

Please note: These minutes are yet to be confirmed as a true record of proceedings

CITY OF BUSSELTON

MINUTES OF THE POLICY AND LEGISLATION COMMITTEE MEETING HELD ON 2 MARCH 2022

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MINUTES

MINUTES OF POLICY AND LEGISLATION COMMITTEE HELD IN COMMITTEE ROOM,
ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 2 MARCH 2022 AT 10.00AM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 10.03am.

2. ATTENDANCE

Presiding Member:

Cr Ross Paine

Members:

Cr Anne Ryan
Cr Kate Cox
Cr Phill Cronin
Cr Jodie Richards

Officers:

Mr Tony Nottle, Director, Finance and Corporate Services
Mr Oliver Darby, Director, Engineering and Works Services
Mr Paul Needham, Director, Planning and Development Services
Mr Dave Goodwin, Manager Community and Recreation Services
Mr Matthew Twyman, Manager Operations Services
Ms Brioney McLean, Customer Service Coordinator
Mr Bradley Reynolds, Parks and Gardens Coordinator
Mr David Sands, Strategic Planning Coordinator
Ms Emma Heys, Governance Coordinator
Ms Briony McGinty, Legal Officer
Ms Joanna Wilkinson, Strategic Planner
Ms Jo Barrett-Lennard, Governance Officer

Apologies:

Nil

3. PUBLIC QUESTION TIME

Nil

4. DISCLOSURE OF INTERESTS

Nil

5. CONFIRMATION AND RECEIPT OF MINUTES**5.1 Minutes of the Policy and Legislation Committee Meeting held 25 January 2022****COMMITTEE DECISION****PL2203/438** Moved Councillor K Cox, seconded Councillor P Cronin**That the Minutes of the Policy and Legislation Committee Meeting held 25 January 2022 be confirmed as a true and correct record.****CARRIED 5/0**

10.04am: At this time Mrs McGinty and Mr Goodwin entered the meeting.

6. REPORTS

6.1 LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 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	Local Laws
BUSINESS UNIT	Corporate Services
REPORTING OFFICER	Legal Officer - Briony McGinty
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Legislative: adoption of "legislative documents" such as local laws, local planning schemes and local planning policies
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Attachment A Consolidated Current Local Law 2010 Attachment B Amendment Local Law with mark-ups 2022 Attachment C Amendment Local Law 2022

COMMITTEE RECOMMENDATION

PL2203/439 Moved Councillor K Cox, seconded Councillor P Cronin

That the Council:

- 1. Resolves to make the City of Busselton Local Government Property Amendment Local Law 2022 in accordance with section 3.12(4) of the Local Government Act 1995.**
- 2. Authorises the Chief Executive Officer to carry out the processes required to make the City of Busselton Local Government Property Local Law 2022 in accordance with section 3.12(5) and section 3.12(6) of the Local Government Act 1995.**

CARRIED 5/0

BY ABSOLUTE MAJORITY

OFFICER RECOMMENDATION

That the Council:

- 1. Resolves to make the *City of Busselton Local Government Property Amendment Local Law 2022* in accordance with section 3.12(4) of the *Local Government Act 1995*.**
- 2. Authorises the Chief Executive Officer to carry out the processes required to make the City of Busselton Local Government Property Local Law 2022 in accordance with section 3.12(5) and section 3.12(6) of the Local Government Act 1995.**

EXECUTIVE SUMMARY

The *Shire of Busselton Local Government Property Local Law 2010* (Property Local Law) was first published in the government gazette in 2010, with little change since. Throughout the first half of 2021 a statutory review of the Property Local Law was conducted pursuant to section 3.16 of the *Local Government Act 1995* (the Act).

On 9 June 2021, Council resolved that, among other things, amendments were required to the Property Local Law and that a local law amendment should be initiated. In accordance with that resolution, an amendment to the Property Local Law was prepared (Amendment Local Law) for consideration by the Council.

Proposed amendments were presented to Council and, on 13 October 2021, Council resolved to give local public notice of the Amendment Local Law pursuant to section 3.12(3) of the Act. The Amendment Local Law is now referred back to Council for Council to consider any submissions made, and to determine whether to make the Amendment Local Law, in accordance with section 3.12(4) of the Act.

It is recommended that the Council makes the Amendment Local Law at Attachment C.

BACKGROUND

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

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

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

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

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

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

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

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

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

Swimming Pool – increase to minimum age requirements (clause 5.1)

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

Penalties (Schedule 1)

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

On 13 October 2021 the Council resolved as follows:

That the Council:

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

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

Effect: To control the use of local government property by updating minimum age requirements for entry to swimming pools, updating penalties, and clarifying other powers.

2. *Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the Local Government Act 1995, by:*
 - (a) *Giving local public notice of the Amendment Local Law; and*
 - (b) *Giving a copy of the Amendment Local Law and public notice to the Minister for Local Government.*
3. *Notes that the CEO, after the close of the public consultation period, will submit a report to the Council on any submissions received on the proposed local law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.*

OFFICER COMMENT

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

Statutory Environment

Local Government Act 1995

Section 3.16 of the Act requires that within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.

The City developed and maintains a local law review program to ensure compliance with the requirements of Section 3.16.

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

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

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

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

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

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

Effect: To control the use of local government property by updating minimum age requirements for entry to swimming pools, updating penalties, and clarifying other powers.

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

Parliamentary Scrutiny

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

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

Relevant Plans and Policies

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

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

Financial Implications

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

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

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

Stakeholder Consultation

The Amendment Local Law was advertised publicly in local newspapers, on the City's website, on social media and on public notice boards for a minimum of 6 weeks in accordance with the requirements under section 3.12(3)(a) of the Act. No public submissions have been received.

In accordance with section 3.12(3)(b) of the Act a copy of the Proposed Local Law was forwarded for consideration and comment to the Minister for Local Government. The DLGSC responded on behalf of its Minister and suggested minor changes to the Proposed Local Law. These changes were minor edits and do not affect the operation or application of the local law. They are contained in the marked-up version of the Amendment Local Law at Attachment B.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve not to make the local law. However, for the reasons stated above, it is recommended to make the local law.
2. Resolve to make additional changes to the Property Local Law. However, if those changes are significant, the local law-making process would need to recommence from the start due to statutory requirements that any changes are not significantly different from what was originally proposed.

CONCLUSION

The City has undertaken an extensive review of the Property Local Law. The Amendment Local Law has been prepared and advertised publicly in accordance with the Act. No significant changes have been recommended to the Amendment Local Law. It is recommended that Council resolve to make the Amendment Local Law.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should Council resolve to make the Amendment Local Law it will need to be gazetted and will come into operation 14 days after publication. The timeframe for completion of the gazettal process is approximately thirty days from the date of the Council resolution.

This is an un-official compilation of the *Shire of Busselton
Local Government Property Local Law 2010* as it has effect
on and after 5 April 2011.
See the Notes at the end for more details.

Shire of Busselton Local Government Property Local Law 2010

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Local Government Act 1995

Shire of Busselton

Local Government Property Local Law 2010

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Local Government Act 1995

Shire of Busselton

Local Government Property Local Law 2010

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

Part 1 - Preliminary

1.1 Citation

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

1.2 Commencement

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

1.3 Application

This local law applies –

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

1.4 Repeal

The following local laws are repealed-

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

1.5 Definitions

In this local law -

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“Act” means the *Local Government Act 1995*;

“applicant” means a person who applies for a permit under clause 3.2;

“authorised person” means a person appointed by the Shire under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

“boat” means any ship, vessel or structure capable of being used in navigation by water, however propelled or moved, and includes a jet ski;

“building” means any building which is on local government property and includes a –

- (a) hall or room;
- (b) corridor, stairway or annexe of any hall or room; and
- (c) jetty;

“CEO” means the chief executive officer of the Shire;

“commencement day” means the day on which this local law commences under clause 1.2;

“Council” means the council of the Shire;

“date of publication” means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

“determination” means a determination made under clause 2.1;

“district” means the district of the Shire;

“function” means an event or activity characterised by all or any of the following –

- (a) formal organisation and preparation;
- (b) its occurrence is generally advertised or notified in writing to particular persons;
- (c) organisation by or on behalf of a club;
- (d) payment of a fee to attend it; and
- (e) systematic recurrence in relation to the day, time and place;

“indecent exposure” means the revealing to view of those parts of the body, especially the genitals, which by law and convention should be covered by clothing under the given circumstances;

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

“local government property” means anything except a thoroughfare –

- (a) which belongs to the Shire or in which the Shire has an interest;

- (b) of which the Shire is the management body under the Land Administration Act 1997; or
- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act.

“local public notice” has the same meaning as in section 1.7 of the Act;

“Manager” means the person for the time being employed by the Shire to control and manage a pool area or other facility which is local government property and includes the person’s assistant or deputy;

“permit” means a permit issued under this local law;

“permit holder” means a person who holds a valid permit;

“person” does not include the Shire;

“pool area” means any swimming and wading pools and spas and all buildings, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of or used in connection with such swimming and wading pools and spas which are local government property;

“Regulations” means the *Local Government (Functions and General) Regulations 1996*;

“Shire” means the Shire of Busselton;

“sign” includes a notice, flag, mark, structure or device approved by the CEO or an authorised person on which may be shown words, numbers, expressions or symbols;

“surf riding equipment” means any device or toy used to or assist a rider in moving in or across waves or the water surface, and includes surfboard, boogie board, windsurfer, wave ski, canoe, kite surfer, inflatable toy or similar device but not a boat;

“trading” means the selling or hiring, or the offering for sale or hire of goods or services, and includes displaying goods for the purpose of –

- (a) offering them for sale or hire;
- (b) inviting offers for their sale or hire;
- (c) soliciting orders for them; or
- (d) carrying out any other transaction in relation to them.

“Unclaimed Property Register” means the register kept by an attendant of any unclaimed belongings under Division 4 of Part 5 of this local law;

“vehicle” includes –

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven,

but excludes –

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

“waste” includes matter –

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

1.6 Interpretation

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

1.7 Overriding power to hire and agree

Despite anything to the contrary in this local law, the CEO or an authorised person, on behalf of the Shire may –

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

Part 2 - Determinations in respect of local government property

Division 1 - Determinations

2.1 Determinations as to use of local government property

- (1) The Council may make a determination in accordance with clause 2.2 –
 - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
 - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
 - (c) as to the matters in clauses 2.7(2) and 2.8(1); and
 - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2 –
 - (a) are to be taken to have been made in accordance with clause 2.2;
 - (b) may be amended or revoked in accordance with clause 2.6; and

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- (c) have effect on the commencement day.

2.2 Procedure for making a determination

- (1) The CEO or an authorised person is to give local public notice of the Council's intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that –
 - (a) the Council intends to make a determination, the purpose and effect of which is summarised in the notice;
 - (b) a copy of the proposed determination may be inspected and obtained from the Shire's offices; and
 - (c) submissions in writing about the proposed determination may be lodged with the CEO within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide –
 - (a) to give local public notice that the proposed determination has effect as a determination on and from the date of publication;
 - (b) to amend the proposed determination, in which case subclause (5) will apply; or
 - (c) not to continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c), the Council –
 - (a) is to consider those submissions; and
 - (b) is to decide –
 - (i) whether or not to amend the proposed determination; or
 - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice –
 - (a) of the effect of the amendments; and
 - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

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2.3 Discretion to erect sign

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

2.4 Determination to be complied with

A person must comply with a determination.

2.5 Register of determinations

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

2.6 Amendment or revocation of a determination

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

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

2.7 Activities which may be pursued on specified local government property

- (1) A determination may provide that specified local government property is set aside as an area on which a person may –
 - (a) take, ride or drive a vehicle, or a particular class of vehicle;
 - (b) fly or use a motorised model aeroplane;
 - (c) use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;
 - (d) launch, beach or leave a boat;
 - (e) take or use a boat, or a particular class of boat;
 - (f) play or practice –
 - (i) golf or archery;
 - (ii) pistol or rifle shooting, but subject to the compliance of that person with the *Firearms Act 1973*; or

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

2.8 Activities which may be prohibited on specified local government property

- (1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—
 - (a) smoking on premises;
 - (b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;
 - (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;
 - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;
 - (e) taking or using a boat, or a particular class of boat;
 - (f) the playing or practice of—
 - (i) golf, archery, pistol shooting or rifle shooting; or
 - (ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the Shire may cause injury or damage to a person or property;

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- (g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
 - (h) the traversing of sand dunes or land which in the opinion of the Shire has environmental value warranting such protection, either absolutely or except by paths provided for that purpose
- (2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –
 - (a) the days and times during which the activity is prohibited;
 - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
 - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
 - (d) that an activity is prohibited in respect of a class of persons or all persons; and
 - (e) may distinguish between different classes of the activity.
- (3) In this clause –

“premises” means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

Division 3 - Transitional

2.9 Signs taken to be determinations

- (1) Where a sign erected on local government property has been erected under a local law of the Shire that is repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.
- (2) Clause 2.5 does not apply to a sign referred to in subclause (1).

Part 3 - Permits

Division 1 - Preliminary

3.1 Application of Part

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

Division 2 - Applying for a permit

3.2 Application for permit

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

3.3 Decision on application for permit

- (1) The CEO or an authorised person may -
 - (a) approve an application for a permit unconditionally or subject to any conditions; or
 - (b) refuse to approve an application for a permit.
- (2) If the CEO or an authorised person approves an application for a permit, he or she is to issue to the applicant, a permit in the form determined by the Chief Executive Officer.
- (3) If the CEO or an authorised person refuses to approve an application for a permit, he or she is to give written notice of that refusal to the applicant.
- (4) The CEO or an authorised person may, at any time, amend a condition of approval and the amended condition takes effect when written notice of it is given to the permit holder.

Division 3 - Conditions

3.4 Examples of conditions

- (1) Examples of the conditions that the CEO or an authorised person may impose on a permit are conditions relating to -

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- (a) the payment of a fee;
 - (b) compliance with a standard or a policy adopted by the Shire;
 - (c) the duration and commencement of the permit;
 - (d) the commencement of the permit being contingent on the happening of an event;
 - (e) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
 - (f) the approval of another application for a permit which may be required by the Shire under any written law;
 - (g) the area of the district to which the permit applies;
 - (h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit or bond against such damage; and
 - (i) the obtaining of public risk insurance in an amount and on terms reasonably required by the CEO or an authorised person.
- (2) Examples of the type and content of the conditions on which a permit to hire local government property may be issued include –
- (a) when fees and charges are to be paid;
 - (b) payment of a bond against possible damage or cleaning expenses or both;
 - (c) restrictions on the erection of material or external decorations;
 - (d) rules about the use of furniture, plant and effects;
 - (e) limitations on the number of persons who may attend any function in or on local government property;
 - (f) the duration of the hire;
 - (g) the right of the CEO or an authorised person to cancel a booking during the course of an annual or seasonal booking, if the CEO or an authorised person sees fit;
 - (h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the *Liquor Control Act 1988*;
 - (i) whether or not the hire is for the exclusive use of the local government property;
 - (j) the obtaining of a policy of insurance in the names of both the CEO or an authorised person and the hirer, indemnifying the CEO or the authorised person in respect of any injury to any person or any

damage to any property which may occur in connection with the hire of the local government property by the hirer; and

- (k) the provision of an indemnity from the hirer, indemnifying the Shire in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

3.5 Imposing conditions under a policy

- (1) In this clause –

“**policy**” means a Shire policy adopted by the Council under section 2.7 of the Act containing conditions subject to which an application for a permit may be approved under clause 3.3(1)(a).

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

3.6 Compliance with conditions

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

Division 4 - General

3.7 Agreement for building

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

3.8 Duration of permit

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

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

3.9 Renewal of permit

- (1) A permit holder may apply to the CEO in writing prior to expiry of a permit for the renewal of the permit.

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- (2) The provisions of this Part must apply to an application for the renewal of a permit as though it were an application for a permit.

3.10 Transfer of permit

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

3.11 Production of permit

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

3.12 Cancellation of permit

- (1) Subject to clause 9.1, a permit may be cancelled by the CEO or an authorised person if the permit holder has not complied with –
 - (a) a condition of the permit;
 - (b) a direction under clause 3.16(b); or
 - (c) a determination, or a provision of any written law, which may relate to the activity regulated by the permit.
- (2) On the cancellation of a permit, the permit holder -
 - (a) must return the permit as soon as practicable to the CEO; and
 - (b) is to be taken to have forfeited any fees paid in respect of the permit.

Division 5 - When a permit is required

3.13 Activities needing a permit

- (1) A person must not without a permit –

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- (a) subject to subclause (3), hire local government property;
- (b) advertise anything by any means on local government property;
- (c) erect, on local government property, a structure for public amusement or for any performance, whether for gain or otherwise;
- (d) teach, coach or train, for profit, any person on a beach, in a pool area or in an indoor recreation facility which is local government property;
- (e) carry on any trading on local government property unless the trading is conducted -
 - (i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on in accordance with the permit; or
 - (ii) by a person who has a licence or permit to carry on trading on local government property under any written law;
- (f) unless an employee of the Shire in the course of her or his duties or on an area set aside for that purpose -
 - (i) drive or ride or take any vehicle on to local government property; or
 - (ii) park or stop any vehicle on local government property;
- (g) conduct a function on local government property ;
- (h) charge any person for entry to local government property, unless the charge is for entry to land or a building hired by a voluntary non-profit organisation;
- (i) light a fire on local government property except in a facility provided for that purpose;
- (j) parachute, hang glide, abseil or base jump from or on to local government property;
- (k) erect a building or a refuelling site on local government property;
- (l) make any excavation on or erect or remove any fence on local government property;
- (m) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;
- (n) depasture any horse, sheep, cattle, goat, camel, ass or mule on local government property;
- (o) conduct or take part in any gambling game or contest or bet, or offer to bet, publicly, or

- (p) erect, install, operate or use any broadcasting, public address system, loudspeaker or other device for the amplification of sound on local government property.

- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1) on the application of that person.
- (3) The CEO or an authorised person may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.14 Permit required to camp outside a facility

- (1) In this clause –

“**facility**” has the meaning given to it in section 5(1) of the *Caravan Parks and Camping Grounds Act 1995*.
- (2) This clause does not apply to a facility operated by the Shire.
- (3) A person must not without a permit -
 - (a) camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property; or
 - (b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.
- (4) The maximum period for which the CEO or an authorised person may approve an application for a permit in respect of paragraph (a) or (b) of subclause (3) is that provided in regulation 11(2)(a) of the *Caravan Parks and Camping Grounds Regulations 1997*.

3.15 Permit required for possession and consumption of liquor

- (1) A person must not, on local government property, consume any liquor or have in her or his possession or under her or his control any liquor, unless –
 - (a) that is permitted under the *Liquor Control Act 1988*; and
 - (b) a permit has been obtained for that purpose.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

Division 6 - Responsibilities of permit holder

3.16 Responsibilities of permit holder

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

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

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

Part 4 - Behaviour on all local government property

Division 1 - Behaviour on and interference with local government property

4.1 Behaviour which interferes with others

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

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

4.2 Behaviour detrimental to property

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

- (2) In subclause (1) –

“**detrimental to the property**” includes –

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

4.3 Fauna

- (1) A person must not take, injure or kill any fauna that is on or above any local government property, unless that person is authorised to do so under a written law or by the CEO or an authorised person.

- (2) In this clause –

“**animal**” means any living thing that is not a human being or plant; and

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“fauna” means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal –

- (a) any class of animal or individual member;
- (b) the eggs or larvae; or
- (c) the carcass, skin, plumage or fur.

4.4 Flora

- (1) Unless authorised to do so under a written law or with the written approval of the CEO or an authorised person, a person must not –

- (a) remove, damage or interfere with any flora that is on or above any local government property; or
- (b) plant or deposit any flora on local government property.

- (2) In this clause –

“flora” means all vascular plants, seeds and other flora, whether living or dead.

4.5 Intoxicated persons not to enter local government property

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

4.6 No prohibited drugs

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

4.7 Refusal of entry and removal

- (1) If the CEO or an authorised person considers that a person has behaved in a manner contrary to the provisions of this Part, the CEO or authorised person may –
- (a) refuse to allow that person to enter local government property; and
 - (b) if the person is on local government property, direct the person to leave the local government property.
- (2) A person who has been refused entry or who has been directed to leave under subclause (1) must immediately leave the local government property quickly and peaceably.
- (3) If a person fails to comply with subclause (2), the CEO or an authorised person may remove the person, or arrange for the person to be removed, from the local government property.

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4.8 Animals

- (1) A person must not—
 - (a) tether any animal to a tree, shrub, tree guard, wall or fence; or
 - (b) permit any animal to enter upon or into any local government property,unless authorised by a permit.
- (2) The CEO or an authorised person may, by the placement of an approved sign, prohibit dogs from being in a children's playground or in the vicinity of a children's playground.
- (3) This clause does not apply to a guide dog used for the assistance of visually impaired persons and is subject to the provisions of section 8 of the *Dog Act 1976* and section 66J of the *Equal Opportunity Act 1984*.

4.9 Waste

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

4.10 Glass containers

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

- (a) within 5m of the edge of a swimming pool on local government property;
- (b) on to a children's playground; or
- (c) within any area of local government property as indicated by a sign.

Division 2 - Signs

4.11 Signs

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

Part 5 - Matters relating to particular local government property

Division 1 - Swimming pool areas

5.1 When entry must be refused

- (1) A Manager or an authorised person must refuse admission to any person who –
 - (a) in her or his opinion is –
 - (i) under the age of 10 years and who is unaccompanied by a responsible person over the age of 12 years;
 - (ii) under the age of 10 years and who is accompanied by a responsible person over the age of 12 years where the responsible person is incapable of or not providing, adequate supervision of or care for that person;
 - (iii) suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or
 - (iv) under the influence of liquor or a prohibited drug; or
 - (b) is to be refused admission by the CEO or an authorised person for breaching a clause of this local law.
- (2) If a person referred to in paragraph (a) or (b) of subclause (1) is in a pool area, a Manager or an authorised person must –
 - (a) direct the person to leave; and

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- (b) if the person refuses or fails to leave, remove the person or arrange for the person to be removed, from the pool area.

5.2 Consumption of food or drink may be prohibited

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

Division 2 - Beaches

5.3 Powers of authorised persons or surf life saving club members

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

5.4 Authority of Shire employee to prevail

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

5.5 Persons to comply with signs and directions

A person must -

- (a) not act in contravention of any sign erected on a beach under clause 5.3(1)(c);

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- (b) not enter an area which has been temporarily closed with rope, hessian, wire or any other means for the conduct of surf life saving club activities, unless he or she is a member of the club or has obtained from the club permission to enter;
- (c) comply with any direction given under clause 5.3(1)(c) or 5.3(1)(e); and
- (d) not interfere with, obscure, obstruct, or hang any item of clothing or towel on a flag, sign, notice or item of life saving equipment.

Division 3 - Fenced or closed property

5.6 No entry to fenced or closed local government property

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

Division 4 - Toilet blocks and change rooms

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

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

5.8 Hire of lockers

- (1) A person may hire a locker in or near a changeroom for the purpose of safekeeping articles on the conditions that –
 - (a) it is the responsibility of the person hiring the locker to lock the locker once the articles to be stored are placed in the locker and to return the key to the attendant; and
 - (b) on receiving a receipt given in respect of the hire of the locker, an attendant is to hand to that person the key for the locker described in the receipt in order to remove the articles from the locker.
- (2) A person must not store in any locker a firearm or offensive weapon or any article or substance that has been unlawfully acquired or which is a substance or article within the meaning of ‘dangerous goods’ under the *Dangerous Goods Safety Act 2004*.

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- (3) An attendant or authorised person may open and inspect the contents of a locker at any time, where the attendant or authorised person reasonably suspects that a breach of this local law has occurred.

5.9 Unclaimed property in locker

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

5.10 Use of shower or bath facilities

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

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

Part 6 - Fees for entry on to local government property

6.1 No unauthorised entry to function

- (1) A person must not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except –

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- (a) through the proper entrance for that purpose; and
 - (b) on payment of the fee chargeable for admission at the time.
- (2) The CEO or an authorised person may exempt a person from compliance with subclause (1)(b).

Part 7 - Objections and Review

7.1 Objection and appeal rights

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

Part 8 - Miscellaneous

8.1 CEO and authorised person to be obeyed

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

8.2 Persons may be directed to leave local government property

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

8.3 Disposal of lost property

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

8.4 Decency of dress

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

8.5 False or misleading statement

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

Part 9 - Enforcement

Division 1 - Notices

9.1 Definition

In this Division –

“costs” of the Shire include its administrative costs.

