

City of Busselton
Geographe Bay

Council Agenda

9 March 2022

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 9 MARCH 2022

TO: THE MAYOR AND COUNCILLORS

NOTICE is given that a meeting of the Council will be held in the Council Chambers, Administration Building, Southern Drive, Busselton on Wednesday, 9 March 2022, commencing at 5.30pm.

Your attendance is respectfully requested.

DISCLAIMER

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



MIKE ARCHER

CHIEF EXECUTIVE OFFICER

25 February 2022

CITY OF BUSSELTON

AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 9 MARCH 2022

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

2. **ATTENDANCE**

Apologies

Approved Leave of Absence

Nil

3. **PRAYER**

4. **APPLICATION FOR LEAVE OF ABSENCE**

5. **DISCLOSURE OF INTERESTS**

6. **ANNOUNCEMENTS WITHOUT DISCUSSION**

Announcements by the Presiding Member

7. **QUESTION TIME FOR PUBLIC**

Response to Previous Questions Taken on Notice

Public Question Time For Public

8. **CONFIRMATION AND RECEIPT OF MINUTES**

Previous Council Meetings

8.1 **Minutes of the Council Meeting held 23 February 2022**

RECOMMENDATION

That the Minutes of the Council Meeting held 23 February 2022 be confirmed as a true and correct record.

8.2 Minutes of the Special Meeting of Electors held 21 February 2022

RECOMMENDATION

That the Minutes of the Special Meeting of Electors held 21 February 2022 be noted.

Committee Meetings

8.3 Minutes of the Airport Advisory Committee Meeting held 16 February 2022

RECOMMENDATION

That the Minutes of the Airport Advisory Committee Meeting held 16 February 2022 be noted.

9. **RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS**

Petitions

Presentations

Deputations

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

11. **ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY**

12. REPORTS OF COMMITTEE

12.1 Airport Advisory Committee - 16/2/2022 - BUSSELTON MARGARET RIVER AIRPORT - AIRPORT OPERATIONS UPDATE

STRATEGIC THEME	OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy
STRATEGIC PRIORITY	3.4 Develop aviation opportunities at the Busselton Margaret River Airport.
SUBJECT INDEX	Busselton Margaret River Airport
BUSINESS UNIT	Commercial Services
REPORTING OFFICER	Manager Economic and Business Development Services - Jennifer May
AUTHORISING OFFICER	Director, Community and Commercial Services - Naomi Searle
NATURE OF DECISION	Noting: The item is simply for information purposes and noting
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Nil

This item was considered by the Airport Advisory Committee at its meeting on 16/2/2022, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council receives and notes the Airport Operations Report.

OFFICER RECOMMENDATION

That the Council receives and notes the Airport Operations Report

EXECUTIVE SUMMARY

This report provides an overview of the operations and activities of the Busselton Margaret River Airport (BMRA) for the reporting period 1 July through 31 December 2021. This includes an update on passenger numbers, aircraft landings, and actions relating to COVID-19 and general airport operations.

BACKGROUND

The first half of the reporting period has seen positive growth in closed charter flights and passenger numbers through the BMRA. The COVID-19 pandemic has continued to have significant impacts on the aviation industry with domestic and international air services severely restricted resulting in the Jetstar Busselton-Melbourne flights commencement date being further delayed.

In November, the City hosted the BMRA Community Open Day and Royal Australian Air Force (RAAF) Centenary which saw approximately 5,500 people visit the Airport with RAAF Hawk 127 Lead-In-Fighter jets, Pilatus PC-21 and a range of other private, commercial (A320 and F100) and emergency services aircraft on display.

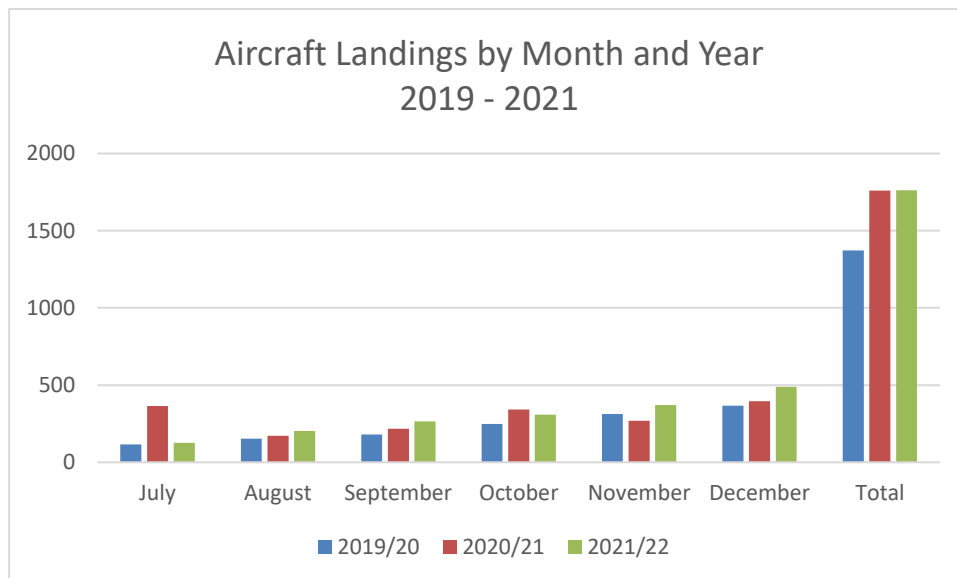
Officers have also been focussing on business development and preparation of request for tender and quotation documentation for capital works projects. A review of the Noise Management Plan including public consultation was conducted in November and December. Further, State Government directions relating to the requirements for COVID vaccinations came into effect in early December with all airport services workers and Aviation Security Identity Card (ASIC) holders required to be fully COVID vaccinated by 1 January 2022.

Aircraft Movements

The total number of Fly in Fly out (FIFO) closed charter services using BMRA remains at 20 flights (40 movements) per week. Currently there are four airlines operating from the BMRA utilising the F70, F100, A320 and Dash 8 aircraft.

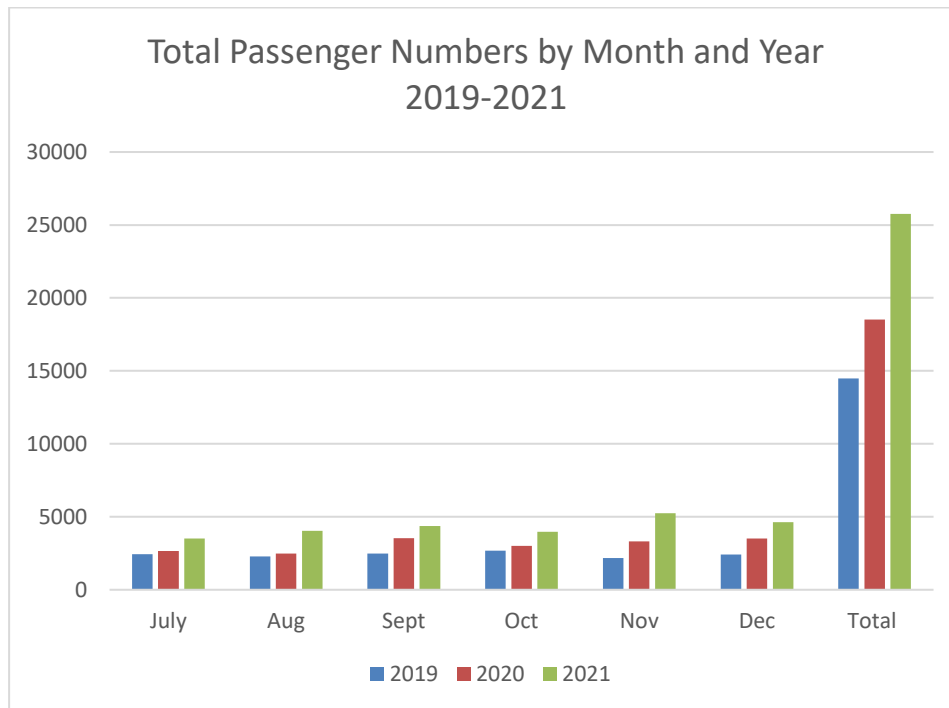
As of the first week of March the schedule is anticipated to increase to 24 closed charter flights operating to North West destinations such as Boolgeeda, Barimunya, West Angeles, Newman, Roy Hill and Karratha.

The total number of aircraft landings has steadily increased during the period with some monthly variations mainly due to light and general aviation traffic, however the overall flight numbers during the reporting period for 2021 was (1772) compared to 2020 (1700) and 2019 (1373).



Passenger Numbers

Overall passenger numbers has seen an increase of 34.3% (25,761) for the reporting period compared to same period for 2020 (18,646) which also saw a 28.8% increase from 2019 (14,477). This can be attributed to a recruitment drive by Rio Tinto in November/December and the commencement of services by Alliance Airlines, Network Aviation and Maroomba for FIFO passengers employed by BHP and FMG from September 21.



Carpark

Currently 1217 swipe cards have been issued with 1071 cards actually in use and 146 awaiting collection. The average daily occupancy for the reporting period was 300 parked patrons per day. The highest occupancy month was November with an average of 339 parked patrons per day. The highest occupancy date was 16 November with 411 parked vehicles.

Operations

The focus for the reporting period has been on:

- Support for the LATS (Large Aerial Tanker Support) operations
- Preparation of tenders and quotations for the design and construction of four general aviation hangars, the central apron expansion, and a design for the extension of the public car park
- The City's Facilities team have started a maintenance and painting program for the Arrivals Hall and Terminal building prior to the arrival of the Jetstar flights
- Business development activities have included advertising of the Commercial and Industrial Precinct opportunities, progressing the General Aviation hangar leases and liaising with airlines on new Busselton routes
- A revised Transport Security Program was submitted to the Department of Home Affairs for approval
- Noise Management Plan review public consultation.

LATS

The LATS operations commenced on 8 December with the establishment of the DFES operations centre and arrival of C130 (Bomber 131) which commenced operations that day. Boeing 737 (Bomber 138) arrived on 22 December on secondment from NSW and Boeing 737 (Bomber 137) arrived on 24 December and will be permanently stationed at BMRA until 22 April 2022. The operations centre is located landside on the western edge of the southern apron adjacent to Bay 1. The facility has a permanent daily contingent of aircrew on standby consisting of 2 Pilots and 2 engineering ground crew members. During the month of December the LATS attended 6 fire sites in WA including;

- Calgardup
- Bindoon
- Treeton
- Chidlow
- Gascoyne Complex
- Dunsborough/Eagle Bay

The LATS have collectively dropped 166,638 litres of retardant during December and taken delivery of 105,593 litres of Jet A1 fuel during December.

OFFICER COMMENT

FIFO passenger numbers through the BMRA have continued to increase significantly in comparison to the same period last year and officers expect passenger numbers to continue to increase as FIFO employment recruitment from the South West continues. The 40 aircraft movements (20 flights) per week equate to 28 movements for RioTinto (Virgin Australia), 4 for FMG (Qantas Group), 4 for BHP (Alliance Airlines) and 4 for Northern Star Resources (Maroomba Airlines).

The commencement of the Jetstar Busselton- Melbourne flights have once again been delayed due to COVID-19 border restrictions however Officers have been liaising regularly with Jetstar executives and their operations teams on a new start date for the flights.

The summer maintenance programs are in progress now that the underground water table has subsided including mowing and spraying, and apron/ runway line marking will be a focus over February and March.

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.

The BMRA operates in accordance with the following:

- Aviation Transport Security Act 2004
- Aviation Transport Security Regulations 2005
- CASA Manual of Standards 139 (Aerodromes)
- City of Busselton Transport Security Plan
- Ministerial Statement 1088
- City policies and procedures

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

- The BMRA operates under the Busselton Margaret River Airport Noise Management Plan 2019.

Financial Implications

Revenue

Actual YTD revenue for the reporting period is \$1,052,925 compared to the YTD budget of \$968,570 not including security screening revenue which has not been realised due to the delay in the Jetstar flights. The reason for revenue being greater than expected is mainly due to an increase in airport landing fees, sundry income and car parking income.

Expenditure

Actual YTD expenditure for the reporting period is \$749,049 compared to the YTD Budget of \$795,181, not including security screening costs and the airline attraction program which have not been incurred due to the delay in the Jetstar flights. Lower expenditure for the reporting period can mainly be attributed to specific airport maintenance that will not be completed until the end of summer and lower contractor and consultancy fees to date.

Stakeholder Consultation

Consultation has been occurring on a regular basis with Department of Transport, Government agencies, airport stakeholders, Department of Home Affairs, Aviation Marine Security (AMS), Civil Aviation Safety Authority (CASA), Air Services Australia, Virgin Australia Regional Airline, Qantas Group, the Busselton Aero Club, Albany, Esperance, Geraldton Airports and Australian Airports Association, concerning many topics and issues relating to the Airport.

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

The Airport Advisory Committee may choose not to receive and note the Airport Operations Report.

CONCLUSION

The airport summer maintenance work is well under way including mowing and spraying, with apron and runway line marking programs set to commence in February. The apron lighting project which has not been completed due to the delay in delivery of lighting parts from Europe is expected to be complete by mid-February.



In early March, Officers will be seeking quotations to prepare a new BMRA Master Plan with the focus shifting from aviation and landside infrastructure development (detailed in the existing BMRA Master Plan 2016-2036) to business (commercial and freight) and domestic and international air services route development and the future infrastructure required to facilitate this.

Officers will continue to provide a high level of customer service ensuring the airport is compliant, safe and security is maintained throughout.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable.

12.2 [Airport Advisory Committee - 16/2/2022 - BUSSELTON MARGARET RIVER AIRPORT - NOISE MANAGEMENT PLAN REVIEW](#)

STRATEGIC THEME	OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy
STRATEGIC PRIORITY	3.4 Develop aviation opportunities at the Busselton Margaret River Airport.
SUBJECT INDEX	Busselton Margaret River Airport
BUSINESS UNIT	Commercial Services
REPORTING OFFICER	Manager Economic and Business Development Services - Jennifer May
AUTHORISING OFFICER	Director, Community and Commercial Services - Naomi Searle
NATURE OF DECISION	Noting: The item is simply for information purposes and noting
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A BMRA Noise Management Plan (2022)  Attachment B NMP YourSay submissions 

This item was considered by the Airport Advisory Committee at its meeting on 16/2/2022, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION

That the Council:

- 1. Notes the outcomes of the Busselton Margaret River Airport Noise Management Plan (NMP) review and public consultation as required by Ministerial Statement 1088.**
- 2. Endorses the draft Noise Management Plan (2022) to be submitted to the Environmental Protection Authority as required by Ministerial Statement 1088.**

OFFICER RECOMMENDATION

That the Council:

1. Notes the outcomes of the Busselton Margaret River Airport Noise Management Plan (NMP) review and public consultation as required by Ministerial Statement 1088.
2. Endorses the draft Noise Management Plan (2022) to be submitted to the Environmental Protection Authority as required by Ministerial Statement 1088.

EXECUTIVE SUMMARY

This report provides the outcomes resulting from a review of the Busselton Margaret River Airport Noise Management Plan (January 2019), including a draft Noise Management Plan (2022) advertised for public comment and stakeholder consultation to be included in a report to the CEO of the Office for the Environmental Protection Authority by 7 April 2022.

BACKGROUND

The concept of a Noise Management Plan (NMP) for the Busselton Margaret River Airport (BMRA) was first initiated in 2009 with the first NMP approved as part of Ministerial Statement 901 on 22 June 2012. Since this time there has been a number of versions, with the current version of the NMP (January 2019) approved through Ministerial Statement 1088, through a Public Environmental Review (PER) process, which has now been in place for three years.

In accordance with Statement 1088, the City is required to monitor and report to the Office of the Environmental Protection Authority (OEPA) any operational non-compliances, which may include aircraft movements outside of the approved operating hours, unauthorised flight training and

aircraft noise breaches, and to submit annual compliance reports outlining the effectiveness of the NMP to the OEPA.

Statement 1088 also includes the requirements for the review of the NMP including Condition 6 Review of NMP:

- 6-1 Within three months of each three year period, from the date of issue of this Statement, the proponent shall submit a report to the CEO which reviews the effectiveness of the Busselton Margaret River Airport Noise Management Plan 2018 (version 1, May 2018) or any subsequent approved versions, in achieving the objective of condition 5-1.*
- 6-2 The report required by condition 6-1 shall include, but not be limited to:*
- 1) Noise monitoring results;*
 - 2) Noise amelioration assessments and/or implementation;*
 - 3) Number of complaints received and actions taken to resolve complaints;*
 - 4) Published flight paths to minimize impacts; and*
 - 5) The findings of the review to determine the effectiveness of the Busselton Margaret River Airport Noise Management Plan 2018 (version1, May 2018) or any subsequent approved revisions, and whether amendments to the Plan are required.*

A review of the NMP (2019) was completed in November 2021 and a report was presented to the Airport Advisory Committee (AAC) on 1 December 2021 detailing the process undertaken including consideration of the following main areas of the NMP and a revised draft NMP was prepared;

- BMRA Development Opportunities
- Flight Paths and Noise Abatement Zones
- Standard Hours of Operations
- Noise monitoring and Emissions
- Fly Neighbourly Agreement and Flight Training Guidelines

At this meeting, the AAC endorsed (AIR2112/071) the draft NMP (2022) (see attachment A) with the following amendments, to advertise for public comment;

NMP January 2019		NMP Proposed Draft 2022		
<i>Chapter heading</i>	<i>Section heading</i>	<i>Chapter heading</i>	<i>Section heading</i>	<i>Comment</i>
1. Introduction and Background		Introduction		Includes objectives and information about aircraft noise
	Noise Context		Understanding Noise	Changed from “Description of noise and perceived nuisance” to “Definition of sound and noise”
	Structure of Document			Removed - Not needed
	Background			Removed – historical background to BRA and development project

2. Principles and Statement of Intent	Objectives for BRA development			Removed – historical background to development project
	A Balanced Approach		Who is responsible for noise?	Removed – replaced with context to ICAO and organisations responsible for noise management
	Limitations			Removed – included in other sections throughout the document
	Statement of Intent			Removed - BMRA Strategic objectives are more aligned with Master Plan than NMP
3. Management of operational Activities		Airport Operational Activities		
	Aircraft Operations Classifications		Aircraft Type	Amended from Single engine aircraft under 1500kgs MTOW only to Single engine non-turbine aircraft only
	Flight Training Guidelines		Flight Training Guidelines	
	Frequency & Type of Use		Flight Training	Instructor cumulative hours changed from 25hrs/week/instructor to 35hrs/week/instructor Added Ministerial Statement criteria for overflying wetlands
	Flying heights for Training operations			Removed as CASA guidelines on height restrictions over rural and urban areas are governed by CASA
	Aircraft Noise management			Removed – included in Who is responsible for Noise?
	Activities requiring City approval			Removed – duplication with Standard hours of operation
	Approval for Charter and RPT Operations			Removed – duplication of Standard Hours or Operation
	Approval for Flight Training or Licence Renewal Training			Removed – duplication of Standard Hours or Operations & Flight Training Guidelines

4. Noise Complaints		Noise Complaints		Updated to reflect roles and responsibilities for aircraft noise complaints
5. Noise Assessment & Monitoring		Noise Assessment & Monitoring		
	Noise Monitoring		Noise Monitoring	Amended to remove duplication of text and table.
	Noise modelling		Noise Measurement	Updated to reflect current wording
6. Noise Amelioration		Noise Amelioration		
	Noise Context			Removed – covered in other chapters
	Noise reduction and Amelioration measures		Noise reduction and Amelioration measures	Updated to reflect current wording
7. Land Use Planning				Removed - Land use planning is more aligned with Master Plan than NMP
8. Communication & Consultation		Communication & Consultation		Updated were relevant
9. Implementation & Review		Implementation & Review		Updated were relevant
	Compliance Framework		Compliance Framework	Updated to remove Land based activities and Activates in Airspace which are covered in other chapters

OFFICER COMMENT

The draft NMP (2022) was advertised for public comment through the City's YourSay platform for a period of three weeks as detailed in the stakeholder consultation section of this report.

During the public comment period, there were a total of 203 page views to the NMP YourSay page with 100 participants clicking through to other NMP project pages, including 47 participants downloading documents and 44 participants visiting the Frequently Asked Questions (FAQ) project page. A total of 14 submissions were received, 12 through the YourSay platform and 2 submissions emailed directly to the Airport Manager.

Officers have reviewed the submissions and have categorised the responses into the following general categories:

- 6 submissions in support of the draft NMP (2022)
- 6 objections;
 - 4 objections to flight training at BMRA and/or inclusion in the NMP
 - 1 objection to flight training and larger aircraft operating from BMRA
 - 1 objection to aircraft flying at night

- 1 submission stating that aircraft noise is currently tolerable however would expect a further review of NMP if frequency of flights increase
- 1 submission requesting clarification on helicopter operations.

The objections relating to flight training were generally directed at all flight training operations occurring at the BMRA and did not specifically refer to the two amendments being proposed to the flight training guidelines in the draft NMP. Attachment B lists the comments only, received from the fourteen public submissions.

A meeting of the BMRA Consultative Reference Group (Reference Group) was held on Thursday 13 January with only one member, representing the Reinscourt area, attending on the day. At the meeting Officers provided an update on the review process and the amendments being proposed. Discussion was held on the flight paths and noise monitoring conducted by the City, which at the time was not publicly available. A commitment was made by Officers to reform the Reference Group once the Regular Public Transport (RPT) services have commenced.

Additionally, consultation with airlines and airport stakeholders has determined that there is general support for the draft NMP (2022) with feedback indicating some interest in the future, for expanding the hours of operations, particularly earlier in the morning (pre 6.00am). Officers are not proposing that the standard hours of operations are extended at this point in time.

Noise monitoring was performed as part of the review to measure the impacts of aircraft noise on the community. Two noise loggers were placed out, one in the Reinscourt area and the other to the south of the airport on Acton Park road approximately xx km from the end of the runway. The City has engaged an Environmental Consultant to assist with the noise monitoring, perform the data analysis and provide summary reports of the noise recordings.

The noise loggers were located on both sites between the dates of 21 December 2021 and 13 January 2022 with the following results:

	<i>Kalgup (LAmax (dB))</i>	<i>Reinscourt</i>
<i>Total number of plane events</i>	42	50
<i>Arrivals</i>	9	32
<i>Departures</i>	33	18
<i>Highest recording</i>	84.0 (depart) 23 Dec 2021 5.55am	80.2 (arrival) 5 Jan 2022 8.22am
<i>Average of all recordings</i>	70.62	68.2

The results from the noise monitoring indicated that the maximum noise level of 85dB was not breached and the noise acceptability levels defined as 'acceptable', 'conditionally acceptable' and 'unacceptable' were not breached.

Officers have now completed the review of the current NMP (2019) and draft NMP (2022), advertised the draft NMP for public comment and consulted with airlines, airport users and stakeholders. The level of public comment received was considered low and comments specific to the proposed NMP amendments were few in number. In general, the objections were directed towards flight training and concerns with allowing flight training aircraft to increase in size and frequency. The proposed flight training amendments are (i) to change the allowable aircraft from single engine under 1500kgs MTOW to single engine non-turbine aircraft, and (ii) increase the allowable number of instructor hours per week from 25 hours per instructor to 35 hours per instructor.

The intent of the flight training amendments are not to promote increased flight training or the number of operators to be based at the BMRA, but rather to enable the Busselton Aero Club to grow and become more sustainable through offering flying training for recreational and general aviation pilots.

Statutory Environment

The BMRA Noise Management Plan (version 2 January 2019) was approved by the then Minister for the Environment; Disability Services after review and consideration by the Environmental Protection Authority. Compliance reporting and review of the NMP is defined under Ministerial Statement 1088.

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

- Ministerial Statement 1088
- Busselton Margaret River Airport Noise Management Plan (version 2 January 2019)
- Busselton Margaret River Airport Compliance Assessment Plan (Version 2) (CAP) (23 September 2019)

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

The draft NMP (2022) was advertised for public comment between 4 January 2022 and 21 January 2022 on the City's website through the YourSay platform. The NMP public comment period was advertised in the Busselton –Dunsborough Mail on 5 January and 12 January 2022, with posts on the City's Facebook page on 10 and 15 January and the BMRA Facebook page on the 11 and 17 January 2022. The NMP review was also included on the BMRA website.

A letter to residents notifying them of the NMP review, public comment period and information on how to access YourSay was distributed out to a total of 1490 residential properties in Acton Park, Bovell, Kalgup, Reinscourt, Sabina River, Yalyalup and Yoogarillup.

Additionally, letters were sent to all airlines and charter operators that use the BMRA, emergency services and airport stakeholders including Rio Tinto, Busselton and Dunsborough Yallingup Chambers of Commerce, MRBTA, Busselton Aero Club and lessees notifying them of the NMP review and public comment period.

Finally, a meeting of the BMRA Community Reference Group was held on Thursday 13 January 2022 with members representing residential areas located adjacent to the BMRA invited to attend to ask questions and provide comments on the draft NMP and review. One member representing Reinscourt area attended the Reference Group meeting.

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. Choose not to support the amended, draft NMP (2022) to be submitted to the OEPA.
2. Choose to include specific proposed amendments and/or alternative amendments to the draft NMP (2022) to be submitted to the OEPA.

CONCLUSION

The NMP (2019) has been in place for three years and has enabled the City to manage the BMRA operations effectively. In accordance with Statement 1088, the City is required to monitor and report to the OEPA any operational non-compliances and submit annual compliance reports outlining the effectiveness of the NMP. The City has completed its mandatory compliance reporting over the past three years and in accordance with Statement 1088 is required to undertake a full review of the NMP and report its effectiveness to the CEO of the OEPA. Both Statement 1088 and NMP (2019) outline the criteria for consideration in completing this review.

A review of the NMP (2019) has now been completed and an amended draft NMP (2022) is proposed. The draft NMP (2022) has been amended to reduce the content and size of the plan with much of the background and history of the BMRA and the NMP being removed. The key compliance based content in the plan, including the standard hours of operations, noise abatement zones, fly neighbourly agreement, noise complaints process, noise amelioration criteria and process and review, are proposed to remain unchanged at this time.

The draft NMP (2022) was advertised for public comment for a period of three weeks through the City's YourSay platform with a total of 14 submissions received, with six submission in support of the draft plan, six objections, one submission requesting clarification and one submission neither supporting nor objecting. Consultation with airlines, airport users and stakeholders was also performed with general support for the plan and no specific requests for additional amendments to the plan.

The review of the NMP (2019) has generally indicated that noise emissions are being effectively managed from the BMRA with noise complaints per year ranging from 3 to 8 (mainly due to emergency services) over the past four years and the highest number of OEPA reportable non-compliances at four in 2020/21. Other criteria considered in the review such as flight paths and noise abatement zones have yet to be tested due to the delay of RPT services. Noise monitoring completed as part of the review has showed that the maximum noise level of 85dB (LAmax) and noise acceptability levels were not being breached during the monitoring period.

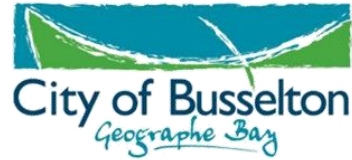
As a result of the review and public comment process, Officers are of the opinion that the draft NMP (2022) including the amendments proposed, be submitted along with a report on the effectiveness of the NMP to the OEPA by the 7 April 2022.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Officer will start to compile a report from mid-February, including the draft NMP (2022) to be submitted to the OEPA by the 7 April 2022.



Southern Drive, Busselton, Western Australia
Telephone: (08) 9781 0444 Facsimile: (08) 9752 4958
Email: city@busselton.wa.gov.au
Web: www.busselton.wa.gov.au



All communications to: The Chief Executive Officer, Locked Bag 1 BUSSELTON
WA 6280

BUSSELTON-MARGARET RIVER
AIRPORT
NOISE MANAGEMENT PLAN
Draft – January 2022

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Definitions

Accredited Environmental Noise Personnel - a person authorised in accordance with Sections 87 and 88 of the *Environmental Protection Act 1986*.

AGL (Above Ground Level) - a height reference to distance above ground level.

ANEC- These are scenario contours and are used to produce 'what if' contours, for example, in the process of examining flight path options around an airport.

ANEF - These are the official forecasts of future noise exposure patterns around an airport and they constitute the contours on which land use planning authorities base their controls.

Australian Noise Exposure Forecast (ANEF) - a prediction of the cumulative exposure to aircraft noise which communities near an airport are likely to experience in a specified future time (usually 10 – 20 years) and over a specified duration (usually one year). The results are depicted in the form of contours linking areas that have the same noise exposure.

Charter (Closed) - Operation, with fixed schedule to and from fixed terminals, in which the purchase of tickets is not available to any member of the public but specifically to an individual or organisation.

Charter (Open) - Operation, with fixed schedule to and from fixed terminals, in which the purchase of tickets is available to any member of the public through either an agent or directly on-line.

dB L_A SLOW - the A-weighting filter covers the full audio range - 20 Hz to 20 kHz and the shape is similar to the response of the human ear at the lower levels, SLOW refers to the time weighting applied.

Flight Training – instruction received from a flight training school or qualified flight training instructor in an aircraft or flight simulator. Training only applies to student pilots or unqualified pilots. Flight training definition does not include recurrent training or licence renewal training, ground training or a demonstration flight.

Fly Neighbourly Agreement (FNA) - a voluntary code of practice included in the Noise Management Plan to be actively promoted and facilitated by the City

Licence Renewal Training - training performed by a qualified pilot, whereby specific operations are required to be completed to maintain pilot licence as current (example; Take off/Landings, VFR operations) as defined under CAR 1988 Volume 2 – Part 5, Division 8.

MTOW – Maximum Take Off Weight

Noise Abatement Zones - areas of land with proximity to the airport with existing or planned noise sensitive land uses over which aircraft activity is to be minimised.

Noise Contours (N-Contour or Nxx) - the noise contours on a map indicate the number of aircraft noise events louder than the specified dB(A) level which would occur on the average day during the period covered (example - an N65 contour map would depict the number of events that would exceed 65dB(A) on the average day).

Noise Sensitive Location - a land-use with an identified sensitivity to noise eg: residence, hospital.

Regular – occurring at uniform (even / constant) intervals

Regular Passenger Transport (RPT) – commercial airline services operating to a regular schedule, to and from fixed terminals, where the purchase of tickets is available to any member of the public.

Special Control Areas - areas of land with proximity to the airport where noise sensitive land uses can be restricted.

Table 1 – Document Management Information

Action	Date	Organisation
NMP revision - Draft	January 2022	City of Busselton
NMP revision – Version 2	January 2019	City of Busselton
NMP revision – Version 1	May 2018	City of Busselton
NMP revision	March 2017	City of Busselton
NMP revision	18 February 2016	City of Busselton
NMP (January 2015) Ministerial Approval	7 July 2015	Minister for Environment; Heritage
NMP Final revision	22 December 2014	City of Busselton
NMP resubmission	10 March 2014	City of Busselton
NMP revision (First review period)	7 November 2013	City of Busselton
Final Ministerial Approval	22 June 2012	Minister for the Environment
Final proponent revision	3 February 2012	City of Busselton
EPA Board consideration	19 January 2012	EPA Board
Public Consultation	4 weeks advertising	Shire of Busselton
Submission to EPA	1 February 2011	Environmental Protection Authority
Council review and adoption	15 December 2010	Council
Busselton Airport Advisory Committee recommendations	7 December 2010	Airport Advisory Committee
Shire of Busselton review and recommendations	October-December 2010	CEO – Mike Archer
Busselton Airport Advisory Committee revisions and updates	August/September 2010	Airport Advisory Committee (previously Advisory Group)

<p>Busselton Airport Advisory Group development of draft plan</p> <p>The draft Noise Management Plan was developed by the Airport Advisory Group, consisting of:</p> <p>Cr Tom Tuffin – Shire of Busselton Cr Jackie Emery – Shire of Busselton Cr David Binks – Shire of Busselton Mr Ray McMillan – Busselton Chamber of Commerce Ms Natalie Venosi – Geographe Bay Tourism Association Mr Andrew Svalbe – Community representative Mr Peter Stark – Community Representative Mr Ross Beatty / Mr Geoff McGlasson – Busselton Aero Club Mr John McCallum / Mr Brian Rulyancich – Dunsborough-Yallingup Chamber of Commerce Two representatives (with one deputy) of the Airport Residents' Group</p>	<p>August 2009 to July 2010</p>	<p>Airport Advisory Group (later Advisory Committee)</p>
<p>Draft Noise Management Report developed by Strategen</p>	<p>April 2009</p>	<p>Strategen Consultants</p>

INTRODUCTION

The City of Busselton, as the owner and operator of the Busselton-Margaret River Airport, seeks to operate the airport to its full potential for the benefit of tourism, export producers and freight, aviation business and economic development of the South West region. In doing so, the City recognises that noise can and does affect members of its community and hence this noise management plan outlines the strategies and measures to minimise noise impacts for the community.

The main objectives of the Noise Management Plan are to;

- identify and implement controls and procedures for the effective management of aircraft noise and the reduction of aircraft noise impacts;
- provide clear and specific guidelines for airport users as to their responsibilities and obligations with regard to noise management;
- procedures for monitoring and ongoing review of the plan;
- outline noise assessment and mitigation procedures; and
- provide the general community with clear and transparent information and guidelines as to the noise management controls and procedures to be employed in respect of aircraft noise in the vicinity of the Busselton-Margaret River Airport.

Understanding Noise

Sounds are vibrations through the air or other mediums that are received and 'heard' by a person or animal. Whereas 'noise' can be simply defined as unwanted or unpleasant sound.

Sound is measured in decibels (dB) and is represented on a non-linear (logarithmic) scale. This means that a person is unlikely to notice a change in 1 or 2 dB while a 10 dB change in noise levels reflects a doubling or halving of loudness.

The human ear is less sensitive to low audio frequencies so instrument measured sound levels are typically 'A-weighted' to mimic the response of the human ear to sound. This is indicated by adding (A) to the dB unit and expressed as dB(A).

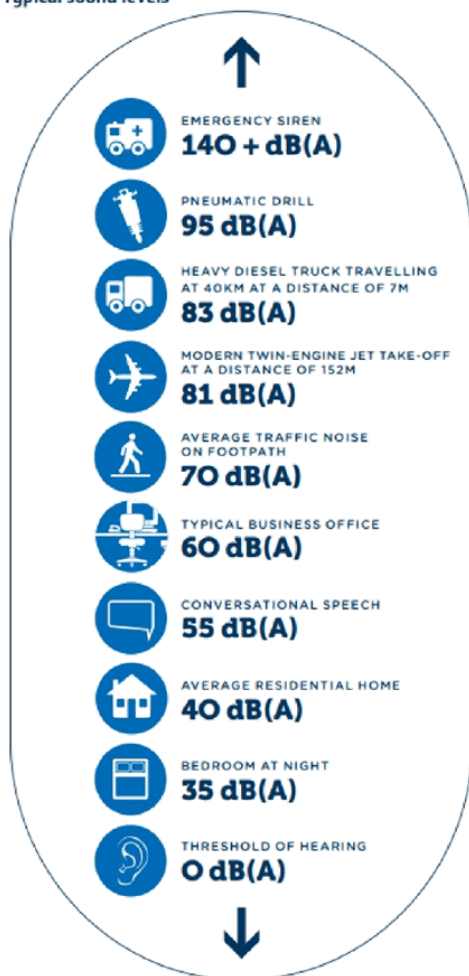
The majority of aircraft noise is generated by the engines and depends on a range of factors including:

- aircraft size and weight,
- number and type of engines,
- atmospheric conditions;

- thrust setting,
- speed, and
- altitude and distance.

Some examples of typical sound levels are listed below:

Typical sound levels



Who is responsible for aircraft noise management?

The City of Busselton, through the NMP, recognises the International Civil Aviation Organisation's (ICAO) internationally accepted and employed principle of a balanced approach to aircraft management. This consists of identifying the noise impacts at an airport and then analysing the various measures available to reduce noise and noise impacts through four principal elements, being:

- Reduction of noise source;
- Land use planning and management;
- Noise abatement operational procedures; and
- Operating restrictions at airports.

To achieve a balanced approach, a range of organisations have roles and responsibilities in managing aircraft noise as listed below:

Organisation	Roles and Responsibilities
International Civil Aviation Organisation (ICAO)	Establishes noise certification standards for new aircraft Provides guidance on noise management strategy
Civil Aviation Safety Authority (CASA)	Independent statutory authority with responsibility for regulation of civil aviation operations in Australia Provides overriding consideration to air safety Responsible for airspace regulation through the Office of Airspace Regulation
Department of Infrastructure, Transport, Regional Development and Communications	Advises the Federal Government on the policy and regulatory framework for Australian airports and the aviation industry Provides policy advice to the Minister on the management of aircraft noise

	Provides regulatory oversight of the Air Navigation (Aircraft Noise) Regulations 1984 as they apply to aircraft which do not meet Australian aircraft noise standards
Airservices Australia	<p>Provides Air Traffic Control (ATC) services</p> <p>Manages and maintains aircraft navigation, surveillance, and noise monitoring infrastructure</p> <p>Establishes flight paths at Australian Major City Airports</p> <p>Manages noise complaints and enquiries through the Noise Complaints and Information Service</p> <p>Provides information on aircraft movements, runway and flight path usage and noise impacts using a range of noise descriptors</p> <p>Reviews and endorses Major City Airport ANEF charts for technical accuracy</p>
Airlines and aircraft operators	<p>Operate and maintain aircraft that meet the ICAO noise certification requirements</p> <p>Implement noise abatement procedures principles for flight operations</p>
Aircraft Noise Ombudsman (ANO)	<p>Oversees the handling of aircraft noise enquiries and complaints by Airservices</p> <p>Conducts independent reviews of noise complaint handling</p> <p>Makes recommendations for improvements and changes where necessary and feasible</p>
State and Local Government	<p>State Government develop land use planning frameworks to prevent developments that are inappropriate having regard to aircraft noise</p> <p>Local Governments implement State Government land use planning frameworks</p> <p>Local Governments own & operate regional airports</p>

City of Busselton	<p>Manages operations at the airport</p> <p>Develops and maintains infrastructure to support aircraft operations</p> <p>Publishes a Master Plan with associated ANEF</p> <p>Manages aircraft noise associated with the BMRA through BMRA Noise Management Plan in accordance with MS 1088</p> <p>Manages commercial opportunities, including air services, general aviation, retail, commercial and industrial at the BMRA</p>
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The City liaises with CASA and Airservices to effectively manage aircraft noise impacts associated with the BMRA. This includes the design and publication of flight paths, Master Planning and preparation of ANEF/N-contours, handling of noise complaints and implementation of this NMP. However, it is important to note that the City only has control in the management of ground based aircraft noise, with the CASA and Airservices responsible for the administration and regulation of Australian airspace.

AIRPORT OPERATIONAL ACTIVITIES

The BMRA has developed mechanisms for managing aircraft noise including but not limited to:

- Noise Abatement Procedures
- Flight Paths
- Standard Hours of Operation
- Flight Training Guidelines
- Fly Neighbourly Agreement

Noise Abatement Procedures

Noise Abatement Zones identify areas that include existing and future planned residential development in close proximity to the airport. These are shown in figure 1.

As far as practicable, in accordance with air safety standards, operators shall:

- minimise the over flight at less than 1500 feet (AGL) of areas identified as noise abatement zones.



Figure 1 – Existing and Planned residential development with proximity to the Busselton-Margaret River Airport

Flight Paths

As far as practicable, in accordance with applicable regulatory requirements, guidance, procedures and limitations, operators shall:

1. maximise the use of flight paths over coastal waters and non-residential areas, rural land and State forest;

2. minimise the over flight of residential areas, including rural residences and other noise-sensitive premises, particularly at less than 1500 feet (AGL);
3. utilise descent profiles with low-power and low-noise operations.

Standard Hours of Operation

The following table has been established to advise airport users of those operations that need City approval and to specify overall limits on operations to limit impacts for the community.

Table 2 – Operational Limitations and Approved Parameters

<u>Operator / Aircraft Type</u>	<u>Standard Hours of Operation</u>	<u>Conditions</u>
Emergency Services	UNRESTRICTED	Emergency situations and normal flight patterns <ul style="list-style-type: none"> • training flights require approval under the Flight Training Guidelines
Light Aviation/ General Aviation	RESTRICTED 0600hrs – 2200hrs	Maximum noise level of 85dB (A)* Flight Training approval required (only available for single engine, non-turbine aircraft and flight training conditions apply) Aircraft above 5,700kgs MTOW – City approval required
Open, Closed Charters, RPT/Commercial Operators	RESTRICTED** 0600hrs – 0000 hrs **Five flights per week approved between 0000 - 0600hrs.	Maximum noise level of 85dB (A)* City approval required
<p>* The Aircraft Noise levels identified in this table are maximum noise levels recorded at any residential or other noise-sensitive location when determined as an LA Slow value at any point within 15m of the identified building. Noise levels regularly exceeding this may initiate noise mitigation procedures (Chapter 6.2.3)</p>		

Any application that does not conform to the standard hours of operation or conditions set out in this table is considered a Special Event. Assessment of Special Events will be undertaken using the procedures defined in Section 3.2.4

- Emergency Services include:
 - Royal Flying Doctor Service;
 - Sea Search and Rescue;
 - Department of Fire and Emergency Services (DFES) and Department of Biodiversity, Conservation and Attractions (DBCA) aircraft (Firefighting/rescue fixed wing & rotary);
 - Police Airwing;
 - W.A Surf Life Saving (Westpac rescue Helicopter)
 - Military aircraft (no flight training approval required).

Flight Training Guidelines

These Guidelines are intended to provide consistency in considering applications for aircraft pilot training for **flight training operators based** at the Busselton-Margaret River Airport. The intent of the Guidelines are to provide guidance in relation to pilot training and pilot training schools based at the Busselton-Margaret River Airport. The specific aims of the Guidelines are as follows:

- To minimise impacts on City of Busselton residents from flight training operations based at the Busselton-Margaret River Airport;
- To establish guidelines for flight training which relate to types of aircraft, frequency of flights, hours/days of operation; and
- To establish a standardised procedure for assessment and approval of flight training proposals.

The City of Busselton will use these guidelines in relation to proposals to establish pilot training and pilot training schools based at the Busselton-Margaret River Airport.

Application for a Permit

The City of Busselton requires an application for a permit to be lodged for proposals for pilot training and pilot training schools at the Busselton-Margaret River Airport to be considered.

Applications for a permit will only be considered for flight training from Instructors based/operating from the location of the Busselton-Margaret River Airport. The Proponent will need to include information in relation to the following:

- Name of individual flying instructor/ Flight Training School;

- Number, type (model/description) and weights of aircraft to be used for flight training;
- Noise characteristics of aircraft to be used for flight training;
- Provide a Flight Training Plan outlining their training programs including maps of flight training areas/flight paths and circuits;
- Estimated number of trainee pilots;
- Airfield emergency response plan;
- Professional/commercial background of operator;

A permit to conduct Flight Training at the Busselton-Margaret River Airport may be issued for a period of 12 months and at the finalisation of this period a further permit may be granted at the discretion of the City.

In addition, the City of Busselton will require the proponent to sign up the NMP, including the Fly Neighbourly Agreement.

Permit Provisions

The Guidelines will apply to the following aircraft classifications, frequency, times and type of use;

1. Aircraft Type

- Single engine, non-turbine aircraft only.

2. Times of Operation

The hours of operation for flight training will be as follows:

- 8am to last light on Monday – Friday;
- 9am to 5pm on Saturdays, Sundays and public holidays.
- There is to be no Flight Training on Christmas Day, Boxing Day or Good Friday.

3. Flight Training

- A cumulative total of 35 hours per week per instructor (inclusive of circuit training and NDB training)
- No more than 6 'continuous' circuits in any one flight training session
- All aircraft fly a minimum of 640 feet (AGL) over wetlands and estuaries of the Vasse and Wonnerup areas to avoid bird strike and disturbance of waterbird habitat.

4. Emergency response

Applicants proposing to operate pilot training at Busselton-Margaret River Airport shall be aware of the Airport Emergency Plan at the airport. Applicants are to provide their Emergency Response Plan.

5. Noise

Flight training aircraft are subject to the same noise levels detailed in the Standard Hours of Operation. Conditions of approval will reflect consideration of the estimated noise and frequency of flight.

6. Fly Neighbourly Agreement

All applicants will be required to abide by the FNA.

7. Revocation of Approval

Any permit issued by the City of Busselton will contain provisions enabling the City to revoke that approval in the event of non-compliance with any of the conditions contained therein.

8. Exemptions for Flight Training

Flight training exemptions will be provided for the Emergency Services however an approval is still required to be applied for. The exemption will apply to the following Emergency Services;

- Royal Flying Doctor Service
- Sea Search and Rescue
- DFES / DBCA
- Police Airwing
- Other Emergency Services providers as required from time to time.

RAAF and Military Services are exempt from applying for flight training permits however are required to provide prior notice to the City of Busselton.

9. Licence Renewal Training

Licence renewal training requires written permission, approved by the CEO of the City of Busselton and will only be issued to airline operators that utilise the Busselton-Margaret River Airport on a frequent basis for either FIFO operations or RPT services. A permit will only be issued once a FNA has been agreed to between the potential operator and the City of Busselton.

Fly Neighbourly Agreement

This Fly Neighbourly Agreement (FNA) is a code of practice to be observed by users of the Busselton-Margaret River Airport to assist with the minimisation of noise nuisance experienced by the Airport's neighbours. See Appendix B for the BMRA Fly Neighbourly Agreement.

APPROVAL FOR SPECIAL EVENTS

Any operator seeking to utilise the BMRA for an event or operation that does not comply with the specifications in section 'Standard Hours of Operation' can apply to the City of Busselton setting out the details of the proposal. The City Chief Executive Officer (or approved delegate) is authorised to determine applications for up to and including twelve (12) Special Events that are approved for a single event or circumstance, where the operation is due to the following circumstances;

- Inclement weather
- Unserviceable aircraft
- One-off events

Assessment of other applications

An application for an Other Special Event that is not a single event or circumstance is to be assessed under a broader Consultation Process outlined in Table 3.

Table 3 – Consultation Process for Special Events

Receipt of application for Other Special Events that is not a single event or circumstance that does not comply with the Standards Established Standard Hours of Operaiton;
Referral to the Airport Advisory Committee for recommendation to Council; <ul style="list-style-type: none"> - refusal to proceed; - alternative proposal; or - approval to proceed.
Consideration by Council for approval to progress with the application <ul style="list-style-type: none"> - refusal to proceed; or - approval to proceed.
If an approval is sought for extension to the application: <ul style="list-style-type: none"> • Evaluation of the initial period, including: <ul style="list-style-type: none"> - public feedback; - Airport Advisory Committee consideration
Council consideration after evaluation of initial period, resulting in: <ul style="list-style-type: none"> - refusal; or - approval, subject to conditions as required

CONDITIONS: In limited circumstances an ongoing Special Event may be approved, subject to a comprehensive assessment of the potential amenity impact of the proposal, in accordance with the noise amelioration requirements of this plan.

Any approval provided shall include:

- Noise generation limitation;
- Hours within which the operations cannot occur;
- Noise reduction requirements;
- Any other conditions appropriate to the specific application.

NOISE COMPLAINTS

Airservices Australia manages enquiries and complaints regarding aircraft noise throughout Australia through the Noise Complaints and Information Service (NCIS).

Airservices role involves:

- ensuring that flight departures and arrivals are designed to minimise noise impacts
- providing information about aircraft noise
- monitoring aircraft noise around major airports
- providing a national Noise Complaints and Information Service.
- All aircraft noise complaints should be lodged with Airservices Australia

The City recommends that all noise complaints are lodged with Airservices Australia. If you would like to make a complaint, you should contact Airservices by:

- completing the online form available at: airservicesaustralia.com (aircraft noise/making a complaint),
- contacting the Airservices NCIS hotline on 1800 802 584, 9am – 5pm EST,
- emailing ncis@airservicesaustralia.com, or
- writing to Noise Complaints and Information Service GPO Box 367, Canberra ACT 2601.

For more information visit: airservicesaustralia.com

If you feel your issue has not been effectively addressed, or you believe you have not been provided with adequate information, you may also lodge a complaint with the Aircraft Noise Ombudsman (ANO) by:

- emailing ano@ano.gov.au,
- completing the online form available at ano.gov.au (making a complaint/online complaint form),
- contacting the ANO on 1800 266 040, or
- writing to the ANO GPO Box 1985, Canberra ACT 2601.

For more information visit: ano.gov.au

If you wish to make a noise complaint to the City of Busselton associated with the Busselton-Margaret River Airport, it should be submitted to the Chief Executive Officer (or CEO's nominated complaints officer) of the City. Complaints can be lodged verbally, via email or in writing and will need to include:

- The complainants name;
- The location at which the noise nuisance occurred;
- The date(s) and time(s) on which the noise nuisance occurred;
- Any details of the aircraft that may have been observed;
- Any other information that will enable the complaint to be properly investigated.

Complaints will be acknowledged in writing and complainants will receive a response once the complaint has been investigated.

The City will maintain records of complaints regarding aircraft noise impact and utilise this information in the ongoing review and implementation of the NMP.

NOISE ASSESSMENT AND MONITORING

Noise Monitoring

Noise monitoring will be used to assess compliance with the noise standards established in the NMP. Noise monitoring may be carried out both on Busselton-Margaret River Airport land and the surrounding areas. Where a representative sample of data has been collected noise monitoring results will be used for:

Table 4 – Noise Monitoring Schedule

Purpose	When	Where
Noise monitoring	Response to requests or complaints or significant change in operations	At affected noise-sensitive premises (outdoors and / or indoors)
Land use planning	Assessment of proposal	Relevant subject site
Events or one-off occurrences	During the event or at specified time intervals.	Referenced locations (eg runway ends) or at residential properties.

All noise monitoring and assessment will be performed by accredited Environmental noise personnel and will involve collecting samples of representative data. The results of the noise monitoring will also be used to verify compliance with the NMP and considered when reviewing the NMP.

Noise Measurement

For land use planning around airports, Australia has adopted the Australian Noise Exposure Forecast (ANEF) system, which describes cumulative aircraft noise for an 'average annual day'. The ANEF system was developed on the basis of social survey data which aimed to correlate aircraft noise exposure with community reaction in residential areas. The ANEF system is useful for controlling new noise sensitive developments near airports. An Australian Noise Exposure Concept (ANEC) is a noise chart produced for a hypothetical future airport usage pattern. ANEC noise exposure contours are calculated using the same methods as the ANEF; however, they use indicative data on aircraft types, aircraft operations and flight paths. Australian Standard 2021:2015 contains advice on the acceptability of building sites based on ANEF zones. The acceptability criteria vary depending on the type of land use. An aircraft noise exposure level of less than 20 ANEF is considered acceptable for the building of new residential dwellings.

Building type	Forecast noise exposure level (ANEF)		
	Acceptable	Conditionally acceptable	Unacceptable
House, home, unit, flat, caravan park	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Hotel, motel, hostel	Less than 25 ANEF	25 to 30 ANEF	Greater than 30 ANEF
School, university	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Hospital, nursing home	Less than 20 ANEF	20 to 25 ANEF	Greater than 25 ANEF
Public building	Less than 20 ANEF	20 to 25 ANEF	Greater than 30 ANEF
Commercial building	Less than 25 ANEF	25 to 30 ANEF	Greater than 35 ANEF
Light industrial	Less than 30 ANEF	30 to 40 ANEF	Greater than 40 ANEF
Other industrial	Acceptable in all ANEF zones		

Building site acceptability table based on ANEF zones (AS2021)

What are ‘Number Above’ noise contours?

Noise measures based on the intensity and frequency of individual aircraft noise events is an effective way of conveying information about aircraft noise impacts. These measures are often more easily interpreted compared to the ANEC/ANEF. While ‘Number Above’ data show the number of events that are predicted to exceed a certain noise level at a given location, they do not show the intensity of noise to be experienced at that location. ‘Number Above’ (NXX) measures indicate the average number of aircraft overflights per day exceeding a specified noise level (XX dBA). For example at the 5 event contour on the N70 map there would be expected to be on average 5 events per day that exceed 70 decibels. The ANEC and N65 and N75 contours are accessible on the [Community & Environment - Busselton Margaret River Airport](#) website.

The ANECs and N70 contours will be used by the City’s Strategic Planning Department in future land use planning and town planning scheme amendments to protect both the community and future amenity for noise sensitive land users.

Noise Modelling based on ANEF, N65, N70 and N75 contours has been undertaken by the City of Busselton and will continue to be utilised to provide direction for future land use planning considerations as the Busselton-Margaret River Airport develops.

This includes the identification of noise sensitive land areas and restricted land use areas which have and potentially result in the City of Busselton applying airport notifications on land titles.

Noise modelling (ANEFs and/or ANECs and N-contours) will be reviewed every five years or upon the following trigger points (which will be reviewed on an annual basis)

- Change in aircraft models used for RPT and freight operations from those assumed in the aircraft Modelling (B737 and A320);

- Increase of more than 20% from the aviation movement forecasts used in the current noise modelling at the time; or
- re-design of flight paths and DAPs.

NOISE AMELIORATION

Noise Reduction and Amelioration Measures

The ongoing implementation and enforcement of the NMP is intended to result in an airport operation that does not significantly impact on the amenity and lifestyle of residents in the vicinity of the Busselton-Margaret River Airport.

Based on the Australian Department of Infrastructure and Regional Development (including National Airports Safeguarding Framework Principles and Guidelines) and AirServices Australia information, the City of Busselton utilises the Australian Standard AS2021;2015 for the basis of its noise assessment and amelioration process. This is based on one of the objectives of the Standard being to provide guidance to local governments, and communities concerned with planning and building development on the siting and construction of new buildings against aircraft noise intrusion and on the acoustical acceptability of existing buildings located in the vicinity or near aerodromes.

Further, in adopting the Australian Standard AS2021;2015 the City will apply the definitions of 'determination of Building site acceptability' of "Acceptable", "Conditionally Acceptable" and "Unacceptable". Using the Standard, the ANEF, N-Contours and noise monitoring techniques, in certain circumstances where the level of impact may be proven to be excessive, the residence can be considered for noise amelioration.

Noise Reduction Parameters

As a general guide, the following noise levels have been broadly established as:

- Acceptable - whereby under normal circumstances no noise reduction measures will be necessary;
- Conditionally Acceptable - whereby negotiations may be necessary in an attempt to reduce the number of events and the noise impact;
- Unacceptable - whereby consideration will be given as to how the noise impact may be reduced.

Table 5 – Guide to Noise Level Acceptability

Acceptable	Conditionally Acceptable	Unacceptable
<75dB(A)	75-85dB(A)	>85dB(A)

These criteria relate to noise sensitive receivers including residences, and do not relate to commercial and industrial receivers. Where a noise sensitive receiver is experiencing regular noise levels as set out in the Noise Amelioration Assessment table actions may be taken by the City of Busselton to implement further controls on any activity consistently generating this level of noise. Where a residence experiences noise levels that regularly exceed 85dB(A) the City of Busselton may restrict the ongoing use of any aircraft that generates such noise. Should operational noise reduction measures not prove successful, noise amelioration will be utilised.

Noise Amelioration as a Noise Reduction Technique

One strategy that the Council will utilise in reducing the noise impact will be noise amelioration measures for specific residences at which such noise levels have been experienced. In assessing any residence as to whether it qualifies for noise amelioration, the City will follow the process below as defined in AS2021; 2015;

Table 6 – Noise Criterion for Amelioration

Outdoor Noise Criterion
<p>Noise Amelioration action is required where L_{Amax} regularly exceeds² –</p> <p>(1) 85dB(A); or</p> <p>(2) 80dB(A) for > 6 events¹ per day; or</p> <p>(3) 75dB(A) for > 12 events¹ per day.</p> <p>Notes:</p> <p>(1) Each aircraft noise event occurring between 7pm and 7am is to be counted as 4 events.</p> <p>(2) Regularly exceeds refers to events occurring at uniform (even / constant) intervals. Noise generated by Emergency Services Aircraft operating in emergency situations are not to be taken to count towards the monitored noise events for amelioration purposes.</p> <p>AND / OR</p> <p>Table 2.1 Building Site Acceptability based on ANEF Zones in AS2021:2015; where a house, home, unit, flat, caravan park falls in the 20-25 ANEF zone</p>

Table 7 – Target Levels for the Design of an Acoustic Insulation Package

Building type and activity	Indoor design sound level dB(A)
<i>Houses, home units, flats, caravan parks</i>	
Sleeping areas, dedicated lounges	50
Other habitable spaces	55
Bathrooms, toilets, laundries	60

Process for Amelioration Assessment

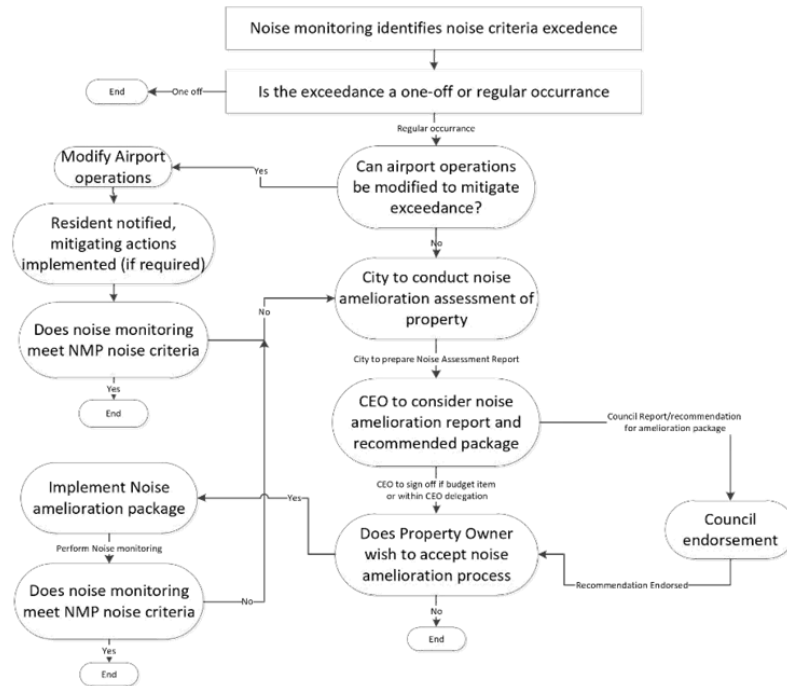
A key management action for the implementation of the NMP is to identify residences requiring noise amelioration assessment. This assessment will be undertaken in accordance with the process identified in Table 8 and process flow detailed in Table 9.

