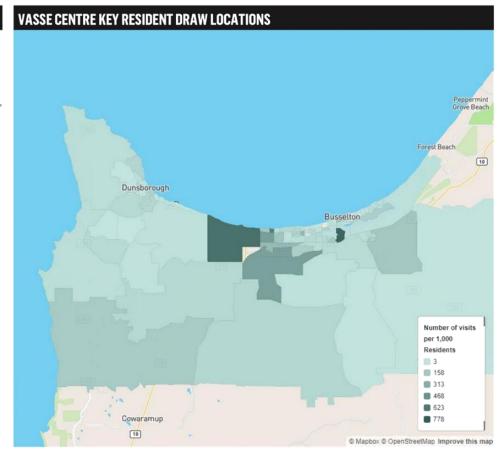
- To summarise visits from particular areas, we have developed resident catchments to group similarly located statistical areas.
- These areas are referred to in the tables in the following section.



VASSE CENTRE

KEY INSIGHTS

- The Vasse centre sees a higher level of local trade than the Busselton ACP Study Area, which draws from a wider catchment. The centre also sees a lower number of visits per capita than the ACP Study Area Retail Core.
- This is intuitive given the smaller scale of the centre, and its retail offering.



Source: Urbis Mobile Phone Ping Data

VASSE CENTRE RESIDENT CATCHMENTS

KEY INSIGHTS

- Referring to the catchments outlined on page 8, Residents in the Vasse catchment used the centre very frequently, with Broadwater residents also being frequent users.
- · Residents in the City of Busselton, east of the Busselton City Centre tended to be infrequent

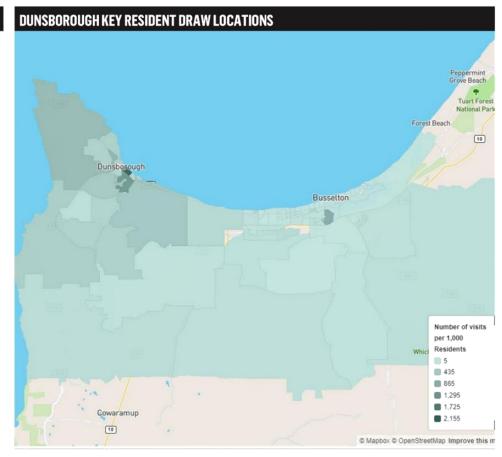
Resident Catchment Sector	Visits	Visitors	Visits per person	Visits per 1,000 Pop	2018 Population
Vasse	1,273	203	6.27	374	3,400
Broadwater	1,001	161	6.22	172	5,809
Busselton ACP	196	37	5.30	101	1,939
Yalyallup	255	66	3.86	72	3,529
Yallingup	156	52	3.00	71	2,194
Dunsborough	439	128	3.43	55	8,035
West Busselton	426	148	2.88	48	8,868
Busselton Remainder	65	28	2.32	40	1,608
Geographe	89	37	2.41	25	3,539

Source: Urbis Mobile Phone Ping Data, ABS Estimated Resident Population

DUNSBOROUGH TOWN CENTRE

KEY INSIGHTS

 The Dunsborough Town Centre draws from a relatively local catchment, with few people from Busselton patronising the centre relative to the number from Dunsborough and Yallingup who patronise it.



Source: Urbis Mobile Phone Ping Data

DUNSBOROUGH TOWN CENTRE RESIDENT CATCHMENTS

KEY INSIGHTS

- Referring to the catchments outlined on page 8, Dunsborough residents were the most frequent users of the Dunsborough Town Centre, with Yallingup residents also being frequent users on a visits per person basis.
- The lowest level of visitation on a visits per person basis is from the Geographe and Broadwater Areas, which is intuitive, given that these sectors are significantly separated from Dunsborough geographically.