9.2 Damage to local government property

If a person unlawfully removes, damages or interferes with local government property, the CEO or an authorised person may, give the person a notice under this Division.

9.3 Breach of a permit

If a permit holder breaches a condition of the permit, or fails to comply with a direction under clause 3.16(b), the CEO or an authorised person may, give the person a notice under this Division.

9.4 Shire may undertake requirements of notice

- (1) If a person fails to comply with a notice referred to in clause 9.2, the Shire may—
 - (a) do the thing specified in the notice, including replace the property, or reinstate the property to the state it was in before the removal, damage or interference; and
 - (b) recover from the person, as a debt, the costs of doing so.
- (2) If a person fails to comply with a notice referred to in clause 9.3, the Shire may—
 - (a) take whatever remedial action it considers appropriate to put the Shire in the position it would have been in if the breach or failure had not occurred; and
 - (b) recover from the person, as a debt, the costs of doing so.

9.5 Notice requirements

A notice under this Division must –

- (a) be in writing;
- (b) specify the reason for giving the notice, the work or action that is required to be undertaken and the time within which it is to be undertaken; and
- (c) be given to the person referred to in clause 9.2 or 9.3, as the case may be.

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9.6 Offence to fail to comply with notice

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

9.7 Shire may undertake requirements of notice

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

Division 2 - Offences and penalties

9.8 Offences and general penalty

- (1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

9.9 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is the amount specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, the Shire should be satisfied that –
 - (a) commission of the prescribed offence is a relatively minor matter; and
 - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

9.10 Form of notices

- (1) For the purposes of this local law –
 - (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
 - (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
 - (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

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

9.11 Evidence of a determination

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

Schedule 1 – Prescribed offences

CLAUSE	DESCRIPTION	MODIFIED PENALTY \$
2.4	Failure to comply with determination	\$200
3.6	Failure to comply with conditions of permit	\$200
3.13(1)	Failure to obtain a permit	\$200
3.14(3)	Failure to obtain permit to camp outside a facility	\$200
3.15(1)	Failure to obtain permit for liquor	\$200
3.16	Failure of permit holder to comply with responsibilities	\$200
4.2(1)	Behaviour detrimental to property	\$200
4.3	Taking, Injuring, Killing any Fauna	\$300
4.4	Removing, damaging, interfering, with any flora or planting or depositing any flora	\$300
4.5	Under influence of liquor or prohibited drug	\$200
4.7(2)	Failure to leave local government property	\$200
4.8(1)	Tethering animal to tree etcetera or permitting animal to enter local government property	\$200
4.9	Depositing or discarding waste on local government property	\$200
4.10	Taking a glass container within 5m of pool, to a children's playground or within local government property as indicated by a sign	\$200
4.11(2)	Failure to comply with sign on local government property	\$200
5.2	Consuming food or drink in prohibited area	\$200
5.5	Failure to comply with sign or direction on beach	\$200
5.6	Unauthorised entry to fenced or closed local government property	\$200
5.7	Gender not specified using entry of toilet block or change room	\$200
6.1(1)	Unauthorised entry to function on local government property	\$200
8.5	Making a false or misleading statement	\$200
9.6	Failure to comply with notice	\$200

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Schedule 2 - Determinations

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

Part 1 - Preliminary

1.1 Definitions

In these determinations unless the context otherwise requires –

“**local law**” means the *Local Government Property Local Law* made by the Shire.

1.2 Interpretation

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

Part 2 - Application

2.1 Vehicles on local government property

- (1) Unless under the authority of a permit or determination, a person must not take or cause a vehicle to be taken onto or driven on local government property unless –
 - (a) the local government property is clearly designated as a road, access way or car park;
 - (b) the vehicle is driven by a Shire employee, authorised person or contractor engaged by the Shire, who is engaged in providing a service, maintaining or making a delivery in connection with the local government property;
 - (c) the person is driving an emergency vehicle in the course of his or her duties; or
 - (d) the vehicle is a motorised wheelchair.
- (2) A person must not drive a vehicle or allow a vehicle to be driven on local government property at a speed exceeding 10 kilometres per hour, or in such a manner as to cause danger to any person.

2.2 Motorised model aeroplanes, toys or ships

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

2.3 Children's playgrounds

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

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

2.4 Launching and retrieval of boats

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

- (a) the person is a Shire employee, authorised person or contractor engaged by the Shire and who is engaged in providing a service, maintaining or making a delivery in connection with the local government property;
- (b) the person is in charge of a boat engaged in rescue services or dealing with an emergency;
- (c) the local government property is a boat ramp that is delineated by a sign to that effect.

2.5 Activities prohibited on local government property

- (1) A person is prohibited from playing or practising archery, pistol or rifle shooting on local government property except on land which is reserved by the Shire for that purpose, or as otherwise provided by determination or permit.
- (2) A person is prohibited from playing or practising golf, on local government property except on the Dunsborough and Districts Country Club, Reserve No. 34894.
- (3) A person must not use or ride a bicycle or wheeled recreational device, skateboard, or sand board on any local government property except on an area specified by a sign erected on the local government property.
- (4) A person must not use or take on to, a spear gun, hand spear, gidgie or similar device on any local government property.

2.6 Fish cleaning

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

2.7 Waste

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

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

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

Dated 16 February 2010

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

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

Notes

This is a compilation of the *Shire of Busselton Local Government Property Local Law 2010* and includes any amendments referred to in the following table.

Local laws and amendments come into operation on the 14th day after the day of publication in the gazette unless a later day is specified: s 3.14 of the *Local Government Act 1995*.

Compilation Table

Citation	Gazettal date
<i>Shire of Busselton Local Government Property Local Law 2010</i>	9 March 2010
<i>Shire of Busselton Local Government Property Amendment Local Law 2011</i>	22 March 2011

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Document Set ID: 4121688

Version: 3, Version Date: 13/06/2019

City of Busselton

LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 202~~1~~2

Local Government Act 1995

City of Busselton

| **Local Government Amendment Property Local Law 202~~1~~²**

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11.	Various references to “Shire” amended	4
12.	Schedule 1 amended	5

Local Government Act 1995

City of Busselton

Local Government Property Amendment Local Law 202~~1~~2

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

1. Short title

This is the *Local Government Property Amendment Local Law 202~~1~~2*.

2. Commencement

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

3. Local law amended

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

4. Clause 1.1 amended

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

City of Busselton Local Government Property Local Law 2010

5. Clause 1.5 amended

In clause 1.5 –

(a) delete the definition of “Shire”; and

(b) insert, in their appropriate alphabetical sequence:

“**City**” means the City of Busselton;

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

6. Clause 2.2 amended

In clause 2.2(2)(b), delete “Shire’s offices” and insert:

City’s offices

7. Clause 2.7 amended

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

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

8. Clause 2.8 amended

In clause 2.8(1) –

- (a) at the end of paragraph (g), delete “and”;
- (b) at the end of paragraph (h), ~~delete “.”~~ and insert:
: and
- (c) after paragraph (h), insert:
 - (i) fly or use a motorised model aeroplane, helicopter, drone or other similarly remotely piloted device.

9. Clause 3.13 amended

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

reserve,

10. Clause 5.1(1) amended

In clause 5.1(1)(a)(i) and (ii) –

- (a) delete each reference to “12 years” and insert:
16 years
- (b) delete each reference to “10 years” and insert:
12 years

11. Various references to “Shire” amended

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

City

Table

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

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

12. Schedule 1 amended

In Schedule 1, delete the Table and insert:

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

Dated [add date]

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

MICHAEL STEPHEN LEE ARCHER
Chief Executive Officer

GRANT HENLEY
Mayor

City of Busselton

**LOCAL GOVERNMENT PROPERTY
AMENDMENT LOCAL LAW 2022**

Local Government Act 1995

City of Busselton

Local Government Amendment Property Local Law 2022

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Local Government Act 1995

City of Busselton

Local Government Property Amendment Local Law 2022

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

1. Short title

This is the *Local Government Property Amendment Local Law 2022*.

2. Commencement

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

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

4. Clause 1.1 amended

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

City of Busselton Local Government Property Local Law 2010

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In clause 1.5 –

(a) delete the definition of “Shire”; and

(b) insert, in their appropriate alphabetical sequence:

“**City**” means the City of Busselton;

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

6. Clause 2.2 amended

In clause 2.2(2)(b), delete “Shire’s offices” and insert:

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In Schedule 1, delete the Table and insert:

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8.5	Making a false or misleading statement	\$250
9.6	Failure to comply with notice	\$250

Dated [*add date*]

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

MICHAEL STEPHEN LEE ARCHER
Chief Executive Officer

GRANT HENLEY
Mayor

10.22am: At this time, Mr Dave Goodwin left the meeting.

10.23am: At this time, Mr Paul Needham, Ms Joanna Wilkinson and Mr David Sands entered the meeting.

6.2 HOLIDAY HOME REGULATORY FRAMEWORK REVIEW

STRATEGIC THEME	OPPORTUNITY - A vibrant City with diverse opportunities and a prosperous economy
STRATEGIC PRIORITY	3.2 Facilitate an innovative and diversified economy that supports local enterprise, business, investment and employment growth.
SUBJECT INDEX	Local Planning Scheme 21 Amendments
BUSINESS UNIT	Strategic Planning
REPORTING OFFICER	Strategic Planner - Joanna Wilkinson
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Consultation Outcomes Report Attachment B Conditions of Registration (working draft) Attachment C Code of Conduct (working draft)

COMMITTEE RECOMMENDATION

PL2203/440 Moved Councillor P Cronin, seconded Councillor J Richards

That the Council supports further progressing the review of the City’s regulatory framework for holiday homes, as follows:

- 1. Note the Consultation Outcomes Report to Inform Changes to the Holiday Home Regulatory Framework (January 2022) provided at Attachment A.**
- 2. Implement changes to the regulatory framework for holiday homes in three stages:**
 - (a) Stage one:**
Changes to conditions of registration and introduction of a code of conduct as generally described in this report.
 - (b) Stage two:**
 - (i) Initiate amendments to the Holiday Homes Local Law 2012, to be presented via a separate report during the first half of 2022.**
 - (ii) Concurrently, develop a Council Policy to guide application of the local law.**
 - (c) Stage three:**
Draft and initiate advertising of formal changes relating to holiday home provisions in Local Planning Scheme No. 21 and Local Planning Policy No. 4.1: Holiday Homes, to be presented via a separate report, once uncertainties related to the state level regulatory framework have been resolved.

CARRIED 5/0

OFFICER RECOMMENDATION

That the Council supports further progressing the review of the City's regulatory framework for holiday homes, as follows:

1. Note the *Consultation Outcomes Report to Inform Changes to the Holiday Home Regulatory Framework* (January 2022) provided at Attachment A.
2. Implement changes to the regulatory framework for holiday homes in three stages:
 - (a) Stage one:

Changes to conditions of registration and introduction of a code of conduct as generally described in this report.
 - (b) Stage two:
 - (i) Initiate amendments to the *Holiday Homes Local Law 2012*, to be presented via a separate report during the first half of 2022.
 - (ii) Concurrently, develop a Council Policy to guide application of the local law.
 - (c) Stage three:

Draft and initiate advertising of formal changes relating to holiday home provisions in Local Planning Scheme No. 21 and Local Planning Policy No. 4.1: Holiday Homes, to be presented via a separate report, once uncertainties related to the state level regulatory framework have been resolved.

EXECUTIVE SUMMARY

In 2012, three interrelated key instruments were introduced by Council to regulate holiday homes – these included a local law, provisions in the local planning scheme, and a local planning policy. The local planning policy has since been reviewed and amended, however the local law has remained unchanged, and the Scheme provisions were carried over in 2014, without substantive change, into *Local Planning Scheme No. 21*.

Following a resolution of Council in June 2021 to review five key aspects of the framework, extensive stakeholder and community consultation was carried out. Each of these changes was advertised as an 'opportunity for change', and each received majority support from consultation respondents.

The purpose of this report is to provide information about the outcomes of consultation, and propose that formal changes be introduced in three separate stages. As a first stage, changes relating to the management of holiday homes have been drafted, and should these changes be supported it is proposed that the community and industry stakeholders will be notified through a number of different means.

BACKGROUND

In 2002, upon direction from the Minister for Planning, the Shire of Busselton set out to establish a policy position for holiday homes in the District. A regulatory framework was formally established late in 2012, and this continues to be one of the most comprehensive in the State. The framework includes three key components: provisions in *Local Planning Scheme No. 21* (the Scheme) and *Local Planning Policy No. 4.1: Holiday Homes* (LPP 4.1), both pertaining to planning land use; and the *Holiday Homes Local Law 2012* (the Local Law), pertaining to registration and management.

Over time issues relating to holiday homes have arisen that may not be sufficiently addressed through this framework. At its meeting of 9 June 2021 Council resolved (C2106/119) to conduct a review by drafting a number of potential changes, and to consult with the community about these changes. In summary the proposed changes were:

1. Exclude some residential areas from holiday home use, by introducing areas of exclusion.
2. Revise standards for the size and design of properties, relative to maximum permissible occupancy numbers.
3. Revise and introduce new requirements and expectations for managers.
4. Introduce requirements and expectations for occupants and their guests.
5. Introduce requirements for the management of dogs.
6. Develop a Council Policy to guide application of the Local Law.

Consultation was carried out for a period of seven weeks between 13 August and 4 October 2021, comprising a number of community information sessions, static displays, an extensive online document library, and an online survey. 553 survey responses and a further 18 written submissions were received and each proposed change gained support from the majority of respondents. A report outlining the full consultation process and an analysis of the outcomes is provided at Attachment A.

The remainder of this report sets out whether and/or how the various advertised changes can be formally pursued in response to the outcomes of consultation.

OFFICER COMMENT

Introduction of staged changes

Consultation carried out during 2021 affirmed that there is stakeholder and community support for a review of the Holiday Home Regulatory Framework. It is proposed that the majority of advertised changes be formally drafted and implemented in three separate stages.

The primary reasons for phased introduction are:

- Prioritisation of workload, and the length of time it will take for some of the changes to take effect.
- Uncertainty around the State's planning framework because of the draft *Position Statement: Planning for Tourism*.

Stage 1: some of the holiday home management changes are proposed to be introduced first. This includes changes to the conditions of registration and introduction of a new code of conduct, which can be implemented within the City's existing regulatory framework. A working draft of the conditions of registration is provided at Attachment B, and the code of conduct at Attachment C. Should these changes be supported it is intended that stakeholders will be notified, with the changes coming into effect through the 2022/23 annual registration renewal process.

Stage 2: amendments to the Local Law are required to follow a statutory process, and it is proposed that the amended Local Law be presented to Council through a subsequent report during the first half of 2022. Concurrently, a Council policy would be developed to guide application of the Local Law.

Stage 3: most of the land use/development changes are subject to statutory requirements under the Regulations. Additionally, the State Government's recently released draft *Position Statement: Planning for Tourism* may impact the current development controls provided through the Scheme and LPP 4.1, and the preferred future direction identified through this review. The State's draft policy was referred to Council on 9 February 2022 (C2202/022) and Council resolved to provide a formal submission advocating against a number of elements of the draft policy. Officers recommend that the City undertakes these changes as a third stage, either later in 2022 or upon finalisation of the State's policy position.

Holiday home management changes – Stages 1 and 2

Many holiday home neighbours and community members who responded to the 2021 consultation raised concerns around the impact of holiday homes on the enjoyment of their own homes and neighbourhoods. Their negative experiences relate to noise, disturbance and antisocial behaviour; parking of vehicles outside of lot boundaries; unattended barking dogs; and management of waste disposal. There was a sentiment that management issues should be addressed as a matter of priority.

Following the closure of consultation, officers met with several local managing agencies who are collectively responsible for the management of approximately one third of all registered holiday homes in the district. These managers were supportive of the advertised changes, observing that the changes would complement the management policies and practices they already have in place.

The three advertised opportunities for change that relate to the management of holiday homes were:

- “3. Change the requirements and expectations for managers, by:
 - a) Reducing the amount of time in which a manager must respond to any contact relating to a holiday home, from 24 hours to 12 hours.
 - b) Requiring managers to live within a 30 minute travel time from the holiday home.
 - c) Requiring that the contact details of the manager be displayed on a sign that can be seen from the street, so that the manager can be contacted directly if there is a reason to lodge a complaint.
 - d) Requiring that the manager must resolve complaints and ensure that occupants follow the correct rules (e.g. not too many occupants, cars parked within the property boundary, not cause a nuisance to neighbours etc.).*
- 4. Introduce a code of conduct for the management of the behaviour of occupants and their guests. This would include the display of the code of conduct in the holiday home, and acknowledgement by the occupants that they are aware of the code of conduct.*
- 5. Require that dogs must not be left unattended at holiday homes.”*

Each change received majority support from consultation survey respondents (61%, 86% and 67% respectively), with full details provided in the attached *Consultation Outcomes Report to Inform Changes to the Holiday Home Regulatory Framework*.

In regard to change number three, this included four separate components. As part of the consultation, survey respondents were asked to identify which of the components they did not support. This was a non-compulsory question, resulting in an overall 25.3% response rate (140 of the 553 survey participants). The remaining two advertised changes were supported by the majority of respondents from all stakeholder groups.

Recommendations for the implementation of changes are discussed below, and where supported by officers are identified as either a Stage 1 or Stage 2 change.

Change 3a: Reducing the amount of time in which a manager must respond to any contact relating to a holiday home, from 24 hours to 12 hours

The requirement for managers to respond to contact relating to a holiday home is provided through clause 3.4 of the Local Law which states:

“3.4 Contacting the manager

...

(2) The manager must respond within a reasonable time but in any event within 24 hours to any contact relating to the holiday home; ...”

This requirement is further explained through a condition of registration stating:

“The manager must inform the City of Busselton in writing within 24 hours of becoming aware of any breach of these conditions of registration or breach of the local law or relevant law by an attendant and of any action taken in relation thereto: provided that if the manager becomes aware of such breach on a weekend or public holiday, the City must be informed of such breach on the first following business day.”

A revised response time of 12 hours was proposed because a dilemma arises around a response time that may be considered reasonable. ‘Reasonable’ may be almost immediate for a management agency with multiple staff, but this might not be the case if a sole person is appointed as manager.

The question of reasonableness also applies to the potential to criminalise behaviour (the time to respond to a complaint) which may be disproportionate to the purpose sought to be achieved. For example, it may not be reasonable to criminalise a slow response to a complaint about an excessive number of vehicles parked at a property. It may be considered reasonable to expect a quick response regarding an excessive number of noisy and disruptive holiday home occupants and guests during the night. However this sort of matter may also be more appropriately dealt with by the police rather than a manager.

In instances where this measure was not supported by respondents, generally it was because they preferred to see a shorter response time such as one or two hours. Given the question of ‘reasonableness’, and the overwhelming support for a 12 hours response time, officers recommend that this proposed time be retained.

A change to sub-clause 2.3 (i) (ii) would require an amendment to the Local Law, and it is recommended that the amendment be undertaken as part of Stage 2.

Change 3b: Requiring managers to live within a 30 minute travel time from the holiday home

Currently there is no requirement pertaining to where a holiday home manager resides, meaning owners might personally manage a property regardless of place of residence (noting that 53.5% of owners/current applicants who responded to the 2021 consultation reside outside of the District), or elect to have the property managed by a local management agency, friend, etc. 48.5% of the 200 owners/current applicants who responded to the survey did not support this measure, with reasons including:

- many problems can be resolved via telephone;
- police should be contacted in the case of serious disruption;
- this measure would force the management of all holiday homes to be carried out by local entities (lack of availability; increased cost).

The Shires of Augusta-Margaret River and Exmouth require all development applications for a holiday home to provide a management plan that includes the contact details of a manager/caretaker who resides within a specified (short) travel time of the premises. As neither of these local governments has a local law for holiday homes, this requirement stems from the planning process. Noosa Shire Council has introduced a similar provision through a local law (drafted under Queensland state legislation) that came into effect on 1 February 2022.

Officers have further reviewed this potential change, initially advising that introduction could be via the Local Law, however it is unlikely to be supported by the parliamentary Joint Standing Committee. A set travel time is more likely to be achievable by a managing agency, than it is by a sole person appointed as manager.

Despite support received during consultation for this measure, other changes such as the requirement for display of a manager's contact details on signage and a code of conduct may alleviate some management issues that were sought to be addressed through this measure. Officers recommend that this change is not pursued. However should Council be of a mind to investigate this option then further advice would be sought.

Change 3c: Requiring that the contact details of the manager be displayed on a sign that can be seen from the street

A standard condition of registration is that any signage advertising a holiday home must not exceed 0.2m², and be situated on private property and within the subject site. The maximum signage size is consistent with Schedule 9 (A) 2 of the Scheme, and does not require development approval.

The Local Law provides that the manager must be contactable through clause 2.6:

"2.6 Conditions which may be imposed

The Council may approve an application for registration subject to conditions relating to—

...

(k) ensuring that each of the manager, and the acting manager while undertaking the functions of the manager—

(i) is contactable by telephone, at any time of the day or night, using his or her contact details provided to the City; ..."

The proposed change received majority support from all consultation respondents. Opposition primarily came from owners/current applicants, with some of the reasons being:

- Safety and security of a premises by providing an obvious advertisement that it would be frequently vacant;
- Likelihood of an unnecessary volume of phone calls and/or vexatious complaints;
- Adequacy of providing contact details to immediate neighbours only;
- Adverse visual impact in the streetscape.

At the follow-up meeting with managing agencies, support was provided because they already have contact details on signage outside of managed properties, but receive a large volume of calls that do not relate to the properties they manage. Managing agencies also commented that they have not experienced security and theft issues resulting from signage outside of properties.

The feedback from managing agencies suggests that there are many instances where no contact details are provided to nearby neighbours, leaving them helpless if enquiries or complaints are not addressed. Applying this requirement to all properties would mean that calls are directed to the appropriate manager, and a greater likelihood of enquiries, complaints and issues being resolved. The owner/current applicant concerns around safety and security are understood, however there is also benefit in that a sign outside a property is an alternative form of advertising that could provide advantage in the short-stay market.

It is recommended that this measure is introduced in Stage 1 through a new condition of registration, stating that the premises must display a sign, visible from the street, notifying of a current telephone number upon which the manager can be contacted.

Owners would be provided with a transition time in which to install the sign, with initial proof of such signage to be provided by 30 September 2022, and subsequently each year through the annual registration renewal process.

Change 3d: Requiring that the manager must resolve complaints and ensure that occupants follow the correct rules

The Local Law provides a mechanism to require managers to terminate tenancies where attendants breach the conditions of registration. Clause 3.2 states:

“3.2 Breach of a condition by an attendant

(1) In this clause, breach means breach by an attendant of—

- (a) a condition of registration;*
- (b) this local law; or*
- (c) a relevant law.*

(2) Within 24 hours of—

- (a) the CEO or an authorised person giving written notice to the manager of the breach;*
- (b) the manager becoming aware of the breach; or*
- (c) the manager becoming aware of circumstances that would reasonably enable the manager to determine that the breach had occurred.*

the manager must ensure that—

(d) the occupant's tenancy is terminated; and

(e) the occupant vacates the holiday home."

It is recommended that this measure is expanded in Stage 1 through a new condition of registration, so that the manager requirement to respond to and resolve any breach is explicitly conveyed.

Change 4: Introduce a code of conduct for the management of the behaviour of occupants and their guests

The Local Law allows for conditions of registration that can cover matters such as the maximum number of occupants and their guests; the minimum number of on-site car parking bays for the exclusive use of occupants and guests; and the maximum of vehicles that may be parked on the premises at any time. The conditions include provisions for each of these matters as well as the disposal of waste. Registration can be cancelled if there is evidence of excessive noise, antisocial behaviour or other nuisances, and an occupant's tenancy can be cancelled if there are breaches to the Local Law or conditions of registration. It is required that these conditions must be displayed at the premises, however it may be the case that occupants and their guests are not fully aware of their obligations.

A separate document relating to the obligations of occupants and their guests, in the form of a code of conduct, would clarify these requirements and expectations. A standardised document, drafted by the City and provided to all registered holiday homes, would introduce a consistent approach. It should be noted that the code of conduct itself would not be enforceable by the City against individual attendants, however the City could require proof that the code of conduct is provided to and acknowledged by occupants.