Table 9 – Amelioration Assessment Process

Action	Input / Output	Parties Involved
Identify Residential Property for assessment	<ol style="list-style-type: none"> 1. Request or complaint from property owner; or 2. Noise Monitoring data identify noise level 'breach' 	Property owner City of Busselton
Desktop analysis of noise monitoring	<ol style="list-style-type: none"> 1. Determine if noise monitoring data exists or is required 2. Conduct noise monitoring (if required) 3. Compare noise monitoring to noise level criteria 	City of Busselton Property owner
Liaison with Property owner	Initial discussions with property owner regarding amelioration packages provided for in the NMP	City of Busselton Property owner
Acoustic assessment for amelioration design	Assessment of property for amelioration design packages in accordance with Australian Standard Indoor Design Sound Levels*	Acoustic Engineers Acoustic insulation specialists City of Busselton Property owner
Liaison with Property owner	Further discussion with property owner to confirm options on amelioration packages	City of Busselton Property owner
Report to CEO	Report on details of amelioration and officer recommendation including if Council consideration is required.	City of Busselton
Report to Council (if required)	Report to contain <ul style="list-style-type: none"> - results of noise monitoring - Cost of possible amelioration packages - Results of consultation with private property owner - AAC and City Officers' Recommendation 	City of Busselton

Follow-up acoustic assessment	Noise monitoring to assess effectiveness of amelioration implementation	Accredited Noise Monitoring
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Figure 3: Noise amelioration process flow.



COMMUNICATION AND CONSULTATION

The City may utilise at various times any or all of the following communication and consultation initiatives:

- An advisory committee or similar established body to provide specific input to various proposals and to assist with stakeholder communication and consultation;
- Regularly update the City of Busselton's Busselton-Margaret River Airport website with airport operations information;
- Ensure that airport noise complaints procedures are advertised and available on the Busselton-Margaret River Airport website;
- Place all Council endorsed, related noise exposure contour maps on the Busselton-Margaret River Airport website and make available to the public by various other means (i.e. ANEF, ANEI, N-contours);
- Provide land use planning information in various formats along with the noise contour information;
- Utilise newspaper releases, radio updates, forums, community meetings and advisory committee meetings;
- Direct communication with interested members of the public (eg those living near the airport) with information pertaining to Airport operations.
- Noise amelioration Information Package.

IMPLEMENTATION AND REVIEW

The Busselton-Margaret River Airport is required to implement this Noise Management Plan to ensure all operators utilising the airport are doing so in an approved manner.

Table 10 - The Management Structure consists of:

Council	Sets high level direction for Airport development and management Approves land use planning parameters, including scheme amendments Approves changes to Noise Management Plan
Airport Advisory Committee	Provides input to: <ul style="list-style-type: none">• high level direction for Airport development and management• changes to Noise Management Plan• applications for ongoing special event or special circumstance exemptions

<p>The Chief Executive Officer</p>	<p>Informs and makes recommendations to the Council and/or Airport Advisory Committee</p> <p>Manages the day to day operations of the Busselton-Margaret River Airport</p> <p>Ensures compliance with the NMP and Flight Training Permits</p> <p>Considers applications for Charter and RPT services in accordance with the NMP</p> <p>Considers one-off special event or special circumstances exemptions</p> <p>Considers requests for flight training permit renewal</p> <p>Considers Noise amelioration assessments and implementation packages</p>
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Compliance Framework

Operators are required to comply with the parameters outlined in this Noise Management Plan and in accordance with any approval granted by the City for operations at the Busselton-Margaret River Airport.

In order to seek/enforce compliance by aircraft operators with the requirements and objectives of this NMP, the City of Busselton shall implement/employ the following measures with regards to land based activities at BMRA:

- City of Busselton Airport Local Law;
- Fly Neighbourly Agreements with aircraft operators;
- Consultation with aircraft operators using the BMRA;
- Reporting non-compliance to relevant government agencies (like CASA, AirServices Australia and OEPA);
- Infringe serial non-compliant aircraft operators in accordance with City of Busselton local laws;
- Ban serial non-compliant aircraft operators from using the facilities at the airport (banning certain non-compliant activities at the airport or prohibiting such operators from landing and taking off from the aerodrome).

Review Process

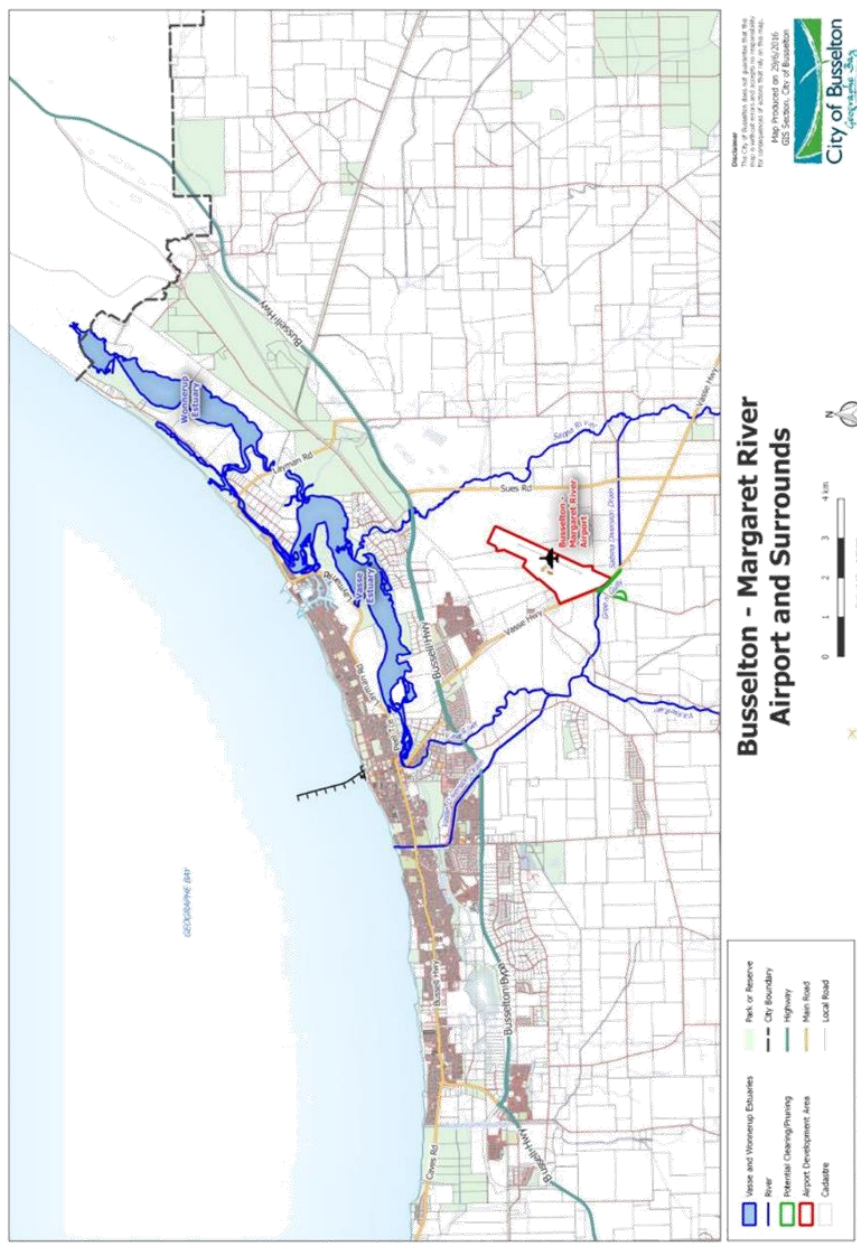
The review of the Noise Management Plan will be undertaken every three years in conjunction with the Airport Advisory Committee (or its equivalent replacement at any future time). The review will be undertaken in consultation with key stakeholders, including the community, Industry, government agencies and airport users. The results of the review and any proposed changes to the NMP will be advertised for comment in the local newspapers following Council's consideration of the recommended changes. It is noted that proposed amendments to the NMP may require approval under the Environmental Protection Act 1986 or other relevant Acts.

Any review of the NMP will take into consideration:

- How the development opportunities for the airport have been pursued;
- Whether the flight paths and noise abatement zones need updating;
- Whether the hours of operation need to be adjusted;
- How well noise emissions associated with the airport have been managed, which will include consideration of noise monitoring data, complaints statistics and compliance information.

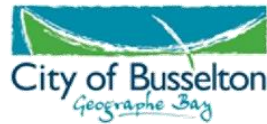
The review will also include a review of the Fly Neighbourly Agreement and the Flight Training Guidelines.

Appendix A – Busselton-Margaret River Airport Surrounds



Appendix B – Busselton-Margaret River Airport Fly Neighbourly Agreement Template

Our Ref:
~~Your~~ Ref:
Contact:



Date

~~Atto~~
Address
Address

Dear

BUSSELTON MARGARET RIVER AIRPORT NOISE MANAGEMENT - FLY NEIGHBOURLY AGREEMENT

The City of Busselton, in accordance with the Busselton Margaret River Airport Noise Management Plan 2019 and Ministerial Statement 1088 (including subsequent Noise Management Plans and/or Ministerial Statements) has prepared this Fly Neighbourly Agreement (FNA) with the intention of minimising the impact of aircraft noise on local residents. The City of Busselton requests your cooperation in implementing this FNA.

In accordance with the Busselton Margaret River Airport Noise Management Plan (January 2022), all aircraft operators are to meet the requirements of the Plan which provides the guidelines on aircraft operations at the Busselton Margaret River Airport, the specific chapter of the NMP relevant to this Fly Neighbourly Agreement are;

- Airport Operational Activities: Noise Abatement Procedures
- Airport Operational Activities: Flight Paths
- Airport Operational Activities: Standard Hours of Operation
- Airport Operational Activities: Flight Training Guidelines

The Noise Management Plan (January 2022) can be found using the following link:
[Community & Environment - Busselton Margaret River Airport](#)

Fly Neighbourly Principles

The Noise Management Plan, Airport Operational Activities: Fly Neighbourly Agreement lists the following principles for pilots and aircraft operators utilising the Busselton Margaret River Airport to observe;

- Observe the flight path principles in the NMP;
- Observe residential noise abatement zones as identified in the NMP;
- Pilots should endeavour to maximise flight paths over coastal water, forest and highways while avoiding residential areas and rural homes wherever possible;
- Avoid flying below 1000 feet AGL within in the circuit area, and avoid flying below 1500 feet AGL over built up areas;

All Communications to:
The Chief Executive Officer
Locked Bag 1
BUSSELTON, WA 6280
T: (08) 9781 0444 E: city@busselton.wa.gov.au
www.busselton.wa.gov.au

Events Capital WA

- Observe the Operational Limitations and Approved Parameters defined in the Standard Hours of Operation;
- Observe the noise generation specifications as depicted in the NMP;
- During take-off:
 - utilise the full length of the runway where possible;
 - aircraft to climb out at best rate of climb (V_y) or for Jet aircraft to conduct jet noise abatement climb procedures;
 - consider neighbours when selecting power and propeller pitch control settings by reducing power as soon as possible after take-off.
- When flying in the circuit:
 - light and rotary wing aircraft should avoid flying below 1000 feet (AGL);
 - jet and turbo prop aircraft should not fly below 1500 feet (AGL);
 - rotary wing aircraft should avoid 'rotor slap' conditions in the circuit area;
 - avoid using individual houses as circuit reference points.
- When landing:
 - Do not increase propeller to full RPM until power has been reduced to final approach power.

The City of Busselton is committed to managing aircraft operations in a Fly Neighbourly manner. We expect pilots and aircraft operators using the Busselton Margaret River Airport to undertake operations in a manner that is considerate of local residents. While the safe operations of aircraft must be maintained at all times, pilot and aircraft operators are required to make best efforts to ensure compliance with this Fly Neighbourly Agreement.

I acknowledge the City of Busselton's Fly Neighbourly Principles and intention to minimise the impacts of aircraft noise on the local community and will endeavour to comply with this FNA at all times except where aircraft safety takes precedence.

Signed on Behalf of City of Busselton

Signed on behalf of _____
(Company name)

_____ (signature)

_____ (name)

Manager Economic and Business Development Services
City of Busselton

_____ (position)



ATTACHMENT A - Submission comments received.






<i>Participant residential area</i>	<i>Submission comment</i>
Kalgup	We live under the 'turning point' of aircraft when the wind direction dictates. To date, this has not been a frequent occurrence. We do make provision by being alert to overhead aircraft if one of the horses on our property is being ridden at the time our property is on a flight path. In the past, an incident occurred resulting in a horse throwing the rider (our daughter) due to being startled by an air craft (small passenger craft) seemingly low & turning. Generally, because flights are minimal at present, noise is tolerable with us. If frequency of flights increases I would expect a further review of noise management for households affected by the flight paths in & out of Busselton Margaret River Airport.
Yalyalup	I agree with all the changes to the current plan and after living in Yalyalup for the last 12 months have had no problems with aircraft noise (even during the extensive fire fighting activities). The airport is a well managed asset for the City, and extremely important for the region in general.
Yalyalup	No flying training to be conducted at the airport.
Yalyalup	I have no issues with the draft Noise Management Plan (2022) and to-date have not experienced any particular noise discomfort from aircraft utilizing the BMRA.
Yalyalup	We have absolutely no concerns re noise from the Busselton airport.
Yalyalup	I wanted clarification on the helicopters flying to and from BMRA, do they need to follow main roads..ie Vasse Hwy and Sues Rd instead of flying directly over our property, they are so low sometimes our windows rattle.
Acton Park	Both xxxxxx and I are concerned that with increased pilot training, light plane activity will become a nuisance. Currently the pilot training conducted by the areo club is of little effect. Is the intent of increasing pilot training in the Busselton-Margaret River airport an effort to attract other pilot training schools that currently operate out of the area to base themselves in Busselton? With a young family living under the flight path we believe that increasing repetitive circuit activity over our house would be a serious disruption for us.

Blum Blvd - Reinscourt	I am extremely concerned that Flight Training is still included in the plan. Have you ever lived underneath the airspace where this is conducted? I have and it is NOT pleasant. It is extremely disruptive to residents and I am strongly opposed to it being allowed at this airport that is so close to built-up areas. The fly in fly out workers planes are bad enough. To say they will not disturb residents has proved entirely false as they already do at the current volume allowed. Please rethink allowing big aircraft from coming and going and ruining the rate payers peace and quiet that is so valued.
Yalyalup	Living in Yalyalup I don't get bothered by the noise.
Bovell	We are happy at the moment with the airport and hoping that the Melbourne route and any further increase in air traffic is done with consideration and consultation of local residents.
Salmon Close ?	Firstly the amendments are agreeable to me. However further adjustments should be considered to improve the NMP. (1) Page 20 of the existing NMP "LSA/GA " restricted 0600-2200 should be altered to 0500/2200 because summer time heat can be avoided by early dep and pilot/pax safety and comfort enhanced. This would provide enhanced potential to the BMRA (2) Page 22 some information here is repetitive in that it is already promulgated in CASA docs. (3) Page 23 has a serious flaw at dot point "When landing" as it directly conflicts with POH recommendations for safe and standard ops of a/c systems. It must be removed from text. (4) Page 25 Consider increasing Flight Training licence period to 24 months (from 12 mths) to give more certainty of tenure and reduce costs. (5) Page 45 "Urban Growth Strategy" Clear advice should be transmitted to all developers/buyers that no comeback due to proximity to airport will be considered and NMP will not continually be extended to new development areas.(6) Page 50 - "Activities in Airspace" the NMP final sentence in para is contradictory and should be removed to avoid misinterpretation
Acton Park	As a landholder and resident living just over 2 km from the BMRA and directly under the flight path I am continually being disturbed by aircraft noise. I oppose changes to the Noise Management Plan that will allow an increase in Pilot training.

<p>Acton Park</p>	<p>I object to changes in the Noise Management Plan (NMP) to allow an increase in plane size and frequency in relation to pilot training as proposed by the Busselton Aero Club.</p> <p>When the original NMP was being developed, I was appointed a Community Representative of the Busselton-Margaret River Regional Airport (BMRA) Advisory Group, representing residents living in close proximity to the BMRA. Since the construction of the BMRA pilot training at the airport was a huge contentious issue. It was apparent that the Shire of Busselton at the time had a problem in that the noise limitation placed on airport activity was 80 dB(A) within 15 metres of a residence. This was well and truly exceeded by many of the aircraft using the airport.</p> <p>Therefore at a meeting between myself and Councillors Tom Tuffin (Chair of the BMRA Advisory Group) and Jackie Emery and Jennifer May, I proposed that the noise limit be lifted from 80dB(A) to 85dB (A) but that the agreement was that Pilot training needed to cease and the exception being small aircraft below 1500 kgs with limited number of flights. This has been occurring and I would suggest successfully.</p> <p>I therefore would request that the City of Busselton respect this agreement and the amenity of those living in close proximity to the BMRA and reject this proposed amendment.</p>
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13. PLANNING AND DEVELOPMENT SERVICES REPORT

13.1 DA21/0548 PROPOSED CHALET DEVELOPMENT - LOT 100 (NO.4259) CAVES ROAD, WILYABRUP

STRATEGIC THEME	ENVIRONMENT - An environment that is valued, conserved and able to be enjoyed by current and future generations.
STRATEGIC PRIORITY	1.1 Ensure protection and enhancement of environmental values is a central consideration in land use planning
SUBJECT INDEX	Development Application
BUSINESS UNIT	Development Services
REPORTING OFFICER	Manager Development Services - Lee Reddell
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	Regulatory: To determine an application/matter that directly affects a person's right and interests e.g. development applications, applications for other permits/licences, and other decisions that may be reviewable by the State Administrative Tribunal
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Location Plan   Attachment B Original Application Report   Attachment C Original Development Plans   Attachment D Revised Application Report   Attachment E Revised Development Plans   Attachment F Landscape Plan   Attachment G Revised Bushfire Management Plan   Attachment H Schedule of Submissions   Attachment I Submission from adjacent wineries  

OFFICER RECOMMENDATION

That the Council determines:

- A. That application DA21/0548 submitted for development of 10 Chalets Lot 100 (No. 4259) Caves Road, Wilyabrup, is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives of the zone within which it is located.
- B. That Development Approval is granted for the proposal referred to in (A) above subject to the following conditions:-

GENERAL CONDITIONS:

1. The development hereby approved shall be substantially commenced within two years from the date of this decision letter.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans, and except as may be modified by the following conditions.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing –

3.1 Notification in the form of a section 70A notification, pursuant to the *Transfer of Land Act 1893* (as amended) is to be placed on the Certificates of Title of Lot advising that:

a) This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner. The approval of the Chalets is conditional upon the details contained within the Bushfire Management Plan (BMP) prepared by Bushfire Prone Planning, Version 1.1 dated 8 December 2021 and the accompanying Bushfire Emergency Evacuation Plan (BEEP).

b) The Chalets hereby approved are to be made available for temporary accommodation purposes only. A single Chalet shall not be occupied by any one person, family or group of persons (two persons or more) for a period exceeding 3 months (consecutively or intermittently) within any 12 month period.

A copy of the Certificate of Title with the section 70A notification registered against it, or Landgate lodgement receipt, is to be provided to the City.

3.2 Details of the effluent management system which is required to be a secondary treatment system and achieve a minimum setback of 60m from the edge of Biljidup Brook.

3.3 A Drainage Management Plan.

3.4 Details of the entry point to the Chalet driveway modified to be off-set from the main entry into the site.

3.5 Details of signage to direct visitors to the site to the Tavern parking, Tavern over-flow parking and the Chalets.

3.6 Details of the finished treatment of all hard surfaced areas to be used for the driveway and manoeuvring areas as shown on the Approved Development Plans.

3.7 A final schedule of the external materials, finishes and colours, which shall be generally consistent with the approved plans. The schedule shall include details of the type of materials proposed to be used, including their colour and texture.

3.8 A final Landscaping Plan based on water sensitive urban design principles and designed in reference to soil types across the site. The Landscaping Plan shall include the following:

- a. the location and species of all trees to be removed;**
- b. the provision of suitable screen planting along the western boundary;**
- c. a plant schedule nominating species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity;**
- d. those areas to be reticulated or irrigated.**

- 3.9 Details of the provision of a minimum 50,000 litre static water supply for firefighting purposes – the dedicated water supply will be non-combustible and located such that fire services can readily gain access to appropriate fittings and connect fire fighting vehicles to dedicated water supplies in a safe manner.
- 3.10 Details of upgrades to proposed access routes to achieve the requirements of Table 6 in the Guidelines for Planning in Bushfire Prone Areas.
- 3.11 Satisfactory arrangements shall be made with the City to provide public art works within the development. This entails compliance with the Percent for Art provisions of the City's *Development Contribution Policy* via appropriate works up to a minimum value of 1% of the Estimated Cost of Development ("ECD"). Where the value of on- site works is less than 1% of the ECD, a payment sufficient to bring the total contribution to 1% of the ECD is required.

PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS

4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Conditions 2, 3 & 4 have been implemented; and the following conditions have been complied with to the satisfaction of the City –
 - 4.1. Hard and soft landscaping, as detailed in the approved Landscaping Plan, installed at the full cost of the applicant.
 - 4.2. All vehicle parking, access ways, footpaths and external lighting shall be constructed to a minimum standard in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking (AS 2890.1) and shall be developed in the form and layout depicted on the approved plans.
 - 4.3. Accessible car parking and access shall be provided and designed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking for people with disabilities (AS 2890.6).
 - 4.4. Provision of a Certificate of Compliance, indicating that the works have been undertaken in accordance with the Bushfire Management Plan, including the provision of a dedicated firefighting water supply and any necessary upgrades to the proposed access routes.

ONGOING CONDITIONS

5. The works and other measures undertaken to satisfy Conditions 2, 3 & 4 shall be subsequently maintained for the life of the development and the following conditions must be complied with, to the satisfaction of the City –
 - 5.1. The Bushfire Management Plan, Version 1.1 dated 8 December 2021, shall be implemented and maintained in accordance with the approval details and any recommendations therein.
 - 5.2. Signage shall be provided within each Chalet that advises guests:

“This accommodation is located within 100 metres of operating agricultural land uses which have the potential to create odour, noise, spray drift and dust nuisance at times, including during the night. Please be advised that primacy of activity is given to agricultural production within this area.”

- 5.3. The landscaping detailed within the Approved Landscaping Plan shall be subsequently maintained for the life of the development.
- 5.4. All services and service related hardware, including antennae, satellite dishes and air conditioning units, being suitably located away from public view and/or screened.

ADVICE TO APPLICANT

1. If the applicant and/or owner are aggrieved by this decision there is a right of review under the provisions of Part 14 of the *Planning and Development Act 2005*. A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision.
2. This Decision Notice grants Development Approval to the development the subject of this application. It cannot be construed as granting Development Approval for any other structure shown on the approved plans which was not specifically included in this application.
3. Please note it is the responsibility of the applicant / owner to ensure that, in relation to Condition 1, this Development Approval remains current and does not lapse. The City of Busselton does not send reminder notices in this regard. The term “substantially commenced” has the meaning given to it in the *Planning and Development (Local Planning Schemes) Regulations 2015* as amended from time to time.
4. In accordance with the provisions of the *Building Act 2011*, and *Building Regulations 2012*, an application for a building permit must be submitted to, and approval granted by the City, prior to the commencement of the development hereby permitted.
5. You are advised that a licence to take water from the existing soak on site, which may be required under the *Rights in Water and Irrigation Act 1914*, has not been issued by the Department of Water and Environment Regulation (DWER) at the time of approval. This development approval has been issued on the basis that the potable water supply for the Chalets will be drawn from the existing dams on the site and does not require the take of any water from the soak.
6. You are advised that any new or modified crossing of Biljidup Brook may require a Permit to Interfere with Beds and Banks, issued by DWER, under the *Rights in Water and Irrigation Act 1914*. Please contact DWER for further information.
7. In respect to effluent management, you are advised that there may be a need to separate the Brewery waste stream from the human waste stream when finalising the design of the system. Should this be required, there will need to be consideration of the location of any separate system in accordance with Condition 3.2.

8. Unless otherwise first agreed in writing, any trees or plants in the approved landscaping plan which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.
9. You are advised that the 'external materials' shall comprise of 'prescribed materials' as identified by the City of Busselton *Local Planning Scheme No.21* which are defined as follows –

'external surfaces' means the external walls and cladding (if any), external doors, external door and window frames, columns, roofs, fences and any surface of a building or work visible from the exterior of a building or work; and

'prescribed materials' means materials with dark tones or dark colouring and of low reflective quality or materials which are painted or similarly treated with dark toned or dark coloured paint or pigment of low reflective quality"

10. In relation to the provision of public art in accordance with Local Planning Policy 4.4 Percent for Art. The Estimated Cost of Development shall be to the satisfaction of the City and based on demonstrated contract values or estimates provided by a quantity surveyor, with such contract or estimates being no more than 3 months old at the time of calculation of the payment amount, and if such information is more than 3 months old, the Estimated Cost of Development shall be indexed to the general construction industry index for Western Australia.
11. You are advised *Agonis flexuosa* (WA Peppermint Trees) provide key habitat for the "critically endangered" *Pseudocheirus occidentalis* (Western Ringtail Possum). The Western Ringtail Possum are awarded protection under the *Biodiversity Conservation Act 2016* and you may face penalties for taking or disturbing (including intentionally disturbing, trapping/relocating or causing harm/death) a Western Ringtail Possum. A Section 40 Ministerial authorisation to take or disturb threatened fauna under the *Biodiversity Conservation Act 2016* is to be obtained prior to clearing occurring. A fauna handler is required to be onsite prior to and during any clearing operations and is required to hold a Section 40 Ministerial Authorisation. The fauna handler is to provide a post clearing report to [DBCA swlanduseplanning@dbca.wa.gov.au](mailto:swlanduseplanning@dbca.wa.gov.au) that includes the numbers of adult or juvenile western ringtail possums observed, taken or disturbed, any injuries or fatalities, and the location of the fauna after clearing has occurred.

EXECUTIVE SUMMARY

The City has received a development application proposing 10 'Chalets' at Lot 100 (No. 4259) Caves Road, Wilyabrup. Due to the nature of the issues requiring consideration and the level of community interest, the application is being presented to Council for determination, rather than being determined by City officers acting under delegated authority.

Having considered the application, including submissions received in relation to the application, City officers consider that the application is generally consistent with the *City of Busselton Local Planning Scheme No. 21* (Scheme) and the broader, relevant planning framework including State Planning Policy 6.1 – Leeuwin Naturaliste Ridge and Local Planning Policy 2.4 – Rural Tourist Accommodation.

BACKGROUND

1. **Landowner/s:** Wilyabrup Investments Pty Ltd
2. **Applicant:** CF Town Planning and Development
3. **Site Area:** 14.19 hectares
4. **General description of the site:** The site is located on Caves Road, approximately 2.7km south of the intersection with Metricup Road and near to the southern boundary of the local government area. The site comprises an approved Holiday Home in the northern portion of the lot, an approved Tavern (occupied by Cheeky Monkey Brewing Co.) at the southern end as well as two dams, a soak and approximately 3.7 hectares of land planted with vines in the centre of the lot. The surrounding lots are predominantly used for agricultural purposes including viticulture, grazing and cropping, although it is noted that the lot immediately to the north is developed with a Single House and is not used for commercial purposes.
5. **Current development/use:** The site is currently developed with a Holiday Home and Tavern (Cheeky Monkey Brewing Co) and vines.
6. **Brief description of the proposed development:** The proposal seeks to further develop the site with 10 Chalets and associated reception building adjacent to an existing dam on the site.

It is noted that the application material refers to five Chalets however given the dual key units have the capacity to be used as two independent Chalets, each building has been assessed as two Chalets.

The original proposal (see Attachment B) was submitted to the City in June 2021 seeking approval for twelve (six x dual key) Chalets, an associated office and swimming pool, as well as an 18 hole mini golf course proposed to be open to the public for an entry charge.

The application was referred to adjoining properties for comment in August 2021 with three submissions (one being from multiple properties) received. The submissions, all objections, raised a number of concerns which can be summarised as:

- Overdevelopment of the site;
- Boundary setbacks do not comply;
- Potential conflict with agricultural uses in the area;
- Potential impact on water quality in the area;
- Visual impact of the proposal;
- Impact on the rural amenity of the area; and
- Lack of sufficient parking.

In response to the submissions received and discussion with City officers, the applicant opted to review the proposal and submitted revised plans in November 2021 (see Attachment E). The original plans have been superseded and it is the revised plans which are being considered for the purposes of this assessment.

The revised plans include the following changes:

- Reduction from 12 (six x dual key) to 10 (five x dual key) Chalets;
- Redesign of Chalets to remove the glazed link between the dual key units;
- Chalets relocated to increase the setback from the eastern boundary from 18m to 71m;
- Deletion of the proposed swimming pool; and
- Deletion of the proposed mini-golf facility.

7. **Applicable Zoning and Special Control Area designations:** The site is located within the 'Viticulture and Tourism' zone and is affected by the 'Landscape Value' Special Control Area.
8. **Land-use permissibility:** Chalet is identified as a 'D' use within the Viticulture and Tourism zone meaning that the use is not permitted unless the local government has exercised its discretion by granting a development approval.

OFFICER COMMENT

The main issues considered relevant for detailed discussion in this report are as follows:

- Overview of Scheme and Policy Framework;
- Potential Impact on Waterways;
- Potential Conflict with Agricultural Uses;
- Visual and Rural Amenity;
- Car Parking and Access.

Each of these issues are addressed below under the relevant heading.

Overview of Scheme and Policy Framework

The site is affected by the Landscape Value Special Control Area in the Scheme which seeks to ensure that development is compatible with the rural and scenic qualities of land and is also subject to a number of relevant policies. Policies of particular relevance are State Planning Policy 6.1 'Leeuwin Naturaliste Ridge', Local Planning Policy 2.1 'Rural Tourist Accommodation' and Local Planning Policy 4.6 'Caves Road Visual Management'.

While the specific provisions of these policies vary (and noting that this report does not intend to address every applicable policy provision in detail) they all fundamentally seek to achieve the same objectives, which can be summarised as:

- To protect the scenic quality of the area valued by locals and visitors alike;
- To ensure new development is considerate of, and in keeping with, local character;
- To promote low-impact tourism in appropriate locations; and
- To ensure that development is generally compatible with surrounding agricultural land uses.

Potential Impact on Waterways

The site is traversed by the Biljidup Brook which runs west to east through the site between the existing dams and Tavern building. Biljidup Brook discharges into the Wilyabrup Brook which runs south to north through the adjacent lots to the east and eventually discharges to the ocean. Concerns regarding the ability to manage the wastewater treatment and stormwater runoff associated with the proposed Chalets and the potential impact on the water quality of the brooks was raised by a number of adjoining landowners.

In respect to wastewater treatment, the proposal seeks to install an additional Aerobic Treatment Unit (ATU) system for the Chalets. The proposed 6000L ATU would treat the Chalet wastewater and then pump the treated water to the pump-out tank of the existing 12,000L ATU used by the Tavern. It is also proposed to replace the existing irrigation system with new flat-bed leach drains which are generally more efficient in terms of the footprint required. ATU's, which are a form of secondary treatment system, provide a higher output water quality than a standard septic system and are preferred in areas of environmental sensitivity.

The application was referred to DWER for comment as part of the consultation process with advice specifically sought on the potential impact of the proposal on the two brooks. DWER indicated that further consideration was required regarding the siting of the proposed leach drains in order to achieve an appropriate buffer from the brook and that a water balancing assessment would be required if the proposed sought to take water from the existing soak on site. They also advised that where the provisions of the Government Sewerage Policy (GSP) cannot be met in full a risk-based approach is to be applied.

In respect of the proposed leach drains, the GSP requires a setback of 100m from a waterway. As the proposal is unable to achieve a 100m setback from the Biljidup Brook, DWER's recommendation is to maximise the separation that can be achieved within the constraint of the property. Given the site layout and conditions, DWER advised that the leach drains should be located as close to the southern boundary as possible. This would achieve a setback of approximately 60m from the Biljidup Brook and is considered acceptable by DWER in respect of the potential impact on the environment and public health, provided that a secondary treatment system, such as an ATU, is used rather than a standard septic system. A condition requiring a suitable secondary treatment effluent disposal system that achieves a minimum setback of 60m from the edge of Biljidup Brook is recommended should an approval be issued.

In respect to the need for a water balancing report to determine whether the take of water from the existing soak would require a licence, the applicant has subsequently advised that the proposal is able to operate without needing to take any water from the soak and that potable water requirements can be met through the existing dams. In response, DWER have indicated that neither of the two dams on site require a licence to take and that if the applicant has committed to ensuring no water is required/will be taken from the soak on site, no water balancing report is required in consideration of the development application. An advice note reiterating that the potable water supply for the development is unable to be sourced from the soak will be included should an approval be issued.

DWER also advised in their referral comments that the GSP requires consideration of cumulative impacts when assessing potential impacts on waterways and indicated:

"In considering the cumulative risks to the Biljidup Brook it is noted that the majority of land holdings are large in nature other than Cowaramup townsite (which is sewerred). There are not likely to be many other wastewater systems developed in close proximity to the brook, and as such the potential for significant risk of cumulative impacts occurring is deemed low. The greater risk to water quality in such a catchment is likely to be diffuse nutrient sources resulting from agricultural practises."

It is noted that approval for the proposed effluent disposal system will be required from the Department of Health, rather than the City, given the volume of waste being treated. The City's Environmental Health team have indicated however that it may be appropriate to install a separate system for the brewery wastewater (approximately 250L per day) as the salts in brewery wastewater can affect the treatment of human waste. An advice note indicating that this should be considered when designing the final system will be included should an approval be issued.

In respect to stormwater run-off, due to the gradient across the site stormwater flows over the boundary onto the properties to the east in major rainfall events. While it is not expected that the proposed development will exacerbate this issue, a condition requiring a drainage management plan has been recommended as a condition of approval.

Potential Conflict with Agricultural Uses

The site is located within the Viticulture and Tourism zone. The proposed Chalet use is a “D” land use within the zone and can be undertaken subject to the consideration of the application’s merits and the issue of a development approval.

The site and surrounding land to the east is identified as Principal Agricultural Land (Viticulture and Grazing) by the Leeuwin Naturaliste Policy (SPP 6.1) which seeks to ensure that agriculture remains the predominant land use but contemplates other uses, including the use of interspersed lands with lesser agricultural potential, where they are compatible with and will not jeopardise the agricultural use of adjoining land. While the SPP does not provide detailed guidance on how this could be achieved, the City’s Rural Tourist Accommodation Policy LPP 2.1 (LPP 2.1) includes setback requirements for development of this nature that are equivalent to, or greater than, those required by the Scheme for the Viticulture and Tourism zone and are relevant to discussion on the suitability of the proposed Chalet land use in this area.

LPP2.1 requires setbacks of 100m from all boundaries. The 100m setback requirement is understood to have been introduced as a suitable buffer between tourism land uses and viticulture when the Policy was first developed in the 1990’s in order to protect existing viticultural activity in the rural areas.

The proposal exceeds the 100m Caves Road setback required by the Scheme and LPP2.1 with setbacks in excess of 150m provided from the western boundary. The proposal also exceeds the 100m setback requirement between the Chalets and the southern (Lot 23 - Cullens Wines) and north-east (Lot 852 - Gralyn Estate) boundaries. It is noted that the setback between the Reception building and the north-east boundary (Gralyn Estate) is 75m. The reduced setback is considered acceptable given the Reception component of the development is not considered a sensitive land use and does not generate the same potential for conflict between land uses as the Chalets.

The setback provided between the eastern boundary (Lot 852 - Vasse Felix) and the easternmost units (shown as Chalets 4 & 5 on the site plan) is 71m, while the setback to the westernmost units (shown as Chalets 4 & 5 on the site plan) is 98m and therefore they do not satisfy the 100m requirement.

While it is understood that Vasse Felix may seek to plant vines on Lot 853 in future, the land is currently used for grazing and/or cropping purposes. The 2m discretion required for the westernmost units is considered inconsequential and can be supported. The reduced setback to the easternmost units is also considered reasonable given the current use of the adjacent lot for grazing purposes which is unlikely to create significant conflict with the proposed Chalet land use. While it is acknowledged that the reduced setback to the eastern boundary may have an impact on the future use of the adjacent lot for viticulture purposes, the potential impact is considered minor given it would affect approximately 1200m² of the 68 hectare lot (should an equivalent 100m² buffer be applied from the Chalets onto Lot 853).

The applicant made significant changes to the original proposal in response to concerns raised during the first round of advertising, reducing the number of Chalets from 12 to 10 and deleting the swimming pool and public mini-golf course entirely. City officers were unlikely to have supported the development as originally proposed given the scale of activity, the visibility of commercial activity including car parking, potential access issues associated with increased visitation to the site and the likely subsequent impacts on rural amenity and adjacent agricultural uses.

The modified proposal however is considered to be low impact, at an appropriate scale and to provide sufficient setbacks to limit any significant or unreasonable impacts on adjacent agricultural pursuits. The proposal achieves a reasonable balance between development potential on the site with the continued agricultural use of surrounding land. Subject to a condition requiring that signage/ information be provided for guests of the Chalets advising of the rural nature of the area and the potential for impacts associated with agricultural activity, the proposal is recommended for support.

It is further noted that LPP2.1 encourages 24 hour on-site management for all rural tourist accommodation. Given the small scale of the proposed development and the presence of existing tourism based activity on site, being the adjacent Brewery, it is not considered necessary to require 24-hour on-site management for this proposal.

Visual and Rural Amenity

SPP6.1 identifies the site as being located within a 'Travel Route Corridor' Landscape Class (Figure 3 of the Policy) and within the 'Valley' and 'Plateau' Landscape Character Units (Figure 4 of the Policy). Within the Policy area, low impact tourism is able to be considered outside designated tourism nodes subject to consideration of impacts on the character of the area, the scale of the development and whether the use is complementary to agricultural uses.

The City's 'Caves Road Visual Management' Policy LPP 4.6 (LPP 4.6) was developed to provide guidance on the maintenance of the visual quality of the natural and rural landscapes as viewed from Caves Road. LPP4.6 identifies the site as being within a moderate visual impact area with low/medium visual quality and indicates that development may be visually apparent from Caves Road but should be subordinate to the established landscape patterns.

The City's 'Rural Tourist Accommodation Policy' LPP 2.1 provides guidance on tourism development within the Rural zones with the aim of encouraging development that integrates with existing tourism operations, is low profile and designed in harmony with the setting, and does not conflict with existing agricultural uses. Of relevance to the preservation of visual and rural amenity, LPP 2.1 includes provisions relating to minimum site area requirements, maximum densities and minimum setbacks.

In respect of minimum site area requirements, LPP 2.1 indicates that Chalets should not be permitted on sites of less than 15 hectares. While the subject site is only 14.2 hectares, a minor discretion is considered appropriate given the revised proposal has reduced the built form and activity proposed on the site, has appropriately sited the Chalets centrally on the site, will not significantly affect rural character and amenity of the area and is not considered an over-development of the site.

In respect of density, LPP 2.1 indicates Chalets shall not be developed at a density greater than 1 Chalet per 3 hectares. While the proposal effectively constitutes 10 Chalets (5 x dual key) the proposal is considered to satisfy the objectives relating to density as each of the dual key Chalets are designed to present as one Chalet rather than two. This allows the clustered development to present as five Chalet buildings which would otherwise be acceptable, subject to the 1 Chalet per 3 hectares requirement, if the units were not dual key. The applicant could choose to amend the proposal to five x three bedroom Chalets (eg: by removing the internal partition wall and door between the units) and the outcome in terms of built form impacts would be the same.

As detailed in the discussion on potential conflict with agricultural land uses above, the proposal satisfies the minimum setback of 100m required between the Chalets and all boundaries except the eastern boundary with Lot 853 which is owned by Vasse Felix and currently used for grazing and/or cropping purposes.

While the proposed Chalets will be visible from Caves Road, more so when travelling south due to the more open nature of the view lines across the property from the north, the small scale and clustered nature of the development, the recessive materials and colours used, the setback to Caves Road and the addition of some supplementary screen planting along the western property boundary is considered to sufficiently mitigate the impact of the proposal on views from the public realm. Views to the proposal from Caves Road will be filtered and will not dominate the travellers experience when traversing this section of the travel route corridor. Submitter comments made in relation to suitability of species on the site are noted and a revised detailed landscaping plan that addresses the provision of screen planting to Caves Road and landscaping around the Chalets with species that are suitable to the relevant soil types is recommended as a condition of approval.

In respect to views of the proposed development from surrounding sites, it is noted that the nearest dwelling is located approximately 450m north of the proposed Chalets on Lot 101 and views to the proposal will be filtered by intervening vegetation located on the site and on Lot 101. Views to the development from the south (Lot 23 – Cullens Wines) will be obscured by an existing fence and dense vegetation on the northern boundary of that lot. The development will be visible from lots generally to the east, including Lots 852 (Gralyn Estate) and 853 (Vasse Felix) but these lots are both currently used for grazing and/or cropping purposes and are not developed with any residential or tourism land uses whose visual amenity may be affected by the proposal. It is further noted that the nearest dwellings to the east are in excess of 1km from the proposed Chalets and have intervening vegetation and as such, will not be significantly affected by the proposed development.

As a general principle, the preservation of the scenic quality or visual amenity as viewed from lots that are used exclusively for agricultural purposes, such as Lots 852 and 853 to the east, is not considered a reasonable priority in the assessment of any such development applications, given the limited impact that additional built form in the environment will have on either their rural operations or the expansive views enjoyed from these large properties.

Car Parking and Access

Local Planning Policy 2.1 – Car Parking provides guidance on the City's requirements car and bicycle parking. For 'Chalets' one bay per unit plus one visitor bay for every four units is required. The proposal provides 10 bays for the 10 units (five x dual key) which satisfies the requirements for guests and while no specific visitor parking is proposed, there is a pull-in bay adjacent to the reception building which can accommodate two or three vehicles and is considered sufficient for the required visitor bays. It is further noted that the proposal will not affect the primary or overflow parking of the adjacent Tavern.

In respect to access, as Caves Road is a Primary Distributor Road, the proposal was referred to MRWA for comment. The proposal seeks to make use of the existing crossover to Caves Road which services all other existing uses on the site. MRWA have indicated that the proposal can be supported subject to adjustments to the entry point from the main driveway to the driveway for the Chalets to minimise potential conflict. This modification, as well as suitable signage to ensure visitors entering the site understand how to access the Chalets, Tavern and overflow parking is recommended as a condition of approval.

Statutory Environment

The key statutory environment is set out in the City of Busselton *Local Planning Scheme 21* (Scheme), the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), Schedule 2 of which is the 'deemed provisions', which also functionally form part of the Scheme. The key aspects of the Scheme and Regulations relevant to consideration of the application are set out below.

Zoning

The site is zoned 'Viticulture and Tourism'. The objectives of the Viticulture and Tourism zone are:

- a. *To provide for the maintenance or enhancement of specific local rural character.*
- b. *To provide for development and expansion of the viticultural, winemaking and associated industries, in addition to general rural pursuits, in a manner that does not cause adverse environmental impact.*
- c. *To facilitate the development of tourist facilities of a scale and nature appropriate in rural settings without prejudice to the scenic quality of land within this zone and without creating or increasing ribbon development on any road.*
- d. *To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses.*
- e. *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.*
- f. *To maintain and enhance the environmental qualities of the landscape, vegetation, soils and waterways.*

The proposal is considered to satisfy the objectives of the zone.

Land use and permissibility

The proposed 'Chalet' land use is defined as follows:

"a dwelling forming part of a tourist facility that is —

- (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and*
- (b) designed to accommodate short-term guests with no guest accommodated for periods totalling more than 3 months in any 12 month period."*

Chalet is identified as a 'D' use within the Viticulture and Tourism zone meaning that the use is not permitted unless the local government has exercised its discretion by granted a development approval.

General considerations when making a decision on a development application

When considering a development application for a discretionary land use, including any land use designated as a "D" or "A" land use under Table 2 - The Zoning Table of the Scheme, a decision-maker is required to exercise discretion when approving the development.

The exercise of discretion should take into account relevant considerations as identified within Clause 67 – 'Consideration of application by local government' of Schedule 2 Deemed Provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* (commonly referred to as 'Matters to be Considered'). The decision-maker has an obligation to exercise their statutory responsibilities appropriately and a decision is required to be based upon sound planning principles.

The Matters to be Considered which are relevant to this development application are outlined in the Statutory Environment section of this report. If an item or issue is not listed as a Matter to be Considered, it is not deemed to be a valid planning consideration and therefore is not to be given regard in the determination of a development application.

Matters to be considered

Clause 67 of the deemed provisions within the Regulations sets out 'matters to be considered' by a local government in considering an application for development approval. The following matters are considered to be relevant to consideration of this application:

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) *any approved State planning policy;*
- (d) *any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
- (e) *any policy of the Commission;*
- (f) *any policy of the State;*
- (fa) *any local planning strategy for this Scheme endorsed by the Commission;*
- (g) *any local planning policy for the Scheme area;*
- (h) *any structure plan or local development plan that relates to the development;*
- (m) *the compatibility of the development with its setting, including —*
 - 1. (i) *the compatibility of the development with the desired future character of its setting; and*
 - 2. (ii) *the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
 - 3. (i) *environmental impacts of the development;*
 - 4. (ii) *the character of the locality;*
 - 5. (iii) *social impacts of the development;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*

- (s) *the adequacy of —*
 - 6. (i) *the proposed means of access to and egress from the site; and*
 - 7. (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following —*
 - 8. (i) *public transport services;*
 - 9. (ii) *public utility services;*
 - (ii) *storage, management and collection of waste;*
 - 10. (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - 11. (v) *access by older people and people with disability;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*
- (zb) *any other planning consideration the local government considers appropriate.*

The proposal has been considered against the matters listed above.

Relevant Plans and Policies

Relevant plans and policies must be given due regard in assessing the application, but cannot and do not bind the local government in determining an application for development approval. Plans and policies considered in the assessment of the application are as follows:

Government Sewerage Policy

Establishes the Western Australian Government's position on the provision of sewerage services in the State through the planning and development of land. In instances where reticulated sewerage cannot be provided, it adopts a best practice approach to the provision of on-site sewage treatment and disposal, in accordance with Australian/New Zealand Standard 1547 On-site domestic wastewater management. The proposal is considered to satisfy the relevant objectives of the Policy.

State Planning Policy 2.5 - Rural Planning

Seeks to protect and preserve Western Australia's rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values. Ensuring broad compatibility between land uses is essential to delivering this outcome. The Policy provides guidance on how rural planning issues should be considered through Strategic planning processes and refers to the Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* for matters to be considered in determining a development application.

State Planning Policy 6.1 - Leeuwin Naturaliste Ridge

Seeks to provide the strategic policy framework for the policy area by providing vision, guidance and certainty of land use and promote sustainable development, conservation, and land and resource management. The proposal is considered to satisfy the relevant provisions of the Policy.

The site is identified as:

- Travel route corridor - Figure 3
- Valleys and Plateau - Figure 4
- Principle agriculture (Viticulture and Grazing) – Figure 5

Local Planning Policy 2.1 - Car Parking

Provides guidance on the City's requirements for the provision of car parking and bicycle parking facilities for new development. For 'Chalets' the Policy requires one bay per unit plus one visitor bay for every four units. The proposal provides 10 bays for the 10 units (five x dual key) which satisfies the requirements for guests and while no specific visitor parking is provided, there is a pull-in bay adjacent to the reception building which can accommodate two or three vehicles and is considered sufficient for the required visitor bays. No bicycle parking facilities are required for Chalets.

Local Planning Policy - 2.4 Rural Tourist Accommodation

Provides guidance on rural tourist accommodation and is relevant to Chalet development within the Viticulture and Tourism zone. The Policy indicates a desire for development that integrates with existing tourism operations, provides a feature of interest for tourists, is low profile and designed in harmony with the setting does not conflict with existing agricultural uses. The proposal is considered to satisfy the relevant provisions of the Policy.

Local Planning Policy - 3.1 Reflective Building Materials

Provides guidance on suitable non-reflective building materials with a view to protecting residential and visual amenity and the rural or scenic qualities of the landscape, especially for sites located within the Landscape Value Special Control Area. A condition requiring the use of non-reflective building materials has been recommended.

Local Planning Policy - 4.2 Bushfire

Seeks to provide clarity regarding the assessment of development applications on sites located within a bushfire prone area and ensure consideration of a balance between bushfire risk and visual and environmental impacts. The proposal satisfies the relevant provisions of the Policy.

Local Planning Policy - 4.6 Caves Road Visual Management

Seeks to maintain and enhance the visual quality of the natural and rural landscape as viewed from Caves Road, maintain the rural landscape as the dominant visual experience on Caves Road and maintain significant views. The site is located within Policy Area 2 with low / medium visual quality, with an indication that development may be visible from Caves Road subject to suitable design. The clustered, low level form of development is considered appropriate particularly when coupled with the provision of additional landscaping treatments to minimise the visual impact of the proposal.

Local Planning Policy - 6.1 Stormwater Management

Provides guidance on methods for achieving the safe and effective management of the quality of stormwater runoff. A condition requiring stormwater management plan has been recommended.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

Clause 64 of the Deemed Provisions sets out circumstances in which an application for development approval must be advertised, and also sets out the means by which applications may be advertised. Given the nature and scale of the proposed development, it was considered appropriate to advertise the development application to surrounding landowners.

The purpose of public consultation is to provide an opportunity for issues associated with a proposed development to be identified by those who potentially may be affected. A development application should not be approved or refused based on the number of submissions it receives, rather all applications must be determined on the merits of the particular proposal, including consideration of any relevant planning issues raised through consultation.

The application was referred to adjoining properties for comment in August 2021 with three submissions (one being from multiple properties) received. The submissions, all objections, raised a number of concerns which can be summarised as:

- overdevelopment of the site;
- lack of sufficient parking;
- boundary setbacks do not comply;
- potential conflict with agricultural uses in the area;
- potential impact on water quality in the area;
- insufficient landscaping; visual impact of the proposal; and
- impact on the rural amenity of the area.

In response to the submissions received and discussion with City officers, the applicant opted to review the proposal and submitted revised plans in December 2021.

The revised plans were advertised to surrounding properties in December 2021 and included the following amendments:

- reduced from twelve to ten (five x dual key) Chalets;
- Chalets relocated west to increase the setback from the eastern boundary from 18m to 71m;
- deleted the proposed swimming pool; and
- deleted the proposed mini-golf facility.

Three further submissions (from the same parties who provided the previous submissions) were received. A schedule of submissions is provided as Attachment H. The schedule identifies who submissions were received from and summarises the submissions. A full copy of the submission made by S. Baxter on behalf of a number of vineyards / wineries is attached at Attachment I.

In addition to the above, the application was referred to DPIRD, DWER, DBCA, DFES and MRWA. The comments received from these authorities are included in the Schedule of Submissions.

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 key risk to the City is considered to be the potential reputational and environmental risk that may arise if the site is not managed in a manner consistent with the conditions of approval.

Options

As an alternative to the proposed recommendation the Council could:

1. Refusal the proposal, setting out reasons for doing so; or
2. Apply additional or different conditions.

CONCLUSION

Subject to the inclusion of relevant conditions, the proposal is considered appropriate to support and accordingly is recommended for approval.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The applicant and those who made a submission will be advised of the Council decision within two weeks of the Council meeting.



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



Location Plan
4259 Caves Road, Wilyabrup

25/02/2022

1:4615 @ A4L



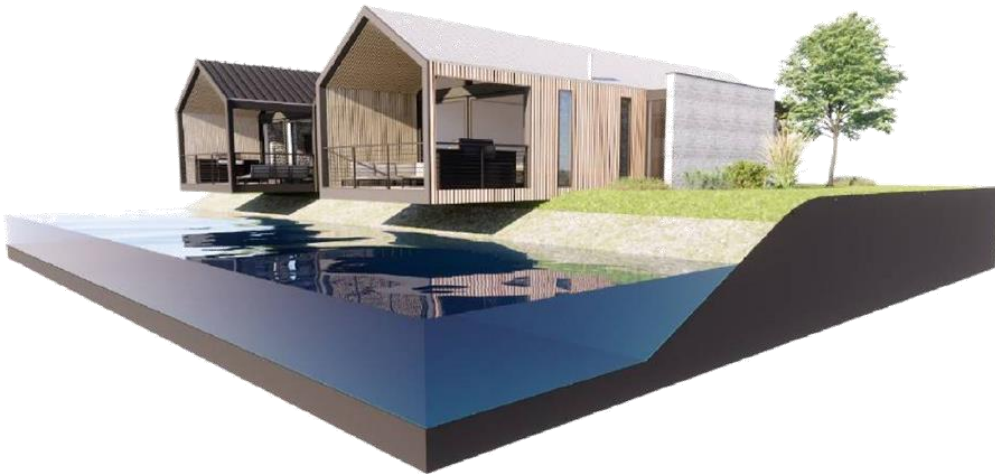


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DEVELOPMENT APPLICATION REPORT

PROPOSED CHALETS & MINI GOLF COURSE

LOT 100 (NO.4259) CAVES ROAD, WILYABRUP



CITY OF BUSSELTON

Prepared for:

Wilyabrup Investments Pty Ltd & DMG Architects

Prepared by:

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June 2021

CF Town Planning & Development

This report has been prepared by CF Town Planning & Development on behalf of Wilyabrup Investments Pty Ltd & DMG Architects for a proposed chalet and mini golf ('Recreation - Private') addition to the existing brewery development on Lot 100 (No.4259) Caves Road, Wilyabrup.



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Document Revisions:

- Planning Report (i) – Dated 22 June 2021

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Appendix 1: Certificate of Title

1.0 INTRODUCTION

CF Town Planning & Development acts on behalf of Wilyabrup Investment Pty Ltd and DMG Architects as their consultant town planners and hereby prepare the following report in support of an Application for Development Approval lodged with the City of Busselton for the construction of six (6) new chalets and a mini golf course ('Chalet' & 'Recreation-Private' use) on Lot 100 (No.4259) Caves Road, Wilyabrup to support the existing brewery development on the land.

This report provides details regarding the following:

- Site details;
- Proposed development
- Technical information from specialised consultants (i.e. bushfire consultant & effluent disposal consultant);
- Planning considerations; and
- Provision of justification in support of the proposed development, addressing the relevant planning framework.

In light of the above, we respectfully request the City of Busselton's favorable consideration and approval of the application at their earliest possible convenience.

Should you have any queries or require any additional information regarding any of the matters raised above please do not hesitate to contact Mr Carlo Famiano on 0407384140 or carlof@people.net.au.

1.1 Consultant Reports

The following consultant reports have/will be prepared in support of this development application:

- i) A bushfire management plan and bushfire emergency plan have been prepared by Bushfire Prone Planning;
- ii) A sewer and water hydraulic services condition report has been prepared by Mr Salvatore Pulella of Hydraulics Design Australia (HAD); and
- iii) A landscaping plan will be prepared and lodged with the City in due course.

CF Town Planning & Development
Planning & Development Consultants

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2.0 BACKGROUND & PURPOSE

Lot 100 (No.4259) Caves Road, Wilyabrup has historically been developed and used for a brewery (including restaurant), known as 'Cheeky Monkey Brewing Co. The venue was founded in 2012 and is a popular venue within the south-western region of the State, which offers a wide array of functions in a family, friendly environment.

The subject land is well located within a well-established rural and tourism precinct, in close proximity to a number of wineries, restaurants and other tourism type venues. The subject land also enjoys good road access through the south-west region with links to a number of towns including Dunsborough, Busselton, Margaret River and Gracetown.

On 14 October 2010, the State Administrative Tribunal (SAT) issued Orders to approve an application to construct a microbrewery on the subject land (Ref: DR 98 of 2021). The approval included the construction of various buildings and the construction of fifty (50) on-site sealed carparking bays abutting the brewery building.

Given the above, this application seeks the City of Busselton's approval for the construction of six (6) dual key chalets and an eighteen (18) hole mini golf course and associated facilities. The proposed new additions/uses on the land will operate independently to the brewery but will support the existing brewery development on the land. It is envisaged that the proposed new development on the land will enhance the existing venue, introduce new tourist attractions to the region and foster the growth and popularity of the south-west region.