KEY RESIDENT CATCHMENT METRICS – DUNSBOROUGH TOWN CENTRE

Resident Catchment Sector	Visits	Visitors	Visits per person	Visits per 1,000 Pop	2018 Population
Dunsborough	6,405	699	9.16	797	8,035
Yallingup	498	104	4.79	227	2,194
Vasse	390	91	4.29	115	3,400
Busselton Remainder	124	28	4.43	77	1,608
West Busselton	629	134	4.69	71	8,868
Busselton ACP	135	46	2.93	70	1,939
Yalyallup	237	80	2.96	67	3,529
Broadwater	313	106	2.95	54	5,809
Geographe	78	39	2.00	22	3,539

Source: Urbis Mobile Phone Ping Data, ABS Estimated Resident Population

Attachment C

Busselton City Centre Retail and Commercial Analysis

This report is dated 23/06/2020 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Pty Ltd's (Urbis) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of City of Busselton (Instructing Party) for the purpose of a Retail / Commercial Analysis (Purpose) and not for any other purpose or use. Urbis expressly disclaims any liability to the Instructing Party who relies or purports to rely on this report for any purpose other than the Instructing Party who relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events including wars, civil unrest, economic disruption, financial market disruption, business cycles, industrial disputes, labour difficulties, political action and changes of government or law, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or made in relation to or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

Urbis has made all reasonable inquiries that it believes is necessary in preparing this report but it cannot be certain that all information material to the preparation of this report has been provided to it as there may be information that is not publicly available at the time of its inquiry.

In preparing this report, Urbis may rely on or refer to documents in a language other than English which Urbis will procure the translation of into English. Urbis is not responsible for the accuracy or completeness of such translations and to the extent that the inaccurate or incomplete translation of any document results in any statement or opinion made in this report being inaccurate or incomplete, Urbis expressly disclaims any liability for that inaccuracy or incompleteness.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the belief on reasonable grounds that such statements and opinions are correct and not misleading bearing in mind the necessary limitations noted in the previous paragraphs. Further, no responsibility is accepted by Urbis or any of its officers or employees for any errors, including errors in data which is either supplied by the Instructing Party, supplied by a third party to Urbis, or which Urbis is required to estimate, or omissions howsoever arising in the preparation of this report, provided that this will not absolve Urbis from liability arising from an opinion expressed recklessly or in bad faith.

The data and information that informs and supports our opinions, estimates, surveys, forecasts, projections, conclusion, judgments, assumptions and recommendations contained in this report (Report Content) are predominantly generated over long periods, and is reflective of the circumstances applying in the past. Significant economic, health and other local and world events can, however, take a period of time for the market to absorb and to be reflected in such data and information. In many instances a change in market thinking and actual market conditions as at the date of this report may not be reflected in the data and information used to support the Report Content.

The recent international outbreak of the Novel Coronavirus (COIVID-19), which the World Health Organisation declared a global health emergency in January 2020 and pandemic on 11 March 2020, is causing a material impact on world economies and increased uncertainty in both local and global market conditions.

The effects (both directly and indirectly) of the COVID-19 Outbreak on the global real estate market and business operations is currently unknown and it is difficult to predict the quantum of the impact it will have more broadly on the global economy and how long that impact will last. As at March 2020, the COVID-19 Outbreak is materially impacting global travel, trade and near-term economic growth expectations. Some business sectors, such as the retail, hotel and tourism sectors, are already reporting material impacts on trading performance now and potentially into the future. For example, Shopping Centre operators are reporting material reductions in foot traffic numbers, particularly in centres that ordinarily experience a high proportion of international visitors.

The Report Content and data and information that informs and supports it is current as at the date of this report and necessarily assumes that, as at the date of this report, the COVID-19 Outbreak has not materially impacted the global economy, the asset(s) and any associated business operations to which the report relates and the Report Content. However, it is not possible to ascertain with certainty at this time how the market and the global economy more broadly will respond to this unprecedented event. It is possible that the market conditions applying to the asset(s) and any associated business operations to which the report relates and the business sector to which they belong could be (or has been) materially impacted by the COVID-19 Outbreak within a short space of time and that it will have a lasting impact. Clearly, the COVID-19 Outbreak is an important risk factor you must carefully consider when relying on the report and the Report Content.