It is recommended that this measure is introduced in Stage 1 through:

- a) A new condition of registration requiring managers to notify occupants of the code of conduct; and proof to be provided to the City, upon request, demonstrating that occupants have been notified.
- b) A standardised code of conduct, to be provided to all holiday home owners and managers through the annual renewal process.

Change 5: Require that dogs must not be left unattended at holiday homes

Registration can be cancelled if there is evidence of excessive noise or other nuisances, and the conditions of registration specify that nuisance can include barking dogs.

Holiday homes are often regarded as a 'home away from home' and provide a flexible opportunity for occupants to travel with pets. Dogs in particular can become distressed when left unattended, causing disturbance to neighbours, and the *Dog Act 1976* does not provide a workable means to address the matter.

It is recommended that this measure is introduced in Stage 1 through a new condition of registration, and a specific section in the code of conduct, stating that dogs are not to be left unattended, and must not cause a nuisance.

Statutory Environment

Local Government Act 1995 (LG Act)

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

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

The procedure for making local laws is set out in section 3.12 of the LG Act and regulation 3 of the *Local Government (Functions and General) Regulations 1996*.

Planning and Development Act 2005 (PD Act) and associated Regulations

The PD Act outlines the relevant considerations when preparing and amending local planning schemes.

The *Planning and Development (Local Planning Schemes) Regulations 2015* identify three different types of Scheme amendments (regulation 34), and set out the procedure for amending a local planning policy (Schedule 2, Part 2, clause 5).

Holiday Homes Local Law 2012 (Local Law)

The purpose of the Local Law is to require the registration of all holiday homes, the nomination of a manager and acting manager, and to ensure the adherence to conditions relating to the orderly and proper use of the holiday home.

Relevant Plans and Policies

The City’s Community Engagement Policy provides guiding principles for engagement to enable stakeholders to stay informed on matters that affect them and have the opportunity to make informed comment.

There are no plans or policies related to the Local Law.

Financial Implications

There are no financial implications associated with the officer recommendation, with the costs of reviewing and amending the Holiday Homes Local Law provided for in the City’s budget.

Stakeholder Consultation

Initial consultation in relation to the review was undertaken for a period of seven weeks in 2021.

No further consultation is proposed to implement Stage 1 recommendations. Relevant stakeholders and the community would be notified through the following actions:

- Targeted emails or surface mail letters to:
 - all persons who responded to the 2021 consultation;
 - holiday home owners and current applicants; and
 - holiday home managers, management agencies, booking platforms, industry bodies and relevant community associations (incorporated).
- Notices in the Bay to Bay newsletter, and the City’s social media pages.
- A notice on the City’s website, including an update to the Holiday Home Regulatory Framework Review *YourSay* portal.

Further consultation would, however, be required as part of progressing stages 2 and 3.

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve to seek further information before making a decision.
2. Resolve to support the recommendations subject to identified modification(s).
3. Resolve not to support the recommendation.

CONCLUSION

In 2021 the City commenced a review of the Holiday Homes Regulatory Framework, and publically advertised five key opportunities for change. Each key change was supported, and it is recommended that the review is further advanced by formally drafting and implementing the changes in three separate stages.

The first of those stages relates to the management of holiday homes, and would involve notifying stakeholders and the community of revised conditions of registration and a new draft code of conduct for occupants and their guests.

The second stage relates to amendments to the Local Law, to be presented to Council in a separate report.

The third stage relates to the local planning framework, and it is recommended that this should be placed on hold until the end of 2022, or State Government's ongoing review of related matters is further advanced.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

In relation to the conditions of registration and code of conduct, relevant stakeholders the community would be notified within six weeks of a Council resolution.

In relation to the Local Law, a separate report addressing the issues identified in this review will be presented to Council within four months.



**HOLIDAY HOME REGULATORY FRAMEWORK
REVIEW – COMMUNITY CONSULTATION
AUGUST/SEPTEMBER 2021**

**Consultation Outcomes Report to Inform Changes to the Holiday
Home Regulatory Framework**

January 2022

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ATTACHMENT A – Proposed Exclusion Areas.

ATTACHMENT B – Consultation Survey.

ATTACHMENT C – Your Say Project Report.

1 INTRODUCTION

In 2002, upon direction from the Minister for Planning, the Shire of Busselton set out to establish a policy position for holiday homes in the District. A regulatory framework was formally established late in 2012, and this continues to be one of the most comprehensive in Western Australia. The framework includes three key components: provisions in *Local Planning Scheme No. 21* (LPS 21) and *Local Planning Policy No. 4.1: Holiday Homes*, both pertaining to planning land use, and the *Holiday Homes Local Law 2012*, pertaining to registration and management.

Over time issues relating to holiday homes have arisen that may not be sufficiently addressed through this framework. In 2021 the Council resolved to review the Holiday Home Regulatory Framework by drafting a number of potential changes, and consult with the community about these proposed changes. Consultation was carried out for a period of seven weeks between 13 August and 4 October 2021, and included a number of community information sessions, static displays, an extensive online document library, and an online survey. The final response include 553 completed surveys and 18 additional written submissions.

In recent years holiday homes have proven to be a divisive issue in the community, particularly during the ongoing Covid-19 pandemic which is characterised in Western Australia by restricted international and interstate travel, conversely resulting in an unprecedented high level of intrastate travel, and a state-wide shortage of properties for long-term rental accommodation. These circumstances have been beneficial for some and costly for others, and a feature of the survey was to ask participants whether they identified as an owner, manager, neighbour or community member. Many differing viewpoints were offered.

Broadly there was support for a review of the City's existing regulatory framework, and each of the five proposed changes were supported. Survey results indicated however, that not all measures were supported by all stakeholder groups. Less complex changes tended to receive stronger support from all groups, e.g. the introduction of a code of conduct for occupants and not allowing dogs to be left unattended at properties. More complex changes were supported by a majority of all participants, but not by all stakeholder groups.

2 SUMMARY OF PROPOSED CHANGES

At its meeting of 9 June 2021 Council resolved to consider the implementation of five potential changes, subject to the outcomes of consultation. The proposed changes were presented to the community through a survey, in the following manner:

1. Introduce areas in the Residential zone where new holiday homes may not be permitted. Draft areas adopted by Council include:
 - Parts of Dunsborough (including Windlemere Estate and Dunsborough Lakes);
 - Parts of Vasse and Kealy (south of Bussell Highway/Busselton Bypass and zoned Residential);
 - Parts of Abbey and Broadwater (south of Bussell Highway and north of the Busselton Bypass);
 - West Busselton and Busselton (south of Bussell Highway and north of the Busselton Bypass); and
 - Parts of Bovell (including Country Road Estate) and Yalyalup (including Provence, Via Vasse and Willow Grove).
- Note: see advertised maps at Attachment A.*
2. Change the rules applying to how many occupants can stay in a holiday home in the Residential zone, by introducing the following limits:
 - a) In apartments, no more than 4 occupants.

- b) In units, no more than 4 occupants for lots less than 260m².
- c) In free-standing houses no more than:
 - i. 10 occupants for lots greater than 350m²; or
 - ii. 7 occupants for lots 260m² - 350m²; or
 - iii. 4 occupants for lots less than 260m².

Note: no change was proposed outside of the Residential zone.

- 3. Change the requirements and expectations for managers, by:
 - a) Reducing the amount of time in which a manager must respond to any contact relating to a holiday home, from 24 hours to 12 hours.
 - b) Requiring managers to live within a 30 minute travel time from the holiday home.
 - c) Requiring that the contact details of the manager be displayed on a sign that can be seen from the street, so that the manager can be contacted directly if there is a reason to lodge a complaint.
 - d) Requiring that the manager must resolve complaints and ensure that occupants follow the correct rules (e.g. not too many occupants, cars parked within the property boundary, not cause a nuisance to neighbours etc.).
- 4. Introduce a code of conduct for the management of the behaviour of occupants and their guests. This would include the display of the code of conduct in the holiday home, and acknowledgement by the occupants that they are aware of the code of conduct.
- 5. Require that dogs must not be left unattended at holiday homes.

A full description of each potential change, rationale around why the change has been proposed, and reasons why each might or might not be supported, was provided in the associated *Holiday Homes Regulatory Framework Review Directions Paper* (2021).

3 CONSULTATION OVERVIEW

A comprehensive strategy was developed to ensure that all impacted stakeholders would be informed that a review was underway, and be provided with an opportunity express their thoughts on the proposed changes.

An important part of this process was to identify key stakeholders. These included:

- Holiday home owners (current and pending development approval).
- Holiday home managing agencies (e.g. Dunsborough Holiday Homes, Exclusive Escapes etc.).
- Holiday home managers and acting managers (nominated through the registration approval process).
- Online booking platforms (e.g. Airbnb, Stayz etc.).
- Neighbours of holiday homes.
- Local community members.
- Incorporated community groups –
 - Dunsborough Progress Association
 - Injidup Residents' Association
 - Port Geographe Landowners' Association
 - Residents of Eagle Bay Association

6.2 Attachment A Consultation Outcomes Report

- Yallingup Residents' Association.
- Industry bodies –
 - Australian Hotels Association
 - Busselton Chamber of Commerce and Industry
 - Dunsborough Yallingup Chamber of Commerce and Industry
 - Margaret River Busselton Tourism Association
 - Real Estate Institute of Western Australia (SW).
- Councillors and City staff.

Many stakeholders were contacted directly, and approximately 2,300 surface mail letters or emails were sent prior to the online survey becoming 'live'. For those stakeholders who the City was unable to contact directly, various conventional and online media tools were also utilised, including:

- A media release, resulting in two newspaper articles and two radio interviews.
- Three articles in the City's *Bay to Bay* e-newsletter.
- Eight advertisements in a local newspaper, outlining the duration of consultation and how people could become involved.
- Three social media posts, including a link to a Mayor's Message, accessible on You Tube.

Static information displays were set up for the duration of the consultation period at the City's administration building in Busselton, and Naturaliste Community Centre in Dunsborough. Temporary information displays, manned by City staff, were provided for half a day each at Busselton Central Shopping Centre and Dunsborough Centrepont Shopping Centre.

Five information sessions, hosted by staff and Councillors, were conducted to provide an overview of the proposed changes, and an opportunity for questions from stakeholders. Three of these were conducted online and two were in person, held respectively in Busselton and Dunsborough.

These various means of engaging with stakeholders were augmented by a dedicated 'Your Say' webpage that included a comprehensive document library, with links to the City's current policy framework, a Directions Paper, and relevant State Government documents.

The most successful means of engaging stakeholders were through surface mail letter, the *Bay to Bay* e-newsletter, and in person information sessions. Each resulted in a subsequent 'spike' in survey responses. The final article in the *Bay to Bay* is thought to have resulted in increased discussion activity on social media, within community groups, contributing to an increased number of participants. In total 2,100 visits were made to the Your Say webpage, by 989 individual visitors.

Ultimately these engagement tools culminated in an online survey. The survey was devised to capture general data (age and gender), residential postcode, and 'best fit' stakeholder option (e.g. owner, manager, neighbour etc.). A description of each of the proposed changes was followed by one or more questions, depending on the complexity of the change being proposed. A hard copy version of the survey can be found at Attachment B.

4 CONSULTATION OUTCOMES

The following section provides a brief overview of visitors to the Your Say webpage, and profile details provided by participants.

4.1 YOUR SAY VISITORS

The Your Say webpage was open for community engagement between 13 August and 4 October 2021.

A total of 2,100 visits were made to the page, by 989 individual visitors.

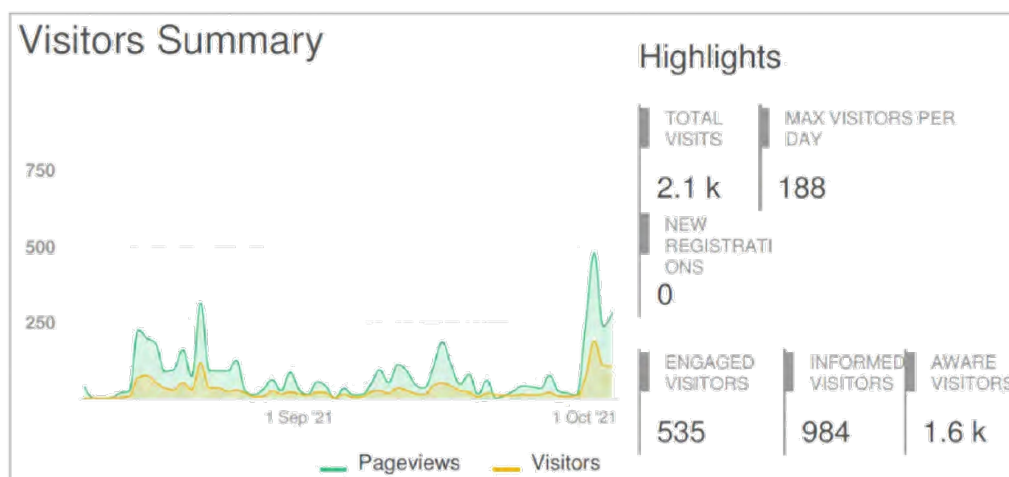
1,630 participants visited a project page or tool, 420 visited multiple project pages, and 549 downloaded a document. The Proposed Exclusion Areas Maps (Attachment A) was the most downloaded document, followed by the Directions Paper.

539 individual participants completed the survey and a total 553 responses were received, meaning approximately 14 individuals completed more than one survey.

Three notable spikes in visits to the page broadly coincided with articles published in the *the Bay to Bay* e-newsletter, although the final spike is likely to also be associated with discussion activity on social media, within community groups.

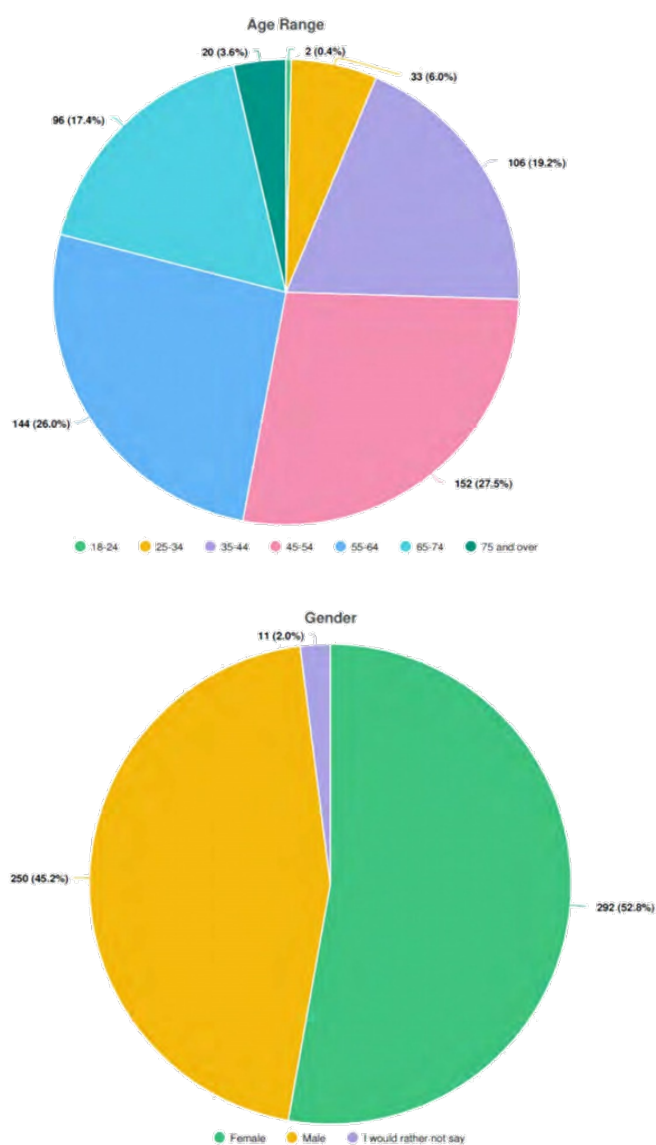
The initial high volume of responses was characterised by a high response rate home holiday home owners, coinciding with the receipt of direct surface mail letters.

Aware Participants	1,630
Aware Actions Performed	Participants
Visited a Project or Tool Page	1,630
Informed Participants	984
Informed Actions Performed	Participants
Viewed a video	1
Viewed a photo	0
Downloaded a document	549
Visited the Key Dates page	20
Visited an FAQ list Page	112
Visited Instagram Page	0
Visited Multiple Project Pages	420
Contributed to a tool (engaged)	535



4.2 PARTICIPANT PROFILES

To ensure that a broad range of community members have the opportunity to speak and be heard, it is important to capture general data when conducting surveys. This data can be used to understand who is engaged, who is most concerned, and inform the design of future community engagement to try and better capture under-represented groups.

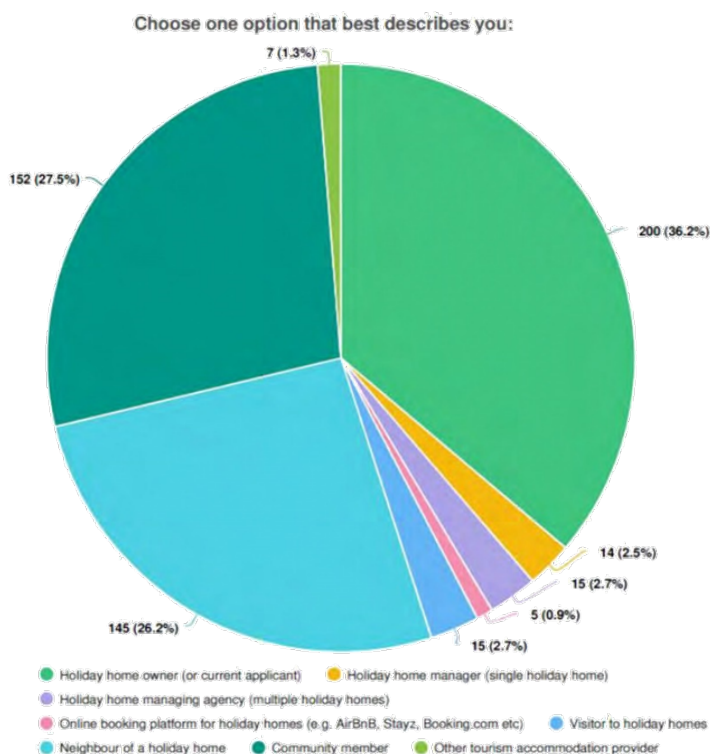


Observations:

- The majority of participants (53.5%) were aged 45 – 64.
- The majority of participants (52.8%) were female.

In order to gain some understanding around bias and perspective, i.e. which changes are important to which stakeholders and why, participants were asked to choose one option that best described their relationship with holiday homes. These options included:

- Owner (or current applicant)
- Manager (one holiday home only)
- Managing agency (multiple holiday homes)
- Online booking platform (e.g. Airbnb)
- Visitor
- Neighbour
- Community member
- Other tourism accommodation provider



Observations:

- 200 participants (36.2%) identified most strongly as owners/current applicants. This sample group was relatively large and the responses differed from other sample groups. Therefore the responses have been analysed separately from any other sample group.
- 306 participants (53.7%) identified most strongly as community members or neighbours. Each of these sample groups were relatively large and the responses from both groups were in most cases similar, however each has been analysed separately from any other sample group.
- 29 participants (5.2%) identified most strongly as managers of single or multiple properties. Each of these sample groups were relatively small however the responses from both groups were similar. The responses from these sample groups were combined to provide more meaningful data, although in some instances the comments from managers of multiple properties (referred to as managing agencies) are provided below.
- Due to the small size of all other sample groups, meaningful data was unable to be extracted.

- For further analysis, data has been separated for four key stakeholder groups: owners/current applicants; managers; community members; and neighbours.

The final piece of general data information extracted from the surveys was the residential postcode of participants (rather than the postcode of the/a holiday home).



Observations:

- The overall majority of participants including managers, community members and neighbours, live within the District – primarily at postcode 6281 (Dunsborough, Eagle Bay, Naturaliste, Quedjinup, Quindalup, and Siesta Park) followed closely by the postcode 6280 (Ambergate, Busselton and suburbs, and Vasse).
- The majority of owners/current applicants (53.5%) live outside of the District, primarily in the Perth metropolitan area. Two participants reside interstate.

5 SURVEY RESPONSES TO PROPOSED CHANGES

As discussed in section 4.2, four key participant groups were identified: owners/current applicants; managers; community members; and neighbours. These four groups represented the views of 95% of all participants.

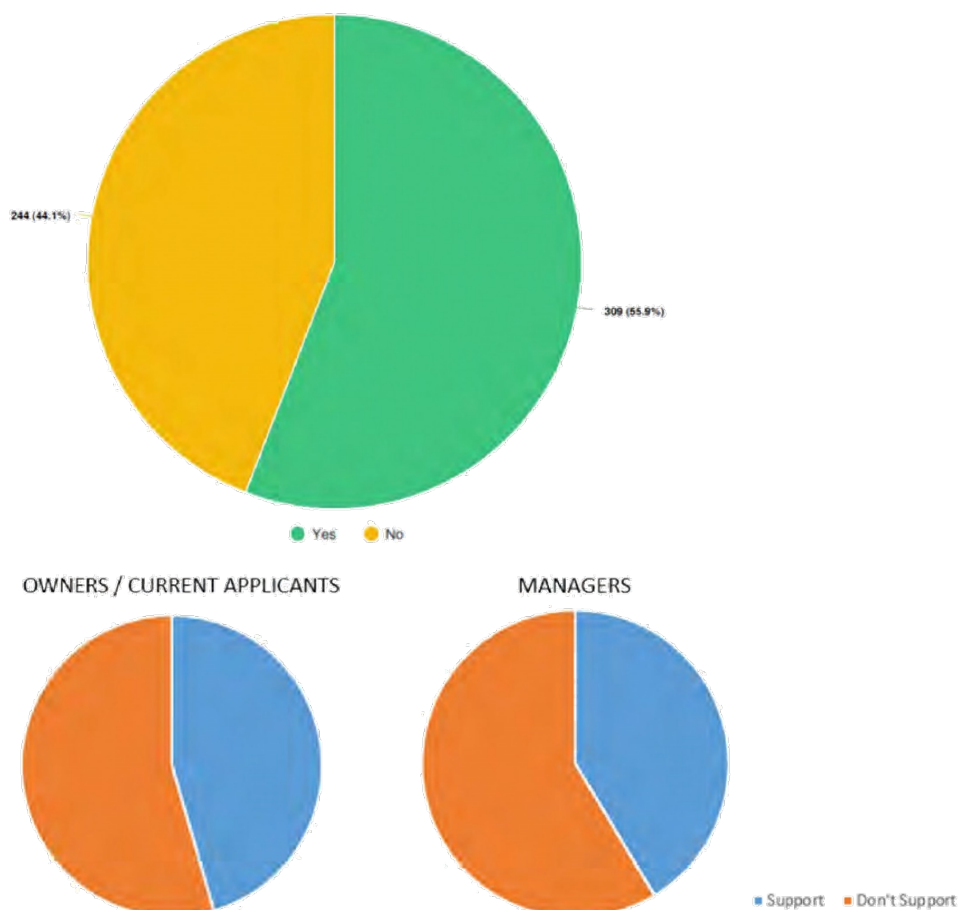
NUMBER OF RESPONSES FROM FOUR KEY STAKEHOLDER GROUPS				TOTAL
Owners/Current Applicants	Managers	Community Members	Neighbours	
200	29	152	145	526

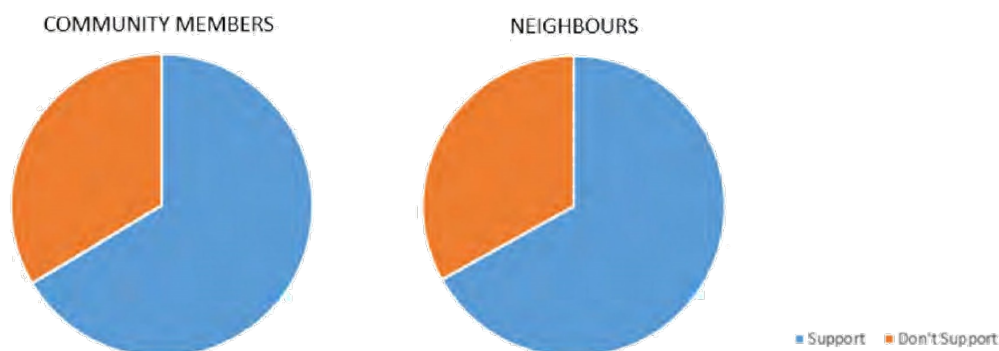
The data from responses to each proposed change is presented firstly from the overall survey results (Attachment C), and then from each of the key stakeholder groups.