Prior to preparing any plans for the proposed development on the land, DMG Architecture held a meeting with the planning staff at the City of Busselton to discuss the merits and process of the proposed new development on the land. It is contended that this application has been prepared having had due regard for the discussions held with the City of Busselton and that the proposal has merit. Furthermore, the client has consulted with the adjoining owner which has indicated preliminary support for this application

Accordingly, approval under the City of Busselton's current operative Local Planning Scheme No.21 (LPS No.21) is hereby requested.

3.0 LAND DESCRIPTION

The land subject to this application is legally described as Lot 100 on Deposited Plan 63659 on Certificate of Title Volume 2713, Folio 516. The land is owned by Wilyabrup Investments Pty Ltd (see Appendix 1 - Certificate of Title).

4.0 LOCATION

Lot 100 is located within the pristine south-western wine and tourism region of Western Australia, along Caves Road. The land is located approximately 32.9 kilometres south-west of Busselton, approximately 20.9 kilometres south of Dunsborough and approximately 15.5 kilometres north-west of the Margaret River townsite (see Figure 1 – Location Plan).

The land has direct road frontage and access to Caves Road along its western boundary. It is significant to note that Caves Road is identified as a regional road and provides a direct link to the various towns within the region. A key character of the south-west region is the existing and historical rural activity (in particular viticulture), along with the tree lined roads. In addition, the region comprises various tourist attractions including the coastline and various popular venues (i.e. restaurants, breweries, wineries etc). It is appreciated and recognised that the region provides a vital part of the tourism and recreation within Western Australia.

The subject land is located within the municipality of the City of Busselton.

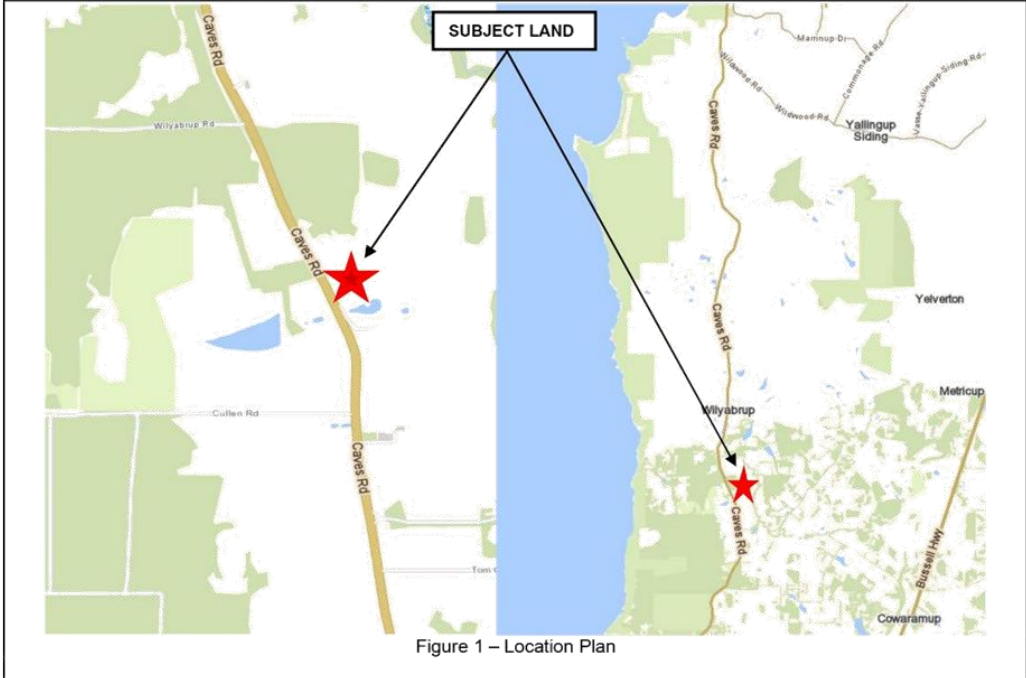


Figure 1 – Location Plan



Figure 2 - Aerial Site Plan

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5.0 PHYSICAL CHARACTERISTICS

Lot 100 is irregular in shape, comprises an area of 141,94m² (14.2 hectares), is undulating with a change in natural ground levels from 85.5 metres within the northern and southern extremities with the low point being centrally located with a level 80.5 metres (a fall of 5 metres). The subject land comprises three (3) key water bodies (dams), some scattered vegetation within the southern part of the land and crops (vines) within the western and northern parts of the land. Lot 100 also comprises large portion of cleared area to accommodate the existing development/use of the land, with large mature trees lining the Caves Road road reserve abutting the subject land (see Figure 2 – Aerial Site Plan & Figure 3).

The subject land comprises frontage to Caves Road along its western boundary, which is constructed to a suitable regional road standard (i.e. sealed and drained). The land also comprises one (1) vehicular access point along its frontage with Caves Road, which will be retained as part of the application and will not be altered.

Lot 100 comprises numerous physical improvements associated with the current approved use (i.e. brewery) including one (1) large commercial building, various sheds, numerous tanks, a large sealed car parking area comprising approximately fifty (50) car parking bays, a jetty along the lake edge, various pedestrian/vehicle tracks and rural boundary fencing. It is significant to note that all existing physical improvements on the land will be retained as part of the new development on the land (see Figure 2 - Aerial Site Plan & Figure 3).



Figure 3 – The existing brewery on the subject land - Cheeky Monkey Brewing Co

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5.1 ESSENTIAL SERVICES

The subject land comprises limited essential service infrastructure including power and telecommunications.

In regard to effluent disposal, the proposed development will be serviced by an on-site effluent disposal system. Details regarding the on-site effluent disposal system to be installed as part of the new development will be provided further within this report.

As previously mentioned, the subject land is served by an efficient regional road network with convenient access to various towns within the south-western region of the State.

5.2 EXISTING LAND USES

As previously mentioned, the subject land has been extensively cleared of vegetation and has historically been developed and used for 'Rural' and 'Brewery' purposes (see Figure 2 – Aerial Site Plan). The land currently comprises a number of structures and physical improvements within the southern portion of the site.

It is observed that a number of properties within the immediate locality and abutting the subject land have been extensively clear of native vegetation to accommodate rural activities. The topography within this part of Wilyabrup is undulating, with some significant falls in natural ground level. It is established that the region comprises a unique rural character, with extensive vegetation lining Caves Road.

Existing uses in the immediate locality are broadly described as follows:

- North: Rural living and agricultural activities (i.e. crop/live stock);
- West: Caves Road road reserve, with agricultural activities beyond (i.e. viticulture);
- South: Agricultural activities (i.e. viticulture) and Cullen Winery; and
- East: Agricultural activities (i.e. crop/livestock) (see Plan 2 – Aerial Site Plan).

As previously mentioned, the region comprises a wide range of tourism/commercial activities including wineries (including cellar doors), breweries, restaurants, retreats, accommodation (i.e. chalets), caravan parks, various food production (nougat, chocolate, cereal, nuts etc.) (see Figure 4 – Tourism venues within the South-West). These activities are considered to be vital for the continued growth of tourism within the south-west region.



Figure 4 – The region comprises a mix of uses and attractions (including food and beverage venues)



6.0 DEVELOPMENT PROPOSAL

This application proposes the establishment of a new mini golf course ('Recreation-Private') and the construction of six (6) new chalets on Lot 100 (No.4259) Caves Road, Wilyabrup to support the existing brewery development on the land, foster tourism within the locality and provide much needed short stay accommodation within the south-west region (see Figure 5 – Proposed Site Plan & Figure 6). The following key elements will be included as part of the development on the land:

- i) Establishment of an eighteen (18) hole mini golf course, including pedestrian access paths, viewing areas and landscaping;
- ii) Construction of six (6) single storey dual key chalets, comprising three (3) bedrooms, three (3) bathrooms, two (2) living areas and two (2) deck areas;
- iii) Construction of a new administration building to service the chalets (i.e. to facilitate check in/check out, office and staff room);
- iv) Construction of twelve (12) new on-site car parking bays to service the mini golf course and the construction of eighteen (18) on-site car parking bays to service the chalets (i.e. total of 30 new on-site car parking bays);
- v) Construction of a new access road to service the chalets and mini golf course;
- vi) Construction of an on-site effluent processing facility to service the proposed chalets; and
- vii) Construction of a swimming and cabana area in support of the chalets.



Figure 5 – The proposed development on the subject land (site plan).

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Figure 6 – Aerial Plan (Location of proposed development)

Details of the business operations for the chalets and mini golf course are outlined below:

- i) The proposed chalets and mini golf course will operate throughout the year (i.e. it is not limited to a seasonal operation);
- ii) The mini golf course will operate seven (7) days per week between the hours of 9am to 5pm;
- iii) The mini golf course will comprise forty (40) patrons at any one given time. Peak periods are expected to be during weekends, public holidays and school, holidays;
- iv) The mini golf course is self-service and does not require any specific staff to operate; and
- v) The mini golf course and chalets will be controlled by a different operator to the brewery. The administration office for the new uses will operate seven (7) days per week, during office hours and will include cleaning staff in the morning period.

The external facade of the proposed new chalets will be constructed using high quality finishes that will complement and enhance the existing development on the land and the surrounding area (see Figure 7).

It should be noted that the proposed new development on Lot 100 will retain the existing rural activities within the northern part of the subject land, which will assist with preserving the rural character of the land when viewed along Caves Road.

Copies of the proposed site development plans and building elevation drawings are provided herewith for review and consideration by the City of Busselton.



Figure 7 – Vision of the proposed chalets on the land.

6.1 On-site Effluent Disposal

A sewer and water hydraulic services condition report has been prepared by Mr Salvatore Pullella of Hydraulics Design Australia (HDA) to address the issue of servicing the new chalets on the subject land (see copy attached).

The immediate locality is not serviced by sewer infrastructure and connection to such infrastructure is not possible. The existing development on the land is serviced by an Aquarius 0-3 12KL aerobic treatment Unit (ATU) installed east of the existing Cheeky Monkey Brewing building.

The report prepared by the consultant has outlined that given the location of the existing ATU and disposal area (which is in excessive of 200m from the proposed Chalet locations), it outlines that a connection to the existing infrastructure is not recommended. Any connection with the existing system would require a complete overhaul, upgrade and modifications to meet current Shire of Busselton and Department of Health standards / requirements.

In light of the above, the application proposes a new on-site effluent disposal system for the chalets as a standalone wastewater system. An ATU, along with irrigation disposal, will be provided in accordance with the required capacity generated by the chalets and to the satisfaction of the City of Busselton and The Department of Health.



7.0 STATUTORY CONSIDERATIONS

7.1 City of Busselton Local Planning Scheme No.21

Lot 100 is currently classified 'Viticulture and Tourism' zone under the City of Busselton's current operative Local Planning Scheme No.21 (LPS No.21) (see Figure 8 – Zoning Map).

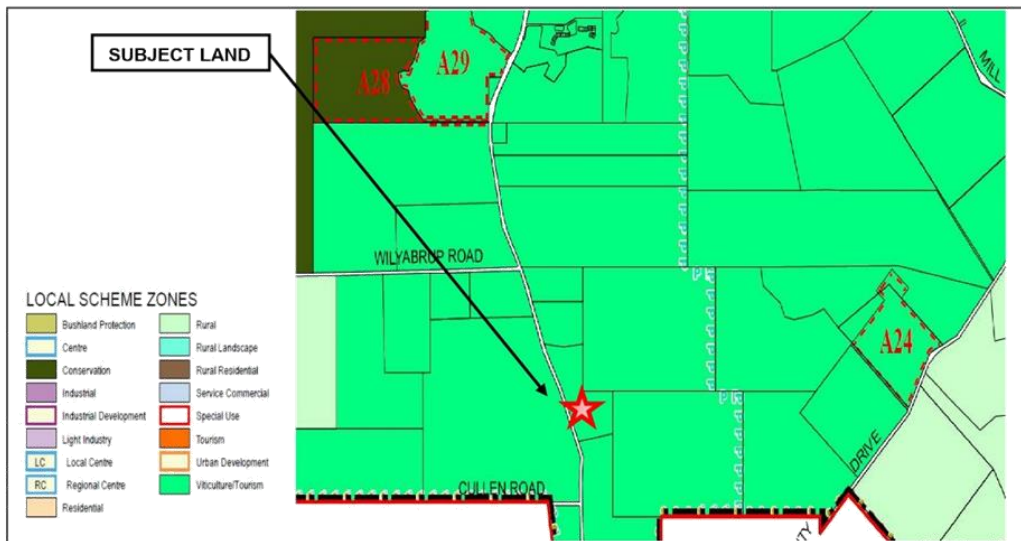


Figure 8 – Zoning Map (LPS No.21)

Schedule 1 of LPS No.21 provides the definitions for the various uses that would apply to this application. Table 1 below provides an overview of the land use definitions and permissibility within the zone:

Table 1– Land Use & Permissibility

Land Use	Definition	Use Permissibility
Chalet	<p>means a dwelling forming part of a tourist facility that is</p> <p>(a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and</p> <p>(b) designed to accommodate short-term guests with no guest accommodated for periods totalling more than 3 months in any 12 month period.</p>	<p>Discretionary (“D”) use, meaning that the use is not permitted unless the local government has exercised its discretion by granting planning approval.</p>
Recreation - Private	<p>means premises that are</p> <p>(a) used for indoor or outdoor leisure, recreation or sport; and</p> <p>(b) not usually open to the public without charge.</p>	<p>Discretionary (“A”) use, meaning that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the Deemed Provisions.</p>

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It is contended the proposed development and use of the land as depicted in this application falls comfortably within the aforementioned land use definitions and permissibility prescribed in the City of Busselton's LPS No.21.

Council's stated objectives for land classified 'Viticulture and Tourism' zone under LPS No.21 are to:

- (a) *To provide for the maintenance or enhancement of specific local rural character.*
- (b) *To provide for development and expansion of the viticultural, winemaking and associated industries, in addition to general rural pursuits, in a manner that does not cause adverse environmental impact.*
- (c) *To facilitate the development of tourist facilities of a scale and nature appropriate in rural settings without prejudice to the scenic quality of land within this zone and without creating or increasing ribbon development on any road.*
- (d) *To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses.*
- (e) *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.*
- (f) *To maintain and enhance the environmental qualities of the landscape, vegetation, soils and waterways*

It is contended that the proposed chalets and mini golf course is consistent with Council's prescribed objectives for land classified 'Viticulture and Tourism' as contained in LPS No.21 and that the proposed development will not have an adverse impact on the character of the area for the following reasons:

- It will preserve the existing local rural character and enhance the locality;
- It will retain the existing rural activity on the land;
- It will foster the growth of the existing use on the land, encourage tourism development and it will not result in the loss of prime agricultural land;
- It will foster and assist with promoting the region for tourism purposes;
- It will result in a development that is mindful of the existing rural character of the area and will facilitate the development/expansion of an existing tourism facility without undermining the scenic quality of the land and the surroundings; and
- It will not result in the removal of any significant vegetation.

The design of the proposed new chalets and mini golf course additions to the existing brewery development on the land has been formulated with due regard for the relevant 'deemed to comply requirements' of the City of Busselton's current operative Local Planning Scheme No.21 and all associated local planning policies.

Further details regarding compliance with the relevant development standards will be provided to the City of Busselton once the application has been considered by the City (i.e. undertaken a preliminary assessment) to allow for any potential design changes that may be requested by the City during its assessment period or to allow for the submission of any written justification to be submitted in support of the development to address the relevant development standards.

7.2 City of Busselton Local Planning Policies

7.2.1 Local Planning Policy No.4.6 'Caves Road Visual Management'

The intent of the City's Policy is to maintain, enhance and protect the natural and rural landscape, cultural and tourist values along Caves Road. The stated objectives of the Policy are as follows:

- To maintain and enhance the visual quality of the natural and rural landscape as viewed from Caves Road.
- To retain the rural landscape as the dominant visual experience of the Caves Road Viewshed.
- To maintain the significant views experienced from Caves Road.

Under the terms of the Policy, the subject land is located within 'Policy Area No.2' and comprises low to medium visual quality. The objectives of Policy Area No.2 is:

"Developments and/or changes of use may be visually apparent from Caves Road with careful design, but will nevertheless be subordinate to established landscape patterns."

This application seeks approval to construct a mini golf course and chalets on the subject land to assist with fostering tourism activities within the region. This includes the provision of much needed short stay accommodation to compliment the tourism activities within the region.

In light of the above, the proposed development does not change or alter the existing frontage of the land along Caves Road. This includes the following measures to address the criteria within the City's Policy:

- No additional buildings/structures within 150 metres from the land's front boundary with Caves Road;
- The chalets will include a pitched roof and are well setback from Caves Road;
- The chalets will be constructed within a cluster of small buildings around the existing dam to limit any potential bulk to the structures;
- All buildings and structures will comprise a height lower than the crown/canopy height of existing trees;
- The proposed development will not result in the removal of any remnant vegetation, this includes within the Caves Road verge area abutting the subject land and within the front setback area; and
- The development does not change the existing entry statement and/or vehicular access arrangements for the site.

It is contended that the design layout of the proposed additions to the existing brewery development on the land has due regard for the provisions of the City's Local Planning Policy No.4.6, is consistent with the stated objectives of the Policy, adequately addresses the development criteria prescribed within the Policy and will not adversely impact the existing visual quality along this part of Caves Road.

7.2.2 Local Planning Policy No.2.1 – 'Car Parking'

This application proposes the construction of twelve (12) new on-site car parking bays to services the mini golf course use and eighteen (18) new on-site car parking bays to service the chalets (a total of 30 new on-site car parking bays). Access for the new car parking areas is via the existing crossover along the land's Caves Road frontage. The existing development on the land (brewery) contains fifty (50) on-site car parking bays, which have been constructed within the western part of the land.

It is noted that the City of Busselton's Local Planning Policy No.21 does not specifically prescribe an on-site car parking standard for chalets and recreation-private. Given this, the standards applicable to a 'Motel' (i.e. 1 bay per unit & 1 bay per 4 units for visitors) and 'Public Hall/Place of Assembly' (i.e. 1 bay per 4 persons) have been applied to this application.

In light of the above, the following car parking calculations are provided to assist the City of Busselton's assessment of the application and have been formulated with due regard for the parking standards prescribed in the City's Local Planning Policy No.21 entitled 'Car Parking'.

Table 2 – On-site Car Parking Calculations

LAND USE	PRESCRIBED PARKING STANDARD	FLOOR AREA/MAXIMUM NUMBER OF PATRONS	PARKING BAYS REQUIRED
Recreation – Private (mini golf course)	1 bays per 4 persons	40 people	10 bays
Chalet	1 bay per chalet & 1 bay per 4 units for visitors	6 chalets	8 bays
Existing Brewery Development	As per approval	As per approval	50 bays
Total No. of bays required			68 bays
Total number of on-site parking bays provided (including existing bays)			80 bays
Proposed on-site car parking surplus			12 bays

As demonstrated by the above table, the proposed existing and proposed developments on the subject land meets the 'deemed to comply requirements' of the City of Busselton's Local Planning Policy No.21. In fact, the overall development on the land results in a parking surplus of twelve (12) bays.

In addition, the existing vehicular access point for the subject land will be retained and not altered, therefore not changing the movements along Caves Road.

7.3 Bushfire Prone Areas

The subject land has been identified by the Department of Fire & Emergency Services (DFES) as being located within a designated 'bushfire prone area' (see Figure 9). A bushfire management plan and bushfire emergency plan have been prepared by Bushfire Prone Planning in support of the development for review by the City of Busselton. The relevant documents identifies the bushfire rating, fuel sources, measures to address any bushfire issues and procedures for emergencies.

The reports conclude that the proposed development can achieve compliance by ensuring the proposed buildings (i.e. chalets) on the subject lot does not have exposure to radiant heat from a bushfire that exceeds 29 kW/m² (i.e. a BAL rating of BAL-29 or less will apply). The document outlines that this can be achieved by appropriate vegetation modification & maintenance surrounding the development. In addition, all six (6) Chalets will be subject to an indicative BAL Rating of BAL 12.5.

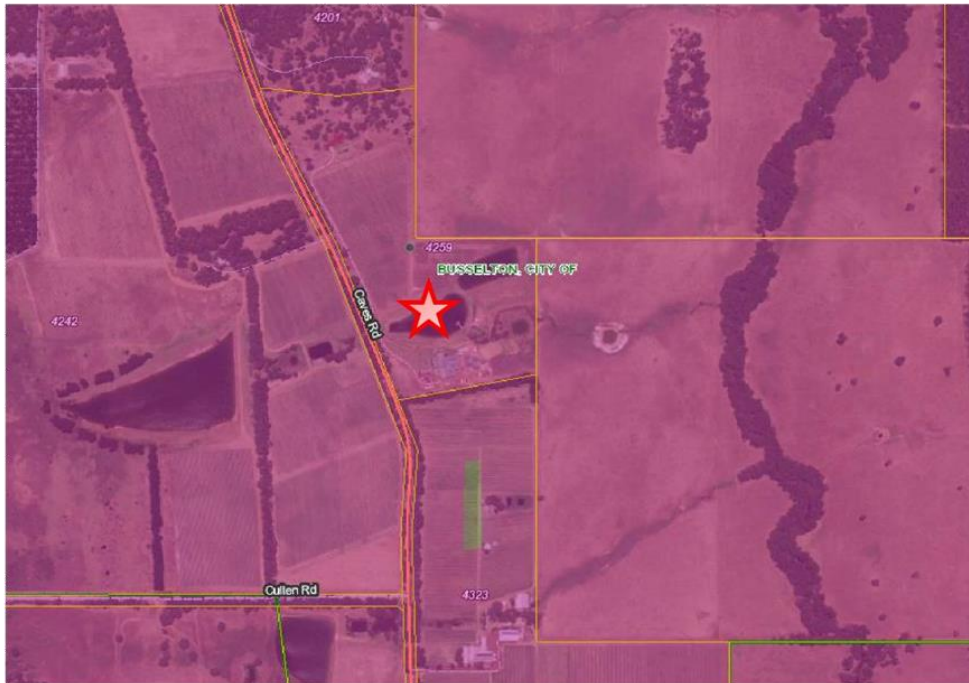



Figure 9 – DFES Bushfire Mapping

8.0 SUMMARY OF JUSTIFICATIONS

Having regard for all of the above, it is contended the proposed new chalet and mini golf course addition (i.e. 'Recreation-Private & 'Chalet' uses) to the existing brewery development on Lot 100 (No.4259) Caves Road, Wilyabrup is suitable and capable of being approved by the City of Busselton for the following reasons:

- The proposed chalets and mini golf course will complement the existing brewery development on the subject land and other tourism type uses within the immediate locality. In fact, the proposed development on the land will not have an adverse impact on the character of the area.
- The proposed additional uses and development on the land are consistent with the stated objectives for land classified 'Viticulture and Tourism' prescribed in the City of Busselton's current operative Local Planning Scheme No.21 and will not prejudice or conflict with the objectives of zone.
- The City of Busselton has the discretion to approve the proposed new uses on land classified 'Viticulture and Tourism' zone.
- The proposed development on the land has due regard for the City of Busselton's Local Planning Policy No.4.6 entitled 'Caves Road Visual Management'.
- The application complies with the provisions and standards of the City of Busselton's current operative Local Planning Scheme No.21, including any relevant Local Planning Policies and on-site car parking standards.
- The proposed new development and uses on the land are unlikely to have any significant negative impact upon the character, amenity, functionality or safety of the immediate locality or the continued operation of existing established land uses.



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- The proposed chalets and mini golf course on the subject land will facilitate and contribute towards the growth of tourism within the south-west region of the State and support/complement the existing brewery development on the land.
- The proposed new development on the land will provide much needed short stay accommodation within the region to support tourism.
- The design and appearance of the proposed chalets will harmonise with its surrounding and is unlikely to have any adverse impacts on the existing development on the subject land and/or the adjoining properties in terms of its bulk and scale.

9.0 CONCLUSION

This application proposes to expand the existing brewery development on the land by adding uses that are complementary and will support the current business operations, whilst providing a vibrant tourism destination within the south-west region that will enhance the area and assist with attracting tourist to one of the States premier tourist destinations.

The proposed development has been designed to improve the overall appearance of the area and retain the agricultural character of the area by preserving the rural activity within the northern part of the subject land. In addition, the new development is positioned to the rear of the site and will assist with preserving the rural character along Caves Road.

In light of the above information and justifications, we respectfully request the City of Busselton's favourable consideration and conditional approval of the application to establish a new mini golf course (i.e. 'Recreation-Private' use) and new chalets on Lot 100 (No.4259) Caves Road, Wilyabrup in accordance with the plans prepared in support of this application at the City's earliest possible convenience.







22 June 2021
CF Town Planning & Development
Planning & Development Consultants

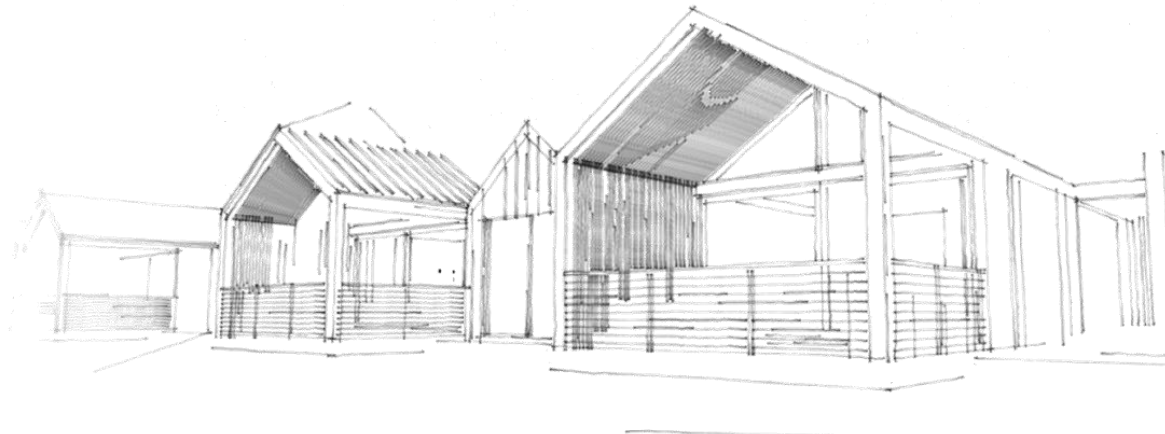
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The logo for CF Town Planning & Development features a red vertical bar on the left, followed by the text 'CF Town Planning & Development' in a sans-serif font. The background of the logo is a light grey with a faint architectural grid pattern.

CF Town Planning & Development

APPENDIX 1 – RECORD OF CERTIFICATE OF TITLE

 WESTERN AUSTRALIA	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td colspan="2" style="text-align: center;">REGISTER NUMBER 100/DP63659</td> </tr> <tr> <td style="text-align: center;">DUPLICATE FORM 1</td> <td style="text-align: center;">DATE DULY ILLUSTRATED 23/3/2009</td> </tr> <tr> <td style="text-align: center;">VOLUME 2713</td> <td style="text-align: center;">PAGE 516</td> </tr> </table>	REGISTER NUMBER 100/DP63659		DUPLICATE FORM 1	DATE DULY ILLUSTRATED 23/3/2009	VOLUME 2713	PAGE 516
REGISTER NUMBER 100/DP63659							
DUPLICATE FORM 1	DATE DULY ILLUSTRATED 23/3/2009						
VOLUME 2713	PAGE 516						
RECORD OF CERTIFICATE OF TITLE UNDER THE TRANSFER OF LAND ACT 1893							
<p>The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.</p>							
 B. Roberts REGISTRAR OF TITLES							
							
LAND DESCRIPTION:							
LOT 100 ON DEPOSITED PLAN 63659							
REGISTERED PROPRIETOR: (FIRST SCHEDULE)							
WILYABRUP INVESTMENTS PTY LTD OF 98 CIRCE CIRCLE DALKEITH WA 6009 (T O579340) REGISTERED 8/12/2020							
LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS: (SECOND SCHEDULE)							
<ol style="list-style-type: none"> 1. *M766137 2. *M766138 3. *O579341 	<p>LEASE TO CHEEKY MONKEY BREWING CO PTY LTD OF GALLUCCIO GRIGGS, 620 NEWCASTLE STREET, LEEDERVILLE EMPRES. SEE LEASE. AS TO PORTION ONLY REGISTERED 12/9/2014</p> <p>LEASE TO CHEEKY MONKEY BREWING CO PTY LTD OF CARE OF GALLUCCIO GRIGGS, 620 NEWCASTLE STREET, LEEDERVILLE EMPRES. SEE LEASE. AS TO PORTION ONLY REGISTERED 12/9/2014</p> <p>MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA REGISTERED 8/12/2020.</p>						
<p>Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required. * Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title. Lot as described in the land description may be a lot or location.</p>							
-----END OF CERTIFICATE OF TITLE-----							
STATEMENTS:							
<p>The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.</p>							
SKETCH OF LAND: PREVIOUS TITLE: PROPERTY STREET ADDRESS: LOCAL GOVERNMENT AUTHORITY:	DP63659 1895-2 4159 CAVES RD, WILYABRUP CITY OF BUSSELTON						
NOTE 1: DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING K943721							
LANDGATE COPY OF ORIGINAL NOT TO SCALE 23/12/2020 08:53 AM Request number: 61432649							
 www.landgate.wa.gov.au							



NOTE: Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.

SHORT STAY & MINI-GOLF DEVELOPMENT

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- A02.01 DUAL KEY TYPICAL FLOOR PLAN
- A02.02 RECEPTION BUILDING TYPICAL FLOOR PLAN
- A03.01 DUAL KEY ELEVATIONS 1 & 2
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- A04.05 RECEPTION BUILDING EXTERNAL VIEW 2

ISSUED FOR DEVELOPMENT APPROVAL



DESIGN MANAGEMENT GROUP
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info@dmgaustralia.com.au | www.dmgaustralia.com.au

PROJECT

SHORT STAY & MINI-GOLF DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

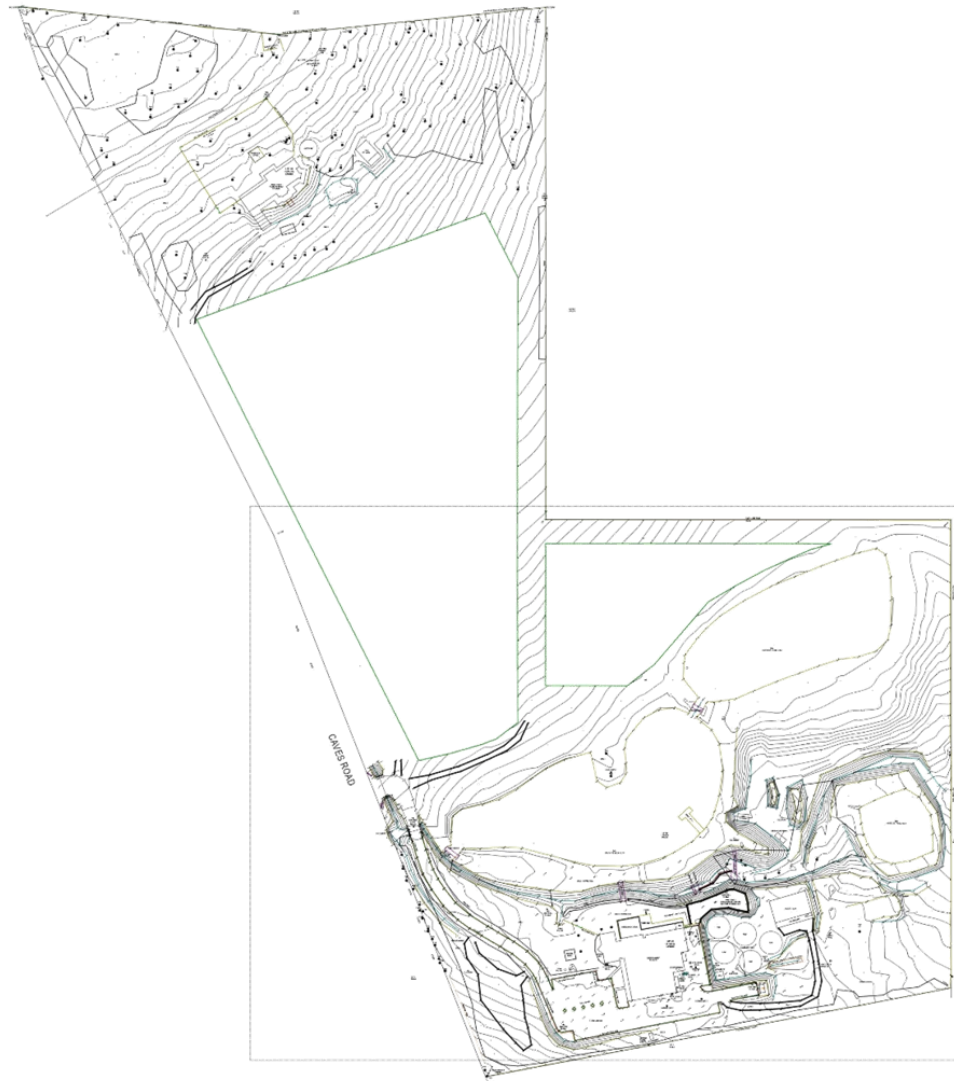
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	17/06/21

COVER

SCALE	DRAWN	CHECKED
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PROJECT #	DRAWING #	ISSUE
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PROJECT

SHORT STAY & MINI-GOLF
DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE DATE
17/06/21

EXISTING SITE PLAN

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EXISTING DAM REFERENCE IMAGE

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PROJECT

**SHORT STAY & MINI-GOLF
DEVELOPMENT**

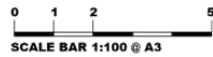
4259 CAVES ROAD, WILYABRUP WA 6280

TITLE	DATE
PROPOSED SITEPLAN CHALETS & MINI-GOLF	17/06/21

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4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
DUAL KEY TYPICAL FLOOR PLAN	17/06/21

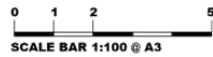
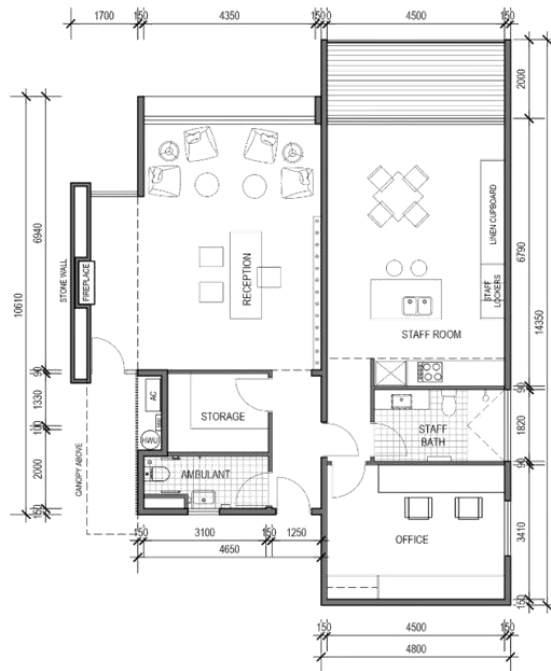
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TITLE	DATE
	17/06/21

RECEPTION BUILDING
FLOOR PLAN

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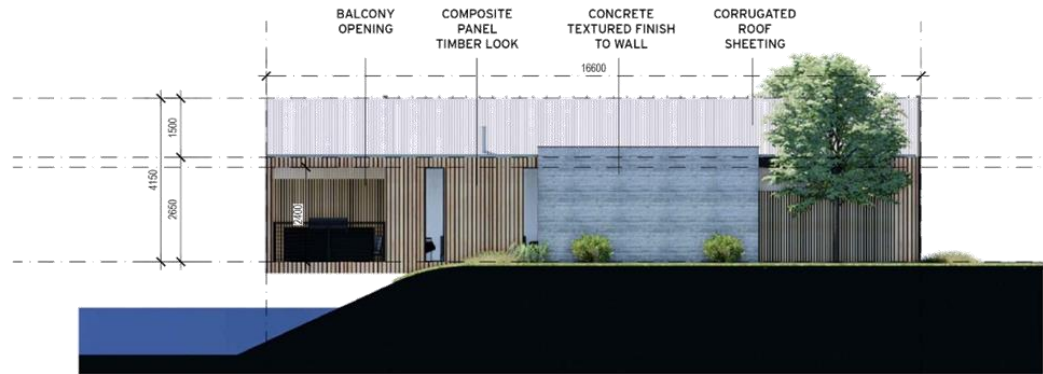
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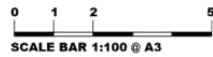
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ELEVATION 1



ELEVATION 2



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DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	17/06/21

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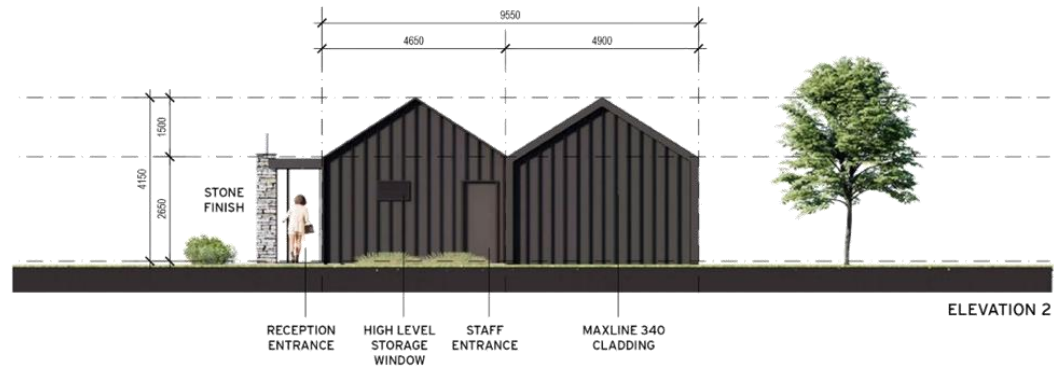
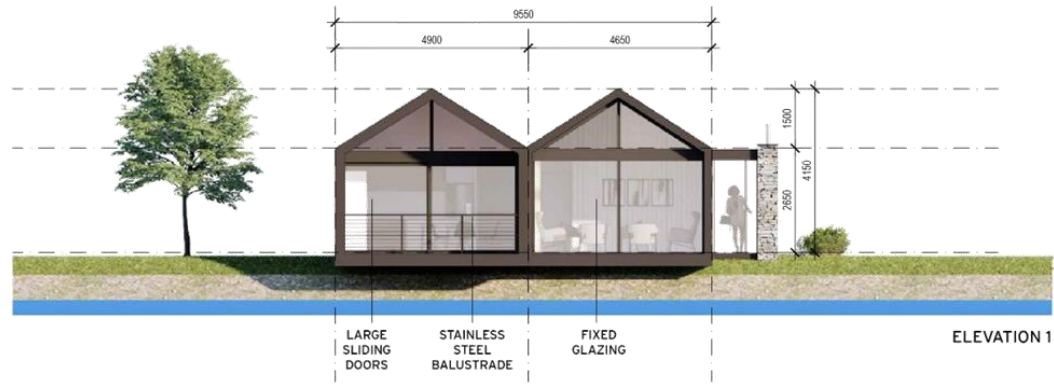
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DEVELOPMENT

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TITLE	DATE
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RECEPTION BUILDING
ELEVATIONS 1 & 2

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ELEVATIONS 3 & 4

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DEVELOPMENT

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TITLE	DATE
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4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
DUAL KEY DAM VIEW 1 & 2	17/06/21

DUAL KEY
DAM VIEW 1 & 2

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PROJECT

**SHORT STAY & MINI-GOLF
DEVELOPMENT**

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	17/06/21

**RECEPTION BUILDING
IN- & EXTERIOR VIEW**

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PROJECT

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DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	17/06/21

RECEPTION BUILDING
EXTERIOR VIEW 2

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DEVELOPMENT APPLICATION REPORT

PROPOSED FIVE (5) CHALETS

LOT 100 (NO.4259) CAVES ROAD, WILYABRUP



CITY OF BUSSELTON

Prepared for:

Wilyabrup Investments Pty Ltd & DMG Architects

Prepared by:

**CF Town Planning & Development
Planning & Development Consultants**

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November 2021

CF Town Planning & Development

This report has been prepared by CF Town Planning & Development on behalf of Wilyabrup Investments Pty Ltd & DMG Architects for a proposed chalet addition to the existing brewery development on Lot 100 (No.4259) Caves Road, Wilyabrup.



Carlo Famiano
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CF Town Planning & Development

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Document Revisions:

- Planning Report (i) – Dated 22 June 2021
- Planning Report (ii) – Dated 28 July 2021
- Planning Report (iii) – Dated 26 November 2021

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1.0 INTRODUCTION

CF Town Planning & Development acts on behalf of Wilyabrup Investment Pty Ltd and DMG Architects as their consultant town planners and hereby prepare the following report in support of an Application for Development Approval lodged with the City of Busselton for the construction of five (5) new chalets and a reception (administration) building ('Chalet' use) on Lot 100 (No.4259) Caves Road, Wilyabrup to support the existing brewery development on the land.

This report provides details regarding the following:

- Site details;
- Proposed development
- Technical information from specialised consultants (i.e. bushfire consultant & hydraulic consultant);
- Planning considerations; and
- Provision of justification in support of the proposed development, addressing the relevant planning framework.

In light of the above, we respectfully request the City of Busselton's favorable consideration and approval of the application at their earliest possible convenience.

Should you have any queries or require any additional information regarding any of the matters raised above please do not hesitate to contact Mr Carlo Famiano on 0407384140 or carlof@people.net.au.

1.1 Consultant Reports

The following consultant reports have/will be prepared in support of this development application:

- A bushfire management plan and bushfire emergency plan have been prepared by Bushfire Prone Planning;
- A sewer and water hydraulic services condition report has been prepared by Mr Ben Edwards Quality Hydraulic Services Design; and
- A landscaping plan will be prepared and lodged with the City in due course.

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2.0 BACKGROUND & PURPOSE

Lot 100 (No.4259) Caves Road, Wilyabrup has historically been developed and used for a brewery (including restaurant), known as 'Cheeky Monkey Brewing Co. The venue was founded in 2012 and is a popular venue within the south-western region of the State, which offers a wide array of functions in a family, friendly environment.

The subject land is well located within a well-established rural and tourism precinct, in close proximity to a number of wineries, restaurants and other tourism type venues. The subject land also enjoys good road access through the south-west region with links to a number of towns including Dunsborough, Busselton, Margaret River and Gracetown.

On 14 October 2010, the State Administrative Tribunal (SAT) issued Orders to approve an application to construct a microbrewery on the subject land (Ref: DR 98 of 2021). The approval included the construction of various buildings and the construction of fifty (50) on-site sealed carparking bays abutting the brewery building.

The following is a broad list of the historical development approvals granted by the City of Busselton for the land:

- i) 23 June 2010: Proposed cellar door, restaurant and micro-brewery;
- ii) 29 August 2011: Proposed modification to cellar door, restaurant and micro-brewery; and
- iii) 15 June 2016: Change of use (Tavern).

This application seeks the City of Busselton's approval for the construction of five (5) chalets and a reception building (administration building in support of the chalets) on the land. The proposed new additions/uses on the land will operate independently to the brewery but will support the existing brewery development on the land. It is envisaged that the proposed new development on the land will enhance the existing venue, introduce new tourist attractions to the region and foster the growth and popularity of the south-west region.

Prior to preparing any plans for the proposed development on the land, DMG Architecture held a meeting with the planning staff at the City of Busselton to discuss the merits and process of the proposed new development on the land. It is contended that this application has been prepared having had due regard for the discussions held with the City of Busselton and that the proposal has merit and its architect, have had consultations with the adjoining owners.

This revised report reflects the City's assessment of the original submission that included the construction of six (6) chalets and a mini-golf course ('Recreation-Private' use). Due to the number of submissions received by the City during the advertising period and various matters raised by the City of Busselton as part of its assessment of this application (including a number of referral authorities), amended plans (and this revised report) have been prepared reducing the number of chalets and car parking bays and removing the mini-golf course thereby reducing the scale and intensity of the development. Further details will be provided within this report highlighting the changes and the issues raised during the advertising period of the original application.

Accordingly, approval under the City of Busselton's current operative Local Planning Scheme No.21 (LPS No.21) is hereby requested.

3.0 LAND DESCRIPTION

The land subject to this application is legally described as Lot 100 on Deposited Plan 63659 on Certificate of Title Volume 2713, Folio 516. The land is owned by Wilyabrup Investments Pty Ltd (see Appendix 1 - Certificate of Title).



4.0 LOCATION

Lot 100 is located within the south-western wine and tourism region of Western Australia, along Caves Road. The land is located approximately 32.9 kilometres south-west of Busselton, approximately 20.9 kilometres south of Dunsborough and approximately 15.5 kilometres north-west of the Margaret River townsite (see Figure 1 – Location Plan).

The land has direct road frontage and access to Caves Road along its western boundary. It is significant to note that Caves Road is identified as a regional road and provides a direct link to the various towns within the region. A key character of the south-west region is the existing and historical rural activity (in particular viticulture), along with the tree lined roads. In addition, the region comprises various tourist attractions including the coastline and various popular venues (i.e. restaurants, breweries, wineries etc). It is appreciated and recognised that the region provides a vital part of the tourism and recreation within Western Australia.

The subject land is located within the municipality of the City of Busselton.



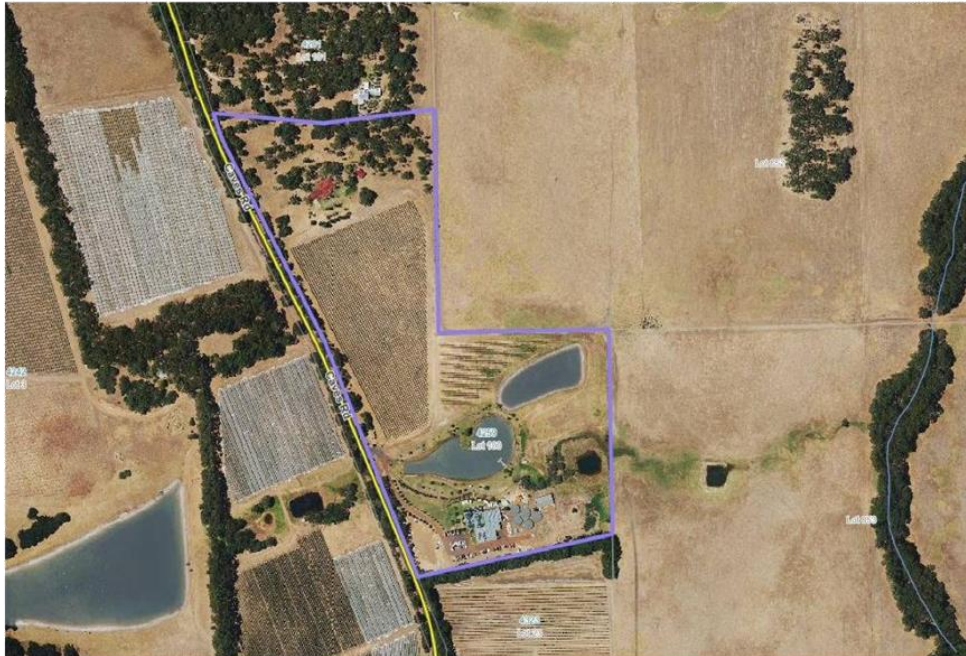


Figure 2 - Aerial Site Plan

5.0 PHYSICAL CHARACTERISTICS

Lot 100 is irregular in shape, comprises an area of approximately 14.2 hectares, is undulating with a change in natural ground levels from 85.5 metres within the northern and southern extremities with the low point being centrally located with a level 80.5 metres (a fall of 5 metres). The subject land comprises three (3) key water bodies (dams), some scattered vegetation within the southern part of the land and crops (vines) within the western and northern parts of the land. Lot 100 also comprises large portion of cleared area to accommodate the existing development/use of the land, with large mature trees lining the Caves Road road reserve abutting the subject land (see Figure 2 – Aerial Site Plan & Figure 3).

The subject land comprises frontage to Caves Road along its western boundary, which is constructed to a suitable regional road standard (i.e. sealed and drained). The land also comprises one (1) vehicular access point along its frontage with Caves Road, which will be retained as part of the application and will not be altered.

Lot 100 comprises numerous physical improvements associated with the current approved use (i.e. brewery) including one (1) large commercial building, various sheds, numerous tanks, a large sealed car parking area comprising approximately fifty (50) car parking bays, a jetty along the lake edge, various pedestrian/vehicle tracks and rural boundary fencing.

It is significant to note that all existing physical improvements on the land will be retained as part of the new development on the land and that this application does not propose to alter and/or change the current approved development on the land (see Figure 2 - Aerial Site Plan & Figure 3).



Figure 3 – The existing brewery on the subject land - Cheeky Monkey Brewing Co

5.1 ESSENTIAL SERVICES

The subject land comprises limited essential service infrastructure including power and telecommunications.

In regard to effluent disposal, the proposed development will be serviced by an on-site effluent disposal system. Details regarding the on-site effluent disposal system to be installed as part of the new development will be provided further within this report.

As previously mentioned, the subject land is served by an efficient regional road network with convenient access to various towns within the south-western region of the State.

5.2 EXISTING LAND USES

As previously mentioned, the subject land has been extensively cleared of vegetation and has historically been developed and used for 'Rural' and 'Brewery' purposes (see Figure 2 – Aerial Site Plan). The land currently comprises a number of structures and physical improvements within the southern portion of the site.

It is observed that a number of properties within the immediate locality and abutting the subject land have been extensively cleared of native vegetation to accommodate rural activities. The topography within this part of Wilyabrup is undulating, with some significant falls in natural ground level. It is established that the region comprises a unique rural character, with extensive vegetation lining Caves Road.

Existing uses in the immediate locality are broadly described as follows:

- North: Rural living and agricultural activities (i.e. crop/live stock);
- West: Caves Road road reserve, with agricultural activities beyond (i.e. viticulture);
- South: Agricultural activities (i.e. viticulture); and
- East: Agricultural activities (i.e. crop/livestock) (see Plan 2 – Aerial Site Plan).

As previously mentioned, the region comprises a wide range of tourism/commercial activities including wineries (including cellar doors), breweries, restaurants, retreats, accommodation (i.e. chalets), caravan parks, various food production (nougat, chocolate, cereal, nuts etc.) (see Figure 4 – Tourism venues within the South-West). These activities are considered to be vital for the continued growth of tourism within the south-west region.



Figure 4 – The region comprises a mix of uses and attractions (including food and beverage venues)

6.0 DEVELOPMENT PROPOSAL

This revised application proposes the construction of five (5) new chalets on Lot 100 (No.4259) Caves Road, Wilyabrup to support the existing brewery development on the land, foster tourism within the locality and provide much needed short stay accommodation within the south-west region (see Figure 5 – Proposed Site Plan & Figure 6). The following key elements will be included as part of the development on the land:

- i) Construction of five (5) single storey chalets, comprising three (3) bedrooms, three (3) bathrooms, large living areas and deck areas;
- ii) Construction of a new administration building to service the chalets (i.e. to facilitate check in/check out, office and staff room);
- iii) Construction of ten (10) new on-site car parking bays to service the chalets;
- iv) Construction of a new access road to service the chalets; and
- v) Construction/upgrade of an on-site effluent processing facility to service the proposed chalets.

The external facade of the proposed new chalets will be constructed using high quality finishes that will complement and enhance the existing development on the land and the surrounding area (see Figure 7).



Figure 5 – The proposed development on the subject land (site plan).



Figure 6 – Aerial Plan (Location of proposed development)

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It should be noted that the proposed new development on Lot 100 will retain the existing rural activities (vineyard) within the northern part of the subject land, which will assist with preserving the rural character of the land when viewed along Caves Road.



Figure 7 – Vision of the proposed chalets on the land.

The proposed new chalets have been designed to comprise good usable internal areas that are spacious and will accommodate families but still allow privacy via a dual key option. In addition, each chalet will include high quality amenities (i.e. bathroom, toilets and kitchen) to meet the needs of the occupants (see Figure 8).



Figure 8 – The internal layout of the chalets.

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Copies of the proposed site development plans and building elevation drawings are provided herewith for review and consideration by the City of Busselton.

6.1 Amended Plans and Public Advertising (Submissions)

As previously mentioned, the original application lodged in July 2021 (Ref: DA21/0548) included the construction of six (6) chalets, a reception (office) building, a mini-golf course ('Recreation-Private' use) and various other associated structures.

Following an assessment of the application, public advertising and the required referral period with relevant government departments, amended plans were prepared and lodged with the City for further consideration.

The key changes to the amended plans include the following:

- i) Removal of the mini-golf ('Recreation-Private' use);
- ii) Reduction of the number of proposed chalets from six (6) to five (5). In addition, the area/footprint of the chalets have been reduced (also the glazed link for each chalet has been removed further reducing the footprint).
- iii) Relocation of the chalets to the western lake, therefore providing greater setbacks to the lot boundaries. It should be noted that the reception building (chalet administration building) is not habitable and complies with the minimum setback requirements under Clause 4.36.1 of the City's LPs No.21;
- iv) A reduction to the driveway length and an overall reduction to the driveway area (by approx. 50%);
- v) Removal of some pedestrian paths;
- vi) Removal of the swimming pool and cabana;
- vii) An overall reduced footprint of the development over the entire site; and
- viii) Additional landscaping provided along the land's frontage with Caves Road to provide additional screening of the development north of the main entrance.

The City of Busselton advertised the development application for public comment given the proposed uses and the variations being sought to the relevant planning framework, At the conclusion of the public consultation community consultation period, the City received three (3) submissions objecting to the application. The landowner reviewed the submissions, consulted with the City of Busselton and then elected to amend the plans to remove various components of the development that formed the foundations of the objections received.

The following table provides some commentary in regards to the key concerns raised during the advertising period and how the amended plans have addressed the concerns raised by the objectors:

Table 1 – Outcome of Public Advertising

SUBMISSION No.	NAME & ADDRESS	NATURE OF SUBMISSION	OUTCOME OF AMENDED PLANS
1.	L Watts (on behalf of Starcastle Pty Ltd)	Object. Obvious areas of non-compliance with Local Planning Scheme No. 21 and Local Planning Policy 2.4 Rural Tourist Accommodation.	The comment is noted. However, it fails to substantiate any objection to the application and does not provide any valid planning reasons for objecting to the application.

			Given the above, it is assumed that the amended plans have addressed any concerns
2.	P Holmes à Court (on behalf of Vasse Felix Wines)	<p>Object.</p> <p>Number of chalets</p> <p>Setback from boundary</p> <p>Proximity to future vineyard and impact of vineyard operations</p> <p>Landscaping – extent and maintenance</p> <p>Impact on water quality</p>	<ul style="list-style-type: none"> The amended plans have reduced the size and number of dwellings proposed on the land. Given this, the concerns raised have been addressed. The amended plans have relocated the chalets and provides for increased setbacks from 18 metres (previously) to 71 metres from the eastern lot boundaries. The chalet administration building complies with the setback provision of the Scheme and justification has been provided in regard to the reduced boundary setbacks for the chalets. Mini-golf has been removed. The comment is speculative and reflects a potential future proposed use that is not currently in place. At the time of considering this application, there are no vines immediately adjoining the chalets. As such, the potential or possible intended use of the adjoining property in the future cannot be considered as part of this application. This has been addressed by increasing setbacks, The amended plans have reduced the extent of landscaping shown on the original submission along the boundaries. Given this, the objectors comment has been addressed. The overall development on the land has been scaled back and therefore the concerns regarding water quality has been addressed. In addition, a hydraulic report has been prepared to address any concerns.
3.	S & A Baxter (Gralyn Estate) V Cullen (Cullen Wines) S Cullen (Cullen Wines) G Harris (Cullen Wines) P Poynton (Secret Garden)	<p>Objection from various adjoining and neighbouring landholders.</p> <p>Objectives of the Viticulture and Tourism land use zone under LPS21</p>	<ul style="list-style-type: none"> The amended plans have now reduced the scale of development on the land and therefore retains the existing rural character. Given this, the key concerns raised by the objector has been address. In

	<p>K Mugford (Mosswood Wines)</p>	<p>Local Planning Policy 2.4 (LPP 2.4) Rural Tourist Accommodation –Aims and Objectives</p> <p>LPP 2.4 - Clause 4.3 Minimum Site Area & 4.4 Density</p> <p>LPP 2.4 – Clause 4.5 Setbacks</p> <p>Impact of the development on Lot 852,6 and 3 Caves Road – Gralyn Estate</p> <p>Impact of the development on Lot 853 – Vasse Felix</p>	<p>addition, a response to the objectives of the zone has been provided as part of this report.</p> <ul style="list-style-type: none"> The number and size of the chalets have been reduced, with the development now being of a small scale that will not undermine the policy objectives. As outlined within this report, the proposed chalets will foster tourism without undermining the rural character/function of the immediate locality. The number of chalets on the land have been reduced (reduced density) and that the development is not a 'Rural Holiday Resort' as outlined by the objector. Written justification has been provided within this report to address the minimum required land areas for a chalet development. As such, it is contended that the concerns raised by the objector have been addressed. The amended plans have relocated the chalets and provides for increased setbacks from the boundaries. The chalet administration building complies with the setback provision of the Scheme. The setback for the chalets complies from the northern lot boundary, being more than 100 metres. In addition, additional landscaping has been provided along the land's Caves Road frontage to provide a screen/buffer of the overall development on the land when viewed from Caves Road. The overall development proposed as part of the original submission has been considerably reduced, including the number of chalets. In addition, the boundary setback for the chalets have been increased and complies with the required setback to the northern lot boundary. Given these aspects of the amended plans, the proposed development would not have an impact on the rural activities on the adjoining properties. As such, the amended plans have addressed the concerns raised by the objector. See comments above, in addition, the proposed development is not classified as a 'Rural Tourist Resort' as depicted by the objector.
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		<p>Impact of the development on Lot 23 – Cullen Wines</p> <p>Local Planning Policy No.4.6 (LPP 4.6) - Caves Road Visual Management</p> <p>Car parking</p> <p>Waste Water and Hydraulic Services</p> <p>Pool and cabana area</p> <p>Vegetation buffer</p> <p>Management</p>	<ul style="list-style-type: none"> • See comments above regard to the revised layout of the development and the lot boundary setbacks. • The plans have been amended to reduce the overall intensity of the new development on the land (i.e. remove the mini-golf and reduced chalet numbers) and the development now provides a landscaping buffer along Caves Road and the north/southern boundaries. Given the new landscaping, reduced development size and compliant setbacks to Caves Road, the proposed five (5) chalets will not have an adverse impact on the visual quality along Caves Road. • The mini-golf component of the application has been removed and therefore the concerns raised by the objector in regard to car parking is no longer valid. Also, the number of car parking bays for the chalets have been reduced from 18 bays to 10 bays. • A revised hydraulic report has been prepared for the application for the City's consideration. In addition, the overall scale of the development on the subject land has been considerable reduced therefore placing less pressure on the environmental concerns raised. • The pool and cabana area have been removed and are no longer an issue. • The overall development has been downscaled and larger setbacks have been provided to the chalets from the lot boundaries. Given this, the landscaping buffer along the rears boundary has been removed. As such, the concerns raised by the objector has been addressed. The vineyard provides an existing screening element to the north in any event. • Comments regarding the operation (i.e. operator/manager) of the mini-golf are no longer valid as the use has been removed. In addition the chalets are not a 'Rural Holiday Resort' as
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			outlined by the objector. Furthermore, the chalet will have 24 hour services.
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It is noted that the amended plans will require re-advertising for public comment. As such, a schedule of submission and responses will be prepared by this office and lodged with the City of Busselton if any further submissions of objection are received by the City as a result on the new advertising procedure.