To the maximum extent permitted by law, Urbis (its officers, employees and agents) expressly disclaim all liability and responsibility, whether direct or indirect, to any person (including the Instructing Party) in respect of any loss suffered or incurred as a result of the COVID-19 Outbreak materially impacting the Report Content, but only to the extent that such impact is not reflected in the data and information used to support the Report Content.

Urbis staff responsible for this report were:

Project code P0015917
Report number Final 23/06/2020

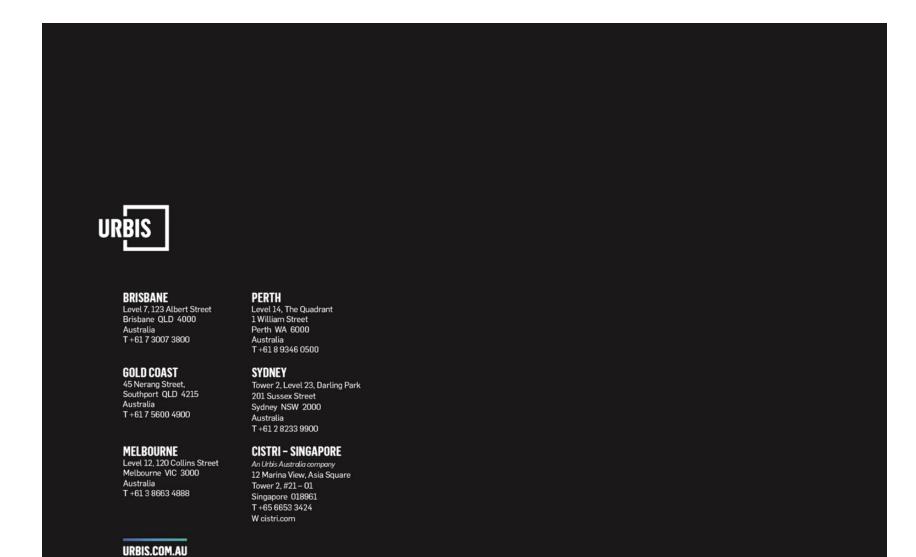
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You must read the important disclaimer appearing within the body of this report.

Director David Cresp
Director Tim Connoley
Director Tim Dawkins
Consultant Dermott Carr

Attachment C



Review of Land Use Permissibilities in the Scheme

Use class permissibilities:

P – Permitted D – Discretionary (subject to Planning Consent)
X – Not permitted A – Discretionary, subject to formal advertising

Zone / Use Class	Residential	Regional Centre	Centre	Local Centre	Service Commercial	Tourism	Light Industry	General Industry	Rural	Viticulture and Tourism	Rural Residential	Rural Landscape	Conservation	Bushland Protection	COMMENTS
Abattoir	Х	Х	Х	Х	Х	Х	Α	D	Α	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Aged Persons Home	D	А	А	х	х	х	х	х	AX	х	х	х	х	х	Lack of accessibility to services in the 'Rural' zone (eg. lack of pathways), resulting in reliance on vehicles. This land use should ideally be located in close proximity to town and neighbourhood centres, to be located close to public transport routes and health and community services for the benefit of the residents.
Agriculture – Extensive	х	х	х	х	х	х	х	х	Р	Р	А	D	D	D	No change proposed as part of this Amendment.
Agriculture – Intensive	Х	Х	Х	Х	Х	Х	Х	Х	Р	Р	Х	Х	Х	Х	No change proposed as part of this Amendment.
Amusement Parlour	x	Р	Р	Р	ĐX	D	ĐX	ĐX	x	x	x	x	x	x	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' and industrial zones.
Ancillary Accommodation Ancillary Dwelling	Р	D	D	D	x	х	х	х	Р	Р	Р	D	D	D	Change title to 'Ancillary Dwelling' (throughout Scheme) for consistent terminology with the Residential Design Codes. Note that there is no definition for this land use within the Scheme as it is defined by the R-Codes.
Animal Establishment	Х	Х	Х	Х	Х	Х	Х	Х	D	D	А	Α	Х	Х	No change proposed as part of this Amendment.
Animal Husbandry – Intensive	Х	Х	Х	Х	Х	Х	Х	Х	D	D	Х	Х	Х	Х	No change proposed as part of this Amendment.