5.1 RE-INTRODUCTION OF EXCLUSION AREAS

Proposed change no. 1: *Introduce areas in the Residential zone where new holiday homes may not be permitted.*

Question 1: *Do you generally support the change outlined in Opportunity 1?* (Compulsory Y/N)





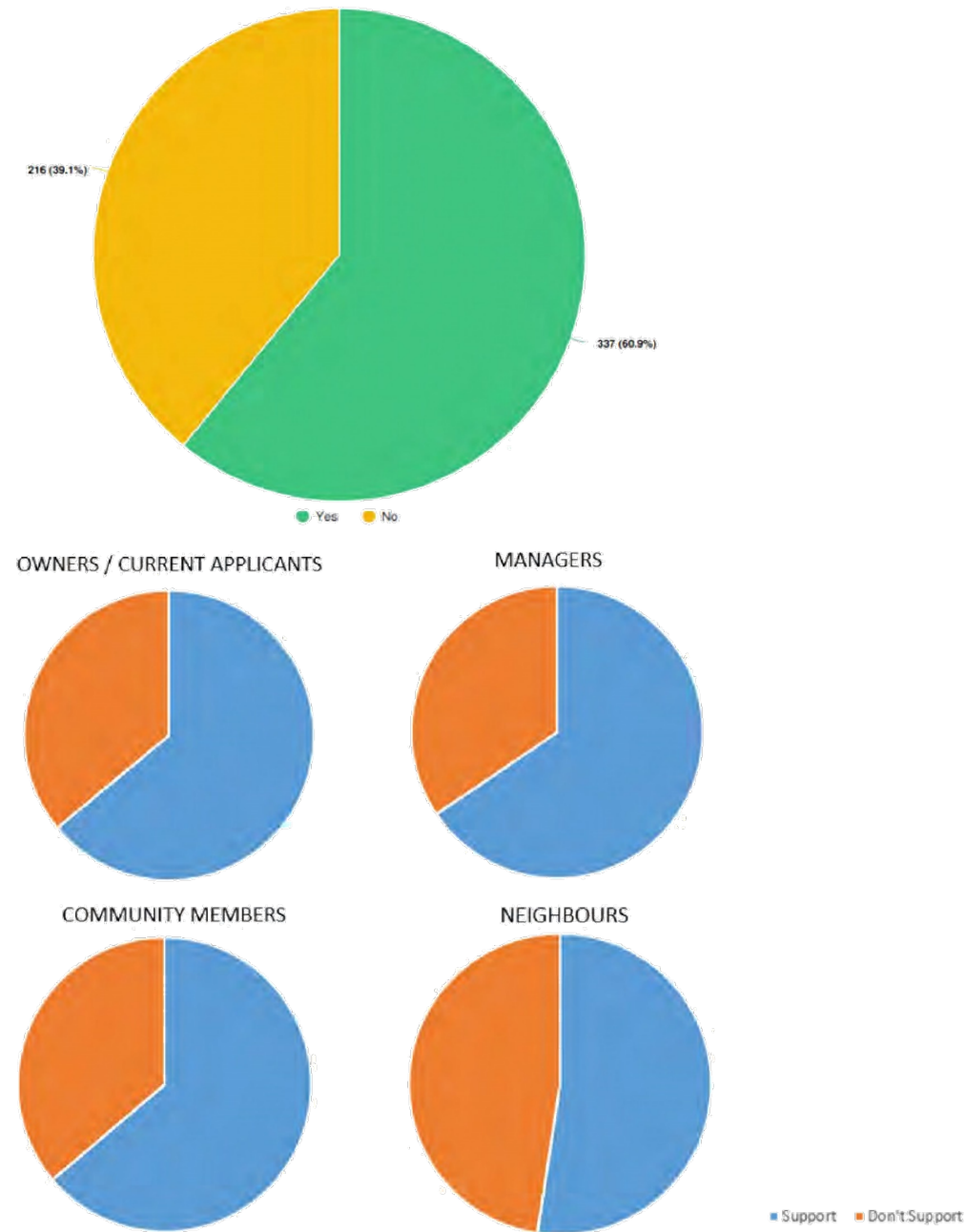
Observations:

- The majority of all participants (60%) support the re-introduction of exclusion areas.
- 55% of owners/current applicants (and 59% of managers) did not provide support.
- 2/3 of all neighbours and community members did support the measure.
- 68 participants who reside in Dunsborough Lakes, one of the areas proposed to be excluded, responded to the survey. Of these, 42 people or 61.8% support the re-introduction of an exclusion area.
 - Reasons for support included the maintenance of a permanent residential, community and neighbourhood environment; adverse amenity impacts (noise, parking, barking dogs etc.); and lack of long-term rental availability.
 - Reasons the proposal wasn't supported included lack of fairness through targeting a specific suburb; close proximity to the coast and golf course resulting to high tourism amenity; and that management should be a priority rather than restricting land use.
- Some comments indicated a desire for the inclusion of exclusion areas, in addition to those that were advertised – Cape Rise, Naturaliste Heights, and Port Geographe.
- There was a perception from some participants that if exclusion areas were introduced, they would lose their land use right.

5.2 REDUCED NUMBER OF OCCUPANTS

Proposed change no. 2: *Change the rules applying to how many occupants can stay in a holiday home in the Residential zone.*

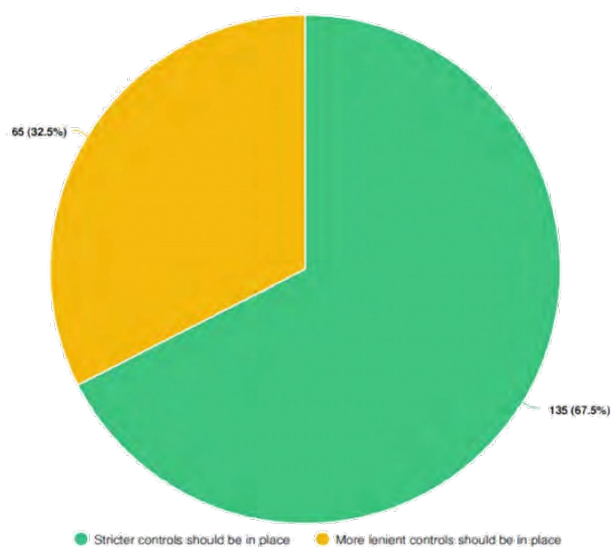
Question 2: *Do you generally support the change outlined in Opportunity 2? (Compulsory Y/N)*



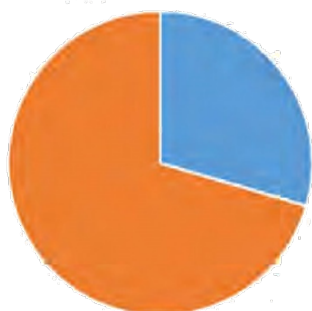
As outlined in section 2, this proposed change included specific occupancy numbers relative to the type of dwelling or lot size.

While there was majority support from all participant groups for this change, it is notable that almost half of all neighbours didn't support it. To gain greater understanding around whether stricter or more lenient controls were supported, a non-compulsory question was posed to the participants who had answered no to question two.

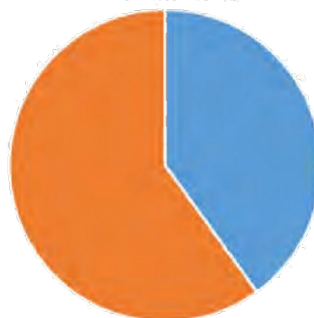
Question 3: If no, do you think there should be stricter or more lenient controls? (Non-compulsory)



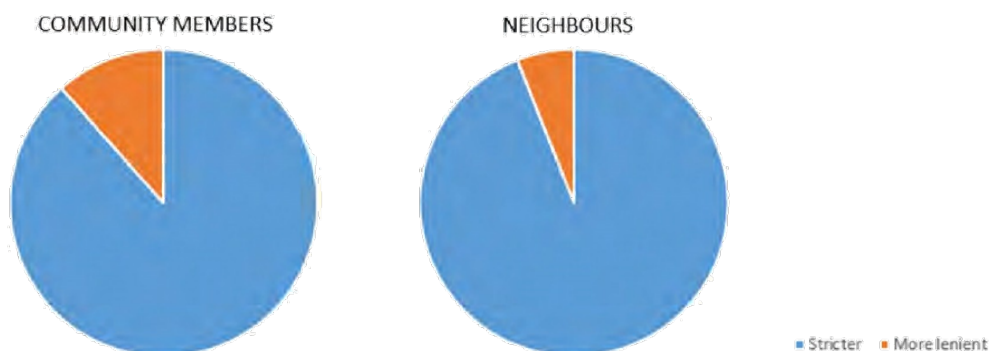
OWNERS / CURRENT APPLICANTS



MANAGERS



■ Stricter ■ More lenient



The number of respondents to this question was 200 (i.e. 36.2% of all participants), and there was a clear divergence of opinion between stakeholder groups as to whether stricter or more lenient controls should be introduced.

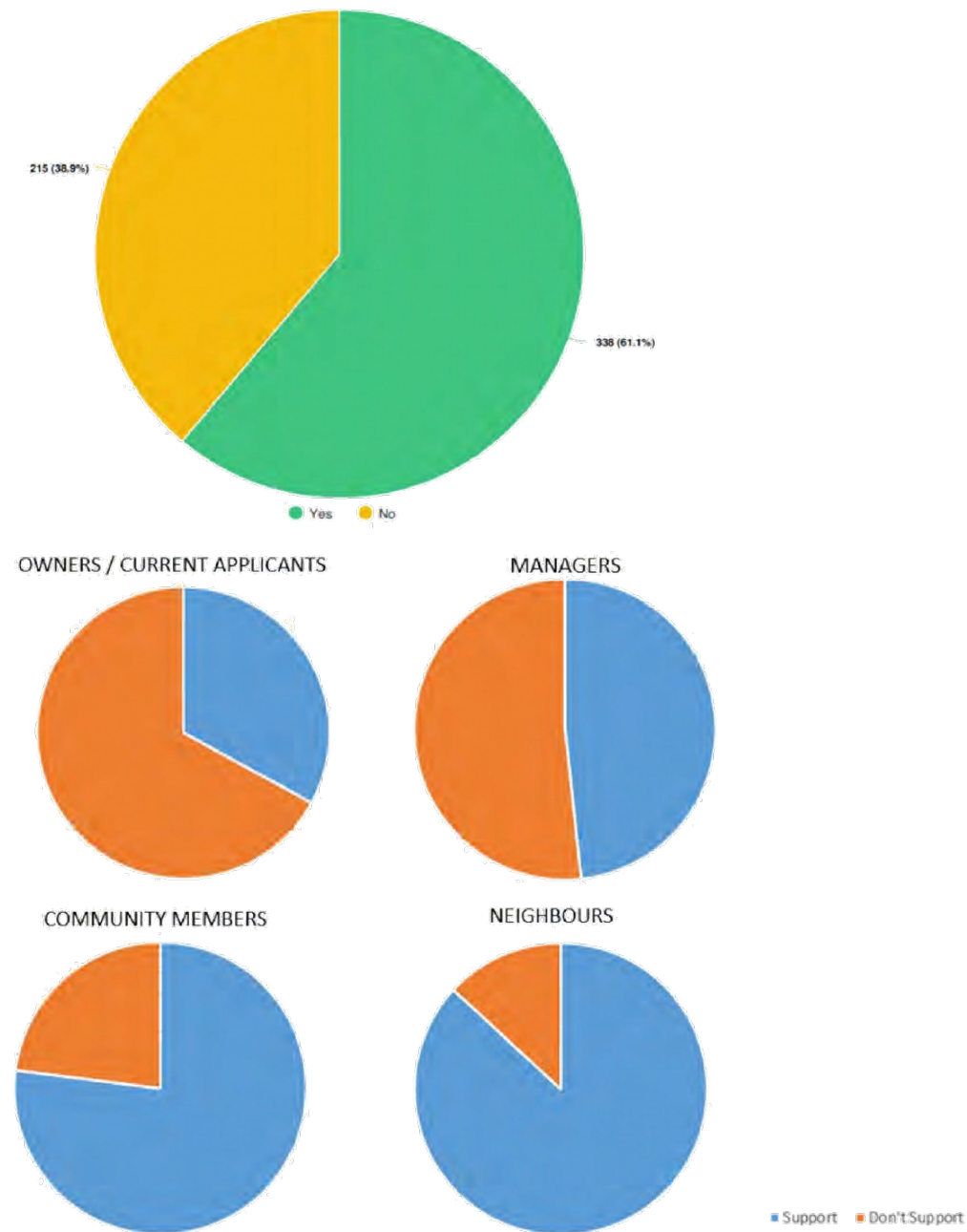
Observations:

- 52 individual respondents or 30.1% of all participants identifying most strongly as community members, would like to have stricter controls in place.
- 46 individual respondents or 43.4% of all participants identifying most strongly as neighbours, would like to have stricter controls in place.
- 67 individual respondents or 21.5% of all participants identifying most strongly as owners/current applicants, opted for more lenient controls than those proposed (mainly for grouped dwellings with 4+ bedrooms and/or on large sites).
- A number of participants commented that stricter controls should also be considered in rural residential areas, with noise cited as the main issue.
- Commentary was provided around the design of buildings and the location of outdoor living areas, relative to neighbouring property bedrooms.

5.3 MANAGER REQUIREMENTS/EXPECTATIONS

Proposed change no. 3: *Change the requirements and expectations for managers.*

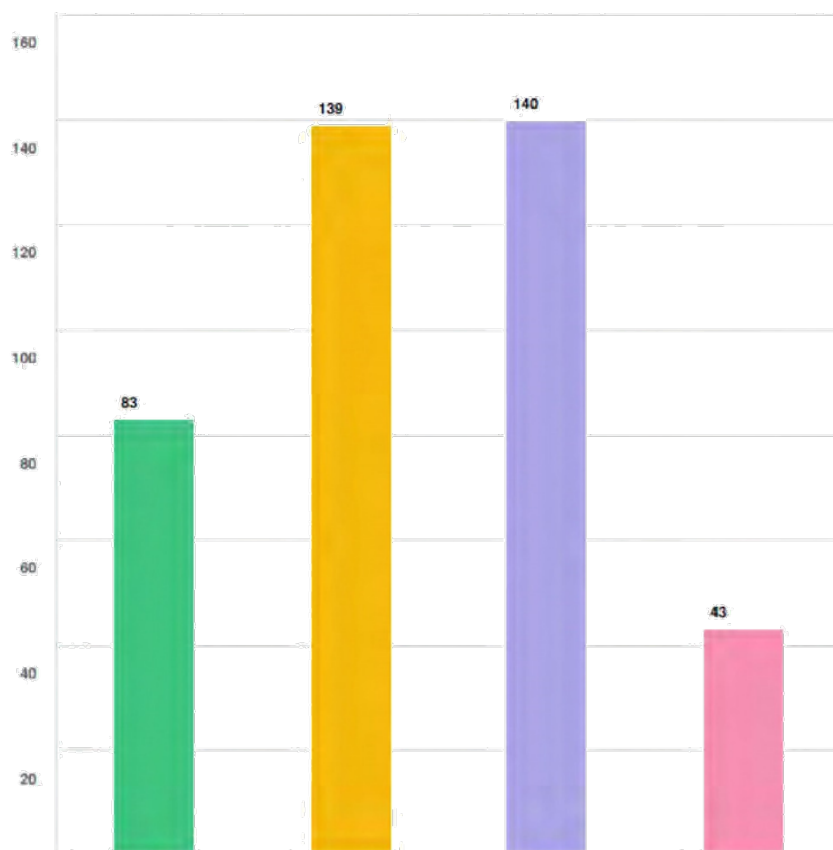
Question 4: *Do you generally support the change outlined in Opportunity 3? (Compulsory Y/N)*



As outlined in section 2, this proposed change included four different matters pertaining to the requirements and expectations for managers.

While there was majority support from all participant groups for this change, it is notable that the majority of owners/current applicants and managers did not support the proposal. To gain greater understanding around which measures were/weren't supported, a non-compulsory question was posed to the participants who had answered no to question four. Participants were able to select one or multiple options from A, B, C and D.

Question 5: If no, which change/s don't you support? (Non-compulsory)



Question options

- Reducing the amount of time in which a manager must respond to any contact relating to a holiday home, from 24 hours to 12 hours.
- Requiring managers to live within a 30 minute travel time from the holiday home.
- Requiring that the contact details of the manager be displayed on a sign that can be seen from the street, so that the manager can be contacted directly if there is a reason to lodge a complaint.
- Requiring that the manager must resolve complaints and ensure that occupants follow the correct rules (e.g. not too many occupants, cars parked within the property boundary, not cause a nuisance to neighbours etc).

The number of respondents to this question was 140 (i.e. 25.3% of all participants) and the overall result indicates that the two different matters least supported were requiring managers to live within a 30 minute travel distance, and requiring that the manager's contact details be displayed on a sign that can be seen from the street. This is discussed in more detail below.



General observations:

- No more than 10% of all community member and neighbour participants showed 'no support' for any of these measures.
- The greatest response to this question was from owners/current applicants, however not all participants in this stakeholder group answered the question. Manager changes not supported as a percentage of all owners/current applicants respondents were:

TOTAL OWNER/CURRENT APPLICANT RESPONDENTS = 200	
12 hour response time	24.5%
30 minute travel time	48.5%
Contact details on a sign	53.0%
Manager must resolve complaints	14.5%

- While the majority of managers answered that they did not support this broad change (question four), the response to specific measures in question five does not provide evidence to reaffirm this view. Of all manager participants (total 29), only 37.9% indicated that they did not support the requirement for the manager's contact details be displayed on a sign; and only 34.5% indicated that they did not support the requirement that they reside within a 30 minute travel time.

Observations relating to specific measures:

1. Reduced response time from 24 to 12 hours –

- The majority of all respondents in all stakeholder groups support this measure.
- Neighbours and community members commented that the response time should be reduced to less than 12 hours, commonly recommending 1 – 2 hours.

2. Requirement for manager to live within a 30 minute travel time from the holiday home –

- 25.1% of all participants did not support this measure.
- Owners/current applicants were most strongly opposed. Primary reasons were that most issues can be resolved over the phone; police should be called in the case of serious disruption; and this would force the management of all holiday homes to be carried out by local entities (with further concern around lack of availability; increased cost).
- By contrast, neighbours and community members support this measure because it would align with the general response time of other tourism accommodation providers (e.g. caravan parks,

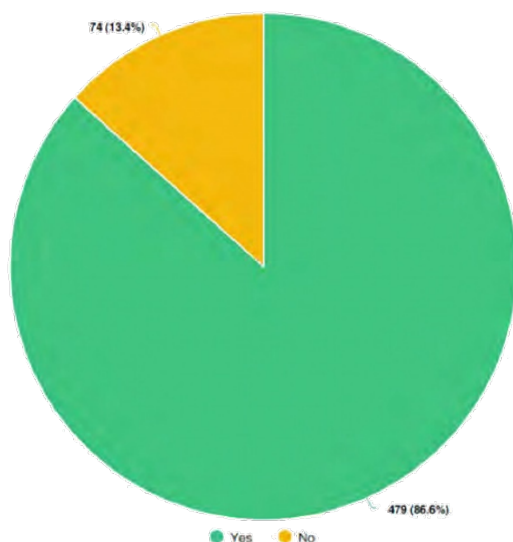
motels); it would be more likely that disturbances would be attended to by a local manager; and maintenance of the property could be carried out during the week rather than causing disturbance to local residents on the weekend.

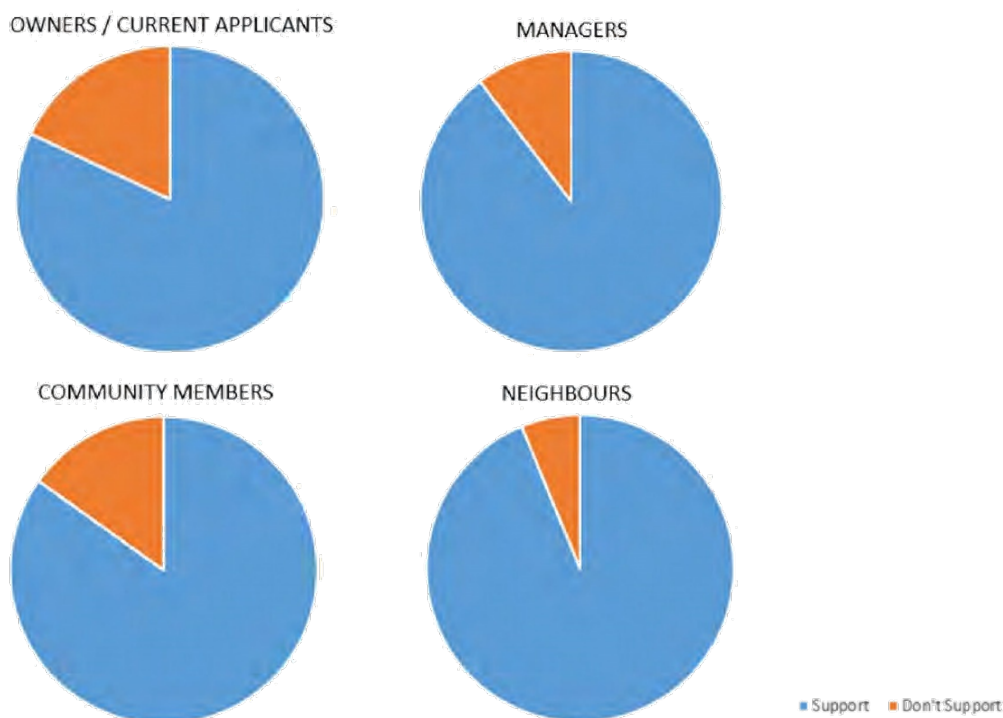
3. Requirement for the manager's contact details be displayed on a sign that can be seen from the street –
 - 25.3% of all participants did not support this measure.
 - Owners/current applicants were most strongly opposed. Primary reasons were around the safety and security of a property and providing an obvious advertisement that it would be frequently vacant; and the possibility of an unnecessary volume of calls or vexatious complaints. Some commented that it should be sufficient to provide contact details to immediate neighbours only; and that contact details should be limited to an email address only.
 - While some managers did not support the measure, many managing agencies provided support because they already have contact details on signage outside of managed properties, but receive a large volume of calls that do not relate to the properties they manage – applying this requirement to all properties would therefore lead to a reduced volume of unnecessary calls. Managing agencies also commented that they have not experienced security and theft issues resulting from signage outside of properties.
 - Some community members and neighbours did not support the measure, commenting that a large volume of signs would be unsightly in the streetscape.
4. Requirement that managers must resolve complaints and ensure that occupants follow the correct rules - the majority of all respondents in all stakeholder groups support this measure.

5.4 OCCUPANTS – CODE OF CONDUCT

Proposed change no. 4: Introduce a code of conduct for the management of behaviour of occupants and their guests.

Question 6: Do you generally support the change outlined in Opportunity 4? (Compulsory Y/N)





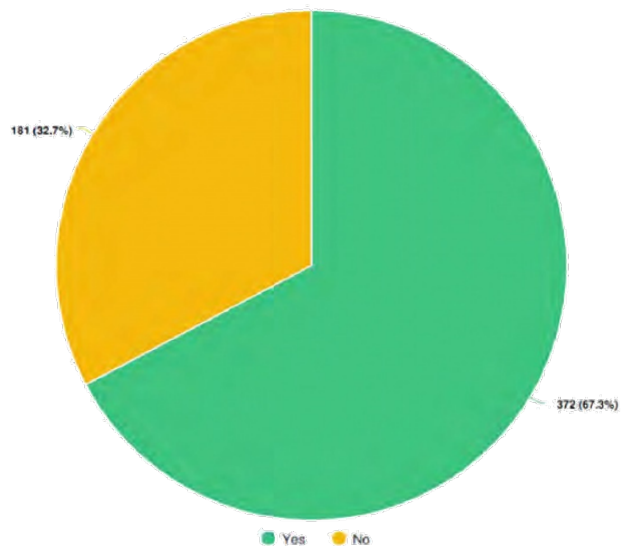
Observations:

- The majority of all participants (86.6%) support the introduction of a code of conduct for the management of behaviour of occupants and their guests.
- The majority of participants in all stakeholder groups support this change.
- 18% of owner/current applicant participants did not provide support, primarily commenting that booking platforms already have this requirement and it may lead to over-regulation.
- Managing agencies support the measure, commenting that it would assist them to have this in place if occupants did not follow 'house rules'.
- Generally it was commented that a standardised code of conduct would assist with the implementation of this change.