As can be appreciated by the above, the amended plans have included significant changes to this application that have reduced the overall scale of the proposed development to address the various matters raised during the City's assessment of the original submission. It could be argued that the amended plans have now addressed the concerns raised by the objector/relevant government agencies, is less intense, will not have an adverse impact on the rural character of the area and has merit. As such, the application could be supported by the City.

7.0 STATUTORY CONSIDERATIONS

7.1 City of Busselton Local Planning Scheme No.21

Lot 100 is currently classified 'Viticulture and Tourism' zone under the City of Busselton's current operative Local Planning Scheme No.21 (LPS No.21) (see Figure 9 – Zoning Map).

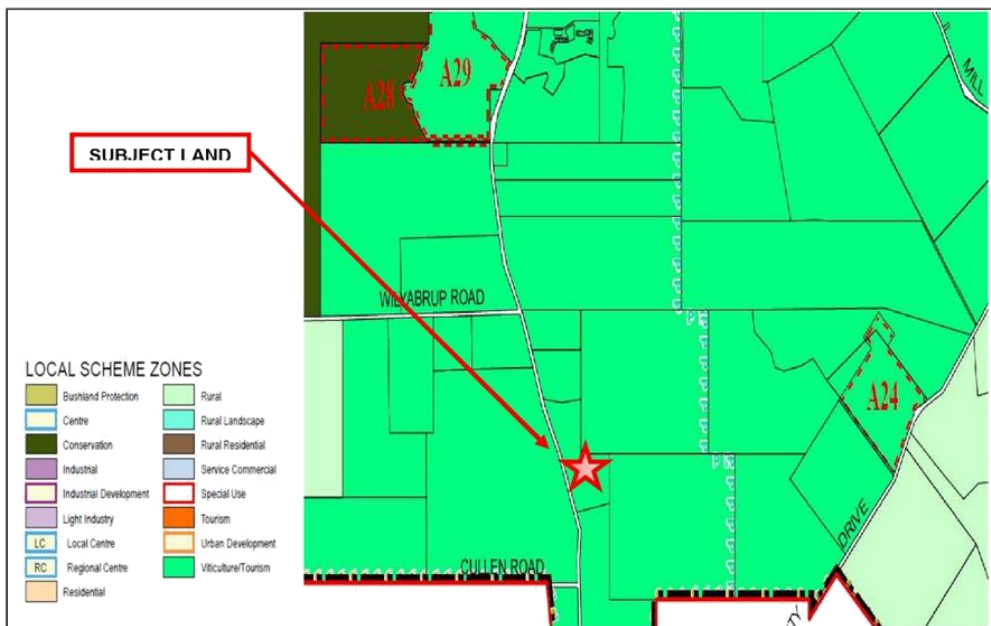


Figure 9 – Zoning Map (LPS No.21)

Schedule 1 of LPS No.21 provides the definitions for the various uses that would apply to this application. Table 2 below provides an overview of the land use definitions and permissibility within the zone:

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 CVF Nominees Pty Ltd ABN: 86 110 067 395

Table 2 – Land Use & Permissibility

LAND USE	DEFINITION	USE PERMISSIBILITY
Chalet	<p>means a dwelling forming part of a tourist facility that is</p> <p>(a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and</p> <p>(b) designed to accommodate short-term guests with no guest accommodated for periods totalling more than 3 months in any 12 month period.</p>	<p>Discretionary ("D") use. meaning that the use is not permitted unless the local government has exercised its discretion by granting planning approval.</p>

It is contended the proposed development and use of the land as depicted in this application falls comfortably within the aforementioned land use definitions and permissibility prescribed in the City of Busselton's LPS No.21.

Council's stated objectives for land classified 'Viticulture and Tourism' zone under LPS No.21 are to:

- (a) To provide for the maintenance or enhancement of specific local rural character.
- (b) To provide for development and expansion of the viticultural, winemaking and associated industries, in addition to general rural pursuits, in a manner that does not cause adverse environmental impact.
- (c) To facilitate the development of tourist facilities of a scale and nature appropriate in rural settings without prejudice to the scenic quality of land within this zone and without creating or increasing ribbon development on any road.
- (d) To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses.
- (e) To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.
- (f) To maintain and enhance the environmental qualities of the landscape, vegetation, soils and waterways

It is contended that the proposed chalet development on the land is consistent with Council's prescribed objectives for land classified 'Viticulture and Tourism' as contained in LPS No.21 and that the proposed development will not have an adverse impact on the character of the area for the following reasons:

- It will preserve the existing local rural character and enhance the locality;
- It will retain the existing rural activity on the land;
- It will foster the growth of the existing use on the land, encourage tourism development and it will not result in the loss of prime agricultural land;
- It will foster and assist with promoting the region for tourism purposes;
- It will result in a development that is mindful of the existing rural character of the area and will facilitate the development/expansion of an existing tourism facility without undermining the scenic quality of the land and the surroundings; and
- It will not result in the removal of any significant vegetation.

The design of the proposed new chalet addition to the existing brewery development on the land has been formulated with due regard for the relevant 'deemed to comply requirements' of the City of Busselton's current operative Local Planning Scheme No.21 and all associated local planning policies.

7.2 City of Busselton Local Planning Policies

7.2.1 Local Planning Policy No.4.6 'Caves Road Visual Management'

The intent of the City's Local Planning Policy No.4.6 entitled '*Caves Road Visual Management*' is to maintain, enhance and protect the natural and rural landscape, cultural and tourist values along Caves Road. The stated objectives of the Policy are as follows:

- *To maintain and enhance the visual quality of the natural and rural landscape as viewed from Caves Road.*
- *To retain the rural landscape as the dominant visual experience of the Caves Road Viewshed.*
- *To maintain the significant views experienced from Caves Road.*

Under the terms of the Policy, the subject land is located within 'Policy Area No.2' and comprises low to medium visual quality. The objectives of Policy Area No.2 is:

"Developments and/or changes of use may be visually apparent from Caves Road with careful design, but will nevertheless be subordinate to established landscape patterns."

This application seeks approval to construct five (5) new chalets on the subject land to assist with fostering tourism activities within the region and provide much needed short stay accommodation to compliment the tourism activities within the region.

In light of the above, the proposed development does not change or alter the existing frontage of the land along Caves Road. This includes the following measures to address the criteria within the City's Policy:

- No additional buildings/structures within 150 metres from the land's front boundary with Caves Road;
- The chalets will include a pitched roof and are well setback from Caves Road;
- The chalets will be constructed within a cluster of small buildings around the existing dam to limit any potential bulk to the structures;
- All buildings and structures will comprise a height lower than the crown/canopy height of existing trees; and
- The development does not change the existing entry statement and/or vehicular access arrangements for the site.

It is contended that the design layout of the proposed chalet addition to the existing brewery development on the land has due regard for the provisions of the City's Local Planning Policy No.4.6, is consistent with the stated objectives of the Policy, adequately addresses the development criteria prescribed within the Policy and will not adversely impact the existing visual quality along this part of Caves Road.

7.2.2 Local Planning Policy No.2.1 – 'Car Parking'

This application proposes the construction of ten (10) new on-site car parking bays to service the chalets. Access for the new car parking areas is via the existing crossover along the land's Caves Road frontage. The existing development on the land (brewery) contains fifty (50) on-site car parking bays, which have been constructed within the western part of the land.

It is noted that the City of Busselton's Local Planning Policy No.21 does not specifically prescribe an on-site car parking standard for a chalet use. Given this, the standards applicable to a 'Motel' (i.e. 1 bay per unit & 1 bay per 4 units for visitors) have been applied to this application.

In light of the above, the following car parking calculations are provided to assist the City of Busselton's assessment of the application and have been formulated with due regard for the parking standards prescribed in the City's Local Planning Policy No.21 entitled 'Car Parking'.

Table 3 – On-site Car Parking Calculations

LAND USE	PRESCRIBED PARKING STANDARD	FLOOR AREA/MAXIMUM NUMBER OF PATRONS	PARKING BAYS REQUIRED
Chalet	1 bay per chalet & 1 bay per 4 units for visitors	5 chalets	6 bays
Existing Brewery Development	As per approval	As per approval	50 bays
Total No. of bays required			56 bays
Total number of on-site parking bays provided (including existing bays)			60 bays
Proposed on-site car parking surplus			4 bays

As demonstrated by the above table, the proposed existing and proposed developments on the subject land meets the 'deemed to comply requirements' of the City of Busselton's Local Planning Policy No.21. In fact, the overall development on the land results in a parking surplus of four (4) bays.

In addition, the existing vehicular access point for the subject land will be retained and not altered, therefore not changing the movements along Caves Road.

7.2.3 Local Planning Policy No.2.4 'Rural Tourist Accommodation'

The intent of the City's Local Planning Policy No.2.4 entitled '*Rural Tourist Accommodation*' is to encourage that commercial tourist development should generally occur within the urban areas and that opportunities should be provided for small scale and low impact tourist accommodation could be located within rural areas.

The states objectives of the Policy are as follows:

- a) *Provide for tourist accommodation in the rural areas of the City in a manner that does not conflict with existing or potential agricultural, horticultural or viticultural pursuits.*
- b) *Provide a balance between agriculture / viticulture / horticulture and tourism such that tourism does not dominate, and does not detrimentally impact, the sustainable use or availability of prime agricultural land.*
- c) *Acknowledge tourism as an appropriate source of employment and income to the benefit and prosperity of the community of Busselton City.*
- d) *Optimise both the agricultural and tourism potential of the rural areas of the City without detrimental impact on the inherent natural beauty and value of those areas, having regard to the above.*

It is contended that the proposed chalets development on the subject land is consistent with prescribed objectives for the City's Policy for the following reasons:

- It is small in scale and will support the existing tourist development on the land;
- It will not have an adverse impact or conflict with any existing or potential agricultural activities on the adjoining or surrounding properties;
- It will not result in the loss of prime agricultural land or result in the accommodation being dominant on the land or within its surroundings;
- It will foster and assist with promoting tourism within the area and will provide for employment within the locality; and
- It will not have an impact on the rural character and natural beauty within the area and along Caves Road, whilst encouraging and optimizing tourism activities within the area.

The following table provides an overview of the key development standards prescribed within the Policy in context with the proposed new chalets on the subject land.

Table 4 – Assessment Against Policy Provisions

POLICY PROVISION	DEVELOPMENT STANDARD	RESPONSE
Clause 4.2 – General Location Requirements	<i>Chalet development may be carried out on land within the “Agriculture”, “Viticulture and Tourism”, “Rural Landscape” and “Conservation” zones as designated in the Local Planning Scheme.</i>	The subject land is currently classified ‘Viticulture and Tourism’ zone under the City of Busselton’s current operative Local Planning Scheme No.21 and may therefore be considered.
Clause 4.3 - Minimum site area requirements	<i>Chalet development will not be permitted on allotments of land comprising less than 15 hectares</i>	<p>The subject land comprises an area of approximately 14.2 hectares, which is slightly lower than the minimum required area prescribed within the Policy to accommodate chalets within the region. Notwithstanding this, the minor variation to the land area requirements satisfies the stated objectives for the minimum site area requirements of the Policy and could be support for the reasons:</p> <ul style="list-style-type: none"> • The variation to the minimum lot area requirements (i.e. 0.8 hectares or 5%) is considered to be minor. Furthermore, the proposed chalets will foster tourism activity within the area and will enhance the overall experience for visitors to the region; • The chalets have been designed and situated to provide an outlook over an existing dam to the west, viticulture activities to the north-west and open paddocks to the east, Given this, the chalets will enjoy a rural ambience and setting that is expected for tourist accommodation within the area; • Sufficient setbacks and space have been provided for each chalet to accommodate landscaping and allow for adequate separation between the chalets and the neighbouring properties, along with adequate setback to Caves Road; • The proposed number of chalets to be established on the land is not excessive (i.e. five chalets) and will not undermine the rural character of the area; • Sufficient separation will be provided between the chalets and the other activities on the land to avoid clutter, excessive building bulk and over development of the land. In addition, the proposed chalets have been designed to be in keeping with the surrounding, whilst providing an articulated design that enhances the area and not reflect a commercial type development or appearance; and • In light of the above points, the new chalets will not result in any conflict with the existing rural character and/or activities of the area and will maintain an open aspect/outlook. <p>In light of the above points, it is contended that the proposal meets the objectives prescribed within the Policy.</p>

<p>Clause 4.4 - Density</p>	<p><i>Chalets shall not be developed at a density greater than 1 chalet per 3 hectares of site area and shall comprise a minimum of 2 accommodation units.</i></p>	<ul style="list-style-type: none"> The development will include a density of one (1) chalet per 2.84 hectares. The variation to the allowable density is considered to be minor. The development will include five (5) chalets. The allowable density is 4.73, therefore the application is slightly over. As such, the density is not excessive and will not undermine the rural/tourism character of the area. The number of chalets on the subject land are small and will not have an impact or restrict the rural activities on the adjoining properties. Please refer to comments outlined below (Setbacks) to support the chalets. <p>In light of the above points, it is contended that the proposal meets the objectives prescribed within the Policy.</p>
<p>Clause 4.5 - Setbacks</p>	<p><i>Guesthouses, Chalets, Rural Holiday Resorts and Caravan Parks and Camping Grounds must be setback:</i></p> <ul style="list-style-type: none"> 100 metres from any highway, important regional road, or nominated tourist road. 50 metres from any other property boundary except if that other property contains Prime Agricultural Land. 100 metres from any other property boundary if that other property contains Prime Agricultural Land. <p><i>Reductions to the above setbacks to a minimum of 30 metres may be considered in circumstances where a densely vegetated minimum buffer of 30 metres exists between the proposed development and the boundary or road. In the case of development adjoining another property which contains Prime Agricultural Land, consideration will be given to the reduction of the setback from 100 metres to 50 metres if such buffer exists or can be achieved.</i></p>	<ol style="list-style-type: none"> The proposed chalets are setback approximately 190 metres (minimum setback) from the land's front boundary with Caves Road (which is a nominated tourist road). Given this the proposal complies with this aspect of the Policy. It should be noted that the reception/office building complies with the minimum setback from the side, front and rear boundary prescribed with Clause 4.36.1 of the City's LPS No.21. The proposed chalets (admin building) will comprise a setback of 75.336 metres to the northern boundary, a 105.3 metre (minimum) setback from the eastern rear boundary) and a setback of approximately 150 metres from the land's southern side boundary. It is recognized that the eastern adjoining property could be identified as 'Prime Agricultural Land' and would require the chalets to comprise a setback of 100 metres. The proposed variation to the setback requirements prescribed within the Policy could be supported for the following reasons: <ul style="list-style-type: none"> The rural activities on the adjoining properties are low intensity (open paddocks), with minimal machinery usage and little to no spray drift. Given the low intensity of the rural activities on the adjoining properties, it is contended that the rural use will not have an adverse impact on the chalets in terms of outlook and/or amenity and vice versa. In addition to the above point, the number of chalets on the subject land are small and will not have an impact or restrict the rural activities on the adjoining properties. The orientation of the chalets are towards the dam within the subject land and not the adjoining rural properties. To proposed chalets on the subject land are well setback from Caves Road and will not

		<p>impact the scenic quality and tourism appeal of local road systems.</p> <p>In light of the above points, it is contended that the proposal meets the objectives set for the setback provisions prescribed within the Policy.</p>
<p>Clause 4.6 - Relationship to prime agricultural land and existing agricultural Activities</p>	<p><i>Rural Tourist Accommodation and Rural Holiday Resorts will not be permitted within a minimum of 100 metres of existing viticulture plantations or wineries on adjoining land.</i></p>	<ul style="list-style-type: none"> The proposed chalets are not located within 100 metres of any viticulture plantations on the adjoining properties. A review of aerial photography of the adjoining lots has identified that the closest viticulture plantation is on adjoining Lot 23 (No.4323) Caves Road. (see Figure 2 – Aerial Site Plan). A further investigation has concluded that the proposed chalets are setback approximately 200 metres (minimum setback) to the edge of the plantation on adjoining Lot 23. In light of the above, the proposed chalets comply with this aspect of the Policy.
<p>Clause 4.7 - Management</p>	<p><i>All rural tourism accommodation development must include a 24 hour on-site management presence and regime. It is preferable that the owner of the development site be integral to management of the tourist development</i></p>	<p>The proposed development will include an administration building to service the chalets (i.e. to facilitate check in/check out, office and staff room). As such, the chalets will have access to 24 hours site management by the business operator. An internal management plan will be provided for the premises to provide a guide to occupants and staff associated within the chalets.</p>
<p>Clause 4.8 - Services</p>	<p>i) <i>Vehicular access being via a bitumen sealed road. This requirement may be waived for very small scale guesthouse or chalet developments with less than four accommodation units provided the City is confident that the development will not generate pressure for the City to seal local roads in the future.</i></p> <p>ii) <i>Provision of on-site effluent disposal without potential impact to public health, water supplies, neighbouring properties or the environment.</i></p> <p>iii) <i>Effluent disposal areas must not be located within 30 metres of any creek, river, dam or spring.</i></p> <p>iv) <i>A potable water supply of minimum 80,000 litres per annum per chalet must be available to the development.</i></p>	<ul style="list-style-type: none"> The chalets will be serviced by a 4.5 metre wide bitumen road. Adequate on-site effluent disposal system will be provided for the development. Adequate setbacks areas provided for the on-site effluent disposal system. A hydraulic report has been prepared in support of the application for the City' review. The dams and existing structures on the subject land are used to fill the existing five (5) 250kl water tanks, which some of this water is used to service the brewery in their beer making process and potable water, thus the filtration is of a high standard. A hydraulics report has been provided in support of the application.

In light of the above information, it is contended that the proposed chalet development on the subject and is consistent with the stated objectives of the City's Local Planning Policy No.2.4 and adequately addresses the development standards prescribed within the Policy. As such, there is scope for the City of Busselton to grant approval for the proposed development on the subject land.

7.2.4 Local Planning Policy No.4.4 – ‘Percentage for Art’

The Objectives of the City’ Local Planning Policy No.4.4 entitled ‘Percentage for Art,’ is to:

- a) *promotion of civic, community and cultural identity by introducing public art which makes streets, open spaces and buildings more locally distinctive;*
- b) *enhancing a sense of place by encouraging public art forms which reinforce and highlight European and indigenous history, cultural heritage and contemporary traditions;*
- c) *promotion of community reflection, inspiration, celebration and wellbeing;*
- d) *improving visual amenity by use of public art to screen unattractive views and improve the appearance of places; and*
- e) *improving the functionality of the public domain through the use of public art to provide appropriate street furniture functions.*

It is recognized that in light of the estimated cost of the proposed development is greater than \$1 million, that public art will be required to be incorporated as part of the development (alternatively a cash in lieu payment could be made). As such the development will required the provision of art to a value of one (1) percent of the value of the works.

Given the tourist nature of Caves Road and the existing development on the land, the landowner/client will undertake the necessary process to appointing an artist and seeking the relevant approvals from the City of Busselton.

At this stage, the exact form or details of the public art has not been determined/finalized. As such, we request that the City of Busselton impose an appropriately worded condition on any approval granted that the required form of the artwork in support of the development (the provision of physical artwork) be finalized prior to the lodgment of a building permit and that the artwork be installed/completed prior to occupation of the new development on the land.

In light of the above, the proposed development will satisfy the requirements of the City’s Local Planning Policy No.4.4.

7.3 Statement of Planning Policy No.6.1 – ‘Leeuwin-Naturaliste Ridge Policy’

The purpose of the Leeuwin Naturaliste Ridge State Planning Policy’ is to provide the strategic planning framework for the area to provide a vision and guide land uses within the area. The Policy promotes sustainable development, conservation, and land and resource management.

As part of its assessment of the application, the City of Busselton has requested that the following matters be addressed in regard to the Policy:

Table 5 – Justification For SPP No.6.1

POLICY PROVISION	DEVELOPMENT STANDARD	RESPONSE
Statement of Intent 4.4 - Agriculture	<p><i>The continued protection and viability of agricultural land within the policy area will be supported by—</i></p> <ul style="list-style-type: none"> • <i>protection for agricultural uses;</i> • <i>protection from incompatible uses;</i> • <i>ensuring that tourism and settlement patterns retain a secondary and</i> 	<ul style="list-style-type: none"> • The proposed chalets on the subject land will not have an adverse impact on the existing rural activities within the area. This is achieved by being of low density and allowing for sufficient setbacks/separation to the lot boundaries. • Sufficient setback will be provided between the new chalets and the rural activities on the adjoining properties.

	<p><i>complementary function on agricultural land.</i></p>	<ul style="list-style-type: none"> The subject land comprises a tourist type development, which is encouraged and acceptable within the region. The proposed chalets are compatible and will support the existing tourist development on the land. The subject land does compromise some rural activities (i.e. viticulture). The proposed chalets on the land are small scale and is secondary to the other uses on the land. Furthermore, the proposed chalets will not undermine or impact the existing viticulture activities on the land.
<p>Policy Statement 4.4 - Non-agricultural Use/Development</p>	<p><i>PS 4.4 In order to support and protect agricultural land uses within land designated as Agricultural Protection, there is a general presumption against the approval of non-agricultural use/development. However, non-agricultural use/development will be considered where the proponent can demonstrate that any approval will—</i></p> <ul style="list-style-type: none"> <i>be compatible with the agricultural use of adjoining or nearby land and where required, include appropriate buffers within the subject land;</i> <i>maintain the long-term viability of the land for agricultural use;</i> <i>be ancillary to agricultural production and complementary to the agricultural use.</i> 	<ul style="list-style-type: none"> The proposed chalets will comprise adequate separation through large setbacks with the rural activities on the adjoining lots and can therefore co-exist with the exiting rural activities. It is not uncommon for tourism type activities (including short-stay accommodation) to be located within the Policy area abutting or adjacent to rural activities. In fact, the operation of non-rural or tourism type activities within the Leeuwin Naturaliste region has fostered the growth and popularity of the region. It should be noted that the City have approved a number of short-stay or chalet developments within the region. Notwithstanding the above, the chalets are small in nature and very discrete on the land. As such, it will not undermine the key rural function of the region in the long term. The minor nature of the chalet use on the land will not alter or reduce the existing rural activity being undertaken on the subject land. Given this, the chalets will not be the predominant use on the land and will be ancillary.
<p>Statement of Intent 4.5 - Tourism</p>	<p><i>A diverse and sustainable tourism base which complements the existing character and lifestyle of the policy area will be facilitated by—</i></p> <ul style="list-style-type: none"> <i>promoting low-scale tourist development that is consistent with local characteristics;</i> 	<ul style="list-style-type: none"> The proposal includes only five (5) chalets that are well setback from the boundaries and are low scale in nature. As such, the proposed will not undermine the existing character Given the above, the proposed development on the land is low density and is ancillary to the existing/established uses on the land and will
<p>Policy Statement 5.3 & 5.4 - Tourism</p>	<p><i>PS 5.3 Tourist development which is inappropriate in rural locations, will focus on or be adjacent to existing Principal Centres. Where tourist development is proposed in other areas, the proposal will comply with the Settlement Hierarchy, Policy Statements for the area and the use category under the Land Use Strategy.</i></p> <p><i>PS 5.4 Low-impact tourist development will be considered in rural locations where the development—</i></p>	<ul style="list-style-type: none"> The application only proposes five (5) chalets on the land, which is low density and is a low impact tourist type development. The proposed buildings are small in scale, single storey and a separated to reduce the overall bulk and scale of the development (it does not form a large continuous building). The separation between the buildings will allow for landscaping (planting of trees) to reduce any potential impact the structures may have on the character of the area. In addition to the above point, the small scale of buildings and separations will provide a

	<ul style="list-style-type: none"> will not adversely affect the character of the surrounding area; comprises only buildings or structures which are small in scale and unobtrusive; in the case of an agricultural area, is incidental or complementary to the agricultural use. 	<p>perception the structures are consistent with the settlement pattern common within a rural setting.</p> <ul style="list-style-type: none"> As outlined within this report, the low scale and small nature of development will not undermine the rural character or rural activities within the area.
<p>Principal Agriculture (Viticulture and Grazing) - Land Use Policies 4.1 & 4.2</p>	<p>LUS 4.1 In areas designated Principal Agriculture (Viticulture and Grazing), the predominant use of land will be agriculture. Other uses, including uses of interspersed lands with lesser agricultural potential, will be compatible with and not jeopardise, agricultural use of adjoining Prime Agricultural Land.</p> <p>LUS 4.2 Agriculture (including viticulture) is to remain the predominant economic land use, within the constraints of protecting remnant vegetation and landscape values.</p> <p>Specifically, main officer concerns relate to the following:</p> <ul style="list-style-type: none"> The tourism development being a primary rather than secondary and complementary function on agricultural land. The impact of side setback variations to neighbouring land uses – specifically non-compliance with both LPS21 setback requirement of 30m for development in the Viticulture & Tourism Zone in addition to LPP2.4. Visual impact of the chalet development as viewed from Caves Road and resultant 'ribbon style' development along Caves Road – the current application is not considered to result in development being subordinate to established landscape pattern as required by LPP 4.6. Car parking & Traffic - the mini golf likely to generate considerable additional number of vehicles in addition to existing Tavern land use 	<ul style="list-style-type: none"> The proposed chalet development will not result in the removal of any viticulture on the land or on the adjoining properties. The proposed chalets will comprise a large separation to any existing viticultural activities on the adjoining properties to the south and therefore not undermine or impact these activities. The proposed development will not result in the removal of any existing significant vegetation on the land. In fact, the proposal will include the provision of additional tree planting on the land to improve the vegetation, canopy coverage of the land and accommodate local fauna. The development is ancillary to the existing approved uses on the land. In addition, the proposed chalets will support the existing tourism use on the land and within the region. The proposed development will comprise boundary setbacks of greater than 30 metres. The proposed chalets are well setback from Caves Road, are low scale buildings and will include additional landscaping on the land. As such, it is contended that the proposed chalet development will not result in 'ribbon style' development along Caves Road and will not adversely impact the open rural outlook enjoyed along Caves Road. The mini-golf course component of the application has been removed and will no longer result in a substantial increased to vehicle movements for the land. Given the small number of chalets, the anticipated traffic movements on the land will be very low and will not adversely impact the immediate locality and/or Caves Road. The chalets have been repositioned to be closer aligned with the existing commercial uses on the land. The mini-gold has been removed.

7.4 Bushfire Prone Areas

The subject land has been identified by the Department of Fire & Emergency Services (DFES) as being located within a designated 'bushfire prone area' (see Figure 10 – DFES Bushfire Mapping). A bushfire management plan and bushfire emergency plan have been prepared by Bushfire Prone Planning in support of the development for review by the City of Busselton. The relevant documents identifies the bushfire rating,

fuel sources, measures to address any bushfire issues and procedures for emergencies.

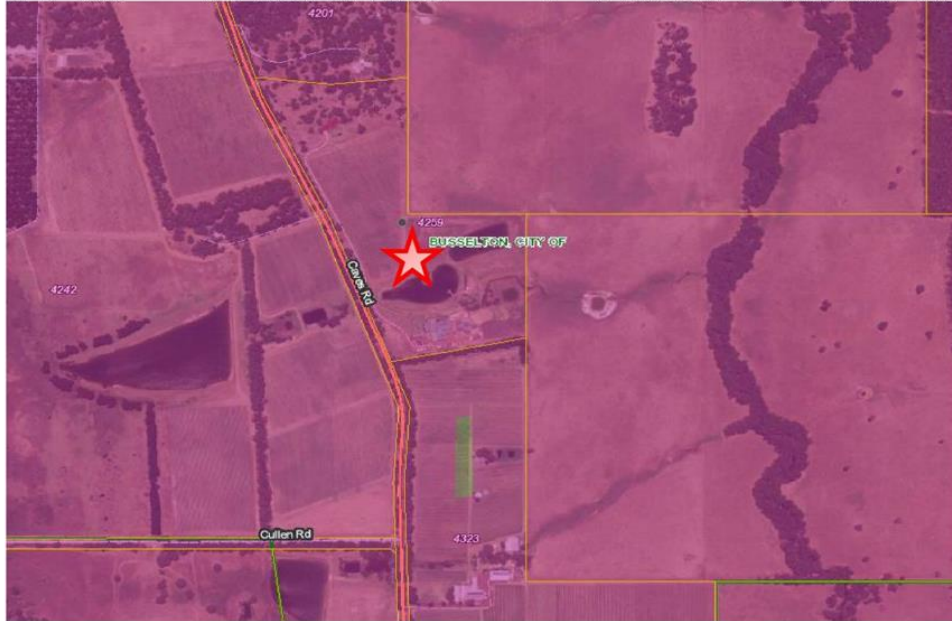


Figure 10 – DFES Bushfire Mapping

8.0 CONSULTANT REPORTS

8.1 On-site Effluent Disposal & Water Balance Analysis

A sewer and water hydraulic services condition report has been prepared by Mr Ben Edwards Quality Hydraulics to address the issue of servicing the new chalets on the subject land (see copy attached).

The immediate locality is not serviced by sewer infrastructure and connection to such infrastructure is not possible. The existing development on the land is serviced by an Aquarius 0-3 12KL aerobic treatment Unit (ATU) installed east of the existing Cheeky Monkey Brewing building, which will be upgraded.

9.0 SUMMARY OF JUSTIFICATIONS

Having regard for all of the above, it is contended the proposed construction of five (5) new chalet addition ('Chalet' uses) to the existing brewery development on Lot 100 (No.4259) Caves Road, Wilyabrup is suitable and capable of being approved by the City of Busselton for the following reasons:

- The proposed chalets will complement the existing brewery development on the subject land and other tourism type uses within the immediate locality. In fact, the proposed development on the land will not have an adverse impact on the character of the area.
- The proposed additional use and development on the land are consistent with the stated objectives for land classified 'Viticulture and Tourism' prescribed in the City of Busselton's current operative Local Planning Scheme No.21 and will not prejudice or conflict with the objectives of zone.

- The City of Busselton has the discretion to approve the proposed new chalet use on land classified 'Viticulture and Tourism' zone.
- The proposed development on the land has due regard for the City of Busselton's Local Planning Policies. Despite some variations to the development standards prescribed within the City's Policies, the application satisfies the objectives of each Policy and may therefore be supported.
- The application generally complies with the provisions and standards of the City of Busselton's current operative Local Planning Scheme No.21, including any relevant Local Planning Policies and on-site car parking standards.
- The proposed chalet development on the land will not undermine the vision and intent set for the Leeuwin Naturaliste Ridge area set by the State Government.
- The proposed new development and use on the land are unlikely to have any significant negative impact upon the character, amenity, functionality or safety of the immediate locality or the continued operation of existing established land uses.
- The proposed development on the land will not undermine the existing rural character of the area and/or impact the continued use of adjoining landholdings for rural activities.
- The proposed development on the land is well setback from Caves Road and will not adversely impact the existing visual quality and rural landscape along Caves Road.
- The proposed new chalets on the subject land will facilitate and contribute towards the growth of tourism within the south-west region of the State and support/complement the existing brewery development on the land.
- The proposed new development on the land will provide much needed short stay accommodation within the region to support tourism.
- The design and appearance of the proposed chalets will harmonise with its surrounding and is unlikely to have any adverse impacts on the existing development on the subject land and/or the adjoining properties in terms of its bulk and scale.
- The landowner has had due regard for the comments received by the City of Busselton during the public advertising period, the comments/recommendations received by the City from relevant referral authorities and the outcome of the City's assessment of the application. Given this, the application has significantly changed to reduce the intensity of development proposed on the land, preserve the rural character of the immediate locality and reduce any potential impacts on the adjoining properties.

10.0 CONCLUSION

This application proposes to expand the existing brewery development on the land by adding a short stay accommodation use (i.e. five chalets) is complementary and will support the current business operations, whilst providing a vibrant tourism destination within the south-west region that will enhance the area and assist with attracting tourist to one of the States premier tourist destinations.

Notwithstanding the above, the proposed development has been designed to improve the overall appearance of the area and retain the agricultural character of the area by preserving the rural activity within the northern part of the subject land and not impact the rural character of the area. In addition, the new development is positioned to the rear of the site and will assist with preserving the rural character/outlook along Caves Road.

In light of the above information and justifications, we respectfully request the City of Busselton's favourable consideration and conditional approval of the application to construct five (5) new chalets and associated infrastructure (i.e. office building etc) on Lot 100 (No.4259) Caves Road, Wilyabrup in accordance with the plans prepared in support of this application at the City's earliest possible convenience.






26 November 2021
CF Town Planning & Development
Planning & Development Consultants

Planning & Development Consultants
Address: 3/1 Mulgul Road, Malaga WA 6090
Tel: 9249 2158 Mb: 0407384140 Email: carlof@people.net.au
CVF Nominees Pty Ltd ABN: 86 110 067 395

The logo for CF Town Planning & Development features a red vertical bar on the left, followed by the text 'CF Town Planning & Development' in a sans-serif font. The background of the logo is a light grey with a faint architectural grid pattern.

CF Town Planning & Development

APPENDIX 1 – RECORD OF CERTIFICATE OF TITLE

 WESTERN AUSTRALIA	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td colspan="2" style="text-align: center;">REGISTER NUMBER 100/DP63659</td> </tr> <tr> <td style="text-align: center;">DUPLICATE EDITION 1</td> <td style="text-align: center;">DATE DUBLISHED 23/3/2009</td> </tr> <tr> <td style="text-align: center;">VOLUME 2713</td> <td style="text-align: center;">PAGE 516</td> </tr> </table>	REGISTER NUMBER 100/DP63659		DUPLICATE EDITION 1	DATE DUBLISHED 23/3/2009	VOLUME 2713	PAGE 516
REGISTER NUMBER 100/DP63659							
DUPLICATE EDITION 1	DATE DUBLISHED 23/3/2009						
VOLUME 2713	PAGE 516						
RECORD OF CERTIFICATE OF TITLE UNDER THE TRANSFER OF LAND ACT 1893							
<p>The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.</p>							
 REGISTRAR OF TITLES							
LAND DESCRIPTION: LOT 100 ON DEPOSITED PLAN 63659							
REGISTERED PROPRIETOR: (FIRST SCHEDULE) WILYABRUP INVESTMENTS PTY LTD OF 98 CIRCE CIRCLE DALKEITH WA 6009 (T O579340) REGISTERED 8/12/2020							
LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS: (SECOND SCHEDULE)							
<ol style="list-style-type: none"> 1. *M766137 LEASE TO CHEEKY MONKEY BREWING CO PTY LTD OF GALLUCCIO GRIGGS, 620 NEWCASTLE STREET, LEEDERVILLE EMPRES. SEE LEASE. AS TO PORTION ONLY REGISTERED 12/9/2014. 2. *M766138 LEASE TO CHEEKY MONKEY BREWING CO PTY LTD OF CARE OF GALLUCCIO GRIGGS, 620 NEWCASTLE STREET, LEEDERVILLE EMPRES. SEE LEASE. AS TO PORTION ONLY REGISTERED 12/9/2014. 3. *O579341 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA REGISTERED 8/12/2020. 							
<p>Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required. * Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title. Lot as described in the land description may be a lot or location.</p>							
-----END OF CERTIFICATE OF TITLE-----							
STATEMENTS: The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.							
SKETCH OF LAND: DP63659 PREVIOUS TITLE: 1895-2 PROPERTY STREET ADDRESS: 4159 CAVES RD, WILYABRUP LOCAL GOVERNMENT AUTHORITY: CITY OF BUSSELTON							
NOTE 1: DUPLICATE CERTIFICATE OF TITLE NOT ISSUED AS REQUESTED BY DEALING K943721							
LANDGATE COPY OF ORIGINAL NOT TO SCALE 23/12/2020 08:53 AM Request number: 61432649							
 www.landgate.wa.gov.au							



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APPENDIX 2 – SITE DEVELOPMENT PLANS



NOTE: Contractor to check and verify all dimensions, levels, and angles on site before commencing. All construction work to be in accordance with the building code of Australia, approved documents and relevant Australian Standards.

SHORT STAY DEVELOPMENT

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PROJECT

SHORT STAY DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	26/11/21

COVER

SCALE	DRAWN	CHECKED
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PROJECT #	DRAWING #	ISSUE
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EXISTING DAM REFERENCE IMAGE

- EXISTING TREES TO BE RETAINED
- TREES > 3M TALL
- TREES/SHRUBS 0.5 - 3M

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TITLE	DATE
PROPOSED SITEPLAN	26/11/21

PROPOSED SITEPLAN

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GFA
(NOT INC. DECKING)
170 SQM



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TITLE	DATE
	26/11/21

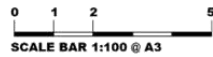
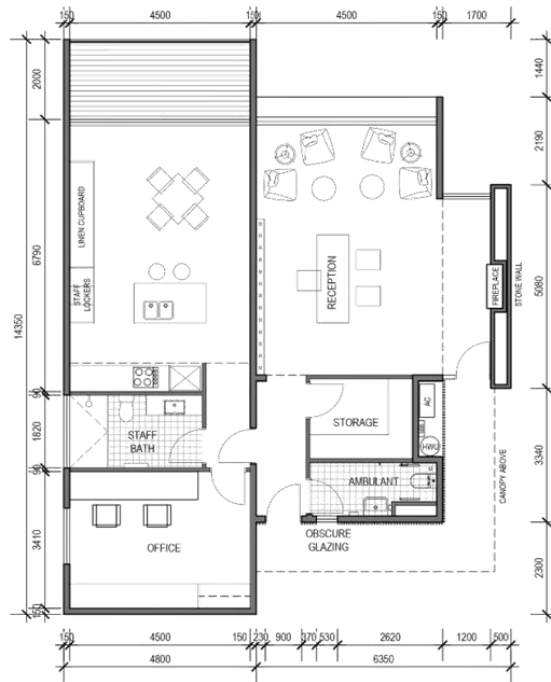
DUAL KEY
TYPICAL FLOOR PLAN

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4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
RECEPTION BUILDING FLOOR PLAN	26/11/21

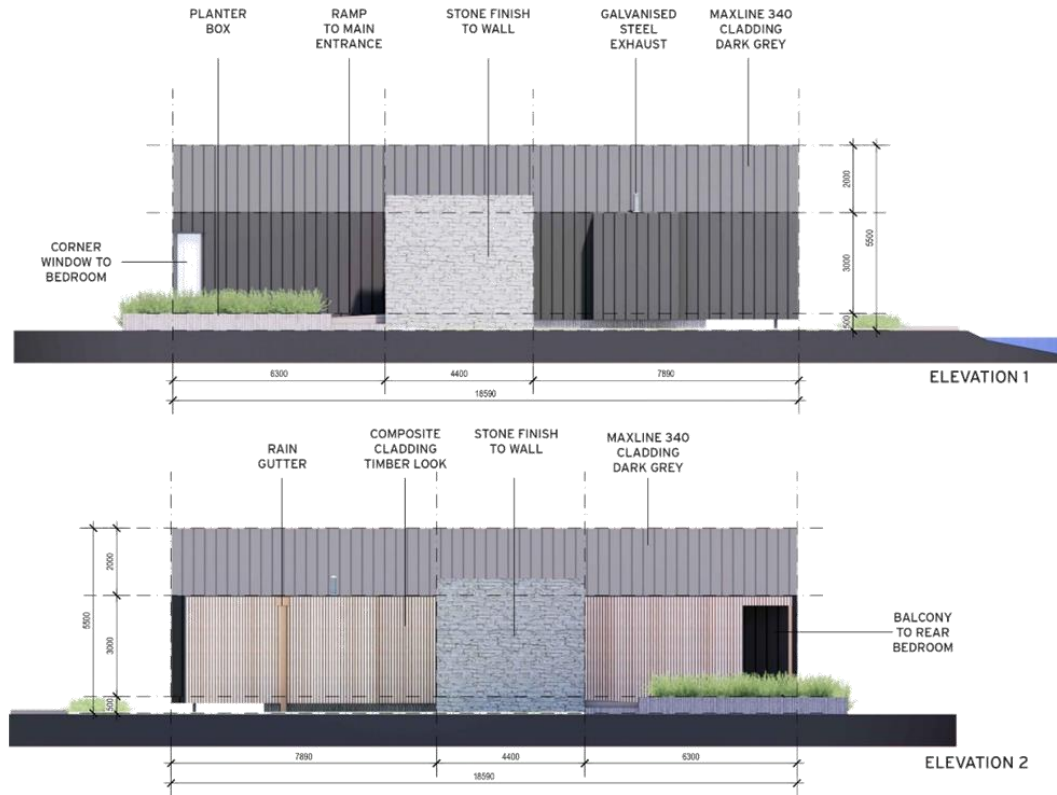
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FLOOR PLAN

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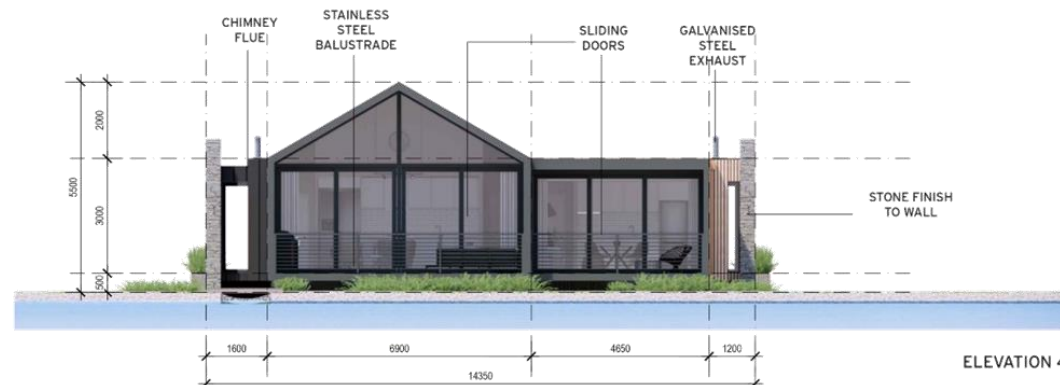
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ELEVATIONS 1 & 2

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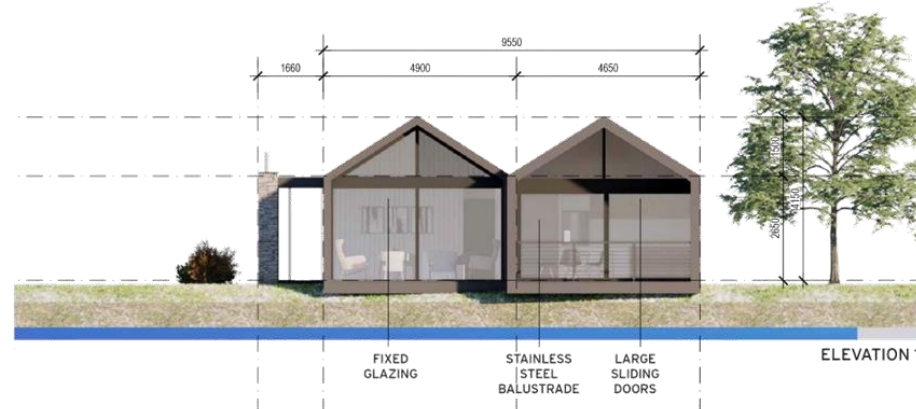
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DUAL KEY
ELEVATIONS 3 & 4

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DUAL KEY
INTERNAL VIEW 1

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INTERNAL VIEW 2

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DUAL KEY
INTERNAL VIEW 3

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DUAL KEY
EXTERNAL VIEWS

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DEVELOPMENT**

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	26/11/21

**RECEPTION BUILDING
EXTERIOR VIEW 1**

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PROJECT #	DRAWING #	ISSUE
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RECEPTION BUILDING
EXTERIOR VIEW 2

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SHORT STAY DEVELOPMENT

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SHORT STAY DEVELOPMENT
 4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
PROPOSED SITEPLAN	26/11/21

SCALE	DRAWN	CHECKED
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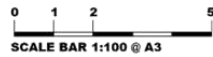
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4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	26/11/21

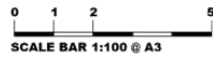
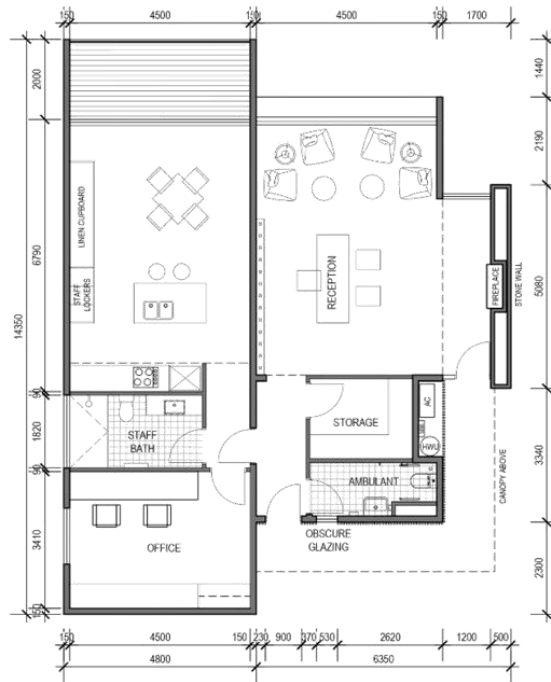
DUAL KEY
TYPICAL FLOOR PLAN

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DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	26/11/21

RECEPTION BUILDING
FLOOR PLAN

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TITLE	DATE
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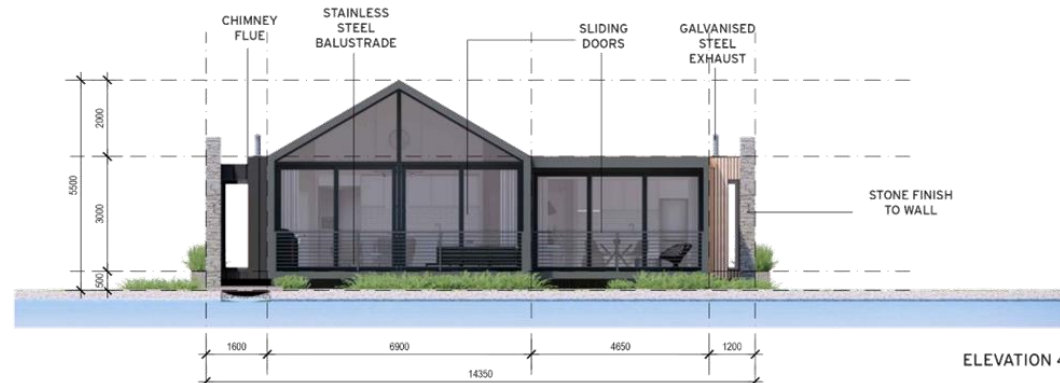
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ELEVATIONS 1 & 2

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4259 CAVES ROAD, WILLYABRUP WA 6280

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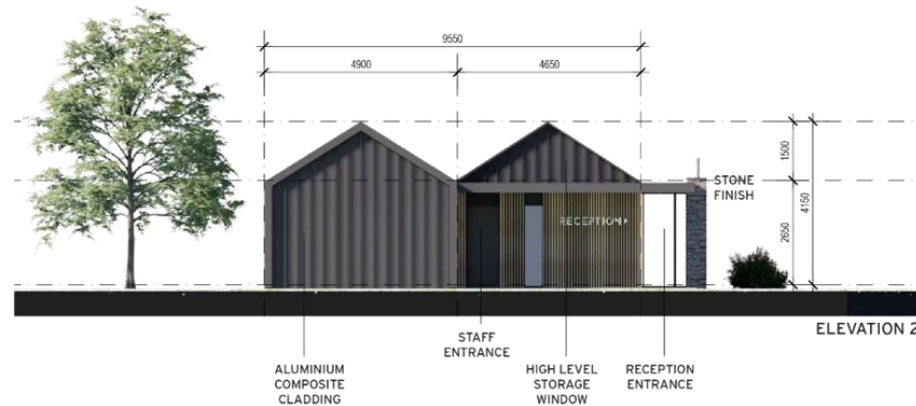
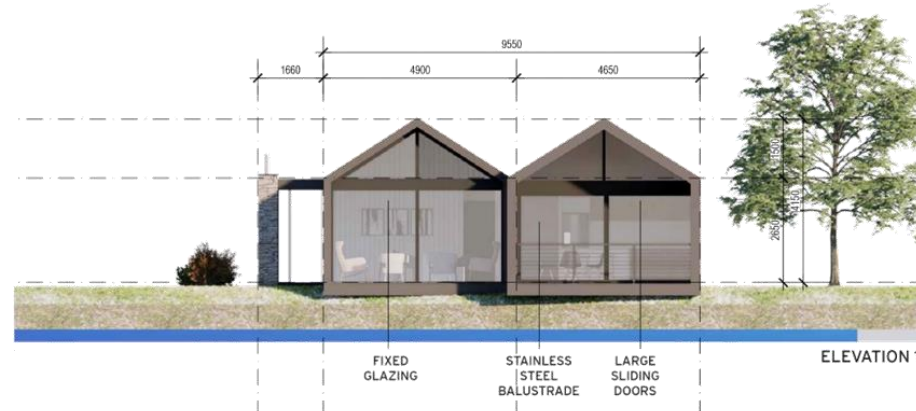
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ELEVATIONS 3 & 4

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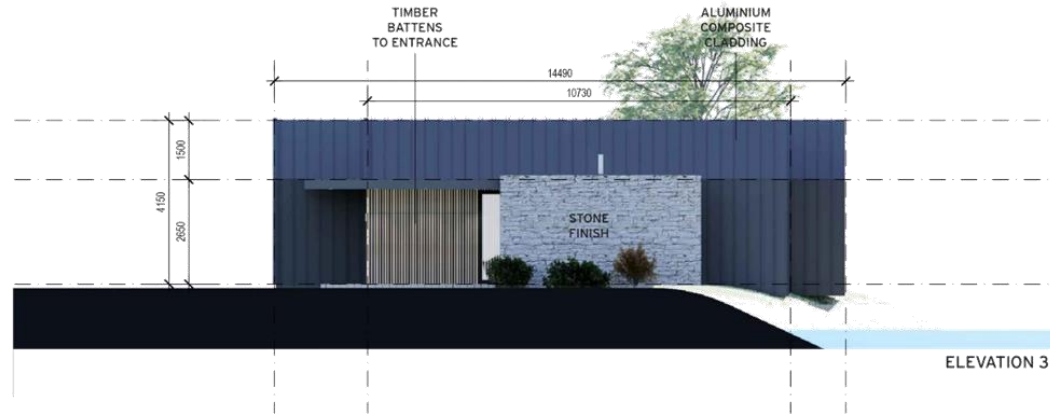
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	26/11/21

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ELEVATIONS 1 & 2

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DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	26/11/21

RECEPTION BUILDING
ELEVATIONS 3 & 4

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DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	26/11/21

DUAL KEY
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PROJECT #	DRAWING #	ISSUE
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DEVELOPMENT

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TITLE	DATE
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DUAL KEY
INTERNAL VIEW 2

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DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	26/11/21

DUAL KEY
INTERNAL VIEW 3

SCALE	DRAWN	CHECKED
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DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
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DUAL KEY
EXTERNAL VIEWS

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SHORT STAY
DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
	26/11/21

RECEPTION BUILDING
EXTERIOR VIEW 1

SCALE	DRAWN	CHECKED
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DEVELOPMENT

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TITLE	DATE
	26/11/21

RECEPTION BUILDING
EXTERIOR VIEW 2

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Fire Protection
Association Australia
Life. Property. Environment.



Bushfire Management Plan Coversheet

This Coversheet and accompanying Bushfire Management Plan has been prepared and issued by a person accredited by Fire Protection Association Australia under the Bushfire Planning and Design (BPAD) Accreditation Scheme.

Bushfire Management Plan and Site Details

Site Address / Plan Reference: Lot 100 (4259) Caves Road, Wilyabrup
Suburb: Wilyabrup **State:** WA **P/code:** 6280
Local government area: City of Busselton
Description of the planning proposal: Development Application - 5 New Chalets
BMP Plan / Reference Number: 210400 **Version:** 1.1 **Date of Issue:** 08/12/2021
Client / Business Name: Wilyabrup Investments Pty Ltd ATF the Wilyabrup Investments Unit Trust (ACN 70 479 010 812)

Reason for referral to DFES

	Yes	No
Has the BAL been calculated by a method other than method 1 as outlined in AS3959 (tick no if AS3959 method 1 has been used to calculate the BAL)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Have any of the bushfire protection criteria elements been addressed through the use of a performance principle (tick no if only acceptable solutions have been used to address all of the BPC elements)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the proposal any of the following special development types (see SPP 3.7 for definitions)?		
Unavoidable development (in BAL-40 or BAL-FZ)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Strategic planning proposal (including rezoning applications)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Minor development (in BAL-40 or BAL-FZ)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
High risk land-use	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vulnerable land-use	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the development is a special development type as listed above, explain why the proposal is considered to be one of the above listed classifications (E.g. considered vulnerable land-use as the development is for accommodation of the elderly, etc.)?
 Vulnerable Land Use (Tourism). A Bushfire Evacuation Plan & Poster has been prepared in support of this Proposal.

Note: The decision maker (e.g. local government or the WAPC) should only refer the proposal to DFES for comment if one (or more) of the above answers are ticked "Yes".