Zone / Use Class	Res	Reg. Centre	Centre	Local	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural Lscp	Cons.	Bushld Protn.	COMMENTS
Aquaculture	Х	Х	Х	X	Х	Х	D	D	D	D	Α	Α	Α	Х	No change proposed as part of this Amendment.
Art Gallery	Х	D	D	D	Х	D	Х	X	D	D	Α	Х	X	Х	Existing land use requires inclusion into the Zoning table.
Bed and Breakfast	D	D	D	D	Х	Р	Х	Х	D	D	D	D	D	D	No change proposed as part of this Amendment.
Brewery	x	А	А	А	AX	А	D	D	А	А	x	х	х	х	Proposed to become prohibited within the 'Service Commercial' zone given the required buffer distances established by the Environmental Protection Authority and the proximity of this zone to residential areas. Full discussion on the proposal associated with this land use, including the introduction of a new provision, is provided within the Officer Report.
Bulky Goods Showroom	х	PD	₽D	₽D	₽D	х	D	x	х	x	x	X	х	х	To align the intended operation of the land use with the Local Planning Strategy, so as to avoid retail leakage from the Busselton City Centre. In combination with other proposed modifications to the Scheme associated with this land use, full discussion of which is provided for within the Officer Report.
Bus Depot	х	x	х	x	D	х	D	D	ĐX	x	х	х	х	х	A land use, often including servicing of vehicles, that is better located in industrial zones and to protect the amenity of rural areas, particularly the entries into the urban areas.
Caravan Park	Α	Х	Х	Х	Х	D	Х	Х	Α	Α	Х	Х	Х	Х	No change proposed as part of this Amendment.
Caretaker's Dwelling	Х	Х	Х	Х	Х	D	Х	Х	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Car Park	х	D	D	D	D	х	D	D	Х	х	x	x	Х	х	Enabling car parks on the periphery of the Centres allows for more development options within the core of the Centres themselves. Amendment 40 proposes to include this land use within Additional Use 'A74' (Schedule 2). Further detail is provided within the Officer Report.
Cinema/Theatre	х	D	D	D	ĐX	x	x	x	х	x	х	х	х	x	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' and industrial zones.

Zone / Use Class	Res	Reg. Centre	Centre	Local	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural	Cons.	Bushld Protn.	COMMENTS
Chalet	Х	Х	Х	Х	Х	D	Х	Х	D	D	Х	Α	Α	Х	No change proposed as part of this Amendment.
Child Care Premises	Α	D	D	D	D	Α	Х	Х	D	Α	Α	Х	Х	Х	No change proposed as part of this Amendment.
Club Premises	х	D	D	D	D	D	Х	Х	Α	Α	Х	Х	Χ	Х	No change proposed as part of this Amendment.
Community Purpose	Α	Р	Р	Р	D	D	D	D	D	Α	Α	Х	Х	Х	No change proposed as part of this Amendment.
Consulting Rooms	Α	Р	Р	Р	Р	Х	Х	Х	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Convenience Store	x	Р	Р	Р	ĐX	D	ĐX	ÐX	x	x	x	х	x	x	This use essentially caters for a small supermarket, a retail use that would not be appropriate in the 'Service Commercial' and industrial zones. The 'Local Centre' zone, of which there are several small sites scattered within the urban areas would be the ideal location for a convenience store.
Corner Shop	А	Р	Р	Р	₽X	Х	ĐX	ĐX	Α	Α	А	x	X	x	As with a 'Convenience Store', this use essentially caters for a retail use that would not be appropriate in the 'Service Commercial' and industrial zones. Furthermore, the definition requires this use to be attached to a dwelling, which is not permitted within these zones.
Educational Establishment	А	Р	Р	Р	D	Х	D	D	D	D	D	х	Χ	х	No change proposed as part of this Amendment.
Exhibition Centre	x	Α	А	Α	AX	Α	x	x	Α	Α	x	х	x	x	Considered to be a land use typically with a social aspect that should be located within the main centres, to encourage pedestrian access, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' zone.
Factory Unit Building	Х	Х	Х	Х	D	Х	Р	Р	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Fuel Depot	х	х	х	x	х	Х	₽D	₽D	х	х	х	х	Х	х	To enable the consideration of relevant issues through a Development Application, such as proximity to bushfire prone areas and appropriate separation distances.
Funeral Parlour	Х	D	D	D	D	Х	D	Х	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.