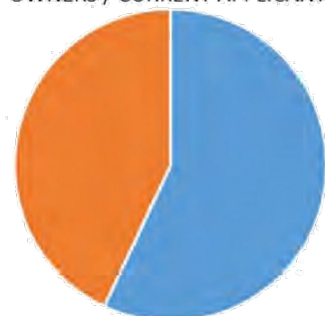
5.5 DOGS NOT LEFT UNATTENDED

Proposed change no. 5: *Require that dogs must not be left unattended at holiday homes.*

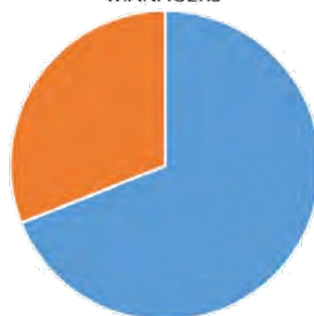
Question 7: *Do you generally support the change outlined in Opportunity 5? (Compulsory Y/N)*



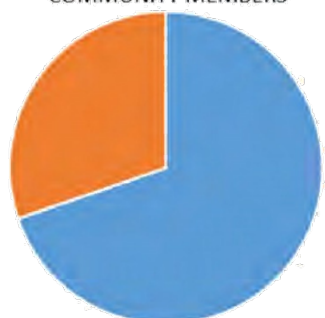
OWNERS / CURRENT APPLICANTS



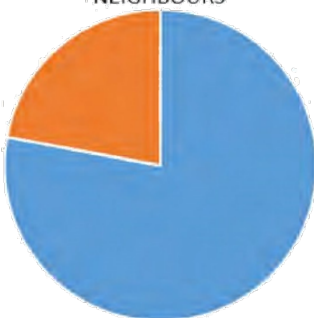
MANAGERS



COMMUNITY MEMBERS



NEIGHBOURS



■ Support ■ Don't Support

■ Support ■ Don't Support

Observations:

- The majority of all participants (67.3%) agree that dogs should not be left unattended at properties.
- The majority of participants in all stakeholder groups support this change.
- Managing agencies commented that, over time, they have restricted the number of properties at which dogs are allowed, and there are already house rules in place requiring that dogs must not be left unattended.
- Neighbours and community members commented that barking dogs can be very distressing for both people and the animals.
- Some participants are concerned that more dogs will be taken to national parks, beaches, and other places that they are not normally allowed.

6 CONCLUSION

Broadly there was support for a review of the City's existing holiday home regulatory framework, and each of the five proposed changes were supported.

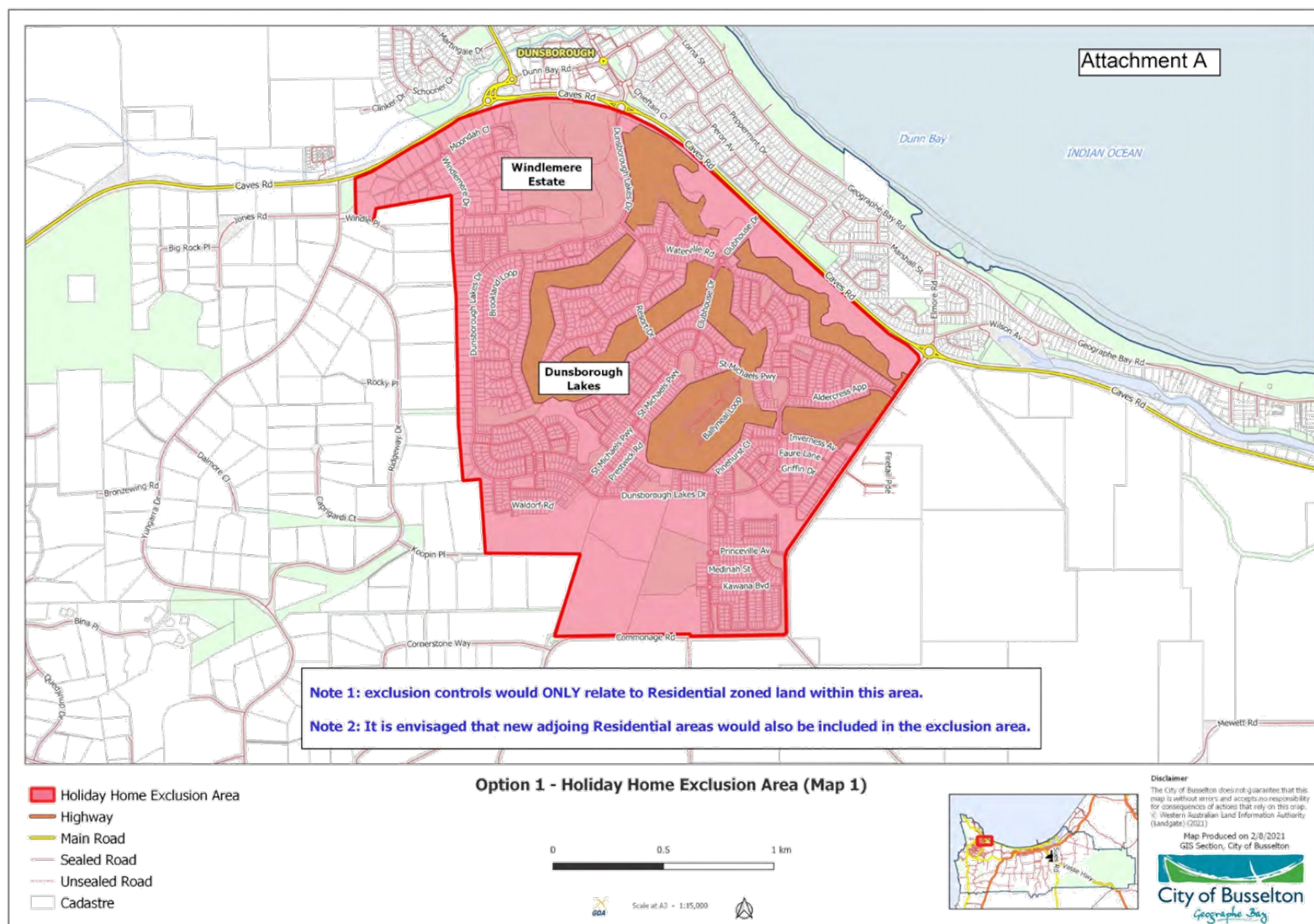
Survey results indicated however, that not all measures were supported by all stakeholder groups. Less complex changes tended to receive stronger support from all groups, e.g. the introduction of a code of conduct for occupants and not allowing dogs to be left unattended at properties. More complex changes were supported by a majority of all participants, but not by all stakeholder groups. Concern tended to be around the detail in the proposed change.

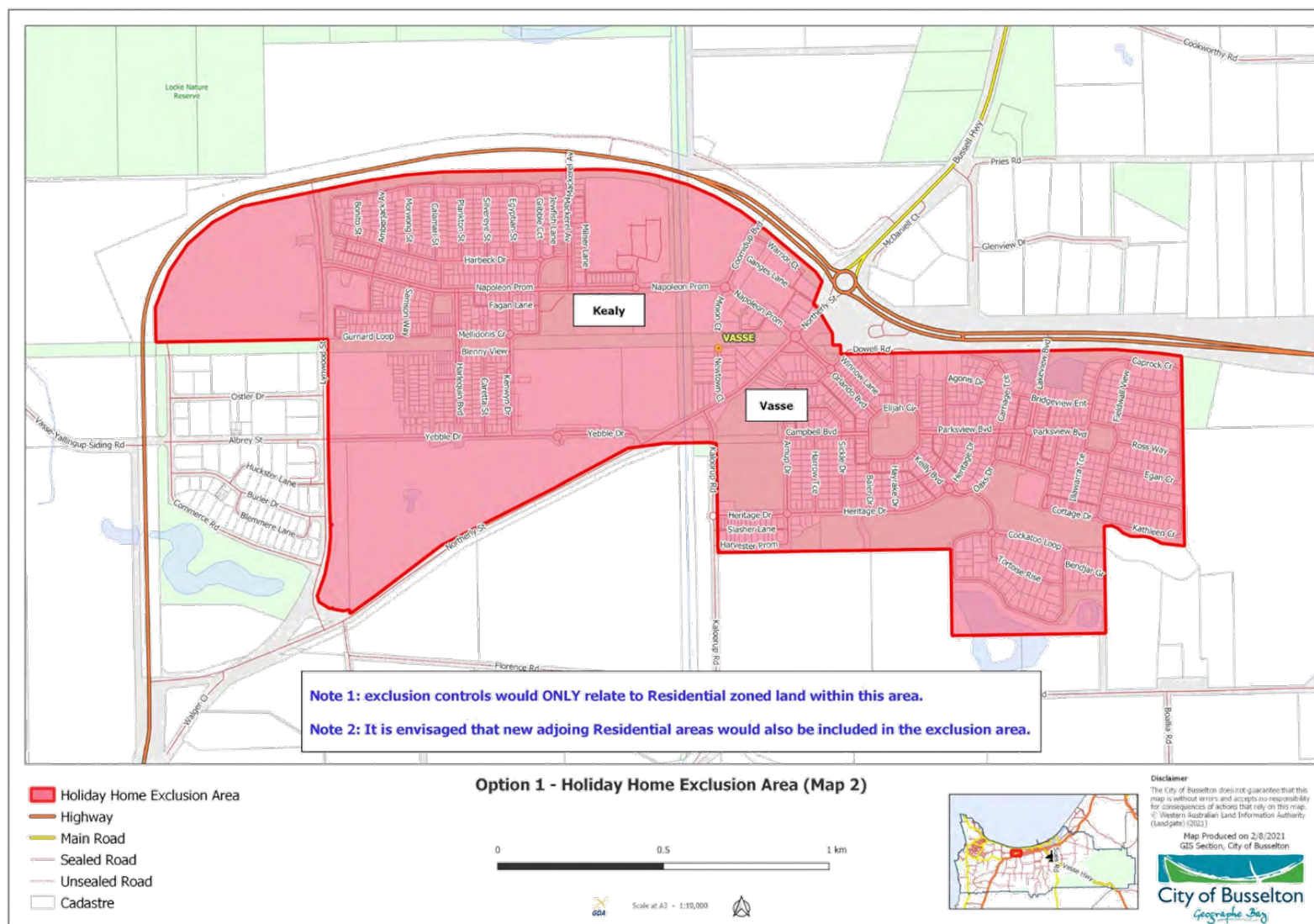
For example, the re-introduction of exclusion areas was supported, however some felt that additional areas should be included, and others felt that they were being unfairly penalised by the measure. While it was communicated through information sessions and other supporting material that existing, approved properties would retain the land use right (provided registration is maintained), this point did not reach some participants.

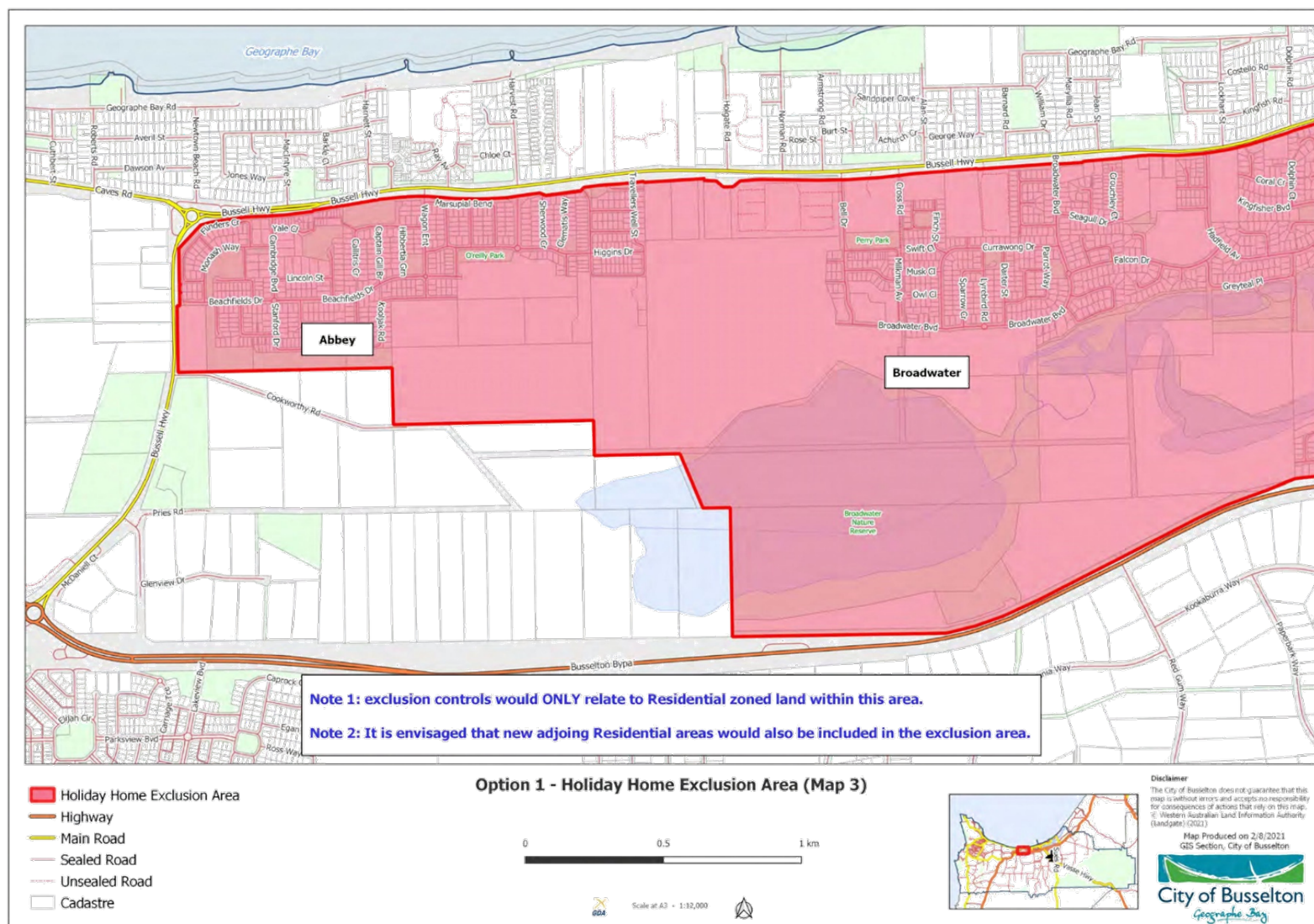
Lack of support for reduced occupancy numbers tended to be because the proposed measures were thought to be too lenient, despite being stricter than controls currently in place. Many grouped dwelling owners were concerned that property sizes can often be relatively large, and reduced occupancy regardless of lot size is an unfair penalty. Others expressed concern that the measures were not being applied outside of residential areas, particularly in rural residential areas where noise can carry across valleys. Building design measures were suggested, such as the location of outdoor entertainment areas relative to bedrooms in adjoining properties.

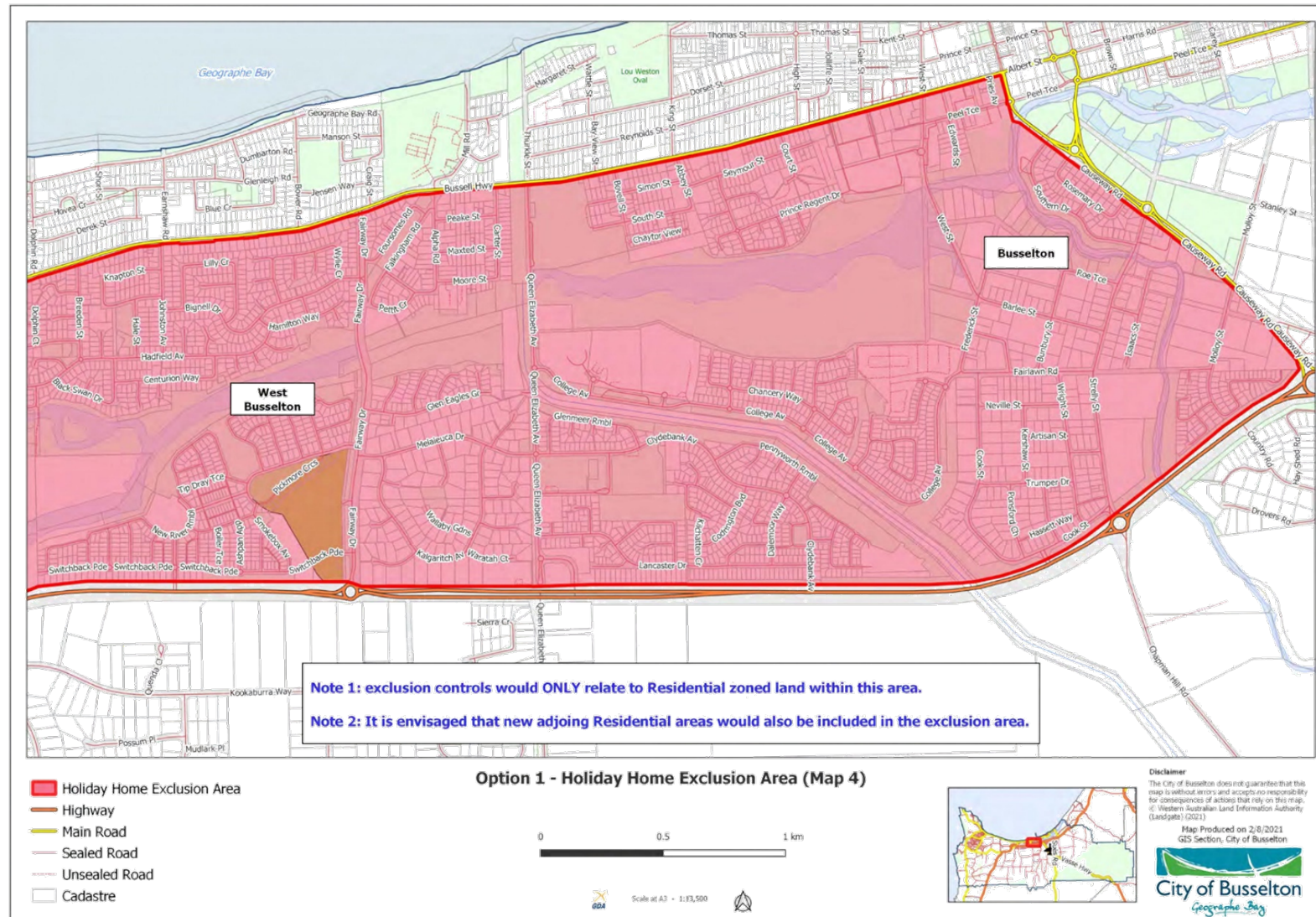
Changes to the expectations and requirements for managers were broadly supported, however owner/current applicant stakeholders were opposed to two of the measures. Of particular concern was the potential requirement for managers to reside within close proximity to the property, and security issues if compulsory signage were to be introduced. Managing agencies countered this concern, commenting that they generally always have signage and no security issues have arisen; and furthermore the display of manager details would reduce the number of unnecessary or irrelevant calls that they receive.

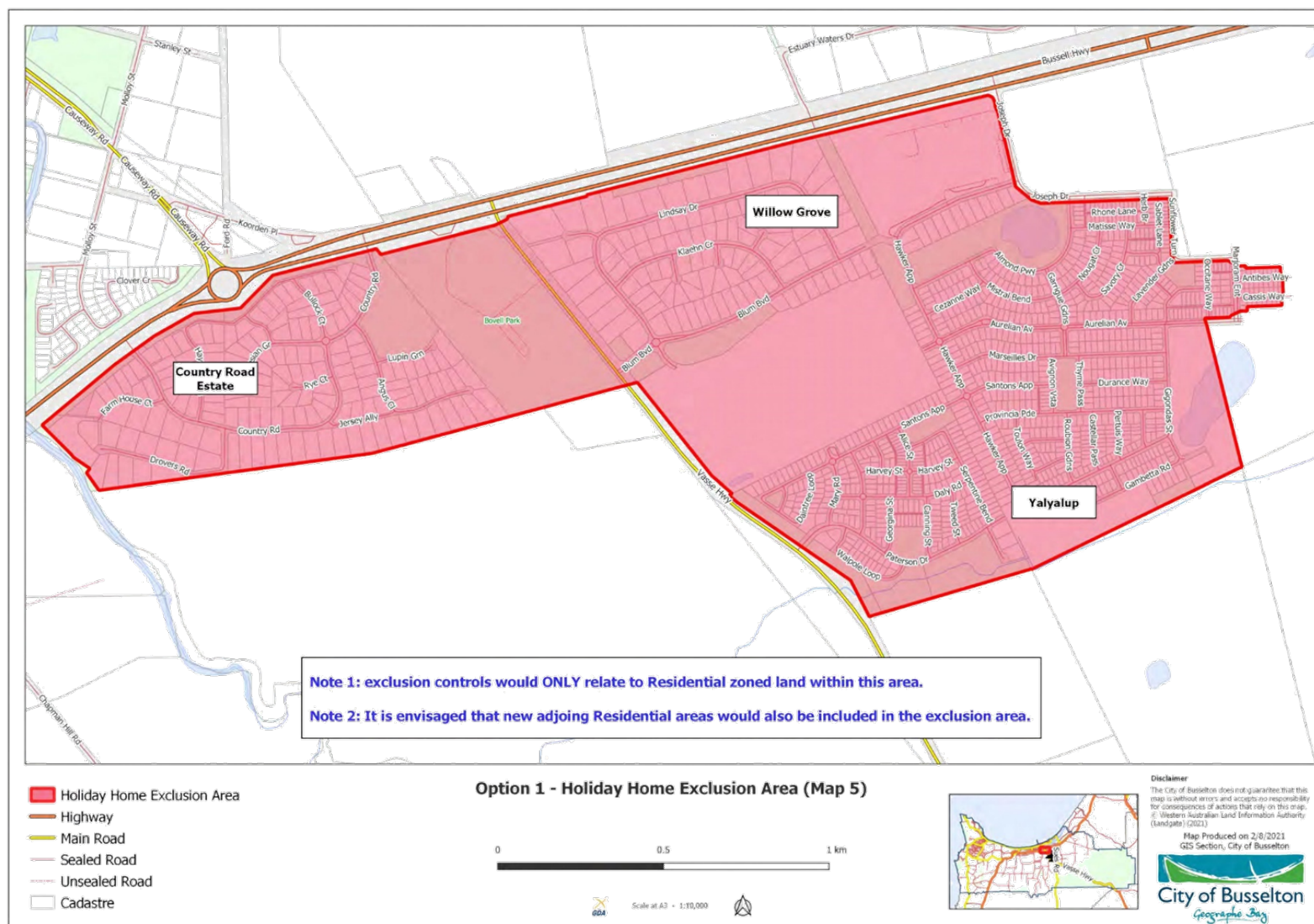
The results of the survey will be used to inform drafting of the five key development and management changes, to be considered by Council during 2022. Once drafted, these formal changes will be subject to further community consultation.











Attachment B

HOLIDAY HOME REVIEW - SURVEY

Name

Residential address

Suburb

Postcode

Email address

Age range

18-24	<input type="checkbox"/>	25-34	<input type="checkbox"/>	35-44	<input type="checkbox"/>
45-54	<input type="checkbox"/>	55-64	<input type="checkbox"/>	65-74	<input type="checkbox"/>
75 and over	<input type="checkbox"/>				

Gender

Male	<input type="checkbox"/>	Female	<input type="checkbox"/>
I would rather not say	<input type="checkbox"/>		

Are you making a submission on behalf of another person, group or organisation? Y / N

Choose one 'Holiday Home' option that best describes you	Owner (or current applicant)	<input type="checkbox"/>
	Manager (one HH only)	<input type="checkbox"/>
	Managing agency (multiple HHs)	<input type="checkbox"/>
	Online booking platform (e.g. Airbnb)	<input type="checkbox"/>
	Visitor	<input type="checkbox"/>
	Neighbour	<input type="checkbox"/>
	Community member	<input type="checkbox"/>
	Other tourism accommodation provider	<input type="checkbox"/>

In regard to the following Opportunities for Change, please read each idea and then answer each question, including reasons why you do or don't support each opportunity.