BPAD Accredited Practitioner Details and Declaration

Name Mike Scott	Accreditation Level Level 3	Accreditation No. BPAD 27795	Accreditation Expiry 28/02/2022
Company Bushfire Prone Planning		Contact No. 6477 1144	

I declare that the information provided within this bushfire management plan is to the best of my knowledge true and correct

Signature of Practitioner

Date 08/12/2021



Bushfire Management Plan

Lot 100 (4259) Caves Road, Wilyabrup

City of Busselton

Planning Stage: Development Application

Planning Development Type: Construction of a Class 1, 2 or 3 Building

Planning Development Type: Additional Land Use

Bushfire Policy – Specific Development or Use Type: Vulnerable Land Use (Tourism)

Job Number: 210400

Assessment Date: 3 June 2021

Report Date: 8 December 2021

<p>BPP Group Pty Ltd t/a Bushfire Prone Planning ACN: 39 166 551 784 ABN: 39 166 551 784</p> <p>Level 1, 159-161 James Street Guildford WA 6055</p> <p>PO Box 388 Guildford WA 6935</p> <p>08 6477 1144 admin@bushfireprone.com.au</p>	
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DOCUMENT CONTROL

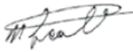

PREPARATION				
Author:	Mike Scott (BPAD Level 3 - No. 27795)			
Co-Author:	Mick Whitelaw (BPAD Level 2 - No. 37265)			
VERSION HISTORY				
Version	Version Details	Date		
1.0	Original BMP	18 June 2021		
1.1	Site Plan Change	8 December 2021		
BMP (Standard DA-Tourism) Template v8.6				
DISTRIBUTION				
Destination	Version	No. Copies	Hard Copy	Electronic Copy
Person/Business: Wilyabrup Investments Pty Ltd ATF the Wilyabrup Investments Unit Trust (ACN 70 479 010 812) c/o - DMG Architecture Email: info@dmgaustralia.com.au	1.1	1	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Limitation of Liability: The measures contained in this Bushfire Management Plan, are considered to be minimum requirements and they do not guarantee that a building will not be damaged in a bushfire, persons injured, or fatalities occur either on the subject site or off the site while evacuating. This is substantially due to the unpredictable nature and behaviour of fire and fire weather conditions. Additionally, the correct implementation of the required bushfire protection measures will depend upon, among other things, the ongoing actions of the landowners and/or operators over which Bushfire Prone Planning has no control. All surveys, forecasts, projections and recommendations made in this report associated with the proposed development are made in good faith based on information available to Bushfire Prone Planning at the time. All maps included herein are indicative in nature and are not to be used for accurate calculations.</p> <p>Notwithstanding anything contained therein, Bushfire Prone Planning will not, except as the law may require, be liable for any loss or other consequences whether or not due to the negligence of their consultants, their servants or agents, arising out of the services provided by their consultants.</p> <p>Copyright ©2021 BPP Group Pty Ltd: All intellectual property rights, including copyright, in format and proprietary content contained in documents created by Bushfire Prone Planning, remain the property of BPP Group Pty Ltd. Any use made of such format or content without the prior written approval of Bushfire Prone Planning, will constitute an infringement on the rights of the Company which reserves all legal rights and remedies in respect of any such infringement.</p>				



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EXECUTIVE SUMMARY

This Bushfire Management Plan (the Plan) has been prepared to accompany the development application (*Stage 1: 5 New Chalets (including a Reception Building) & Stage 2: Short Stay Accommodation in the Chalets*) for Lot 100 (4259) Caves Road, Wilyabrup in the City of Busselton. The landholder of Lot 100 (4259) Caves Road, Wilyabrup is proposing the construction of 5 Dual Key Chalets for the purposes of Short Stay Accommodation.

The development site of approximately 14 Hectares is within a designated bushfire prone area and the Proposal requires the application of State Planning Policy No. 3.7: Planning in Bushfire Prone Areas (SPP 3.7). The Plan has taken into consideration the Department of Planning Lands and Heritage (DPLH) Position Statement: Tourism land use in bushfire prone areas (November 2019). The proposed development has been assessed as "Other (vulnerable) short term accommodation".

The proposed development can achieve compliance by ensuring the proposed buildings (Chalets) on the lot is subject to potential radiant heat from a bushfire not exceeding 29 kW/m² (i.e. a BAL rating of BAL-29 or less will apply). This can be achieved by appropriate vegetation modification & maintenance surrounding the development. All 5 proposed Chalets will be subject to an indicative BAL Rating of BAL 12.5.

Caves Road provides options for travel in two different directions. The existing private driveway to the development site will be upgraded in accordance with Element # 3 - Table 6 (Column 3) of the Bushfire Guidelines (v1.3).

A reticulated water supply is not available at the subject site. As part of this proposal the proponent will install a static water supply for firefighting purposes on the lot that has an effective capacity of 10,000 litres per building/structure.

Evacuation information for the site, with specific consideration to the management of a bushfire emergency has been prepared in support of this proposal and the content reflects the nature and scale of the development. The evacuation plan & poster has given due consideration to the vehicle access/egress options in the area and precautionary and contingency measures have been applied to minimise risk to future onsite occupants.



1 PROPOSAL DETAILS

1.1 Description and Associated Plans and Maps

Proponent:	Wilyabrup Investments Pty Ltd ATF the Wilyabrup Investments Unit Trust (ACN 70 479 010 812)
Representative:	Lindsay Allen – Dmg Architecture & Construction
For Submission To:	City of Busselton
Purpose of the BMP:	Supporting documentation for a development application
'Development' Site Total Area:	14.1938 Hectares
Description of the Proposed Development/Use:	
<p>Stage 1: 5 New Chalets (& Reception Building)</p> <p>Stage 2: Short Stay Accommodation in the Chalets</p>	

Figure 1.0



PROPOSED AUTO
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RESIDENCE

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- EXISTING TREES TO BE RETAINED
- TREES TO BE FALLEN
- TREES: 20-30% OF 5M

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PROJECT

SHORT STAY
DEVELOPMENT

4259 CAVES ROAD, WILLYABRUP WA 6280

TITLE	DATE
PROPOSED SITEPLAN CHALETs	08/11/21

PROPOSED SITEPLAN
CHALETs

SCALE	DRAWN	CHECKED
1:500 @ A3	SAM	SAM

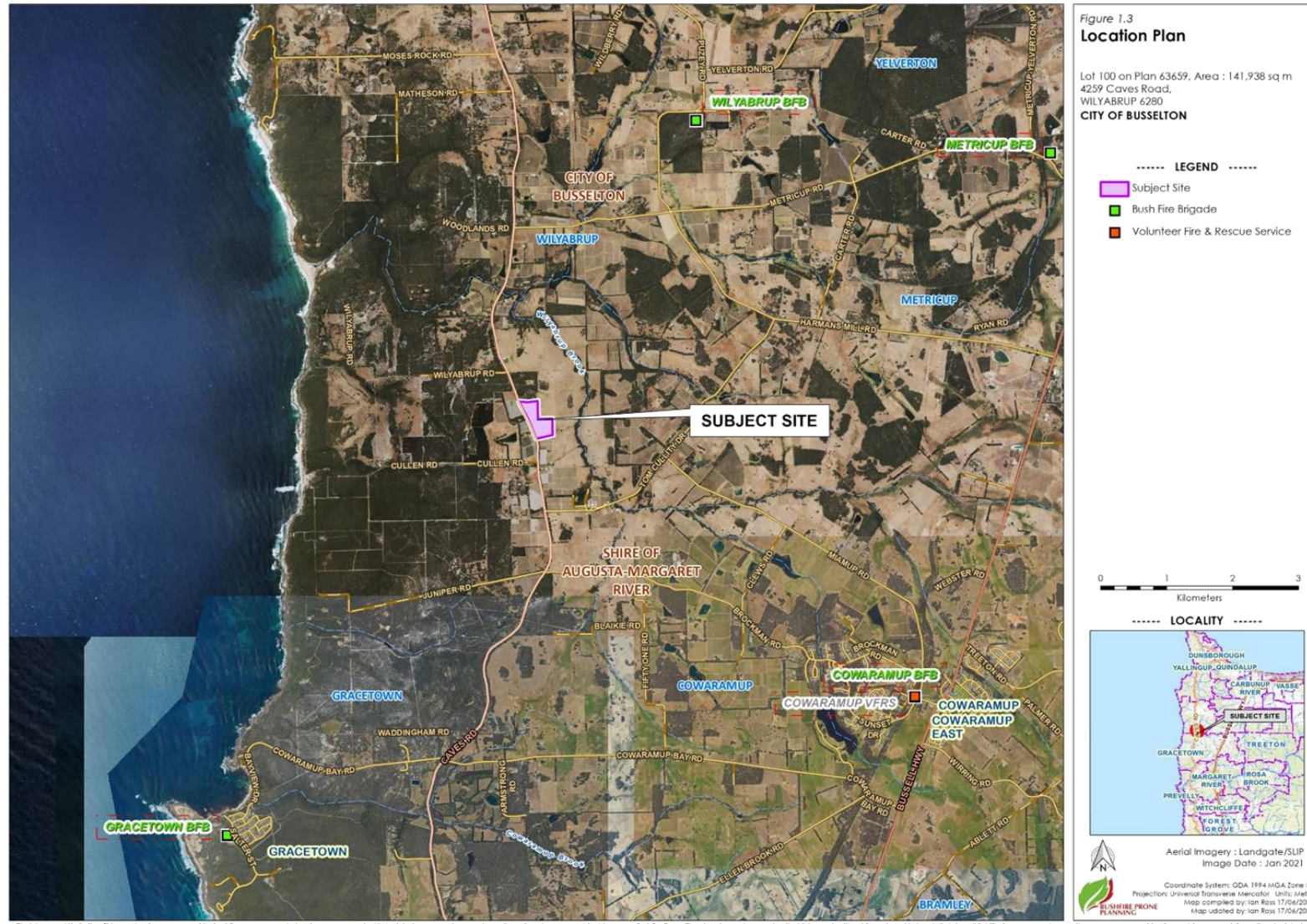
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1.2 The Specific 'Land Use' and the Bushfire Planning Requirements

SPP 3.7, the associated Guidelines and Position Statements, define certain land uses that require additional and/or alternative bushfire related assessment and additional information to be provided. This is necessary to facilitate planning application assessment and for subsequent operational use.

When such a proposal is unable to fully achieve the implementation of all required bushfire protection measures - as established by the 'acceptable solutions' contained in the Guidelines and Position Statements - further assessments and the development of additional protection measures are required.

The land use classification that applies to the proposal is identified in Table 1.2, along with the required additional assessments and information and the form and location in which this is provided.

Table 1.2: The determined land use and assessment/information requirements.

THE PROPOSED LAND USE CLASSIFICATION AND BUSHFIRE PLANNING REQUIREMENTS		
Assessment / Information / Documents Detail		
The proposed land use classification is determined to be:		Vulnerable (Tourism)
Category, type and/or operations of the land use that have determined the classification:		Other Vulnerable Short Term Accommodation or Vulnerable Day Uses
The Policies, Guidelines and Position Statements against which the proposed land use will be assessed, and which guide the information to be provided.	SPP 3.7	<input checked="" type="checkbox"/>
	Position Statement - Tourism	<input checked="" type="checkbox"/>
The documents and the information developed and the format and location in which they are provided.	Bushfire Emergency Plan (BEP) & Evacuation Poster	<input checked="" type="checkbox"/> Separate Document

1.3 Existing Documentation Relevant to the Construction of this Plan

This section acknowledges any known reports or plans that have been prepared for previous planning stages, that refer to the subject area and that may or will impact upon the assessment of bushfire risk and/or the implementation of bushfire protection measures and will be referenced in this Bushfire Management Plan.

Table 2.1: Existing relevant documentation.

EXISTING RELEVANT DOCUMENTS		
Existing Document	Copy Provided by Client	Title
Site Plan (Nov 2021)	Yes	DA_SUBMISSION_4259-CAVES-RD_REV-01
Landscape Concept Plan (Dec 2021)	Yes	Wilyabrup DA Landscape Rev2 (Concept Origin)
DFES Feedback on BMP_v1.0 (September 2021)	Yes	DA21 0548 - Lot 101 (No. 4259) Caves Road, Wilyabrup - Mini Golf, Chalet...
BPP Response to DFES Feedback (September 2021)	Yes	210400 - Lot 100 (4259) Caves Road, Wilyabrup (BMP_Review)_v1.0



2 ENVIRONMENTAL CONSIDERATIONS

2.1 Native Vegetation – Restrictions to Modification and/or Clearing.

Many bushfire prone areas also have high biodiversity values. SPP 3.7 policy objective 5.4 recognises the need to consider bushfire risk management measures alongside environmental, biodiversity and conservation values (Guidelines s2.3).

There is a requirement to identify any need for onsite modification and/or clearing of native vegetation and whether this may trigger potential environmental impact/referral requirements under State and Federal environmental legislation. Confirmation that any proposed native vegetation modification and/or clearing is acceptable, should be received from the relevant agencies by the proponent and provided to the bushfire consultant for inclusion in the Bushfire Management Plan if it will influence the required bushfire planning assessments and outcomes. The following table details any potential environmental restrictions of which the author of this report is aware.

Vegetation Modification and Clearing Assessment	
Will on-site clearing of native vegetation be required?	<p style="text-align: center;"><u>Yes</u></p> <p><i>The onsite vegetation around the proposed development site will be modified/removed as part of the development proposal in accordance with the Landscape Concept Plan (Figure 1.0.1). Any retained vegetation or proposed revegetation/ landscaping works will be managed in accordance with the technical requirements established by the Schedule 1: 'Standards for Asset Protection Zones (Guidelines).</i></p>

The bushfire assessment and management strategies contained in the BMP, assume there are no environmental restrictions over the site or clearing permit exemptions will apply.

Recommendations:

1. It is advised that the proponent seek further advice from the City of Busselton for further information on the condition and species contained within the proposed development area and the requirement for referral of the proposal or the requirements for a vegetation management plan for this site.

***Note 1:** The Indicative Asset Protection Zone shown in Figure 3.2.1 reflects a larger Asset Protection Zone (compared to the minimum distances required for a BAL 29 APZ), based on the Landscape Concept Plan (Figure 1.0.1) provided and the requirement by the City of Busselton to install and maintain a minimum 25 metres building protection zone.

Through the installation of a minimum 25 m asset protection zone around the buildings within the lot boundary an indicative BAL Rating of BAL 12.5 can be achieved for all the proposed development (Figure 3.2.2). Bushfire Prone Planning has determined that the indicative BAL rating of BAL 12.5 is achievable within the lot boundary and appropriate.

***Note 2 : City of Busselton Planning Information Sheet - BUSHFIRE PRONE LAND**

BUSHFIRE MANAGEMENT PLANS

Bushfire Management Plan (BMP) will need to be assessed by the City. No mitigation works recommended in the BMP are to be undertaken until the development application is approved.



3 POTENTIAL BUSHFIRE IMPACT ASSESSMENT

3.1 Assessment Input

3.1.1 Fire Danger Index (FDI) Applied

AS 3959:2018 Table 2.1 specifies the fire danger index values to apply for different regions.

Table 3.1: Applied FDI Value

FDI VALUE			
Vegetation Areas	As per AS 3959:2018 Table 2.1	As per DFES for the Location	Value Applied
1-7	80	N/A	80

3.1.2 Vegetation Classification and Effective Slope

Classification: Bushfire prone vegetation identification and classification has been conducted in accordance with AS 3959:2018 s2.2.3 and the Visual Guide for Bushfire Risk Assessment in WA (DoP February 2016). When more than one vegetation type is present, each type is identified separately, and the applied classification considers the potential bushfire intensity and behaviour from the vegetation types present and ensures the worst-case scenario is accounted for – this may not be from the predominant vegetation type. The vegetation structure has been assessed as it will be in its mature state (rather than what might be observed on the day). Areas of modified vegetation are assessed as they will be in their natural unmodified state (unless maintained in a permanently low threat, minimal fuel condition, satisfying AS 3959:2018 s2.2.3.2(f) and asset protection zone standards).

Effective Slope: Refers to the ground slope under each area of classified vegetation and is described in the direction relative to the view from the building or proposed development site. Effective slope is not the same as 'average slope', rather it is the slope which most significantly influences fire behaviour. This slope has a direct and significant influence on a bushfire's rate of spread and intensity.

Table 3.2: Vegetation classification and effective slope.

ALL VEGETATION WITHIN 150 METRES OF THE PROPOSED DEVELOPMENT				
Vegetation Area	Identified Vegetation Types ¹ or Description if 'Excluded'	Applied Vegetation Classification ¹	Effective Slope (degrees) ² (AS 3959:2018 Method 1)	
			Assessed	Applied Range
1	Low open forest A-04	Class A Forest	0-5	downslope >0-5
2	Scrub (D-14)	Class D Scrub	0-5	downslope >0-5
3	Sown pasture G-26	Class G Grassland	0-5	downslope >0-5
4	Sown pasture G-26	Class G Grassland	0	upslope or flat
5	Sown pasture G-26	Class G Grassland	0-5	downslope >0-5
6	Excluded – Managed Vegetation	Excluded as per Section 2.2.3.2 (f) Low Threat Vegetation	-	-
7	Excluded – Managed Vegetation	Excluded as per Section 2.2.3.2 (f) Low Threat Vegetation	-	-



VEGETATION AREA 1	
AS 3959:2018 Vegetation Classification Applied:	Class A Forest
Vegetation Type Present:	Low open forest A-04
Description/Justification:	Pocket of Very Open Peppermint Forest (8-12m high) – modified grass understory. Evidence of historical vegetation modification in this area (parkland clearing) – not being managed in a low threat state. This area is not being managed as “Low Threat Vegetation” as per the Australian standard or managed to meet the City of Busselton Firebreak notice. The precautionary principle has been applied.
Photo ID: 1a	Photo ID: 1b
VEGETATION AREA 2	
AS 3959:2018 Vegetation Classification Applied:	Class D Scrub
Vegetation Type Present:	Open scrub D-14
Description/Justification:	Pocket of Mixed Scrub (1-3m high) – Associated with a creek line. Evidence of historical vegetation modification in this area – not being managed in a low threat state. This area is not being managed as “Low Threat Vegetation” as per the Australian standard or managed to meet the City of Busselton Firebreak notice. The precautionary principle has been applied.
Photo ID: 2a	Photo ID: 2b



VEGETATION AREA 3	
AS 3959:2018 Vegetation Classification Applied:	Class G Grassland
Vegetation Type Present:	Sown pasture G-26
Description/Justification:	Pasture/ paddock
Photo ID: 3a	Photo ID: 3b
VEGETATION AREA 3	
AS 3959:2018 Vegetation Classification Applied:	Class G Grassland
Vegetation Type Present:	Sown pasture G-26
Description/Justification:	Pasture/ paddock
Photo ID: 3c	Photo ID: 3d



VEGETATION AREA 4	
AS 3959:2018 Vegetation Classification Applied:	Class G Grassland
Vegetation Type Present:	Sown pasture G-26
Description/Justification:	Pasture/ paddock
Photo ID: 4a	Photo ID: 4b
VEGETATION AREA 4	
AS 3959:2018 Vegetation Classification Applied:	Class G Grassland
Vegetation Type Present:	Sown pasture G-26
Description/Justification:	Pasture/ paddock - Proposed development site
Photo ID: 4c	Photo ID: 4d



VEGETATION AREA 5	
AS 3959:2018 Vegetation Classification Applied:	Class G Grassland
Vegetation Type Present:	Sown pasture G-26
Description/Justification:	<p>A Windbreak (1 tree wide) currently being managed as Excluded vegetation as per Section 2.2.3.2 (f) Low Threat Vegetation (<i>Note 2. A windbreak is considered a single row of trees used as screen or to reduce the effect of wind on the leeward side of the trees</i>).</p> <p>During the site visit (3rd June 2021) there was evidence of Grassland in this area which is expected to be managed to a low threat state in accordance with the City Firebreak Notice before the 15th of November 2021 (Grasses slashed/ mowed to less than 10cm)</p> <p>The precautionary principle has been applied and the area has not been excluded from classification. The most appropriate vegetation classification was considered to be Class G Grassland.</p>
Photo ID: 5a	Photo ID: 5b



VEGETATION AREA 6	
AS 3959:2018 Vegetation Classification Applied:	Excluded as per Section 2.2.3.2 (f) Low Threat Vegetation
Vegetation Type Present:	Excluded – Managed Vegetation
Description/Justification:	Viticulture and tourism area (mixed use) – Reticulated vineyards, Grass around buildings/ Gardens/ Cleared Areas
Photo ID: 6a	Photo ID: 6b
VEGETATION AREA 7	
AS 3959:2018 Vegetation Classification Applied:	Excluded as per Section 2.2.3.2 (f) Low Threat Vegetation
Vegetation Type Present:	Excluded – Managed Vegetation
Description/Justification:	Existing Development - Reticulated Grass around Buildings/ Gardens/ Cleared Areas.
Photo ID: 7a	Photo ID: 7b

Note: This assessment is reliant on the surrounding land (Areas 6 & 7) being maintained in a low fuel condition as per the City's Firebreak Notice reflecting the state of the vegetation at the time of the assessment. Where applicable, the precautionary principle has been applied.





Disclaimer and Limitation: This map has been prepared for bushfire management planning purposes only. All depicted areas, contours and any dimensions shown are subject to survey. Bushfire Prone Planning does not guarantee that this map is without flaw of any kind and disclaims all liability for any error, loss or other consequence arising from relying on any information depicted.
Map Document Path / Name: K:\Project\Jobs 2021\210400 - 4259 Caves Road Willyabrup (BMP Evac STA)\Mapping\MXD\210400_Fig3-1-1_VEG_POST_4259 Caves Road.mxd



3.2 Assessment Output

Understanding the Bushfire Assessment Results - Application of Bushfire Attack Levels (BAL)

In the planning environment, assessing the ability of a proposed development site to achieve BAL-29 or less is the objective (as one of the bushfire protection criteria being assessed). The 'development site' is defined by the LPS Amendment Regulations 2015 as "that part of a lot on which a building that is the subject of development stands or is to be constructed". Therefore, being able to show that a BAL rating of BAL-29 or lower is achievable for a proposed development site (i.e. the building footprint) is an acceptable outcome for that criteria, as established by the bushfire provisions, SPP 3.7 and the associated Guidelines.

3.2.1 Bushfire Attack Level Results – Table Format

BAL - Analysis and Determination				
Relevant Fire Danger Index (AS3959-2018 Table 2.1)				80
BAL Determination Method		Method 1 (as per AS 3959-2018 s2.2.6 and Table 2.4.3)		
Vegetation Area	Applied Vegetation Classification	Effective Slope Under the Classified Vegetation (degrees)	Separation Distance to the Classified Vegetation (metres)	Bushfire Attack Level
1	Class A Forest	0-5	0	BAL-FZ
2	Class D Scrub	0-5	0	BAL-FZ
3	Class G Grassland	0-5	0	BAL-FZ
4	Class G Grassland	0	0	BAL-FZ
5	Class G Grassland	0-5	85	BAL-LOW
6	Exclusion AS3959-2018 2.2.3.2 (f)	-	-	BAL-LOW
7	Exclusion AS3959-2018 2.2.3.2 (f)	-	-	BAL-LOW
Determined Bushfire Attack Level				BAL-FZ



3.2.2 Indicative Bushfire Attack Level Information

The conditions required to achieve an acceptable Bushfire Attack Level (BAL) are presented below if the initial BAL assessment determines it may be achievable. If the conditions are approved and/or achieved, a site re-visit may be required to confirm the achievement of the conditions.

The BAL assessment in this Plan has determined that the proposed development will be subject to a Bushfire Attack Level of BAL-FZ. In conducting the assessment, Bushfire Prone Planning has determined that a lower BAL rating is achievable within the lot boundary and appropriate.

Conditions to be Met.

For the indicative BAL rating to be achieved the separation distance between the proposed development and the identified classified vegetation needs to be increased. This *may be able to be achieved by:

1. Onsite Vegetation removal/ management to a 'Low Threat State' in accordance with the Landscape Concept Plan (Figure 1.0.1) and the detail in the table below.

Minimum Vegetation Separation Distances Required to Achieve the Indicative BAL					
Relevant Fire Danger Index (AS3959-2018 Table 2.1)					80
BAL Determination Method		Method 1 (as per AS 3959-2018 s2.2.6 and Table 2.4.3)			
Vegetation Area	Applied Vegetation Classification	Effective Slope (degrees)	Indicative Bushfire Attack Level	Minimum Distance Required (metres)	Current Separation Distance (metres)
1	Class A Forest	0-5	BAL-12.5	50	0
2	Class D Scrub	0-5		31	0
3	Class G Grassland	0-5		20	0
4	Class G Grassland	0		17	0
5	Class G Grassland	0-5		50	85
6	Excluded AS3959-2018 2.2.3.2 (f)	-		-	-
7	Excluded AS3959-2018 2.2.3.2 (f)	-		-	-

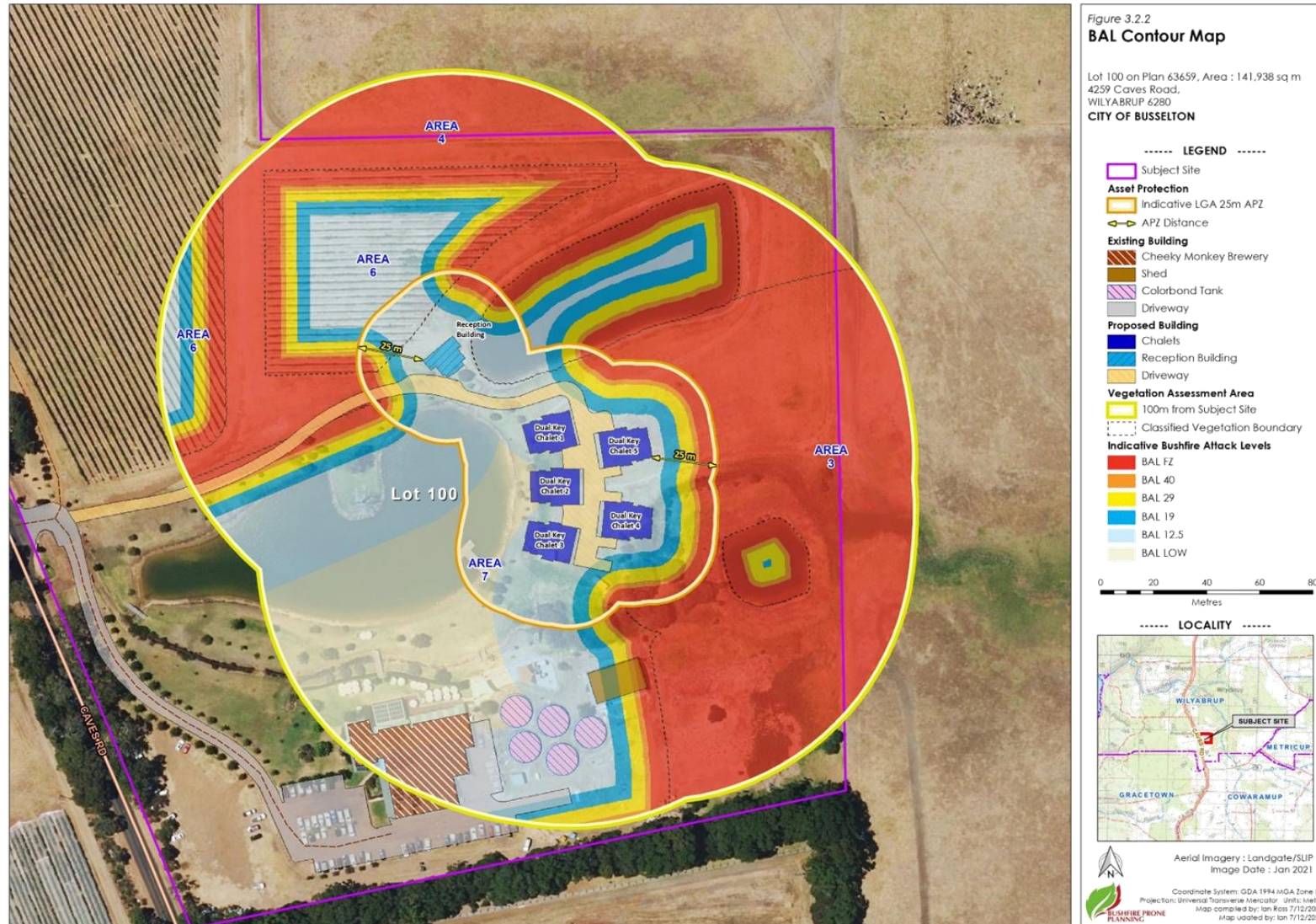
***Note 1:** The Indicative Asset Protection Zone shown in Figure 3.2.1 reflects a larger Asset Protection Zone (compared to the minimum distances required to achieve a BAL 29 Rating), based on the requirement by the City of Busselton to install and maintain a minimum 25 metres building protection zone. The precautionary principle has been applied. Through the installation of a minimum 25 m asset protection zone around the buildings within the lot boundary an indicative BAL Rating of BAL 12.5 can be achieved for all the proposed development (Figure 3.2.2). Bushfire Prone Planning has determined that the indicative BAL rating of BAL 12.5 is achievable within the lot boundary and appropriate.

***Note 2 : City of Busselton Planning Information Sheet - BUSHFIRE PRONE LAND**

BUSHFIRE MANAGEMENT PLANS

Bushfire Management Plan (BMP) will need to be assessed by the City. No mitigation works recommended in the BMP are to be undertaken until the development application is approved







4 IDENTIFICATION OF BUSHFIRE HAZARD ISSUES

In response to the Bushfire Management Plan requirements established by Appendix 5 of the Guidelines for Planning in Bushfire Prone Areas (WAPC 2017 v1.3), the following statements are made to assist in the understanding of whether the proposal is likely to be able to comply with the bushfire protection criteria now or in subsequent planning stages.

Bushfire Hazard Issues	
Onsite Vegetation	The key assumption used to facilitate the determining of Bushfire Attack Levels on the Proposed development site is that vegetation onsite is under the control of the landowner and therefore can be removed or modified to present a low bushfire threat (Note: any proposed vegetation removal may be subject to local government approval, dependent on the lot's specific situation with respect to identified environmental protection areas and the lot size).
Offsite Vegetation	Vegetation offsite is not within the control of the landowner and therefore the vegetation cannot be removed or modified. As a result, the BAL impact from these vegetation areas is unable to be reduced. This assessment is reliant on the surrounding land (Area 5) being maintained in a low fuel condition as per the City's Firebreak Notice, reflecting the state of the vegetation at the time of the assessment.
Spatial Context - Broader Landscape Considerations	
Wider road network and access constraints	Caves Road provides options for travel in two different directions.
Proximity of settlements and emergency services	The subject site is part of a large area of rural development. The Cowaramup townsite is approximately 10 minutes away by vehicle.
Bushfire prone vegetation types and extent	Significant extents of bushfire prone vegetation exist across the broader landscape as retained native vegetation (National Park - West of Caves Road).



5 ASSESSMENT AGAINST THE ACCEPTABLE SOLUTIONS (POLICY MEASURES) ESTABLISHED BY THE 'TOURISM LAND USE' POSITION STATEMENT

For a proposal (application) that is a 'Tourism Land Use' to be considered compliant with SPP 3.7, it must satisfy the requirements established by the *Position Statement: Tourism land uses in bushfire prone areas WAPC November 2019*. The position statement establishes 'tourism land use specific' policy objectives and measures and establishes a set of elements and corresponding acceptable solutions (policy measures) against which a tourism proposal is to be assessed (replacing the bushfire protection criteria established by the Guidelines). Compliance can be achieved by either:

- Meeting all applicable acceptable solutions corresponding to each element (i.e. the minimum bushfire protection measures that are deemed to satisfy planning requirements); or
- Where an acceptable solution cannot be met, conduct a risk based assessment and if necessary, apply additional and/or contingency bushfire protection measures to reduce the risk to an acceptable level (as relevant to the proposed use and its scale and location).

5.1 Local Government Variations to Apply

Local governments may add to or modify the acceptable solutions of the Bushfire Protection Criteria (BPC) and/or apply technical requirements that vary from those specified in the Guidelines for Planning in Bushfire Prone Areas (WAPC). In such instances, this Proposal will be assessed against these variations and/or any specific local government technical requirements for emergency access and water. Refer to Appendices 2 and 3 for relevant technical requirements.

Will local or regional variations (endorsed by WAPC / DFES) to the applicable acceptable solutions established by the <i>Guidelines</i> or the <i>Position Statement: Tourism land uses in bushfire prone areas WAPC November 2019</i> , apply to this Proposal?	Yes
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City of Busselton Local Planning Policy No. 4.1: HOLIDAY HOMES

The purpose of this Policy is to – Provide clear guidance regarding the assessment of applications for development approval for Holiday Homes; and Identify circumstances in which Holiday Homes will be supported, and circumstances in which Holiday Homes may be supported, given more detailed consideration.

City of Busselton Local Planning Policy – No. 4.2 - BUSHFIRE

This Policy has also been adopted as guidance for assessment of town planning schemes and amendments, Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where bushfire issues require consideration.

CHANGE OF USE OF EXISTING BUILDINGS TO A VULNERABLE LAND USE IN A BUSHFIRE PRONE AREA

4.3 Where the Bushfire Management Plan prepared by an Appropriately Accredited Professional sets out, and the City agrees that it is not practicable to upgrade the existing building to the determined BAL a larger APZ may be considered, having considered the application against the other requirements as listed in 4.1.2.



5.2 Summary of Assessment Against the Acceptable Solutions for Tourism Land Use

SUMMARISED OUTCOME OF THE ASSESSMENT AGAINST THE ACCEPTABLE SOLUTIONS (POLICY MEASURES) OF THE TOURISM LAND USE POSITION STATEMENT			
Element (Table 1: Tourism Land Uses - 'Tourism Position Statement')	Basis of Achieving the Intent of the Bushfire Protection Measures Established in Table 1 of the Position Statement: Tourism land uses in bushfire prone areas (WAPC November 2019) and Compliance with SPP 3.7		
	All Applicable Acceptable Solutions (Policy Measures) Are or Can be Fully Met	The Proposal is Supported by a Risk-Based Assessment (in a form that reflects the nature and scale of the development) and The Application of Additional Bushfire Protection Measures as Necessary	
		Bushfire Risk Assessment and Treatment Plan	Vulnerability Assessment
1. Siting and Design	✓	No	No
2. Vehicular Access	✓		
3. Provision of Water	✓		
<p>Note: The development proposal has been assessed:</p> <ol style="list-style-type: none"> Against the requirements established by Table 1 of the <i>Position Statement: Tourism land uses in bushfire prone areas (WAPC November 2019)</i> Against the requirements established in Appendix 4 of the <i>Guidelines for Planning in Bushfire Prone Areas, WAPC 2017 v1.3 (Guidelines)</i> but excluding the Bushfire Protection Criteria unless referenced by the above 'Position Statement'. The Guidelines are found at https://www.planning.wa.gov.au/8194.aspx; 			



5.3 Assessment Detail

Element 1 (Tourism Land Use): Siting and Design of Development	
<p>Tourism Type: Other (vulnerable) Short-Term Accommodation (including motel, serviced apartments, tourist development, holiday accommodation); and Vulnerable Day Uses (including art gallery, brewery, exhibition centre, hotel, reception centre, restaurant/café, small bar, winery).</p>	
<p>Intent: To provide bushfire protection for tourism uses relevant to the characteristics of the occupants and/or surrounding community to preserve life and reduce the impact of bushfire on property and infrastructure.</p>	
<p>Compliance: How the proposed development achieves the intent of Element 1:</p>	<p>By fully meeting all applicable acceptable solutions established by Table 1 of Position Statement: Tourism land uses in bushfire prone areas (WAPC October 2019)</p>
<p>ASSESSMENT (COMPLIANCE) STATEMENTS</p>	
<p>For each applicable acceptable solution, the following statements present the results of the assessment of the proposed development/use against the requirements established by the <i>Position Statement: Tourism land uses in bushfire prone areas (WAPC November 2019)</i>.</p>	
<p>Acceptable Solution (Policy Measure): 1.1: In accordance with Element 2: 'Siting and Design of Development' A2.1: Asset Protection Zone, contained within the <i>Guidelines for Planning in Bushfire Prone Areas</i>.</p>	
<p>The proposed development achieves compliance by:</p> <ul style="list-style-type: none"> • Ensuring the proposed development on the lot can have established around it an APZ of the required dimensions - to ensure that the potential radiant heat from a bushfire does not exceed 29 kW/m² (i.e. a BAL rating of BAL-29) • The landowner having the responsibility of continuing to manage the required APZ as low threat vegetation in a minimal fuel state, by maintaining the APZ to the required dimensions and standard, including compliance with the local government's annual firebreak notice. 	
<p><u>THE ASSESSMENT</u></p> <p>The proposed Chalets can be surrounded by an APZ that will ensure the potential radiant heat impact of a bushfire does not exceed 29 kW/m² (BAL-29). The required APZ specifications of width, location and management can be achieved.</p> <p><u>APZ Width:</u> The required APZ dimensions to ensure buildings are subject to a maximum BAL of BAL-29 (measured from any external wall or supporting post or column to the edge of the classified vegetation), has been determined in Section 3.2 of this BMP (Figure 3.2.1 & Figure 3.2.2).</p> <p><u>APZ Location:</u> Asset protection zones of the widths stated in this plan can be contained solely within the boundaries of this lot. Onsite vegetation (Grassland) will be required to be modified/removed, the authority for which will need to be received from the local government.</p> <p><u>APZ Management:</u> All vegetation that will require modification/removal and future management is onsite and therefore under the control of the landowner.</p> <p>Retained vegetation will be managed in accordance with the technical requirements established by the Schedule 1: 'Standards for Asset Protection Zones (Guidelines)'. The APZ specifications are also detailed the City of Busselton Fire Break and Fuel Load Notice.</p>	



Element 1 (Tourism Land Use): Siting and Design of Development

Acceptable Solution (Policy Measure): 1.2: Where a building is to function as an on-site shelter, there must be sufficient separation distance from the predominant bushfire prone vegetation to avoid exposure to a radiant heat flux exceeding 10kW/m² (with an assumed flame temperature of 1200K); or where an open space area is to function as an on-site shelter, there must be sufficient separation distance from the predominant bushfire prone vegetation to avoid exposure to a radiant heat flux exceeding 2kW/m² (with an assumed flame temperature of 1200K).

In consultation with the Department of Lands and Heritage (DPLH) April 2021 – “Where the tourism proposal complies with achieving an APZ of BAL-29 or below (1.1) and vehicular access (2.1), an on-site shelter in accordance with 1.2 and 1.3 is not required”. No building will function as an onsite shelter for this proposal.

Acceptable Solution (Policy Measure): 1.3: Buildings identified as suitable on-site shelter shall be designed and constructed in accordance with National Construction Code and the ABCB Community Shelter Handbook.

N/a – See AS 1.2



Element 2 (Tourism Land Use): Vehicular Access	
<p>Tourism Type: Other (vulnerable) Short-Term Accommodation (including motel, serviced apartments, tourist development, holiday accommodation); and Vulnerable Day Uses (including art gallery, brewery, exhibition centre, hotel, reception centre, restaurant/café, small bar, winery).</p>	
<p>Intent: To provide bushfire protection for tourism uses relevant to the characteristics of the occupants and/or surrounding community to preserve life and reduce the impact of bushfire on property and infrastructure.</p>	
<p>Compliance: How the proposed development achieves the intent of Element 2:</p>	<p>By fully meeting all applicable acceptable solutions established by Table 1 of Position Statement: Tourism land uses in bushfire prone areas (WAPC October 2019)</p>
<p>ASSESSMENT (COMPLIANCE) STATEMENTS</p>	
<p>For each applicable acceptable solution, the following statements present the results of the assessment of the proposed development/use against the requirements established by the <i>Position Statement: Tourism land uses in bushfire prone areas (WAPC November 2019)</i>.</p>	
<p>Acceptable Solution: 2.1: The provision of one access route can be considered where:</p> <ul style="list-style-type: none"> • The proposal is within a residential built-out area; or • The access route abuts moderate or low threat vegetation (i.e. bushfire hazard level as per the Guidelines), and • Where it is demonstrated that secondary access (including an emergency access way) cannot be achieved, and • The access route is not travelling towards vegetation with an extreme bushfire hazard level. 	
<p>N/a - Caves Road provides options for travel in two different directions.</p>	
<p>Acceptable Solution: 2.2: Access routes should achieve the requirements of Table 6 in the <i>Guidelines for Planning in Bushfire Prone Areas</i>.</p>	
<p>The construction technical requirements established by the Guidelines and/or the local government can and will be complied with.</p>	
<p>Acceptable Solution: 2.3: Acceptable Solution: 2.5: Private driveways longer than 50 metres require:</p> <ul style="list-style-type: none"> • Passing bays every 200 metres with a minimum length of 20 metres and a minimum width of two metres (i.e. the combined width of the passing bay and constructed private driveway to be a minimum six metres); • Turn-around areas designed to accommodate type 3.4 fire appliances and to enable them to turn around safely every 500 metres (i.e. kerb to kerb 17.5 metres) and within 50 metres of a house; and • An all-weather surface (i.e. compacted gravel, limestone or sealed). 	
<p>All proposed access routes will achieve the requirements of Table 6 in the Guidelines for Planning in Bushfire Prone Areas. The proposed private driveway to the development site will be upgraded in accordance with Element # 3 - Table 6 (Column 3) of the Bushfire Guidelines (v1.3).</p>	



Element 3 (Tourism Land Use): Provision of Water	
<p>Tourism Type: Other (vulnerable) Short-Term Accommodation (including motel, serviced apartments, tourist development, holiday accommodation); and Vulnerable Day Uses (including art gallery, brewery, exhibition centre, hotel, reception centre, restaurant/café, small bar, winery).</p>	
<p>Intent: To provide bushfire protection for tourism uses relevant to the characteristics of the occupants and/or surrounding community to preserve life and reduce the impact of bushfire on property and infrastructure.</p>	
<p>Compliance: How the proposed development achieves the intent of Element 3:</p>	<p>By fully meeting all applicable acceptable solutions established by Table 1 of Position Statement: Tourism land uses in bushfire prone areas (WAPC October 2019)</p>
<p>ASSESSMENT (COMPLIANCE) STATEMENTS</p>	
<p>For each applicable acceptable solution, the following statements present the results of the assessment of the proposed development/use against the requirements established by the <i>Position Statement: Tourism land uses in bushfire prone areas (WAPC November 2019)</i>.</p>	
<p>Acceptable Solution: 3.1: The development or land use is provided with a reticulated water supply in accordance with the specifications of the relevant water supply authority and/or the local government; or Acceptable Solution 3.2 or 3.3.</p>	
<p>N/a</p>	
<p>Acceptable Solution: 3.2: Provision of a static water supply for firefighting purposes on the lot that has an effective capacity of 10,000 litres per building/structure in addition to any requirements for potable water; or Acceptable Solution 3.3.</p>	
<p>This plan demonstrates that through appropriate internal vehicle access/ egress upgrades and the installation of a dedicated onsite static water supply (Minimum >10 k per building/ structure) for firefighting purposes that this proposal can meet the acceptable solutions as defined by the Guidelines for Planning in Bushfire Prone Areas – Version 1.3.</p>	
<p>Acceptable Solution: 3.3: Provision of a minimum 50,000 litre static water supply for firefighting purposes per 25 buildings/structures, to the satisfaction of the local government.</p>	
<p>N/A</p>	
<p>Acceptable Solution: 3.4: Dedicated water supplies shall be non-combustible (or suitably shielded) and located such that fire services can readily gain access to appropriate fittings and connect fire fighting vehicles to dedicated water supplies in a safe manner.</p>	
<p>The dedicated water supply will be non-combustible and located such that fire services can readily gain access to appropriate fittings and connect fire fighting vehicles to dedicated water supplies in a safe manner.</p>	



6 RESPONSIBILITIES FOR IMPLEMENTATION AND MANAGEMENT OF THE BUSHFIRE PROTECTION MEASURES

Table 6.1: BMP Implementation responsibilities prior to occupancy or building.

Landowner (Developer)	
No.	Implementation Actions
1	<p>The local government may condition a development application approval with a requirement for the landowner/proponent to register a notification onto the certificate of title and deposited plan. This will be done pursuant to Section 70A <i>Transfer of Land Act 1893</i> as amended ('Factors affecting use and enjoyment of land, notification on title'). This is to give notice of the bushfire hazard and any restrictions and/or protective measures required to be maintained at the owner's cost.</p> <p>This condition ensures that:</p> <ol style="list-style-type: none"> 1. Landowners/proponents are aware their lot is in a designated bushfire prone area and of their obligations to apply the stated bushfire risk management measures; and 2. Potential purchasers are alerted to the Bushfire Management Plan so that future landowners/proponents can continue to apply the bushfire risk management measures that have been established in the Plan.
2	<p>Post planning approval, the entity responsible for having the BMP prepared should ensure that anyone listed as having responsibility under the Plan has endorsed it and is provided with a copy for their information and informed that it contains their responsibilities. This includes the landowners/proponents, local government and any other authorities or referral agencies ('Guidelines' s4.6.3).</p>
3	<p>Establish the Asset Protection Zone (APZ) on the lot to the dimensions and standard stated in this Bushfire Management Plan (<i>Landscape Concept Plan – Figure 1.0.1 and minimum 25 m APZ within the Lot boundary</i>), the Bushfire Guidelines & in accordance with the City of Busselton Firebreak Notice.</p>
4	<p>The existing lot will comply with the requirements of the local government annual firebreak notice issued under s33 of the Bush Fires Act 1954.</p>
5	<p>Prior to occupancy, the landowner is required to install an onsite emergency static water supply (>10k capacity per building/ structure) and associated vehicle access, to the standards in the Bushfire Guidelines.</p>
6	<p>Prior to occupancy, certain information contained within the bushfire evacuation advice that is contained in Appendices of this Plan, must be displayed in the buildings – as directed in that advice.</p>
7	<p>The landowner is required to Install/ Maintain/ upgrade vehicular access routes (private driveway) within the lot to the required surface condition and clearances as stated in the Bushfire Guidelines.</p>



Table 6.2: Ongoing management responsibilities for the Landowner/Occupier.

Landowner/Occupier - Ongoing	
No.	Ongoing Management Actions
1	Maintain the Asset Protection Zone (APZ) on the lot to the dimensions and standard stated in this Bushfire Management Plan (including the Landscape Concept Plan) & in accordance with the City of Busselton Firebreak Notice.
2	Maintain vehicular access routes within the lot to the required surface condition and clearances as stated in the BMP.
3	Maintain the emergency water supply tank and its associated fittings and vehicular access in good working condition.
4	The bushfire response/evacuation advice contains information that is required to be displayed and available to inform all occupants. This information must continue to be updated to ensure the content does not become outdated.

Table 6.3: Ongoing management responsibilities for the Local Government.

Local Government - Ongoing	
No.	Ongoing Management Actions
1	Monitor landowner compliance with the Bushfire Management Plan and the annual Firebreak and Fuel Load notice.



APPENDIX 1: TECHNICAL REQUIREMENTS FOR ONSITE VEGETATION MANAGEMENT

A1.1 Requirements Established by the Guidelines – Standards for Asset Protection Zones

(Source: *Guidelines for Planning in Bushfire Prone Areas - WAPC 2017 v1.3 Appendix 4, Element 2, Schedule 1 and Explanatory Note E2.1*)

DEFINING THE ASSET PROTECTION ZONE (APZ)

Description: An APZ is an area surrounding a building that is managed to reduce the bushfire hazard to an acceptable level (by reducing fuel loads). The width of the required APZ varies with slope and vegetation and varies corresponding to the BAL rating determined for a building (lower BAL = greater dimensioned APZ).

For planning applications, the minimum sized acceptable APZ is that which is of sufficient size to ensure the potential radiant heat impact of a fire does not exceed 29kW/m² (BAL-29). It will be site specific.

For subdivision planning, design elements and excluded/low threat vegetation adjacent to the lot(s) can be utilised to achieve the required vegetation separation distances and therefore reduce the required dimensions of the APZ within the lot(s).

Defendable Space: The APZ includes a defendable space which is an area adjoining the asset within which firefighting operations can be undertaken to defend the structure. Vegetation within the defendable space should be kept at an absolute minimum and the area should be free from combustible items and obstructions. The width of the defendable space is dependent on the space, which is available on the property, but as a minimum should be 3 metres.

Establishment: The APZ should be contained solely within the boundaries of the lot on which the building is situated, except in instances where the neighbouring lot or lots will be managed in a low-fuel state on an ongoing basis, in perpetuity.

The APZ may include public roads, waterways, footpaths, buildings, rocky outcrops, golf courses, maintained parkland as well as cultivated gardens in an urban context, but does not include grassland or vegetation on a neighbouring rural lot, farmland, wetland reserves and unmanaged public reserves.

[Note: Regardless of whether an Asset Protection Zone exists in accordance with the acceptable solutions and is appropriately maintained, fire fighters are not obliged to protect an asset if they think the separation distance between the dwelling and vegetation that can be involved in a bushfire, is unsafe.]

Schedule 1: Standards for APZ

Fences: within the APZ are constructed from non-combustible materials (e.g. iron, brick, limestone, metal post and wire). It is recommended that solid or slatted non-combustible perimeter fences are used.

Objects: within 10 metres of a building, combustible objects must not be located close to the vulnerable parts of the building i.e. windows and doors.

Fine Fuel Load: combustible dead vegetation matter less than 6 mm in thickness reduced to and maintained at an average of two tonnes per hectare (example below).



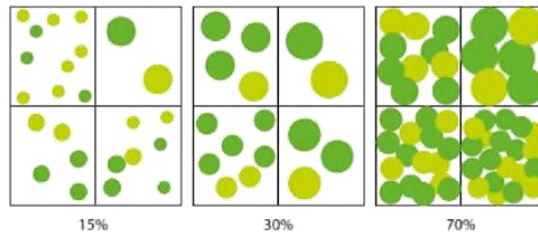
Example: Fine fuel load of 2 t/ha

(Image source: Shire of Augusta Margaret River's Firebreak and Fuel Reduction Hazard Notice)



Trees (> 5 metres in height): trunks at maturity should be a minimum distance of 6 metres from all elevations of the building, branches at maturity should not touch or overhang the building, lower branches should be removed to a height of 2 metres above the ground and or surface vegetation, canopy cover should be less than 15% with tree canopies at maturity well spread to at least 5 metres apart as to not form a continuous canopy. Diagram below represents tree canopy cover at maturity.

Tree canopy cover – ranging from 15 to 70 per cent at maturity



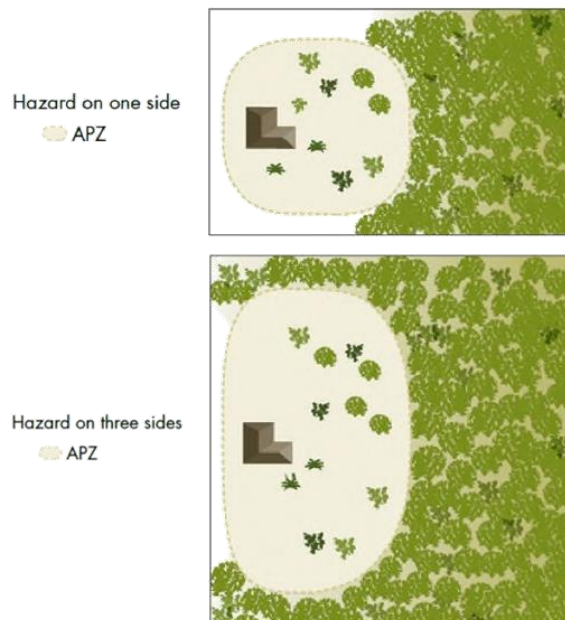
(Source: Guidelines for Planning in Bushfire Prone Areas 2017, Appendix 4)

Shrubs (0.5 metres to 5 metres in height): should not be located under trees or within 3 metres of buildings, should not be planted in clumps greater than 5m² in area, clumps of shrubs should be separated from each other and any exposed window or door by at least 10 metres. Shrubs greater than 5 metres in height are to be treated as trees.

Ground covers (<0.5 metres in height): can be planted under trees but must be properly maintained to remove dead plant material and any parts within 2 metres of a structure, but 3 metres from windows or doors if greater than 100 mm in height. Ground covers greater than 0.5 metres in height are to be treated as shrubs.

Grass: should be managed to maintain a height of 100 mm or less.

The following example diagrams illustrate how the required dimensions of the APZ will be determined by the type and location of the vegetation.





APPENDIX 2: TECHNICAL REQUIREMENTS FOR VEHICULAR ACCESS

Each local government may have their own standard technical requirements for emergency vehicular access, and they may vary from those stated in the Guidelines.
When required, these are stated in Section 5.1 of this bushfire management plan.

Requirements Established by the Guidelines – The Acceptable Solutions

(Source: Guidelines for Planning in Bushfire Prone Areas WAPC 2017 v1.3, Appendix 4)

VEHICULAR ACCESS TECHNICAL REQUIREMENTS - PART 1					
<p>Acceptable Solution 3.5: Private Driveways</p> <p>The following requirements are to be achieved:</p> <ul style="list-style-type: none"> The design requirements set out in Part 2 of this appendix; and <p>Where the house site is more than 50 metres from a public road:</p> <ul style="list-style-type: none"> Passing bays every 200 metres with a minimum length of 20 metres and a minimum width of two metres (ie combined width of the passing bay and constructed private driveway to be a minimum six metres); Turn-around areas every 500 metres and within 50 metres of a house, designed to accommodate type 3.4 fire appliances to turn around safely (ie kerb to kerb 17.5 metres); Any bridges or culverts are able to support a minimum weight capacity of 15 tonnes; and All weather surface (i.e. compacted gravel, limestone or sealed). 					
<p>Acceptable Solution 3.8: Firebreak Width</p> <p>Lots greater than 0.5 hectares must have an internal perimeter firebreak of a minimum width of three metres or to the level as prescribed in the local firebreak notice issued by the local government.</p>					
VEHICULAR ACCESS TECHNICAL REQUIREMENTS - PART 2					
Technical Component	Vehicular Access Types				
	Public Roads	Cul-de-sacs	Private Driveways	Emergency Access Ways	Fire Service Access Routes
Minimum trafficable surface (m)	6*	6	4	6*	6*
Horizontal clearance (m)	6	6	6	6	6
Vertical clearance (m)	4.5	4.5	4.5	4.5	4.5
Maximum grade <50 metres	1 in 10	1 in 10	1 in 10	1 in 10	1 in 10
Minimum weight capacity (t)	15	15	15	15	15
Maximum cross-fall	1 in 33	1 in 33	1 in 33	1 in 33	1 in 33
Curves minimum inner radius (m)	8.5	8.5	8.5	8.5	8.5



APPENDIX 3: TECHNICAL REQUIREMENTS FOR FIREFIGHTING WATER

Non-Reticulated Areas

Each local government may have their own standard technical requirements for firefighting water supplies, and they may vary from those stated in the Guidelines.

Table A4.2: non-reticulated areas

TECHNICAL REQUIREMENTS FOR STATIC WATER SUPPLY (EXAMPLE ONLY – CHECK WITH LOCAL GOVERNMENT)	
Application & Volume:	Provision of a static water supply for firefighting purposes on the lot that has an effective capacity of 10,000 litres per building/structure in addition to any requirements for potable water;
Tank Construction:	Above ground tanks constructed using concrete or metal.
Pipe Construction:	Galvanised or copper (PVC if buried at least 300mm below ground).
Vehicle Access:	Hardstand and turnaround area suitable for a 3.4 appliance (i.e. kerb to kerb 17.5metres) is provided at the tank.
Couplings:	Tanks are to be fitted with a full flow gate valve (not ball valve) and a 50mm or 100mm camlock coupling of metal/alloy construction (example below).
Signage:	Multiple buildings and/or firefighting water supplies may require directional signage to guide firefighters to the emergency water supplies.
Responsibility:	A procedure must be in place to ensure that water tanks are maintained at or above designated capacity always.
[Sources: Guidelines for Planning in Bushfire Prone Areas WAPC 2017 v1.3, Appendix 4, Element 4 with example construction / coupling requirements from various sources including FESA (DFES) Operational Circular 07/2011 and Planning for Bushfire Protection Guidelines WAPC 2010]	



Addendum 1



Our Ref: D21564
Your Ref: DA21/0548

Bronwyn Jenkins
City of Busselton
city@busselton.wa.gov.au

Dear Ms Jenkins

RE: VULNERABLE LAND USE - LOT 101 (NO. 4259) CAVES ROAD, WILYABRUP - MINI GOLF, CHALETS, OFFICE AND SWIMMING POOL

I refer to your email dated 20 July 2021 regarding the submission of a Bushfire Management Plan (BMP) (Version 1.0), prepared by Bushfire Prone Planning and dated 18 June 2021, for the above development application.

This advice relates only to *State Planning Policy 3.7: Planning in Bushfire Prone Areas* (SPP 3.7) and the *Guidelines for Planning in Bushfire Prone Areas* (Guidelines). It is the responsibility of the proponent to ensure the proposal complies with relevant planning policies and building regulations where necessary. This advice does not exempt the applicant/proponent from obtaining approvals that apply to the proposal including planning, building, health or any other approvals required by a relevant authority under written laws.

Assessment

- DFES acknowledges that a brewery and winery currently exist on the subject site and the development application seeks the addition of short-term accommodation (and associated facilities) and mini golf.
- In line with the State Core Objective of Emergency Risk Management - *People: protect lives and wellbeing of persons*, DFES has assessed this proposal against SPP 3.7 and the Guidelines. DFES acknowledges this proposal falls within the scope of the Western Australian Planning Commission's *Position Statement: Tourism land uses in bushfire prone areas* (the Statement). The decision maker can consider the policy intent of the Statement, particularly regarding the primacy of life.
- Further clarification is required within the BMP of the requirements of SPP 3.7 and the supporting Guidelines as outlined in our assessment below.

1. Policy Measure 6.5 a) Preparation of a BAL Assessment

Issue	Assessment	Action
Assessment Methodology	The BMP has not addressed SPP 3.7 and the Guidelines. It is noted that the BMP has only addressed the <i>Position Statement: Tourism Land Uses in bushfire prone areas</i> . SPP 3.7 policy measure 6.5 states that development applications should be accompanied by an assessment against the bushfire protection criteria contained within the Guidelines demonstrating	Modification to the BMP is required.

Addendum 1

	compliance within the boundary of the site. The BMP should address SPP 3.7 and the Elements within the Guidelines.	
Mini golf	The BMP does not address the mini golf development proposal. The BMP only appears to address the short-term accommodation and the reception building. Mini golf is listed as part of the development application and is considered a vulnerable land use and should demonstrate compliance with the policy.	Modification to the BMP is required.
Vegetation classification	A BAL Contour Map should be prepared in accordance with Appendix 3 of the Guidelines for the entire site. The assessment area of the BAL Contour Map should include the subject site and all land within 150 metres of the external boundary of the lot to capture all proposed and existing vulnerable land uses.	Modification to the BMP is required.

2. Policy Measure 6.5 c) Compliance with the Bushfire Protection Criteria

Element	Assessment	Action
All	Bushfire Protection Criteria - not addressed SPP 3.7 requires that, for areas above BAL- LOW, each of the bushfire protection criteria should be demonstrated. This information can be in the form of a Bushfire Management Plan (BMP) or an amended BMP where one has been previously endorsed. This has not been undertaken in accordance with SPP 3.7 and the Guidelines within the submitted BMP.	Compliance with Bushfire Protection Criteria to be demonstrated.
Location, and Siting & Design	A1.1 & A2.1 – not demonstrated Elements 1 and 2 have not been addressed in the BMP. The BAL ratings for the entire proposed development cannot be validated for the reason(s) outlined in the above table.	Modification of the BMP is required.
Vehicular Access	A3.1 and A3.5 – not demonstrated Element 3 has not been addressed in the BMP. DFES considers the current development of 6 chalets and mini golf to be of a scale that requires a private road network rather than a driveway. Given there will be short-term residents and visitors at multiple dwellings for multiple land uses, there may be in excess of 100 vehicles on site at any one time. The private driveway should be upgraded to meet the technical requirements of column 1 Table 6 of the Guidelines. A3.5 is generally for use where a single house on a single lot is being proposed.	Modification to the BMP is required.
Water	A4.2 – not demonstrated Element 4 has not been addressed in the BMP. It has not been demonstrated that there is sufficient water dedicated for firefighting purposes. It should be demonstrated that a 50,000-litre tank is dedicated for fire-fighting purposes and adjacent hard-standing can achieve BAL-29 or below and is accessible to a type 3.4 appliance.	Modification to the BMP is required.

Addendum 1

3. Policy Measure 6.6.1 Vulnerable land uses

Issue	Assessment	Action
Bushfire Emergency Evacuation Plan (BEEP)	The referral has included a ' <i>Bushfire Emergency Evacuation Plan</i> ' for the purposes of addressing the policy requirements. Consideration should be given to the Guidelines Section 5.5.2 ' <i>Developing a Bushfire Emergency Evacuation Plan</i> '. This contains detail regarding what should be included in a BEEP and will ensure the appropriate content is detailed when finalising the BEEP to the satisfaction of the City.	Comment only.

Recommendation – not supported modification required

It is critical that the bushfire management measures within the BMP are refined, to ensure they are accurate and can be implemented to reduce the vulnerability of the development to bushfire. The proposed development is not supported for the following reasons:

1. The development design has not demonstrated compliance to –
Element 1: Location,
Element 2: Siting and Design,
Element 3: Vehicular Access, and
Element 4: Water.

If you require further information, please contact Sasha De Brito – A/Senior Land Use Planning Officer on telephone number 9395 9703.

Yours sincerely



Richard Trinh
A/DIRECTOR LAND USE PLANNING

8 September 2021

CC lucygouws@amrshire.wa.gov.au

Addendum 2



Development Application (DA21/0548) & DFES (D21564) 210400 - Lot 100 (4259) Caves Road, Wilyabrup

Stakeholders

Project Manager

- Steve Mucha – 9212 8888 - steve.mucha@dmgaustralia.com.au

Bushfire Prone Planning (BPP) - Bushfire Consultants

- Mike Scott – 6477 1144 - mike@bushfireprone.com.au
- Mick Whitelaw – 043 013 9645 - michael@bushfireprone.com.au

City of Busselton (COB) Planning Section

- Bronwyn Jenkins - Planning Officer - 9781 0429 - Bronwyn.Jenkins@busselton.wa.gov.au

Department of Planning Lands & Heritage (DPLH)

- Jackie Holm – Bushfire Planning Manager - 6552 4568

Department of Fire and Emergency Services

- Sasha De Brito – 9395 9703

DFES Feedback (Supplied 17-9-2021)

1. **Assessment Methodology** - The BMP has not addressed SPP 3.7 and the Guidelines. It is noted that the BMP has only addressed the Position Statement: Tourism Land Uses in bushfire prone areas. SPP 3.7 policy measure 6.5 states that development applications should be accompanied by an assessment against the bushfire protection criteria contained within the Guidelines demonstrating compliance within the boundary of the site. The BMP should address SPP 3.7 and the Elements within the Guidelines.

City Comment – N/a

Bushfire Prone Planning (BPP) Response

Refer to the tourism position statement (TPS) – see Clause 3 and 5. When a BPC acceptable solution is to be applied, it is stated in the TPS, otherwise the TPS establishes a new acceptable solution. It does not make sense to assess the BPC and the Acceptable solutions identified in the Tourism Position Statement in the same bushfire management plan.

<https://www.dplh.wa.gov.au/tourism-bushfire-areas>

<https://www.dplh.wa.gov.au/policy-and-legislation/state-planning-framework>

BPP Recommend Action – No change to the BMP.

Addendum 2



Development Application (DA21/0548) & DFES (D21564) 210400 - Lot 100 (4259) Caves Road, Wilyabrup

2. **Mini Golf** - The BMP does not address the mini golf development proposal. The BMP only appears to address the short-term accommodation and the reception building. Mini golf is listed as part of the development application and is considered a vulnerable land use and should demonstrate compliance with the policy.

City Comment – N/a

Bushfire Prone Planning (BPP) Response

1. There is no habitable infrastructure as part of the Mini golf development. It is unclear how or why the mini golf area (Specifically) should demonstrate compliance with the SPP 3.7 or the tourism position statement. The vehicle access and firefighting water supply requirements for the vulnerable day use are already addressed in the assessment for the proposed habitable infrastructure (Chalets) - (Same assessment criteria under the position statement)

BPP Recommend Action – No change to the BMP.

3. **Vegetation Classification** - A BAL Contour Map should be prepared in accordance with Appendix 3 of the Guidelines for the entire site. The assessment area of the BAL Contour Map should include the subject site and all land within 150 metres of the external boundary of the lot to capture all proposed and existing vulnerable land uses.

City Comment – N/a

Bushfire Prone Planning (BPP) Response

As per the 'AS3959 – 2018' – BPP has assessed the "Site" – 'The part of the allotment of land on which a building stands or is to be erected'. The BAL Contour Map in the Bushfire Management Plan is relevant to the nature and scale of the Proposed Development (Focus on the proposed Chalets).

BPP Recommend Action – No change to the BMP.

Addendum 2



Development Application (DA21/0548) & DFES (D21564) **210400 - Lot 100 (4259) Caves Road, Wilyabrup**

4. **Bushfire Protection Criteria - not addressed** - SPP 3.7 requires that, for areas above BAL- LOW, each of the bushfire protection criteria should be demonstrated. This information can be in the form of a Bushfire Management Plan (BMP) or an amended BMP where one has been previously endorsed. This has not been undertaken in accordance with SPP 3.7 and the Guidelines within the submitted BMP.

City Comment – N/a

Bushfire Prone Planning (BPP) Response

Refer to the tourism position statement (TPS) – see Clause 3 and 5. When a BPC acceptable solution is to be applied, it is stated in the TPS, otherwise the TPS establishes a new acceptable solution.

<https://www.dplh.wa.gov.au/tourism-bushfire-areas>

<https://www.dplh.wa.gov.au/policy-and-legislation/state-planning-framework>

BPP Recommend Action – No change to the BMP.

5. **A1.1 & A2.1 – not addressed** The BMP has not addressed the acceptable solutions of Elements 1 and 2 of the Guidelines. The BAL ratings cannot be validated for the reason(s) outlined in the above table.

City Comment– N/a

Bushfire Prone Planning (BPP) Response

Refer to the tourism position statement (TPS) – see Clause 3 and 5. When a BPC acceptable solution is to be applied, it is stated in the TPS, otherwise the TPS establishes a new acceptable solution.

<https://www.dplh.wa.gov.au/tourism-bushfire-areas>

<https://www.dplh.wa.gov.au/policy-and-legislation/state-planning-framework>

BPP Recommend Action – No change to the BMP.

Addendum 2



Development Application (DA21/0548) & DFES (D21564) 210400 - Lot 100 (4259) Caves Road, Wilyabrup

6. **Vehicle Access** - A3.1 and A3.5 – not demonstrated - Element 3 has not been addressed in the BMP. DFES considers the current development of 6 chalets and mini golf to be of a scale that requires a private road network rather than a driveway. Given there will be short-term residents and visitors at multiple dwellings for multiple land uses, there may be in excess of 100 vehicles on site at any one time. The private driveway should be upgraded to meet the technical requirements of column 1 Table 6 of the Guidelines. A3.5 is generally for use where a single house on a single lot is being proposed.

City Comment – N/a

Bushfire Prone Planning (BPP) Response

Based on the site assessment (conducted 3-6-2021), consideration of the existing infrastructure (driveways, road access, turnaround points and carparks) the proposal to service the development with a private driveway appeared to be appropriate to the nature and scale of the development.

BPP Recommend Action – No change to the BMP.

7. **Water** - A4.2 – not demonstrated. Element 4 has not been addressed in the BMP. It has not been demonstrated that there is sufficient water dedicated for firefighting purposes. It should be demonstrated that a 50,000-litre tank is dedicated for fire-fighting purposes and adjacent hard-standing can achieve BAL-29 or below and is accessible to a type 3.4 appliance.

City Comment – N/a

Bushfire Prone Planning (BPP) Response

There were multiple existing water tanks (5) identified onsite as part of the site assessment (conducted 3-6-2021).

The BMP states that *'This plan demonstrates that through appropriate internal vehicle access/ egress upgrades and the installation of a dedicated onsite static water supply (Minimum >10 k per building/ structure) for firefighting purposes that this proposal can meet the acceptable solutions as defined by the Guidelines for Planning in Bushfire Prone Areas – Version 1.3. The dedicated water supply will be non-combustible and located such that fire services can readily gain access to appropriate fittings and connect fire fighting vehicles to dedicated water supplies in a safe manner'*

BPP Recommend Action – It is expected that the City would condition the approval of the development on the requirement for compliance with the Bushfire Management Plan. There is no requirement in the position statement for a water tank to demonstrate BAL 29 Compliance.

Alternatively, the city could require the proponent to update their site plan to indicate if they plan on:

- A. Using an existing water tank (independent of any other supply requirements) to demonstrate compliance with the firefighting water requirements.
- B. Installing a new independent firefighting water tank/ turnaround point.

Addendum 2



Development Application (DA21/0548) & DFES (D21564)

210400 - Lot 100 (4259) Caves Road, Wilyabrup

- 8. Bushfire Emergency Evacuation Plan (BEEP).** - The referral has included a 'Bushfire Emergency Evacuation Plan' for the purposes of addressing the policy requirements. Consideration should be given to the Guidelines Section 5.5.2 'Developing a Bushfire Emergency Evacuation Plan'. This contains detail regarding what should be included in a BEEP and will ensure the appropriate content is detailed when finalising the BEEP to the satisfaction of the Shire.

City Comment – N/a

Bushfire Prone Planning (BPP) Response

The evacuation plan & poster was developed in accordance with the state standards and is relevant to the nature and scale of the development.

BPP Recommend Action – No change to the BEEP.

SUMMARY OF SUBMISSIONS

PROPOSAL: DA21/0548 – 10 Chalets – Lot 100 (No. 4259) Caves Road WILYABRUP

SUBMISSIONS CLOSE: 24 December 2021

PUBLIC SUBMISSIONS			
No.	Name & Location	Nature of Submission	Officer Comment
1	B. Burton on behalf of: Cheeky Monkey Brewing Co.	Support <i>"The accommodation can provide/satisfy an onsite need for guests attending Weddings and Functions at Cheeky Monkey, thereby reducing the need for our customers to leave the property late at night to other accommodation options.</i> <i>The property will provide a full tourist offering with the brewery/cellar door, playground and five chalets all on the one site."</i>	Noted.
2	L. Watts on behalf of: Starcastle Pty Ltd	Object <i>"Like the previous proposal, this proposal is simply not compliant. Particularly the setbacks and the density of the buildings."</i>	Noted – see the assessment of application in the Council Report.
3	P. Homles a Court on behalf of: Vasse Felix Wines	Object <i>"It is acknowledged that the applicant has made significant changes to the initial proposal, eliminating the mini golf course and swimming pool, reducing by one the number of chalets, and shifting the development to the other dam on the property, all of which are welcomed.</i> <i>There are, however, a number of areas clearly highlighted in your letter of 3 December where the revised proposal still fails to comply with the local planning rules. These relate to</i>	Noted – see assessment of the application in the Council Report.

	<p><i>the lot area, the density of development, and setbacks, all of which were part of our objection to the initial proposal.</i></p> <p><i>Given the revised proposal does not comply with the relevant planning framework, and no valid reasons have been given by the applicant why this proposal should be exempt from local planning rules, or why any discretion should be extended to it, Vasse Felix has no alternative other than to object to this modified development proposal.</i></p> <p><i>That being said, we are not completely opposed to quality chalet development occurring in the area and make the following points.</i></p> <p>1. <i>Minimum site area requirements</i></p> <p><i>The area of the site is very close to the required area, and it could be argued that the district would benefit from additional accommodation offerings. If that case was made successfully, it would seem unreasonable to prevent any sort of chalet development at all on this site over just 0.8 hectares.</i></p> <p><i>Vasse Felix would not object to the Shire using its discretion to allow some sort of chalet development on the site.</i></p> <p>2. <i>Density</i></p> <p><i>If discretion was used to permit chalet development on the site, the question would then be how many chalets should be permitted. Our view is that the limit of 1 chalet per 3 hectares can and should be applied. There is no reason why it couldn't be accommodated by the applicant, and no reason has been given why it should not be subject to this planning rule. Vasse Felix would object to the Shire permitting any more than 1 chalet per 3 hectares on the site.</i></p> <p>3. <i>Setbacks</i></p> <p><i>Developments of this kind are required to be set back from Prime Agricultural Land by 100m for very good reason, but the applicant proposes a setback of only 71m. Our view is the</i></p>	
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		<p><i>setback requirement can and should be applied. There is no reason why it couldn't be accommodated by the applicant, and no reason has been given why it shouldn't be subject to this planning rule.</i></p> <p><i>Vasse Felix would strongly object to the Shire permitting any chalet development on the site within 100m of the eastern boundary.</i></p> <p><i>Vasse Felix is not opposed to development in the district. Indeed, there are many good developments already, and we would include the current activities at Cheeky Monkey among them. However, for the reasons set out above, we cannot support the proposed chalet development."</i></p>	
4	<p>S. Baxter on behalf of:</p> <ul style="list-style-type: none"> - Gralyn Estate - Cullen Wines - Mosswood - Fraser Gallop Estate - Secret aerden - Woodlands Wines 	<p>Object</p> <p>A full copy of the submission can be found at Attachment H</p>	<p>Noted – see assessment of the application in the Council Report.</p>
AGENCY REFERRAL COMMENTS			
No.	Agency	Nature of Submission	Officer Comment
1	DPIRD	<p>Object</p> <p><i>"The Department of Primary Industries and Regional Development (DPIRD) does not support the development of chalets at the abovementioned lot (zoned 'Viticulture/Tourism') due to the following concerns:</i></p>	<p>No substantive commentary made on why the proposal is inappropriate beyond noting the number of Chalets.</p>

		<p><i>Each of the five proposed chalets are single storey dual key chalets, comprising three (3) bedrooms, three (3) bathrooms, two (2) living areas and two (2) deck areas. Due to the layout and dual key set up, each chalet can function as two separate units. This means that there are 10 separate accommodation units proposed for this development and therefore the scale and nature of the proposed chalet development is not appropriate in this rural setting."</i></p>	<p>See assessment of the application in the Council Report.</p>
2	MRWA	<p>No objection</p> <p><i>"I refer to your email below and advise that Main Roads has no objection to the proposed development subject to the following comments and conditions.</i></p> <p><i>As advised previously the proposed driveway for access to the proposed chalet development is located opposite the driveway entrance to Caves Road which is not supported by Main Roads.</i></p> <p><i>The close location to the driveway entrance from Caves Road could create potential for conflicts with vehicles entering the site from Caves Road and vehicles entering and leaving the development access/ driveway</i></p> <p><i>To avoid conflict with the driveway entrance from Caves Road it is recommended that the driveway access for the proposed chalet development be located approximately 20- 30 metres to the south of the entrance from Caves Road generally as indicated on the sketch plan previously provided.</i></p> <p><i>Also, it is noted that the existing development has two stone entrance statement walls located adjacent the existing crossover to Caves Road which are close to the road and could impact on sightlines and traffic safety along Caves Road.</i></p> <p><i>It is recommended that a condition be included on the development approval that the existing stone / entry statement walls be modified and or relocated away from the driveway/ crossover intersection with Caves Road to meet relevant sightline requirements.</i></p>	<p>1) A condition has been included to modify the access point to the Chalet driveway to reduce potential for conflict (noting that the 20-23m off-set is not possible given the proximity to Biljidup Brook and an existing culvert) as well as appropriate directional signage to reduce confusion for visitors arriving at the site.</p> <p>2) MRWA confirmed that they were not able to conduct a site visit in order to check sightlines associated with the entry statement. The matter has been discussed with the City's Engineering and Works Services team who have</p>

		<p><i>The following conditions are required;</i></p> <ol style="list-style-type: none"> 1) <i>The proposed driveway access for the proposed chalet development be relocated to be approximately 20- 30 metres to the south of the entrance from Caves Road.</i> 2) <i>The existing stone / entry statement walls be modified and or relocated away from the driveway/ crossover intersection with Caves Road as necessary."</i> 	<p>assessed the setbacks and sightlines and have indicated that the entry statement will not have an adverse impact on sightlines and are not required to be moved.</p>
3	DBCA	<p>No comment on the proposal</p> <p><i>"It is considered that the proposal and any potential environmental impacts will be appropriately addresses through the existing planning framework."</i></p>	Noted
4	DWER	<p>09/12/21</p> <p><i>The Department has identified that the proposed development will impact on environment and/or water resource values and/or management. Key issues and recommendations are provided below, and these matters must be addressed to the satisfaction of the Department:</i></p> <ol style="list-style-type: none"> 1. <i>Issue: Human and environmental health risks resulting from the location of the proposed flatbed leach drain</i> <p><i>Advice: The proposed flatbed leach drain should be located as close to the southern lot boundary as practically possible</i></p> <p><i>Discussion: It is proposed to replace this irrigation area with a new proposed flatbed leach drain, which will receive discharge from the existing and proposed new ATU. However, this is located within 20m of the waterway and the soak. This presents an environmental and human health risk, noting that the soak has been stated as being used as source for potable water supply.</i></p>	<ol style="list-style-type: none"> 1. A condition has been recommended requiring that the new leach drains be located adjacent to the southern boundary to achieve a setback of 60m from the edge of the brook.

		<p><i>The Department recommends that the principles of the Government Sewerage Policy (WAPC 2019) be considered. This specifies that the land application area of on-site sewage system is not to be located within:</i></p> <ul style="list-style-type: none"> • <i>30 metres of a private bore used for household/drinking water purposes (which should also be considered for the soak)</i> • <i>100 metres of a waterway or significant wetland and not within a waterway foreshore area or wetland buffer. The separation distance should be measured outwards from the outer edge of riparian or wetland vegetation</i> <p><i>The 30m buffer to the soak can be accommodate within Lot 100, whereas the 100m buffer cannot. The proposed flatbed leach drain should therefore be located as close to the southern lot boundary as practically possible. This will provide an approx. buffer of 60m from the watercourse and soak.</i></p> <p>2. <i>Issue: : The take of water from the soak is an illegal take</i></p> <p><i>Advice: Prior to development approval, the applicant must finalise the detailed water balancing assessment for the site and confirm water licensing requirements in relation to the taking of water from proclaimed water resources</i></p> <p><i>Discussion: The site is located within the proclaimed Busselton Coast Surface Water Area and Busselton-Capel Groundwater Area and subject to water licensing under the Right in Water and Irrigation Act 1914. DWER advises that the Wilyabrup Brook surface water resource is fully allocated and any proposal to take water from the watercourse would not be considered environmentally acceptable and unlikely to be supported.</i></p> <p><i>Additionally, take of groundwater for commercial purposes from the Cape to Cape North, Combined Leeuwin Surficial/Fractured Rock groundwater resource would also be subject to licensing and water availability under the South West Groundwater Areas Allocation Plan.</i></p>	<p>2. The applicant has indicated that no potable water is proposed to be taken from the soak. No water balancing report required on this basis.</p>
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		<p><i>There are currently no water licence allocations for the property. DWER has previously considered and assessed the two existing off-stream storage dams located to the north and adjacent to the watercourse. DWER has determined the storage dams as not being subject to regulatory controls and licensing under the Rights in Water and Irrigation Act 1914.</i></p> <p><i>DWER also notes that there is no licence to take water for any commercial purposes from the soak dam near the eastern boundary of Lot 100. And has identified that the Hydraulic Services Report states that "the domestic water tanks are fed water from three on site dams". The DA Report reinforces this by saying "The dams and existing structures on the subject land are used to fill the existing five (5) 250kl water tanks".</i></p> <p><i>The take of water from the soak is therefore an illegal take, and the applicant is advised to complete the detailed water balancing assessment for the site that they "are in the process of collating topographical and Bureau of Metrology information" for. And to then contact the Water Licensing section in the DWER Busselton office to discuss water licensing requirements in relation to the taking of water from proclaimed water resources.</i></p> <p><i>This should be completed and submitted for assessment prior to development approval.</i></p> <p>3. Issue: Waterways crossings</p> <p><i>Advice: The applicant is advised to contact the Water Licensing section in the DWER Busselton office to discuss permit requirements for the identified creek crossings</i></p> <p><i>Discussion: The site is located within the proclaimed Busselton Coast Surface Water Area and Busselton-Capel Groundwater Area and subject to regulation under the Right in Water and Irrigation Act 1914. Any interference of the watercourse (such as the construction of a dam or crossing, or excavation of the watercourse) may require a permit to interfere with the bed or banks from the department.</i></p>	<p>3. An advice note has been recommended re: the need for a Beds and Banks approval should any new or modified crossings of the brook be required.</p>
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		<p><i>While existing crossing existing for the two access points across the creek, it is unclear what if any upgrade works may be required. The applicant is advised to contact the Water Licensing section in the DWER Busselton office to discuss permit requirements for the identified creek crossings.</i></p> <p><i>Where the Department has a statutory role, planning applications should be considered prior to the Department issuing any relevant permits, licenses and/or approvals.</i></p> <p><i>In the event there are modifications to the proposal that may have implications on aspects of environment and/or water management, the Department should be notified to enable the implications to be assessed.</i></p> <p>18/01/22 (In response to follow up query regarding the potential impact on Biljidup Brook/ Wilyabrup Brook should the setback requirements from on-site sewerage systems to waterways as stated in the GSP not be achieved)</p> <p><i>Accurately modelling the impact of sub-surface discharge of wastewater systems leaching into adjacent water bodies is a complex and difficult thing to do. If the proposal is deemed to be in accordance with the intent of the local planning scheme and satisfactory on other planning grounds, then the intent is that the principles of the GSP are applied. Where the GSP criteria cannot be met in full then a risk-based approach is to be applied. While the 100m setback cannot be met from the Biljidup Brook/Wilyabrup Brook, the Department's recommendation is to maximise the separation that can be achieved within the constraint of the property. The proposal also intends to install an ATU system which will provide a higher output water quality than a standard septic. The GSP also requires consideration of cumulative impacts. In considering the cumulative risks to the Biljidup Brook it is noted that the majority of land holdings are large in nature other than Cowaramup townsite (which is sewerred). There are not likely to be many other wastewater systems developed in close proximity to the brook, and as such the potential for significant risk of cumulative impacts occurring is deemed low. The greater risk to water quality in such a catchment is likely to be diffuse nutrient sources resulting from agricultural practises.</i></p>	<p>Noted and referred to in Council Report.</p>
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5	DFES	<p>Modifications Required to BMP</p> <ul style="list-style-type: none"> DFES acknowledges that a brewery and winery currently exist on the subject site and the development application seeks the addition of short-term accommodation (and associated facilities) and mini golf. In line with the State Core Objective of Emergency Risk Management - People: protect lives and wellbeing of persons, DFES has assessed this proposal against SPP 3.7 and the Guidelines. DFES acknowledges this proposal falls within the scope of the Western Australian Planning Commission's Position Statement: Tourism land uses in bushfire prone areas (the Statement). The decision maker can consider the policy intent of the Statement, particularly regarding the primacy of life. Further clarification is required within the BMP of the requirements of SPP 3.7 and the supporting Guidelines as outlined in our assessment below. <ol style="list-style-type: none"> Policy Measure 6.5 a) Preparation of a BAL Assessment <table border="1" data-bbox="701 762 1429 1249"> <thead> <tr> <th data-bbox="701 762 835 786">Issue</th> <th data-bbox="835 762 1283 786">Assessment</th> <th data-bbox="1283 762 1429 786">Action</th> </tr> </thead> <tbody> <tr> <td data-bbox="701 786 835 938">Assessment Methodology</td> <td data-bbox="835 786 1283 938">The BMP has not addressed SPP 3.7 and the Guidelines. It is noted that the BMP has only addressed the <i>Position Statement: Tourism Land Uses in bushfire prone areas</i>. 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The assessment area of the BAL Contour Map should include the subject site and all land within 150 metres of the external boundary of the lot to capture all proposed and existing vulnerable land uses.	Modification to the BMP is required.	<p>The comments from DFES reflect an agency position that they will not consider applications against the <i>Tourism Land Uses in Bushfire Prone Areas Position Statement</i>.</p> <p>The Position Statement however is a higher order document that the <i>Planning in Bushfire Prone Areas Guidelines</i> and is a valid Planning instrument.</p> <p>The BMP indicates that the proposal can comply with the acceptable solutions of the Position Statement and can be supported on that basis. While the BMP references that the upgrades to the proposed Chalet driveway and the provision of firefighting water in accordance with the Guidelines will be undertaken (and compliance with the BMP will be conditioned), for the sake of clarity, these two matters have been recommended as conditions</p>
Issue	Assessment	Action																
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2. Policy Measure 6.5 c) Compliance with the Bushfire Protection Criteria		
Element	Assessment	Action
All	<p>Bushfire Protection Criteria - not addressed SPP 3.7 requires that, for areas above BAL- LOW, each of the bushfire protection criteria should be demonstrated. This information can be in the form of a Bushfire Management Plan (BMP) or an amended BMP where one has been previously endorsed.</p> <p>This has not been undertaken in accordance with SPP 3.7 and the Guidelines within the submitted BMP.</p>	Compliance with Bushfire Protection Criteria to be demonstrated.
Location, and Siting & Design	<p>A1.1 & A2.1 – not demonstrated Elements 1 and 2 have not been addressed in the BMP. The BAL ratings for the entire proposed development cannot be validated for the reason(s) outlined in the above table.</p>	Modification of the BMP is required.
Vehicular Access	<p>A3.1 and A3.5 – not demonstrated Element 3 has not been addressed in the BMP. DFES considers the current development of 6 chalets and mini golf to be of a scale that requires a private road network rather than a driveway. Given there will be short-term residents and visitors at multiple dwellings for multiple land uses, there may be in excess of 100 vehicles on site at any one time. The private driveway should be upgraded to meet the technical requirements of column 1 Table 6 of the Guidelines. A3.5 is generally for use where a single house on a single lot is being proposed.</p>	Modification to the BMP is required.
Water	<p>A4.2 – not demonstrated Element 4 has not been addressed in the BMP. It has not been demonstrated that there is sufficient water dedicated for firefighting purposes. It should be demonstrated that a 50,000-litre tank is dedicated for fire-fighting purposes and adjacent hard-standing can achieve BAL-29 or below and is accessible to a type 3.4 appliance.</p>	Modification to the BMP is required.

on the DA as well as being noted in the BMP.

The extent of the BAL contour mapping and the subsequent APZ that can be achieved is considered acceptable.

Note that any commentary regarding the mini golf facility is no longer relevant.

3. Policy Measure 6.6.1 Vulnerable land uses		
Issue	Assessment	Action
Bushfire Emergency Evacuation Plan (BEEP)	The referral has included a 'Bushfire Emergency Evacuation Plan' for the purposes of addressing the policy requirements. Consideration should be given to the Guidelines Section 5.5.2 'Developing a Bushfire Emergency Evacuation Plan'. This contains detail regarding what should be included in a BEEP and will ensure the appropriate content is detailed when finalising the BEEP to the satisfaction of the City.	Comment only.
<p>Recommendation – not supported modification required</p> <p><i>It is critical that the bushfire management measures within the BMP are refined, to ensure they are accurate and can be implemented to reduce the vulnerability of the development to bushfire. The proposed development is not supported for the following reasons:</i></p> <p><i>1. The development design has not demonstrated compliance to –</i></p> <p><i>Element 1: Location,</i></p> <p><i>Element 2: Siting and Design,</i></p> <p><i>Element 3: Vehicular Access, and</i></p> <p><i>Element 4: Water.</i></p>		

OBJECTION BY NEIGHBOURING WILYABRUP LANDHOLDERS:

[Gralyn Estate, Cullen Wines, Mosswood Wines,](#)
[Fraser Gallop Estate, Woodland Wines and Secret Garden](#)

DA21-0548-02: Chalets (5 x Chalets, Office, and Signage) Special Control Area

PROPERTY: LOT 100 (HSE 4259) CAVES ROAD WILYABRUP

PROPOSED DEVELOPMENT: CHALETS (5 X CHALETS, OFFICE AND SIGNAGE)

SPECIAL CONTROL AREA [Document Version #1](#)

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

As direct adjoining landholder(s) and neighbouring landholders who would be impacted by the Wilyabrup Investments Pty Ltd and DMG Architects proposal we object to the development application. The proposed chalets and development application do not comply with Local Planning Scheme No.21 or Local Planning Policy 2.4 Rural Tourist Accommodation.

Local Planning Scheme No21 - Zone: Viticulture and Tourism "Prime Agricultural Land"

Adjoining land titles/neighbouring properties on all boundaries of Development Application Lot 100 Caves Road are 'Prime Agricultural Land' and are used for primary production – Viticulture, Cattle Farming and Cropping - Minimum setback requirement is 100m.

Minimum site requirements for a development of this nature should be greater than 15Ha. This proposed site does not meet Planning Scheme Policy at 14ha.

Proposed density of the private chalets is specified to be five (5) 'Dual Key' Chalets on 14ha. This is misleading information as the total number of individual keyed units is in fact ten (10) units, plus an administration building on 14ha. When setbacks of 100m from the boundaries of Lot 852 and Lot 853 are abided by, Lot 100 Caves Road is reduced in size by 4ha, rendering serviceable land back to approximately 10Ha. This is extremely high density, overuse of the specified land for a Chalet, Suite or Unit development and does not meet state or local planning policies or zone objectives. The development is proposed on a densely developed brewery and restaurant site, with short stay accommodation already on site.

As per the City's LPS 2.4 Rural Tourist Accommodation

Clause 2.1 Statement of Intent

The intent in preparing and adopting these provisions is to pursue the principle that commercial tourist development should generally occur within the urban areas of Busselton City and that opportunities should be provided for small scale and low impact tourist accommodation and related activities in rural areas.

[We agree with the intent of the Local Planning Policy, referring to Rural Tourist Accommodation.](#) Developments of this density and nature should occur within the urban areas of the City of Busselton. This Development Application is not small scale or low impact and should not directly adjoin Prime Agricultural properties used for Viticulture, Cattle Production and Cropping. We are not against rural accommodation in the region, there are many tasteful examples that meet basic planning rules, are not visible from the road, are setback appropriately from neighbouring properties, adhere to density objectives, do not alter the rural amenity of the surrounding neighbourhood, and do not conflict with existing or potential agricultural, horticultural, or viticultural pursuits of adjoining landholders.

As per the City's LPS 2.4 Rural Tourist Accommodation

Clause 2.3 - Aims and objectives

- a.) Provide for tourist accommodation in the rural areas of the city in a manner that does not conflict with existing or potential agricultural, horticultural, or viticultural pursuits.
- b.) Provide a balance between agriculture / viticulture / horticulture and tourism such that tourism does not dominate, and does not detrimentally impact, the sustainable use or availability of prime agricultural land.
- d.) Optimise both the agricultural and tourism potential of the rural areas of the city without detrimental impact on the inherent natural beauty and value of those areas, having regard to the above.

The proposed development is dominant on the landscape and will conflict with the existing prime agricultural land it surrounds, visually, aesthetically, and environmentally. The landholding on Lot 100 is too small to accommodate short stay accommodation of this nature and will conflict with existing rural activities/pursuits on neighbouring prime agricultural land. The City's LPS RTA 2.4 has been implemented with aims and objectives to protect existing rural landholders from unsuitable neighbouring developments. Wilyabrup Investments are not considering current and future land use rights of neighbouring prime agricultural properties of local significance or the high-density developments impact on the natural environment, flora, and fauna.

As per the City's LPS 2.4 Rural Tourist Accommodation

Clause 4.3 - Minimum site area requirements

OBJECTIVES

- b) To allow sufficient scope for the siting of buildings in sympathy with landscape features and distant from neighbouring properties and important roads;
- c) To avoid clutter, over-development and the appearance of commercial development;
- d) To achieve and maintain a high level of rural amenity.

The proposed development on Lot 100 Caves Road, does not meet any of the objectives outlined above. It is not in sympathy with existing landscape features, it is not in sympathy with neighbouring properties and is not in sympathy with the Caves Road rural amenity.

In addition to clause 4.3 this development proposal is an over development of a site comprising of less than 15Ha, and is not considering the existing infrastructure footprint that is already onsite at Lot 100:

- 1.) Large Residential 6 Bedroom Airbnb Holiday House catering for 12+ guests
- 2.) Large Capacity Brewery and Restaurant catering for 450+ guests per day
- 3.) Five (5) 260,000L Water tanks and a Large Storage Shed
- 4.) 2600m² Effluent Treatment Plant

The existing rural amenity of the Wilyabrup Valley will be compromised, by this cluttered and overdeveloped site, highly visible from all neighbouring properties and Caves Road. There is simply not enough room on the 14ha property to cater for an additional ten (10) units and an administration building.

As per the City's LPS 2.4 Rural Tourist Accommodation

Clause 4.3 STANDARDS – Minimum site area requirements

Subject to the further requirements of these provisions and where consistent with the Scheme and Local Rural Planning Strategy:

- c) Chalet development will not be permitted on allotments of land comprising less than 15 hectares.
- d) Conservation Tourism will not be permitted on lots comprising of less than 20 hectares.
- e) Rural Holiday Resorts will not be permitted on allotments of land comprising less than 30 hectares.

“Chalets shall not be developed at a density greater than 1 chalet per 3 hectares of site area.”

The absolute minimum standard for rural tourist accommodation is 15ha, ten (10) units and an administration building should require 30ha minimum. Lot 100 Caves Road comprises of 14ha, has an expansive infrastructure footprint already on site and does not meet basic site area requirements for this new proposed development.

As per the City's LPS 2.4 Rural Tourist Accommodation

Clause 4.4 Density

There are ten (10) independent keyed units and an administration building proposed for Lot 100, this is gross overdevelopment of a site comprising of 14ha. Site requirements for ten individual units should be minimum 30Ha. At 14ha, Lot 100 is simply not suitable for the proposed development. Ten (10) individual units are more than the site can accommodate. Lot 100 is simply not suitable for the proposed development.

Clause 4.4 STANDARDS – Density

Subject to the further requirements of these provisions and where consistent with the Scheme and Local Rural Planning Strategy:

- c) Chalet development will not be permitted on allotments of land comprising less than 15 hectares.*
- e) Rural Holiday Resorts will not be permitted on allotments of land comprising less than 30 hectares.*

This Development Application comprising of ten (10) units/chalets should meet minimum site requirements of 1 chalet per 3 hectares = 30ha

Clause 4.4 OBJECTIVES - Density

- a) To maintain rural amenity in terms of visual and human impacts.*
- b) To reduce the potential risks of over-exploitation of water supplies and pollution of the natural environment.*

The revised development will conflict with the existing rural amenity. Lot 100 already caters for 450+ patrons per day via its Brewery and Restaurant and is at capacity. The site simply can't cater for anymore guests or multiple dwellings on this small landholding of 14ha. There is a very real risk of over-exploitation of water supplies and the natural environment from excessively high visitation and overuse of this small landholding.

As per the City's LPS 2.4 Rural Tourist Accommodation

Clause 4.5 Setbacks

Clause 4.5 OBJECTIVES – Setbacks

- a) To maintain scenic quality and tourism appeal of local road systems, particularly Caves Road, Bussell Highway, Wildwood Road, Vasse-Yallingup Siding Road, Abbey Farm Road, Metricup Road, Cape Naturaliste Road, Meelup Road and Eagle Bay Road.
- b) To achieve screening or filtered views only of development from neighbouring properties and roads.

The developer is not complying with setback requirements under the local planning policy. 100m is required under the policy when adjoining prime agricultural land. The setback proposed is 75m and 71m respectively from direct adjoining landholders of Lot 852 (Gralyn Estate) and Lot 853 (Vasse Felix). The developer is squeezing too many units and an office onto a small landholding already under pressure and can't meet basic setback requirements. Setback objectives are in place to maintain scenic quality for wider tourism appeal and to avoid conflict with adjoining land users. The revised proposal does not take

into consideration its neighbours and their right to farm their land without encumbrances and meet basic setback requirements.

The location of the proposed units is positioned in a low part of the valley and will be highly visible from neighbouring properties. The landscaping concept plan proposed will not adequately screen out this development from neighbours. The proposed development will be highly visible from Caves Road.

As adjoining landholders, we are concerned on so many levels about this development in relation to its disregard for the City of Busselton's planning policies and zoning provisions. The proposed development does not meet/satisfy the objectives of the LPS 2.1 - Viticulture Tourism Zone or The State Planning Policy 2.5 – Rural Planning

This development application in its revised format breaches many of City of Busselton Planning Laws, is not permissible and needs to be revoked or reviewed by the proponent in its entirety.

Examining the proposal by Wilyabrup Investments and DMG Architects we would like to bring your attention to the following statements by the proponent that need to be addressed.

[Document Set ID: 4671270 - Version 1 date 1/12/2021]

All comments/objections below are in direct relation to the proponents new revised document 'Version 1' provided for public comment dated 1/12/2021.

1.1 CONSULTANT REPORTS

Bushfire management, sewer/water hydraulics and landscaping need to have a high value of consideration in such a sensitive environment.

The Sewer and Hydraulic Services condition report needs to take into consideration that the development proposal is less than 30 metres from a gazetted waterway – Biljidup Brook that then flows into the district's main waterway tributary – Wilyabrup Brook. The fall of the land on the title (20m) is a considerable factor regarding stormwater and effluent run off. The proposed hydraulic load as outlined in the Hydraulic Infrastructure Report submitted by the applicant will require an ATU system and irrigation field to service the wastewater/effluent without compromising adjoining landholders' property or the sensitive nature of the adjacent Biljidup Brook and Wilyabrup Brook. An extremely challenging prospect on a small wet sloping property. In addition to this the Water Balancing Analysis report is inaccurate. Total daily water demand and effluent discharge figures don't add up... this Hydraulic report is flawed. There is no consideration for current or future brewery use and its effluent responsibility. The excess effluent will leach onto neighbouring farmland and into the Biljidup and Wilyabrup waterways. This is unacceptable. To quote the Brewers Association of America – Sustainability and Wastewater Reduction Manual... *"Most breweries discharge 70% of their incoming water as effluent."*

2.0 BACKGROUND AND PURPOSE

Lot 100 Caves Road Wilyabrup – has been historically used as a brewery, in 2010 the approval by the State Administrative Tribunal (SAT) allowed for the construction of a microbrewery, various buildings and 50 carparking bays. Cheeky Monkey Brewing Co have been operating at the site under a lease arrangement since 2012.

Quote: Wilyabrup Investments – *"This application seeks the City of Busselton's approval for the construction of five (5) chalets and a reception building (administration building in support of the chalets) on the land. The proposed new additions/uses on the land will operate independently to the brewery but will support the existing brewery development on the land. It is envisaged that the proposed new development on the land will enhance the existing venue, introduce new tourist attractions to the region and foster the growth and popularity of the south-west region. Prior to preparing any plans for the proposed development on the land, DMG Architecture held a meeting with the planning staff at the City of*

Busselton to discuss the merits and process of the proposed new development on the land. It is contended that this application has been prepared having had due regard for the discussions held with the City of Busselton and that the proposal has merit and its architect, have had consultations with the adjoining owners.

Objection: The above extract from the proponent's application is misleading information as the total number of individual keyed chalets/units is in fact ten (10). This is a high-density development on an already 'at capacity' venue. Introducing an additional development and footprint to a site that hosts between 450-1000 people per day in peak periods, is unsustainable on the existing facilities. This is an extremely busy venue, with car parking, safe entry and exit onto Caves Road and wastewater facilities already under pressure. All on a small title of land (14ha). To expand the venue on this small title lot will be ruinous for neighbouring landholders and the picturesque environs of Wilyabrup.

Quote: Wilyabrup Investments - *"foster the growth and popularity of the south-west region."*

Objection: This is a counterproductive development if neighbouring landholders with residence of over 50 years cannot continue to farm their 'prime agricultural land' (of local significance) due to potential conflict with (new) adjoining land use (new short stay holiday accommodation vs. existing agricultural farming). The Wilyabrup district – the land and its geography are respected for its consistent ability to produce wine (and beef) to international acclaim. There is no better example of 'prime agricultural land use'. Prime agricultural land in Wilyabrup needs protecting from unsuitable high-density developments. Setbacks are put in place to protect prime agricultural assets.

Quote: Wilyabrup Investments – *"It is contended that this application has been prepared having had due regard for the discussions held with the City of Busselton and that the proposal has merit. and its architect, have had consultations with the adjoining owners."*

Objection: This proposal may well have merit somewhere... but not within the context of Lot 100 Caves Road. The Lot in question is too small for a development of this nature, the site is already at capacity, with a brewery and a large holiday house onsite and it doesn't meet City of Busselton planning policy and zone objectives. Under the current state and local policies this Development Application is not permissible. In addition to this, the current proposal will be highly visible from Caves Road when travelling North to South. The proposal does not meet the objectives of the Caves Road Visual Amenity Policy. For the record, a representative of the developer has consulted with some adjoining landholders, not all, and the signatories of this objection are not in favour of this development.

4.0 LOCATION

Quote: Wilyabrup Investments – *"Lot 100 is located within the pristine south-western wine and tourism region of Western Australia, along Caves Road... A key character of the south-west region is the existing and historical rural activity (in particular viticulture), along with the tree lined roads... It is appreciated and recognised that the region provides a vital part of the tourism and recreation within Western Australia."*

Response: We agree with the above statement. However, for the benefit of locals, visitors, and fauna we have a responsibility to preserve the pristine nature of land parcels such as Lot 100 and the wider Wilyabrup district. We do this by abiding by state and local government planning laws and objectives. The proposed development is located less than 30m from the Biljidup Brook that flows into the district's main waterway – Wilyabrup Brook. The Biljidup and Wilyabrup Brooks have a high ecological significance. Any development or alteration on Lot 100 needs to take these two waterways into consideration. I have included images* [in section 6.1 Effluent Disposal] displaying high seasonal water run off directly from Lot 100 through to Lot 853 and Lot 852 into the Wilyabrup Brook and then out into the Indian Ocean via the Leeuwin Naturaliste National Park. This surrounding land is highly sensitive, is an important water catchment zone and should be treated as such.

*Video footage also available on request of water flow from Lot 100 flowing onto direct neighbouring landholders Lot 852 – Gralyn Estate and Lot 853 Vasse Felix.



Figure 2 - Aerial Site Plan

FIGURE 2 – AERIAL SITE PLAN

Response/Comments: The proposed high-density development on Lot 100 does not complement the existing ‘prime agricultural’ locally significant properties, directly adjacent to the development application. Typical topography of the surrounding landscape is grapevines to 1.5m high, pristine cleared pasture, pockets of remnant indigenous bush, with several creek systems feeding the nearby Wilyabrup Brook. [See image below: Prime Agricultural Land Wilyabrup]

North + East of Lot 100: [Lot 852, 6, 2 – Gralyn Estate]

Gralyn Estate operates a winery, farms grapevines, and runs 150 head of beef cattle on 170ha of mixed pasture and forest since 1968. Our cattle and broadacre hay paddock border the proposed development. The Wilyabrup Brook flows through the entirety of the Gralyn property south to north. The Northern aspect of Gralyn Estate is elevated, the proposed development would be highly visible from multiple locations on the Gralyn property and would have an adverse effect on the rural visual amenity and our ability to farm the land for its intended use. Beef cattle currently graze to the fence line adjoining Lot 100. Tractors, sprayers, licensed firearms, and various other farm machines are used regularly to manage the expansive landholding.

In addition to the above the Development Application breaches the Viticulture and Tourism zone objectives – extracts from the Viticulture and Tourism policy below...

(Part b.) “To provide for development and expansion of the viticultural, winemaking and associated industries, in addition to general rural pursuits, in a manner that does not cause adverse environmental impact.”

(Part d.) “To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses.”

(Part f.) To maintain and enhance the environmental qualities of the landscape, vegetation, soils, and waterways.

East of Lot 100: [Lot 853 – Vasse Felix]

Vasse Felix was established in 1967. Lot 853 is currently used for beef cattle, the remainder of the property/lots dedicated to 50+ Ha grapevines and viticulture. Very similar aspect to Gralyn Estate... high elevation overlooking Lot 100. The high-density development will be visible from Lot 853.

An extract below from the City of Busselton Rural Zone Policy applies to both neighbouring properties of Vasse Felix (LOT 853) and Gralyn Estate (LOT 852) Both have high rural and viticulture zone significance.

(Part b.) To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as viticulture and horticulture as primary uses, with other rural activities as secondary uses in circumstances where they demonstrate compatibility with the primary use.

(Part c.) To maintain and enhance the environmental qualities of the landscape, vegetation, soils and waterways, to protect sensitive areas especially the natural valley and watercourse systems from damage

(Part d.) To provide for the operation and development of existing, future, and potential rural land uses by limiting the introduction of sensitive land uses.

South of Lot 100: [Lot 23 – Cullen Wines]

Cullen Wines was established in 1971. Lot 23 is currently used for grapevines and viticulture. All the above-mentioned adjoining properties are 'prime agricultural land' and are currently used for primary production. The rural aspect and pristine nature of the environment needs to be retained. The developer is not respecting the importance or value of prime agricultural land, in its current role or future use.

All the above-mentioned neighbouring properties to Lot 100 have a very high international reputation for their wine (and beef). In fact, they are the regions first pioneering families that established the Margaret River wine brand and in turn established our internationally recognised 'wine tourism' industry. Vasse Felix and Cullen Wines – first grapevines planted in the Margaret River wine region. Gralyn Estate – established the regions first cellar door, these three adjoining landholders are first-class examples of 'prime agricultural land' users. These three adjoining landholders require a pristine rural atmosphere to continue the ultra-premium Margaret River wine brand. The 'Viticulture and Tourism', plus the 'Rural' Zoning policies have been put in place by state and local government to safeguard viticultural and rural enterprises such as Gralyn, Vasse Felix and Cullen Wines from unsuitable neighbouring developments. Setbacks and minimum site requirements need to be adhered to.

Ten (10) Short stay accommodation chalets/units and an administration building adjoining 'Prime Agricultural Land' in rural Wilyabrup should not be considered to be...

Quote Wilyabrup Investments: *"a vital part of tourism and recreation within Western Australia."*

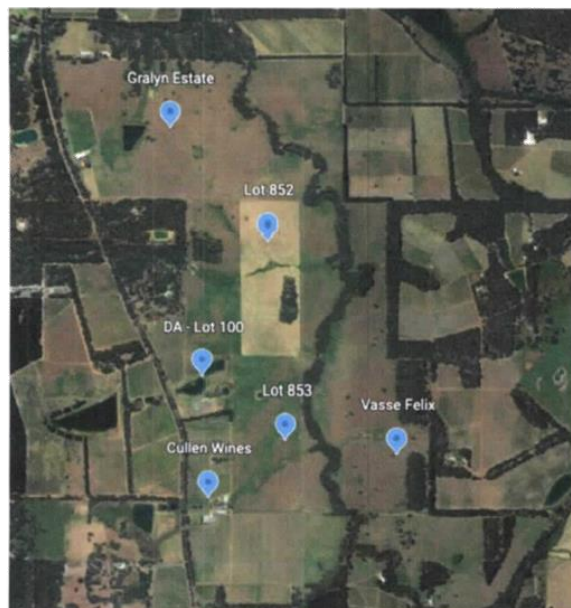


Image: Prime Agricultural Land Wilyabrup

5.0 PHYSICAL CHARACTERISTICS

Response: The physical characteristics of Lot 100 is irregular and comprises of 14.19Ha. With a high point of nearly 100m above sea level down to a low point of approx. 80m (a fall of 20m). Wilyabrup Investments have inaccurately stated on their Development Application a fall of 5m. Wilyabrup Investments need to consider with any development on this small parcel of land the sensitive creek line (Biljidup Brook) that weaves its way through the proposed development and the overall fall of the land. Natural water flow of the existing creek line should be retained and not altered. Nor should its health be put at risk by a high-density development sewerage/effluent.

The proposed hydraulic load as outlined in the Hydraulic Infrastructure Report submitted by the applicant will require the ATU system and irrigation field to service the wastewater/effluent without compromising adjoining landholders' property or the sensitive nature of the adjacent Biljidup Brook and Wilyabrup Brook. An extremely challenging prospect on a small wet sloping property.

*[See images attached in 6.1 On-site Effluent Disposal – water flow off Lot 100 onto neighbouring properties Lot 852 and Lot 853]



**Fall and Contour of Lot 100 Caves Road
100m - 80m (total fall of approx. 20m *not 5m)**

Elevated Position of Lot 100

Response/Comments: The elevated position on the western boundary of Lot 100 adjoining Caves Road, gives a clear line of sight to the proposed development. Travelling North – South on Caves Road, this proposed development will be highly visible from the Caves Road. Even with the existing native roadside vegetation semi screening some portions of Lot 100... the proposed development site on the dam is within full view of Caves Road, unscreened.

We note the Developers intention to plant *Eucalyptus gomphocephala* (Tuart) along the Caves Road frontage to assist in screening the development. This is fanciful, Tuart will be unsuccessful in this location due to it preferring sandy well drained coastal soils.

The City of Busselton Local Planning Policy No. 2.4 Rural Tourist Accommodation (Section 4.5 - Setbacks) States the objective is to; *achieve screening or filtered views only of development from neighbouring properties and roads.*

In addition to Wilyabrup Investments comments re: setbacks from neighbouring landholders and Caves Road, the development is unscreened and in full view from adjoining landholders Gralyn Estate (Lot 852) and Vasse Felix (Lot 853) and minimally screened from Caves Road.

Lot 100 has a small vineyard planted, has the developer taken into consideration how they will continue to manage their own grapevines with such proximity to their proposed short stay accommodation? Grapevines require regular upkeep and maintenance from machinery that operate in some cases 24hrs of the day. Vineyards require seasonal spraying every 10-14 days and in favourable weather conditions. Not after 'checkout' or after 10am when guests have 'moved on'. In addition to this, harvest time presents many variables too... harvest traditionally on this vineyard has been performed by a machine harvester and in the early hours of the morning (to capture fruit freshness). 1.00am-6.00am. These viticultural practices

are essential and will clash with the expectations of short stay accommodation guests. All adjoining landholders also operate farm machinery for various tasks and when imperative. (24hrs)

Carparking

Response/Comments: Lot 100 currently has fifty (50) designated car parking bays. Observation on any weekend shows that the current car parking allocation is insufficient. With visitors' cars parked randomly in undesignated locations due to the lack of parking facilities. The site is already at capacity and cannot cope with any further development footprint.

5.1 Essential Services

Response/Comments: Regarding effluent disposal the development application states it; will be serviced by an on-site effluent disposal system. This is covered in more detail under 6.1 Development proposal. With a fall of 20m on Lot 100 and the proposed development so close to the Biljidup Brook and Wilyabrup Brook, careful consideration needs to be taken for the environment and existing land users surrounding Lot 100. The site is already at capacity and cannot cope with any further development. This is a site comprising of less than 15ha, with expansive infrastructure footprint already in place.

5.2 Existing Land Uses

Quote: Wilyabrup Investments - *It is observed that a number of properties within the immediate locality and abutting the subject land have been extensively clear of native vegetation to accommodate rural activities. The topography within this part of Wilyabrup is undulating, with some significant falls in natural ground level. It is established that the region comprises a unique rural character...*

Response/Comments: The topography within this part of Wilyabrup is undulating. It is a high-water catchment area with several above and below ground streams filtering into the district's main catchment area, the Wilyabrup Brook. The Biljidup Brook is less than 30m from the proposed development and the Wilyabrup Brook is approx. 350m away from Lot 100. The land adjoining the subject land is used to accommodate rural activities and it is located within an established region of unique rural character... This unique rural character needs to be conserved with a long-term view aligning with state and local government planning policies (Rural, Viticulture, Prime Agricultural Land and Primary Production objectives).

Quote: Wilyabrup Investments: The development application broadly acknowledges the land use of its immediate neighbouring properties;

Existing uses in the immediate locality are broadly described as follows:

North: Rural living and agricultural activities (i.e. crop/live stock);

West: Caves Road road reserve, with agricultural activities beyond (i.e. viticulture);

South: Agricultural activities (i.e. viticulture) and Cullen Winery; and

East: Agricultural activities (i.e. crop/livestock) (see Plan 2 – Aerial Site Plan).

However, there is a bigger picture than is being presented in the Development Application.

The catchment and land use zone are much larger than the immediate neighbouring properties. We have a responsibility to care for our waterways, their greater catchment area, and the zone as one. What happens upstream affects multiple landholders downstream and not to forget the native flora and fauna in this sensitive environment. There are up to 20 title owners downstream from Lot 100, including Secret Garden and Mosswood Wines who are signatories to this objection, that could be affected by potential sewerage contamination of the Wilyabrup Brook, via Lot 100. The Wilyabrup Valley is recognised internationally for its ability to produce some of the world's finest wines, this factor comes from the pristine environment, its rural surroundings and the people passionately farming their land. The neighbouring properties in the Wilyabrup Valley have fostered the Margaret River Wine brand from its infancy and should be able to continue to farm their land without compromising what they have already established over the last 50 years.

It should be noted that the following activities are undertaken to the North, South and East of Lot 100, some on a regular basis, others more intermittently, and all within close proximity:

- Early morning and late evening machine operations involving spraying, mowing and other viticultural activities.
- Other farm machinery operations.
- Preparation of compost.
- Rounding up of cattle.
- Cropping
- Discharging of licenced firearms.

High density, short stay accommodation is not suited to Lot 100, directly adjacent to its neighbouring rural/agricultural/viticultural surroundings. High density, short stay accommodation is best suited to the towns and urban areas. Lot 100 is under 15Ha in size and is simply not suitable for the proposed use, less its setback obligations as stated in state and local government planning policies.

The development application also touched on the fact there are existing accommodation examples (i.e. chalets) in the neighbourhood. This is correct; however, these developments meet basic zoning requirements... they are on titles greater than 15Ha are not visible from the road and are well setback from neighbouring properties of significant prime agricultural land or primary production.

6.0 DEVELOPMENT PROPOSAL

Many of the points expressed in Section 6 moving forward have been touched on previously and objected to however we feel it is important to address all aspects of the proposal in its entirety...

Quote: Wilyabrup Investments – *“This revised application proposes the construction of five (5) new chalets on Lot 100 (No.4259) Caves Road, Wilyabrup to support the existing brewery development on the land, foster tourism within the locality and provide much needed short stay accommodation within the south-west region.”*

- i) Construction of five (5) single storey chalets, comprising three (3) bedrooms, three (3) bathrooms, large living areas and deck areas;
- ii) Construction of a new administration building to service the chalets (i.e. to facilitate check in/check out, office and staff room);
- iii) Construction of ten (10) new on-site car parking bays to service the chalets;
- iv) Construction of a new access road to service the chalets; and
- v) Construction/upgrade of an on-site effluent processing facility to service the proposed chalets.

Objection/comment: There are actually ten (10) individually keyed units of a rural holiday resort nature – a large footprint on a title of 14ha, less specified setbacks of 100m from adjoining landholders.

Objection/comment: Much needed short stay accommodation according to the developer? High density short stay accommodation is abundant in the region and best suited to towns and urban areas – not directly adjacent to high value, significant Rural, Agricultural or Viticultural Zone properties.

Objection/comment: The units, paths and landscaping are located on top the Biljidup Brook. This modification of the land will significantly alter the natural landscape, in a highly sensitive area. It is subject to a state of extreme water saturation (wet and boggy). To build units/chalets on this location will require extensive modification of the waterway and its soil profile. There already appears to be (via satellite imagery) modification/re-routing of the existing Biljidup Brook to accommodate one of the existing dams... Additionally, this development is within a ‘special control area’ that requires careful consideration. Approval of a development application of this nature will cause precedent.

Objection/comment: This is a large footprint on a small land title of 14Ha. The chalets/units will require their own fresh water source; this is outlined on the proposal hydraulic report as being sourced from the open dams onsite. Has the developer considered, spray drift contamination from their own vineyard, landing on the roof space and dams? Then recycled as drinking water? An important consideration to make when supplying clean drinking water to guests. The Hydraulic report is not complete as the developer has not resolved a detailed water balancing assessment for the site. Can the site support the Brewery and accommodation if the dam(s) dry out or are contaminated? The high-density development on the remaining 'vacant' land, less setback obligations from neighbours and the Biljidup Brook is flawed.

Objection/Comment: A high density accommodation development of this nature should require 24hr onsite presence. This Development Application does not allow for a manager's residence? Who will be operating the Chalets and where are the onsite managers going to reside? Before any consideration of high-density chalet/units is made by authorities, the developer must be able to satisfy basic local government policies in relation to operating a resort such as the one proposed. A basic operation and management plan does not exist.

City of Busselton Standards for Rural Accommodation state;

All rural tourism accommodation development must include a 24 hour on-site management presence and regime. It is preferable that the owner of the development site be integral to management of the tourist development.

Comment: Carparking is not sufficient for the overall facility... this has been covered in section 5.0 – Carparking. Any expansion of this site will need to consider the mixed use of the site and overall pressure on car parking, safe entry, and exit.

Comment: The issue of onsite effluent disposal is covered in more detail in 6.01 Onsite Effluent Disposal.



Comments re: Figure 5 - We note the above proposed development Version 4 has been modified from the previous Version 3 to include a basic buffer of vegetation around the proposed units. With the legend stating the large trees will be 5m and the small pockets allocated between the large trees will be small shrubs (circled in red).

The issue with the above buffer vegetation is:
Sourcing 5m high indigenous species for planting?

Planting 5m high trees on a wet boggy creek line will result in the trees falling over with the first winter storm on the chalet/units. The soil profile surrounding the proposed vegetation buffer zone is extremely wet and boggy. Will the developer continue to replant 5m indigenous species each time they are blown over? The site is wet and very exposed – large trees on this portion of the title are not practical. The trees and small shrubs will not screen the development from the many elevated locations on LOT 852, Lot 853 (neighbouring/adjoining landowners) or from Caves Road. A very difficult task to establish tall indigenous species on Lot 100 to aid in screening from neighbouring landowners.

As noted before with the Caves Road screening the Developers intend to plant *Eucalyptus gomphocephala* (Tuart) along the Caves Road frontage to assist in screening the development. This is fanciful, Tuart will be unsuccessful in this location due to it preferring sandy well drained coastal soils.

Proposing to plant trees on this new development to hide its visibility from neighbours and Caves Road, clearly demonstrates the site is exposed and is not complimentary to the existing rural aesthetic. See Images below of one of the original indigenous trees that have not survived due to the modifications of the soil profile surrounding it, dam construction and the wet nature of the site.



***Tall indigenous species have not survived
in recent time on the site due to excessive site water**



Where will 500+ brewery patrons park when the 'overflow carpark' is developed?

Objection/comment: Quote Wilyabrup Investments above: "preserving the rural character of the land when viewed along Caves Road." This is stretching a long bow... Introduction of a 'Rural Holiday Resort' is not preserving the rural character of the land. Its appearance will be cluttered and have the appearance of an urban commercial development when viewed from Caves Road. This is not preserving the rural character of the land.



Figure 6 – Aerial Plan (Location of proposed development)

6.01 On-site Effluent Disposal

Comment/Consideration: Effluent management and disposal on this site require careful consideration as the development sits directly on top of the Biljidup Brook and proposed to be placed on top of an existing dam structure. This is unacceptable. Excess water from the site leaches directly onto adjoining landholders' property and into the Wilyabrup Brook. The Chalet/Unit Development is risking the health of our public waterways and potential guests consuming recycled water from the intensive development site and its highly risky effluent disposal.

The Local Planning Scheme specifies;

In the Rural Landscape zone effluent disposal areas shall be set back a minimum of 30 metres from any watercourse or dam or as otherwise approved by the local government.

This leaves little room for the modification of the ATU system from existing water sources (creek and dam) and adjoining landowners. Natural water flow of the existing creek line and subsurface water should not be altered. Nor should the Biljidup Brook's health be put at risk by high density development and effluent disposal. It is a concern that the effluent from the new units will be transferred over the Biljidup Brook to the existing ATU system as per the Hydraulic Report. This is unacceptable and can potentially cause an environmental disaster.

Images below: Photographed August 2021 shows water flowing off Lot 100 onto adjoining landholders' property. This is a significant amount of water due to the natural contours and fall of the land. Containing site effluent on the sloping site with a fall of 20m/14ha will be extremely challenging. With all good intentions to contain wastewater on site, the geographical nature and soil profile of Lot 100 will not sufficiently retain effluent and stop it from entering neighbouring properties, in turn entering the Wilyabrup Brook and flowing out into the Indian ocean. Lot 100 Caves Road, Wilyabrup cannot safely host a high-density development such as the one proposed and its effluent wastewater responsibility.

The proposed hydraulic load as outlined in the Hydraulic Infrastructure Report submitted by the applicant will require an ATU system and irrigation field to service the wastewater/effluent without compromising adjoining landholders' property or the sensitive nature of the adjacent Biljidup Brook and Wilyabrup Brook. An extremely challenging prospect on a small wet sloping property.



Image(s): Excess water flowing from Lot 100 onto neighbouring properties 852 + 853

6.1 Amended Plans and Public Advertising (Submissions)

We acknowledge the Developer has amended their plans from the application submitted in August 2021, however the Developer is still not addressing important planning provisions. These have already been outlined in detail above and are listed below. The responses from the developer regarding their revised plans still show a lack of respect for basic planning laws and objectives.

- 1.) Obvious areas of non-compliance with Local Planning Scheme No. 21 and Local Planning Policy 2.4 Rural Tourist Accommodation.
- 2.) Local Planning Policy 2.4 (LPP 2.4) Rural Tourist Accommodation –Aims and Objectives
- 3.) LPP 2.4 - Clause 4.3 Minimum Site Area & 4.4 Density
- 4.) LPP 2.4 – Clause 4.5 Setbacks
- 5.) Impact of the development on Lot 852,6 and 3 Caves Road – Gralyn Estate
- 6.) Impact of the development on Lot 853 – Vasse Felix

- 7.) Impact of the development on Lot 23 – Cullen Wines
- 8.) Local Planning Policy No.4.6 (LPP 4.6) - Caves Road Visual Management
- 9.) Waste Water and Hydraulic Services
- 10.) Vegetation buffer/screening
- 11.) Basic Management Plan
- 12.) Number of chalets/units is misleading
- 13.) Setback from boundary - Prime Agricultural Land
- 14.) Proximity to future vineyard and impact of vineyard operations
- 15.) Landscaping – sympathetic to its surrounds, extent and maintenance of
- 16.) Impact on water quality of the neighbouring farmland and subsequent public waterways
- 17.) Density - gross over development on a small 14ha rural site.
- 18.) Flawed Hydraulic Report – Incorrect statement of water use and effluent, numbers don't add up.

The list is long and clearly demonstrates disregard for state and local planning laws and neighbouring landholders. These items are still not compliant in the revised application or satisfy City objectives in the revised plans.

Table 2 – Land Use & Permissibility

LAND USE	DEFINITION	USE PERMISSIBILITY
Chalet	<p>means a dwelling forming part of a tourist facility that is</p> <p>(a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas, and</p> <p>(b) designed to accommodate short-term guests with no guest accommodated for periods totalling more than 3 months in any 12 month period.</p>	Discretionary ("D") use, meaning that the use is not permitted unless the local government has exercised its discretion by granting planning approval.

The above table is from the developer's application, they clearly understand that both the Chalets and an Administration building are not permissible under the current zoning – Viticulture and Tourism and are requesting the City of Busselton Planning Department exempt their proposal from such zoning laws.

Objection: 'Discretionary use' and permission should only be granted after due consideration is given to the impact of that use upon neighbouring land. In relation to the Development Application on Lot 100, there are many factors that have been outlined in this objection that would impact the use of neighbouring land.

We request that the 'discretionary use' exemption be rejected for the Development Application on Lot 100 Caves Road as it does not satisfy.

Ten (10) Chalets/units require a minimum 30Ha site. This is more than the site can accommodate, considering it is 14ha and already has a Large Brewery, Restaurant, 6 Bedroom Holiday House and other supporting infrastructure already on site. Lot 100 is simply not suitable for the proposed development.

Quote: Wilyabrup Investments – *"It is contended the proposed development and use of the land as depicted in this application falls comfortably within the aforementioned land use definitions and permissibility prescribed in the City of Busselton's LPS No.21."*

Objection: This application does not fall comfortably within the land use definitions prescribed in the City of Busselton's LPS No.21. Far from it, not even close... It doesn't meet any of the objectives below (a)-(f)

Council's stated objectives for land classified 'Viticulture and Tourism' zone under LPS No.21 are to:

- (a) To provide for the maintenance or enhancement of specific local rural character.
- (b) To provide for development and expansion of the viticultural, winemaking, and associated industries, in addition to general rural pursuits, in a manner that does not cause adverse environmental impact.
- (c) To facilitate the development of tourist facilities of a scale and nature appropriate in rural settings without prejudice to the scenic quality of land within this zone and without creating or increasing ribbon development on any road.
- (d) To provide for the operation and development of existing, future, and potential rural land uses by limiting the introduction of sensitive land uses.
- (e) To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.
- (f) To maintain and enhance the environmental qualities of the landscape, vegetation, soils, and waterways

Quote: Wilyabrup Investments – *“It is contended that the proposed chalets is consistent with Council’s prescribed objectives for land classified ‘Viticulture and Tourism’ as contained in LPS No.21 and that the proposed development will not have an adverse impact on the character of the area for the following reasons”*

Objection: Once again, this application claims to satisfy all the below land use objectives, this is simply not true. As explained previously in the objection it does not meet the objectives on many levels... particularly (a), (c), (e) below;

- a. It will preserve the existing local rural character and enhance the locality;
- b. It will retain the existing rural activity on the land;
- c. It will foster the growth of the existing use on the land, encourage tourism development and it will not result in the loss of prime agricultural land;
- d. It will foster and assist with promoting the region for tourism purposes;
- e. It will result in a development that is mindful of the existing rural character of the area and will facilitate the development/expansion of an existing tourism facility without undermining the scenic quality of the land and the surroundings; and
- f. It will not result in the removal of any significant vegetation.

Quote: Wilyabrup Investments – *“The design of the proposed new chalet addition to the existing brewery development on the land has been formulated with due regard for the relevant ‘deemed to comply requirements’ of the City of Busselton’s current operative Local Planning Scheme No.21 and all associated local planning policies.”*

Objection: None of the basic Planning or Zoning requirements have been met to start with pertaining to this application. There appears to be blatant disregard for basic planning requirements and adjoining landholders, the application should not proceed any further than initial lodgement. This is now the second time the proponent has put forward a development application that does not satisfy local planning objectives.

7.2 CITY OF BUSSELTON LOCAL PLANNING POLICIES

7.2.1 Local Planning Policy No.4.6 ‘Caves Road Visual Management’

The intent of the City’s Local Planning Policy No.4.6 entitled ‘Caves Road Visual Management’ is to maintain, enhance and protect the natural and rural landscape, cultural and tourist values along Caves Road.

Comment: The proposed Chalet/unit development as mentioned previously in this objection in more detail is visible from Caves Road when travelling North – South due to its exposed location and elevation. There is concern a high-density development of this nature does not meet the objectives stated below;

1. To maintain and enhance the visual quality of the natural and rural landscape as viewed from Caves Road.
2. To retain the rural landscape as the dominant visual experience of the Caves Road Viewshed.
3. To maintain the significant views experienced from Caves Road.

Quote: Wilyabrup Investments - *"This application seeks approval to construct five (5) new chalets on the subject land to assist with fostering tourism activities within the region. This includes the provision of much needed short stay accommodation to compliment the tourism activities within the region."*

Objection: Much needed short stay accommodation according to the developer? [High density short stay accommodation is abundant in the region and best suited to towns and urban areas – not adjoining 'prime agricultural land' in high value significant Rural, Agricultural and Viticultural zones.](#)

Quote: Wilyabrup Investments – *"In light of the above, the proposed development does not change or alter the existing frontage of the land along Caves Road. This includes the following measures to address the criteria within the City's Policy:"*

- i) No additional buildings/structures within 150 metres from the land's front boundary with Caves Road;
- ii) The chalets will include a pitched roof and are well setback from Caves Road;
- iii) The chalets will be constructed within a cluster of small buildings around the existing dam to limit any potential bulk to the structures;
- iv) All buildings and structures will comprise a height lower than the crown/canopy height of existing trees;

Comment: The plans are very broad, and could be modified, prior to construction. Ten (10) chalets/units are not a small cluster of buildings; it is a large, cluttered footprint on an ecologically and visually sensitive site. The development does not meet the objectives set out by the City of Busselton.

LPP 2.4 – Objectives - Density

- a) To maintain rural amenity in terms of visual and human impacts.
- b) To reduce the potential risks of over-exploitation of water supplies and pollution of the natural environment.

Quote: Wilyabrup Investments - *"All buildings and structures will comprise a height lower than the crown/canopy height of existing trees"*

Comment: Which tree is the measure stick and what is this predetermined height... all seems very 'fanciful' and lacks materiality. The height of surrounding 'trees' and 'parkland' where the chalets and units are proposed to be built is 1.5m high grapevines and cleared pasture? This chalet/unit development will compromise the existing rural amenity.

Quote: Wilyabrup Investments – *"It is contended that the design layout of the proposed additions to the existing brewery development on the land has due regard for the provisions of the City's Local Planning Policy No.4.6, is consistent with the stated objectives of the Policy, adequately addresses the development criteria prescribed within the Policy and will not adversely impact the existing visual quality along this part of Caves Road."*

Objection: Untrue, there is no regard for the City's policy. This Development application does not meet planning Scheme No.21 or Planning Policy 2.4 – Site area requirements, density, setbacks. [The Development Application once again is simply not compliant with state and local government policy.](#)

7.2.3 Local Planning Policy

No.2.4 'Rural Tourist Accommodation'

The intent of the City's Local Planning Policy No.2.4 entitled 'Rural Tourist Accommodation' is to encourage that commercial tourist development should generally occur within the urban areas and that opportunities should be provided for small scale and low impact tourist accommodation could be located within rural areas.

The stated objectives of the Policy are as follows:

- a) Provide for tourist accommodation in the rural areas of the City in a manner that does not conflict with existing or potential agricultural, horticultural or viticultural pursuits.
- b) Provide a balance between agriculture / viticulture / horticulture and tourism such that tourism does not dominate, and does not detrimentally impact, the sustainable use or availability of prime agricultural land.
- c) Acknowledge tourism as an appropriate source of employment and income to the benefit and prosperity of the community of Busselton City.
- d) Optimise both the agricultural and tourism potential of the rural areas of the City without detrimental impact on the inherent natural beauty and value of those areas, having regard to the above.

Quote: Wilyabrup Investments - *"It is contended that the proposed chalets development on the subject land is consistent with prescribed objectives for the City's Policy for the following reasons:"*

- It is small in scale and will support the existing tourist development on the land;
- It will not have an adverse impact or conflict with any existing or potential agricultural activities on the adjoining or surrounding properties;
- It will not result in the loss of prime agricultural land or result in the accommodation being dominant on the land or within its surroundings;
- It will foster and assist with promoting tourism within the area and will provide for employment within the locality; and
- It will not have an impact on the rural character and natural beauty within the area and along Caves Road, whilst encouraging and optimizing tourism activities within the area.

Objection: Once again, this application claims to satisfy all land use and policy objectives, this is simply not true. As explained with reasons previously set out in this objection this Development Application simply does not meet policy or objectives set out by state and local government authorities and should not proceed any further than lodgement.

- 1 It is not small in scale and there is no explanation in the DA as to how it will support the existing business use of the land.
- 2 For reasons already outlined there are any number of ways that the development would have an impact on the adjoining and surrounding properties.
- 3 Ten (10) accommodation units and an administration building will most definitely dominate the area. It will have the appearance of a small village.
- 4 The fostering and promotion of tourism in the area and the increase in employment are admirable objectives, however this could be accomplished in another place.
- 5 This development will most certainly have an adverse impact on the rural character and natural beauty within the area and along Caves Road and tourism opportunities can be optimised without the construction of this development.

Table 4 – Assessment Against Policy Provisions

POLICY PROVISION	DEVELOPMENT STANDARD	RESPONSE
<p>Clause 4.2 – General Location Requirements</p>	<p>Chalet development may be carried out on land within the "Agriculture", "Viticulture and Tourism", "Rural Landscape" and "Conservation" zones as designated in the Local Planning Scheme.</p>	<p>The subject land is currently classified 'Viticulture and Tourism' zone under the City of Busselton's current operative Local Planning Scheme No.21 and may therefore be considered.</p>
<p>Clause 4.3 - Minimum site area requirements</p>	<p>Chalet development will not be permitted on allotments of land comprising less than 15 hectares</p>	<p>The subject land comprises an area of approximately 14.2 hectares, which is slightly lower than the minimum required area prescribed within the Policy to accommodate chalets within the region. Notwithstanding this, the minor variation to the land area requirements satisfies the stated objectives for the minimum site area requirements of the Policy and could be support for the reasons:</p> <ul style="list-style-type: none"> • The variation to the minimum lot area requirements (i.e. 0.8 hectares or 5%) is considered to be minor. Furthermore, the proposed chalets will foster tourism activity within the area and will enhance the overall experience for visitors to the region. • The chalets have been designed and situated to provide an outlook over an existing dam to the west, viticulture activities to the north-west and open paddocks to the east. Given this, the chalets will enjoy a rural ambience and setting that is expected for tourist accommodation within the area; • Sufficient setbacks and space have been provided for each chalet to accommodate landscaping and allow for adequate separation between the chalets and the neighbouring properties, along with adequate setback to Caves Road; • The proposed number of chalets to be established on the land is not excessive (i.e. five chalets) and will not undermine the rural character of the area; • Sufficient separation will be provided between the chalets and the other activities on the land to avoid clutter, excessive building bulk and over development of the land. In addition, the proposed chalets have been designed to be in keeping with the surrounding, whilst providing an articulated design that enhances the area and not reflect a commercial type development or appearance; and • In light of the above points, the new chalets will not result in any conflict with the existing rural character and/or activities of the area and will maintain an open aspect/outlook. <p>In light of the above points, it is contended that the proposal meets the objectives prescribed within the Policy.</p>

Clause 4.4 - Density

Chalets shall not be developed at a density greater than 1 chalet per 3 hectares of site area and shall comprise a minimum of 2 accommodation units.

- The development will include a density of one (1) chalet per 2.84 hectares. The variation to the allowable density is considered to be minor.
- The development will include five (5) chalets. The allowable density is 4.73, therefore the application is slightly over. As such, the density is not excessive and will not undermine the rural/tourism character of the area.
- The number of chalets on the subject land are small and will not have an impact or restrict the rural activities on the adjoining properties.
- Please refer to comments outlined below (Setbacks) to support the chalets

In light of the above points, it is contended that the proposal meets the objectives prescribed within the Policy.

Clause 4.5 - Setbacks

Guesthouses, Chalets, Rural Holiday Resorts and Caravan Parks and Camping Grounds must be setback:

- 100 metres from any highway, important regional road, or nominated tourist road.
- 50 metres from any other property boundary except if that other property contains Prime Agricultural Land.
- 100 metres from any other property boundary if that other property contains Prime Agricultural Land.

Reductions to the above setbacks to a minimum of 30 metres may be considered in circumstances where a densely vegetated minimum buffer of 30 metres exists between the proposed development and the boundary or road. In the case of development adjoining another property which contains Prime Agricultural Land, consideration will be given to the reduction of the setback from 100 metres to 50 metres if such buffer exists or can be achieved.

1. The proposed chalets are setback approximately 190 metres (minimum setback) from the land's front boundary with Caves Road (which is a nominated tourist road). Given this the proposal complies with this aspect of the Policy.
2. It should be noted that the reception/office building complies with the minimum setback from the side, front and rear boundary prescribed with Clause 4.36.1 of the City's LPS No 21.
3. The proposed chalets (admin building) will comprise a setback of 75.336 metres to the northern boundary, a 105.3 metre (minimum) setback from the eastern rear boundary and a setback of approximately 150 metres from the land's southern side boundary. It is recognized that the eastern adjoining property could be identified as Prime Agricultural Land and would require the chalets to comprise a setback of 100 metres. The proposed variation to the setback requirements prescribed within the Policy could be supported for the following reasons:
 - The rural activities on the adjoining properties are low intensity (open paddocks), with minimal machinery usage and little to no spray drift. Given the low intensity of the rural activities on the adjoining properties, it is contended that the rural use will not have an adverse impact on the chalets in terms of outlook and/or amenity and vice versa.
 - In addition to the above point, the number of chalets on the subject land are small and will not have an impact or restrict the rural activities on the adjoining properties.
 - The orientation of the chalets are towards the dam within the subject land and not the adjoining rural properties.
 - The proposed chalets on the subject land are well setback from Caves Road and will not

		<p>impact the scenic quality and tourism appeal of local road systems.</p> <p>In light of the above points, it is contended that the proposal meets the objectives set for the setback provisions prescribed within the Policy.</p>
<p>Clause 4.6 - Relationship to prime agricultural land and existing agricultural Activities</p>	<p><i>Rural Tourist Accommodation and Rural Holiday Resorts will not be permitted within a minimum of 100 metres of existing viticulture plantations or wineries on adjoining land.</i></p>	<ul style="list-style-type: none"> • The proposed chalets are not located within 100 metres of any viticulture plantations on the adjoining properties. • A review of aerial photography of the adjoining lots has identified that the closest viticulture plantation is on adjoining Lot 23 (No 4323) Caves Road. (see Figure 2 – Aerial Site Plan). • A further investigation has concluded that the proposed chalets are setback approximately 200 metres (minimum setback) to the edge of the plantation on adjoining Lot 23. • in light of the above, the proposed chalets comply with this aspect of the Policy.
<p>Clause 4.7 - Management</p>	<p><i>All rural tourism accommodation development must include a 24 hour on-site management presence and regime. It is preferable that the owner of the development site be integral to management of the tourist development</i></p>	<p>The proposed development will include an administration building to service the chalets (i.e. to facilitate check in/check out, office and staff room). As such, the chalets will have access to 24 hours site management by the business operator. An internal management plan will be provided for the premises to provide a guide to occupants and staff associated within the chalets.</p>
<p>Clause 4.8 - Services</p>	<p>i) <i>Vehicular access being via a bitumen sealed road. This requirement may be waived for very small scale guesthouse or chalet developments with less than four accommodation units provided the City is confident that the development will not generate pressure for the City to seal local roads in the future.</i></p> <p>ii) <i>Provision of on-site effluent disposal without potential impact to public health, water supplies, neighbouring properties or the environment.</i></p> <p>iii) <i>Effluent disposal areas must not be located within 30 metres of any creek, river, dam or spring.</i></p> <p>iv) <i>A potable water supply of minimum 80,000 litres per annum per chalet must be available to the development.</i></p>	<ul style="list-style-type: none"> • The chalets will be serviced by a 4.5 metre wide bitumen road. • Adequate on-site effluent disposal system will be provided for the development. Adequate setbacks areas provided for the on-site effluent disposal system. A hydraulic report has been prepared in support of the application for the City' review. • The dams and existing structures on the subject land are used to fill the existing five (5) 250kl water tanks, which some of this water is used to service the brewery in their beer making process and potable water, thus the filtration is of a high standard. A hydraulics report has been provided in support of the application.

ASSESSMENT AGAINST PROVISIONS

Review of the above table and developer's comments:

Objection: Fanciful justifications abundant again here... [The responses from Wilyabrup Investments from the table above are fiction...](#) The new 'Rural Chalet Development' will conflict with the existing rural character and activities of the area. The responses hold no weight and have no respect for the existing and future land use of their adjoining landholders. Setbacks of 100m are required and the development once again needs to be revised in its entirety.

Quote: Wilyabrup Investments - "The rural activities on the adjoining properties are low intensity (open paddocks), with minimal machinery usage and little to no spray drift. Given the low intensity of the rural

activities on the adjoining properties, it is contended that the rural use will not have an adverse impact on the chalets in terms of outlook and/or amenity."

Objection: Where has the developer got this information? To assert that the low impact rural activities now will not have an adverse impact on the Chalets? This is complete fiction. Additionally, [future use has not been considered for adjoining 'prime agricultural land'](#).

Quote: Wilyabrup Investments - *"In addition to the above point, the number of chalets on the subject land are small and will not have an impact or restrict the rural activities on the adjoining properties."*

Objection: The number of Chalets proposed is misleading (is it 5 or 10?) and bare a significant footprint on the landscape. There is a very high probability the proposed Chalets and development to restrict the existing rural and primary production activities on the adjoining properties. Once a precedent is set, and zoning laws are overturned it is very hard to reverse. Prime agricultural land needs protecting from unsuitable adjoining development.

ASSESSMENT AGAINST PROVISIONS

Review of the above table and developer's comments:

Clause 4.6 - Relationship to prime agricultural land and existing agricultural Activities

Comment: The above table outlines the 100m setback from prime agricultural land. The developer is not considering with their response 'future use' of the adjoining properties Lot 852, 853 and 23 and the entitled land use of the owners (primary production).

Comment: Setback requirements are 100m based on the policy and are in place to protect 'prime agricultural land' from conflict. This is fanciful justification by the developer and should be disregarded. Future use of prime agricultural land needs to be respected and valued.

How do we feed the growing population on planet earth? With prime agricultural land.

[This type of land \(prime agricultural land\) needs protecting for the benefit of everyone - all living life... Once it is gone... It is gone forever.](#)

Clause 4.8 - Services

Quote: Wilyabrup Investments - *"Adequate on-site effluent disposal system will be provided for the development. Adequate setbacks areas provided for the on-site effluent disposal system. A hydraulic report has been prepared in support of the application for the City's review."*

Development Provision Requirements

1. Provision of on-site effluent disposal without potential impact to public health, water supplies, neighbouring properties or the environment.
2. Effluent disposal areas must not be located within 30 metres of any creek, river, dam or spring.

Comment: The current effluent disposal area is proposed to be 'upgraded' to accommodate the chalets/units. This will require piping the effluent across the Biljidup Brook? Very risky considering the sites topography and ecological status. We ask that the existing creek line not be altered to accommodate this development and its effluent responsibilities. [Can a sloping 14ha site support 10 units and a 450 person capacity brewery and comply will all environmental requirements?](#) No. Effluent services and environmental responsibility have not been considered adequately by the developer. Where exactly is this new effluent disposal system going to go? Noted is its proximity to Cullen Wines and Vasse Felix boundary. Will the wastewater be contained onsite, or will it leach onto neighbouring farmland?

7.2.4 Local Planning Policy No.4.4 – 'Percentage for Art'

Comment: This development application needs to be reviewed based on its sustainability merit not on its ability to purchase an 'art installation'. This clause is not relevant to the proposal or its local planning obligations.

7.3 Bushfire Prone Areas

The subject land has been identified by the Department of Fire & Emergency Services (DFES) as being located within a designated 'bushfire prone area'. Will the proposed landscaping concept with its 5m high trees so close to chalets and to screen out adjoining landholders conform with bushfire requirements? Lack of 24hour onsite management and a bushfire would result in a disaster.

8.0 CONSULTANT REPORTS

8.1 ON-SITE EFFLUENT DISPOSAL AND WATER BALANCE ANALYSIS

The hydraulic report provided by Wilyabrup Investments, misleadingly states 'peak daily water demand' for Brewery Water production. The hydraulic report statement of 16,376L total is an incorrect figure for daily effluent discharge. Only allowing 386L of wastewater from the brewery when one average size brewing tank is 3000L alone? Total daily water demand and effluent discharge figures don't add up... this Hydraulic report is flawed. There is no consideration for current or future brewery use and its effluent responsibility. The excess effluent will leach onto neighbouring farmland and into the Biljidup and Wilyabrup waterways. This is unacceptable. To quote the Brewers Association of America – Sustainability and Wastewater Reduction Manual *"Most breweries discharge 70% of their incoming water as effluent."*

9.0 SUMMARY OF JUSTIFICATIONS – by Wilyabrup Investments

Comment: Having examined the developer's summary of justifications as a repeat of what has already been discussed. We will keep it brief here... Wilyabrup Investments believe this development application is capable of being approved by the City of Busselton.

The state government and the City of Busselton have the current Policies and Zone objectives in place for a reason... We all need to adhere to the law and respect the current use of the land obligations. The Wilyabrup district has been at the forefront of prime agricultural land use for over 50 years now. Wilyabrup has an international reputation for having a pristine environment and the ability to produce some the best wines in the world. This should not be compromised by a singular landholder wishing to set a detrimental precedent. Prime Agricultural Land holdings benefit everyone.

10.0 CONCLUSION

In closing our objection to the neighbouring development application on Lot 100 Caves Road, Wilyabrup, we ask the City of Busselton to refuse the development application on the basis;

It does not meet the objectives of the relevant plan or zone as set out by the state government and the City of Busselton Planning Department and has the potential to irreversibly set a precedent for future development applications of this nature.

The site is simply too small for a high-density chalet/unit style accommodation and poses a risk to the natural environment and the future of primary production in Wilyabrup.

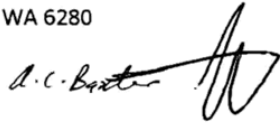
The existing development footprint on the site consisting of a 6-bedroom holiday house and 450-person brewery and restaurant does not allow enough room for any further development on the small 14ha site and does not support the current business operations.

We trust the City of Busselton Planning Department will not be swayed to reverse planning and zoning rules or grant 'discretionary use' in this case for Wilyabrup Investments. Local Planning and Zoning laws are in place to protect and assist all rate payers in the local municipality.

We would also like to take the opportunity to invite City of Busselton planning staff to visit Gralyn Estate and Cullen Wines prime agricultural land in Wilyabrup for further clarification on the topic. Our objection has been prepared jointly as affected landholders with a unified vision to protect the amenity of the existing rural atmosphere of Wilyabrup.

Scott and Annette Baxter (Proprietors)
Gralyn Estate (Lot 852, 6, 2)
4145 Caves Road
Wilyabrup, WA 6280

Signed:



Dated: 24th December 2021

Vanya Cullen (Proprietor)
Cullen Wines (Lot 23)
4323 Caves Road
Wilyabrup, WA 6280

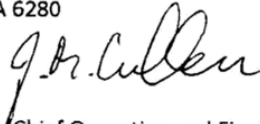
Signed:



Dated: 24th December 2021

Shelley Cullen (Proprietor)
Cullen Wines (Lot 23)
4323 Caves Road
Wilyabrup, WA 6280

Signed:



Dated: 24th December 2021

Graeme Harris (Chief Operating and Financial Officer)
Cullen Wines (Lot 23)
4323 Caves Road
Wilyabrup, WA 6280

Signed:



Dated: 24th December 2021

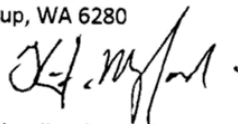
Ms Pat Poynton (Proprietor)
Secret Garden
4072 Caves Road,
Wilyabrup, WA 6280

Signed:

Dated: 24th December 2021

Keith and Clare Mugford (Proprietors)
~~Mosswood Wines~~ *Kei, Moss Wood*
4093 Caves Road,
Wilyabrup, WA 6280

Signed:



Dated: 24th December 2021

Mr Nigel Gallop (Proprietor)
Fraser Gallop Estate
493 Metricup Road,
Wilyabrup, WA 6280

Signed:




Dated: 24th December 2021

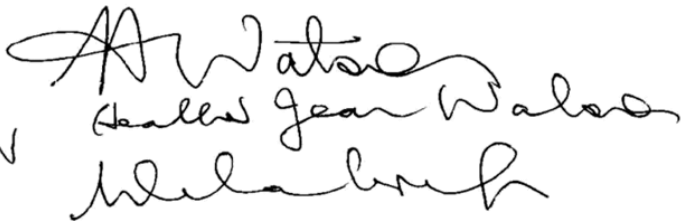
David and Heather Watson (Proprietors)
Woodlands Wines
3948 Caves Road,
Wilyabrup, WA 6280

Signed: !

Dated: 24th December 2021



DAVID NORMAN
WATSON
WILYABRUP



Heather Jean Watson
Wilyabrup

Our Ref: DA21-0548
Contact: Bronwyn Jenkins
(08) 9781 0429



3 December 2021

Dear Sir/Madam

DA21-0548-02 : CHALETS (5 X CHALETS, OFFICE AND SIGNAGE) SPECIAL CONTROL AREA : LOT 100 (HSE 4259) CAVES ROAD, WILYABRUP

The City of Busselton has received an application on the abovementioned property, for the abovementioned development application and note that you lodged a submission on the proposal when it was originally advertised in August/September 2021.

Since then, the applicant has modified the development proposal with the following key changes made to the development plans:

- Recreation –Private (mini golf) component of the application removed.
- Relocation of the chalets providing greater setbacks to lot boundaries.
- Reduction in number of chalets from 6 to 5.
- Removal of swimming pool.
- Landscaping concept plan.

A preliminary assessment of the revised application against the relevant planning framework have been identified in the table below. Note that for reference, the details of the originally advertised submission have been retained in the table below.

Local Planning Policy 2.4 Rural Tourist Accommodation		
Development Provision	Proposed	Complies?
<p>4.3 Minimum site area requirements Chalet development will not be permitted on allotments of land comprising less than 15 hectares.</p>	<p>Original submission The subject site is 14.19Ha in area. Minimum of 15 hectares required.</p> <p>Revised submission No change.</p>	No
<p>4.4 Density Chalets shall not be developed at a density greater than 1 chalet per 3 hectares of site area and shall comprise a minimum of 2 accommodation units.</p>	<p>Original submission 6 Chalets proposed. 4.73 (4) units permitted on 14.19 Ha based on 1 chalet per 3 hectares.</p> <p>Revised submission 5 Chalets proposed. 4.73 (4) units permitted on 14.19 Ha based on 1 chalet per 3 hectares.</p>	No
<p>4.5 Setbacks Guesthouses, Chalets, Rural Holiday Resorts and Caravan Parks and Camping Grounds must be setback:</p> <ul style="list-style-type: none"> • 100 metres from any highway, important regional road, or nominated tourist road. • 50 metres from any other property boundary except if that other property contains Prime Agricultural Land. • 100 metres from any other property boundary if that other property contains Prime Agricultural Land. 	<p>Original submission</p> <ul style="list-style-type: none"> • 18.288m minimum setback from chalet development to the eastern adjoining Lot 853 Caves Road, Wilyabrup. A minimum setback of 100m is required. • 18.404m minimum setback from chalet development to the northern adjoining Lot 852 Caves Road, Wilyabrup. A minimum setback of 100m is required. <p>Revised submission</p> <ul style="list-style-type: none"> • 71m minimum setback from chalet 5 to the eastern adjoining Lot 853 Caves Road, Wilyabrup. A minimum setback of 100m is required. • 75m minimum setback from the office associated with the chalet development to the northern adjoining Lot 852 Caves Road, Wilyabrup. A minimum setback of 100m is required. <p>Note: 105m minimum setback of chalet 1 to the northern adjoining Lot 852 Caves Road, Wilyabrup.</p>	No

14. ENGINEERING AND WORK SERVICES REPORT

14.1 BUSSELTON JETTY 50-YEAR MAINTENANCE PLAN REVIEW

STRATEGIC THEME	LIFESTYLE - A place that is relaxed, safe and friendly with services and facilities that support healthy lifestyles and wellbeing
STRATEGIC PRIORITY	2.12 Provide well maintained community assets through robust asset management practices.
SUBJECT INDEX	Busselton Jetty
BUSINESS UNIT	Community and Commercial Services
REPORTING OFFICER	Director, Community and Commercial Services - Naomi Searle
AUTHORISING OFFICER	Director, Engineering and Works Services - Oliver Darby
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

OFFICER RECOMMENDATION

That the Council:

- 1. Notes the review of the 50-year Busselton Jetty Maintenance Plan and the underlying assumptions as outlined in this report.**
- 2. Notes the next review of the 50-year Busselton Jetty Maintenance Plan will be undertaken in 2024 and every five years thereafter.**

EXECUTIVE SUMMARY

Following the refurbishment of the Busselton Jetty a 50-year Jetty Maintenance Plan was prepared to guide the asset maintenance and replacement requirements of the asset. In 2019/20, the City commissioned a 5-year structural review of the Jetty and has since updated the Maintenance Plan to reflect the outcomes of the review. This report summarises the review and recommends Council notes its key outcomes, and that the structural review process will be undertaken every five years, with the next review to be undertaken in 2024.

BACKGROUND

On 9 February 2022 Council considered this report and resolved (C2202/024) that the item be deferred until the 9 March 2022 Council Meeting to allow further clarifications to be provided to Council on the assumptions. Officers have since held a briefing with Council to discuss the 50-year Maintenance Plan review and underlying assumptions, and present the report for reconsideration.

In 2008, the City obtained grant funding of \$24 million from the State Government administered by the South West Development Commission (SWDC) for purposes of refurbishing the Busselton Jetty. In accordance with the grant agreement the City and Busselton Jetty Inc. (formerly Busselton Jetty Environment and Conservation Association) (BJI) entered into a licence agreement on 30 October 2009, which has since been amended (Busselton Jetty Licence). Under the Busselton Jetty Licence, BJI was granted the right to conduct certain commercial activities at/on the Busselton Jetty in consideration for payment of an annual licence fee, which includes collecting entrance fees from persons entering the Busselton Jetty from its land side and operating the Busselton Jetty train, the Underwater Observatory (UWO) towards the northern end of the Busselton Jetty and the Interpretive Centre.

These licensed activities constitute BJI's main business and main source of revenue, of which 25% is paid to the City as a contribution to the annual maintenance of the Jetty. In addition to this, rent received from Busselton foreshore leases, various commercial activities undertaken on the Busselton foreshore, and municipal revenue fund the balance of the annual annuity required to meet the Jetty's maintenance requirements as per the 50-year Jetty Maintenance Plan.

Following the refurbishment in 2012, Disley Civil Engineering (DCE) developed a document known as the 50-year Maintenance Plan which was produced as a guide to maintaining and prolonging the life of the Jetty, Interpretive Centre (IC) and Underwater Observatory (UWO).

The 50-year plan identifies scheduled and reactive maintenance, structural upgrades and replacements to the Busselton Jetty and associated infrastructure (i.e. the IC and the UWO) on an annual basis. The scope of maintenance works includes all structural works above and below the water line. The 50-year plan is based on the following assumptions:

1. Inflation rate: 3%
2. Interest rate: 6%.

In 2013 the City and BJI agreed to assume the major works spiking in respective those years would be 50% funded by external agencies, resulting in an annual annuity of \$1,389,921 (in 2021\$). These major works incorporated the following items:

Item	Value (\$2012)	Year
Replacement of Interpretive Centre Replace section 1 East Replace timber to section 1 West Blast & recoat steelwork to Section 2/3, 5 & 6 Replace timber, blast & recoat steelwork to HIN4 Replace Allies Landing Replace swim platforms 5A & 5B	\$17,698,925	2035
Refurbish piers & superstructure steelwork to section 4	\$1,007,842	2055
Replace timber to Section 1 East Replace section 1 West Replace section 2/3 Replace HIN 4 Replace Section 5 Deck and superstructure Replace Swim platforms 5A & 5B Refurbish piers & superstructure steelwork to section 6 Refurbish section 7 Demolish and replace UWO with equivalent	\$28,128,629	2060

The basis of this assumption was that grant funding would be obtained given the status of the Busselton Jetty being a State significant asset.

OFFICER COMMENT

In June 2019, and in accordance with the City's asset management plan, the City undertook a detailed assessment of the Jetty structure, to compare the actual structural integrity against the predictions in the 50-year plan. As a result of this review, a 5-year maintenance plan was produced and was used to update the 50-year plan.

The structural assessment undertaken in 2019 found the following:

- frequency and nature of the scheduled maintenance tasks generally align with the original 50 year plan;
- only minor adjustments are required, namely increasing the frequency of timber end grain treatment from 10 to 5 yearly cycles, and delaying the replacement of bolts around the splash zone by 6 to 10 years from 2019;
- the majority of capital works planned for 2020 could be delayed until 2030, the exception being installation of the handrail to the eastern side of the jetty (which is complete);
- capital works planned for 2030 can be pushed back to 2035;
- replacement of decking and refurbishment of steelwork to HIN 4 can be brought forward from 2035 to either 2025 or 2030 (to be confirmed during the next 5 yearly assessment in 2024).

Generally the jetty was found to be in good condition and better than expected considering the environment in which it sits.

All capital replacement items after 2040 are assumed to remain aligned with the original assumptions due to the difficulty in predicting so far into the future, however it is not unreasonable to expect further changes as the 5 yearly assessments are carried out.

Subsequent to this assessment, the 50-year Maintenance Plan was updated and presented at a Busselton Jetty Reference Group meeting, where the following assumptions were reviewed and endorsed by members:

1. Inflation rate: 3%
2. Interest rate: 3%
3. Spikes in 2035, 2055, and 2060 to be funded by external agencies to the value of 50% of the estimated cost
4. Annual annuity (in 2022/23) calculated on the latest detailed structural assessment is \$1,455,858.

The 2022/23 annual annuity does not include what are considered to be non- structural items such as air conditioning units and their replacement. The inclusion of these items would require an increase to the annual annuity and would be subject to further negotiations of the Busselton Jetty License Agreement with BJI.

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.

Jetties Act 1926

Pursuant to Section 7 of the *Jetties Act 1926* the Department of Transport granted the City a licence to construct, maintain and use the Busselton Jetty as a private jetty for purposes of recreation, tourism and heritage.

Busselton Jetty Licence Agreement

The City of Busselton has the control and management of Reserve 46715 (Lot 350 Queen Street, Busselton) through a Management Order and a Licence to use and maintain the Busselton Jetty through a Licence Agreement with the Department of Transport. The Licence Agreement states that amongst other things the City of Busselton must maintain the Jetty in accordance with the Jetty Maintenance Plan and must establish and maintain a Jetty Maintenance Reserve to provide for the ongoing maintenance of the Jetty into the future.

Busselton Jetty Licence and Management Agreement

BJI operates the Busselton Jetty under a Licence and Management Agreement with the City of Busselton, dated October 2009.

Heritage of Western Australia Act 1990

The Busselton Jetty was entered on the State Register of Heritage Places on 30 June 2009 (Interim Entry). The progression from interim to permanent registration was delayed for a number of years to allow for the completion of the 2009-12 refurbishment works. Following the practical completion of that work on 18 June 2012, the Heritage Council of Western Australia (HCWA), on 31 August 2012, resolved that Busselton Jetty should be progressed to permanent registration.

On 26 September 2012 the State Heritage Office on behalf of HCWA wrote to the City of Busselton seeking further written comments on the proposed permanent entry. On 21 February 2014, the Jetty was officially placed on the state heritage list.

Relevant Plans and Policies

As detailed above, the 50-year Jetty Maintenance Plan identifies scheduled and reactive maintenance, structural upgrades and replacements to the Busselton Jetty and associated infrastructure (i.e. the IC and the UWO) on an annual basis.

Financial Implications

The anticipated opening balance of the Jetty Maintenance Reserve as at 1 July 2022 is estimated to be \$5,820,080. \$1,455,858 is budgeted to be transferred into the Reserve during the year which comprises the BJI licence fee, fees associated with the Busselton Foreshore leases and commercial hire sites, along with municipal funds to fund the balance of the required annual annuity as per the 2012 50-year Busselton Jetty Maintenance Plan. In 2023/24 the annual annuity increases to \$1,511,699.

Any increase to the annual annuity will be funded from a combination of municipal funds, Busselton Foreshore leases and commercial hire sites, and BJI licence fee. In 2022/23 BJI will contribute a minimum of \$826,541. See attached draft LTFP.

Further, as noted earlier, the annuity would need to increase if what are currently considered to be non- structural items were included in the maintenance plan. The funding of any additional costs would be subject to further negotiations with BJI.

Stakeholder Consultation

The review of the 50-year Maintenance Plan was presented at a Busselton Jetty Reference Group meeting held on 23 July 2020 and a subsequent meeting was held between BJI Board Member Mr Steve Disley, the original author of the plan, and City Officers to further review the updated plan. Reference Group members at the time included Mayor Cr Henley, Cr Cronin, City Chief Executive Officer Mike Archer, BJI Chairperson, BJI Board Member and BJI Chief Executive Officer.

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 following risks have been identified:

Maintenance works exceed the value of funds held within the Busselton Jetty Maintenance Reserve.			
Risk Category	Risk Consequence	Likelihood of Consequence	Risk Level
Financial	Major	Rare	Medium
Reputation	Major	Rare	Medium

OPTIONS

As an alternative to the proposed recommendation the Council could:

1. Amend the underlying assumptions and request the CEO to further review the plan.
2. Determine an alternate structural review cycle.

CONCLUSION

The Busselton Jetty 50-Year Maintenance Plan was developed in 2011 following the rebuild of the Busselton Jetty. The plan guides the annual infrastructure maintenance requirements, however it is good asset management practice to undertake regular reviews to ensure it remains relevant.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Officers will finalise the review process and diarise the next review following the resolution of Council.

15. COMMUNITY AND COMMERCIAL SERVICES REPORT

Nil

16. FINANCE AND CORPORATE SERVICES REPORT

16.1 COUNCILLOR MEMBERSHIP OF MEELUP REGIONAL PARK COMMITTEE

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	Committees
BUSINESS UNIT	Governance Services
REPORTING OFFICER	Governance Coordinator - Emma Heys
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); funding, donations and sponsorships; reviewing committee recommendations
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Nil

OFFICER RECOMMENDATION

That the Council, pursuant to section 5.8 of the *Local Government Act 1995*:

1. **Accepts the resignation of Cr Sue Riccelli from full membership of the Meelup Regional Park Committee and appoints Cr Riccelli as a Deputy Member; and**
2. **Appoints Cr Mikayla Love as a full member of the Meelup Regional Park Committee.**

EXECUTIVE SUMMARY

This report is presented to enable Council to endorse changes to the Councillor membership of the Meelup Regional Park Committee (the Committee).

BACKGROUND

Membership of the Committee is comprised of three Councillors (including one deputy member) and between six and eight community members. At the Special Council Meeting on 18 October 2021, the following Councillors were appointed to the Committee:

- Councillor Sue Riccelli
- Councillor Kate Cox
- Councillor Mikayla Love (deputy member)

OFFICER COMMENT

The Committee assist the Council in managing and promoting Meelup Regional Park and meets as required, generally twice a year. The Committee is supported by a working group with the same membership.

The Committee is a formal committee, with elected and non-elected members. Councillor membership of the Committee consists of 2 full members and 1 deputy member.

Due to work commitments, Cr Riccelli has advised she will need to step down from full membership of the Committee and take up the role of deputy member. Cr Love has agreed to become a full member of the Committee. Council is asked to accept Cr Riccelli's resignation, appoint Cr Love as a full member and to endorse Cr Riccelli as a deputy member.

Statutory Environment

Section 5.10(2) of the Act provides that a member is entitled to be a member of at least one of the formal Committees.

The Meelup Regional Park Management Committee is created pursuant to the *Local Government Act 1995* (the Act), specifically via a resolution of the Council pursuant to sections 5.8, 5.9(2) (c) and 5.17(1) (c) of the Act.

Relevant Plans and Policies

In accordance with Council Policy: 'Fees, Allowances and Expenses for Elected Members', Elected Members are entitled to be paid a travelling allowance for attending meetings of community groups or other external organisations of which the Elected Member has been appointed as the Council's representative.

Financial Implications

There are no financial implications associated with the officer recommendation, with the costs associated with attendance at these Committees/groups have been allocated in the current budget.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could choose to accept further nominations from Councillors for appointment to membership of the Meelup Regional Park Committee.







CONCLUSION

Due to work commitments, Cr Riccelli is no longer able to fulfil the role of full member of the Committee and this report seeks Council endorsement to changes of the membership of the Committee.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The changes to the membership of the Committees will become effective immediately upon adoption by Council.

17. CHIEF EXECUTIVE OFFICERS REPORT**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 State Administrative Tribunal Reviews   Attachment B Letter from Department of Primary Industries and Regional Development - Polyphagous Shot-Hole Borer Trap Placement   Attachment C Photo - Polyphagous Shot-Hole Borer Trap  

OFFICER RECOMMENDATION

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

17.1.1 State Administrative Tribunal Reviews**17.1.2 Letter from Department of Primary Industries and Regional Development – Polyphagous Shot-Hole Borer Trap Placement****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 State Administrative Tribunal Reviews**

The current State Administrative Tribunal Reviews is at Attachment A.

17.1.2 Letter from Department of Primary Industries and Regional Development – Polyphagous Shot-Hole Borer Trap Placement

This letter notifies the City that the Department of Primary Industries and Regional Development (DPIRD) has confirmed the detection of Polyphagous Shot-Hole Borer (PSHB) in the Perth area, and notifies the City that PSHB traps will be placed in our local government area as a surveillance method to determine how far the pest may have spread.

See Attachment B and C.

As at 23 February 2022

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
CITY OF BUSSELTON							
Amber Cloud Pty Ltd v City of Busselton	Lot 101 Wilyabrup Road, Wilyabrup	November 2021	Review of a decision to refuse or conditionally grant an application under a planning scheme	Briony McGinty/Joanna Wilson	<ul style="list-style-type: none"> Directions hearing on the 12 November 2021 against the decision of the City to refuse a development application. The matter is listed for Mediation on 7 February 2022. Mediation on 7 February 2022 where it was resolved that: <ul style="list-style-type: none"> - Additional information would be submitted to the City by 22 March; - Mediation listed for 5 April 2022. 	Mediation on 5 April 2022	
Mayfly Property Group Pty Ltd v City of Busselton	Lot 21 (No.64) Espinosa Road, Sabina River	February 2022	Review of a decision to refuse or conditionally grant an application under a planning scheme	Ben Whitehill / Joanna Wilson	<ul style="list-style-type: none"> Directions hearing listed for 25 February 2022 against the decision of the City to refuse a development application (has not made a determination within 90 days). 	Directions Hearing on 25 February 2022	
Vasse Commercial Pty Ltd v City of Busselton	Lot 9052 (No.210) Northerly St	February 2022	Review of a decision to refuse or conditionally grant an application under a planning scheme	Ben Whitehill / Lee Reddell	<ul style="list-style-type: none"> Directions hearing listed for 11 March 2022 against condition 3.9 of DA20/1056 (Service Station) which limits the height of the pylon sign to no greater than 6m high. 	Directions Hearing on 11 March 2022	
JOINT DEVELOPMENT ASSESSMENT PANEL							
DCSC Pty Ltd v Presiding Member of the Joint Development Assessment Panel	Lot 108 (No. 57) Dunn Bay Road and Lot 109 (No. 6) Cyrille Way, Dunsborough	January 2022	Review of decision to refuse or conditionally grant an application under a planning scheme	Presiding Member of the Regional JDAP	<ul style="list-style-type: none"> Directions hearing on 4 February 2022 Mediations listed for 21 March 2022 	Mediation on 21 March 2022	
WESTERN AUSTRALIAN PLANNING COMMISSION							
NIL							



*We're working for
Western Australia.*

Enquiries: pshb@dprid.wa.gov.au

To whom it may concern,

Regional LGAs – PSHB Trap Placement

The Department of Primary Industries and Regional Development (DPIRD) has confirmed the detection of the Polyphagous Shot-Hole Borer (PSHB) in the Perth area.

PSHB is a wood-boring exotic beetle that severely damages host trees, with some species dying within two years of infestation.

To determine how far the pest may have spread, the department is implementing a surveillance program in the Mid West, Wheatbelt, South West and Great Southern.

As part of these surveillance efforts, DPIRD staff will soon start placing traps in your local government area. Up to five traps will be placed in each town – these will remain in place for up to six months.

Traps contain a yellow sticky trap in a cage (to prevent trapping birds, micro-bats, rodents etc) with a lure. The lures contain Querciverol, an aggregation pheromone to attract any PSHB beetles that may be in the area. Querciverol is naturally derived and therefore considered safe and environmentally friendly.

If you would like to discuss the placement of these traps with DPIRD please email pshb@dprid.wa.gov.au or contact the Pest and Disease Information Service (PaDIS) on (08) 9368 3080.

LGAs and residents are encouraged to monitor their trees and shrubs for any signs of PSHB to make sure it has not made its way into the regions. Symptoms include multiple entrance holes on the trunk or branches that are about the size of a ballpoint pen tip, often associated with bark discolouration, gumming, frass, crystalline foam (sugar volcanoes) exuding from the entry holes and tree wilting or dieback.

Please report anything unusual to the department via the MyPestGuide® Reporter app or to the Pest and Disease Information Service on (08) 9368 3080, email padis@dpird.wa.gov.au.

For more information on PSHB, visit the department's website agric.wa.gov.au/borer or <https://walqa.asn.au/policy-advice-and-advocacy/environment/biosecurity/dpird-quarantine-area-pshb>

Yours sincerely



Sonya Broughton
CHIEF PLANT BIOSECURITY OFFICER
DEPARTMENT OF PRIMARY INDUSTRIES AND REGIONAL DEVELOPMENT

4 February 2022



17.2 RESPONSE TO MOTIONS CARRIED AT SPECIAL ELECTORS MEETING 21 FEBRUARY 2022

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Special Electors Meeting
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER	Chief Executive Officer - Mike Archer
NATURE OF DECISION	Advocacy: to advocate on its own behalf or on behalf of its community to another level of government/body/agency
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Nil

OFFICER RECOMMENDATION

That the Council

1. In response to motions 1, 2, 3, 5 and 6 write to the Premier and relevant State Government Ministers and
 - (a) advise that circa 450 business owners and community members within the City of Busselton attended a special electors meeting and collectively
 - (i) expressed strong concern about the impacts that the vaccine mandates are having on business, employees, volunteers, and the community; and
 - (ii) requested that the City advocate to the State Government for
 - the removal of volunteers from vaccine mandates;
 - clearer information for businesses in relation to the implementation of vaccine mandates and their obligations and liabilities for employees under Work Health and Safety legislation; and
 - a survey be conducted by the State Government to better understand the impacts of vaccine mandates on small business; and
 - the removal of vaccine mandates and associated restrictions; and
 - (b) request that the Premier takes the concerns of the those electors into account as he reviews the State Government's position on vaccine mandates;
2. In response to motion 4, resolves that the City will not conduct its own survey into the impacts of vaccine mandates on ratepayers; and
3. Acknowledges that the representations made from the electors present at the special electors meeting may not necessarily represent the diversity of views of the City's electors.

EXECUTIVE SUMMARY

At a special meeting of electors held 21 February 2021, the following motions were carried:

That the Electors present:

1. *Request that the City of Busselton advocate on behalf of local volunteers to the state government to remove the vaccine mandate, allowing all willing community members to participate in volunteer work.*

2. *Request the City of Busselton write to the State Government to initiate a survey regarding impacts of mandates on small businesses.*
3. *Request that the City of Busselton write to the State Government and request that they provide absolute clarity to businesses with regards to any liability of all mandates.*
4. *We request that the City of Busselton develop and conduct a survey on the impact of mandates on ratepayers.*
5. *Request that the City of Busselton to ask the State Government to request clear information that clarifies the mandates for all local businesses regarding overreach.*
6. *That the City of Busselton advocates to all relevant State and Federal Ministers for removal of all mandates and restriction, as these mandates are causing segregation and immense harm.*

This report considers those motions and in response to motion 1, 2, 3, 5, and 6 recommends that Council write to the Premier and relevant State Government Ministers outlining the concerns of those electors who attended the special electors meeting and respectfully request that the Premier takes the concerns of those electors into account as he reviews vaccine mandates. Further, in response to motion 4, officers recommend that the City does not undertake its own survey on the impact of vaccine mandates on ratepayers.

BACKGROUND

On 17 January 2022 the City received a request from over 100 electors of the District to hold a special meeting of electors. The request was signed by 330 people and called for a meeting to discuss the following matters:

- a) *Hear concerns in respect to the detrimental economic, business, workplace health and safety, public liability and lifestyle impacts of the vaccination mandates specifically on the City of Busselton community.*
- b) *Ensure Councillors and the CEO of the City of Busselton acknowledge and understand the financial risks to the ratepayers of the City that these vaccination mandates could potentially impose on them.*
- c) *Declare the City of Busselton a Pro-Choice community and advise the Premier of Western Australia and State Parliament about the concerns of the City of Busselton community and request they refrain from imposing any further mandates and revoke any mandates in place now.*

Under the Local Government Act 1995, the City, on receipt of a request containing 100 or more signatures of electors, must hold a special electors meeting.

The meeting was held on Monday 21 February 2022 at 5.30pm, at Churchill Park. In anticipation of attendance greater than the capacity of Churchill Park Hall, the meeting was held outdoors in the oval central to the trotting track. Circa 450 people attended the meeting, with six motions carried. The meeting was respectful and provided an opportunity for Councillors to hear from those moving and supporting the motions, as well as anyone objecting to them, although no-one spoke in objection to any motion. All motions were carried by a clear simple majority.

Officers note that while no-one spoke in objection to any of the motions, the City has since advertising the special electors meeting received via email 10 requests from individuals to note an objection to the matters to be discussed at the meeting. In particular objections were noted to the potential declaration of the City of Busselton as a pro-choice community.

OFFICER COMMENT

The mover and seconder of each motion spoke to the motion. A summary of key reasons for each motion is provided below.

Motion 1

Request that the City of Busselton advocate on behalf of local volunteers to the state government to remove the vaccine mandate, allowing all willing community members to participate in volunteer work.

Rationale as put by mover / seconder

- Due to the mandates the workforce and volunteer agencies are not functioning at full potential.
- It has been a very busy fire season and fire brigade volunteer numbers are down due to the requirement to be vaccinated.
- The risk versus the benefit of the mandates needs to be considered; we have overall very high vaccination rates within the state and so the benefit of the mandates do not compare to the risk in hindering the provision of important services such as fire response.
- The fighting of fire is generally undertaken in the bush with full PPE on and so the risks of having unvaccinated volunteers in this context is less than the risk of not having enough volunteers.

Motion 2

Request the City of Busselton write to the State Government to initiate a survey regarding impacts of mandates on small businesses.

Rationale as put by mover / seconder

- Businesses are suffering as a result of COVID having to cope with testing and isolation protocols, restrictions and staff shortages and the mandates impose additional burdens.
- Some businesses can no longer function due to the mandates.
- Businesses should not be put in a position where they have to impose mandates on their workers – it should be an individual's choice.
- Businesses should not have to police mandates.
- The Premier is stating the mandates will continue for some time and businesses need support from Councillors to relay the impacts and concerns to the Premier.

Motion 3

Request that the City of Busselton write to the State Government and request that they provide absolute clarity to businesses with regards to any liability of all mandates.

Rationale as put by mover / seconder

- Under the OHS Act businesses have a duty of care to their employees.
- Vaccines can result in adverse reactions and the employer may be liable for adverse reactions on site. It is also unlawful to direct employees to harm themselves.
- Those directly affected by hazards must be consulted and there are questions as to whether vaccines are effective controls.
- Businesses are checking vaccine passports when it is not their job and they are not trained to do so. What liability is there for businesses in collecting this information which is private information?
- Insurance companies have been approached and provided no definitive answer. We are hoping that the Councillors can help get answers.

Motion 4

We request that the City of Busselton develop and conduct a survey on the impact of mandates on ratepayers.

Rationale as put by mover / seconder

- Two types of costs – physical cost (including mental health costs) and opportunity cost.
- Mandates are resulting in increasing costs to our community while also reducing income to our community through decreasing tourism and spend.
- The rules are confusing and businesses are being asked to police them.
- Mandates are resulting in divided communities and friendships being ruined; kids don't understand for instance why they can't do dance with the same kids they go to school with and there are stores of kids deciding who they will play with based on vaccination status.
- What sort of community do we want to live in? Asking for the Busselton Council to stand up and represent the interests of the residents and ratepayers that you represent.

Motion 5

Request that the City of Busselton ask the State Government for clear information that clarifies the mandates for all local businesses regarding overreach.

Rationale as put by mover / seconder

- Businesses reaching well beyond the mandates to willingly discriminate
- While vaccine passport requirements are imposed on venues with 500 people or more, we have seen local venues under that capacity imposing the requirements. This is resulting in vendors who are fully capable being denied the right to work.
- Business find it hard to police the rules and so have applied a blanket mandate
- Ask that the City help to educate and support business as they navigate their way through ever changing mandates; to ensure they are not imposing measures beyond the mandates and to limit the risk of discrimination.

Motion 6

That the City of Busselton advocates to all relevant State and Federal Ministers for removal of all mandates and restriction, as these mandates are causing segregation and immense harm.

Rationale as put by mover / seconder

- The mandates are flattening people's livelihoods.
- The mandates are creating segregation and a lack of trust.
- On the other hand some businesses are taking a risk and turning a blind eye because they love and respect the people they know.
- We need to get back to the values that this community is built on, we need to start to care for one another and protect our freedoms – freedom from discrimination, individual autonomy and the right to choose our own fate.
- If there is ever a time to end mandates it is now – the people here want pro-choice.

Circa 450 people, a number equivalent to approximately 1.5% of the 29,852 electors of the City of Busselton expressed their strong support for the motions passed and the supporting arguments. They were clear and strong in their views about the impacts of mandates on businesses and community cohesiveness, based on their lived experiences.

Overall the City of Busselton as a district has very high vaccination rates. In acknowledging this, it is also fair to say that there are a diversity of views in the community in relation to vaccine mandates. Without undertaking some form of referendum (which is not recommended) the Councillors are not in a position to know exactly what the views of all electors are in relation to mandates; and as such officers would not recommend the Council move to declare itself 'Pro-choice' or similar, noting that the motions carried at the electors meeting do not require Council to consider that.

The motions carried request that the Council advocate on behalf of those electors their concerns about the impacts of mandating vaccination on the community and businesses. One way that the Council can represent the different views of its community is through advocacy. In acknowledgment of the views of those electors present at the meeting, and also acknowledging that the COVID-19 pandemic (and its associated measures) is an unusual event, it is recommended that the Council, in response to motions 1,2,3,5 and 6, write to the Premier and relevant State Government Ministers and advise that circa 450 business owners and community members within the City of Busselton attended a special electors meeting and collectively:

1. expressed strong concern about the impacts that the vaccine mandates are having on business, employees, volunteers, and the community; and
2. requested that the City advocate to the State Government for
 - (a) the removal of volunteers from vaccine mandates;
 - (b) clearer information for businesses in relation to the implementation of vaccine mandates and their obligations and liabilities for employees under Work Health and Safety legislation; and
 - (c) a survey be conducted by the State Government to better understand the impacts of vaccine mandates on small business; and
 - (d) the removal of all vaccine mandates and associated restrictions;

It is further recommended that Council respectfully request the Premier takes the concerns of the electors attending the meeting into account as he reviews the vaccine mandates. It is not recommended that advocacy be directed towards Federal Government Ministers given that the vaccine mandates are State Government directions. In doing so it is recommended that Council acknowledge that the representations made from the electors present at the special electors meeting may not necessarily represent the diversity of views of the City's electors.

In response to motion 4, it is recommended that the Council do not agree to the City conducting its own survey about the impact of vaccine mandates on ratepayers. The City does not have the resources, when considering its current work programmes and priorities, to undertake a survey and, given the vaccine mandates do not fall within the jurisdiction of local government, the City would not be able to usefully use any data gathered. To this end conducting a survey is not an effective use of resources. Instead, as per above, it is proposed that Council communicate the request of the electors for the State Government to survey the business community for impacts.

Statutory Environment

Section 5.28 of the *Local Government Act 1995* requires a special electors meeting to be held on the request of not less than 100 electors or 5% of the number of electors, whichever is the lesser number. The request is to specify the matters to be discussed at the meeting and be in the form set out by the Regulations. All of these requirements were met.

A special meeting is to be held on a day selected by the Mayor or President but not more than 35 days after the day on which he or she received the request.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

The holding of the special electors meeting cost the City approximately \$5,000 in direct costs plus the opportunity cost of the staff time and wages involved.

Stakeholder Consultation

This report is the result of a motion moved at the General Meeting of Electors in February 2021.

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 decide:

1. Not to advocate to State Government on any or some of the motions;
2. To conduct its own survey on the impacts of vaccine mandates on ratepayers;
3. To take some other course of action.

CONCLUSION

Motions carried at a special electors meeting on Monday 21 February 2022 are required to be considered by Council. This report recommends that Council advocate on behalf of those electors who attended the special meeting to ensure their concerns are noted to the Premier and relevant State Ministers.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

On adoption the officer recommendation can be carried out within two weeks.

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**18.1 NOTICE OF REVOCATION MOTION - C2111/101 - DISPOSITION OF PROPERTY LOTS 58 & 59 CHAPMAN HILL ROAD AND LOT 60 QUEEN ELIZABETH AVENUE, AMBERGATE****MOTION****That the Council:**

1. **Revokes the following Council resolution C2111/101 made at the Ordinary Council Meeting on 24 November 2021:**
That the Council discontinues plans for the sale of lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Avenue, Ambergate
2. **Agrees to the sale of Lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Avenue, Ambergate to Ambergate Farm Property Holdings Pty Ltd for \$2,500,000 exclusive of GST having undertaken the public notice requirements and considered the submissions received; and**
3. **Authorises the transfer of the net sale proceeds of Lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Avenue, Ambergate to the Strategic Projects Reserve, with the intention of using these funds for a strategic land parcel purchase in the future.**

In accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996* (WA) (**Admin Regulations**), a notice of motion has been received from Councillor Richards which has also been signed by Councillor Cox and Councillor Love that, at the meeting on 9 March 2022, Councillor Richards will move the following motion:

“That the Council:

1. *Revokes the following Council resolution C2111/101 made at the Ordinary Council Meeting on 24 November 2021:*
That the Council discontinues plans for the sale of lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Avenue, Ambergate
2. *Agrees to the sale of Lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Avenue, Ambergate to Ambergate Farm Property Holdings Pty Ltd for \$2,500,000 exclusive of GST having undertaken the public notice requirements and considered the submissions received; and*
3. *Authorises the transfer of the net sale proceeds of Lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Avenue, Ambergate to the Strategic Projects Reserve, with the intention of using these funds for a strategic land parcel purchase in the future.”*

OFFICER COMMENT**Previous decision of Council**

At the Ordinary Council Meeting on 24 November 2021 the Council resolved that (C2111/101):

“That the Council discontinues plans for the sale of Lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Road, Ambergate.”

The reason for the decision as stated in the minutes was that there was no current compelling reason to sell the land and that the elected members required further information and consideration in future long term financial planning in order to support a decision to sell the land.

Impact of change decision

The revocation of Council Resolution C2111/101 and support for parts 2 and 3 of the Notice of Motion will allow the sale of Lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Avenue, Ambergate (**Land**) to be progressed.

If endorsed by Council settlement for the sale of Land could be achieved within one to two months. Post settlement the sale proceeds will be held in the Strategic Projects Reserve until reinvested in a strategic land purchase identified in the Long Term Financial Plan for sports and events and to meet the needs of the community.

A sale would also mean that the Council is:

- divesting Land that has previously been identified as no longer being a strategic landholding of the City; and
- achieving a premium to the market value of the Land with the proposed sale price of \$2,500,000 (excluding GST) exceeding the most recent market valuation of \$2,115,000 (excluding GST).

Status of the proposed buyer


Officers understand that the proposed buyer, Ambergate Farm Property Holdings Pty Ltd (ACN 653 063 417), remains willing to proceed with the sale at the price set out in the public notice, being \$2,500,000 (exclusive of GST).

Considerations and Voting Requirements for the Notice of Motion

Councillors will need to consider the submissions received in response to the local public notice made between 15 October 2021 and 29 October 2021, along with the officer response. A copy of the original Council report and submissions is attached to this notice of motion for Councillors consideration.

The voting requirements for the revocation motion is Absolute Majority (reg 10 Admin Regulations).

ATTACHMENTS













Attachment A Agenda Item 16.2 (Ordinary Council Meeting 24 November 2021) including submissions in response to public notice [↓](#) 

Council

225

24 November 2021

16.2 DISPOSITION OF PROPERTY LOTS 58 & 59 CHAPMAN HILL ROAD AND LOT 60 QUEEN ELIZABETH ROAD, AMBERGATE, REPORT ON SUBMISSIONS RECEIVED IN RESPONSE TO LOCAL PUBLIC NOTICE UNDER SECTION 3.58 LOCAL GOVERNMENT ACT 1995

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	Disposition of Land
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Property Management Coordinator - Sharon Woodford-Jones
AUTHORISING OFFICER	Manager Governance and Corporate Services - Sarah Pierson
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 Submission of Kevin Strapp   Attachment B Submission of Ian Stubbs   Attachment C Submission of Vern Bussell   Attachment D Submission of Bay to Bay Action Group   Attachment E Submission of Julian Bussell   Attachment F Submission of Margaret Strong  

OFFICER RECOMMENDATION

That the Council:

1. After considering the submissions received, approves the sale of Lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Road, Ambergate to Ambergate Farm Property Holdings Pty Ltd for \$2,500,000 exclusive of GST.
2. Authorises the transfer of the net sale proceeds of Lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Avenue, Ambergate to the New Infrastructure Development Reserve, with the intention of using these funds for a strategic land parcel purchase in the future.

EXECUTIVE SUMMARY

This report follows the decision of Council made on 22 September 2021 (C2109/048) to dispose of Lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Avenue, Ambergate (the Land) and proceed with local public notice of the disposition in accordance with s 3.58 of the *Local Government Act 1995* (the Act).

Six submissions were received in response to public advertising of the disposition. This report outlines the issues raised in those submissions and officer responses. Section 3.58(3)(b) of the Act requires consideration of any submissions made. This report recommends that, after considering the submissions, Council proceed with the sale of the Land to Ambergate Farm Property Holdings Pty Ltd for \$2,500,000 exclusive of GST.

BACKGROUND

The City of Busselton owns rural land situated on the eastern side of Queen Elizabeth Avenue running through to the western side of Chapman Hill Road in Ambergate.

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The Land comprises a total area of over 136 hectares across three separately titled lots:

- Lot 58 on Diagram 64060 being the whole of the land comprised in Certificate of Title Volume 1675 Folio 623;
- Lot 59 on Diagram 64060 being the whole of the land comprised in Certificate of Title Volume 1675 Folio 624;
- Lot 60 on Diagram 70229 being the whole of the land comprised in Certificate of Title Volume 1761 Folio 410.

The Land is situated in the suburb of Ambergate, approximately 5km south of the Busselton town site and is zoned 'Rural'. Other nearby land uses consist of 'Rural Residential' development to the north (St Andrews Lane) and 'Rural Residential' (Ambergate Heights) to the south. Busselton Golf Club and Busselton Margaret River Airport are located to the east.

Lot 58 comprises an area of 37.84 hectares, Lot 59 is 46.25 hectares and Lot 60 totals 52.22 hectares. All three lots are cleared and pastured and have been used by an adjoining landowner for cattle grazing. A location plan is provided below.

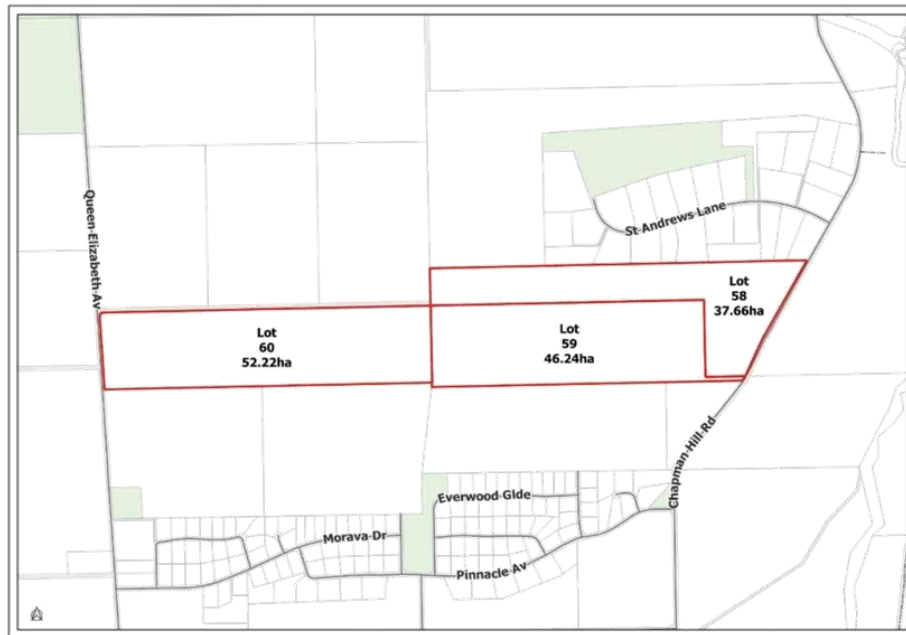


Figure 1 Location Plan

Property History

The City originally acquired the Land in 1984 as a potential site for a new airport in Busselton. The Land was never used for that purpose and the airport was ultimately constructed in 1997 at its current location on Vasse Highway.

The City received a speculative offer to purchase the Land for \$15 million (subject to due diligence by the buyer) which was rejected by the Council on 25 March 2009.

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As part of a strategic land audit in 2010, Council resolved (C1005/158):

“That with respect to Lots 58, 59 and 60 Chapman Hill Road, the Council resolve to ‘land bank’ the land for the future to provide funding for community projects in 10 to 20 years’ time. In the meantime the Acting CEO be authorised to undertake statutory process and enter into an appropriate grazing lease under the Shire’s usual commercial conditions, for a term of up to 5 years with a first right of refusal for the lessee if an extension of the lease is approved.”

In the subsequent 2016 strategic land review, Council resolved Council resolved (C1609/257) to generally endorse the strategic direction set out in the agenda report. The content in the agenda report relating to this land proposed the following:

“The potential sale of the Ambergate land, and the re-investing of the returns in the land that better meets the strategic needs of the community into the future – note that the development potential of this land is highly constrained by its relatively isolated location, low-lying and therefore inundation prone nature and very significant costs of fill associated with any development, and the fact that the land is no longer identified at a strategic level for future urban development.”

In 2018 the Council considered exchanging the Land for property belonging to the Chapman family south of the existing airport as part of negotiations relating to noise mitigation. Council resolved (C1801/011):

“That the Council authorises the CEO to negotiate and enter into a land exchange contract for the Land with the Chapman family and related entities on terms and conditions consistent with those outlined in this report”.

Negotiations ended without a land exchange contract being finalised.

On 10 March 2021 (C2103/044), further to the direction outlined in 2016, Council determined that the Land was no longer required to be retained for strategic purposes and approved the advertising of an Expression of Interest for the disposal of the Land, to inform decisions regarding the future use and ownership. In accordance with Council resolution C2103/044, officers prepared an Expression of Interest document.

City officers made enquiries initially of real estate agents with expertise in rural land sales and sought quotes for the preparation of a marketing campaign. Whilst the local agents were willing to run such a campaign, none were willing to do unless they were involved in the subsequent sale from which they would charge a commission – estimated to be in the region of 3% of the ultimate sale price.

The City therefore sought expressions of interest for the sale or lease of the Land (in whole or in part). The expression of interest opened on 23 April 2021 and closed on 28 May 2021. Submissions could be made via Your Say, email, post or in person.

During the expression of interest period the Land was marketed via:

- signage on Chapman Hill Road and Queen Elizabeth Avenue;
- print advertising in local newspapers (‘Busselton Dunsborough Times’, ‘South West Times’ and ‘Augusta-Margaret River Times’) and ‘Farm Weekly’; and
- online at the City website, realestate.com.au, domain.com.au and farmbuy.com.au.

Two site inspections were held allowing interested buyers to inspect the Land.

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At the conclusion of the expression of interest process a total of 21 expressions of interest were received. Nineteen were for purchasing and two were for leasing. One expression of interest also offered to swap land as an alternative to a cash sale. The highest offers were shortlisted to be subject to further negotiations. Through these negotiations one of the submitters increased their offer but this still fell short of the highest offer of \$2,500,000 received from Ambergate Farm Holdings Pty Ltd.

On 22 September 2021 Council resolved to authorise the CEO to dispose of the Land to Ambergate Farm Holdings Pty Ltd for \$2,500,000 exclusive of GST subject to the City satisfying the requirements of s3.58(3) of the Act and that, if submissions were received in response to the local public notice, a further report with details of the submissions will be presented for Council to consider.

Six written submissions were received during the public notice period as listed below:

Submission / Attachment	Date of Submission	Name of Submitter
A	21 October 2021	Kevin Strapp
B	21 October 2021	Ian Stubbs
C	22 October 2021	Vern Bussell
D	24 October 2021	Bay to Bay Action Group Inc
E	27 October 2021	Julian Bussell
F	27 October 2021	Margaret Strong

Table 1: Submissions received

OFFICER COMMENT

The key concerns raised by the submissions can be grouped into following categories:

- Transparency concerns
- Valuation and sale price are too low
- Preference to retain the Land as an asset and failure to consider future uses
- Use of sale proceeds
- Strategic planning considerations

Comments have been provided in response to the concerns raised.

Transparency concerns

Submissions raised concerns about a lack of transparency because the Council decision to dispose of the Land was made under a confidential item at the meeting on 22 September 2021. Consequently the submissions state that ratepayers do not have sufficient information to provide feedback on the proposal to sell the Land.

In response the following comments are made:

- Section 5.23(2)(c) of the LGA enables Council to close a meeting to members of the public when dealing with a contract which may be entered into by the local government.
- The confidential item on 22 September 2021 considered matters relating to a contract that may be entered into by the local government for the sale of the Land.
- Public disclosure of contractual matters prior to entering into a contract has the potential to negatively impact the contractual negotiations of the City.
- Council's decision in March 2021, that the land was no longer required for strategic purposes, was an open and transparent decision of Council.
- The City complied with the information required by the local public notice requirements in s 3.58 of the Act and publicly advertised the disposition.

One submission also raised concerns about transparency with the process to remove the Land from the 'development investigation area' in May 2020.

In response the following comments are made:

- Council resolved in May 2020 to amend the Town Planning Scheme and remove the Land from the development investigation area designation.
- The justification for this being that it was no longer within an urban growth area and, in the absence of support under the Local Planning Strategy (which was advertised for comment), the designation as a development investigation area was redundant.
- Detailed discussion and information of the planning history for the Land can be found later in this report under the heading Relevant Plans and Policies.

Valuation and sale price are too low

Submissions commented that the independent market valuation and sale price are too low. In support of these statements the submissions have made comments on the quality of the Land, compared land prices with Ambergate Heights, compared the current sale price with a 2009 offer for the Land and provided opinions of the actual value.

In response the following comments are made:

- The Land is zoned 'Rural' and is not suitable for development under the current planning framework. The City's strategic planning framework does not provide support for any change of zoning.
- Ambergate Heights land, which is in the Rural Residential zone is not comparable to the subject Land due to the different zoning.
- The quality of the Land varies across the three lots with parts of Lot 58 and 59 on higher ground and Lot 60 in particular affected by inundation during the winter months.
- The offer to purchase the Land for \$15 million that was rejected by the Council in 2009 was a speculative offer subject to due diligence by the buyer and is not directly comparable to the current proposed sale.
- The City engaged Opteon to provide an independent market valuation of the Land. Opteon is an international provider of valuation, advisory and specialist property services.
- The valuation was undertaken using a direct market comparison whereby the subject Land was compared with sales of comparable properties and adjustments made for points of difference.
- The expression of interest process for the Land was widely advertised and received a high level of interest with the highest offer being the \$2,500,000 from Ambergate Farm Property Holdings Pty Ltd.
- The proposed sale price of \$2,500,000 represents an 18% premium to the independent market valuation of \$2,115,000.
- Despite submissions suggesting the Land is being significantly undervalued and providing their own opinions of the actual value, the City has received no approaches offering to purchase the Land for more than the offer from Ambergate Farm Property Holdings Pty Ltd.
- The City has had previous independent valuations on the Land, with those valuations being lower than that provided by Opteon.

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Preference to retain the Land

Submissions indicated a preference that the City retain the Land either as a land bank or to hold the Land for some other future purpose (for example City infrastructure, land swaps for inundated coastal properties). Submissions in support of land banking the Land stated that the Land was likely to increase at a greater rate than other assets due to the attributes of the Land.

In response the following comments are made:

- Council resolved that the Land is no longer required for strategic purposes.
- Land banking the Land for an indefinite period will not guarantee a return. It is not possible to make accurate predictions of the likely change in value of the Land over time.

Use of sale proceeds

Submissions were concerned that there was no identified use for the sale proceeds or that the proceeds might be used to fund the Busselton Performing Arts and Convention Centre (BPACC). One submission was concerned that the financial return on money in the bank was lower than the return that would be realised by holding the Land.

In response the following comments are made:

- Consistent with the direction endorsed by Council the proceeds from the sale of the Land are intended to be reinvested in land that better meets the strategic needs of the community (and not remain in the bank).
- The sale proceeds are to be transferred to the New Infrastructure Development Reserve where it is intended they will be used to purchase strategic landholdings for community purposes.
- The City has identified a potential strategic parcel of land that may be suitable for the co-location of large sports and events activities and the sale proceeds from the Land may be used to fund such an acquisition. This is reflected in the City's adopted Long Term Financial Plan 2021 – 2031 and is expected to be the subject of a further report to Council.

Strategic planning considerations

Submissions suggested that the land should be rezoned to increase its value, be reinstated as part of development investigation area or be made a future urban development area.

In response the following comments are made:

- The Land is currently zoned 'Rural' and is not suitable for development under the current planning framework.
- The Land is not zoned for either Urban or Rural-Residential development.
- Whilst changes to zoning may impact land values the current strategic planning framework for this Land does not support any change of zoning.
- Detailed discussion and information of the planning history for the Land can be found under the heading Relevant Plans and Policies.

Final comments

Despite the submissions received the recommendation is that the proposed sale of the Land proceed because:

- it is consistent with the recommendations of the strategic land review endorsed by Council in 2016 to consider selling the Land with sale proceeds directed to the purchase of future land acquisitions that better meet the community's needs;
- it is consistent with the decision of Council earlier this year to investigate selling the Land as it is no longer required for strategic purposes;
- it is consistent with the Long Term Financial Plan which identifies proceeds of \$2,500,000 from the sale of the Land in the FY22/23; and
- the sale price of \$2,500,000 is greater than the independent market valuation of \$2,115,000 obtained on 14 July 2021.

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Statutory Environment

Section 3.58 of the Act relates to the disposal of property by local government. It enables a local government to dispose of property:

- To the highest bidder at public auction;
- By way of a public tender process; or
- By giving local public notice of the proposed disposition and following the public consultation process as prescribed by sub-section 3.58(3) of the Act.

Local public notice requires:

- A description of the property concerned;
- Details of the proposed disposition (including names of the parties concerned; the consideration to be received and the market value of the disposition); and
- An invitation for submissions to be made before a date to be specified in the notice, being not less than 2 weeks after the notice is first given.

Any submissions received during the notice period must be considered by the local government. Public notice of the proposed disposition was given in accordance with the Act as outlined in this report.

Also relevant to some of the matters raised in submissions is the planning legislation, most notably the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations'). Schedule 1 of the Regulations is what is known as the 'Model Provisions' and Schedule 2 is the 'Deemed Provisions'. The Deemed Provisions are automatically incorporated into all local planning schemes throughout WA, and if a local planning scheme is in conflict with them, the Deemed Provisions prevail. All new local planning schemes and, where relevant, amendments to local planning schemes, should also generally align with the Model Provisions.

That is especially relevant as the Western Australian Planning Commission ('WAPC') has made a decision requiring the preparation of a new local planning scheme for the City of Busselton and, as such, Scheme 22 is currently under preparation. The Regulations also establish the requirement for development of a 'Local Planning Strategy' ('LPS'), which sets out the strategic direction for planning in a local government District, including guiding the preparation of new local planning schemes, or the amendment of existing schemes.

Under the framework established by the Regulations, if land is to be considered for future urban or rural-residential zoning, it must first be identified for that purpose in a WAPC endorsed LPS. The next step, with land identified for future urban development, would be the inclusion of the land in an 'Urban Development' Zone, consistent with the Model Provisions.

That would only occur, however, where development is considered to be fairly imminent – typically, there would be an expectation that at least some development in the identified area would be required within a 5-10 year period, at most. Prior to development actually occurring, however, a Structure Plan would also need to be prepared and adopted by the WAPC, consistent with the Deemed Provisions. As noted elsewhere in this report, 'Development Investigation Areas' are not identified as planning instruments in either the Model or Deemed Provisions. The equivalent would be the identification of land as a potential, future growth area, in a LPS.

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Relevant Plans and Policies

The land the subject of this report (Lots 58, 59 and 60) is not zoned for either Urban or Rural-Residential development, and the City's current strategic planning framework does not provide support for any change of zoning in that regard, as outlined below.

A. State Planning Policy 3: Urban growth and settlement (SPP3)

SPP3; "sets out the principles and considerations which apply to planning for urban growth and settlement in Western Australia". Amongst other things, SPP3 also sets out that; "...proposals for new urban subdivision and development not identified in regional and local planning strategies and land release plans will not generally be supported".

B. Leeuwin-Naturaliste Sub-regional Strategy (LNSRS)

The LNSRS was prepared and adopted by the WAPC to manage and plan for growth in the Leeuwin-Naturaliste sub-region, which encompasses the City of Busselton and Shire of Augusta-Margaret River. The LNSRS does not provide support for any further rural-residential development, or for urban development, in the Ambergate South area. The LNSRS also includes the following strategic direction; "Adopt a presumption against the creation of new urban and rural living areas beyond those identified in existing local planning strategies or local planning schemes".

C. Busselton Urban Growth Strategy 1999 ('BUGS')

From its adoption in 1999 until the endorsement of the City's Local Planning Strategy in 2019, the BUGS was a key planning instrument guiding the growth and development of the Busselton urban area. 'Ambergate South' (land generally south of the alignment of the future Busselton Outer Bypass, east of Queen Elizabeth Avenue, north of a rural residential cell on Ambergate Road and west of Chapman Hill Road) was identified as Category D Urban - Long Term Development (15yrs +) - *Land not suitable for urban development in the short or mid-term, given isolation from the urban front, future separation from the urban form by Outer Bypass and environmental, drainage and servicing constraints. Has potential to form a long-term urban cell once development of other urban growth areas has occurred.*

The BUGS envisaged that, due to the isolated location of the 'Ambergate South' area from existing urban functions and services of Busselton, the evolution of a more compact urban form and the nature and extent of better-located future urban areas, it would have the lowest priority for consideration of commencement of planning processes.

The BUGS has been replaced by the *City of Busselton Local Planning Strategy (2019)*.

D. City of Busselton Local Planning Strategy ('LPS')

A local planning strategy is intended to set out the long term, overall planning and development direction for a local government district. A local planning strategy is also a prerequisite for the adoption of a new town planning scheme that provides for significant change in planning direction. The requirement for a local planning strategy was not part of the planning Regulations when the City adopted its previous town planning scheme (being Scheme 20). At that time, the BUGS and various other planning instruments (such as approved structure plans for residential estates e.g. Provence, 'sector-based' strategies e.g. Local Rural Planning Strategy as well as State policies e.g. State Planning Policy 6.1 Leeuwin Naturaliste Ridge) provided the planning direction.

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The LPS was adopted as draft by Council on 25 September 2013. The draft LPS identified 'Ambergate South' as a highly conceptual 'Long Term Urban Growth Area' (25yrs +) that could accommodate an approximate potential population of 25,000. The extent of the conceptual area was based on the footprint for 'Ambergate South' contained in the Busselton Urban Growth Strategy ('BUGS'), albeit a somewhat larger area was depicted on the draft LPS map. It remained conceptual for potential investigation because it was difficult to make assumptions about the extent of expansion and the type, range and scale of land uses and development that might be required in the timeframe suggested by the draft LPS urban growth framework (25yrs +). Subsequent to adoption and referral to the WAPC, the City received informal advice from the DPLH on changes to the draft LPS likely to be recommended to the WAPC, including questioning the need to retain, amongst other things, 'Ambergate South'.

At the Council briefing session for 20 May 2015 the Council was advised on the elements of the draft LPS to be retained and potentially removed. The direction of the Council was to agree to remove 'Ambergate South' from the draft LPS. This direction reflected a broad analysis of land and housing supply that indicated there would be sufficient supply provided by other identified urban growth areas and therefore 'Ambergate South' would not be needed during the life of the LPS.

The draft LPS was certified for advertising by the WAPC on 18 November 2015. The advertised version of the draft LPS did not include 'Ambergate South'. Adopted for final approval by Council on 14 September 2016 and endorsed by WAPC on 10 December 2019, also without Ambergate South.

'Ambergate North' (bound by the Busselton Bypass, the Vasse Diversion Drain, the alignment of the future Busselton Outer Bypass and Queen Elizabeth Avenue) is an urban growth area identified in the LPS (and previously in BUGS). The land is subject to a structure plan approved in 2014 and is partially within the 'Urban Development' under Scheme 21. To date no lots have been created and given its size would most likely take around 30 years to be fully developed.

E. Amendment 28 to Local Planning Scheme 21 ('Scheme 21')

Amendment 28 to Scheme 21 was initiated on 24 April 2018 and comprised one of several 'Omnibus' amendments forming a wider process (supported by the Council in April 2017) to update and align LPS21 with the *Planning and Development (Local Planning Schemes) Regulations 2015*. The purpose of Amendment 28 was to essentially align the various 'development zone provisions' throughout LPS21 with both the deemed provisions and the model provisions set out by the Regulations and to introduce consolidated development zone provisions into the Scheme.

Amongst other things, Amendment 28 reviewed the 'Development Investigation Area' ('DIA') which identifies land on the Scheme map for development investigation and requires the preparation of a structure plan and rezoning of the land consistent with the land uses proposed. Amendment 28 proposed to amend DIA boundaries where –

- a) scheme requirements for structure planning and rezoning have been completed and subdivision/development has either substantially commenced, or has been completed, and therefore the DIA is effectively redundant and should be removed;
- b) land identified in the *Busselton Urban Growth Strategy* for urban development that is not designated for that purpose in the Local Planning Strategy, and therefore there is no strategic support to retain the DIA and it should therefore be removed; and
- c) land that is strategically identified in the Local Planning Strategy and Leeuwin Naturaliste Sub-Regional Strategy for urban development or as a planning investigation area and it should be retained.

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The 'Ambergate South' land falls into the category described at b) above and Amendment 28 removed the DIA applicable to this area. The Amendment also removed the DIA over Ambergate North because the land is identified in the LPS as an urban growth area, has an adopted Structure Plan and is partially within the Urban Development zone. Amendment 28 was adopted for final approval by the Council on 27 May 2020.

'Development Investigation Area' is not an identified planning instrument in the Regulations and the few remaining DIAs on the current Scheme map will not be carried over into the new Scheme currently under development (i.e. Scheme 22). The Local Planning Strategy is the planning instrument in place of DIAs.

Financial Implications

The offer conditionally accepted for the Land is \$2,500,000 exclusive of GST which will be received in municipal funds. The Long Term Financial Plan anticipates proceeds of \$2,500,000 in FY22/23 for the sale of the Land. If the Officer Recommendation is implemented it is likely that proceeds of \$2,500,000 will be received in FY21/22. The costs of sale to date, including the sworn valuation, are currently under \$8,000.

Council has previously indicated its desire to use these funds to secure additional strategic landholdings for City needs. It is recommended that net sales proceeds be placed in the New Infrastructure Development Reserve for this purpose.

Stakeholder Consultation

Local public notice of the proposed disposal was given in accordance with section 3.58 of the Act, as outlined in this report.

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, after considering the submissions, resolve not to proceed with the sale of the Land. The effect of this being that the contract will become void and unenforceable.

CONCLUSION

Notwithstanding the objections raised in the submissions, Officers recommend Council approve the sale of the Land to Ambergate Farm Property Holdings Pty Ltd for \$2,500,000 exclusive of GST. The basis for the recommendation is that:

- Council has identified that the Land is no longer a strategic landholding for the City;
- the sale is consistent with the strategic direction set by Council;
- the sale of the Land will deliver proceeds that exceed the current market valuation; and
- the sale proceeds can be used to assist with purchasing strategic landholdings for the City.

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18.1

Attachment A

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Agenda Item 16.2 (Ordinary Council Meeting 24 November
2021) including submissions in response to public notice

9 March 2022

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TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If Council resolve to proceed with the sale of the Land it is expected that settlement will occur within 15 days of that date.

The Chief Executive Officer.
City of Busselton.

Dear Sir,

SALE LOTS 58/59 CHAPMAN HILL RD AMBERGATE.
LOT 60 QUEEN ELIZABETH AVENUE.

The above lots were advertised in the Busselton Margaret River Times on Friday the 15th October 2021.

It would appear that the decision has already been made to dispose of all of the lots to Ambergate Farm Property Holdings Pty Ltd a \$2.00 Company with one shareholder a daughter of the Chapman family.

Although these properties are currently zoned agriculture, a rezoning to Urban Deferred or Rural Residential, would immediately substantially lift their value.

The rezoning's are within the powers of the City of Busselton.

Why were these decisions made in Committee as a confidential item allowing no rate payer input???

This decision defies commercial and financial sense, why would you bank the sale proceeds from these lots (\$2.5 million) into The New Infrastructure Reserve Fund earning at best 1-1.5% when the lots are currently increasing their value annually by at least between 5%-6%.

In answer to a question from the floor at the Council meeting on Wednesday the 13th October yourself and the Mayor both stated that the proceeds would not be used to subsidize overrun costs on the "Beach" project or losses incurred by the project.

So why the undue haste to sell???

The Cities own Local Planning Strategy should identify this Land as a future Urban Development Area.

Why wouldn't the Council reserve the massive financial benefits that will be generated for the benefit of the ratepayers instead of developers.

I strongly object both to the method used and the sale of these valuable Ratepayer owned assets.

Kevin Strapp.





Ian Stubbs
Ibis Court, Geographe

Chief Executive Officer, City of Busselton

Dear Sir,

I hereby submit my objection to the proposed sale of the "Ambergate Land" being lots 58 and 59 Chapman Hill Road and lot 60 Queen Elizabeth Avenue advertised in the Busselton Dunsborough Times on Friday 15th October 2021.

I AM AT A TOTAL LOSS TO UNDERSTAND WHY THE COUNCIL IS EVEN CONSIDERING SELLING THIS LAND.

The Council's decision to dispose of the Ambergate Land was made at the meeting held 22nd September 2021. The agenda item/report was treated as a confidential item and when considered, the meeting was closed to the public. The decision to close the meeting was a discretionary decision of Council but as a consequence of the closure, the residents/ratepayers of the district have been deprived of any background information relating to the decision. How does the Council expect to receive constructive feedback on the proposal to sell the land when no background information is provided? We, the residents/ratepayers can only make **assumptions** which in turn is likely to upset councillors/staff that take offence at the assumptions.

The residents/ratepayers have not been advised.....

- Why is the Council wanting to sell the land?
- What alternatives are available if the land is not sold?
- What are the possible future longer term uses and value of the land?
- Who is 'Ambergate Farm Property Holdings Pty Ltd' and what do they intend to do with the land?
- What will the Council do with the proceeds from the sale?
- Is there any connection between this sale and the CEO's earlier negotiations with the Chapman family?

I propose to make assumptions on most, or all, of the above in this objection to the sale. Obviously, my very first, and very important, reason for objecting to the sale of the land is **THE LACK OF INFORMATION PROVIDED TO THE RESIDENTS/RATEPAYERS**. According to significant local opinion this seems to be a major issue with just about everything the City does of late.

The land in question is surrounded by a very high standard golf course, rural residential subdivided land to the north (St Andrews Lane) and special residential subdivided land to the south (Ambergate Heights). Clearly, in the long term, the land will become a very valuable and attractive subdivision opportunity as Busselton continues to grow. **THE LAND WILL, AS IT IS SUBDIVIDED, PROVIDE A SUBSTANTIAL INCOME SOURCE TO THE RATEPAYERS.**

IT DOES NOT MAKE SENSE TO SELL THIS LAND NOW, AT A PITANCE, AND IN TURN PROVIDE A FUTURE FINANCIAL WINDFALL TO ANOTHER PARTY.

The City reported that it had obtained a valuation of \$2.115M for the land as at July 2021. **THIS VALUATION WOULD NOT HAVE BEEN BASED ON THE FUTURE AND BEST USE OF THE LAND.** My initial reaction after reading of this valuation was....get a new valuer. The valuation and the sale price are both ridiculous. I have spoken with several farmers and many locals, and ALL suggest the City is virtually giving this land away. I would like to inform the Council that while I was a Councillor, **I OPPOSED THE SALE OF THIS LAND FOR ABOUT \$11M** from memory. I opposed the sale because firstly I did not believe it was enough and secondly, I questioned the bona fides of the prospective purchaser.

While the land may currently be zoned for agriculture, it was not always the case, and does not need to remain zoned for agriculture. In 2010 the land was identified as part of a 'land bank' to provide funding for community projects in the future. **THE LAND SHOULD REMAIN IN A "LAND BANK" FOR THE FUTURE.** It was, until recently, designated as a 'development investigation area'. **For reasons unknown,** the land was no longer identified in an urban growth area. It seems remarkable that this change in direction, by the Council, coincided with a proposal to exchange the land for other land in proximity to the airport and now a proposal to sell it. **IF SOLD, THE NEW OWNERS WILL NO DOUBT PRESSURE COUNCIL, AT SOME STAGE, TO REVERSE ITS EARLIER DECISIONS AND HAVE THE LAND REVERT BACK TO URBAN GROWTH AREA.** A bonus for the purchasers but a big loss to the ratepayers. **KEEP IN MIND THE COUNCIL IS THE LAND USE PLANNING AUTHORITY AND CAN CONTROL THE CURRENT AND FUTURE USE OF THIS LAND.**

The prospective purchaser is "Ambergate Farm Property Holdings Pty Ltd", a \$2 company. The Director and Secretary of the company is Josie Ann Samarasinghe who happens to be the daughter of the Chapman family that was involved in the negotiations for the exchange of this land for land in proximity to the airport. While I am not suggesting anything untoward has happened, or is about to happen, **WHEN ONE COUPLES THIS WITH THE REMOVAL OF THE LAND FROM AN URBAN GROWTH AREA, THE SUPPRESSION OF THE BACKGROUND INFORMATION BY THE COUNCIL, IT ALL BECOMES A VERY CONSIDERABLE REASON FOR CONCERN.**

The land is currently leased which is providing the Council, and the ratepayers, with a steady income. As the land is Council owned, and leased, it is also rateable. The City, I understand, has been informed that the current lease rental is below market value. **THE COUNCIL SHOULD, INSTEAD OF SELLING NOW, MAXIMISE INCOME THROUGH A LEASE AND RATES, UNTIL THE FUTURE DEMAND FOR URBAN EXPANSION INTO THIS AREA MATERIALISES.**

IN ADDITION TO THE ABOVE, THE COUNCIL SHOULD NOW REFLECT IN ITS LOCAL PLANNING STRATEGY THAT THE LAND IS AGAIN IDENTIFIED AS A FUTURE URBAN DEVELOPMENT AREA.

The Council has not informed the public what it proposes to do with the sale proceeds other than to place the monies in a "New Infrastructure Development Reserve Fund". This fund can be used to identify, design and develop/construct new infrastructure and other capital projects identified in the LTFP. So, the monies could be used for just about anything. One can only assume the Council proposes to direct these monies to the BEACH project. **THE COUNCIL NEEDS TO SPECIFY TO THE PUBLIC EXACTLY WHAT THE PROCEEDS WILL BE USED FOR, BEFORE ANY DECISION IS MADE TO SELL THIS VALUABLE LAND.**

In a March 2021 report to the Council, it was suggested the proceeds could be used to purchase other land to provide for "noisy sports". One does not know, because of the lack of background information, whether this report still has any relevance today however, **IT DOES NOT**

MAKE SENSE TO SELL A RAPIDLY INCREASING, AND VALUABLE ASSET, TO PROVIDE FOR NOISY SPORTS. If the Council believes the need to provide land and facilities for noisy sports is a priority, it is assumed the facilities would be mainly shared regional facilities. There are other more advantageous options available, whether regional or not. **THE COUNCIL SHOULD SEEK STATE AND FEDERAL FUNDING TO ACQUIRE LAND AND DEVELOP FACILITIES FOR NOISY SPORTS.** This would be far preferable to selling a ratepayer owned asset. **I AM ABSOLUTELY CERTAIN THE CITY RATEPAYERS WOULD NOT SEE THE PROVISION OF LAND AND FACILITIES FOR NOISY SPORTS AS A PRIORITY** in the same manner as they do not see, and it was proven, that the BEACH project as a priority.

Before ever selling a significant asset, the Council should, I believe, have explored all other options to raise the funds, no matter what the purpose. In other words, there would be no other realistic options available to raise the \$2.5M. This is simply not the case. **THE CITY HAS A NUMBER OF ALTERNATIVES AVAILABLE TO RAISE \$2.5M IN PREFERENCE TO SELLING THE AMBERGATE LAND.**

THE \$2.5M COULD SIMPLY BE PROVIDED FOR IN THE BUDGET. \$2.5M is not an enormous amount in context of the City's annual budget. With some sensible financial management, this could be done without additional rate increases. The CEO, at the end of the 2020/2021 financial year trumpeted the fact there was a \$1M surplus which was to be directed to the BEACH project. These funds, and/or future surpluses, could be used to avoid selling a valuable asset. The Council miraculously found \$0.5M to place in a "Debt Default Reserve Fund" to plan for future disasters???? **THESE ARE JUST A COUPLE OF EXAMPLES OF HOW THE COUNCIL COULD, IF IT WAS SO INCLINED, AVOID THE SALE OF THIS LAND.**

ANOTHER OPTION AVAILABLE TO THE COUNCIL, ASSUMING IT NEEDS THE \$2.5M DESPERATELY, IS TO RAISE A LOAN FOR THE AMOUNT. The Council and the City have been stating in no uncertain manner, how borrowing money to fund local projects was the way to go, it's never been cheaper, etc, etc. The Council and the City have also been expressing the view to the ratepayers that that it does not have a debt problem. If this is all so, why not raise a loan to avoid selling the Ambergate land?

MOST OR ALL OF THE ABOVE POINTS ARE WHAT A PRIVATE INDIVIDUAL WOULD DO RATHER THAN SELL A VALUABLE ASSET. The Councillors need to consider this proposed land sale as if it was their own property. By doing so, the Councillors will be **TRULY ACTING FOR THE BENEFIT OF THE RATEPAYERS.**

As is standard practice, the CEO and his staff will go through this submission, and any others that are received, and provide counter arguments to the Councillors so that the CEO and the staff's desires to sell the land are not interrupted. **I URGE COUNCILLORS TO THINK STRATEGICALLY** and recognise that **THE SALE OF THIS LAND IS SIMPLY NOT NECESSARY.** There are many other options available to obtain the funds required for whatever the purpose the Council has in mind. I also urge you to recognise that **THIS LAND IS A VALUABLE ASSET AND SHOULD BE PRESERVED** until such time as the future growth of Busselton dictates that this land should be subdivided.

Yours sincerely

Ian Stubbs

Vern Bussell

225 Nuttman Road Walsall

6280

Chief Executive Officer, Mike Archer, City of Busselton

Dear Sir,

I hereby submit my objection to the proposed sale of the "Ambergate Land" being lots 58 and 59 Chapman Hill Road and lot 60 Queen Elizabeth Avenue as advertised in the Busselton Dunsborough Times on Friday 15th October 2021.

My major concern is that the land above is in my view by far the most valuable land out of all the "farmland" the City of Busselton owns in that general vicinity. The above three lots comprise land that is in close vicinity to the town of Busselton and unlike much of the surrounding Council land and nearby land owned by other owners, is land that is quite high and dry and well drained and would require very little fill if subdivided for residential or Commercial building construction purposes.

For the above reasons it is my view that these particular parcels of land would have to be worth at least double the \$2.5 million dollars the Chapman family based [Ambergate Farm Property Holdings Pty Ltd] Group has offered the City of Busselton for these valuable lots.

Years ago, I used to work for a contractor who had the contract to spread seed and fertiliser on virtually all of this land and so I'm very familiar with the fertility and soil type and the problems some of the land surrounding the above lots faces following winter rains which can render much of the ground almost unusable especially those paddocks where the clay come right to the surfaces of the ground.

It seems to me the valuation of just over 2.1million dollars by a sworn valuer has been based on the lower lying clay pan soils in the vicinity that are subject to winter inundation. Adjoining land owned by Helen Shervington which I also know well and which is also currently on the market at a price similar to the "Chapman" offer and was probably considered by the valuer when coming up with his very low valuation, is again land that is subject to winter flooding and can't compare in quality or value with the land above that the Chapman Consortium are offering to buy cheaply from the Busselton City Council.

Selling the pick of this Council owned farm land at the giveaway price offered would represent a Grave injustice to the ratepayers and electors and general Community of the City of Busselton

Please remember also that if and when the Climate Change predictions of the experts causes a considerable rise in overall sea levels as predicted, this high, dry, gently undulating high quality land you are looking at selling so cheaply now, would be essential to the future survival of the town of Busselton itself.

By all means sell the "Chapman Consortium" some of the nearby highly productive but much lower lying farmland they currently lease from the City for the price per acre they are currently offering, but please don't let them have the superior all-purpose high ground, especially not at the very low price they have currently offered.

Council
18.1

Attachment A

292
Agenda Item 16.2 (Ordinary Council Meeting 24 November
2021) including submissions in response to public notice

9 March 2022

Council
16.2

Attachment C

241
Submission of Vern Bussell

24 November 2021

Before even considering selling any of the High value land that is currently under offer please obtain a further valuation on these lots from a better informed and more experienced valuer and I'm quite sure you will find the land you are considering selling is worth far more than the well below market price of the paltry \$2.5 Million dollars you are currently considering accepting.

Yours faithfully Vernon J Bussell Whicher Heights Busselton.

Bay to Bay Action Group Inc

Representing the views and concerns of the Ratepayers, Businesses and Residents in the City of Busselton:- Abbey, Ambergate, Broadwater, Bovell, Busselton, Bunker Bay, Caribunup, Dunsborough, Eagle Bay, Geographe, Metricup, Pt Geographe, Yallingup, Yalyalup, Quindalup, Quedjinup, Reinscourt, Siesta Park, Vasse, Wonnerup, and those hamlets not listed

24 October 2021

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

Dear Sir

On behalf of the members of the Bay to Bay Action Group Inc, I hereby submit our objection to the proposed sale of the "Ambergate Land" being Lots 58 and 59 Chapman Hill Road and Lot 60 Queen Elizabeth Avenue, as advertised by the City in the *Busselton Dunsborough Times* on Friday, 15 October 2021.

Our very strong opposition to the sale is based on the following factors:-

1. Lack of Transparency

The decision to discuss the sale as a *Confidential Matter* during the 22 September 2021 Council Meeting appears to be a conscious determination by Council to deny Residents and Ratepayers access to any information which would affect our ability to submit meaningful and relevant feedback.

Given that the City owns the land outright, Ratepayers and Residents have every right to expect the proactive disclosure of unambiguous information which can inform discussion, comment and scrutiny of any proposed changes to its use.

The Agenda and Minutes emanating from this meeting referred to Section 5.23(2) of the *Local Government Act 1995*, however, completely disregarded the requirement in part (3) of the Act whereby:

"A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting" (p.149).

Section 5.23(2) lists seven very specific reasons where a meeting may be closed to the public. It is our opinion that *confidential nature* is not sufficient to meet the requirements of the Act.

At its meeting on 13 October 2021, Mr Keith Sims directed a very specific question to Council during *Question Time For Public*:

- 2 -

"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?" [Item 7.1]

Mr Archer, your response was equally as direct: "No".

Despite this unambiguous response, we note that there is absolutely no record of your answer in the Minutes. Rather, the Mayor's subsequent response is recorded, which attempted to evade the question by advising Mr Sims that the money would be deposited into the *New Infrastructure Reserve*.

We further note that the *Strategic Goal* and *Strategic Objective* of Item 16.2 of the Council's Minutes, are far more relevant to the PAC project than disposition of the Ambergate Land.

We would ask whether the public was meaningfully consulted regarding Ambergate Land being downgraded from a "development investigation area"? It seems that this is yet another example of a poor effort to engage Residents and Ratepayers in consultation, as is currently evident with Council's reviews relating to bushfire, coastal hazards, PAC, Amendment 40, Amendment 50, etc.

Again, this lack of transparency leaves Residents and Ratepayers wondering why the money is being raised at all, adding to the community's mistrust and lack of confidence in its Council. Changes such as this present Council with an opportunity to avoid potential problems by utilising coherent public communication. You must accept once and for all that the feeling of negativity in the community which was very evident in the recent Elections, cannot be blamed solely on the activities of the Bay to Bay Action Group.

2. Lack of Consideration for Future Opportunities

We are of the opinion, as are many others, that Council's decision to downgrade the Ambergate Land from a "development investigation area" in May 2020 [C2005/141] was extremely short-sighted.

The Ambergate Land is perfect for future urban development, given that it is:-

- just 5.5km from the CBD;
- between two major roads;
- totally cleared;
- located on high ground;
- within close proximity to the Busselton Golf Club and the airport; and
- between the *St Andrews Lane* rural residential and *Ambergate Heights* special residential established developments.

Respondents to the City's 2021-2031 *Strategic Plan* identified their desire for "less high-density urban sprawl" and a "diversity of lot size options", proving that there is ready market within the existing population for the type of development that the Ambergate Land could offer.

3/...

- 3 -

3. Reliability Of The Valuation

A number of members have questioned the valuation supplied to the Council. Whilst we do not purport to be experts in the area of rural property valuation, it would be interesting to know whether more than one valuation was sought.

One thing is certain however, there is an opportunity cost for selling the land now, when the value will undoubtedly increase substantially over time. This will only be compounded when the airport eventually becomes fully operational.

In the meantime, the land is leased providing the City with a steady source of income. Members have suggested that the current lease rental should be reviewed as it is at an exceptionally low rate – not like the City of Busselton's usual handling of Rates and Charges at all.

In closing, we repeat that the intention by the City of Busselton Council to sell 136 hectares of prime real estate in Ambergate appears to be short-sighted in terms of our region's population growth as well as it's need for alternative housing options.

We are concerned by the lack of transparency shown to date, as well as the valuation received.

For these reasons, we object most vehemently to the sale.

Yours sincerely

Gordon Bleechmore
Acting President

26 Ballarat Road
WONNERUP

CC City of Busselton Councillors

From: [Mike Archer](#)
To: [Sharon Woodford-Jones](#); [Ben Whitehill](#)
Subject: Fwd: Submission re Sale of Ambergate farmland.
Date: Wednesday, 27 October 2021 4:35:19 PM

Sent from my iPhone

Begin forwarded message:

From: Julian Bussell <julianbussell@hotmail.com>
Date: 27 October 2021 at 4:20:14 pm AWST
To: Mike Archer <Mike.Archer@busselton.wa.gov.au>
Cc: Councillors / SMG and Governance <Councillors@busselton.wa.gov.au>
Subject: **Submission re Sale of Ambergate farmland.**

This message was sent from outside of City of Busselton.
Please do not click links or open attachments unless you recognise the source of this email and
know the content is safe.

Chief Executive Officer, Mike Archer, City of Busselton

Dear Sir,

I hereby submit my objection to the proposed sale of the "Ambergate Land" being lots 58 and 59 Chapman Hill Road and lot 60 Queen Elizabeth Avenue as advertised in the Busselton Dunsborough Times on Friday 15th October 2021.

The current offer of 2.5 million for three separate lots seems extremely low for the current day market.

For example a 1 acre block in the adjoining subdivision of "Ambergate Heights" is worth around \$300,000 - \$400,000 to buy and so if this land was subdivided as was forecast by the City, then this property would be worth considerably more than the current offer.

I believe this land should be set aside for the future use and expansion of the City and included in the Coastal Management Plan for future use by a land swap deal or lease arrangement for those that lose their properties along caves road in Siesta Park etc. when sea levels rise, instead of the City spending BILLIONS buying back properties that are under the sea. This land at Ambergate could then be offered to those affected and at no expense to the ratepayers.

The fact that there has been no explanation of why the City is considering selling this land now, is conspicuous and I can only gather that the City must be desperate for money to fulfil certain projects (against the communities wishes) that have now blown out.

I believe the truer value of this land would be close to 5 million dollars and that the City should be telling the proponents what the price is going to be and not the other way round.

Council
18.1

Attachment A

297

Agenda Item 16.2 (Ordinary Council Meeting 24 November
2021) including submissions in response to public notice

9 March 2022

Council
16.2

Attachment E

246

Submission of Julian Bussell

24 November 2021

Please get a new valuation from a different valuer before proceeding.

Yours faithfully Julian Bussell 225 Nuttman road Walsall.

1004A Geographe Bay Rd.,
Geographe WA 6280

Oct 27, 2021

The CEO Mr M Archer

City of Busselton

Submission for Sale of City Land, Ambergate blocks Lots 58 and 59 Chapman's Hill Road and Lot 60
Queen Elizabeth Avenue.

Dear Mr. Archer,

I am very much against selling any City land unless it is really necessary.

I feel when you decide to sell off the City's assets, we the ratepayers, should be advised why, and what
the money is to be used for.

At a recent Council Meeting Mr. Mayor Henley stated that the Council's debt is manageable. If this is
so, there is no need to add to the City's reserve fund.

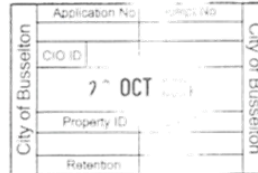
As the Entertainment Building and Whale at the Jetty's end is in doubt. The money is not needed at the
present time.

I guess the land is leased for farming, so the City is receiving an income for same.

In years to come Ambergate Heights could become another Vasse, and this land could be very useful for
City Infrastructure, as planning should be for at least 50 years. If land is needed for housing, it could be
sold to a developer which would be more of a win fall for the City. Please remember, once sold, it is lost
to the City. So please do not sell this land.

Yours faithfully,

Margaret Strong.



19. URGENT BUSINESS

20. CONFIDENTIAL MATTERS

Nil

21. CLOSURE