Rural Lsp Bushld Protn. Vit/Tour Rural Res. Rural Zone / Use Class Res COMMENTS This use can have the potential to cause nuisance from **Garden Centre** Χ AX ΑX AX Α D X D D ΑX Χ dust, drift and noise (loaders, etc) associated with the storage of mulch and soils. **Grouped Dwelling** D D D D Χ Χ Χ Χ Χ Χ Χ No change proposed as part of this Amendment. Х D D D Χ Χ Χ Α Α Α Α No change proposed as part of this Amendment. Guesthouse Α **Holiday Home** No change proposed as part of this Amendment. (Multiple/Grouped Α Α Χ Χ Χ Χ Χ Χ Χ Χ Χ Α Α Dwelling) Holiday Home (Single No change proposed as part of this Amendment. D D D D Χ Χ Χ D D D D D House) No change proposed as part of this Amendment. Ρ **Home Business** D Ρ Χ Χ Χ Ρ Α Α Р Х Р Р No change proposed as part of this Amendment. Р Р Χ Х Ρ Р Р Р **Home Occupation** The small number (18) of lots zoned 'Rural Landscape' are all located in Bushfire Prone Areas. A 'Hospital' is a vulnerable land use under the bushfire planning framework and given these lots have only one road access, Hospital Α D D Х Χ they would unlikely achieve compliance with the requirements. A 'Hospital' would therefore not be an appropriate use for this location. This proposed permissibility would also align with the other similar zones, 'Conservation' and 'Bushland Protection'. Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and Hotel Х ΑX Α Χ Χ Α Α Α Χ X Α therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' zone. No change proposed as part of this Amendment. Industry Χ Χ X Χ Χ Χ D D Χ Χ Χ Χ Χ Χ D Р No change proposed as part of this Amendment. Industry – Cottage Χ Χ X Х Χ Χ Ρ Α D Α Α No change proposed as part of this Amendment. Industry - Extractive Χ Χ Χ Χ Χ Χ Α Α Α Χ Χ Χ Χ Industry - Light Χ Χ Χ No change proposed as part of this Amendment.