OPPORTUNITY 1:

Introduce areas in the Residential zone where new holiday homes may not be permitted.
Draft areas adopted by Council include:

- Parts of Dunsborough (including Windlemere Estate and Dunsborough Lakes);
- Parts of Vasse and Kealy (south of Bussell Highway/Busselton Bypass and zoned Residential);
- Parts of Abbey and Broadwater (south of Bussell Highway and north of the Busselton Bypass);
- West Busselton and Busselton (south of Bussell Highway and north of the Busselton Bypass); and
- Parts of Bovell (including Country Road Estate) and Yalyalup (including Provence, Via Vasse and Willow Grove)

Q1: Do you generally support the change outlined in Opportunity 1? Y / N

Please briefly explain why you do or don't support Opportunity 1:

OPPORTUNITY 2:

Change the rules applying to how many occupants can stay in a holiday home in the Residential zone, by introducing the following limits:

- a) In apartments, no more than 4 occupants.
- b) In units, no more than 4 occupants for lots less than 260m².
- c) In free-standing houses no more than:
 - i. 10 occupants for lots greater than 350m²; or
 - ii. 7 occupants for lots 260m² - 350m²; or
 - iii. 4 occupants for lots less than 260m².

Note: no change is proposed outside of the Residential zone.

Q2: Do you generally support the change outlined in Opportunity 2? Y / N

Q3: If no, do you think there should be stricter or more lenient controls?

Stricter / More lenient

Please briefly explain why you do or don't support Opportunity 2:

OPPORTUNITY 3:

Change the requirements and expectations for managers, by:

- a) Reducing the amount of time in which a manager must respond to any contact relating to a holiday home, from 24 hours to 12 hours.
- b) Requiring managers to live within a 30 minute travel time from the holiday home.
- c) Requiring that the contact details of the manager be displayed on a sign that can be seen from the street, so that the manager can be contacted directly if there is a reason to lodge a complaint.
- d) Requiring that the manager must resolve complaints and ensure that occupants follow the correct rules (e.g. not too many occupants, cars parked within the property boundary, not cause a nuisance to neighbours etc).

Q4: Do you generally support the change outlined in Opportunity 3? Y / N

Q5: If no, which change/s don't you support?

A B C D

Please briefly explain why you do or don't support Opportunity 3:

OPPORTUNITY 4:

Introduce a code of conduct for the management of the behaviour of occupants and their guests. This would include the display of the code of conduct in the holiday home, and acknowledgement by the occupants that they are aware of the code of conduct.

Q6: Do you generally support the change outlined in Opportunity 4? Y / N

Please briefly explain why you do or don't support Opportunity 4:

OPPORTUNITY 5:

Require that dogs must not be left unattended at holiday homes.

Q7: Do you generally support the change outlined in Opportunity 5? Y / N

Please briefly explain why you do or don't support Opportunity 5:


Attachment C

Project Report

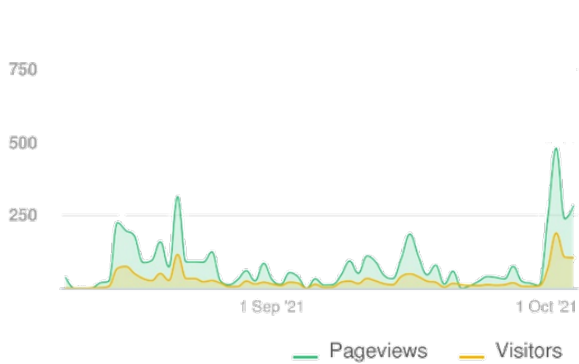
17 May 2016 - 04 October 2021

Your Say Busselton

Holiday Home Regulatory Framework Review



Visitors Summary



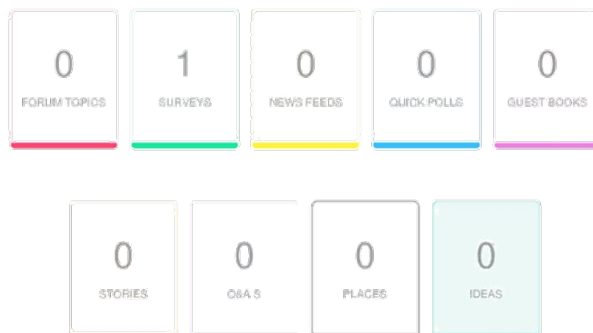
Highlights

TOTAL VISITS	MAX VISITORS PER DAY	
2.1 k	188	
NEW REGISTRATIONS		
0		
ENGAGED VISITORS	INFORMED VISITORS	AWARE VISITORS
535	984	1.6 k

Aware Participants	1,630	Engaged Participants	535
Aware Actions Performed	Participants	Engaged Actions Performed	RegisteredUnverifiedAnonymous
Visited a Project or Tool Page	1,630		
Informed Participants	984	Contributed on Forums	000
Informed Actions Performed	Participants	Participated in Surveys	230512
Viewed a video	1	Contributed to Newsfeeds	000
Viewed a photo	0	Participated in Quick Polls	000
Downloaded a document	549	Posted on Guestbooks	000
Visited the Key Dates page	20	Contributed to Stories	000
Visited an FAQ list Page	112	Asked Questions	000
Visited Instagram Page	0	Placed Pins on Places	000
Visited Multiple Project Pages	420	Contributed to Ideas	000
Contributed to a tool (engaged)	535		

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

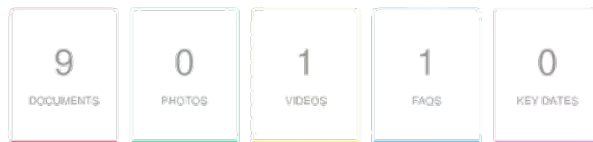
ENGAGEMENT TOOLS SUMMARY



Tool Type	Engagement Tool Name	Tool Status	Visitors	Contributors		
				Registered	Unverified	Anonymous
Survey Tool	Holiday Home Review Survey	Published	989	23	0	512

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

INFORMATION WIDGET SUMMARY



Widget Type	Engagement Tool Name	Visitors	Views/Downloads
Document	Holiday Home Potential Exclusion Areas Maps 1-5	422	462
Document	Holiday Home Review Directions Paper FINAL.pdf	170	269
Document	Holiday Homes - Web Information	14	15
Document	Council Minutes 9 June 2021	12	13
Document	Holiday Homes Local Law	10	11
Document	Local Planning Policy 4.1 - Holiday Homes	9	11
Document	Levelling the Playing Field: Managing the impact of the rapid incre...	8	8
Document	Local Planning Scheme No. 21	6	6
Document	Response of the Western Australian Government in relation to The In...	5	5
Faqs	faqs	112	121
Key Dates	Key Date	20	20
Video	Mayor's Message - Holiday Home Regulatory Framework Review	1	1

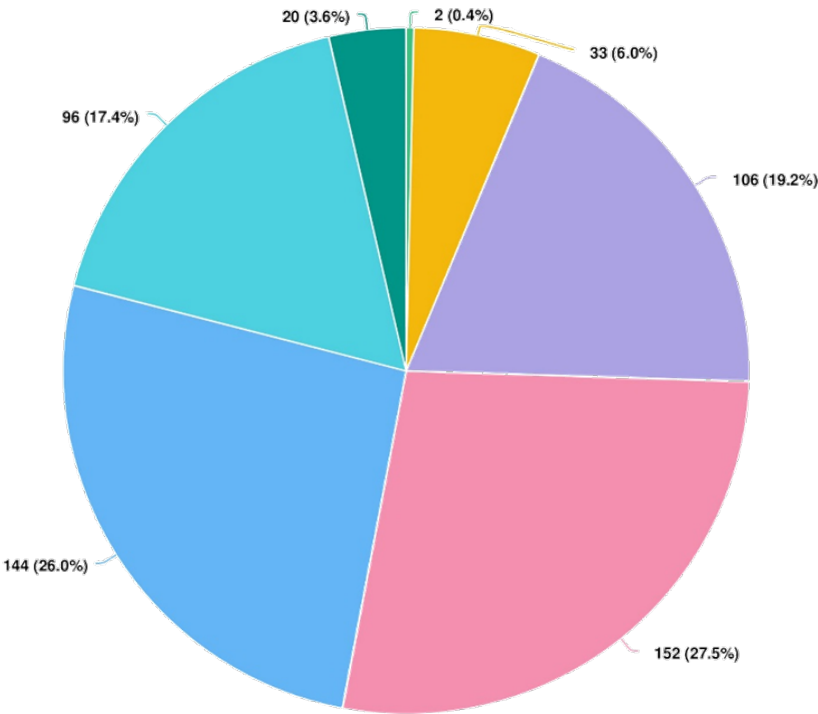
Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

ENGAGEMENT TOOL: SURVEY TOOL

Holiday Home Review Survey

Visitors	989	Contributors	535	CONTRIBUTIONS	553
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Age Range



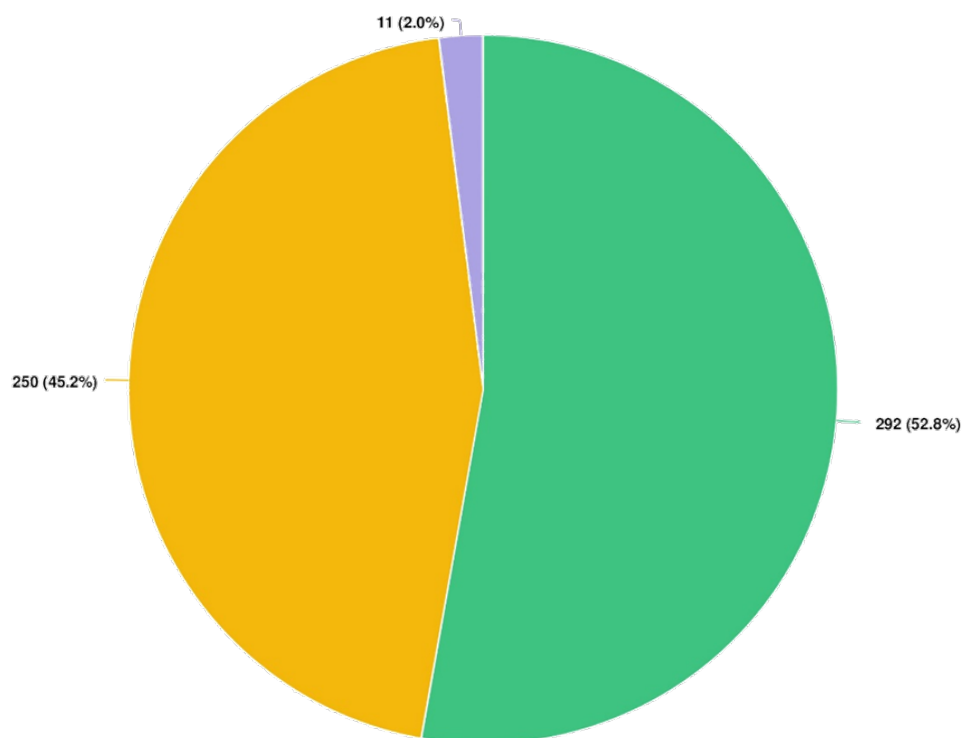
Question options

18-24 25-34 35-44 45-54 55-64 65-74 75 and over

Mandatory Question (553 response(s))
Question type: Radio Button Question

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

Gender



Question options

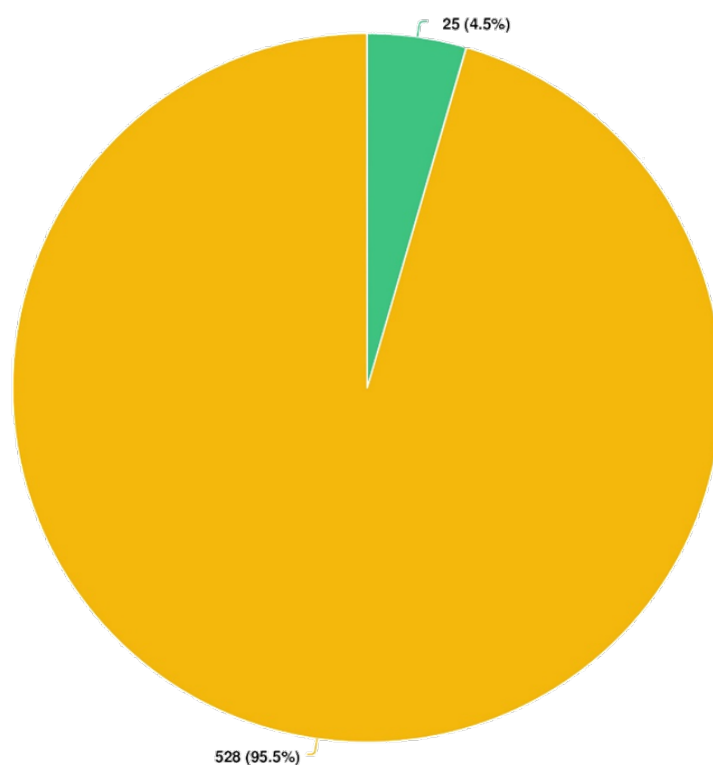
Female Male I would rather not say

Mandatory Question (553 response(s))

Question type: Radio Button Question

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

Are you making a submission on behalf of another person, group or organisation?



Question options

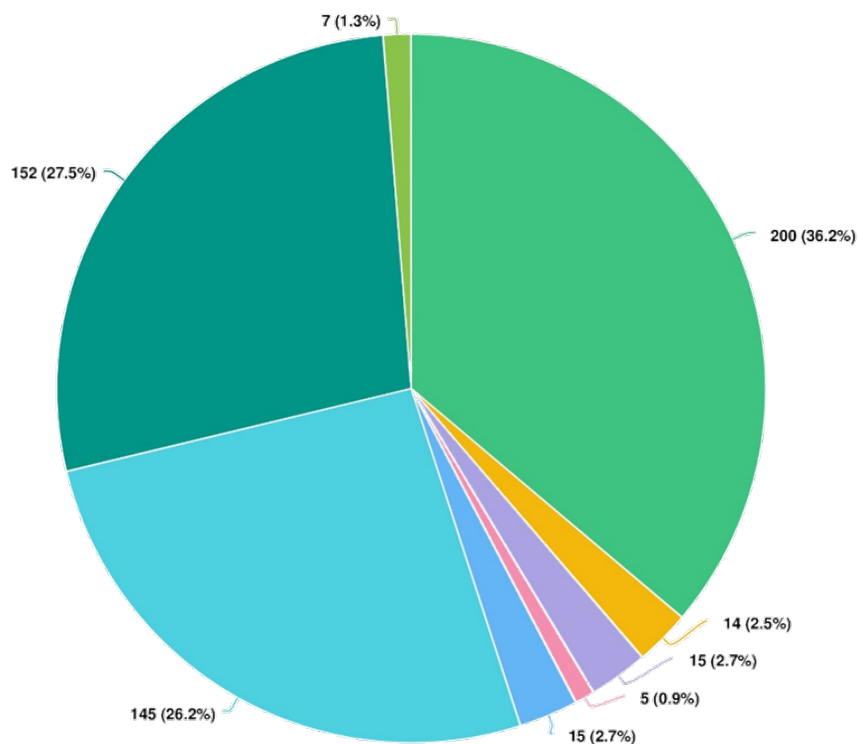
☒ Yes ☐ No

Mandatory Question (553 response(s))

Question type: Radio Button Question

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

Choose one option that best describes you:



Question options

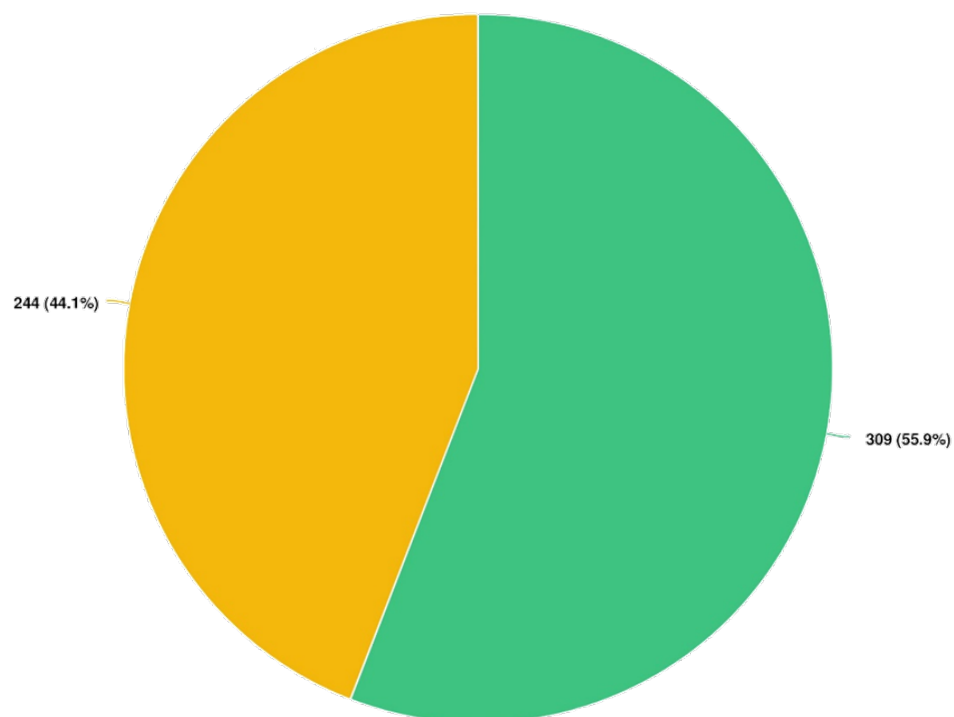
- Holiday home owner (or current applicant)
- Holiday home manager (single holiday home)
- Holiday home managing agency (multiple holiday homes)
- Online booking platform for holiday homes (e.g. AirBnB, Stayz, Booking.com etc)
- Visitor to holiday homes
- Neighbour of a holiday home
- Community member
- Other tourism accommodation provider

Mandatory Question (553 response(s))

Question type: Radio Button Question

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

Do you support the change outlined in Opportunity 1?



Question options

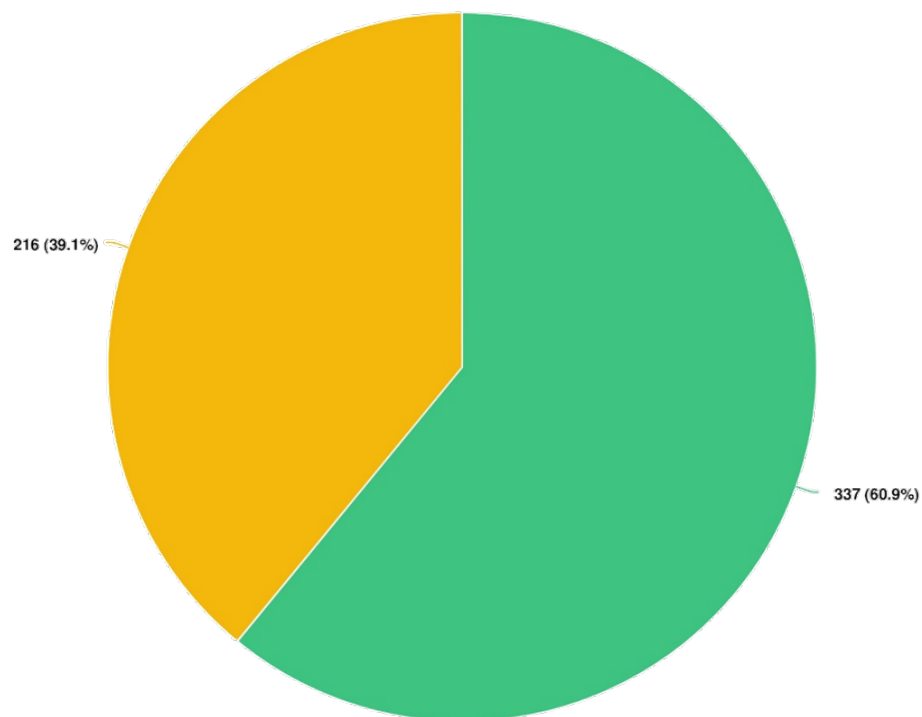
☒ Yes ☐ No

Mandatory Question (553 response(s))

Question type: Radio Button Question

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

Do you support the change outlined in Opportunity 2?



Question options

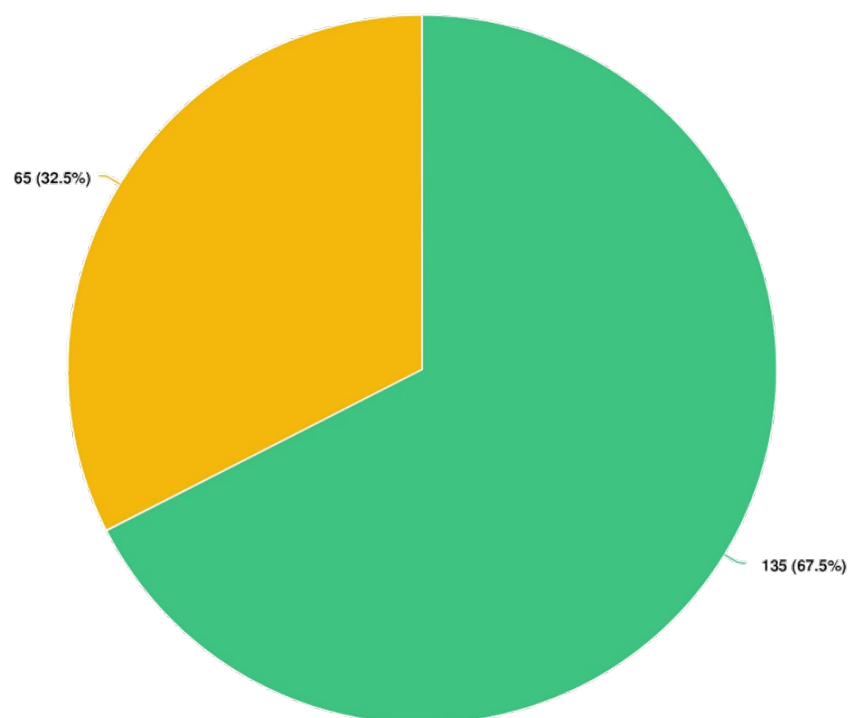
☒ Yes ☐ No

Mandatory Question (553 response(s))

Question type: Radio Button Question

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

Do you think there should be stricter or more lenient controls?



Question options

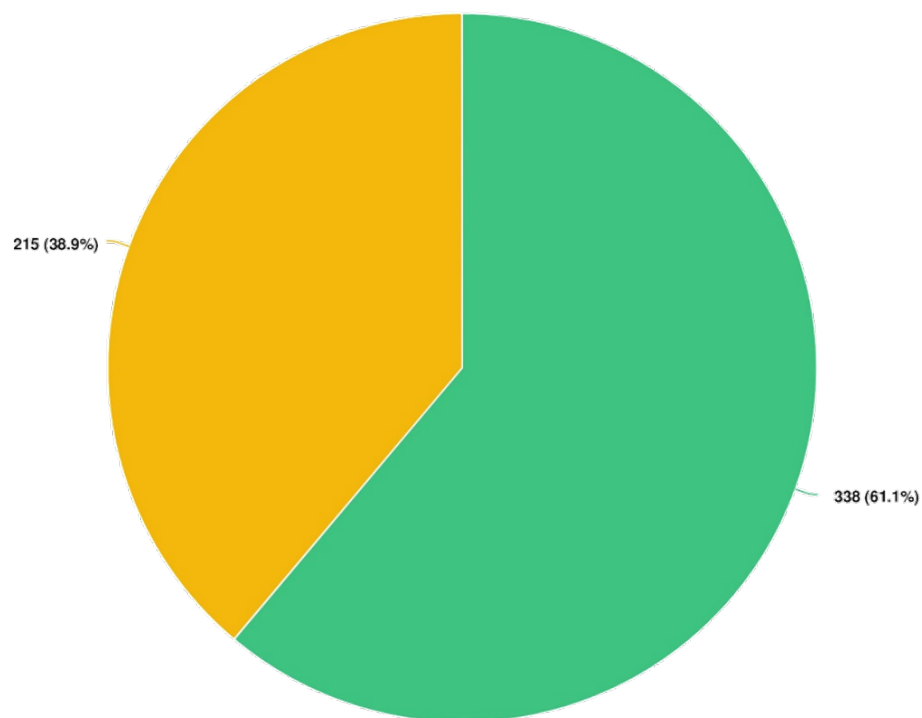
☒ Stricter controls should be in place ☐ More lenient controls should be in place

Optional question (200 response(s), 353 skipped)

Question type: Radio Button Question

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

Do you support the change outlined in Opportunity 3?



Question options

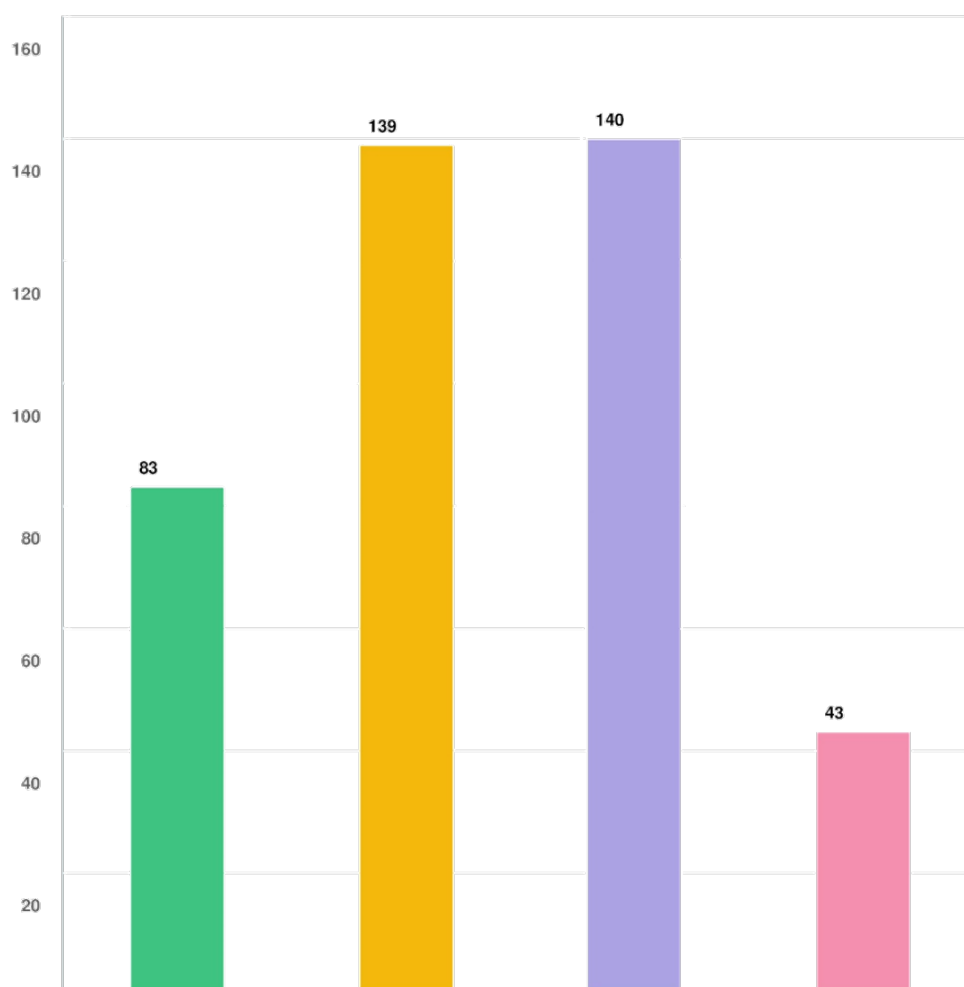
☒ Yes ☐ No

Mandatory Question (553 response(s))

Question type: Radio Button Question

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

Which change/s don't you support?



Question options

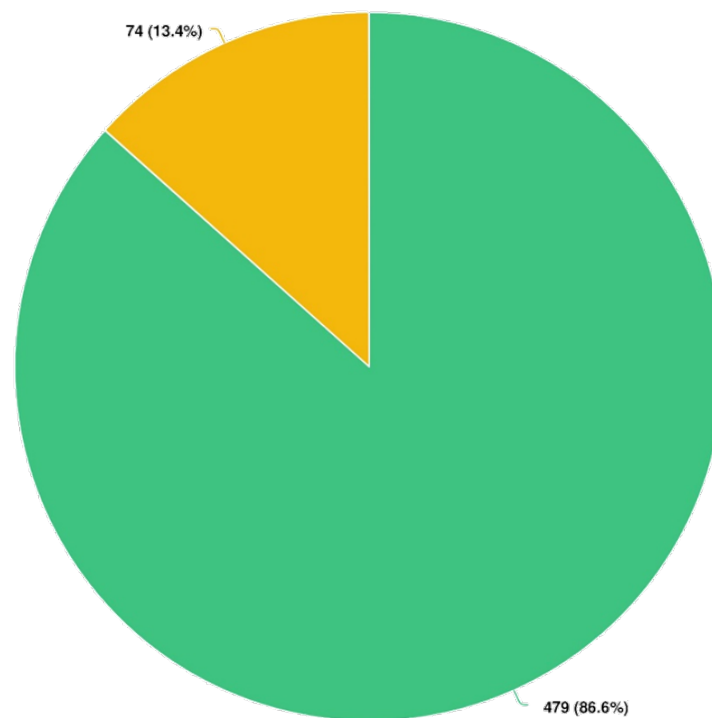
- Reducing the amount of time in which a manager must respond to any contact relating to a holiday home, from 24 hours to 12 hours
- Requiring managers to live within a 30 minute travel time from the holiday home.
- Requiring that the contact details of the manager be displayed on a sign that can be seen from the street, so that the manager can be contacted directly if there is a reason to lodge a complaint.
- Requiring that the manager must resolve complaints and ensure that occupants follow the correct rules (e.g. not too many occupants, cars parked within the property boundary, not cause a nuisance to neighbours etc).

Optional question (204 response(s), 349 skipped)

Question type: Checkbox Question

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

Do you support the change outlined in Opportunity 4?



Question options

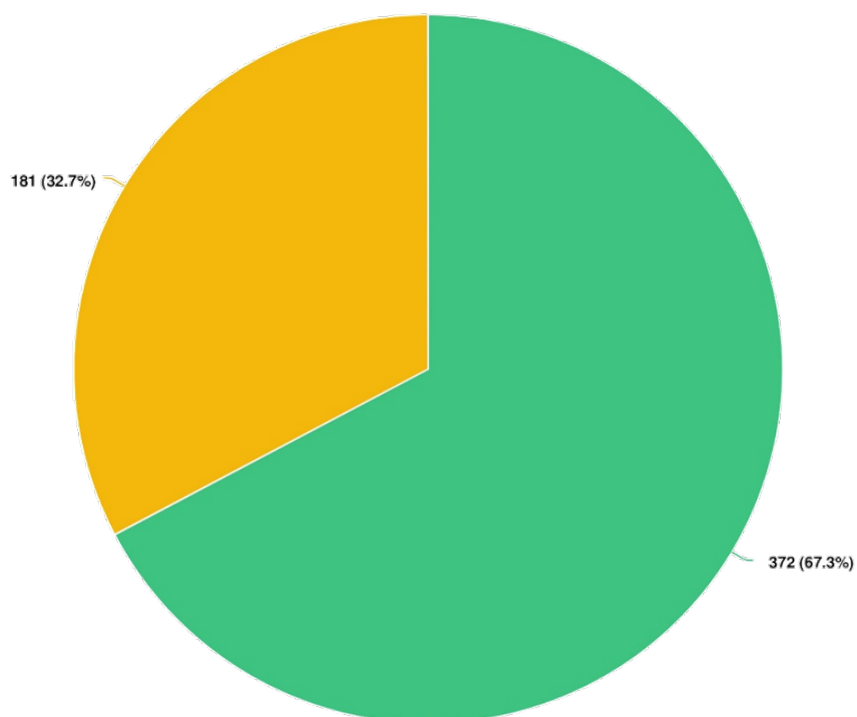
☒ Yes ☐ No

Mandatory Question (553 response(s))

Question type: Radio Button Question

Your Say Busselton : Summary Report for 17 May 2016 to 04 October 2021

Do you support the change outlined in Opportunity 5?



Question options

☒ Yes ☐ No

Mandatory Question (553 response(s))

Question type: Radio Button Question

6.2 Attachment B Conditions of Registration (working draft)

This registration of the premises as a Holiday Home is subject to the following conditions:

1. This registration is valid from the date on which this certificate of registration is issued and expires on 30 June 2022 unless cancelled through clause 2.14 of the local law.
2. The maximum number of occupants who may be on the premises at any time is (in accordance with DA number).
3. The maximum number of attendants (which term includes guests) who may be on the premises after 10 pm is (in accordance with DA number).
4. An adequate supply of potable water is to be available to all attendants of the holiday home at all times.
5. The manager must ensure that each receptacle for rubbish and recycling is placed for collection on designated collection days.
6. Prior to commencement of any occupation of the Holiday Home, the manager must provide all occupants with the following:
 - a. the approved Code of Conduct applicable to the premises; and
 - b. the Conditions of registration,and the manager must provide the City with proof of such notification upon request.
7. All attendant's vehicles must be parked within the designated parking bays. No more than vehicles may be on the premises at any time. Attendant's vehicles must not obstruct any street, thoroughfare, adjacent premises or any other person.
8. The owner and manager must ensure that the premises displays a sign that:
 - a. is visible from the street;
 - b. displays a current telephone number upon which the manager can be reached;
 - c. is located solely within the subject site; and
 - d. is no larger than 0.2m²,and the manager must provide the City with proof of such signage upon request.
9. Any activity at the premises must comply with assigned noise levels within the *Environmental Protection (Noise) Regulations 1997*.
10. Any attendant must not cause a nuisance to any other person or disrupt the normal amenity of the area. Nuisance includes, but is not limited to, noise, amplified music, smoke, odours, light and barking dogs.
11. Dogs must not be left unattended at the premises at any time.
12. The owner and manager must inform the City in writing within 24 hours of any change or proposed change to details provided in relation to the Holiday Home or that would affect any condition imposed under the Local Law.

6.2 Attachment B Conditions of Registration (working draft)

13. The manager must inform the City in writing within 24 hours of becoming aware of any breach of:

- a. these conditions of registration;
- b. the local law;
- c. the code of conduct; or
- d. any other relevant law,

and the manager must also advise of action taken to address such a breach. If the manager becomes aware of such breach on a weekend or public holiday, the City must be informed of such breach on the first following business day.

14. A copy of the:

- a. approved Code of Conduct;
- b. any emergency management procedures (including an approved bushfire emergency evacuation plan): and
- c. Conditions of Registration

are to be affixed to the inside of the front door of the premises at all times.

15. Any advertisement for the holiday home must specify the maximum number of occupants and guests permitted on the premises at any given time – which number must be consistent with the Conditions of Registration and development approval.

Note:

*Any reference to “local law” in this certificate of registration means the **City of Busselton Holiday Homes Local Law 2012**. Words and expressions used in this certificate of registration shall have the same meaning as corresponding words and expressions in the local law.*

The owner, manager and each attendant must comply with these conditions.

CODE OF CONDUCT FOR THE OCCUPANTS OF HOLIDAY HOMES [TEMPLATE]

1. Occupants to act lawfully

An occupant must not engage in conduct at the holiday home that contravenes—

- (a) criminal law; and
- (b) the conditions of registration.

2. Number of occupants

The maximum number of occupants permitted at this holiday home is ____.

3. Vehicles

- 3.1. The number of vehicles (including all motorised vehicles and trailers) parked at the holiday home must not exceed ____.
- 3.2. Each vehicle used by an occupant or occupant's guest of the holiday home must be parked within the designated parking bays.

4. Obligations to neighbours

- 4.1. Each occupant who enters, uses or occupies the holiday home, including any outdoor areas such as an outdoor entertainment area, deck, balcony, swimming pool or spa, must not act in a manner that could reasonably be expected to cause alarm, distress or nuisance to neighbours adjoining or in the vicinity of the holiday home, including but not limited to—
 - (a) violence or threats;
 - (b) loud aggressive behaviour including yelling, screaming, arguing;
 - (c) excessively loud noise nuisance; and
 - (d) overlooking or light spill.
- 4.2. At all times, all noise coming from the holiday home must be kept to speaking tones when heard from the property boundary, and must be kept to a minimum after 10pm.

5. Pets

Pets occupying the premises—

- (a) must not be left unattended; and
- (b) must be managed and not cause a nuisance (including a noise nuisance associated with barking or howling) to neighbours adjoining or in the vicinity of the holiday home.

6. General obligations

- 6.1. All rubbish produced by occupants must be stored in a closed rubbish container, and placed on the verge on rubbish collection day.
- 6.2. An occupant of the holiday home must not sleep or camp on the site in a tent, caravan, campervan or similar.

7. Responsibility for conduct of guests

An occupant is responsible for the actions of all guests they invite onto the premises during the occupancy period, and must ensure guests comply with sections 1 - 6 of this code.

8. Responsibility to manager

An occupant must notify the manager of any dispute or complaint about an occupant's behaviour as soon as possible after the dispute or complaint arises.

- 10.45am: At this time, Mr Paul Needham, Ms Joanna Wilkinson, Mr David Sands, Mrs Briony McGinty and Mr Tony Nottle left the meeting.
- 10.46am: At this time, Mr Oliver Darby, Mr Matthew Twyman and Mr Bradley Reynolds entered the meeting.

6.3 COUNCIL POLICY: TREE MANAGEMENT AND RETENTION ON CITY LAND

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Council Policies
BUSINESS UNIT	Governance Services
REPORTING OFFICER	Governance Coordinator - Emma Heys
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	Attachment A Proposed Council Policy: Tree Management and Retention on City Land

COMMITTEE RECOMMENDATION

PL2203/441 Moved Councillor J Richards, seconded Councillor A Ryan

That the Council adopt the Council policy: Tree Management and Retention on City Land (the Policy) (Attachment A).

CARRIED 5/0

OFFICER RECOMMENDATION

That the Council adopt the Council policy: Tree Management and Retention on City Land (the Policy) (Attachment A).

EXECUTIVE SUMMARY

This report presents a proposed Council policy: Tree Management and Retention on City Land (the Policy) (Attachment A) for Council adoption.

BACKGROUND

The City recognises the importance of trees in creating functional and attractive streets and reserves in the urban environment and manages and retains a large number of trees on City land.

Recently the City has received increasing numbers of requests to remove or prune trees from City managed verges and reserves, as well as an increasing number of reports of tree related property damage. Anecdotal evidence from other Western Australian local governments show a similar pattern. This can be attributed to the property development boom of the previous 40 years, which did not use root barrier technology (developed and installed over the last 5-10 years) and tree species selection has changed. The damage related requests are primarily due to infrastructure damage caused by verge tree roots in particular around crossovers, fences and property close to boundaries.

The Policy provides a definition between perceived and substantiated risk, to guide officers future decisions in the management and retention of trees on City Land. The Policy provides firm guidelines to City officers and the community to improve the consistency of service delivery.

The Policy sets strategic guidance and direction for the control and management of trees on City Land, specifically for use when dealing with and assessing requests for tree removal and pruning.

OFFICER COMMENT

The City has historically managed trees on City land using a risk based approach applying the Quantified Tree Risk Assessment (QTRA) principles. These principles see trees managed relevant to the risk they present to property and of course life, with only trees that present a risk being pruned or, in higher risk situations, removed. Moreover the objective has been to manage street trees to improve the live ability of the district in a number of ways including reducing stormwater run-off, increasing air quality, storing carbon, providing shade, improving habitat / biodiversity and reducing the urban heat-island effects.

Officers believe this approach to be appropriate ongoing however have noted an increasing expectation of the community for tree removal and pruning where application of the risk based principles do not warrant it. For instance pruning for views and perceived (unsubstantiated) property risks.

Therefore in order to achieve the objectives noted above, and to provide clarity for the community in relation to the City's approach to tree management, the Policy details the circumstances under which a request to remove a tree will be considered. The Policy also provides guidance on how trees on City Land will be protected from activity that threatens their health and longevity and protection from infrastructure conflict.

Statutory Environment

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

Relevant Plans and Policies

The officer recommendation aligns with the City of Busselton Property Local Law 2010; City of Busselton Local Planning Policies and Council Policy: Private Works on City Land, including private coastal protection works on City Land.

Financial Implications

There are currently no financial implications associated with the officer recommendation, although the Policy is expected to assist in managing increasing demands on operational budgets. Increasing number of tree management requests coupled with the age of trees within established subdivisions is putting pressure on current operational budgets and service delivery timeframes.

Stakeholder Consultation

No external stakeholder consultation was required or undertaken in relation to this matter. Officers did however review relevant policies of a number of other Local Governments including City of Bunbury, City of Joondalup, City of Mandurah and City of Belmont.. All have very similar policies in place.

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 not to adopt the Policy or the Council could seek to modify the Policy. Officers believe that clearer strategic direction with regards to the management of trees on City land would be of benefit and so recommend Council do adopt a policy

CONCLUSION

This report presents a proposed Council policy: Tree Management and Retention on City Land to provide greater strategic direction and clarity for the community in relation to tree management.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be implemented immediately following Council adoption.



Council Policy

Council Policy Name: Tree Management and Retention on City Land
Responsible Directorate: Engineering and Works Services **Version:** PROPOSED

1. PURPOSE

- 1.1. The purpose of this Policy is to provide guidance for the management and retention of trees on City of Busselton owned and managed land to enhance streetscapes and amenity.

2. SCOPE

- 2.1. The Policy applies to trees on City of Busselton owned or managed land, including any tree which has a majority (equal to or greater than 50%) of its trunk growing from City managed land.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy titled "Tree Management and Retention on City Land"
Pruning	The arboriculture practice of selective removal of branches or roots

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Theme 1 – Environment and Key Theme 2 - Lifestyle of the City's Strategic Community Plan 2021 and specifically the following Strategic Priorities:
- a. 1.6: Promote and facilitate environmentally responsible practices
 - b. 2.12: Provide well maintained community assets through robust asset management practices.

5. POLICY STATEMENT

- 5.1. The City recognises the importance of trees in creating functional and attractive streets and reserves within the urban environment. As such, the City is committed to the minimisation of tree removal and encourages the preservation of existing trees.

Tree Removal and Pruning

- 5.2. The City may consider the removal or pruning of trees for reasons including:
- a. the tree is dead or diseased, cannot be successfully treated, and is not providing essential habitat;
 - b. the tree is structurally weak or dangerous and places the public at unacceptable risk;
 - c. the tree interferes with essential services, ie: Western Power, ATCOGas, Water Corporation, Busselton Water.
 - d. the tree is causing or likely to cause significant damage to property or infrastructure ie, road surfaces, walls, fences, buildings, footpaths, kerbing, crossovers and drainage;
 - e. the tree has been planted in a manner that is inconsistent with the City's Local Laws;
 - f. removal of hazardous branches;
 - g. to manage the health and well-being of the tree;
 - h. to remove dead/dying wood;

- i. the uplift of low hanging branches;
- j. to adhere to airside safety regulations;
- k. to maintain City managed firebreaks;
- l. to maintain traffic and pedestrian access / sightlines as per Australian guidelines;
- m. to remove branches overhanging property boundary (the City may also consider proposed application by resident to arrange pruning by a suitably qualified arboriculture contractor to works meeting AS 4373-2007 Pruning of Trees).

- 5.3. Requests for the removal or pruning of trees will not be considered in the following circumstances:
- a. to improve or create views;
 - b. to minimise the creation of natural litter, including leaves, twigs, flowers, sap and fruit;
 - c. to reduce or remove unwanted shading of lawn, gardens or infrastructure (including solar panels);
 - d. due to unsubstantiated property damage claims;
 - e. to reduce allergenic or irritant responses;
 - f. where a tree has been identified as having some significant value, including historical, conservation, rarity in species or form;
 - g. where proposed development can be altered to avoid conflict with existing trees;
 - h. perception of fire risk, danger, poor form, too tall, nuisance; and
 - i. the tree attracts birds and other fauna.
- 5.4. The removal of a tree will only be considered after alternatives have been identified and evaluated, including, but not limited to:
- a. root barriers;
 - b. redesign of structure;
 - c. crown pruning;
 - d. root pruning; and
 - e. tree relocation.
- 5.5. Where a tree is removed by the City or removed without authorisation by another party, the City will replace the tree on the same verge or reserve in the next available planting season, at its discretion. The City may seek to recover all related costs.

Property Damage

- 5.6. Substantiated damage to property or infrastructure shall be assessed by the City and reinstatement undertaken at the City's discretion.

Development Applications

- 5.7. The assessment for tree removal will be considered as part of the development application process and in line with development principles.

Tree Planting

- 5.8. The City is responsible for planting street trees and reserve trees under its annual tree planting program. The City will determine the species and select the location of the tree within the verge.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Environmental Protection Act 1986*
- 6.3. *Aboriginal Heritage Act 1972*
- 6.4. City of Busselton Property Local Law 2010
- 6.5. City of Busselton Local Planning Policies
- 6.6. Council Policy: Private works on City Land, including private coastal protection works on City Land
- 6.7. Australian Standard: AS 4373-2007 Pruning of Amenity Trees
- 6.8. Australian Standard: AS 4970-2009 Protection of Trees on Development Sites
- 6.9. Dividing Fences Act WA 1961

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	

- 11.02am: At this time Mr Oliver Darby, Mr Matthew Twyman and Mr Bradley Reynolds left the meeting.
- 11.03am: At this time, the Presiding Member agreed that Item 6.5 'Review of Customer Service Charter' would be moved forward for the benefit of officers presenting the item.
- 11.04am: At this time, Mrs Brioney McLean and Mr Tony Nottle entered the meeting.

6.5 REVIEW OF CUSTOMER SERVICE CHARTER

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

COMMITTEE RECOMMENDATION

PL2203/442 Moved Councillor K Cox, seconded Councillor A Ryan

That the Council rescind the current Customer Service Charter (Attachment B) and endorse the Customer Experience Charter as an administrative document (Attachment A).

CARRIED 5/0

OFFICER RECOMMENDATION

That the Council rescind the current Customer Service Charter (Attachment B) and endorse the Customer Experience Charter as an administrative document (Attachment A).

EXECUTIVE SUMMARY

This report presents a revised Customer Experience Charter (the Charter) (Attachment A). The existing Customer Service Charter (Attachment B) has been revised as part of the City's review of its Corporate Documents and this report recommends that it be rescinded and that the new Charter be endorsed by Council as an administrative document.

BACKGROUND

Council adopted the Customer Service Policy 018 in 2010 to outline general standards of behaviour expected of all persons appointed by the City of Busselton.

In June 2017 Council resolved to rescind the Policy and adopt the Customer Service Charter which included quantitative targets for consistent and prompt service delivery.

In August 2017 the CEO commissioned a high level independent review of the City's governance systems – the Governance Systems Review (GSR). The GSR recommended that the City's policy and procedure framework should be reviewed such that Council Policies are focused on higher level objectives and strategies and do not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO. This same principle is considered applicable to the review of the current Customer Service Charter.

OFFICER COMMENT

The content of the Charter reflects general standards of customer service expected of all persons appointed or contracted by the City. The proposed Charter is significantly different to the existing Customer Service Charter. Research conducted of peer Councils, both metropolitan and regional, indicates that the brochure style format is more accessible for the community.

The revised content of the Charter includes reference to the current City of Busselton Corporate Values and how these values will be demonstrated in the services provided by the City. Customer service standards are becoming less quantitative with greater emphasis on the quality of our service. Customer experience encompasses the quality of customer service the City provides, the accessibility of our information, the responsiveness of our actions and the commitment for continuous improvement through feedback.

The Charter informs our customers as to how they can assist the City to achieve our service commitments, subsequently supporting positive relationships between the City and the Community.

Officers feel that the content of a customer service charter would be more appropriately contained in an administrative document, as it governs matters which are the responsibility of the CEO (that is, management of staff). Being an administrative document also allows for amendments as required to be made by the Chief Executive Officer. Officers recognise the importance of a customer service charter as well as the need for it to be highly visible with the public and Councillors.

Statutory Environment

In accordance with section 2.7(2)(b) of the *Local Government Act 1995* (the Act) it is the role of the Council to determine the local government policies. The Council does this on recommendation of a Committee it has established in accordance with section 5.8 of the Act.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

No external stakeholder consultation was required or undertaken in relation to this matter, although officers did undertake a review of other local government customer service charters

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 rescind the current charter; or
2. make amendments to the proposed Customer Experience Charter.

CONCLUSION

The Customer Service Charter has been reviewed by officers and was found to be of continuing importance and relevance as a statement of commitment to Customer Service.

Following this review it is recommended that the current Customer Service Charter be rescinded and the proposed Customer Experience Charter be endorsed as an administrative document, with the CEO able to review and amend the document as required.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

Compliments, Suggestions or Complaints

- We are committed to providing a high quality of public service to the community
- We are committed to continuous improvement and encourage you to compliment us when we do well
- We want to understand how we can improve the way we provide services to the community and encourage you to give us feedback on things we can do better.

Complaints Resolution

When receiving a complaint we will:

- maintain confidentiality and discuss your complaint only with the employees involved
- consider the information you have provided carefully
- treat your complaint with fairness and respect
- keep you informed about the progress of your complaint
- explain to you the reasons for the decisions reached about your complaint
- advise you of the outcome and any actions we have taken to improve our services as a result of your complaint.

Customer Experience Charter

How to contact us

Online:
www.busselton.wa.gov.au

Telephone:
08 9781 0444

In Person:
2 Southern Drive, Busselton

In writing:
city@busselton.wa.gov.au; or
City of Busselton
Locked Bag 1
BUSSELTON WA 6280

'Where environment, lifestyle and opportunity meet'



Customer Experience Charter

Our Corporate Values

Listening
Considered Decision Making
Appreciation
Respect
Team Work



Our Commitment

We will be:

- Courteous
- Responsive
- Professional
- Discrete

We will demonstrate these principles by:

- Aiming to satisfy your request at the time of your visit
- Answering telephone calls promptly
- Responding to telephone messages within two business days
- Responding to written requests within 10 business days
- Advising you if there is a delay in providing information to you.



Customer Service Standards

We understand the importance of customer service and are committed to delivering high quality customer service, through accurate, relevant and appropriate advice.

Our employees will:

- Identify themselves
- Be polite, helpful and courteous
- Listen to you to understand your needs
- Follow through on our commitments to you
- Encourage, welcome and value your feedback.

Our actions will be:

- Open, respectful and impartial
- Responsive to your individual needs
- Completed within a reasonable timeline.

Our information will be:

- Accessible within the legal frameworks which apply
- Accurate, consistent and relevant
- Delivered in easy to understand language.

Access and Inclusion

We are committed to ensuring everyone is welcome and included with equitable access to services, buildings and other facilities, information, quality service, complaint handling and employment.

How you can help us to help you

The provision of a high quality customer experience is supported by positive relationships with the community.

The City of Busselton takes responsibility for providing an environment where employee safety and wellbeing is protected.

You can help us meet our customer service commitments to you by:

- Treating our staff with courtesy and respect in all interactions
- Recognising that the safety and wellbeing of our staff comes first and our staff may end a conversation if they feel unsafe or where it involves abusive language or aggressive behaviour
- Keeping us updated on changes to your contact details
- Providing complete and accurate details when making a request or seeking information
- Working with us to finalise solutions to problems.

City of Busselton

Customer Service Charter



Where environment, lifestyle and opportunity meet

STATEMENT

The Council recognises and acknowledges the importance of providing excellence in customer services to the community, its residents and stakeholders.

PURPOSE / RATIONALE

The intent of this charter is to provide the guiding document for the City to meet its service provision obligations to the community, its residents and stakeholders.

The development of this charter has taken into account the key factors impacting on customer service provision including, but not limited to, customer expectations, existing policy and legislation, identified risks and endorsed service delivery models.

OUR VALUES

As representatives of the City, these core values will underpin what we do and how we do it:

Pride in Performance

- Strive for Excellence to deliver good quality work
- 'Can Do' Attitude
- Meeting deadlines
- Recommending and actioning change

Empowerment

- Develops People – providing opportunities to be accountable
- Being willing to take action and learn from mistakes
- Leads by being a positive role model and focuses on achieving good outcomes for the City

Mutual Respect

- Treats others with respect
- Embraces diversity, tolerance and difference
- Shows good customer service to internal customers

Strength as a team

- Shows strong support for others to achieve organisational goals
- Actively works to foster a sense of team
- Takes a whole of organisation approach

Community focus

- Professional approach in all that we do
- Engages with the community to achieve outcomes
- Responsive and high quality customer service

SCOPE

This Policy applies to all Councillors, Employees, Apprentices, Trainees and Contractors of the City of Busselton.

CUSTOMER SERVICE CHARTER

The City of Busselton is committed to providing excellent services to our community. We will do this by striving to provide:

- Polite, helpful and respectful customer service;
- Our time and attention to address your enquiries;
- Services that are consistent and promptly delivered;
- Accurate information delivered in easy to understand language;
- Clear explanations for decisions made;
- Fair treatment in accordance with the City's legal obligations;
- Ease of access to feedback and complaint processes;
- Assistance to connect with other services within our community.

WE WILL UPHOLD THE CUSTOMER SERVICE CHARTER BY:

- Adhering to Council policies, City procedures and the Code of Conduct.
- Complying with the Uniform and Dress Standards.
- Being polite and helpful.
- Being empathetic to customer concerns.
- Providing easy access and timely feedback and complaint mechanisms.
- Providing reliable information and advice in easy to understand language.
- Responding to and resolving enquiries in a timely manner.



CODE CONTENT

The City of Busselton regards the provision of excellent customer services as a core strategic responsibility. In development of this charter, the City has considered community feedback and expectations, external factors, relevant constraints and organisational priorities. In addition, this document takes into account the City of Busselton Code of Conduct, which broadly outlines responsible behaviour for all Councillors, Committee members, City Officers and Contractors. This charter applies directly to the way in which services are delivered. This charter ensures that everyone within the organisation understands the duties and responsibilities applicable at each level.

The City of Busselton Customer Service Charter is our commitment to the community to:

- Act with integrity, timeliness, efficiency and economy;
- Be open, available, accountable and transparent in our decision making;
- Treat others honestly, respectfully, fairly and in a timely manner;
- Provide accessible, consistent, accurate and relevant information and;
- Invite and be informed by community requests, suggestions and feedback.



RESPONSIBILITY

Elected Members shall:

- Ensure guidelines for customer service delivery as stated in this Charter are current and relevant;
- Review the Charter on a periodic basis as required by changing community needs;
- Identify performance indicators for expected customer service outcomes, including expected levels of compliance and reporting periods;
- Support CEO and Executives in the provision of excellence in customer service;
- Regularly review, with the CEO, performance against agreed standards to continuously identify opportunities for improvement.

CEO and Executives shall:

- Endorse and support all standards documented in the Charter;
- Contribute to the regular periodic review of the Charter by:
 - Engaging in regular, community consultation to ensure current and future customers' needs and requirements are reflected in organisational processes, systems and structures;
 - Identifying opportunities for improvements to service delivery;
- Support Managers and other staff in the provision of excellence in customer service;
- Establish mechanisms to monitor compliance with the Charter across all areas of responsibility;
- Establish processes to deal with failure to meet endorsed standards;
- Report to the Council on performance indicators for customer service delivery.





Management shall:

- Optimise and support service delivery mechanisms to comply with the Charter;
- Ensure staff under direct and indirect supervision are aware of and are following guidelines detailed in the charter;
- Ensure provision of ongoing training to all areas of the organisation to further develop skills relevant to customer service provision;
- Implement established procedures to deal with failure to meet endorsed standards of service delivery;
- Report to CEO and Executives on performance indicators for customer service.

Employees, Contractors, Apprentices and Trainees shall:

- Comply with the Charter
- Actively support others in compliance with the Charter
- Undertake training and performance management as required to provide excellence in customer service.
- Report to Managers as required on performance indicators for customer service.

Customer Focus Staff shall additionally:

- Undertake Customer Advocacy through the direct provision of complaint, dispute and grievance support as required by members of the public and within guidelines provided in this Charter and the Code of Conduct;
- Undertake support across the organisation in the form of coaching and training to ensure customer service expectations are being met;
- Seek and report on customer feed back, positive and negative, during the course of customer interaction.

Services that are Consistent and Promptly Delivered

In Person:

- Acknowledge the customer within 30 seconds if unable to attend immediately;
- Endeavour to serve customer within 5 minutes from first acknowledgement;
- Officers called to attend to technical enquiries should arrive within 5 minutes from callout or inform Customer Service if there will be a delay.

On the Phone:

- Answer phone within 6 rings, including transferred and internal calls;
- Minimise time on hold by offering to call the customer back;
- Return/reply to voice mail messages within two working days;
- Ensure your telephone is diverted or monitored during prolonged absence from your desk (holidays, leave, off-site training);
- Use informed phone transfers to minimise customer's need to repeat their message.

In Writing (however received):

- Reply to basic information enquiries within 5 working days;
- Ensure referrals to external agencies occur within 5 working days;
- Acknowledge receipt of all other correspondence within 5 working days;
- Resolve and respond to technical requests within 21 working days;
- Complete application processes within 21 working days or as per specific business rules;
- Inform customers of any delays to decision-making. Update customer regularly if response will take longer than 21 working days.

DEFINITIONS

Customer is defined as any person, external and internal to this organisation, who approaches Councillors, Employees, Apprentices, Trainees and Contractors of the City of Busselton, with a request for information or services.

Customer Advocacy is defined as an approach to customer service that has a customer centred focus. Customer Advocates are facilitators between the customers and the organisation.

Customer Service is defined as the direct provision of information or services to customers. This includes assisting our customers to identify others within our community that may be able to meet the needs of our citizens.

City of Busselton Customer Service Charter - this document details the City of Busselton's commitment to delivering excellence in customer service to the community. This document clearly states the organisation's vision and values as well as customer service deliverables established by the Council.

HISTORY		
Council Resolution	Date	Information
C1706/154	June 2017	Consolidation of charter and cancellation of policy
C1703/040	8 March, 2017	Policy updated to reflect change from Shire to City Version 2



11.06am: At this time, Mrs Brioney McLean left the meeting.

6.4 REVIEW OF COUNCIL POLICY: MEETINGS, INFORMATION SESSIONS AND DECISION MAKING PROCESSES

STRATEGIC THEME	LEADERSHIP - A Council that connects with the community and is accountable in its decision making.
STRATEGIC PRIORITY	4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
SUBJECT INDEX	Council Policies
BUSINESS UNIT	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	Simple Majority
ATTACHMENTS	Attachment A Amended Policy: Meetings, Information Sessions and Decision-Making Processes Attachment B Current Policy: Meetings, Information Sessions and Decision-Making Processes

COMMITTEE RECOMMENDATION

PL2203/443 Moved Councillor J Richards, seconded Councillor K Cox

That the Council adopt the amended Council policy: Meetings, Information Sessions and Decision Making Processes (the Policy) (Attachment A) to replace the current policy (Attachment B).

CARRIED 5/0

OFFICER RECOMMENDATION

That the Council adopt the amended Council policy: Meetings, Information Sessions and Decision Making Processes (the Policy) (Attachment A) to replace the current policy (Attachment B).

EXECUTIVE SUMMARY

This report presents an amended Council policy: Meetings, Information Sessions and Decision Making Processes (the Policy) (Attachment A); amended to incorporate principles for the management of Community Access Sessions (CAS). Officers recommend it replace the current policy (Attachment B).

BACKGROUND

A policy in relation to meetings, information sessions and decision making processes policy was first implemented in March 2011 as a review and consolidation of two policy statements. The policy applied to all convened information sessions and formally-constituted meetings involving Councillors of the then Shire of Busselton, held in the course of carrying out the business of the local government.

The policy was reviewed in May 2017, with minor amendments of an aesthetic nature and which did not alter the fundamental principles of the policy.

Further to questions and discussions around the recording of Community Access Sessions (CAS) a report was presented to the Policy and Legislation Committee at the meeting of 8 December 2021 with a proposed amended Council policy: Recording and Livestreaming of Council Meetings and Community Access Sessions. This proposed amended policy incorporated provisions around the audio recording of Community Access Sessions. In putting forward the amendments officers did however note the informal nature of CAS and that the recording of sessions may not fit with that intent.

The Committee resolved not to adopt the proposed amended policy and instead to further consider the processes around the management of CAS and requested that the CEO bring the matter back for discussion at a future Policy and Legislation Committee meeting; which occurred at its meeting of 25 January 2022. This report presents principles for adoption based on that discussion.

OFFICER COMMENT

Community Access Sessions (CAS) are an informal forum, the purpose being to provide a means for the community to present ideas or discuss matters informally with Councillors. There are no decisions made at CAS and there is currently no requirement for CAS to be minuted in any way or recorded.

While CAS are not formal meetings of Council, it is important that they are conducted in a way that is consistent with the principles and objectives of the *Local Government Act 1995* in relation to the conduct of business. The Policy has been amended to include key principles / protocols to be applied at CAS. These include fair and equal opportunity for members of the public to be heard; applying a 5 minute limit to each speaker; and the City's Behaviour Protocols.

Given the informal nature and intent of CAS, the Policy proposes that, as opposed to audio recording CAS, a written record of matters raised will be taken by governance staff, including who presented to Council and on what topics.

The rest of the Policy has had minor amendments made to improve readability.

Statutory Environment

In accordance with section 2.7(2(b) of the *Local Government Act 1995* (the Act) it is the role of the Council to determine the local government policies. The Council does this on recommendation of a Committee it has established in accordance with section 5.8 of the Act.

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

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:


1. Not adopt the amended Policy; or
2. Adopt the Policy with further amendments.

CONCLUSION

A revised Policy 'Meetings, Information Sessions and Decision-Making Processes' is presented for Council's endorsement.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

If endorsed, the Policy will be placed on the City's website within one week of Council adoption and the practice continued at the start of the 2022 Community Access Sessions.



Council Policy

Council Policy Name: Meetings, Information Sessions and Decision Making Processes

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

1. PURPOSE

- 1.1. A key role of a Councillor is to participate in the Local Government's decision-making processes at Council and Committee meetings. A key function of the CEO is to ensure that advice and information is available to the Council so that informed decisions can be made.
- 1.2. The purpose of this Policy is to set out guidelines for the provision of information to Councillors at Council and Committee meetings and Information Sessions, as well as how Information Sessions will be managed.

2. SCOPE

- 2.1. This Policy is applicable to all Information Sessions and formally-constituted meetings involving Councillors of the City of Busselton.

3. DEFINITIONS

Term	Meaning
Information Session	Councillor workshops, agenda briefing sessions, briefing sessions and community access sessions
Policy	this City of Busselton Council policy titled "Meetings, Information Sessions and Decision Making Processes"

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priorities:
 - a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making; and
 - b. 4.4: Govern a professional organisation that is healthy, capable and engaged.

5. POLICY STATEMENT

- 5.1. The City utilises a range of mechanisms to ensure Councillors can make informed decisions, including workshops, briefing sessions, and community access sessions, in addition to its formal Council and Committee meetings.

Council and Committee Meetings

- 5.2. Council and Committee Meetings are conducted in accordance with the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and the *City of Busselton Standing Orders Local Law 2018*.

- 5.3. Formal decisions of the Council are made at Council and Committee meetings.

Agenda Briefing Sessions

- 5.4. Agenda briefing sessions are utilised to discuss matters that appear on the current Council agenda
- 5.5. Agenda briefing sessions shall be conducted in an open, accountable manner, subject to confidentiality provisions.

Briefing Sessions and Workshops

- 5.6. Outside of agenda briefing sessions it is usual for workshops and briefing sessions on a range of matters to be convened by the CEO for the purpose of providing relevant information to Councillors.
- 5.7. Briefing sessions and workshops are convened to offer Councillors the opportunity to:
- a. explore options and discuss ideas;
 - b. discuss future agenda items and strategic direction;
 - c. to be briefed on key ongoing projects and have input prior to the allocation of resources in taking forward reports to the Council;
 - d. provide feedback and input in relation to decisions being made, or which may be made, by officers (under delegation, authorisation or similar, or 'acting through');
 - e. discuss and resolve where possible grievances and concerns.
- 5.8. Briefing sessions are relatively informal and are not open to the general public (unless invited) due to the preliminary and exploratory nature of the discussions.
- 5.9. Formal decisions of the Council are only made during a formal Council meeting and therefore collective or implied agreement on any issue during any briefing, information session or workshop cannot bind the Local Government.

Community Access Sessions

- 5.10. Community Access Sessions provide community members the opportunity to address Councillors on matters of local government business. Administrative matters may be responded to by the CEO or taken on notice.
- 5.11. Community Access Sessions may also be used to present on a matter currently before Council for a decision, either ahead of the Council meeting as a party with an interest (as per the City of Busselton's Standing Orders Local Law) or as an 'other' interested person.
- 5.12. At the discretion of the Presiding Member, community members wishing to present on a matter not on a current Council meeting agenda will be heard first, followed by those wishing to present on an item before Council.
- 5.13. While Community Access Sessions are not formal meetings of Council, it is important that they are conducted in a way that is consistent with the principles and objectives of the *Local Government Act 1995* in relation to the conduct of business. Accordingly the following will apply
- a. each member of the public will be given an equal and fair opportunity, to be determined by the presiding member, to address Councillors;
 - b. an address will be limited to a period of 5 minutes unless the person is granted an extension by the presiding member;
 - c. the presiding member may decide that a question or matter is not be responded to where the same or similar question or matter was:
 - i. asked or dealt with at a previous CAS or Council meeting and a response provided; or

- ii. where the question is offensive or defamatory in nature;
 - d. no person is to use any electronic, visual or audio recording device or instrument to record the proceedings of CAS without the permission of the presiding member, unless it is at the discretion of the CEO for the purposes of recordkeeping;
 - e. a person must comply with the City's Behaviour Protocols at all times and must not create a disturbance by interrupting or interfering with the proceedings.
 - f. community members must show respect to Councillors and employees and must not publicly make adverse reflections on the character or conduct of a Councillor or employee.
- 5.14. If the presiding member considers a community member has engaged in conduct contrary to the requirements of 5.13, they may request the person to refrain from the inappropriate behaviour and / or to withdraw inappropriate comments.
- 5.15. Where a community member fails to comply with the Presiding Members request, the presiding member may immediately require the person to stop speaking and / or may require the person to leave the Community Access Session.
- 5.16. The CEO will keep a record of matters raised at Community Access Sessions, including who they were raised by.

Information Provision


- 5.17. Requests by Councillors' for information should be directed to the CEO or relevant Director and circulated to all Councillors for information. The officer's response should be circulated to all Councillors.
- 5.18. Councillors can ask for personal information of a private nature to be provided on a "Private and Confidential" basis. The CEO will consider the appropriateness of the request and determine whether such information is to be provided.
- 5.19. Where a question cannot be sufficiently answered at an Information Session or Council or Committee meeting, any further information is to be circulated to all Councillors.
- 5.20. In addition to disclosure requirements that apply at formal meetings, the Department of Local Government guidelines promote disclosure of interests at agenda forums, as participation without disclosing an interest is ethically unacceptable. Interests shall therefore be disclosed at Information Sessions.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. *Local Government (Administration) Regulations 1996*
- 6.3. Department of Local Government Council Forums Guideline

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	10 May 2017	Resolution #	C1705/101



Council Policy

Council Policy Name: Meetings, Information Sessions and Decision Making Processes

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

1. PURPOSE

- 1.1. A key role of a Local Government Councillor is to participate in the Local Government's decision-making processes at Council and Committee meetings. A key function of the organisation's CEO is to ensure that advice and information is available to the Council so that informed decisions can be made.
- 1.2. It is not always possible for all information that a Councillor may need to be able to fully and confidently participate in formal decision-making processes to be provided in the course of a formal meeting process. Therefore, the City utilises a range of mechanisms to ensure informed decisions can be made including workshops, briefing sessions, community access sessions and various electors' meetings in addition to its formal Council and committee meetings.
- 1.3. The purpose of this Policy is to set out the guidelines for the provision of information to Councillors and the Council and other matters relating to the various forums utilised

2. SCOPE

- 2.1. This Policy is applicable to all convened information sessions and formally-constituted meetings involving Councillors of the City of Busselton held in the course of carrying out the business of the local government.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy titled "Meetings, Information Sessions and Decision Making Processes"

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Strategic Theme 4. LEADERSHIP - A Council that connects with the community and is accountable in its decision making, of the City's Strategic Community Plan June 2021 and specifically the following Strategic Priorities:
 - a. 4.2: Deliver governance systems that facilitate open, ethical and transparent decision making; and
 - b. 4.4: Govern a professional organisation that is healthy, capable and engaged.

5. POLICY STATEMENT

Information Provision

- 5.1. All Councillors should have access to the same information when making decisions.
- 5.2. Councillors' written questions of officers regarding agenda reports shall be circulated to all Councillors for information and the officer's response shall be circulated to all Councillors.
- 5.3. Where a question cannot be sufficiently answered at any information session or meeting and further information is required to be provided by an officer, it shall be circulated to all Councillors.
- 5.4. Councillors however can ask for personal information of a private nature to be provided on a "Private and Confidential" basis.

Council and Committee Meetings

- 5.5. Council and Committee Meetings are conducted in accordance with the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and the City of Busselton Standing Orders Local Law.
- 5.6. Formal decisions of the Council are made utilising the Council and Committee meeting process.

Reports to Council or a Committee

- 5.7. All reports shall include the details of the reporting officer/s and the options that may be available to the Council should it not agree with the officer's recommendation.
- 5.8. All reports listed for consideration at a meeting are to be provided at the time of agenda distribution, unless they meet the criteria for a late item of urgent business for consideration by the Council or Committee.
- 5.9. Any officers' report shall not duplicate the subject of a motion of which a Councillor has given notice, and where this is unavoidable, the Councillor's notice of motion will take precedence in the order of business of the meeting.

Briefing Sessions and Workshops

- 5.10. It is usual for workshops and briefing sessions on a range of matters to be convened by the CEO to provide information to Councillors to enable informed decisions to be made.
- 5.11. The Council currently has a meeting cycle of formal Council meetings, preceded by various briefing sessions and workshops in the week before the meeting and on the day of the meeting.
- 5.12. Agenda briefing sessions are utilised to discuss matters:
 - a. that appear on the Council agenda; and
 - b. in relation to a matter of consideration or information at the time.
- 5.13. Agenda briefing sessions shall be conducted in an open, accountable manner and held in accordance with the Code of Conduct, subject to the confidentiality provisions relating to agenda reports.
- 5.14. Other briefing sessions and workshops are convened to offer the Councillors the opportunity to:
 - a. explore options and discuss ideas;
 - b. discuss future agenda items and strategic direction;
 - c. to be briefed on key ongoing projects and have input prior to the allocation of significant resources in taking forward reports to the Council;

d. provide feedback and input in relation to decisions being made, or which may be made, by officers (under delegation, authorisation or similar, or 'acting through');*

e. discuss grievances and concerns to be resolved where possible.

* The CEO will often refer particular matters to a briefing, information session or workshop for discussion and officers may then make decisions having regard for the nature of the discussion. They may be relatively informal and not open to the general public unless invited to attend due to the preliminary and exploratory nature of the discussions.

5.15. Formal decisions of the Council are only made during a formal Council meeting and therefore collective or implied agreement on any issue cannot bind the Local Government during any briefing, information session or workshop.

5.16. In addition to disclosure requirements that apply at formal meetings, the Department of Local Government guidelines promote disclosure of interests at agenda forums, as participation without disclosing an interest is ethically unacceptable. Interests shall therefore be disclosed at agenda briefing sessions (informal and formal), information sessions and workshops etc.

Community Access Sessions

5.17. Community members are offered the opportunity to address the Councillors on items that are listed on an agenda or any other matter of local government business during specially convened Community Access Sessions. The CEO and Directors, or their representatives, are to attend Community Access Sessions if items pertaining to their directorate are listed on the Agenda.

Electors' and Special Electors' Meetings

5.18. Matters discussed at electors' meetings provide important input into Council decision-making processes. All annual meetings of electors and special meetings of electors shall be convened in City-owned buildings to ensure that the venue is appropriate for the conduct of such a meeting.

5.19. The CEO, or his representative, shall attend all meetings of electors and is requested to have Directors in attendance, such that wherever possible, electors can be provided with the information that they are seeking at the meeting.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Local Government Act 1995
- 6.2. Local Government (Administration) Regulations 1996
- 6.3. Department of Local Government Council Forums Guideline

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	10 May 2017	Resolution #	C1705/101
Previous Adoption	DATE	13 May 2015	Resolution #	C1505/112

7. GENERAL DISCUSSION ITEMS

Nil

8. NEXT MEETING DATE

Wednesday, 23 March 2022

9. CLOSURE

The meeting closed at 11.27am.

THESE MINUTES CONSISTING OF PAGES 1 TO 142 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 23 MARCH 2022.

DATE: 21/04/2022

PRESIDING MEMBER: 