Attachment D

Zone / Use Class	Res	Reg. Centre	Centre	Local	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural	Cons.	Bushld Protn.	COMMENTS
Industry – Primary Production	Х	х	Х	х	х	Х	D	D	D	D	х	Х	Х	х	No change proposed as part of this Amendment.
Liquor Store – Large	х	₽D	₽D	₽D	х	Х	х	х	х	х	х	х	х	х	To enable the consideration of relevant issues through a Development Application, such as operating hours and potential impact on neighbouring landowners.
Liquor Store – Small	х	Р	Р	₽D	х	Х	x	х	x	×	x	x	х	х	To enable the consideration of relevant issues through a Development Application, such as operating hours and potential impact on neighbouring landowners.
Lunch Bar	Х	Х	Х	Х	D	Χ	D	D	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Marina	Х	D	D	D	D	D	D	D	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Marine Filling Station	Х	D	D	D	D	D	D	D	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Market	x	D	D	D	ĐX	A	ĐX	ĐX	ĐX	ĐХ	AX	х	х	х	Being essentially a retail use, 'Market' is proposed to be removed from zones such as the 'Service Commercial' zone, and industrial and rural zones, which would not normally be considered appropriate for accommodating retail uses.
Medical Centre	А	Р	Р	Р	D	х	ĐX	ÐX	х	х	x	х	х	х	Not consistent with zone objectives, this land use is more appropriately placed close to the main centres to enable better access to other complementary services as well as public transport.
Mining Operations	Х	Χ	Х	Х	Х	Χ	Α	Α	Α	Х	X	Х	Х	Х	No change proposed as part of this Amendment.
Motel	х	А	А	А	AX	D	х	x	х	х	х	х	х	x	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' zone.

Zone / Use Class	Res	Reg. Centre	Centre	Local	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural	Cons.	Bushld Protn.	COMMENTS
Motor Vehicle, Boat or Caravan Sales	x	ĐX	ĐX	ĐX	₽D	x	PD	PD	х	х	х	х	х	х	Locating this land use within the main centres would be contrary to the continued strategic aims of the City, through the LPS and the Scheme, toward the creation of pedestrian friendly and vibrant Centres, including the activation and beautification of street frontages. This land use is usually associated with large areas of hard stand, fencing and associated servicing of vehicles. It is rarely an attractive or unintrusive land use. For this reason, it is also proposed that the use should become a 'D' use in the 'Service Commercial' and industrial zones to enable full consideration of the relevant issues and potential impacts ahead of any development approval.
Motor Vehicle Repair	х	х	х	x	D	х	₽D	Р	Х	х	х	Х	Х	х	Strengthening requirements to enable the consideration of relevant issues (particularly noise) through a Development Application, given that this use has been known to impact on neighbouring properties, particularly when in close proximity to residential dwellings.
Motor Vehicle Wash	Х	Х	Х	D	D	Х	D	D	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Multiple Dwelling	D	D	D	D	Х	Х	Х	Х	Χ	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Nightclub	Х	Α	Α	Х	Х	Α	Х	Х	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Office	Х	Р	Р	Р	Х	Х	Х	Х	Х	Х	Х	Х	Χ	Х	No change proposed as part of this Amendment.
Park Home Park	Α	Х	Х	Х	Х	D	Х	Х	Х	Х	Х	Х	Χ	Х	No change proposed as part of this Amendment.
Place of Worship	Α	D	D	D	D	Х	D	Х	Α	Α	Α	Х	Х	Х	No change proposed as part of this Amendment.
Produce Sales	Х	Х	Х	Х	Х	Х	Х	Х	D	D	Α	Α	Α	Х	No change proposed as part of this Amendment.
Reception Centre	х	D	D	D	ĐX	D	х	х	А	Α	х	х	х	х	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' zone.
Recreation Establishment	х	Х	х	х	Х	D	х	х	D	D	х	Α	Α	х	No change proposed as part of this Amendment.

Zone / Use Class	Res	Reg. Centre	Centre	Local	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural Lscp	Cons.	Bushld Protn.	COMMENTS
Recreation – Private	Х	D	D	D	D	D	D	Х	D	Α	Α	Α	Α	Х	No change proposed as part of this Amendment.
Repurposed Dwelling	D	D	D	D	Х	Х	Х	Х	D	D	D	D	D	D	No change proposed as part of this Amendment.
Research Establishment	Х	D	D	D	D	Х	D	D	D	Х	х	х	Х	х	No change proposed as part of this Amendment.
Residential Building	А	ХD	ХD	х	х	D	х	х	А	А	х	х	х	x	This proposed change is in line with the changes brought to the Scheme through Amendment No. 1 (gazetted 4 August 2017), which enabled mixed use development within the CBDs. The use class 'Residential Building' includes backpacker hostels, youth hostels and womens' refuge, all of which would be ideally located within these zones.
Resource Recovery Centre	х	х	х	х	х	х	х	Α	Х	х	х	х	Χ	х	No change proposed as part of this Amendment.
Restaurant/Cafe	х	Р	Р	Р	ĐX	D	х	х	D	D	А	х	Х	х	Considered to be a land use typically with a social aspect that should be located within the main centres, to encourage pedestrian access, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' zone.
Restricted Premises	х	D	D	D	ĐХ	Х	х	х	Χ	х	х	х	Х	х	Being essentially a retail use, 'Restricted Premises' is proposed to be removed from the 'Service Commercial' zone, a zone that would not normally allow for retail uses.
Rural Holiday Resort	Х	Х	Х	Х	Х	D	Х	Х	Χ	Α	Х	Х	Х	Х	No change proposed as part of this Amendment.
Rural Pursuit/Hobby Farm	х	х	Х	х	Х	Х	Х	х	Р	Р	А	Α	Х	Х	No change proposed as part of this Amendment.
Second-hand Dwelling	D	D	D	D	Х	Х	Х	Х	D	D	D	D	D	D	No change proposed as part of this Amendment.

Attachment D

Zone / Use Class	Res	Reg. Centre	Centre	Local	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural	Cons.	Bushld Protn.	COMMENTS
Service Station	x	x	х	D	D	×	D	D	AX	x	x	x	x	x	A contributor to 'ribbon development' along highways and therefore generally contrary to the recommendations of the LPS and provisions of the Scheme, the use 'Service Station' is not considered to be appropriate within the 'Rural' zone. Should a 'Service Station' be deemed necessary in a strategic location, a targeted Scheme Amendment could be undertaken to enable a merits based assessment for that individual site.
Shop	Х	Р	Р	Р	Х	Х	Х	Х	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Single House	Р	D	D	D	Х	X	Х	Х	Р	Р	Р	Р	Р	Р	No change proposed as part of this Amendment.
Small Bar	х	D	D	А	AX	D	AX	x	А	А	х	х	х	x	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' and 'Light Industry' zones.
Takeaway Food Outlet	х	AD	AD	A	Α	A	х	x	X	x	X	x	X	x	The recent inclusion of the 'Drive Through Facility Control Area' into the Scheme would require any development application containing a drive-through facility to be advertised in accordance with clause 64 of the Deemed Provisions. Given that this use is considered an appropriate use for the Centres, a change to the permissibility from 'A' (discretionary, subject to advertising) to 'D' (discretionary) will help control the impost on smaller business owners (not utilising a drive-through facility) seeking to commence operation.
Tavern	х	А	А	А	AX	Α	AX	x	А	А	x	х	x	x	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is contrary to the objectives of the 'Service Commercial' and 'Light Industry' zones.

Zone / Use Class	Res	Reg. Centre	Centre	Local	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural	Cons.	Bushld Protn.	COMMENTS
Trade Supplies	X	₽D	₽D	₽D	₽D	X	D	X D	X	x	x	×	X	x	'Trade Supplies' was introduced into the Scheme through Amendment No. 29, at the behest of the Minister, with permissibilities to mirror those of 'Bulky Goods Showroom'. However, this use is considered to be distinctly different from a 'Shop' or 'Bulky Goods Showroom' and is more suited to the 'Service Commercial' and industrial zones. It is therefore considered necessary that a Development Application be submitted to enable consideration of relevant issues.
Telecommunications Infrastructure	Α	Α	A	Α	D	Α	D	D	А	Α	А	А	х	х	No change proposed as part of this Amendment.
Tourist Accommodation	Х	D	D	D	х	D	Х	х	Х	А	х	х	Х	х	No change proposed as part of this Amendment.
Transport Depot	Х	D	D	D	D	Х	D	D	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Tree Farm	Х	Х	Х	Х	Х	Х	Х	Х	D	D	Х	Х	Х	Х	No change proposed as part of this Amendment.
Veterinary Centre	х	D	D	D	₽D	x	D	х	А	А	x	х	х	х	To enable the consideration of relevant issues through a Development Application, such as potential noise impacts on neighbouring residential dwellings.
Warehouse/Storage	Х	D	D	D	Р	Х	Р	Р	Х	Х	Х	Х	Χ	Х	No change proposed as part of this Amendment.
Waste Disposal Facility	Х	х	х	х	х	Х	х	А	Х	х	х	х	Х	х	No change proposed as part of this Amendment.
Waste Storage Facility	Х	Х	X	Х	Х	Х	Х	Α	Х	Х	Х	Х	Х	Х	No change proposed as part of this Amendment.
Wind Farm	Х	Х	Х	Х	Х	Х	Х	х	Α	Α	Х	Х	Х	Х	No change proposed as part of this Amendment.
Winery	х	ÐA	ĐA	ÐA	ĐX	Α	₽D	X D	D	D	х	AX	Х	x	Proposed to become prohibited within the 'Service Commercial' zone given the required buffer distances established by the EPA and the proximity of this zone to residential areas. Full discussion on the proposal associated with this land use, including the introduction of a new provision, is provided within the Officer Report.

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. **URGENT BUSINESS**

Nil

20. CONFIDENTIAL REPORTS

20.1 CEO PERFORMANCE REVIEW

STRATEGIC THEME LEADERSHIP - A Council that connects with the community and is

accountable in its decision making.

STRATEGIC PRIORITY 4.2 Deliver governance systems that facilitate open, ethical and

transparent decision making.

SUBJECT INDEX CEO Performance Review

BUSINESS UNIT Corporate Services

REPORTING OFFICER
AUTHORISING OFFICER

Manager Governance and Corporate Services - Sarah Pierson

NATURE OF DECISION Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies);

unding, donations and sponsorships; reviewing committee

recommendations

VOTING REQUIREMENT Absolute Majority

ATTACHMENTS Attachment A Published Under Separate Cover Confidential CEO

Performance Review Letter

This item is confidential in accordance with section 5.23(2) (a) and (b) of the *Local Government Act* 1995, as it contains information relating to a matter affecting an employee or employees, and the personal affairs of any person.

The Presiding Member called on a Councillor to move a motion to close the meeting to the public. The motion was moved and carried.

COUNCIL DECISION

C2110/062 Moved Councillor P Cronin, seconded Councillor P Carter

That the meeting be closed to members of the public to discuss this item which is confidential for the reasons as shown.

CARRIED 9/0

6.57pm: At this time, Council moved into a closed session and the live streaming of the

meeting ceased.

The officer recommendation was moved and carried.

COUNCIL DECISION

C2110/063 Moved Councillor P Carter, seconded K Hick

That the Council:

- 1. Endorses the performance review letter at Attachment A as an accurate reflection of the CEO's performance during the review period; and
- 2. Endorses the revised KPI's as set out in the review letter at Attachment A.

CARRIED 9/0

BY ABSOLUTE MAJORITY

The Presiding Member called on a Councillor to move a motion to open the meeting to members of the public. The motion was moved and carried.

COUNCIL DECISION

C2110/064 Moved Councillor P Cronin, seconded Councillor L Miles

That the meeting be re-opened to the members of the public.

CARRIED 9/0

6.58pm: At this time, the meeting was re-opened to members of the public and the live streaming of the meeting was resumed.

The Presiding Member advised the gallery that the Council had adopted the officer recommendation.

21. CLOSURE

The Presiding Member closed the meeting at 6.59pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 349 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 27 OCTOBER 2021.

DATE: 29 10 21

___ PRESIDING MEMBER: