

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

## CITY OF BUSSELTON

### MINUTES FOR THE COUNCIL MEETING HELD ON 14 OCTOBER 2020

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## MINUTES

MINUTES OF A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN COUNCIL CHAMBERS,  
ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 14 OCTOBER 2020 AT 5.30PM.

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

The Presiding Member opened the meeting at 5.33pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley    Mayor

Members:

Cr Kelly Hick            Deputy Mayor  
Cr Sue Riccelli  
Cr Ross Paine  
Cr Kate Cox  
Cr Paul Carter  
Cr Jo Barrett-Lennard  
Cr Lyndon Miles

Officers:

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

Apologies:

Cr Phill Cronin (up to 5.36pm and including Item 3)

Approved Leave of Absence:

Cr Phill Cronin (from 5.36pm and Item 4)

Media:

"Busselton-Dunsborough Mail"

Public:

4

3. PRAYER

The prayer was delivered by Phillip Gifford of the Dunsborough Community Church.

**4. APPLICATION FOR LEAVE OF ABSENCE****COUNCIL DECISION****C2010/099**

Moved Councillor L Miles, seconded Councillor P Carter

**That Cr Phill Cronin be granted a Leave of Absence for the remainder of this Ordinary Council Meeting held on 14 October 2020.**

**CARRIED 8/0****5. DISCLOSURE OF INTERESTS**

The Mayor noted his declaration of financial (proximity) interest in relation to item 16.1 'Busselton Netball Association Surrender and New Lease Lois Hannay Pavilion'.

The Mayor advised that in accordance with the *Local Government (Rules of Conduct) Regulations 2007* this declaration would be read out immediately before Item 16.1 was discussed.

**6. ANNOUNCEMENTS WITHOUT DISCUSSION**

**Announcements by the Presiding Member**

Nil

**7. QUESTION TIME FOR PUBLIC**

**Response to Previous Questions Taken on Notice**

Nil

**Question Time for Public**

**7.1 Mr Ian Christophersen**

(Question received by email and read by the Presiding Member)

**Question**

Given that the Council has stated there was a robust business case for the proposed Performing Arts, Culture and Convention Centre (BEACH) it's logical, as part of the funding requirements, that a schedule of proposed user charges would have been determined. Can Council please provide, or provide a web link to, this list of proposed charges that non-commercial and commercial customers will be charged to use the BEACH facility?

**Response**

(Provided by Mrs Naomi Searle, Director Community and Commercial Services)

As part of the development of the Business Case for the BPACC a draft business operations plan was developed which in turn informed the development of a draft operating budget. The draft business operations plan, which can be found on the City's YourSay website, identifies projected uses, attendances and hire rates. While the identified rates are projected only, that being not endorsed fees and charges, they are based on benchmarked Performing Art Centres.

**8. CONFIRMATION AND RECEIPT OF MINUTES****Previous Council Meetings****8.1 Minutes of the Council Meeting held 23 September 2020****COUNCIL DECISION****C2010/100**

Moved Councillor P Carter, seconded Councillor K Cox

**That the Minutes of the Council Meeting held 23 September 2020 be confirmed as a true and correct record.****CARRIED 8/0****Committee Meetings****8.2 Minutes of the Policy and Legislation Committee Meeting held 23 September 2020****COUNCIL DECISION****C2010/101**

Moved Councillor R Paine, seconded Councillor J Barrett-Lennard

**That the Minutes of the Policy and Legislation Committee Meeting held 23 September 2020 be noted.****CARRIED 8/0****9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS****Petitions**

Nil

**Presentations**

Nil

**Deputations**

Nil

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

Nil

**11. ITEMS BROUGHT FORWARD****ADOPTION BY EXCEPTION RESOLUTION**

At this juncture the Mayor advised the meeting that, with the exception of the items identified to be withdrawn for discussion, the remaining reports, including the Committee and Officer Recommendations, will be adopted en bloc, i.e. all together.

**COUNCIL DECISION****C2010/102**

Moved Councillor P Carter, seconded Councillor L Miles

**That the Committee and Officer Recommendations in relation to the following agenda items be carried en bloc:**

**12.3 Policy and Legislation Committee - 23/09/2020 - RESCISSION OF COUNCIL POLICY 063 - PRIVATE WORKS MARGIN**

**13.1 TENDER RFT 03-20: CONSTRUCTION OF BORE(S) - DUNSBOROUGH NON-POTABLE WATER NETWORK PROJECT, MEWETT ROAD, QUINDALUP; APPOINTMENT OF SUCCESSFUL TENDERER**

**13.2 APPLICATION FOR DEVELOPMENT APPROVAL FOR SERVICE STATION, LOT 100, No. 81-93 WEST STREET, BUSSELTON**

**17.1 COUNCILLORS' INFORMATION BULLETIN**

**CARRIED 8/0****EN BLOC**



12.3 Policy and Legislation Committee - 23/09/2020 - RESCISSION OF COUNCIL POLICY 063 - PRIVATE WORKS MARGIN

<b>STRATEGIC GOAL</b>	6. LEADERSHIP Visionary, collaborative, accountable
<b>STRATEGIC OBJECTIVE</b>	6.1 Governance systems, process and practices are responsible, ethical and transparent.
<b>SUBJECT INDEX</b>	Council Policies
<b>BUSINESS UNIT</b>	Corporate Services
<b>REPORTING OFFICER</b>	Manager Governance and Corporate Services - Sarah Pierson
<b>AUTHORISING OFFICER</b>	Director Finance and Corporate Services - Tony Nottle
<b>NATURE OF DECISION</b>	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Council Policy 063 - Private Works Margin

This item was considered by the Policy and Legislation Committee at its meeting on 23/09/2020, the recommendations from which have been included in this report.

**COUNCIL DECISION AND COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**  
**C2010/103** Moved Councillor P Carter, seconded Councillor L Miles

That the Council rescinds Council Policy 063: Private Works Margin (Attachment A), effective immediately.

**CARRIED 8/0**

**EN BLOC**

**EXECUTIVE SUMMARY**

This report recommends the rescission of Council policy 063: Private Works Margin (the Policy) (Attachment A), with the Policy having been reviewed as part of the City's overall review of its Council policies. It is recommended the Policy be rescinded, as the fees and charges outline the fee structure for private works, and the remainder of its content is operational in nature.

**BACKGROUND**

The City is, on occasion, although not regularly, requested to undertake private works, including road reinstatement works. The City's fees and charges contain a fee for private works and road reinstatement works, which is the full cost plus a margin of 30%.

DESCRIPTION	ADOPTED FEE 2019/20 (Exc GST)	ADOPTED FEE 2020/21 (Exc GST)	ADOPTED FEE 2020/21 (Inc GST)
<u>Reinstatements / Private Works</u>			
Road reserves charge for reinstatement of road reserves is the full cost plus profit margin as per Policy	Cost plus 30%	Cost plus 30%	Cost plus 30% plus GST
Private works charge for works requested to be undertaken by City resources is the full cost plus profit margin as per Policy	Cost plus 30%	Cost plus 30%	Cost plus 30% plus GST

The Policy was developed to provide additional guidance to officers as to the application of this margin. The Policy was reviewed in 2010, and again in 2016, with only minor amendments made. On review in 2010, the Committee considered rescinding the policy, noting that the fees and charges provide for private works to be levied, however officers felt it provided them with necessary operational guidance and so it was retained.

### **OFFICER COMMENT**

In response to the Governance Services Review carried out in 2017, the City developed a policy framework to clearly establish the strategic nature and intent of Council policies, as opposed to operational documents. Since then, Council has been reviewing its Council policies to ensure that they align to the policy framework and that they provide strategic, and not operational, guidance.

The Council have, at a strategic level, adopted a margin for the provision of private works, as per the adopted fees and charges. The fee description sets out a description of private works being “works requested to be undertaken by City resources”. Notably, the margins outlined in the Policy vary from those in the fees and charges. The fees and charges as adopted would apply over the Policy, resulting in sections of the Policy being effectively redundant.

The remainder of the Policy details the operational processes by which quotes are to be provided by the City, and how the customer is to be charged. Given that the fee structure for private works is outlined in the fees and charges, and the operational nature of the Policy, it is recommended that it be rescinded and converted to an Operational Practice.

It is noted that the fee descriptor refers to the profit margin as per Policy. The adopted fee on its own is clear and is not impacted by reference to the Policy, and therefore we don’t feel this reference poses any issues in terms of rescinding the Policy. We will however remove reference to the Policy at the first available opportunity.

### **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’s 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**

As already outlined, the City has a policy framework which sets out the intent of Council policies. The recommendation to rescind the Policy is in line with that framework.

### **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 choose not to rescind the Policy and direct the CEO to review and update it instead.

**CONCLUSION**

The objectives of the Policy are reflected (and updated) in the City's Fees and Charges, with the Policy providing operational guidance to officers, guidance which is better placed in an Operational Practice. For these reasons, it is recommended that the Policy be rescinded.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The Policy will be rescinded and removed from the website within one week of Council's endorsement.



Last updated 13/04/2016

063	Private Works Margin	V3 Current
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### 1. PURPOSE

The City of Busselton occasionally receives requests for the City to undertake private works. A fee, in the form of cost plus margin, is established to ensure that the community's assets are properly used and applied.

### 2. SCOPE

Private works are defined as those works carried out using Council resources for other organisations, whether on private land or within Council, Crown or other public land.

### 3. POLICY CONTENT

Quotes in writing are given by managerial or supervisory staff of Council's Engineering and Works Services Directorate for private works undertaken by Council's plant and works crews. The quotes are compiled using all Council's internal costing with margins in accordance with this policy added to the total of the whole of Council's internal estimated costs.

The customer is to be charged the quoted price including, where agreed extras occur, the full Council cost plus the margin. Payment shall be in advance by cash or bank guarantee for jobs with the exception that jobs under the estimated cost of \$5,000 may be dealt with by the client or customer signing a form works description in which he/she commits to paying the cost plus the margin, based on the estimate provided by staff.

The following margins are applicable to all quotes for private works and on charges raised for incidental works that were not quoted on (such as small jobs where a customer has agreed to pay all material, plant and labour costs). The margins are:

- On Council's plant, labour and materials charges, not less than 15%;
- On any private works for local community, sporting or school groups, NIL;
- For road reinstatement works, 30%;
- On plant, labour and materials for private works on private land and/or for finishing forfeited outstanding and maintenance bonds for subdivision and development - not less than 15% and up to 30% depending on difficulty and indirect cost implications in each case;
- The Chief Executive Officer will assess the market conditions for individual projects at a value of greater than \$200,000 gross and may vary the above stated margins on those projects in circumstances where he believes that market conditions warrant.

#### Policy Background

Policy Reference No. - 063

Owner Unit – Operations Services

Originator – Director, Engineering and Works Services

Policy approved by – Council

Date Approved – 13 April, 2016

Review Frequency – As required

Related Documents –

*City of Busselton Fees and Charges*



Last updated 13/04/2016

**History**

Council Resolution	Date	Information
C1604/077	13 April, 2016	Update to City Terminology and responsible business unit and Directorate. Increase to payment in advance. Version 3
C1012/415	8 December, 2010	Policy re-adopted in new standard format Version 2
		Version 1

**13. PLANNING AND DEVELOPMENT SERVICES REPORT****13.1 TENDER RFT 03-20: CONSTRUCTION OF BORE(S) - DUNSBOROUGH NON-POTABLE WATER NETWORK PROJECT, MEWETT ROAD, QUINDALUP; APPOINTMENT OF SUCCESSFUL TENDERER**

<b>STRATEGIC GOAL</b>	3. ENVIRONMENT Valued, conserved and enjoyed
<b>STRATEGIC OBJECTIVE</b>	3.4 Climate change risks and impacts are understood, acknowledged and responded to through appropriate planning and community education.
<b>SUBJECT INDEX</b>	Tenders
<b>BUSINESS UNIT</b>	Strategic Planning
<b>REPORTING OFFICER</b>	Manager, Strategic Planning - Matthew Riordan Contract & Tendering Officer - Lisa McDonald
<b>AUTHORISING OFFICER</b>	Director, Planning and Development Services - Paul Needham
<b>NATURE OF DECISION</b>	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Dunsborough Non-Potable Water Network 'Stage 1' Attachment B RFT03-20 Location Plan Attachment C Published Under Separate Cover Confidential Tender Evaluation and Recommendation Report

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C2010/104** Moved Councillor P Carter, seconded Councillor L Miles

That the Council:

1. Pursuant to RFT 03-20 'Construction of Bore(s) – Dunsborough Non-Potable Water Network Project', accept the tender from Delmoss Nominees Pty Ltd T/A Welldrill (Welldrill) as being the most advantageous tender to the City (Successful Tenderer), subject to minor variations to be negotiated in accordance with Regulation 20 of the *Local Government (Functions and General) Regulations 1996* (FG Regs).
2. Delegates power and authority to the Chief Executive Officer to negotiate and agree with the Successful Tenderer minor variations in accordance with Regulation 20 of the FG Regs, subject to such variations and the final terms not exceeding the overall project budget.

CARRIED 8/0

EN BLOC

**EXECUTIVE SUMMARY**

The Request for Tender 03-20 'Construction of Bore(s) – Dunsborough Non-Potable Water Network Project' (**RFT 03-20**) invited tenders to engage an adequately skilled and experienced contractor to:

- (a) construct, test and equip exploration, production and/or monitoring bore(s) on Mewett Road, Quindalup (defined in the Request for Tender as the Bore Site) as part of the City's Dunsborough Non-Potable Water Network Project;
- (b) comply with DWER requirements in relation to a Hydrogeological Assessment Report for these bores (as specified in the Drilling License); and

- (c) If required, provide the City with a report on the beneficial use (availability, volume, quality and sustainability) of groundwater available for extraction from this bore(s), defined as the 'Requirements'.

Pursuant to RFT 03-20, and the evaluation and analysis of subsequent responses received, Delmoss Nominees Pty Ltd T/A Welldrill) (**Welldrill**) are recommended as the preferred tenderer.

## BACKGROUND

The 'South-West Non-Potable Water Study', led by the Department of Water and Environmental Regulation (DWER), investigated and assessed non-potable water issues across the South-West. In this study titled '*Options to Supply Water to Meet Green Space Irrigation Needs in the South-West 2015-2060*' (still awaiting final publication), Dunsborough was identified as an area experiencing ongoing and significant challenges.

Dunsborough has access to only limited available allocations of groundwater and is currently experiencing a shortfall of some 25 megalitres per annum; a shortfall predicted to rise to 528 megalitres per annum by 2060. It is therefore critical to establish a viable and sustainable non-potable water supply to meet those longer-term needs.

The Water Corporation (WC), in partnership with DWER and the City of Busselton, identified and assessed a range of potential non-potable water options for Dunsborough, including surface water, groundwater, and wastewater re-use. The groundwater option, even if lower quality and only available from the deeper Sue Coal Measures aquifer (water licences for the superficial Leederville aquifer have already been fully allocated), was selected as the best option for accessing non-potable water, suitable for the irrigation of parks, sporting ovals, and other green spaces (including, in time, potentially contributing to water supply for the Dunsborough Lakes Golf Course).

In an earlier hydrogeological study commissioned by the City ('HydroConcept': January 2019) it was estimated that a total of 5-7 bores accessing the Sue Coal Measures may be required to address total anticipated irrigation water shortfalls in Dunsborough to 2060. These prospective well sites were identified within a bore field that was required to be situated east of the Dunsborough Fault, sufficiently inland from the coastline to mitigate potential problems associated with salinity, and far enough removed from existing Water Corporation ('WC') bores already in operation in the Sue Coal Measures aquifer in Quindalup (so as to prevent draw down, or otherwise adversely influence or affect operational efficiencies).

Research undertaken during the development of the City's 'Sports & Recreation Facilities Strategy 2020-2030' identified a need to build the ovals in the Sporting Precinct in the current 2020/2021 financial year in order to meet strong community and strategic planning demand. As such, a viable and sustainable provision of non-potable water is urgently required.

The water well bore works the subject of RFT 03-20 will have the express aim of investigating the suitability and sustainability of an ongoing supply of non-potable water from the Sue Coal Measures aquifer to irrigate the proposed works for the Dunsborough Non-Potable Water Network Stage 1 ('Stage 1'). The drilling works for this exploratory/test production bore are anticipated to take approximately 2-3 months to complete from formal project initiation.

Stage 1 will deliver a cost-effective solution for ovals construction planned at the new Dunsborough Lakes Sporting Precinct ('Sporting Precinct'), and be designed to allow for future expansion to deliver a climate-resilient non-potable water supply for the irrigation of playing fields and other recreational and landscaped public open spaces for the long-term. Please refer to **Attachment A**.



It should be noted that the bore construction works for RFT 03-20 are *not eligible* for any of the grants funding (\$1 million) successfully secured by the City from the Federal Government 'Drought Communities Programme' initiative. Rather, should the test production water well at Mewett Road prove to be a viable and sustainable initial source of non-potable irrigation water, the subject grants funding can be directed towards the cost of construction of pumping station(s), storage tanks, a pipeline network, and related plant and infrastructure (such as smart control technologies) in order to deliver irrigation water to areas identified in Stage 1. As a stipulation of the grants funding, these subsequent Stage 1 works must be completed by 30 June 2021 in order to justify acquittal of those funds.

There will, in time, be additional water wells (bores) needed to be constructed to service the planned growth of 'green infrastructure' and predicted irrigation water shortfalls in Dunsborough, but it is hoped that the quality, peak flow rates, and sustainable quantity of non-potable water discovered through the water well bore the subject of RFT 03-20 will enable a cost-effective and reliable supply of water for those new sporting ovals proposed for construction in the Sporting Precinct (when combined with the limited quantity of locally available groundwater that has already been secured).

A Location Plan of the subject exploration/test production bore (and monitoring bore) site on Mewett Road, Quindalup is provided at **Attachment B**.

## OFFICER COMMENT

### Tender Assessment Process

The City issued RFT 03-20 by upload to TenderLink, and received a total of two submissions as follows:

1. Delmoss Nominees Pty Ltd T/A Welldrill; and
2. Aquatech Drilling Solutions Pty Ltd.

In accordance with the City's procurement practices and procedures, assessments were carried out by an Evaluation Panel ('Panel') comprising City officers with relevant skills and experience.

The assessment process included:

- (a) Assessing submissions received against relevant Compliance Criteria. These criteria were not scored. Rather, each submission was assessed on a Yes/No basis as to whether each criterion was satisfactorily met. Both tenders were deemed to be compliant, although the tender by Aquatech Drilling Solutions Pty Ltd also included a 'non-compliant', alternative tender; and
- (b) Assessing submissions received against the relevant Qualitative Criteria, with each of those criteria given a score in accordance with the rating scale detailed below.

Qualitative Criteria	Weighting
Relevant Experience	30%
Local Benefit	5%
Key Personnel Skills and Experience	5%
Tenderer's Resources	5%
Demonstrated Understanding	25%



## Summary of Assessment Outcomes

### 'Non-Compliant Tender'

The key difference between the (revised) 'non-compliant' tender (also called 'non-conforming tender' in the Tender Evaluation and Recommendation Report) and the original 'compliant tender' from Aquatech Drilling Solutions Pty Ltd was an apparent reduced number of hours spent on the itemised proposed works. The 'non-conforming' tender appeared to propose payment of hourly rates should itemised works not be able to be completed in the hours or by the means allocated. This, together with the balance of the overall submission, which was not considered to be clearly documented, made it difficult for the Panel to have confidence in a committed total lump sum price for works proposed that could be subject to potential change.

It was the unanimous decision of the Panel, therefore, that the 'non-conforming' tender could not be meaningfully considered alongside either of the 'conforming tenders' submitted by the subject companies. As such, it was rejected from final assessment.

### 'Compliant Tenders'

The two 'compliant' submissions received were processed through to Qualitative Criteria assessment on the basis that all terms, conditions and mandatory requirements of RFT 03-20 had been fully met. The submissions were scored according to the Qualitative Criteria outlined above and the net price was scored using the 'Average Based Scoring Method' recommended by WALGA in the 'Local Government Purchasing and Tender Guide'.

The Panel members individually assessed the Qualitative Criteria for each schedule, then met and applied an average scoring to each of those schedules. These averaged scores were then added together to arrive at the final rankings.

Of the two compliant tenders, Welldrill provided what was considered to be a well-documented and detailed submission, and was duly ranked first on the 'Qualitative Criteria' assessment, and also ranked first in the 'Weighted Cost Criteria' assessment.

Refer to **Attachment C: 'Tender Evaluation and Recommendation Report'**, which is included under separate cover as it is considered confidential.

### Statutory Environment

In terms of the *Local Government (Functions and General) Regulations 1996 (LG Regulations)* a local government must publicly invite tenders where the consideration for the supply of the relevant goods or services is likely to exceed the statutory threshold (currently \$250,000).

### Relevant Plans and Policies

The procurement process in respect to RFT 03-20 complies with relevant requirements under the City's Purchasing Policy.

### Financial Implications

The exploration and test production bore works are proposed by the Preferred Tenderer at a total lump sum price of \$630,282.02 (Exclusive of GST). This is for the satisfactory completion of Tasks 1 – 3 of RFT 03-20.

The construction of bores are a component of the 'Dunsborough Non-Potable Water Network Project', and will be funded from a total project budget of \$2 million, listed as C3223 'Dunsborough Non-Potable Water Network' and endorsed in the 2020/21 Capital Works budget. Funding has come from the City's 'Coastal and Climate Adaptation Reserve'.

**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 the intention being to identify risks which, following implementation of controls, are identified as being medium or greater.

There are no such risks identified, with the Preferred Tenderer assessed as being capable of delivery of the project on time, and within budget, to the specified requirements and standards.

**Options**

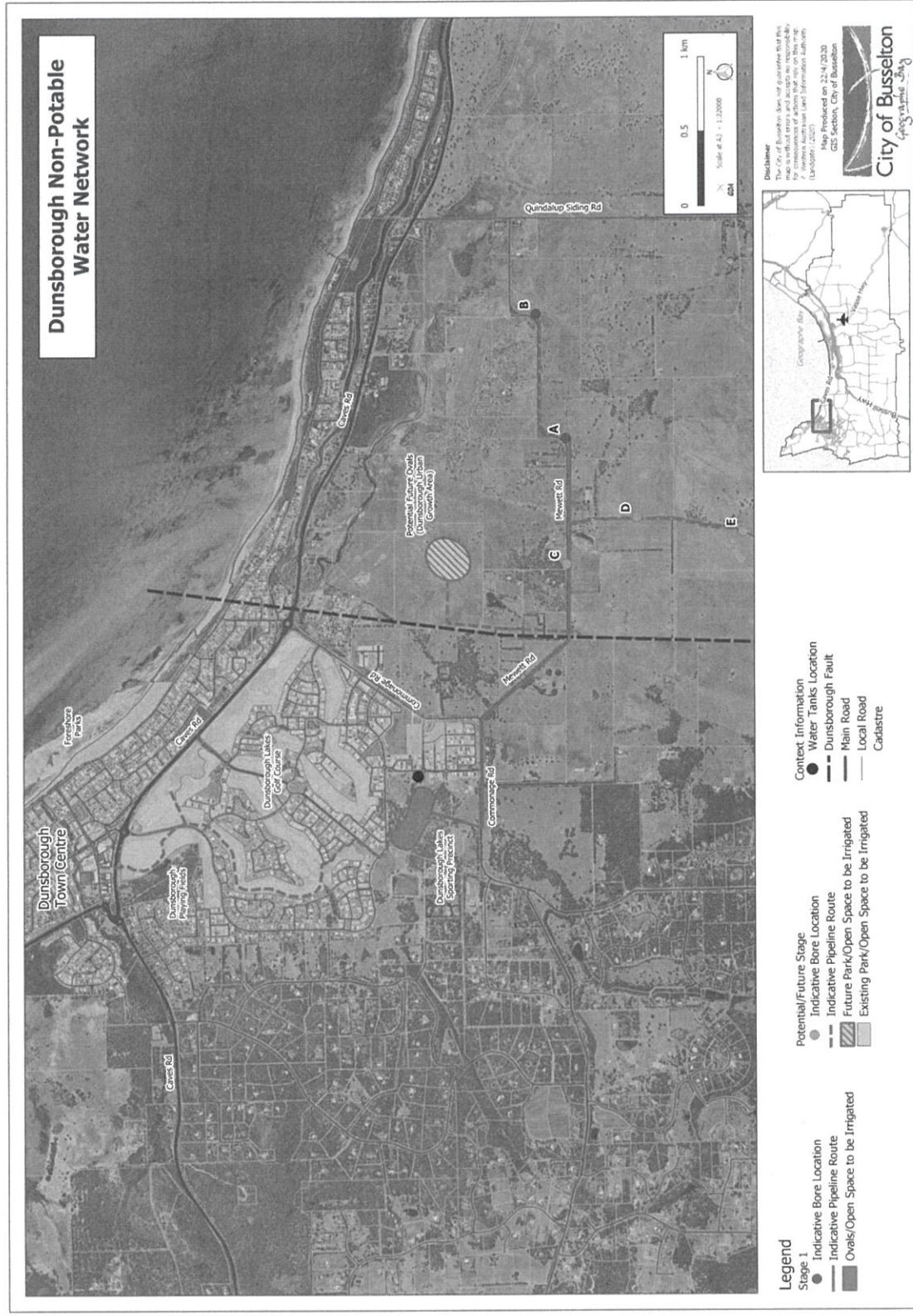
As an alternative to the Officer Recommendation, the Council could determine not to accept the tender from Welldrill as being the most advantageous to the City, or that the company not be declared the Preferred Tenderer, for reasons to be outlined.

**CONCLUSION**

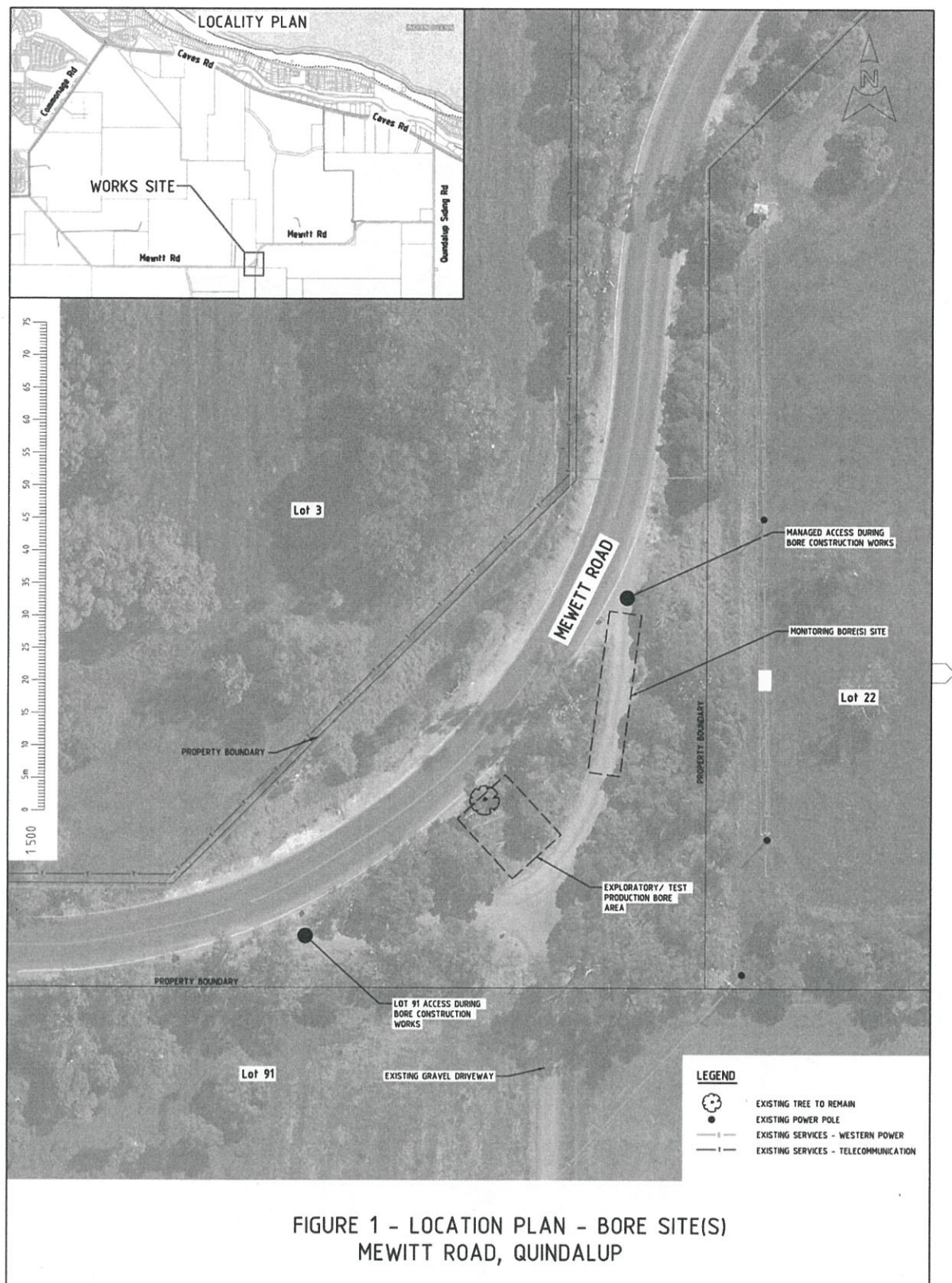
The submission from Welldrill is considered to be the most advantageous to the City. It is therefore recommended that Welldrill be awarded the contract resulting from RFT 03-20 on the basis of that company's submitted lump sum price amounts/rates and the general terms and conditions.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

If endorsed by the Council, it is expected that the City will enter into a contract with Welldrill on or about 1 November 2020.









13.2 APPLICATION FOR DEVELOPMENT APPROVAL FOR SERVICE STATION, LOT 100, No. 81-93  
WEST STREET, BUSSELTON

<b>STRATEGIC GOAL</b>	3. ENVIRONMENT Valued, conserved and enjoyed
<b>STRATEGIC OBJECTIVE</b>	3.1 Development is managed sustainably and our environment valued.
<b>SUBJECT INDEX</b>	Development/Planning Application
<b>BUSINESS UNIT</b>	Development Services
<b>REPORTING OFFICER</b>	Planning Officer - Kelley Nilsson-Linne
<b>AUTHORISING OFFICER</b>	Director, Planning and Development Services - Paul Needham
<b>NATURE OF DECISION</b>	Quasi-Judicial: to determine an application/matter that directly affects a person's right and interests e.g. development applications, applications for other permits/licences, leases and other decisions that may be appealable to the State Admin Tribunal.
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Attachment A Development Plans Attachment B Attachment B Revised Development Plans Attachment C Attachment C Traffic Impact Assessment Attachment D Attachment D Traffic Impact Assessment (Final) - Mini Roundabout Plans (Appendix E) Attachment E Attachment E Cardnos Technical Memorandum Attachment F Attachment F DWER Water Quality Protection Note No. 49 - Service Station and 56 - Tanks for Fuel and Chemical Storage near Sensitive Water Resources Attachment G Attachment G Schedule of Submissions

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C2010/105** Moved Councillor P Carter, seconded Councillor L Miles

That the Council determines:

- A. That application DA20/0207 submitted for a 'Service Station' is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.
- B. That Development Approval is issued for the proposal referred to above (A) subject to the following conditions:

**General conditions**

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

**Prior to commencement of any works conditions**

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

- 3.1 Drainage Management Plan;
- 3.2 Landscaping Plan;
- 3.3 Fuel Delivery Management Plan;
- 3.4 Lighting Management Plan;
- 3.5 Details of required road upgrades, including:
  - a. Detailed design of the roundabout at the Peel Street and West Street intersection – including the identification of existing services affected and to be relocated as a result of the roundabout;
  - b. Detailed design of the new median strip, north of the existing West Street roundabout and adjacent to Access 2, to provide left-in left-out only access to the site from West Street.
- 3.6 Details of the modified vehicular crossover to Peel Terrace;
- 3.7 Details setting out a minimum number of 84 car parking bays to be provided on site - the parking areas, driveways and points of ingress and egress (including crossovers) shall be appropriately designed, constructed, drained and line marked;
- 3.8 Details setting out a minimum of one loading bay to be provided for the use hereby approved - the loading bay shall be appropriately designed, constructed, drained and line marked;
- 3.9 Details of the proposed bicycle parking facilities - the details shall include, as a minimum, the location, design and materials to be used in their construction;
- 3.10 Details of the proposed bin storage areas – the details shall include as a minimum, the design and the materials to be used in their construction;
- 3.11 An Acid Sulphate Soil Assessment;
- 3.12 Details of the acoustic fencing adjacent to the dwelling at No. 6 Peel Terrace; and
- 3.13 Details of the proposed 'scrolling media sign'.

#### Prior to Occupation/Use of the Development Conditions

- 4 The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition 3 have been implemented; and, the following conditions have been complied with:
  - 4.1 The construction of the approved roundabout referenced in Condition 3.5(a) shall be completed, at the full cost of the Applicant, to the satisfaction of the City.

#### Ongoing Conditions

- 5 The works undertaken to satisfy Conditions 3 and 4 shall be subsequently maintained for the life of the development; and, the following conditions shall be complied with:

**5.1 For the life of the development, all illuminated signs hereby approved shall:**

- a. Not be of a light emission intensity to cause a light overspill nuisance to occupiers of adjacent premises, cause a traffic hazard or distraction to drivers on the adjacent public road or be confused with traffic signals;
- b. Not flash, pulsate, chase, or otherwise cause a nuisance to occupiers of an adjoining site or the local area;
- c. Not be animated.

**5.2 The Pylon Signs shall be restricted to a maximum of 6 metres above natural ground level.**

**CARRIED 8/0**

**EN BLOC**

**EXECUTIVE SUMMARY**

The City has received an application for a proposed Service Station. Due to the nature of the issues requiring consideration and the level of community interest the application is being presented to Council for determination, rather than being determined by City officers acting under delegated authority.

During the consultation period, the main concerns that have been raised are traffic management, congestion, impact on amenity and the environment.

Having considered the application, including submissions received, officers consider that the application is consistent with the City of Busselton Local Planning Scheme No. 21 (the 'Scheme') and the broader, relevant planning framework. It is recommended that the application be approved, subject to appropriate conditions, and in accordance with the revised plans submitted by the applicant with the aim of addressing some of the issues raised through public consultation.

**BACKGROUND**

The Council is asked to consider an application for a Service Station at Lot 100 (No. 81-93) West Street, Busselton. Minor revisions were made to the plans after the public advertising period in response to consultation. A copy of the plans that were advertised are provided at Attachment A, and a copy of the revised plans, which Council are being asked to consider for approval, are provided at Attachment B.

The revisions to the plans principally include:

- 2.2m high Acoustic Fence between the Service Station and No. 6 Peel Terrace.

Key information regarding the application is set out below:

1. **Landowner:** Loudi Developments Pty Ltd AS Trustee for the Loudi Development Trust.
2. **Applicant:** Loudi Developments Pty Ltd AS Trustee for the Loudi Development Trust
3. **Site area:** 9119m<sup>2</sup>



4. **General description of the site:** Lot 100 (No. 81-93) West Street is situated on the eastern edge of the Service Commercial Zone located southwest of the Busselton Town Centre. West Street and Peel Terrace run along the western and northern edges of the site (respectively), with low density residential housing to the east and south. The site is basically flat, having been developed and used for commercial purposes.

The site was formerly occupied by Home Timber and Hardware. The site has since been redeveloped following approval for seven large Showroom units (DA18/0143 refers) which included the construction of an additional building over the former outdoor sales area. The units on this site are part vacant, part occupied.

5. **Current development/use:** A number of the units on the site are vacant with the remainder used as Showrooms.
6. **Brief description of proposed development:** The application seeks approval to redevelop the northern portion of the site, to incorporate a Service Station. The proposal involves adjustments to the recently completed building, whereby the two northern most units (1 and 2) are effectively replaced with:
- Eight bowser Service Station (fuel sales and convenience store) including ancillary facilities such as parking, water and air bay at the northern end of the site;
  - Retail floor space of approximately 201m<sup>2</sup> integrated into the primary building at the northern end of the site;
  - 300m<sup>2</sup> canopy, measuring a maximum of 5.12m in height, covering refuelling bays and bowsers;
  - Alterations to the existing building to provide a greater setback to Peel Terrace to facilitate the fuel forecourt and modified access and parking arrangements;
  - Modifications to the existing Peel Terrace crossover (widened from 6m to 10m) to accommodate fuel tanker movements;
  - The Service Station is proposed to operate 24 hours a day, seven days a week, with the maximum number of staff on at any one time expected to be two;
  - The residual area of Unit 1 has been absorbed into Unit 2, increasing its built strata area from 487m<sup>2</sup> to 607m<sup>2</sup> (an overall reduction of 366m<sup>2</sup> in cumulative building floor space – from 1,185m<sup>2</sup> to 819m<sup>2</sup>);
  - Two underground fuel storage tanks;
  - Signage, including two 6m tall internally illuminated monolith pylon signs fronting Peel Terrace and West Street (respectively);
  - An adjusted car park layout, including a reduction in total bays (from 95 to 84) catering for both customers and staff;
  - Minor adjustments to the recently installed landscaping on-site (slight reduction only – no new planting).
7. **Applicable Zoning and Special Control Area designations:** The site is located within the Service Commercial Zone.
8. **Land-use permissibility:** Service Station is a 'D' use in the Service Commercial Zone, meaning that it is a discretionary land use, not permitted unless the local government has exercised its discretion by granting development approval.

## OFFICER COMMENT

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

- General considerations when making a decision on a development application;
- Traffic and access;
- Residential amenity; and
- Environmental impacts.

### General considerations when making a decision on a development application

When considering a development application for any land use designated as “D” or “A” land use under Table 2 - The Zoning Table of the Scheme, a decision-maker is required to exercise discretion when considering the development. The exercise of discretion should take into account relevant considerations as identified within Clause 67 – ‘Matters to be considered by local government’ of Schedule 2 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The decision-maker has an obligation to exercise their statutory responsibilities appropriately and a decision is required to be based upon sound planning principles.

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

The improvement of the region, including ‘economic development’ is one of the broader aims of the Scheme, however economic considerations are not listed as a ‘Matter to be Considered’ within the Regulations. Economic considerations per se should therefore only be considered when setting the planning framework and not when making a determination on an individual development application.

### Traffic and Access

#### Traffic

The development application was accompanied by a Traffic Impact Assessment (TIA) prepared by Transcore on behalf of the applicant which is provided at Attachment C. Subsequent to ongoing discussion with the City, a revised and final TIA dated 18 September 2020 was submitted and is provided at Attachment D.

Following concerns raised by the City’s Engineering and Works Services Department, and by members of the public via submissions received during the consultation process, the City sought an independent peer review of the TIA and additional traffic modelling from Cardno. Cardno were asked to model four scenarios to assess the impact of the proposal, being:

**Scenario 1:** existing AM and PM peak hour volumes (i.e. no petrol station).

**Scenario 2:** as per Scenario 1, with the additional traffic generated by the proposed petrol station.

**Scenario 3:** as per Scenario 2 but with Access 2 limited to left-in, left-out turn movements.

**Scenario 4:** as per Scenario 3 but with a roundabout at the intersection of West Street / Peel Terrace.





It is noted that the new Service Station will result in relatively minor changes to traffic volumes. This is largely due to the fact that those utilising the new Service Station will be a result of pass-by trips, that is, cars already using the road network in this area and will not generate a large volume of new car trips.

The technical assessment and modelling of the proposal by Cardno (see Attachment E) however concluded that the levels of service (LOS) of Peel Terrace and West Street would deteriorate to an unacceptable level (Level D or below) without interventions, including the construction of a median adjacent to Access 2 to allow left-in left-out access only from West Street and a roundabout at the intersection of Peel Terrace and West Street. The 'Summary and Conclusion' of their assessment indicates:

*"Based on the results from the traffic modelling exercise undertaken by Cardno for a number of access scenarios for the proposed petrol filling station at the south-eastern corner of West Street / Peel Terrace, the following conclusions have been reached for each of the scenarios:*

**Scenario 1** – The intersection of West Street / Peel Terrace is currently performing satisfactorily at LOS B and LOS C during the AM and PM peak hours, respectively.

**Scenario 2** – With the additional traffic expected to be generated by the proposed petrol filling station, the overall intersection LOS remains unchanged, although it is noted that the LOS for the eastern approach (Peel Terrace) deteriorates from LOS C to D during the PM peak hour.

**Scenario 3** – If turn restrictions are imposed to Access 2 to only allow left-turn movements, the overall intersection LOS deteriorates to LOS D and the eastern approach (Peel Terrace) deteriorates to LOS E during the PM peak hour, as the turn restrictions will result in additional right-turning traffic at the intersection of West Street / Peel Terrace.

**Scenario 4** – The conversion of the intersection to a roundabout form will result in LOS A for the intersection during both the AM and PM peak hours.

*Based on the above, an upgrade to the intersection of West Street / Peel Terrace (such as the roundabout modelled in Scenario 4) will be required to ensure satisfactory intersection performance. As previously noted, it is considered necessary to restrict the turn movements at Access 2 to only allow left-in and left-out turn movements, in order to mitigate the risk of queues extending from this Access to the roundabout further south."*

The City's future traffic planning for this area, independent of the Service Station application, has identified that the West Street/Peel Terrace intersection may eventually need to be modified to address congestion. Further investigations and funding are required before work on this intersection or the broader road network in this area can be considered by the City. As part of their application however, the applicant has proposed an interim solution for the West Street and Peel Terrace intersection in the form of a mini-roundabout option (Attachment E - Final TIA Appendix E) and have subsequently agreed to bear the full costs of the works should the development be approved. The City is satisfied that this will facilitate an appropriate traffic outcome in the interim while the City undertakes the necessary investigations for any future upgrades to the road network in this area.

It is worth noting that the City has previously identified the need to restrict movements into Access 2 to allow for left-in left-out turn movements only between West Street and Lot 100. This was identified in previous modelling carried out which indicated that when Lot 100 and the Power Centre site are fully operational, the potential for queuing into the existing West Street roundabout would likely necessitate an increase in the median strip to restrict right turn movements into Lot 100. While the change is proposed to be secured as a 'Prior to Commencement of Use' condition, it is considered reasonable that the City meets the cost of the construction of the new median given it was anticipated this work would be required to be undertaken by the City in the near future in any case.

#### Access

Initially the fuel tankers were identified as accessing the site via West Street and leaving via Peel Terrace. However, further to review by the traffic consultants, it has now been agreed that the fuel tankers will enter the site via the Peel Terrace access only and exit the site via the West Street access only.

Fuel delivery is expected to occur 1 – 2 times per week outside the Service Station's busy periods. While it is acknowledged that the fuel tanker will only undertake fuel delivery 1-2 times per week, swept path plans (showing the extent of vehicle movements into and out of the site) for the fuel tankers show that they would encroach on the verge, footpath and parking bays. As such, it is recommended that a condition for a delivery management plan be included, should an approval be issued, to demonstrate how the fuel tanker movements can be undertaken in a safe manner when delivering fuel to the site.

The access from Peel Terrace is proposed to be increased from 6m to 10m wide. The City is satisfied that the widening of this access point can be done in a manner that will mitigate vehicular and pedestrian conflicts subject to an agreed detailed design.

Officers are satisfied that the traffic and access solutions identified during the application process are positive and will provide appropriate interim solutions to concerns associated with the development forward of the City undertaking a detailed analysis and review of changes required to the broader road network in this area.



## Residential Amenity

The City received a number of submissions setting out concerns relating to residential amenity, as summarised below:

- Traffic will adversely impact on residents in this locality (addressed above);
- 24 hour operation will result in noise, nuisance, anti-social behaviour, light spill; and
- Health concerns relating to fumes from fuel and ground contamination.

### 24 hour operation will result in noise, nuisance, anti-social behaviour, light spill

The amenity of the properties to the east was assessed in detail when the site was approved for redevelopment in 2018 (DA18/0143). The property most affected by the service station will be No. 6 Peel Terrace which directly abuts the proposed development. Although it is zoned 'Residential' No. 6 has an Additional Use (A68) on it for a Home Business and Office and a taxi business is believed to operate from this site. The applicant has proposed to construct a 2.2m high acoustic fence on the boundary adjacent to the house at No. 6. It is considered that an appropriately designed fence between the service station and No. 6 will adequately reduce noise and headlight glare and the requirement for a Lighting Management Plan will further reduce off-site impact associated with the 24 hour operation.

It is not expected that there will be any unreasonable amenity impacts on any other nearby residential properties by virtue of the distance from the proposed use and the existing two storey high parapet wall of the Showroom development which abuts the back of the lots on the western side of Edwards Street. Although the service station is proposed to operate 24 hours, given its location, it is not expected to have traffic movements during the night time/early morning hours that would generate noise levels that will cause nuisance to local residents. Further, noise from the development, including but not limited to noise from air-conditioning systems, equipment, machinery, collection of rubbish and recycling bins, business activities and music is to comply with *Environmental Protection (Noise) Regulations 1997*. There are no anticipated anti-social behaviours associated with a Service Station and should this become an issue, it is a matter for the police to address.

### Health concerns relating to fumes from fuel and ground contamination

The Department of Mines, Industry Regulations and Safety (DMIRS) have been consulted regarding the Service Station and have identified no issues with the development. DMIRS have confirmed that the site will require a Dangerous Goods Licence before it can operate. The site requirements will be fully assessed during the Dangerous Goods Licence application process where it will be assessed against the relevant Australian Standards for compliance.

The issuing of the Dangerous Good Licence will ensure that there will be no adverse effect of storing fuel on site such as fumes (vapour) or ground contamination.

The City are satisfied that this type of industry is sufficiently regulated through DMIRS and there will be no unreasonable adverse impact on residential amenity as a result of the storage or use of fuel on site.

## Environmental Impacts

A number of concerns were raised regarding the impact the service station may have on the natural environment, more specifically the ground water and the wetlands in this area.

The application was referred to the Department of Health, Department of Water Environment and Regulations (DWER), DMIRS and the City's Environment and Health teams for comment during the assessment of this application.

It is noted that a stormwater management plan is recommended as a condition of approval. This will address how drainage on the site is managed to ensure there will be no off-site impact associated with the proposed land use. The applicant will also require a Dangerous Goods Licence (as set out above), DWER approval for the installation of underground storage tanks and the site will be then listed as a contaminated site requiring monitoring.

DWER Water Quality Protection Note No. 49 – Service Station and 56 – Tanks for fuel and chemical storage near sensitive water resources from DWER would also apply (Attachment F). The City is satisfied that the established regulation and controls relevant to Service Stations will ensure that the ground water and wetlands will not be adversely impacted by development.

### **Statutory Environment**

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

### **Zoning**

The site is zoned 'Service Commercial'. The objectives of the Service Commercial Zone area as follows:

- a. To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites.
- b. To provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in the Centre zones.
- c. To provide for development which will not result in a detrimental impact on surrounding commercial centres and has regard to the strategic importance and need to maintain the commercial primacy of the Regional Centre and Centre.
- d. To restrict development which is likely to contribute to ribbon development, the spread of centres, or otherwise detrimentally impact the efficiency of main or arterial roads.

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

### **Land-use and permissibility**

The proposed land uses is defined as follows:

**"Service Station"** means premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for:

- (a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or
- (b) the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles.

A Service Station is a 'D use' within the Service Commercial Zone.



**Matters to be considered**

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

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) *any approved State planning policy;*
- (d) *Any environmental protection policy approved under the Environmental Protections Act 1986 Section 31 (d);*
- (e) *any policy of the commission;*
- (f) *any policy of the State;*
- (g) *any local planning policy for the Scheme area;...*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
  - (i) *environmental impacts of the development;*
  - (ii) *the character of the locality;*
  - (iii) *social impacts of the development;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) *the adequacy of —*
  - (i) *the proposed means of access to and egress from the site; and*
  - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following —*
  - (i) *public transport services;*
  - (ii) *public utility services;*
  - (iii) *storage, management and collection of waste;*
  - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
  - (v) *access by older people and people with disability;*

- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;...*
- (zb) *any other planning consideration the local government considers appropriate.*

The proposal generally complies with the relevant provisions noted above.

### **Relevant Plans and Policies**

#### **Local Planning Policy 2.1 – Car Parking**

##### **Parking Background**

In 2018 the site was approved for a change of use to Showrooms (DA18/0143). This resulted in the creation of seven new units. The total floor area created was 4,356m<sup>2</sup> which required 87.5 parking spaces. The applicant at the time provided 98 car parking spaces including two ACROD bays however the plans were subsequently amended and car parking bays were removed to relocate the bin store in order to allow for an adequate space for trucks. 95 car parking bays remained at the time of the application.

Local Planning Policy 2.1 (LPP 2.1) establishes the parking criteria for development within the City. A service station requires one bay per working pump. The service station would require a maximum of eight bays for the pumps. These eight bays are provided on the pump forecourt. A total of 10 parking bays (inclusive of one ACROD bay) are proposed as part of the development immediately adjacent to the Service Station shopfront.

The proposed Service Station will result in changes in the car parking numbers as follows:

- Unit 3 -7 = 3,126m<sup>2</sup> – Car parking calculated as Showroom/Warehouse 1 bay per 50m<sup>2</sup> = **62.5**
- Unit 2 = 620m<sup>2</sup> - Car parking calculated as Showroom/Warehouse 1 bay per 50m<sup>2</sup> = **12.4**
- Unit 1 (Service Station) = 201m<sup>2</sup> – calculated using the 'Convenience Store' rate of 1 bay per 30m<sup>2</sup> = **6.7** and 1 car parking bay per employee using the Service Station calculations = **2**
- All units are provided with a loading/service bay

**Total parking bays required - 84**

**Total parking bays provided - 84**

The proposed service station development complies with LPP 2.1. Officers are satisfied that that the overall site has sufficient parking to meet the needs of existing and future operators.

### **Financial Implications**

There are no financial implications associated with the Officer Recommendation.

### **Stakeholder Consultation**

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

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

The application was open for submissions from 20 May 2020 to 11 June 2020 and was advertised in the following manner:

1. Information regarding the application was posted on the City's website;
2. A portal was created using the City's *YourSay* platform for the online lodgement of submissions;
3. Letters were sent to a number of land owners within close proximity to the site;
4. Two advertising signs were erected on the site; and
5. A notice was placed in a local newspaper on 27 May 2020.

Submissions were received from a total of 24 people. All submissions were objections to the proposal.

A schedule of submissions is provided as Attachment G. The schedule identifies who submissions were received from and summarises the submissions. The bulk of the submissions can generally be grouped as follows:

Objections / concerns raised regarding:

- Traffic impacts, congestions and safety;
- Too many service stations in this area of Busselton;
- The impact of the service station on amenity (odour, noise and anti-social behavior); and
- Environmental Impacts on the wetland and water table.

Where issues are raised which are not able to be considered, as they do not relate to the relevant planning framework, the comment provided indicates that. That does not necessarily suggest that the issues are not genuine issues of concern to the submitter or more broadly, but they are unfortunately not issues that can or should be addressed in the assessment of the application.

In addition to the above, the application was referred to Main Roads, Department of Health, Department of Water and Environmental Regulation, and Department of Mines, Industry, Regulations and Safety. A summary of these agencies' comments are provided within the schedule of submissions at Attachment G.

### **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. Refuse the proposal, setting out reasons for doing so; or
2. Apply additional or different conditions.



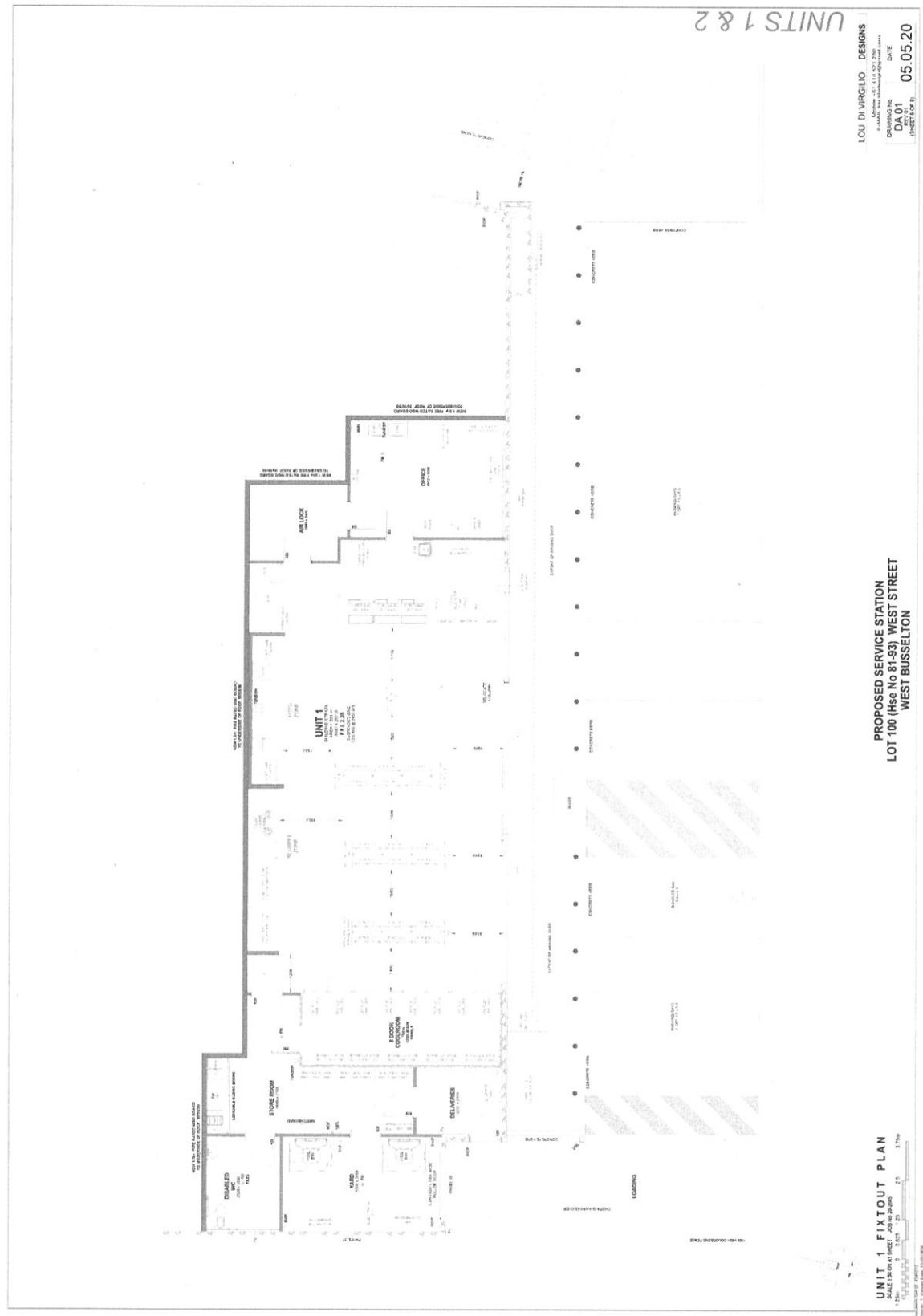
**CONCLUSION**

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

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

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











LOCATION PLAN  
SCALE 1:200 ON A0 SHEET JOB No 20-2945

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**BSO**  
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Revised Manuscript to be reviewed

**PROPOSED SERVICE STATION  
LOT 100 (Hse No 81-93) WEST STREET  
WEST BUSSELTON**

FEATURE SITE SURVEY  
LOT 100 (#81) WEST STREET  
WEST BUSSELTON

CITY OF BUSSELTON

LOU DI VIRGILIO    DESIGNS

Mobse +61 414 521 280  
E MAIL [leu.lvd@design@gmail.com](mailto:leu.lvd@design@gmail.com)

DRAWING No. DA 01  
REV 01  
(SHEET 1 OF 8)

DATE  
05.05.20

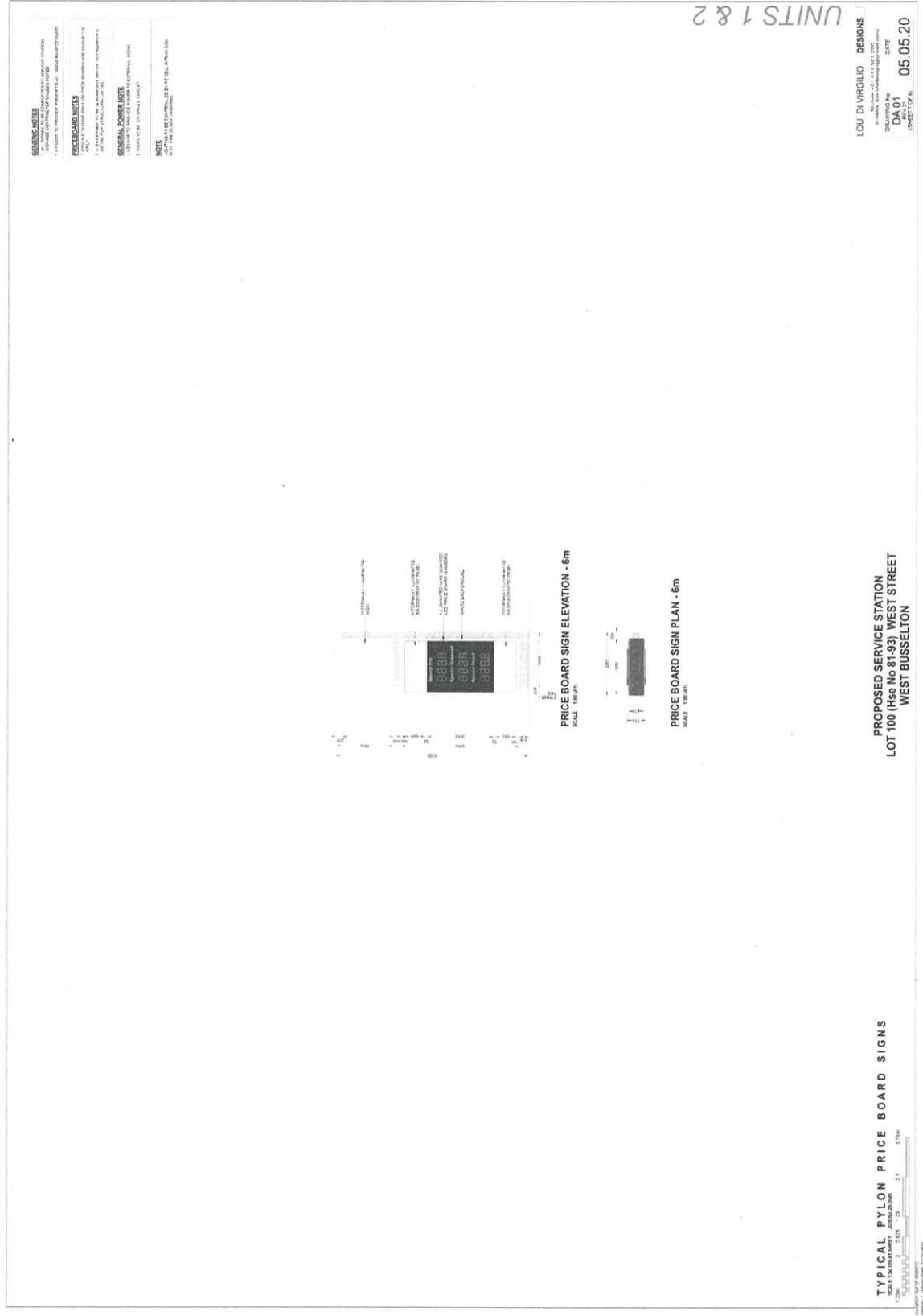
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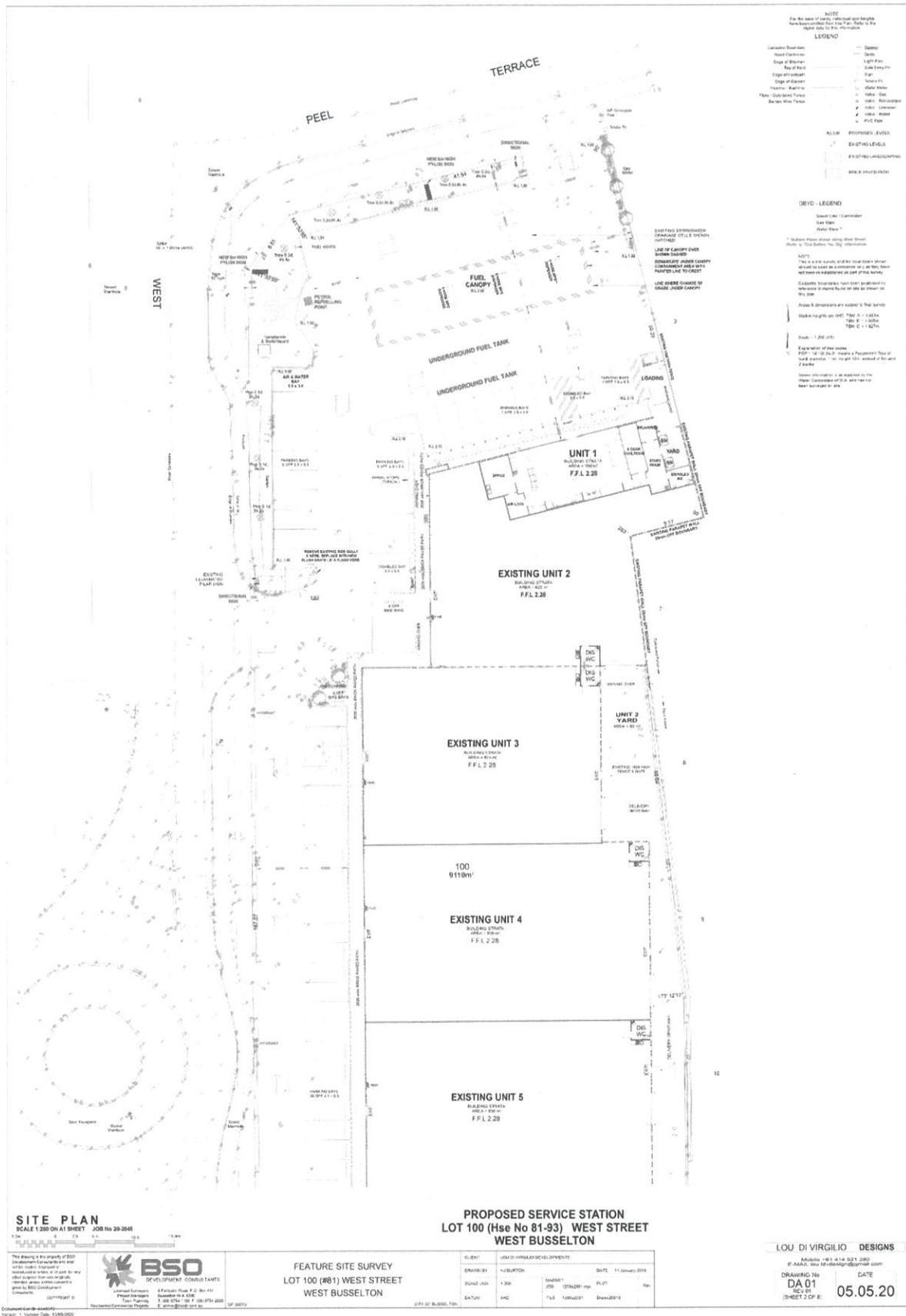
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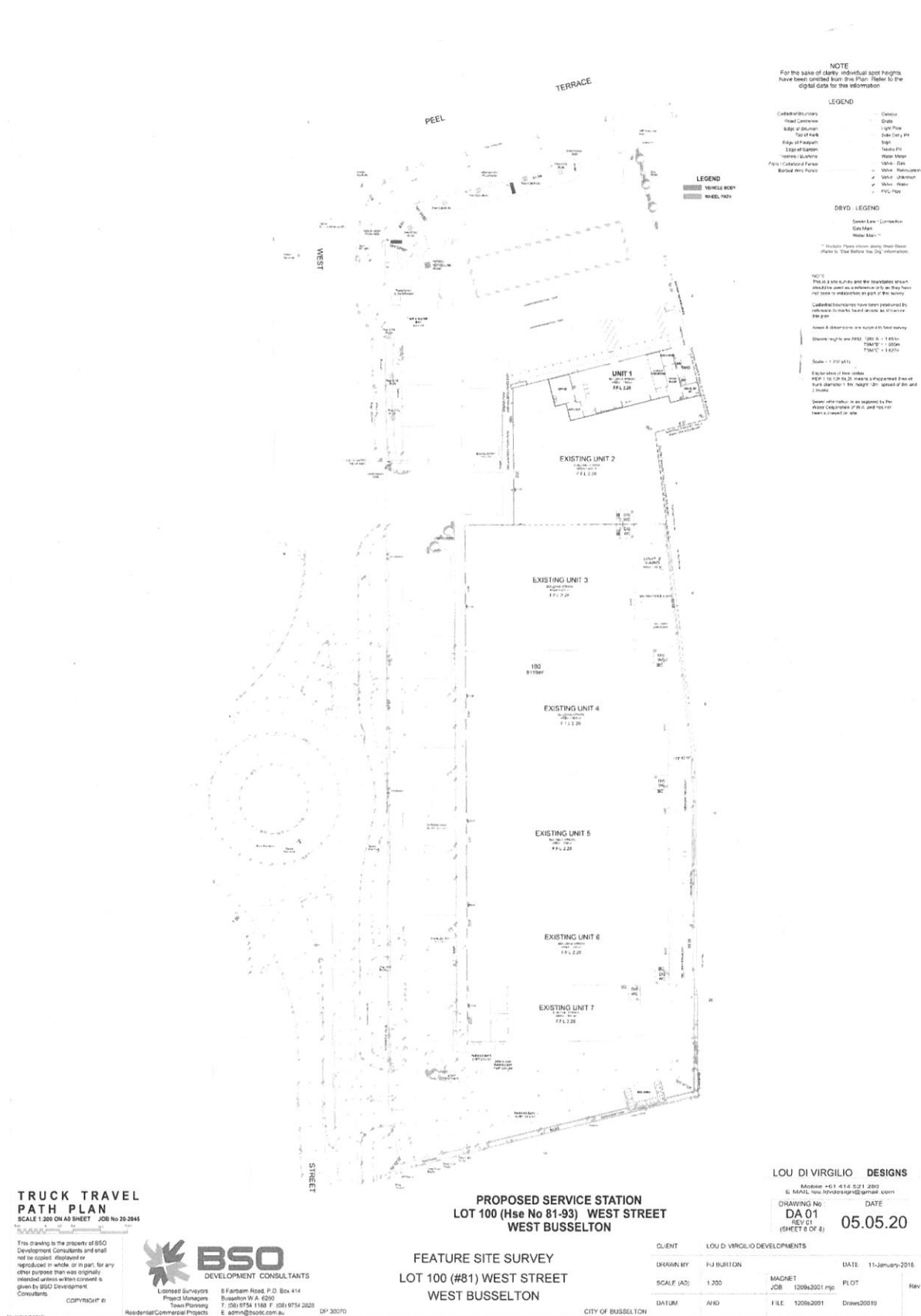
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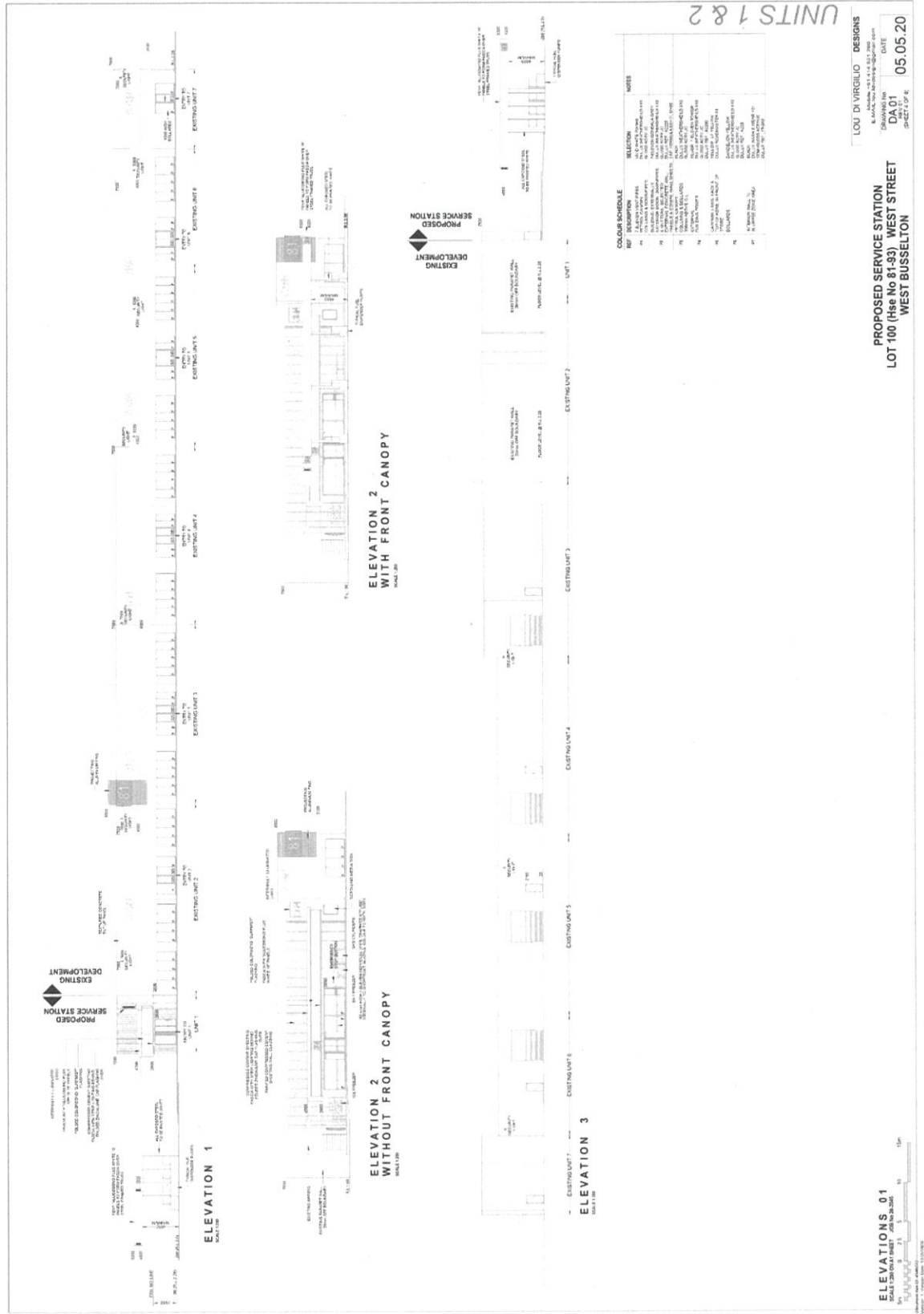
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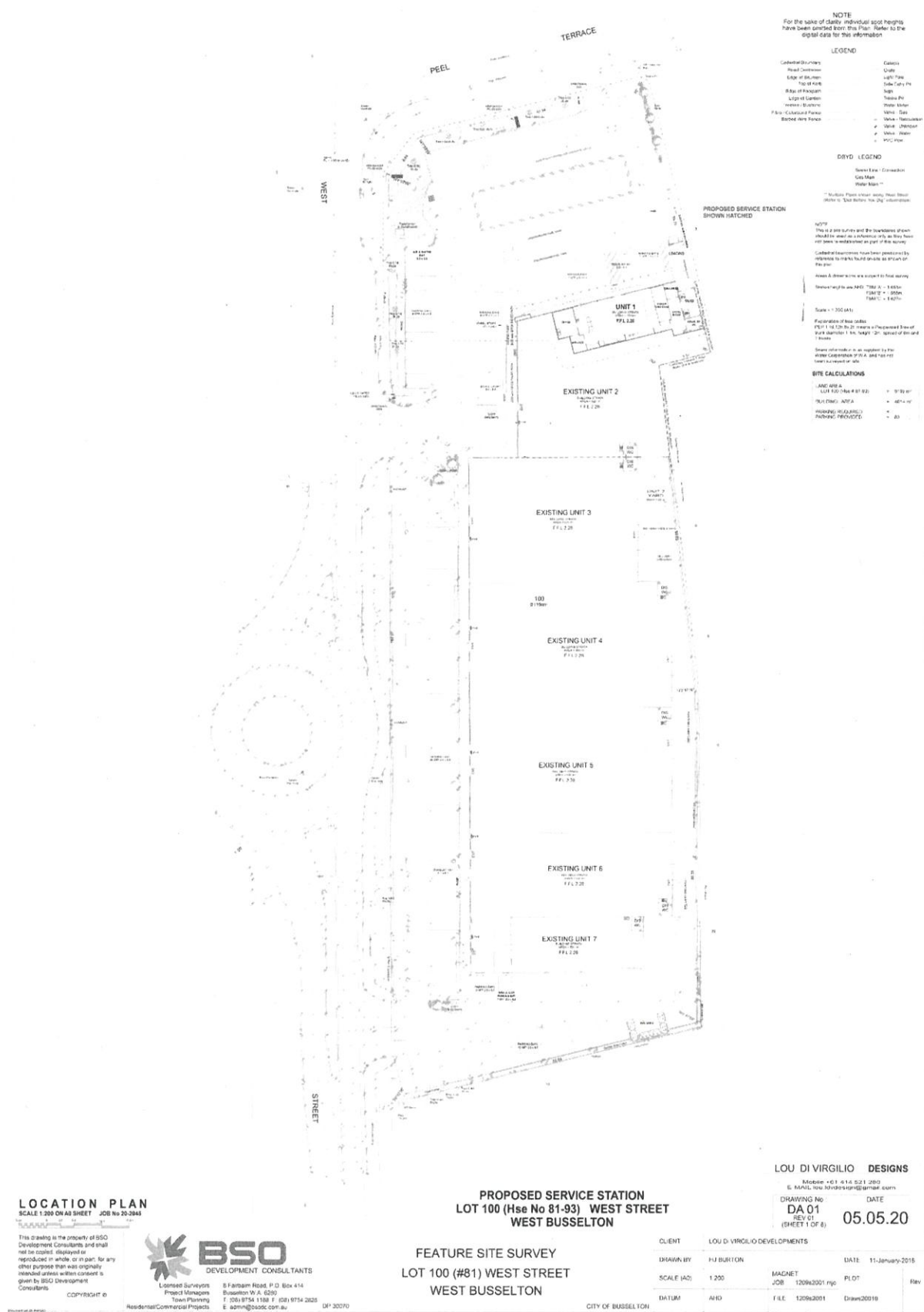




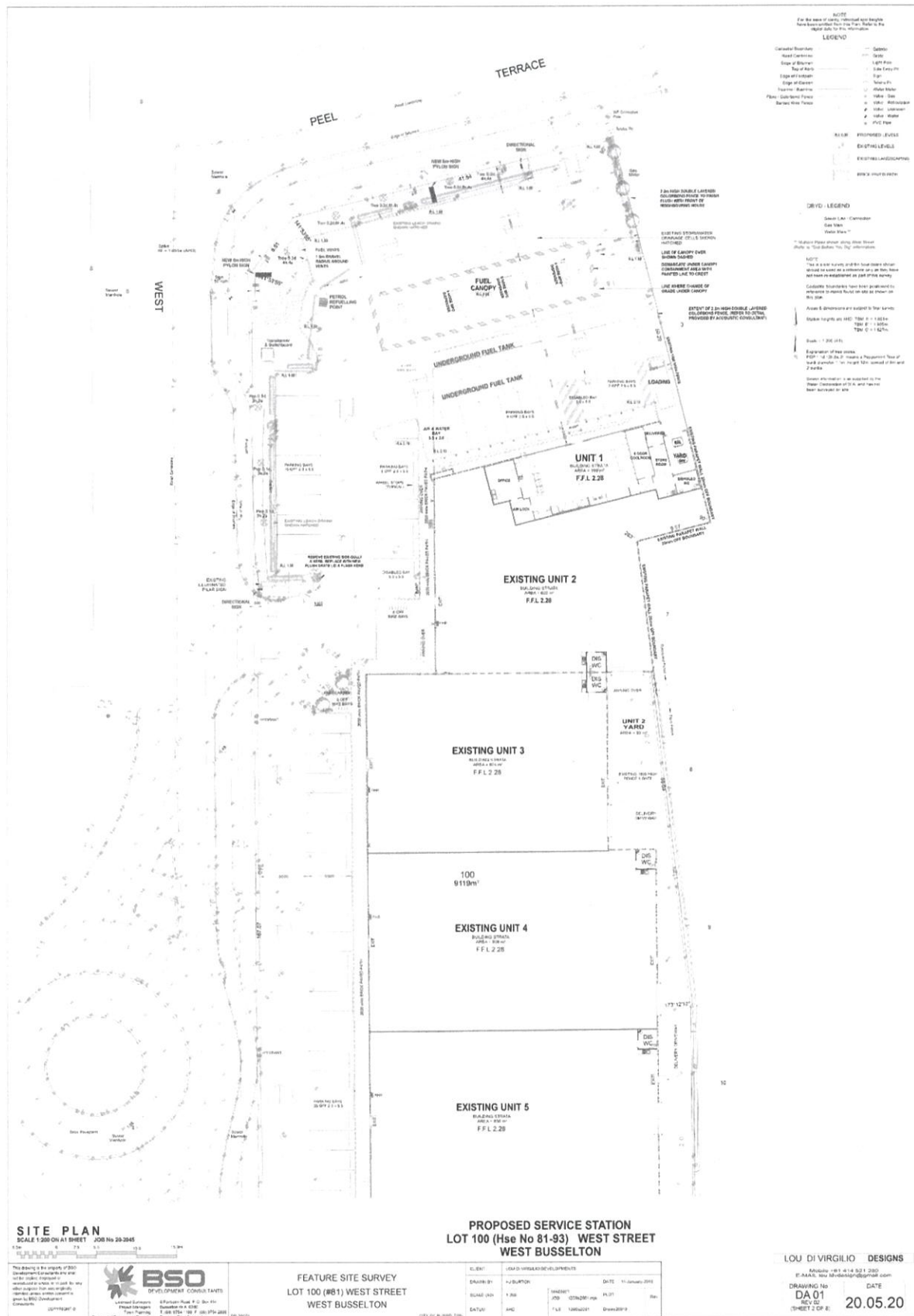
LOU DI VIRGILIO DESIGNS  
PROPOSED SERVICE STATION  
LOT 100 (H99 No 81-93) WEST STREET  
WEST BUSSELTON

ELEVATIONS .01  
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DATE 05.05.20  
SHEET 1 OF 6



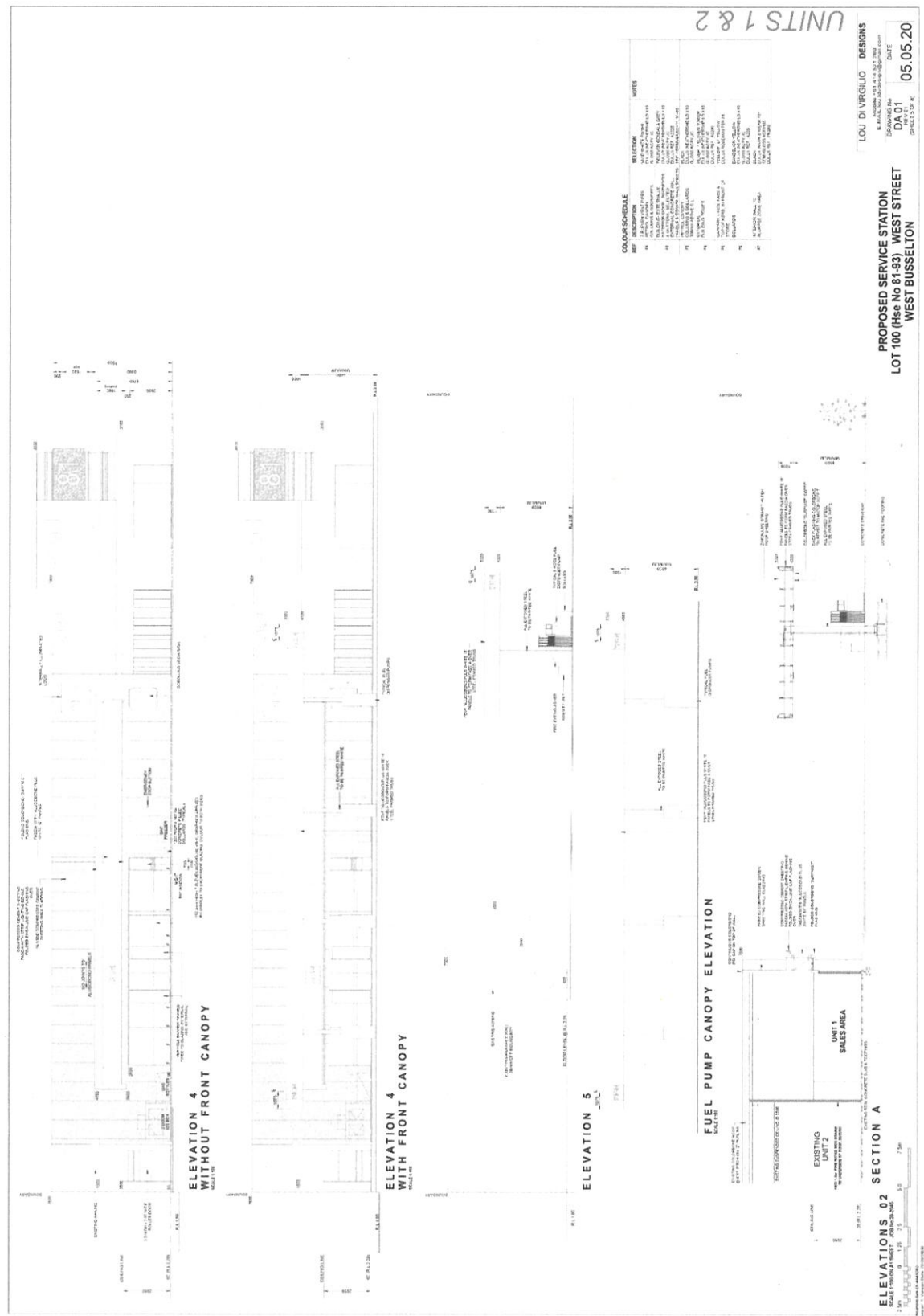


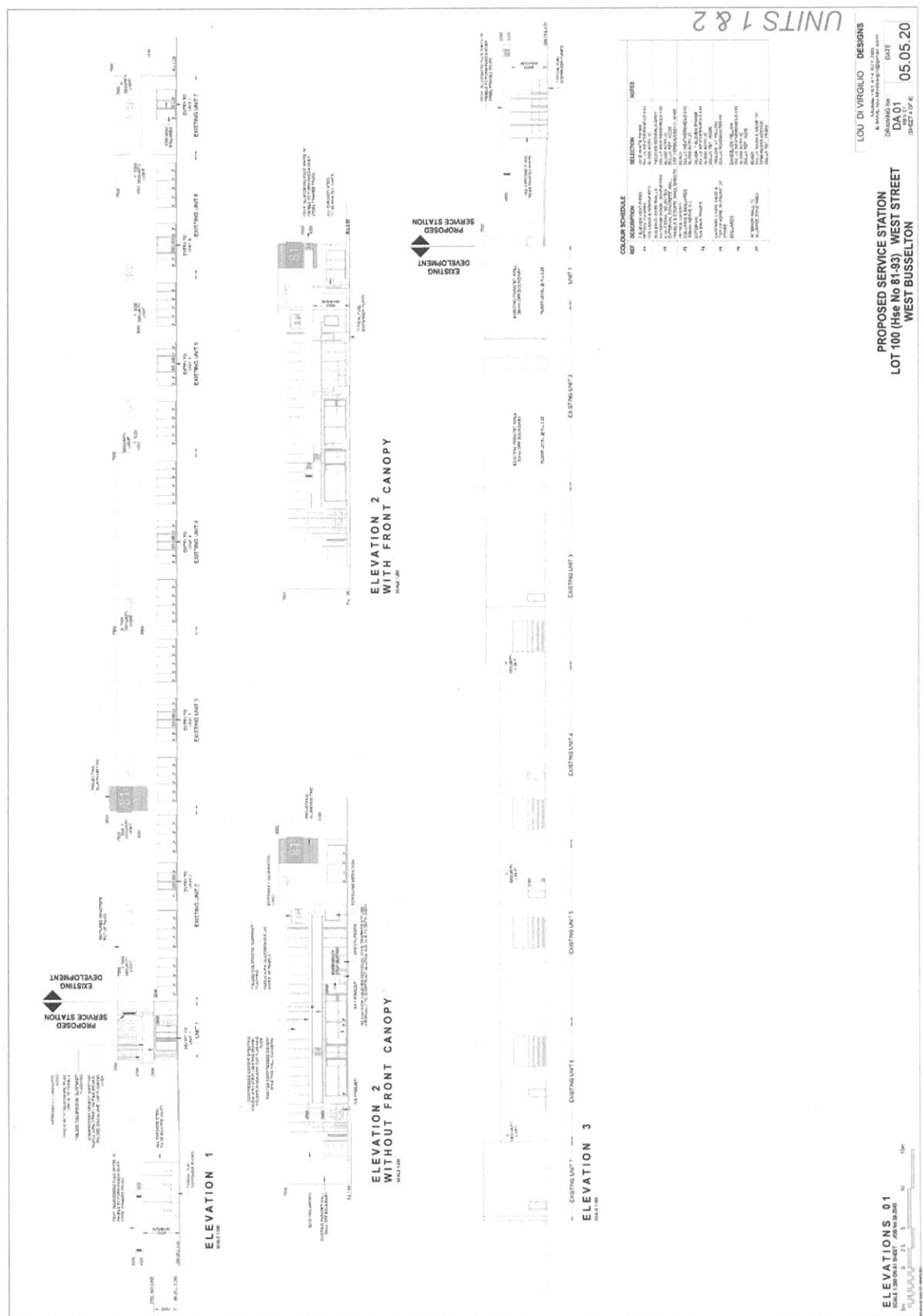


















## **Proposed Service Station & Convenience Store**

**Lot 100 (HN 81) West Street,  
Busselton**

**Transport Impact Assessment**

PREPARED FOR:  
LDV Projects

May 2020

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**Project:** Lot 100 (HN 81) West Street, Busselton

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## 1.0 Summary

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This Transport Impact Assessment (TIA) report has been prepared with respect to the proposed service station and convenience store to be located at Lot 100 (HN 81) West Street in Busselton, City of Busselton.

The proposal comprises a new service station with associated convenience store at the subject site. The subject site is the northernmost area of the existing commercial/retail centre located at the southeast corner of the West Street/Peel Terrace intersection.

No modification of the existing access/egress system associated with the retail/commercial complex is proposed as part of the development proposal. The existing three-point access system will be retained in its current form with only proposed minor widening of the Peel Terrace crossover to facilitate the egress of the fuel tanker serving the site.

In accordance with the WAPC document "*Transport Impact Assessment Guidelines for Developments, Volume 4 – Individual Developments (2016)*" a Transport Impact Assessment is required for developments that are likely to generate high volumes of traffic and, therefore, would have a high overall impact on the surrounding land uses and transport networks. Accordingly, a *Transport Impact Assessment* is warranted in this case.

The aim of this Transport Impact Assessment (TIA) is to estimate the traffic which will be generated by the development and establish the resultant traffic pattern on the surrounding road network. Investigation of accessibility of the site by non-motorised means of transport including public transport coverage will also form part of the report.

## 2.0 Introduction

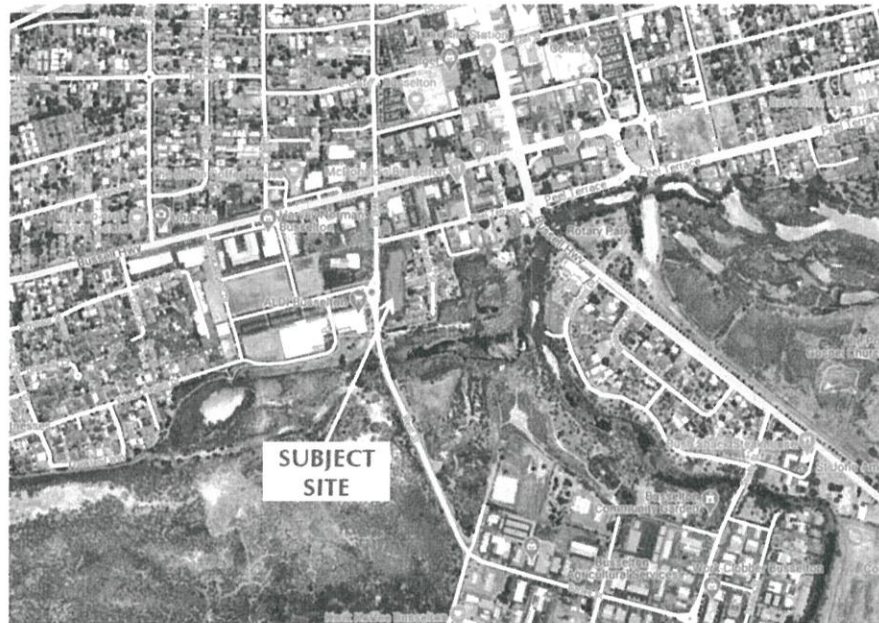
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This TIA has been prepared by Transcore on behalf of LDV Property with regards to the proposed service station with convenience store to be located at Lot 100 (HN 81) West Street in Busselton.

The proposed development forms part of the existing retail/commercial centre complex located at the southeast corner of the existing West Street/Peel Terrace intersection within the Busselton town centre zone. The existing retail/commercial centre complex comprises a total of seven units. The existing access/egress system for the complex comprises two crossovers on West Street and one crossover on Peel Terrace. At present only two units are occupied by businesses and operational.

The proposed development occupies the northernmost portion of the complex (replacing Unit 1) and is located immediately adjacent to the Peel Terrace crossover.

The immediate surrounding area is predominantly retail and commercial with a small residential zone to the immediate east of the site. Refer **Figure 1** for more details.



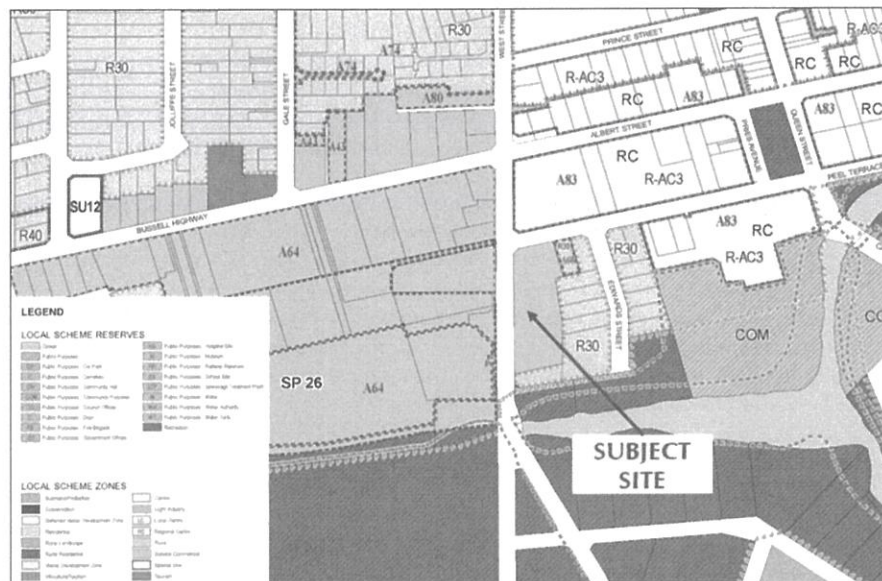
**Figure 1: Location of the subject site**

The key issues that will be addressed in this report include the traffic generation of the proposed development, establishing the resultant traffic pattern on the surrounding road network and assessment of the development impact. The review



of the internal site circulation system for vehicles and turn path analysis for the fuel tankers expected to service the site are also addressed in this report.

The location of the subject site within the *Local Planning Scheme* context is illustrated in **Figure 2**. Review of the *Local Planning Scheme* also confirms that the subject site is zoned "Service Commercial". West Street and Peel Terrace are roads under car and control of the local authority.



**Figure 2. Site location within Local Planning Scheme**

### 3.0 Development Proposal

---

The proposed development occupies the northernmost portion of the subject site and replaces Unit 1 of the complex. The proposed service station and convenience store will require internal modification of the layout of the northern portion of the subject site to accommodate a canopy and service vehicle loading area and to secure additional space for the tanker manoeuvres.

The proposed service station comprises the following elements:

- ✚ Service station building with a convenience store (GFA 203m<sup>2</sup>);
- ✚ Service station canopy with eight bowzers;
- ✚ A total of 10 parking bays (inclusive of one ACROD bay) for patrons;
- ✚ One "air & water" bay and a service bay.

A total of 10 parking bays (inclusive of one ACROD bay) are proposed as part of the development immediately adjacent to the convenience store. This does not include eight parking spaces at the fuel bowzers. One "air & water" bay is also provided. Refer **Appendix A** for more details.

A separate service and loading bay is also proposed within the site immediately east of the convenience store. It has been advised that medium size rigid vehicles of up to 8.8m in length would be used for deliveries to the convenience store. Turn path assessments confirming the suitability of the internal site layout and service yard designs has been undertaken for small size van and is presented in **Appendix B**. As indicated by the turn path assessment the width of the loading bay would need to be increased by about 1.0m to accommodate the 8.8m service vehicle. This adjustment can be made during the detailed design stage of the project.

The proposed service station utilises the existing access system which currently serves the subject site comprising the following elements:

- ✚ A left-in/left-out only crossover on West Street located at the southernmost end of the site, approximately 160m south of Peel Terrace intersection and 30m south of the adjacent roundabout;
- ✚ A full-movement crossover on West Street located centrally to the site approximately 50m south of Peel Terrace intersection; and,
- ✚ A full-movement crossover on the Peel Terrace at the northern side of the site approximately 40m east of West Street intersection.

As part of the proposal, the existing 6.0m wide Peel Terrace crossover is proposed to be retained at its current location but widened to 10m so to accommodate the fuel tanker movement.

The delivery of fuel will be undertaken using fuel tankers no bigger than 16.7m which will enter the site via northern West Street crossover, access the fill points

northwest of the canopy and exit the site via Peel Street crossover. The location of the fill point has been selected so that a tanker undertaking the filling operation will have a minimal impact on traffic circulation within the site. Appropriate turn path assessment for the tankers is also presented in **Appendix C**. As indicated on the turn path assessment plan minor adjustment to the kerb will only be required at the West Street crossover in this case. This minor adjustment can be undertaken during the detailed design stage of the project.

A contingency turn path assessment for a 19m tanker was also undertaken to investigate the impact on site layout in unlikely event that such a vehicle is used to serve the proposed service station. As can be seen from a copy of the turn path plan attached in **Appendix D** the impact on the internal site layout is such that adjustment to the West Street crossover would be required along with the removal of the immediately adjacent car bay.

For the purpose of traffic assessment, it is assumed that the proposed development would be completed and fully operational by early 2021.



## 4.0 Existing Situation

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The subject site entails two road frontages: West Street to the west and Peel Terrace to the north.

### 4.1 Existing Road Network

**West Street**, in the immediate location of site, is a single-carriageway, two-lane road with on-road cycle lanes. It entails 2.0m wide path along eastern side of the road in this vicinity. West Street, south of Peel Terrace, operates under 60km/h speed limit reducing to 50km/h some 500m to the south.

In the Main Roads WA *Perth Metropolitan Area - Functional Road Hierarchy* document, West Street is classified as an *Access Road*. West Street is under care and control of local authority.

**Peel Terrace** is presented as a single-carriageway, two-lane road. In this vicinity, Peel Terrace entails a shared path along the southern side of the road. Peel Terrace operates under a default build-up area speed limit of 50km/h.

In the Main Roads WA *Perth Metropolitan Area - Functional Road Hierarchy* document Peel Terrace is classified as an *Access Road*.

West Street and Peel Terrace form a priority-controlled T-intersection with Peel Terrace terminating on eastern approach to the intersection.

### 4.2 Existing Traffic Volumes on Roads

Based on the latest available SCATS data for Bussell Highway/Albert Street/West Street sourced from Main Roads WA, it is estimated that West Street south of Bussell Highway carries about 8,000vpd on a regular weekday in February 2020.

Transcore contacted the City to enquire about available traffic data for Peel Terrace however no feedback was received by the time this report was issued.

### 4.3 Heavy Vehicles

Restricted Access Vehicle (RAV) Network routes are designated for access by large heavy vehicle combinations, which is managed by Main Roads WA. All roads surrounding the subject site are classified as RAV Network 1 except for the section of West Street south of sites' northern crossover which is classified as RAV Network 3 as shown **Figure 3**.

The RAV 1 Network classification permits operation of semi-trailers of up to 19m and short B-Doubles of up to 20m on these roads. RAV Network 3 roads are classified to carry heavy vehicle compositions of up to 27.5m in length.

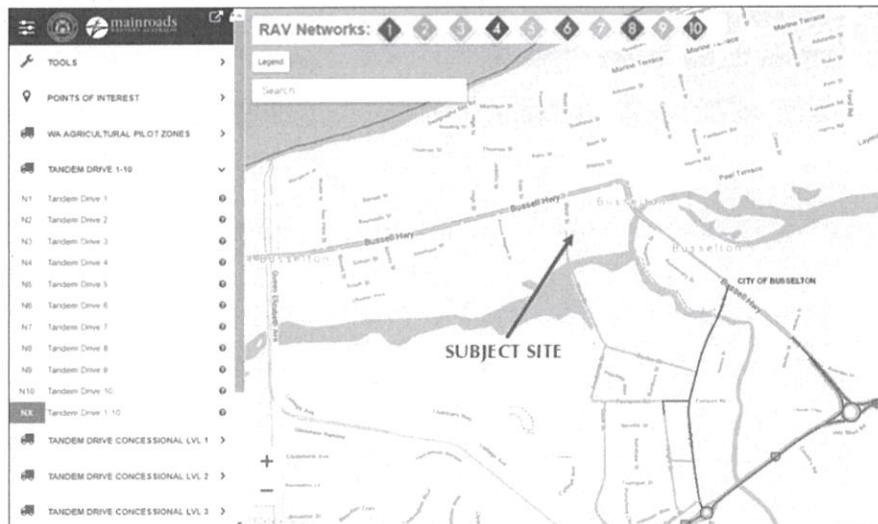


Figure 3. Existing heavy vehicle road network classification (RAV)

#### 4.4 Public Transport Access

The subject site has very good exposure to public transport through bus services No. 815, 816 and 817 which all operate along Peel Terrace with bus stops located approximately 230m walking distance east of the subject site. Bus stops are accessible directly via existing path system at this locality.

#### 4.5 Pedestrian and Cyclist Facilities

The subject site enjoys very good level of access for pedestrians and cyclists through the existing network of paths on local roads and on-street cycling lanes which are in place along West Street.

#### 4.6 Crash Data

Information available on Main Roads WA website provides crash statistics for West Street/Peel Terrace intersection during the five-year period ending in December 2019.

The crash records indicate that West Street/Peel Terrace intersection recorded a total of six crashes with one casualty and no fatalities in the last five-year period. All

of the recorded crash were right-angle types. More details on the crash records are provided in **Table 1**.

**Table 1. Crash history for the West Street/Peel Terrace intersection**

Intersection				Total Crashes	Casualty
West Street/Peel Terrace				6	1
Right Angle	Rear End	Pedestrian	Cycle	Wet	Night
6	0	0	N/A	3	0

## **5.0 Changes to Surrounding Transport Networks**

---

The proposed development does not contemplate any changes to the surrounding road networks.

Any proposed changes associated with the development are restricted to internal site layout and the widening of the existing 6.0m wide Peel Terrace crossover to 10.0m in order to facilitate egress of fuel tankers from the site via this crossover.



## **6.0 Integration with Surrounding Area**

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The proposed development is consistent with the current zoning for the subject site. It is of a commercial/retail character and is expected to address the existing and future demand for this type of services along West Street and Peel Terrace in this locality.

## 7.0 Traffic Assessment

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### 7.1 Assessment Period

Due to the nature of the development it is expected that distinct peak activity periods will be experienced during weekday morning and afternoon peak road network periods.

It is therefore anticipated that the combination of the traffic expected to be generated by the proposed service station and the peak road network traffic periods is likely to result in the greatest demand on the road network during the typical weekday morning and afternoon peak hours between 8:00-9:00AM and 3:30-4:30PM. As such, trip generation is estimated and traffic analysis is undertaken for these periods.

It is assumed that the proposed development would be fully constructed and activated by early 2021.

### 7.2 Trip Generation and Distribution

Traffic generation rates for the service station were sourced from the *Institute of Transportation Engineers - Trip Generation Manual 10<sup>th</sup> Edition* (ITE) using "Gasoline/Service Station with Convenience Store (945)" land use as a reference.

Accordingly, it is estimated that the proposed development would generate approximately **1,644** total daily trips (both inbound and outbound) with approximately **100** and **112** trips (inbound and outbound) during a weekday road network AM and PM peak hours, respectively. Conservatively, no allowance was made for linked trips and cross-trades within the subject site.

Trips associated with the proposed development comprise a significant portion of passing-trade trips which are trips already present on the road network. The ITE publication suggest that the subject land use typically draw about 62% passing trade. Accordingly, a passing trade rate of 62% of total trips generated was assumed for the development during peak AM and PM periods.

It is therefore estimated that the proposed development would generate approximately **624** additional (new) daily trips with additional (new) **38** and **42** AM and PM peak hour trips on the road network, respectively.

The directional split of inbound and outbound trips for the proposed development is assumed to be approximately 50/50 during both weekday peak periods.

With respect to the assumed distribution and assignment of the development-generated traffic consideration was given to the location of the site, the overwhelmingly passing trade nature of the proposed land use and the access and

egress routes to and from the site (distribution is based on current road network and its layout).

It is anticipated that most of the future site patrons will be accessing the site primarily via West Street with the balance arriving via Peel Terrace. Consequently, the assumed directional traffic distribution is as follows:

- ↓ 35% of site-generated traffic to/from West Street (north);
- ↓ 30% of all site-generated traffic to/from West Street (south); and,
- ↓ 35% of all site-generated traffic to/from Peel Terrace (east).

### 7.3 Traffic Flows

The traffic movements generated by the proposed development have been manually assigned on the adjacent road network in line with the directional distribution assumptions outlined in the previous section and with respect to passing and non-passing traffic access/egress routes. The resulting traffic movements generated by this development during typical AM peak hour, PM peak hour and total daily weekday traffic volumes are shown in **Figure 4**.



**Figure 4: Estimated traffic flows from the proposed redevelopment – Weekday AM peak hour, PM peak hour and daily traffic**

Typically, Transcore would undertake traffic counts at the subject site crossovers and relevant local intersection to establish existing traffic volumes and patterns to be used for capacity analysis using SIDRA software platform.

However, due to the current COVID-19 situation the existing traffic movements on road network are not representative of regular traffic activity and therefore are of no practical use. It is difficult to ascertain when the traffic flows would return to normal levels at this stage. Further, only two units within the subject site are occupied and operational. Accordingly, in order to progress the development application for this project traffic turn counts and SIDRA analysis are not undertaken and therefore not documented in this report.

#### ***7.4 Analysis of Local Intersections & Development's Crossovers***

The capacity assessment of West Street/Peel Terrace intersection and site's crossovers would typically form part of the development impact assessment scope under normal conditions. However, as discussed earlier, a detailed capacity assessment is not undertaken in this instance. The analysis therefore relies on informed assumptions and estimation of the development-generated traffic to draw practical and reasonable conclusions.

As advised, the subject site (i.e. retail/commercial complex) currently records very low level of traffic activity as only two units out of seven units are occupied and operational. Both businesses (Forty Winks and Autobarn) are generally known as "slow trade" operations resulting in relatively low level of traffic activity during typical peak hour periods. Similarly, all of site-generated traffic is distributed over three crossovers thereby further reducing traffic impact on each crossover. Accordingly, it is reasonable to assume that there is presently only moderate traffic activity recorded at the subject site's crossovers and as such it can be concluded that site's crossovers presently operate with ample spare capacity.

Out of all traffic generated by the proposed development more than 60% comprise passing-trade or traffic that is already present on road network calling the site on route to another destination. Hence, only about 38% off all traffic generated by the development would be "new" traffic on the road network therefore reducing the practical impact of the development traffic on adjacent road network.

All of the development traffic is split between the Peel Terrace crossover and the northern West Street crossover with most of the traffic using Peel Terrace crossover (about 74%). This situation is beneficial for the operation of the crossovers as Peel Terrace carries significantly less traffic than West Street so combination of site-generated traffic and fronting road would result in less impact on fronting road and more crossover capacity.

Accordingly, it is reasonable to expect that the proposal would not have an adverse impact on the operation of the surrounding road network.



### ***7.5 Impact on Surrounding Roads***

The significant portion of the developments' traffic will already be present on the road network as it relies on passing trade for its successful operation. It has been established that more than 60% of the total daily traffic will be passing trade and/or diverted trips. The proposed development is therefore estimated to generate about 624 new (non-passing trade) daily trips on the local road network.

Allowing for passing trade factor, it is estimated that this level of additional traffic represents around 2.7% and 1.2% of additional traffic on West Street sections north and south of the subject site.

Based on its classification, Peel Terrace is expected to carry up to 3,000vpd. The estimated additional traffic from the development therefore comprises about 7.4% of total desirable daily traffic threshold for this road (east of the subject site). This level of increase is expected to be comfortably accommodated by Peel Terrace.

It should be reiterated that this assessment does not allow for linked trips or cross trade within the subject site and therefore the reported figures are conservative.

### ***7.6 Impact on Neighbouring Areas***

Considering the location of the subject site, its accessibility via district roads, significant passing trade component and limited number of residential dwellings within the immediate vicinity, the traffic impact from the development in the area will be limited.

### ***7.7 Traffic Noise and Vibration***

Due to the location of the proposed development and with respect to the surrounding land uses traffic noise and vibration are relevant only to the residential areas directly fronting major local and regional roads which in this case is limited.

It generally requires a doubling of traffic volumes on a road to produce a perceptible 3dB increase in road noise. The proposed development will not increase traffic volumes or noise on surrounding roads anywhere near this level.

The delivery of goods to the convenience store is expected to occur maximum once per day and generally during regular business hours. As such, any potential noise and vibration impacts on the neighbouring residential dwelling to the immediate east of the convenience store service yard will be minimal and limited in frequency.

### ***7.8 Road Safety***

A portion of the development-generated traffic will be using the West Street crossover to access the site and egress from site thus passing through the portion of the retail complex car park in front of Unit 2.

As discussed in Section 7.3 of the report, about 27% of total traffic generated or up to 30 vehicles are expected to use the West Street crossover and filter through the Unit 2 car park during the peak weekday PM hour period. This equates to about one vehicle movement every 2min on average. This level of traffic through the car park is not expected to result in any safety implications. Particularly as at other times this level of traffic will be much lower.

The delivery of fuel by tankers is expected to occur 1-2 per week and typically outside the busiest service station periods. Furthermore, the tanker will only pass through the Unit 2 car park on entry route as egress movement occur via Peel Terrace crossover. As such, it is considered that the impact on retail complex car park from this type of traffic will not be significant enough to cause safety concerns.

## 8.0 Parking

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Total car parking provision as part of the proposed development comprises 10 parking bays exclusive of eight petrol filling positions. The parking provision includes one ACROD bay located immediately adjacent to the entry into the service station store for convenience. Parking bays are located immediately in front of the convenience store.

Additional "air & water" bay is provided at the West Street frontage to the west of the fuel canopy.

A dedicated loading bay for service vehicles is also provided immediately east of the convenience store.

## **9.0 Public Transport Access**

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The subject site has very good coverage through three bus services operating along Peel Terrace with stops in close proximity to the site.



## 10.0 Pedestrian and Cyclist Access

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The existing path system in the vicinity and on-road cycle lanes provides good access to the subject site by non-motorised means of transport.

## 11.0 Conclusions

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This TIA has been prepared with respect to the proposed service station and convenience store to be located at Lot 100 (HN 81) West Street in Busselton, City of Busselton. The subject site occupies space at the northern end of the existing commercial/retail centre located at the southeast corner of the West Street/Peel Terrace intersection and replaces Unit 1 within the site.

The proposal comprises a new service station with associated convenience store at the subject site. No changes to the existing access system for the retail/commercial complex are proposed as part of the proposal, except widening of Peel Terrace crossover to facilitate fuel tanker exit movements.

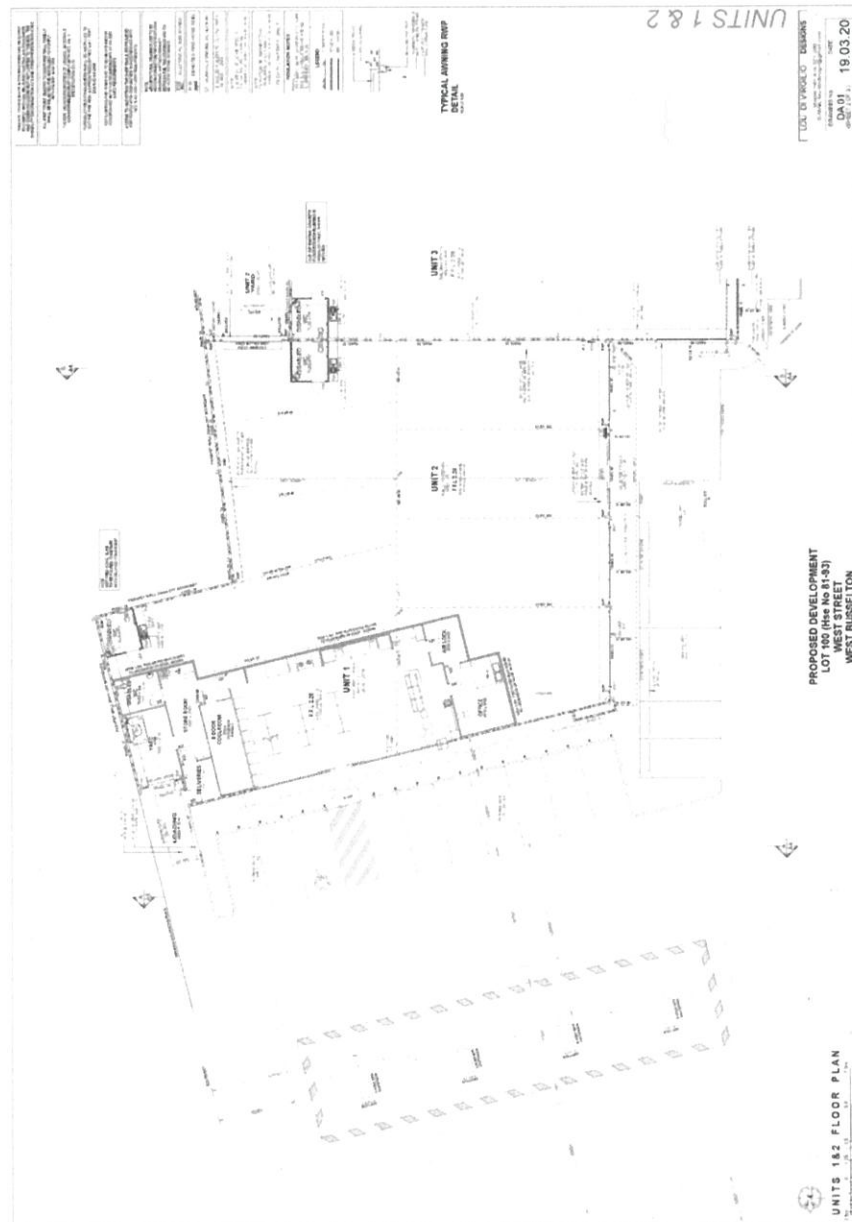
The proposed development is expected to generate approximately **1,644** total daily trips (both inbound and outbound) with approximately **100** and **112** trips (inbound and outbound) during a weekday road network AM and PM peak hours, respectively. However, due to the type of the proposed development a significant portion of development-generated traffic will be from the passing trade, i.e. traffic already present in the road network thereby reducing the additional (new) traffic on road network to approximately **624** additional (new) daily trips with additional (new) **38** and **42** AM and PM peak hour trips on the road network, respectively. It should be noted that the trip estimation does not allow for linked trips or cross-trade within the site and therefore is conservative.

The assessment undertaken in this report indicates that the traffic from this development will not have an adverse impact on the surrounding road network which has the capacity to accommodate this additional traffic.

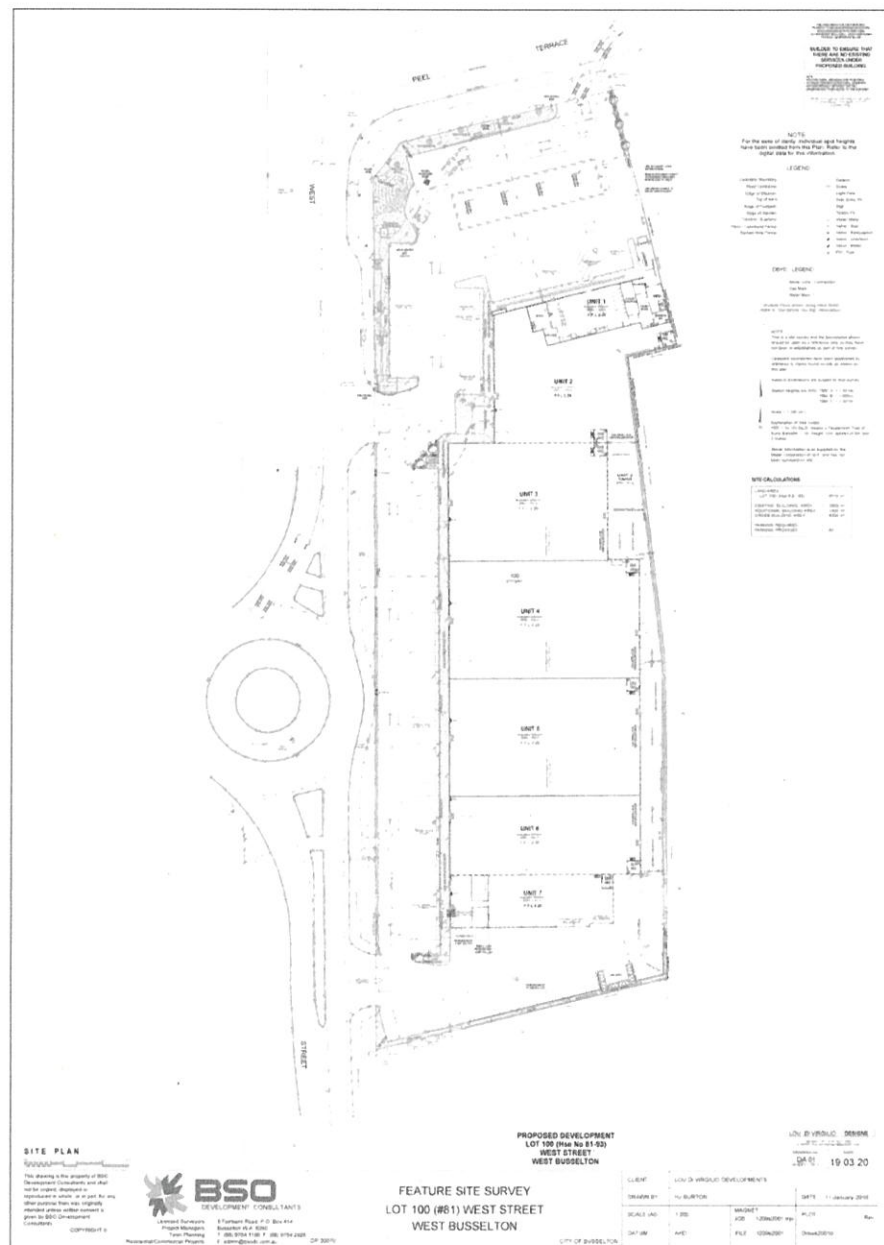
# Appendix A

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## SITE PLAN



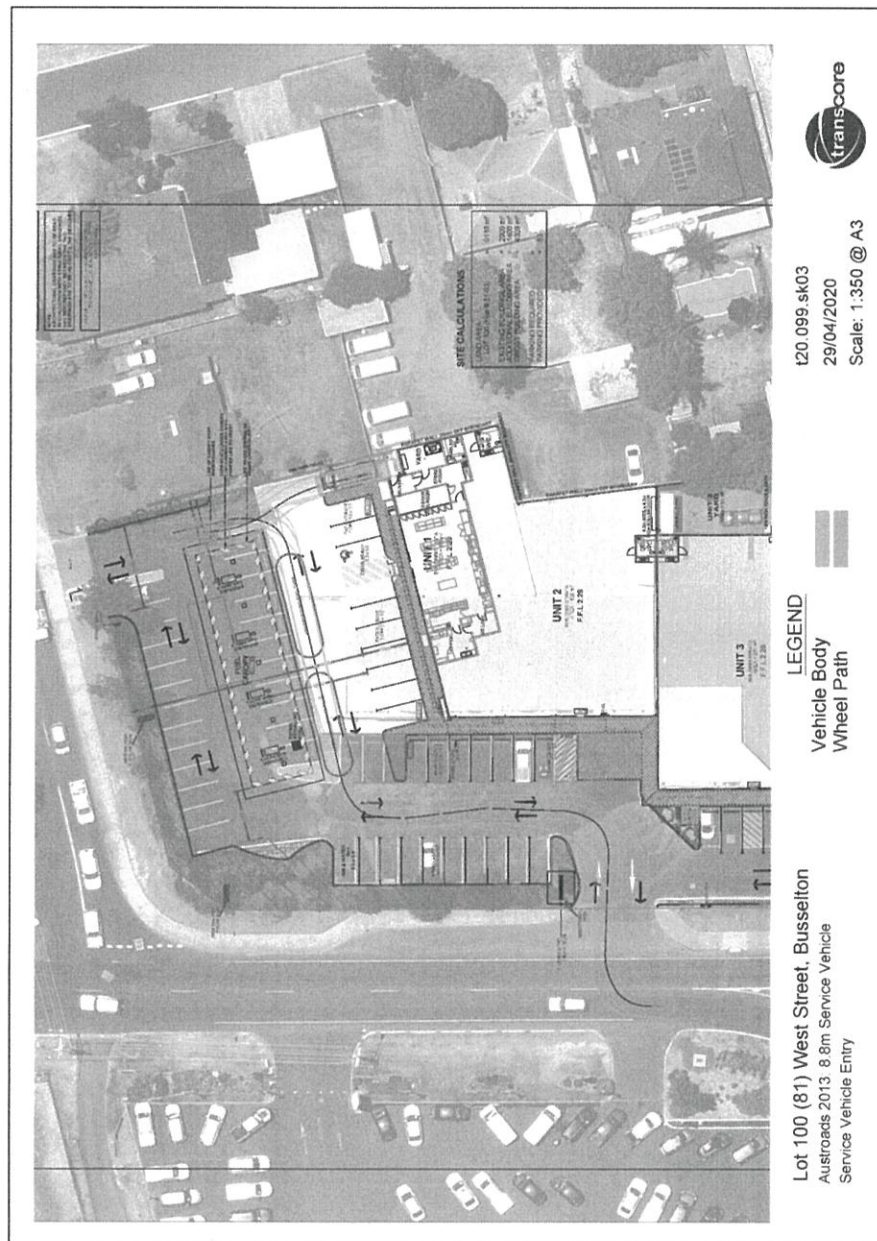


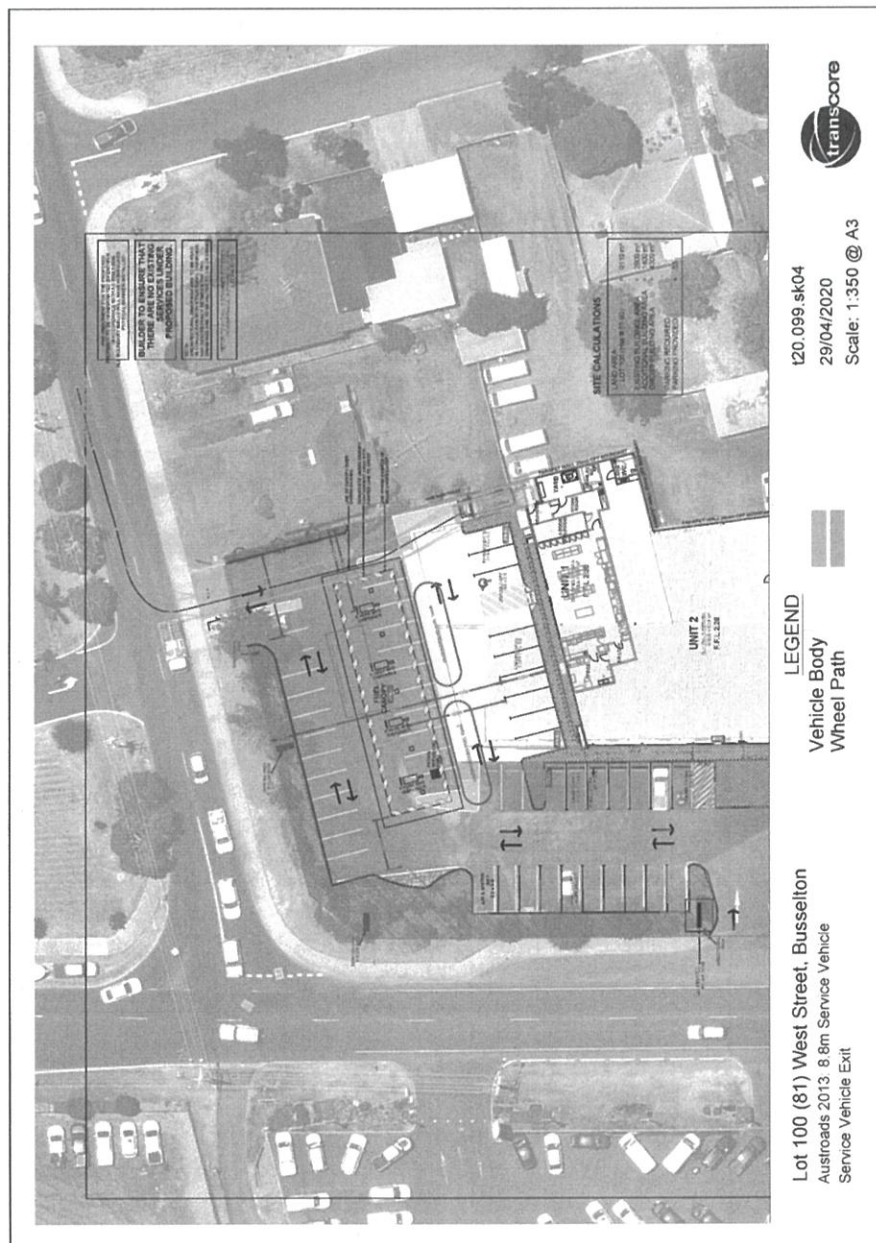


## **Appendix B**

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### **TURN PATH PLANS - SERVICE VEHICLE**



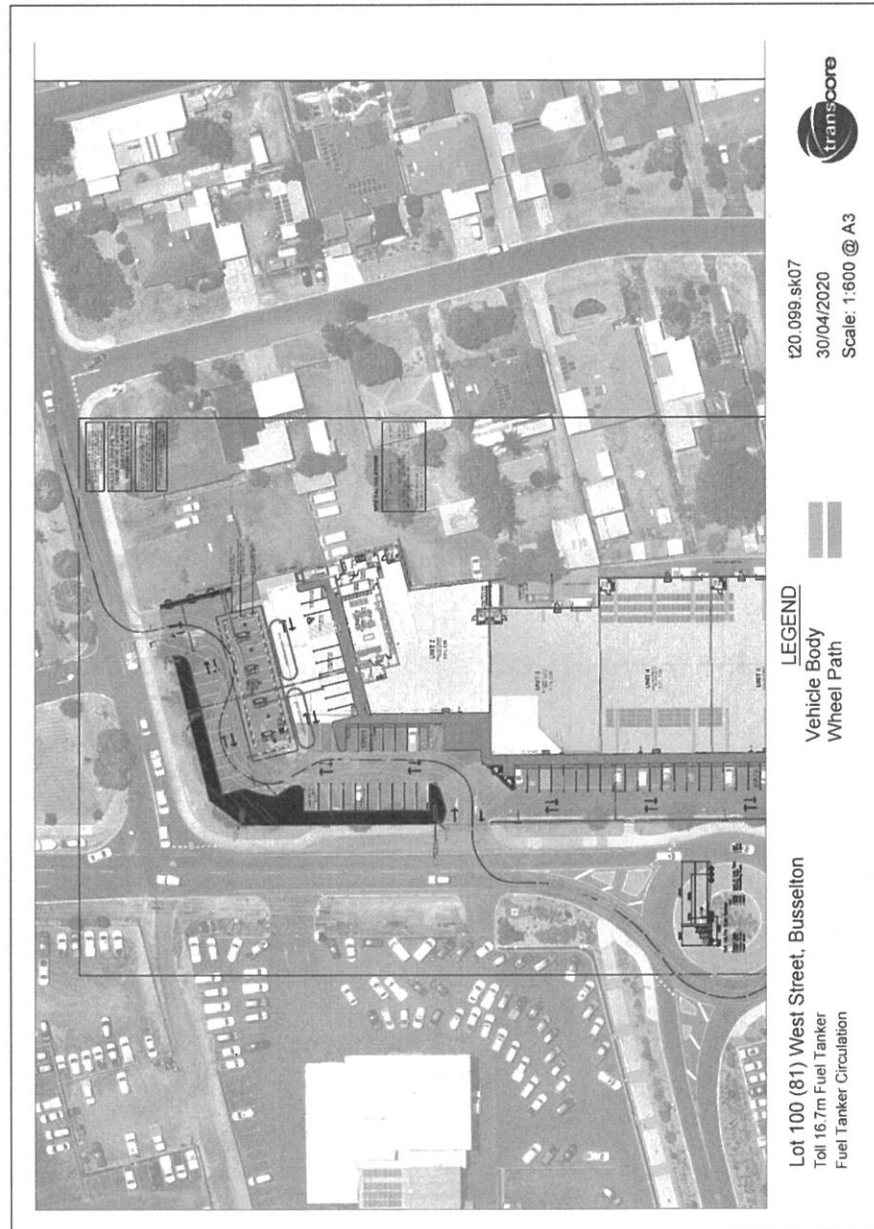




## Appendix C

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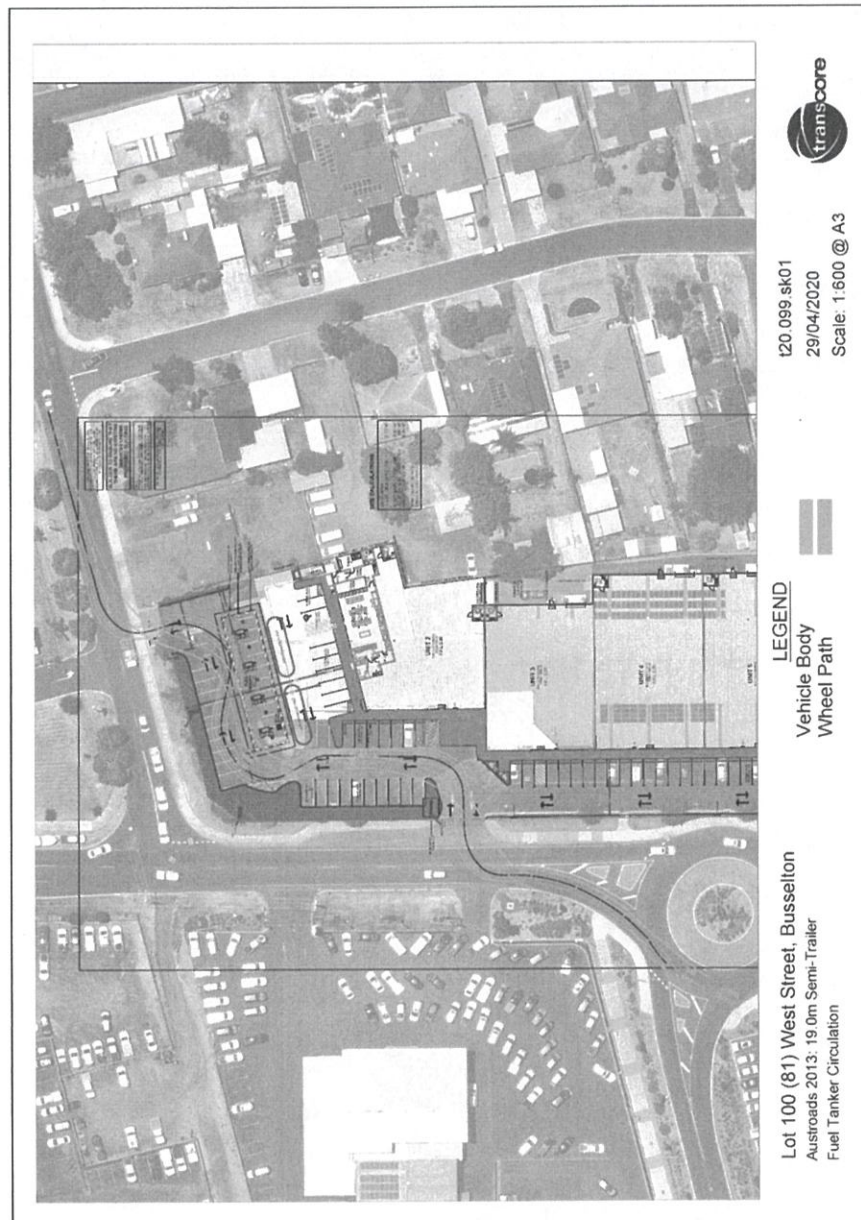
### TURN PATH PLANS – FUEL TANKER 16.7m



## **Appendix D**

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### **TURN PATH PLANS – FUEL TANKER 19.0m**







## **Proposed Service Station & Convenience Store**

**Lot 100 (HN 81) West Street,  
Busselton**

**Revised Transport Impact Assessment**

PREPARED FOR:  
LDV Projects

September 2020

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Vladimir Baltic	r01b	B Bordbar	6/05/2020	Final
Vladimir Baltic	r01c	B Bordbar	7/05/2020	1 <sup>st</sup> Revision
Vladimir Baltic	r01d	B Bordbar	12/05/2020	2 <sup>nd</sup> Revision
Waihin Tun	r01e	B Bordbar	29/05/2020	Revised Final
Waihin Tun	r01f	B Bordbar	02/06/2020	Revised Final
Waihin Tun	r01g	B Bordbar	18/09/2020	2 <sup>nd</sup> Revised Final

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**Author:** Waihin Tun

**Project manager:** Behnam Bordbar

**Client:** LDV Projects

**Project:** Lot 100 (HN 81) West Street, Busselton

**Document revision:** r01g

**Project number:** t20.099

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## 1.0 Summary

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This 2<sup>nd</sup> revised Transport Impact Assessment (TIA) report has been prepared with respect to the proposed service station and convenience store to be located at Lot 100 (HN 81) West Street in Busselton, City of Busselton.

Transcore originally prepared a TIA in May 2020, a revised TIA in June 2020 and Technical Note No.1 in June 2020 with respect to the Development Application (DA). Following submission of the DA and supplementary traffic report to City of Busselton, the City engaged Cardno to undertake a peer review of this submission. Cardno prepared a Technical Memorandum dated 3 August 2020 and provided peer review comments on Transcore's revised TIA and Technical Note dated June 2020. Accordingly, this 2<sup>nd</sup> revised TIA for the proposed development is prepared to address the relevant comments by Cardno and agreed items by City of Busselton.

The proposal comprises a new service station with associated convenience store at the subject site. The subject site is the northernmost area of the existing commercial/retail centre located at the southeast corner of the West Street/Peel Terrace intersection.

After submission of the DA and through liaison, discussions and meeting with City of Busselton, it was established that the operation of the intersection of West Street and Peel Terrace is a concern for the City. Accordingly, even though the traffic analysis documented in this report demonstrates that this intersection operates satisfactorily with the proposed development, the applicant is proposing a mini roundabout at this intersection to address City's concern.

Transcore has prepared two design options of the proposed roundabout intersection which are a 4-way roundabout intersection and a 3-way roundabout intersection. The 3-way roundabout intersection has been prepared based on City's advice that the existing driveway opposite Peel Terrace on West Street will be closed in short term.

No modification of the existing access/egress system associated with the retail/commercial complex is proposed as part of the development proposal. The existing three-point access system will be retained in its current form with only proposed minor widening of the Peel Terrace crossover and minor modification of the northern West Street crossover and the adjacent footpath to facilitate the circulation of the fuel tanker serving the site.

In accordance with the WAPC document "*Transport Impact Assessment Guidelines for Developments, Volume 4 - Individual Developments (2016)*" a Transport Impact Assessment is required for developments that are likely to generate high volumes of traffic and, therefore, would have a high overall impact on the surrounding land uses and transport networks. Accordingly, a *Transport Impact Assessment* is warranted in this case.

The aim of this Transport Impact Assessment (TIA) is to estimate the traffic which will be generated by the development (with the assumption of full occupancy of all other units) and establish the resultant traffic pattern on the surrounding road network. Investigation of accessibility of the site by non-motorised means of transport including public transport coverage will also form part of the report.

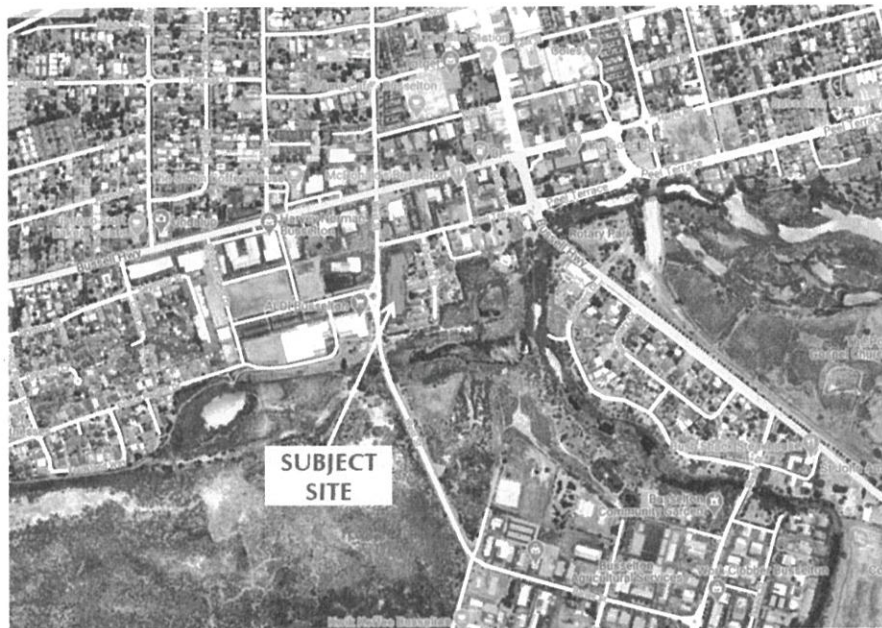
## 2.0 Introduction

This 2<sup>nd</sup> revised TIA has been prepared by Transcore on behalf of LDV Property with regards to the proposed service station with convenience store to be located at Lot 100 (HN 81) West Street in Busselton. Accordingly, this 2<sup>nd</sup> revised TIA for the proposed development is prepared to address the relevant comments by Cardno and agreed items by City of Busselton.

The proposed development forms part of the existing retail/commercial centre complex located at the southeast corner of the existing West Street/Peel Terrace intersection within the Busselton town centre zone. The existing retail/commercial centre complex comprises a total of seven units. The existing access/egress system for the complex comprises two crossovers on West Street and one crossover on Peel Terrace. At present only two units are occupied by businesses and operational.

The proposed development occupies the northernmost portion of the complex (replacing Unit 1) and is located immediately adjacent to the Peel Terrace crossover.

The immediate surrounding area is predominantly retail and commercial with a small residential zone to the immediate east of the site. Refer **Figure 1** for more details.



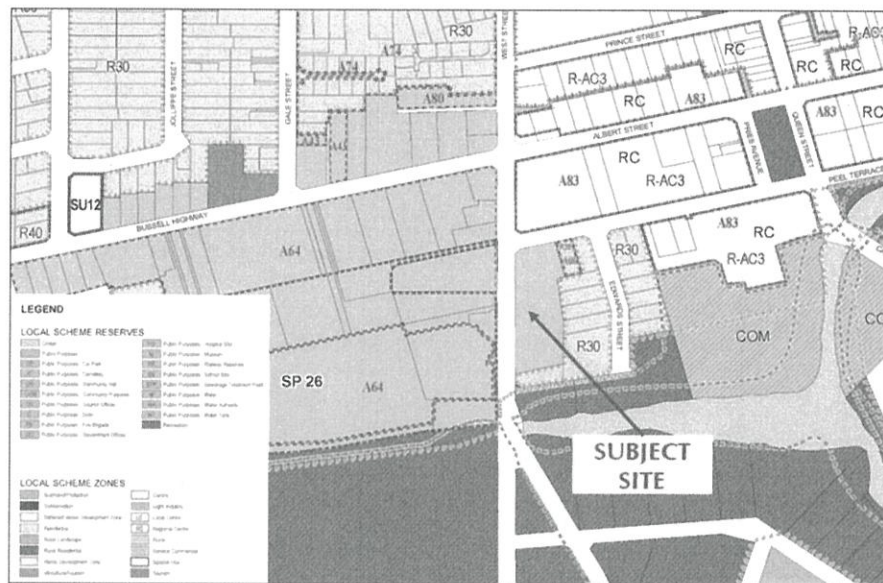
**Figure 1: Location of the subject site**

The key issues that will be addressed in this report include the traffic generation of the proposed development (with the assumption of full occupancy of all other units)



establishing the resultant traffic pattern on the surrounding road network and assessment of the development impact. The review of the internal site circulation system for vehicles and turn path analysis for the fuel tankers expected to service the site are also addressed in this report.

The location of the subject site within the *Local Planning Scheme* context is illustrated in **Figure 2**. Review of the *Local Planning Scheme* also confirms that the subject site is zoned “Service Commercial”. West Street and Peel Terrace are roads under car and control of the local authority.



**Figure 2. Site location within Local Planning Scheme**

### 3.0 Development Proposal

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The proposed development occupies the northernmost portion of the subject site and replaces Unit 1 of the complex. The proposed service station and convenience store will require internal modification of the layout of the northern portion of the subject site to accommodate a canopy and service vehicle loading area and to secure additional space for the tanker manoeuvres.

The proposed service station comprises the following elements:

- ✚ Service station building with a convenience store (GFA 199m<sup>2</sup>);
- ✚ Service station canopy with eight bowsers;
- ✚ A total of 10 parking bays (inclusive of one ACROD bay) for patrons;
- ✚ One "air & water" bay and a service bay.

A total of 10 parking bays (inclusive of one ACROD bay) are proposed as part of the development immediately adjacent to the convenience store. This does not include eight parking spaces at the fuel bowsers. One "air & water" bay is also provided. Refer **Appendix A** for more details.

A separate service/ loading bay is also proposed within the site immediately east of the convenience store. It has been advised that medium size rigid vehicles of up to 8.8m in length would be used for deliveries to the convenience store. Turn path assessments confirming the suitability of the internal site layout and service yard designs has been undertaken for small size van and is presented in **Appendix B**. As indicated by the turn path assessment the width of the loading bay would need to be increased by about 1.0m to accommodate the 8.8m service vehicle. This adjustment can be made during the detailed design stage of the project.

The proposed service station utilises the existing access system which currently serves the subject site comprising the following elements:

- ✚ A left-in/left-out only crossover on West Street located at the southernmost end of the site, approximately 160m south of Peel Terrace intersection and 30m south of the adjacent roundabout;
- ✚ A full-movement crossover on West Street located centrally to the site approximately 50m south of Peel Terrace intersection; and,
- ✚ A full-movement crossover on the Peel Terrace at the northern side of the site approximately 40m east of West Street intersection.

As part of the proposal, the existing 6.0m wide Peel Terrace crossover is proposed to be retained at its current location but widened to 10m so to accommodate the fuel tanker movement.

The delivery of fuel will be undertaken using fuel tankers no bigger than 16.7m which will enter the site via Peel Terrace crossover (crossover 1), access the fill

points northwest of the canopy and exit the site via northern West Street crossover (crossover 2). This route was requested by City of Busselton. The location of the fill point has been selected so that a tanker undertaking the filling operation will have a minimal impact on traffic circulation within the site. Appropriate turn path assessment for the tankers is also presented in **Appendix C**. As indicated on the turn path assessment plan minor adjustment to the kerb will only be required at the Peel Terrace crossover (crossover 1) and West Street crossover (crossover 2) and the adjacent footpath in this case. This minor adjustment can be undertaken during the detailed design stage of the project.

For the purpose of traffic assessment, it is assumed that the proposed development would be completed and fully operational by 2021.

## 4.0 Existing Situation

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The subject site entails two road frontages: West Street to the west and Peel Terrace to the north.

### 4.1 Existing Road Network

**West Street**, in the immediate location of site, is a single-carriageway, two-lane road with on-road cycle lanes. It entails 2.0m wide path along eastern side of the road in this vicinity. West Street, south of Peel Terrace, operates under 60km/h speed limit reducing to 50km/h some 500m to the south.

In the *Main Roads WA Perth Metropolitan Area – Functional Road Hierarchy* document, West Street is classified as an *Access Road*. West Street is under care and control of local authority.

**Peel Terrace** is presented as a single-carriageway, two-lane road. In this vicinity, Peel Terrace entails a shared path along the southern side of the road. Peel Terrace operates under a default build-up area speed limit of 50km/h.

In the *Main Roads WA Perth Metropolitan Area – Functional Road Hierarchy* document Peel Terrace is classified as an *Access Road*.

West Street and Peel Terrace form a priority-controlled T-intersection with Peel Terrace terminating on eastern approach to the intersection.

### 4.2 Existing Traffic Volumes on Roads

Based on the latest available SCATS data for Bussell Highway/Albert Street/West Street sourced from Main Roads WA, it is estimated that West Street south of Bussell Highway carries about 8,000vpd on a regular weekday in February 2020. The traffic counts for West Street provided by City of Busselton are dated 2018 and therefore SCATS data represent more up to date traffic counts.

Based on the latest available information provided by City of Busselton, it is reported that Peel Terrace, west of Causeway Road carried about 2,750vpd on a regular weekday in February 2018.

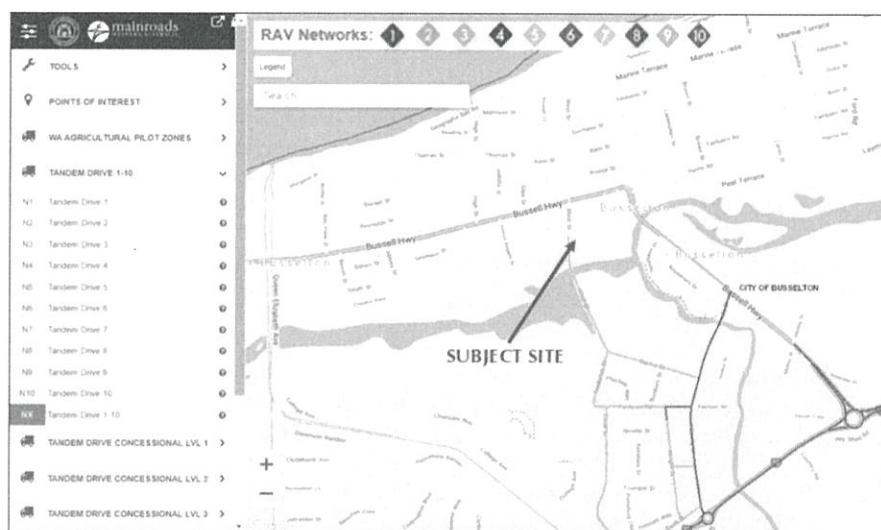
### 4.3 Heavy Vehicles

Restricted Access Vehicle (RAV) Network routes are designated for access by large heavy vehicle combinations, which is managed by Main Roads WA. All roads surrounding the subject site are classified as RAV Network 1 except for the section



of West Street south of sites' northern crossover which is classified as RAV Network 3 as shown **Figure 3**.

The RAV 1 Network classification permits operation of semi-trailers of up to 19m and short B-Doubles of up to 20m on these roads. RAV Network 3 roads are classified to carry heavy vehicle compositions of up to 27.5m in length.



**Figure 3. Existing heavy vehicle road network classification (RAV)**

#### **4.4 Public Transport Access**

The subject site has very good exposure to public transport through bus services No. 815, 816 and 817 which all operate along Peel Terrace with bus stops located approximately 230m walking distance east of the subject site. Bus stops are accessible directly via existing path system at this locality.

#### **4.5 Pedestrian and Cyclist Facilities**

The subject site enjoys very good level of access for pedestrians and cyclists through the existing network of paths on local roads and on-street cycling lanes which are in place along West Street.

#### **4.6 Crash Data**

Information available on Main Roads WA website provides crash statistics for West Street/Peel Terrace intersection during the five-year period ending in December 2019.

The crash records indicate that West Street/Peel Terrace intersection recorded a total of six crashes with one casualty and no fatalities in the last five-year period. All of the recorded crash were right-angle types. More details on the crash records are provided in **Table 1**.

**Table 1. Crash history for the West Street/Peel Terrace intersection**

Intersection				Total Crashes	Casualty
West Street/Peel Terrace				6	1
Right Angle	Rear End	Pedestrian	Cycle	Wet	Night
6	0	0	N/A	3	0

## 5.0 Changes to Surrounding Transport Networks

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After submission of the DA and through liaison, discussions and meeting with City of Busselton, it was established that the operation of the intersection of West Street and Peel Terrace is a concern for the City. Accordingly, even though the traffic analysis documented in this report demonstrates that this intersection operates satisfactorily with the proposed development, the applicant is proposing a mini roundabout at this intersection to address City's concern.

Transcore has prepared two design options of the proposed roundabout intersection which are a 4-way roundabout intersection and a 3-way roundabout intersection. The 3-way roundabout intersection has been prepared based on City's advice that the existing driveway opposite Peel Terrace on West Street will be closed in short term.

The proposed roundabout concept designs are provided in plans sk32 and sk33 in **Appendix E**. The turn path plans for the proposed concept design are also included in **Appendix E** which shows the satisfactory movements of 19.0m semi-trailers.

Any other proposed changes associated with the development are restricted to site layout and minor amendments to Peel Terrace and northern West Street crossovers.

## **6.0 Integration with Surrounding Area**

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The proposed development is consistent with the current zoning for the subject site. It is of a commercial/retail character and is expected to address the existing and future demand for this type of services along West Street and Peel Terrace in this locality.



## 7.0 Traffic Assessment

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### 7.1 Assessment Period

Due to the nature of the development it is expected that distinct peak activity periods will be experienced during weekday morning and afternoon peak road network periods.

It is therefore anticipated that the combination of the traffic expected to be generated by the proposed service station and the peak road network traffic periods is likely to result in the greatest demand on the road network during the typical weekday morning and afternoon peak hours between 8:00-9:00AM and 3:30-4:30PM. As such, trip generation is estimated and traffic analysis is undertaken for these periods.

It is assumed that the proposed development would be fully constructed and activated by 2021.

### 7.2 Trip Generation and Distribution

Traffic generation rates for the service station were sourced from the *Institute of Transportation Engineers - Trip Generation Manual 10<sup>th</sup> Edition* (ITE) using "Gasoline/Service Station with Convenience Store (945)" land use as a reference.

The trip rates which were used to estimate traffic generation for the proposed development and other units at full occupancy are as follows:

Unit 1 replacement: Service Station - Gasoline/ Service Station with Convenience Store (945)

- ✚ Weekday daily: 205.36vpd per bowser;
- ✚ Weekday AM: 12.47vph per bowser; and,
- ✚ Weekday PM: 13.99vph per bowser.

Accordingly, it is estimated that the traffic generations for the proposed service station are:

- ✚ Weekday daily:  $205.36 \times 8 = 1643$  vehicles;
- ✚ Weekday AM:  $12.47 \times 8 = 100$ vph; and,
- ✚ Weekday PM:  $13.99 \times 8 = 112$ vph.

Based on the information provided to Transcore, it is understood that unit 3 and unit 4 are currently occupied by Autobarn (unit 3) and Forty Winks (unit 4) respectively. Therefore, the traffic generation for unit 3 and 4 are estimated as:

Unit 3: Automobile Parts & Service Centre (943)

- ✚ Weekday daily:  $16.28\text{vpd per } 1000\text{sqft GFA} / 0.929 = 17.52\text{vpd} / 100\text{m}^2 \text{ GFA}$ ;
- ✚ Weekday AM:  $1.96\text{vph per } 1000\text{sqft GFA} / 0.929 = 2.11\text{vph} / 100\text{m}^2 \text{ GFA}$ ;
- and,
- ✚ Weekday PM:  $2.26\text{vph per } 1000\text{sqft GFA} / 0.929 = 2.43\text{vph} / 100\text{m}^2 \text{ GFA}$ .

Accordingly, it is estimated that the traffic generation for unit 3 are:

- ✚ Weekday daily:  $[17.52 \times 6.74 \text{ (GFA)}] = 118\text{vpd}$ ;
- ✚ Weekday AM:  $[2.11 \times 6.74 \text{ (GFA)}] = 14\text{vph}$ ; and,
- ✚ Weekday PM:  $[2.43 \times 6.74 \text{ (GFA)}] = 16\text{vph}$ .

Unit 4: Furniture Store (890)

- ✚ Weekday daily:  $6.3\text{vpd per } 1000\text{sqft GFA} / 0.929 = 6.78\text{vpd} / 100\text{m}^2 \text{ GFA}$ ;
- ✚ Weekday AM:  $0.26\text{vph per } 1000\text{sqft GFA} / 0.929 = 0.28\text{vph} / 100\text{m}^2 \text{ GFA}$ ;
- and,
- ✚ Weekday PM:  $0.52\text{vph per } 1000\text{sqft GFA} / 0.929 = 0.56\text{vph} / 100\text{m}^2 \text{ GFA}$ .

Accordingly, it is estimated that the traffic generation for unit 4 are:

- ✚ Weekday daily:  $[6.78 \times 8.08 \text{ (GFA)}] = 55\text{vpd}$ ;
- ✚ Weekday AM:  $[0.28 \times 8.08 \text{ (GFA)}] = 2\text{vph}$ ; and,
- ✚ Weekday PM:  $[0.56 \times 8.08 \text{ (GFA)}] = 5\text{vph}$ .

As other units are currently vacant, for the purpose of this assessment, it is assumed that these four units would be developed as showrooms and traffic generation for showrooms is adopted as follows:

**Table 2: Traffic Generation for Unit 2, 5, 6 and 7**

Units	Area (m <sup>2</sup> )		Rate (Showroom 890)	Traffic Generation
Unit 2	620	Daily	6.3	42
		AM	0.26	2
		PM	0.52	3
Unit 5	808	Daily	6.3	55
		AM	0.26	2
		PM	0.52	5
Unit 6	535	Daily	6.3	36
		AM	0.26	1
		PM	0.52	3

Unit 7	301	Daily	6.3	20
		AM	0.26	1
		PM	0.52	2

Accordingly, it is estimated that the proposed development plus full occupancy of other units would generate approximately 1,969 total daily trips (both inbound and outbound) with approximately 123 and 146 trips (inbound and outbound) during a weekday road network AM and PM peak hours, respectively.

Due to the proposed land use mix and co-location within the property incidences of multi-purpose trips<sup>1</sup> (i.e. cross-trade) are anticipated. The cross-trade adjustment of 10% was applied for all units inside the property in line with the Roads and Traffic Authority of New South Wales *Guide to Traffic Generating Developments* recommendations.

Trips associated with the proposed service station development comprise a significant portion of passing-trade trips which are trips already present on the road network. The ITE publication suggest that the subject land use (service station with convenience store) typically draw about 62% and 56% of passing trade for AM peak and PM peak hours respectively. Accordingly, a passing trade rates of 62% and 56% for AM and PM peak hours of total trips generated was assumed for the service station development and 10% for other units.

The directional split of inbound and outbound trips for the proposed development is assumed to be approximately 50/50 during both weekday peak periods.

As detailed in **Table 3** and **Table 4**, it is estimated that the proposed development and all other units within the property at full occupancy would generate approximately **1,772** trips per day (both inbound and outbound) with approximately **111** and **132** trips during the typical weekday AM and PM peak hours respectively.

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<sup>1</sup> Multi-purpose trips are incidences where more than one shop/outlet are visited within the development (also referred to as "cross-trade")

**Table 3: Estimated development traffic generation**

	Quantity		Weekday AM	Weekday PM	Weekday Daily	Cross Trade	Weekday AM	Weekday PM	Weekday Daily
	Area	Bowser							
Unit 1 replacement (Service Station)		8	100	112	1643	10%	90	101	1479
Unit 2	620		2	3	42	10%	2	3	38
Unit 3 (Autobarn)	674		14	16	118	10%	13	15	106
Unit 4 (Forty Winks)	808		2	5	55	10%	2	4	49
Unit 5	808		2	5	55	10%	2	4	49
Unit 6	535		1	3	36	10%	1	3	33
Unit 7	301		1	2	20	10%	1	2	18
<b>Total</b>							<b>111</b>	<b>132</b>	<b>1772</b>

**Table 4: Estimated passing trade and non-passing trade traffic generation**

	Passing Trade	AM			PM		Non- Passing Trade	AM			PM	
		IN	OUT		IN	OUT		IN	OUT		IN	OUT
Unit 1 replacement (Service Station)	62%	28	28	56%	28	28	38%	17	17	44%	22	22
Unit 2	10%	0	0		0	0	90%	1	1		1	1
Unit 3 (Autobarn)	10%	1	1		1	1	90%	6	6		7	7
Unit 4 (Forty Winks)	10%	0	0		0	0	90%	1	1		2	2
Unit 5	10%	0	0		0	0	90%	1	1		2	2
Unit 6	10%	0	0		0	0	90%	1	1		1	1
Unit 7	10%	0	0		0	0	90%	1	0		1	1

Two traffic distributions have been modelled for the weekday AM and PM peak hours:

- ✚ Passing trade traffic as detailed in **Figure 4**; and,
- ✚ Non-passing trade traffic as detailed in **Figure 5**.

The total development traffic is detailed in **Figure 6**. The development traffic distribution modelled in this report has been established by considering the catchment area of the proposed development and the traffic routes.



With respect to the assumed distribution and assignment of the development-generated traffic consideration was given to the location of the site, the overwhelmingly passing trade nature of the proposed land use and the access and egress routes to and from the site (distribution is based on current road network and its layout).

It is anticipated that most of the future site patrons will be accessing the site primarily via West Street with the balance arriving via Peel Terrace. Consequently, the assumed directional traffic distribution is as follows:

Inbound traffic passing trade

- ✚ 15% of all site generated traffic from the north of West Street and the west of Peel Terrace at crossover 1;
- ✚ 50% of all site generated traffic from the east of Peel Terrace at crossover 1;
- ✚ 5% of all site generated traffic from the north of West Street at crossover 2;
- ✚ 25% of all site generated traffic from the south of West Street at crossover 2; and,
- ✚ 5% of all site generated traffic from the north of West Street at crossover 3.

Outbound traffic passing trade

- ✚ 20% of all site generated traffic to the west of Peel Terrace and the north of West Street at crossover 1;
- ✚ 30% of all site generated traffic to the north of West Street at crossover 2;
- ✚ 45% of all site generated traffic to the south of West Street at crossover 2; and,
- ✚ 5% of all site generated traffic to the south of West Street at crossover 3.

Inbound traffic non-passing trade

- ✚ 25% of all site generated traffic from the north of West Street and the west of Peel Terrace at crossover 1;
- ✚ 35% of all site generated traffic from the east of Peel Terrace at crossover 1;
- ✚ 5% of all site generated traffic from the north of West Street at crossover 2;
- ✚ 30% of all site generated traffic from the south of West Street at crossover 2; and,
- ✚ 5% of all site generated traffic from the north of West Street at crossover 3.

Outbound traffic non-passing trade

- ✚ 25% of all site generated traffic to the west of Peel Terrace and the north of West Street at crossover 1;
- ✚ 35% of all site generated traffic to the east of Peel Terrace at crossover 1;
- ✚ 10% of all site generated traffic to the north of West Street at crossover 2; and,
- ✚ 30% of all site generated traffic to the south of West Street at crossover 2.

As stated in **Section 5.0**, it is proposed to convert the existing priority-controlled 'T' intersection of West Street/ Peel Terrace into a roundabout intersection. As per the advice from the City, the existing driveway on West Street opposite Peel Terrace will likely to be closed in the short term, and therefore the traffic analysis undertaken assumes 3-way roundabout intersection.

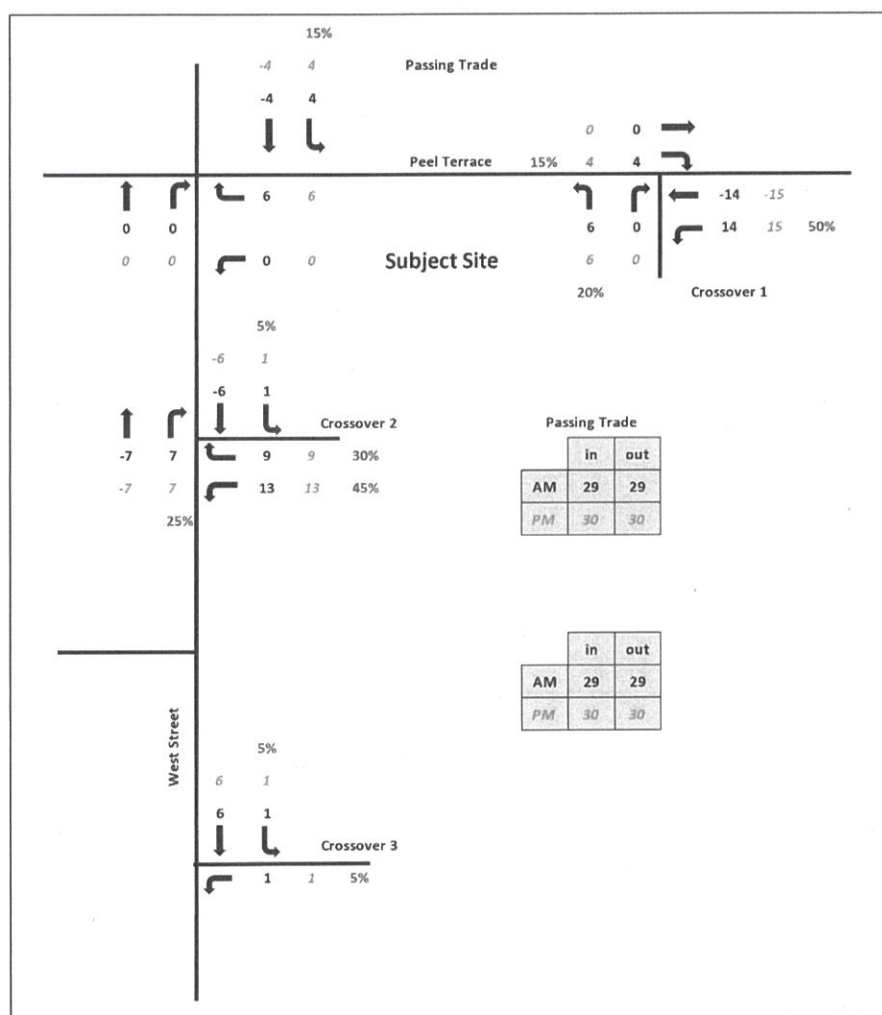
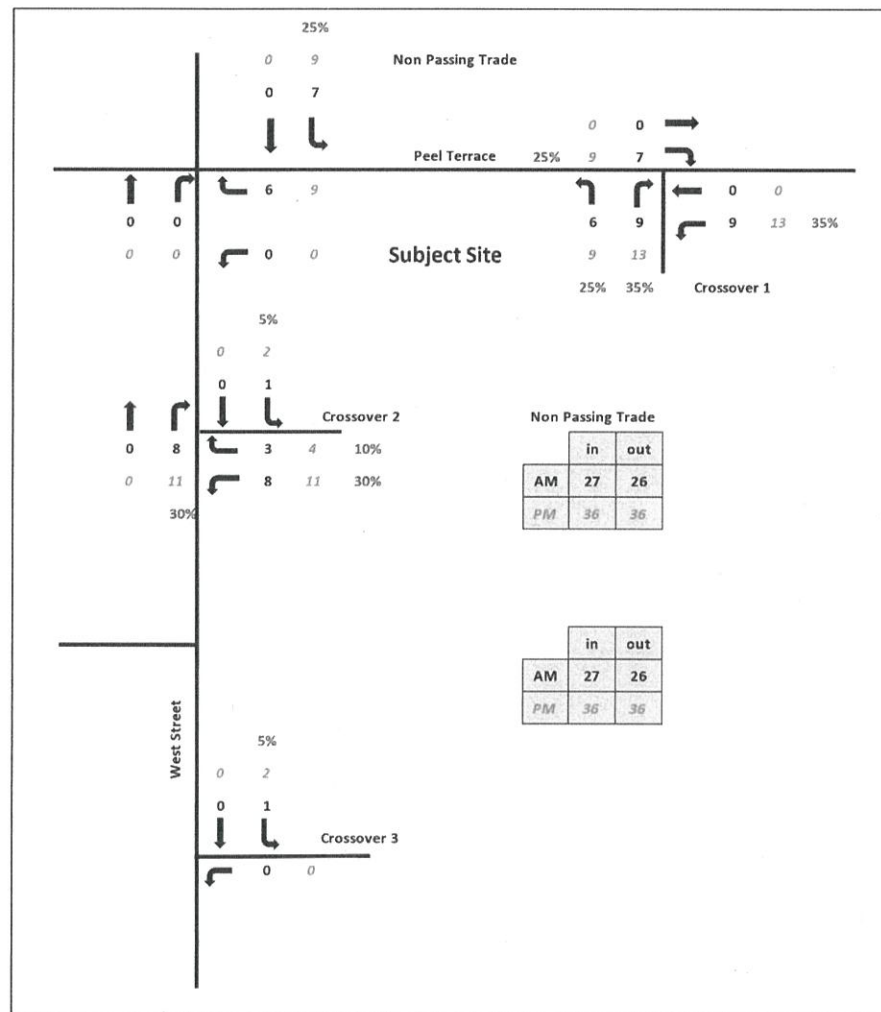


Figure 4. Passing trade development traffic component – weekday AM & PM peak hour



**Figure 5. Additional (non-passing trade) development component weekday AM & PM peak hour**



Figure 6. Total peak hour generated by the development – Weekday AM and PM  
peak hours

### 7.3 Traffic Flows

Transcore organised and undertook 24 hours traffic count video survey at the priority-controlled 'T' intersection of West Street and Peel Terrace on 26 May 2020. The video traffic survey traffic counts were factored up by 10% for the purpose of the traffic assessment and SIDRA analysis to allow for any potential traffic reduction due to Covid-19 pandemic situation. The existing traffic survey counts are presented in **Figure 7** and the existing traffic flows with 10% factor up for traffic assessment are presented in **Figure 8**.



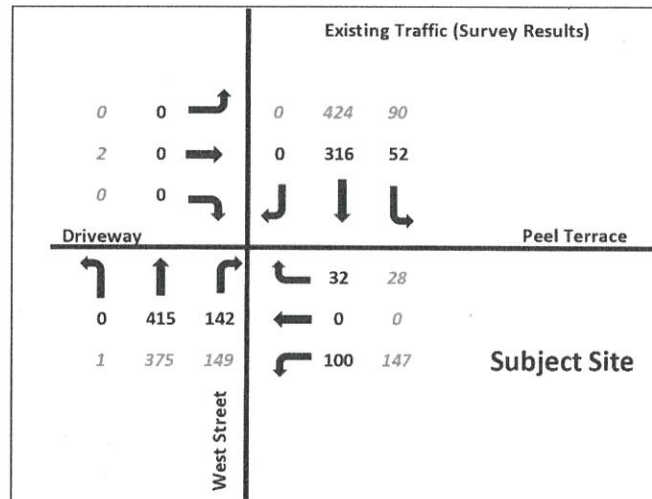


Figure 7. Existing traffic flows at the intersection of West Street/ Peel Terrace - Weekday AM & PM peak hours (Video Survey Results May 2020)

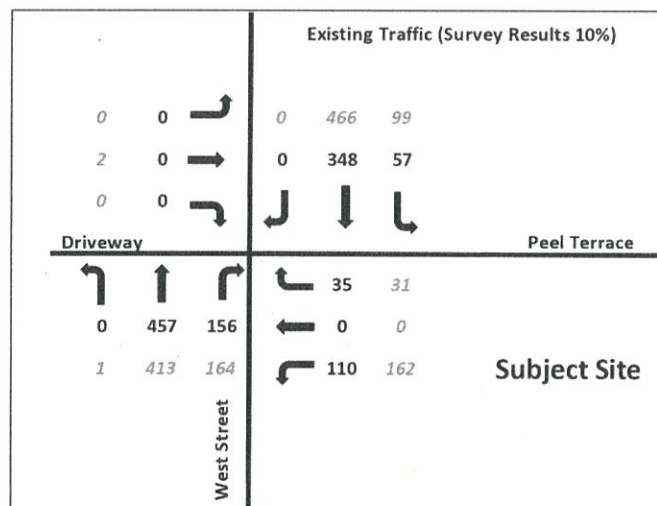
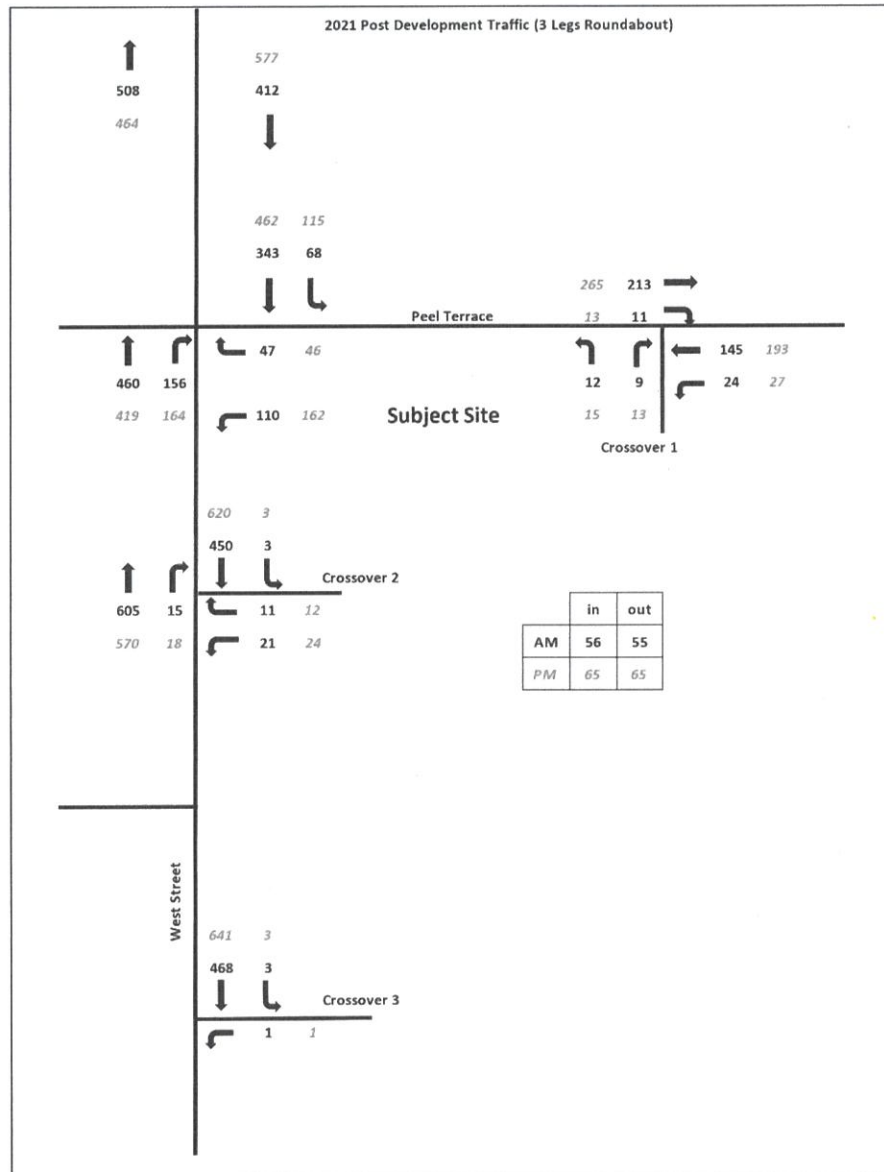


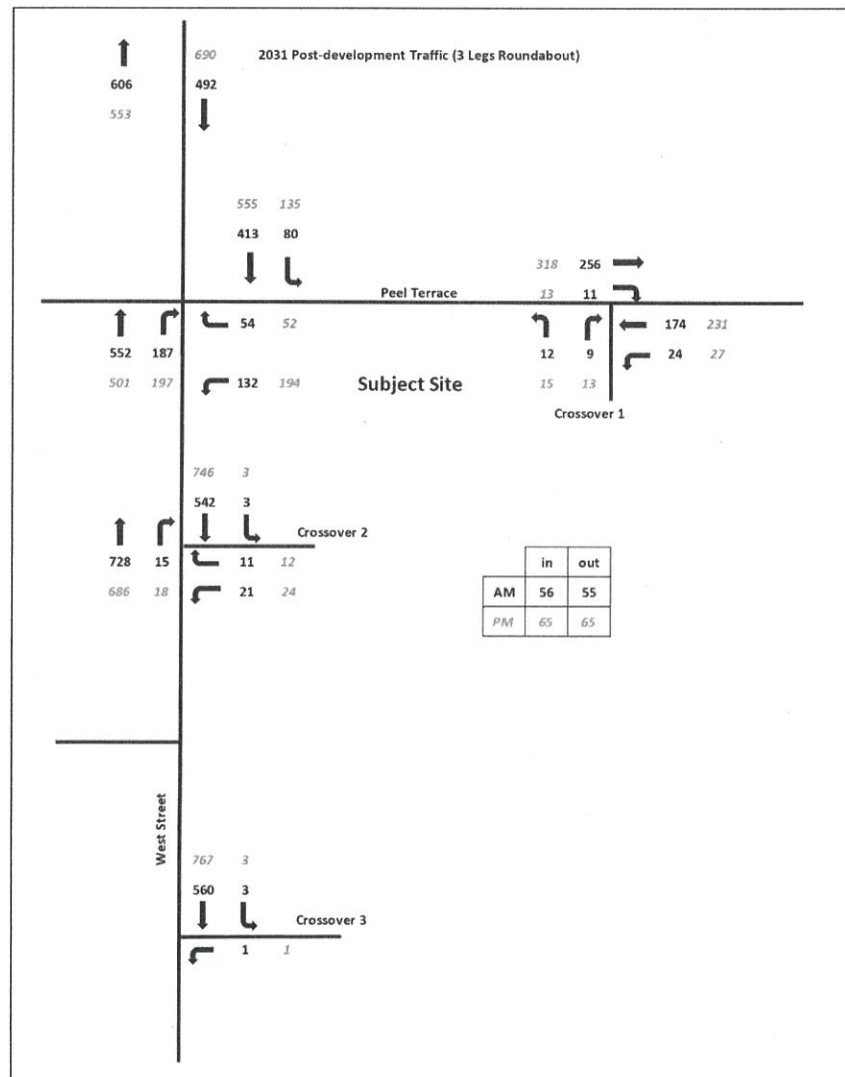
Figure 8. Existing traffic flows at the intersection of West Street/ Peel Terrace - Weekday AM & PM peak hours (10% factored up)

The combined base and development traffic volumes for the post-development scenario (with 3-way roundabout intersection at West Street/ Peel Terrace intersection) are presented in **Figure 9**.



**Figure 9. Post development traffic flows – Weekday AM and PM peak hours**

A traffic growth rate of 2% per annum was assumed to forecast the future background traffic volumes for 10-year post development (the year 2031) scenario and the total 10-year post development traffic volumes are presented in **Figure 10**.



**Figure 10. 10-year post development traffic flows – Weekday AM and PM peak hours**

#### ***7.4 Analysis of Local Intersections & Development's Crossovers***

As advised, the subject site (i.e. retail/commercial complex) currently records very low level of traffic activity as only two units out of seven units are occupied and operational. Both businesses (Forty Winks and Autobarn) are generally known as "slow trade" operations resulting in relatively low level of traffic activity during typical peak hour periods. Similarly, all of site-generated traffic is distributed over three crossovers thereby further reducing traffic impact on each crossover. Accordingly, it is reasonable to assume that there is presently only moderate traffic activity recorded at the subject site's crossovers and as such it can be concluded that site's crossovers presently operate with ample spare capacity. The operations of the crossovers are expected to be satisfactory following full occupancy of all units.

Out of all traffic generated by the proposed development including all tenancies within the property at full occupancy, 49% comprise passing-trade or traffic that is already present on road network calling the site on route to another destination. Hence, only about 51% off all traffic generated by the development would be "new" traffic on the road network therefore reducing the practical impact of the development traffic on adjacent road network.

All of the subject site traffic (including the proposed development) is split between the Peel Terrace crossover, the northern West Street crossover and southern West Street crossover with most of the traffic using Peel Terrace crossover. This situation is beneficial for the operation of the crossovers as Peel Terrace carries significantly less traffic than West Street so combination of site-generated traffic and fronting road would result in less impact on fronting road and more crossover capacity.

In order to assess the operation and the capacity of the proposed 3-way roundabout intersection of West Street and Peel Terrace and the existing site crossovers, a SIDRA network model was developed for West Street/ Peel Terrace 3-way roundabout intersection, Peel Terrace crossover (crossover 1) and West Street northern crossover (crossover 2) in the post development scenarios (2021 and 2031) for AM and PM peak hours. It should be noted that the SIDRA assessment does not include the traffic assessment at the southern West Street crossover (crossover 3) as no service station traffic is expected to use this crossover.

Capacity analysis using the SIDRA computer software package was undertaken. This package is a commonly used intersection-modelling tool by traffic engineers for all types of intersections. SIDRA outputs are presented in the form of Degree of Saturation, Level of Service, Average Delay and 95% Queue. These items are defined as follows:

- ✦ **Degree of Saturation:** is the ratio of the arrival traffic flow to the capacity of the approach during the same period. The Degree of Saturation ranges from close to zero for varied traffic flow up to one for saturated flow or capacity.
- ✦ **Level of Service:** is the qualitative measure describing operational conditions within a traffic stream and the perception by motorists and/or passengers. In general, there are 6 levels of service, designated from A to F, with Level of Service A representing the best operating condition (i.e. free flow) and Level of Service F the worst (i.e. forced or breakdown flow).



- ✦ **Average Delay:** is the average of all travel time delays for vehicles through the intersection.
- ✦ **95% Queue:** is the queue length below which 95% of all observed queue lengths fall.

The layout of the modelled network is illustrated in **Figure 11** and the results of SIDRA analysis are reported in **Table 5** to **Table 16** in **Appendix D** and discussed in the following paragraphs.

#### **Peel Terrace crossover (crossover 1)**

The SIDRA results of Peel Terrace crossover (crossover 1) capacity assessment indicate that this existing crossover would operate at a very good overall Level of Service (LoS) A under full traffic load during typical AM and PM peak periods in both 2021 and 2031 post development scenarios.

#### **West Street crossover (crossover 2)**

The SIDRA results of West Street crossover (crossover 2) capacity assessment indicate that this existing crossover would operate satisfactorily with acceptable queues and delays.

#### **West Street/ Peel Terrace 3-Way Roundabout Intersection**

The SIDRA analysis results for West Street/ Peel Terrace 3-way roundabout intersection indicates that the intersection would operate at a good Level of Service (LoS) A under full traffic load during typical AM and PM peak periods in both 2021 and 2031 post development scenarios. In fact, Peel Terrace leg of the intersection operates better in 2031 than the existing situation.

The SIDRA result confirms that the addition of development-generated traffic with combination of the background existing traffic and traffic from other units will result in satisfactory traffic operations at this intersection.

Accordingly, it is reasonable to expect that the proposal would not have an adverse impact on the operation of the surrounding road network.

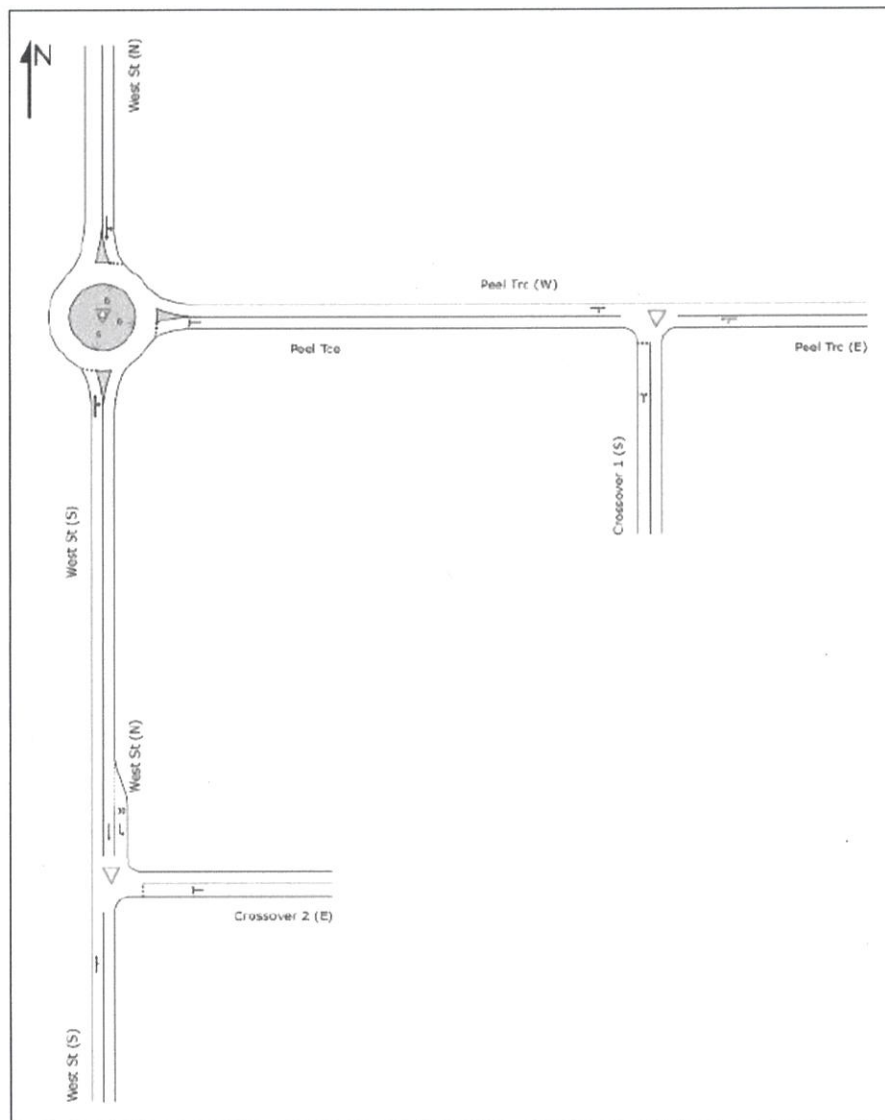


Figure 11. Network model – SIDRA layout

### **7.5 Impact on Surrounding Roads**

The significant portion of the proposed developments' traffic will already be present on the road network as it relies on passing trade for its successful operation. It has been established that more than 53% of the total site daily traffic will be passing trade and/or diverted trips. The proposed development plus other units within the property at full occupancy is therefore estimated to generate about 826 new (non-passing trade) daily trips on the local road network.

It is estimated that this level of additional traffic represents around 6.6% and 4.8% of additional traffic on West Street sections north and south of the subject site.

For Peel Terrace the estimated additional traffic from the development comprises about 13% of daily traffic volume for this road (east of the subject site). This level of increase is expected to be comfortably accommodated by Peel Terrace.

Furthermore, The WAPC Transport Impact Assessment Guidelines (2016) provides guidance on the assessment of traffic impacts:

*"As a general guide, an increase in traffic of less than 10 per cent of capacity would not normally be likely to have a material impact on any particular section of road, but increases over 10 per cent may. All sections of road with an increase greater than 10 per cent of capacity should therefore be included in the analysis.*

*For ease of assessment, an increase of 100 vehicles per hour for any lane can be considered as equating to around 10 per cent of capacity. Therefore, any section of road where the structure plan traffic would increase flows by more than 100 vehicles per hour for any lane should be included in the analysis."*

The proposed development will not increase traffic flows anywhere near the quoted WAPC threshold to warrant further detailed analysis. As detailed in **Section 7.0**, the proposed development will not increase traffic on any lanes on the surrounding road network by more than 100 vph and therefore any further detailed analysis is not warranted.

### **7.6 Impact on Neighbouring Areas**

Considering the location of the subject site, its accessibility via district roads, significant passing trade component and limited number of residential dwellings within the immediate vicinity, the traffic impact from the development in the area will be limited.

### **7.7 Traffic Noise and Vibration**

Due to the location of the proposed development and with respect to the surrounding land uses traffic noise and vibration are relevant only to the residential areas directly fronting major local and regional roads which in this case is limited.

It generally requires a doubling of traffic volumes on a road to produce a perceptible 3dB increase in road noise. The proposed development will not increase traffic volumes or noise on surrounding roads anywhere near this level.

The delivery of goods to the convenience store is expected to occur maximum once per day and generally during regular business hours. As such, any potential noise and vibration impacts on the neighbouring residential dwelling to the immediate east of the convenience store service yard will be minimal and limited in frequency.

### **7.8 Road Safety**

A portion of the development-generated traffic including all tenancies within the property at full occupancy will be using the West Street crossover.

As discussed in **Section 7.3** of the report, about 44% of total traffic generated or up to 57 vehicles are expected to use the West Street crossover 2 during the peak weekday PM hour period. This equates to about one vehicle movement every 1 min on average. This level of traffic through the car park is not expected to result in any safety implications. Particularly as at other times this level of traffic will be much lower.

The delivery of fuel by tankers is expected to occur 1-2 times per week and typically outside the busiest service station and the site periods. Furthermore, the tanker will only pass through the car park on exit route as egress movement via West Street crossover (crossover 2). As such, it is considered that the impact of the development traffic on the site car park will not be significant enough to cause safety concerns.



## 8.0 Parking

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Total car parking provision as part of the proposed development comprises 10 parking bays exclusive of eight petrol filling positions. The parking provision includes one ACROD bay located immediately adjacent to the entry into the service station store for convenience. Parking bays are located immediately in front of the convenience store.

Additional "air & water" bay is provided at the West Street frontage to the west of the fuel canopy.

A dedicated loading bay for service vehicles is also provided immediately east of the convenience store.

## 9.0 Public Transport Access

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The subject site has very good coverage through three bus services operating along Peel Terrace with stops in close proximity to the site.

## 10.0 Pedestrian and Cyclist Access

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The existing path system in the vicinity and on-road cycle lanes provides good access to the subject site by non-motorised means of transport.

## 11.0 Conclusions

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This 2<sup>nd</sup> revised TIA has been prepared with respect to the proposed service station and convenience store to be located at Lot 100 (HN 81) West Street in Busselton, City of Busselton. The subject site occupies space at the northern end of the existing commercial/retail centre located at the southeast corner of the West Street/Peel Terrace intersection and replaces Unit 1 within the site.

Transcore originally prepared a TIA in May 2020, a revised TIA in June 2020 and Technical Note No.1 in June 2020 with respect to the Development Application (DA). Following submission of the DA and supplementary traffic report to City of Busselton, the City engaged Cardno to undertake a peer review of this submission. Cardno prepared a Technical Memorandum dated 3 August 2020 and provided peer review comments on Transcore's revised TIA and Technical Note dated June 2020. Accordingly, this 2<sup>nd</sup> revised TIA for the proposed development is prepared to address the relevant comments by Cardno and agreed items by City of Busselton.

The proposal comprises a new service station with associated convenience store at the subject site. No changes to the existing access system for the retail/commercial complex are proposed as part of the proposal, except minor modification of Peel Terrace crossover (crossover 1) and West Street crossover (crossover 2) to facilitate fuel tanker exit movements.

After submission of the DA and through liaison, discussions and meeting with City of Busselton, it was established that the operation of the intersection of West Street and Peel Terrace is a concern for the City. Accordingly, even though the traffic analysis documented in this report demonstrates that this intersection operates satisfactorily with the proposed development, the applicant is proposing a mini roundabout at this intersection to address City's concern.

Traffic modelling and analysis undertaken for post-development scenarios (including proposed development and full occupancy of other units) demonstrates that the relevant site crossovers and the proposed 3-way roundabout intersection of West Street and Peel Terrace would operate satisfactorily. In fact, the Peel Terrace leg of the intersection operates better in 2031 compared to the existing situation. Also, traffic assessment has demonstrated that the total traffic from the subject site, and in particular the proposed development traffic, has insignificant impact on the operations of the surrounding road network.

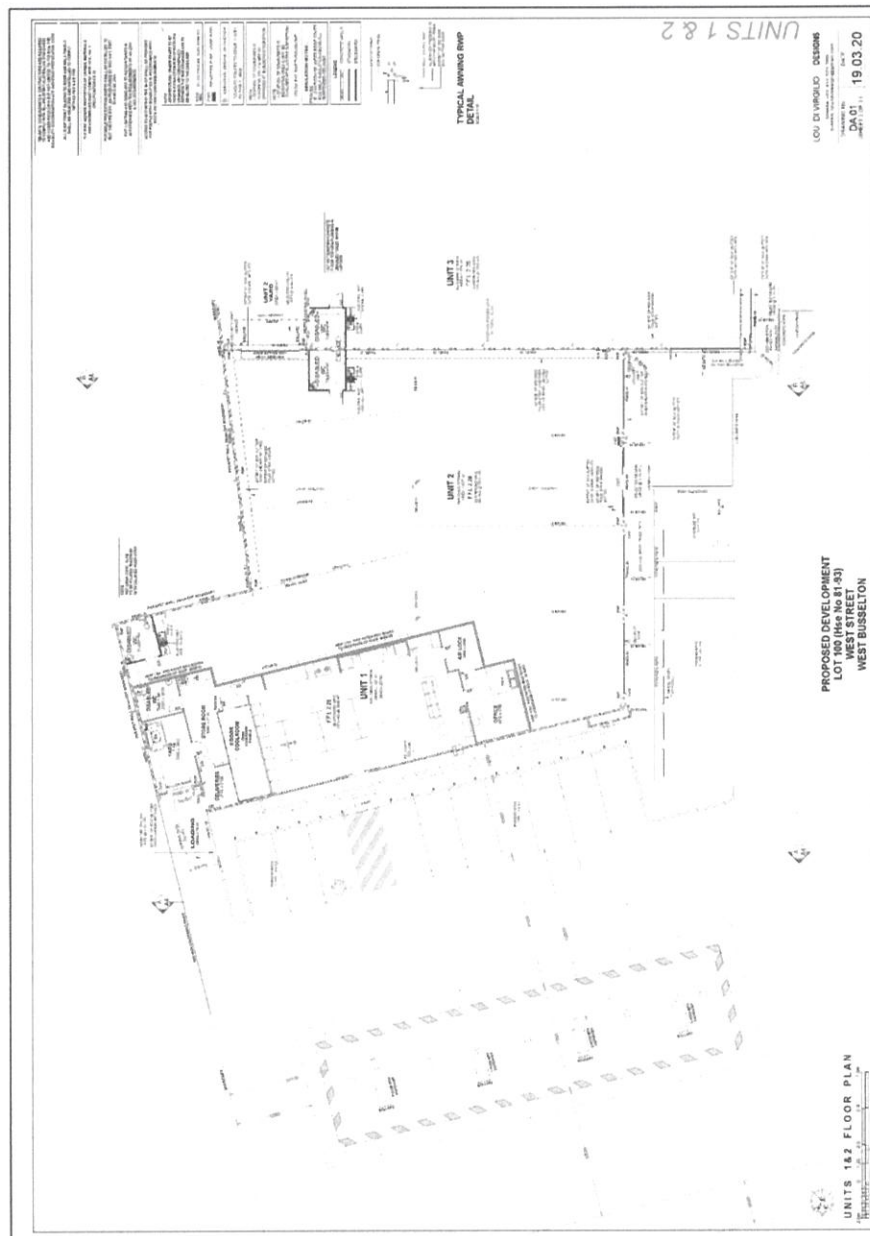
The assessment undertaken in this report indicates that the traffic from the proposed service station will not have an adverse impact on the surrounding road network which has the capacity to accommodate this additional traffic.



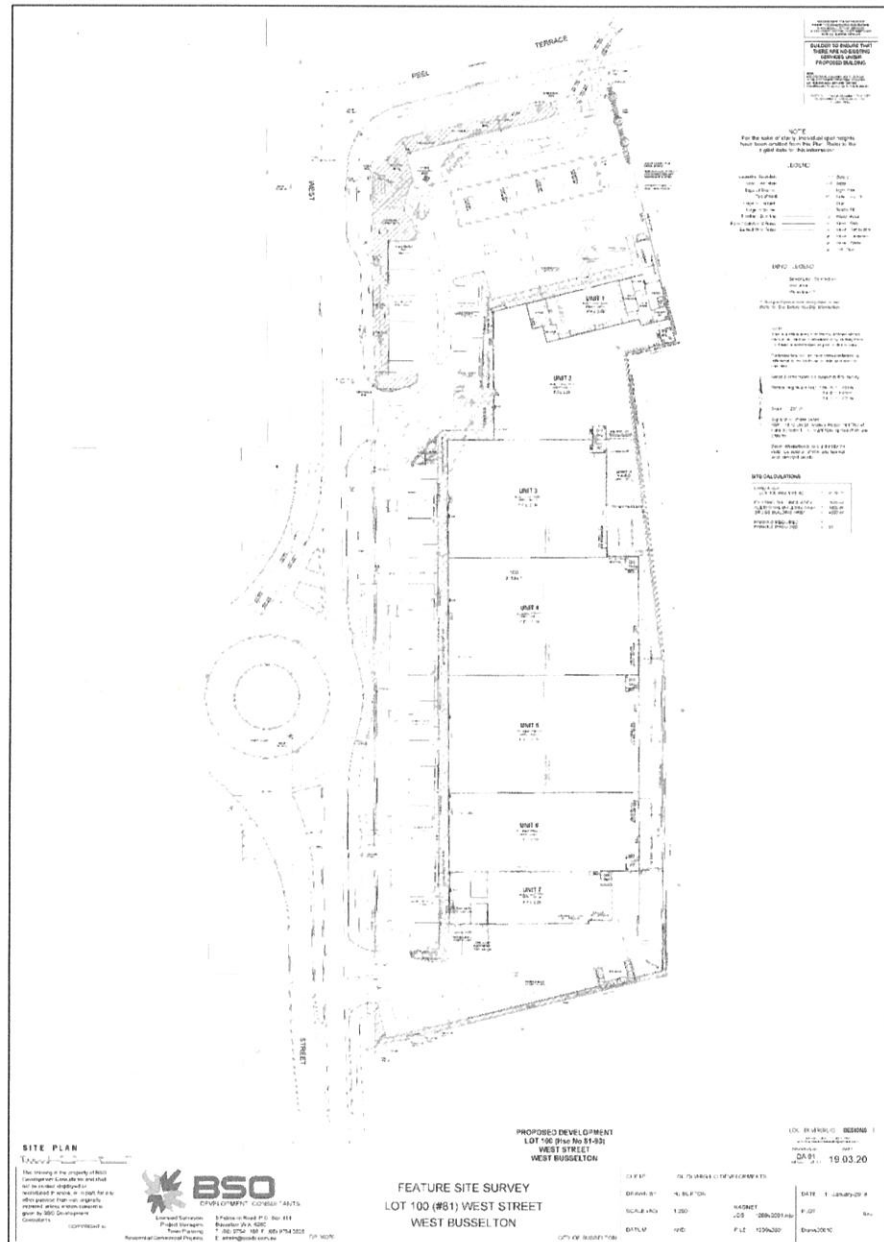
# Appendix A

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## SITE PLAN



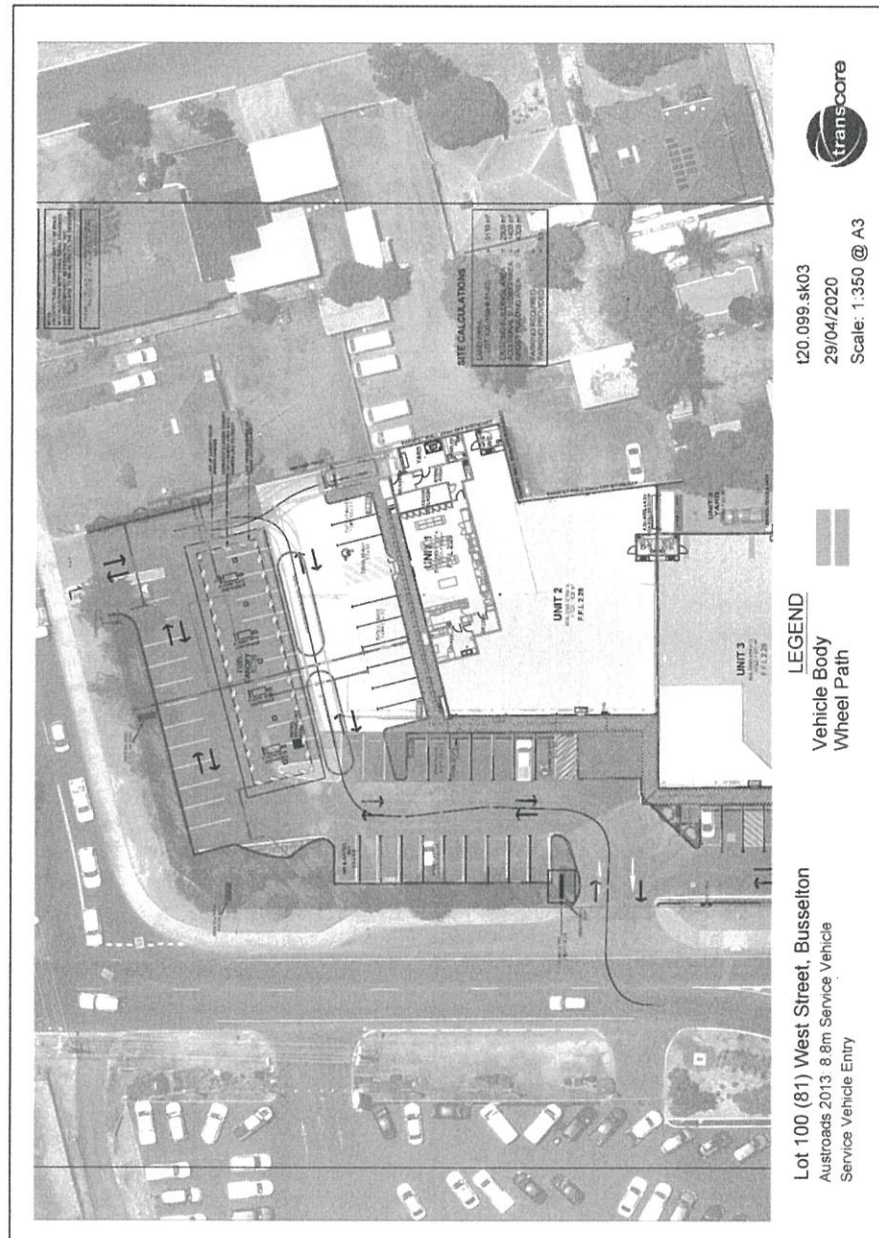
Attachment D Traffic Impact Assessment (Final) - Mini  
Roundabout Plans (Appendix E)



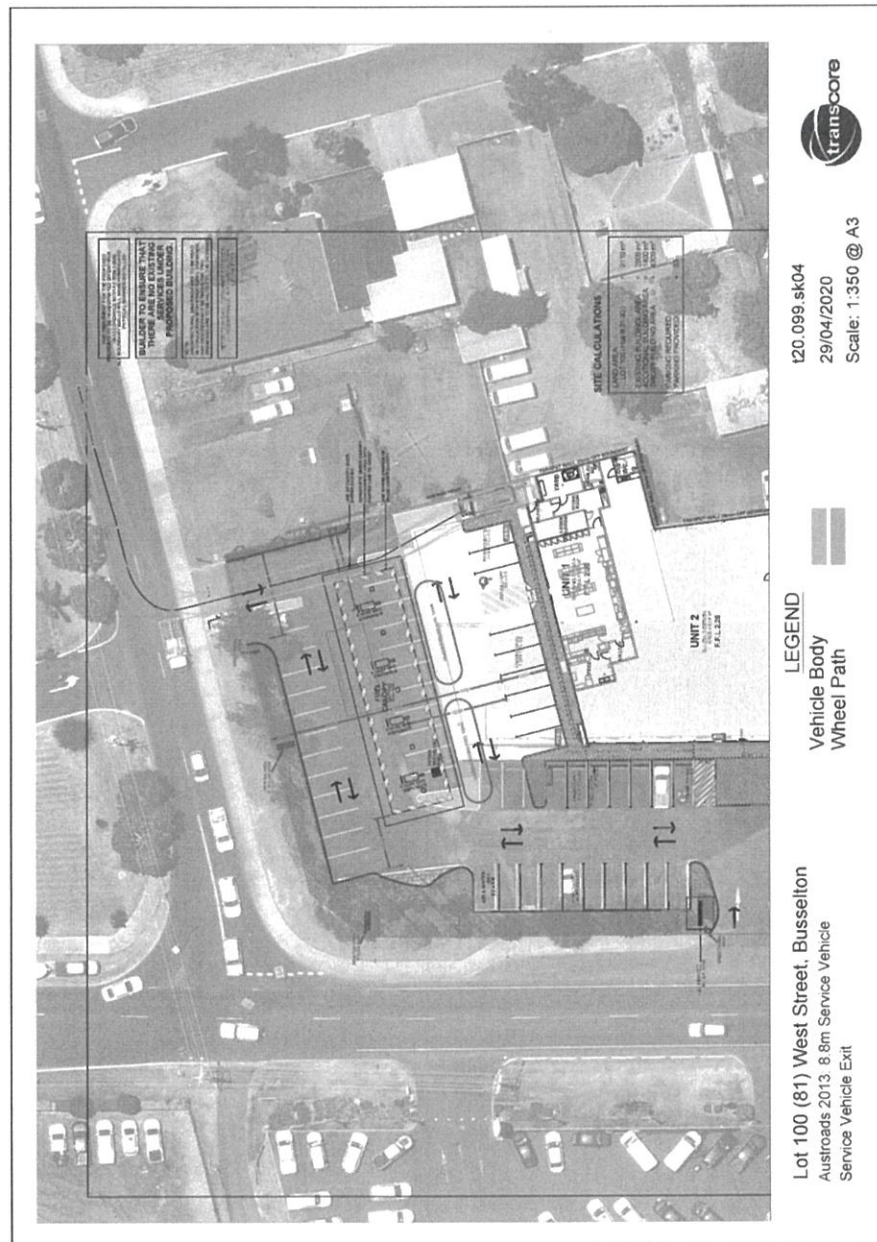
## Appendix B

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### TURN PATH PLANS - SERVICE VEHICLE



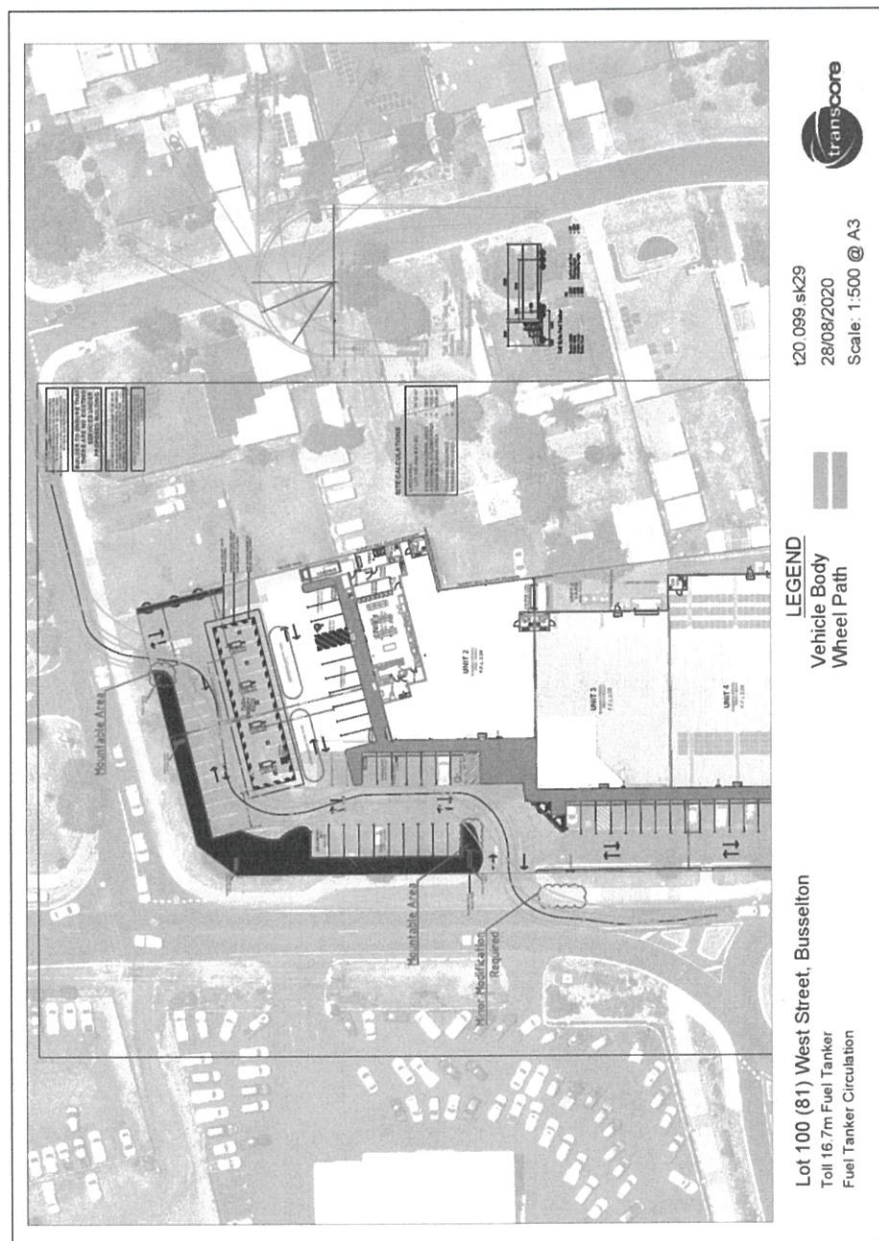




## Appendix C

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### TURN PATH PLANS – FUEL TANKER 16.7m



## Appendix D

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### SIDRA RESULTS

**Table 5. SIDRA results for Peel Terrace crossover – Weekday AM peak period  
(post-development including all other units at full occupancy – Year 2021)**

Movement Performance - Vehicles													
Mov ID	Turn	Demand	Flows	Arrival	Flows	Deg Satn	Average Delay	Level of Service	95% Back of Queue	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed
		Total veh/h	HV % veh/h	Total % veh/h	HV %	v/c	sec		Vehicles veh	Distance m			km/h
South: Crossover 1 (S)													
4	L2	13	2.0	13	2.0	0.020	0.5	LOS A	0.1	0.5	0.28	0.15	13.1
6	R2	9	2.0	9	2.0	0.020	1.7	LOS A	0.1	0.5	0.28	0.15	19.6
Approach		22	2.0	22	2.0	0.020	1.0	LOS A	0.1	0.5	0.28	0.15	16.7
East: Peel Trc (E)													
7	L2	25	2.0	25	2.0	0.099	4.9	LOS A	0.0	0.0	0.00	0.12	38.1
8	T1	153	16.0	153	16.0	0.099	0.0	LOS A	0.0	0.0	0.00	0.12	48.5
Approach		178	14.0	178	14.0	0.099	0.7	NA	0.0	0.0	0.00	0.12	46.3
West: Peel Trc (W)													
2	T1	224	6.0	224	6.0	0.126	0.0	LOS A	0.1	0.6	0.04	0.03	57.1
3	R2	12	2.0	12	2.0	0.126	4.6	LOS A	0.1	0.6	0.04	0.03	34.7
Approach		236	5.8	236	5.8	0.126	0.3	NA	0.1	0.6	0.04	0.03	55.9
All Vehicles		436	9.0	436	9.0	0.126	0.5	NA	0.1	0.6	0.03	0.07	49.2

**Table 6. SIDRA results for Peel Terrace crossover – Weekday PM peak period  
(post-development including all other units at full occupancy – Year 2021)**

Movement Performance - Vehicles													
Mov ID	Turn	Demand	Flows	Arrival	Flows	Deg Satn	Average Delay	Level of Service	95% Back of Queue	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed
		Total veh/h	HV % veh/h	Total % veh/h	HV %	v/c	sec		Vehicles veh	Distance m			km/h
South: Crossover 1 (S)													
4	L2	16	2.0	16	2.0	0.029	0.7	LOS A	0.1	0.7	0.33	0.21	12.4
6	R2	14	2.0	14	2.0	0.029	2.3	LOS A	0.1	0.7	0.33	0.21	19.0
Approach		29	2.0	29	2.0	0.029	1.4	LOS A	0.1	0.7	0.33	0.21	16.3
East: Peel Trc (E)													
7	L2	28	2.0	28	2.0	0.126	4.9	LOS A	0.0	0.0	0.00	0.10	38.9
8	T1	203	11.0	203	11.0	0.126	0.0	LOS A	0.0	0.0	0.00	0.10	50.1
Approach		232	9.9	232	9.9	0.126	0.6	NA	0.0	0.0	0.00	0.10	48.0
West: Peel Trc (W)													
2	T1	279	2.0	279	2.0	0.153	0.1	LOS A	0.1	0.8	0.04	0.03	57.2
3	R2	14	2.0	14	2.0	0.153	4.9	LOS A	0.1	0.8	0.04	0.03	34.7
Approach		293	2.0	293	2.0	0.153	0.3	NA	0.1	0.8	0.04	0.03	56.0
All Vehicles		554	5.3	554	5.3	0.153	0.5	NA	0.1	0.8	0.04	0.07	49.4



**Table 7. SIDRA results for West Street crossover – Weekday AM peak period  
(post-development including all other units at full occupancy – Year 2021)**

Movement Performance - Vehicles														
Mov ID	Turn	Demand Flows		Arrival Flows		Deg Satn	Average Delay	Level of Service	95% Back of Queue		Prop. Queued	Effective Stop Rate	Aver No Cycles	Average Speed
		Total veh/h	HV %	Total veh/h	HV %	v/c	sec		Vehicles veh	Distance m				km/h
South: West St (S)														
2	T1	637	3.0	637	3.0	0.349	0.2	LOS A	0.3	2.4	0.05	0.02	0.06	52.4
3	R2	16	2.0	16	2.0	0.349	7.7	LOS A	0.3	2.4	0.05	0.02	0.06	32.3
Approach		653	3.0	653	3.0	0.349	0.4	NA	0.3	2.4	0.05	0.02	0.06	51.4
East: Crossover 2 (E)														
4	L2	22	2.0	22	2.0	0.076	1.9	LOS A	0.3	1.8	0.62	0.54	0.62	12.5
6	R2	12	2.0	12	2.0	0.076	16.2	LOS C	0.3	1.8	0.62	0.54	0.62	7.7
Approach		34	2.0	34	2.0	0.076	6.8	LOS A	0.3	1.8	0.62	0.54	0.62	11.2
North: West St (N)														
7	L2	3	2.0	3	2.0	0.002	5.1	LOS A	0.0	0.0	0.00	0.67	0.00	25.0
8	T1	474	8.0	474	8.0	0.253	0.0	LOS A	0.0	0.0	0.00	0.00	0.00	59.9
Approach		477	8.0	477	8.0	0.253	0.0	NA	0.0	0.0	0.00	0.00	0.00	59.5
All Vehicles		1163	5.0	1163	5.0	0.349	0.4	NA	0.3	2.4	0.04	0.03	0.05	51.2

**Table 8. SIDRA results for West Street crossover – Weekday PM peak period  
(post-development including all other units at full occupancy – Year 2021)**

Movement Performance - Vehicles													
Mov ID	Turn	Demand Flows	Arrival Flows	Deg Satn	Average Delay	Level of Service	95% Back of Queue	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed		
		Total veh/h	HV % veh/h	Total HV %	v/c	sec	veh	m			km/h		
South: West St (S)													
2	T1	600	6.0	600	6.0	0.346	0.5	LOS A	0.5	4.0	0.08	0.02	46.5
3	R2	19	2.0	19	2.0	0.346	10.1	LOS B	0.5	4.0	0.08	0.02	30.6
Approach		619	5.9	619	5.9	0.346	0.8	NA	0.5	4.0	0.08	0.02	45.6
East: Crossover 2 (E)													
4	L2	25	2.0	25	2.0	0.106	3.1	LOS A	0.3	2.5	0.72	0.69	11.1
6	R2	13	2.0	13	2.0	0.106	21.3	LOS C	0.3	2.5	0.72	0.69	6.6
Approach		38	2.0	38	2.0	0.106	9.1	LOS A	0.3	2.5	0.72	0.69	9.9
North: West St (N)													
7	L2	3	2.0	3	2.0	0.002	5.1	LOS A	0.0	0.0	0.00	0.67	25.0
8	T1	653	3.0	653	3.0	0.338	0.0	LOS A	0.0	0.0	0.00	0.00	59.9
Approach		656	3.0	656	3.0	0.338	0.0	NA	0.0	0.0	0.00	0.00	59.6
All Vehicles		1313	4.3	1313	4.3	0.346	0.6	NA	0.5	4.0	0.06	0.03	49.4

**Table 9. SIDRA results for West Street/ Peel Terrace 3 Legs roundabout  
intersection – Weekday AM peak period (post-development including all other  
units at full occupancy – Year 2021)**

Movement Performance - Vehicles													
Mov ID	Turn	Demand	Flows	Arrival	Flows	Deg. Satn	Average Delay	Level of Service	95% Back of Queue	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed
		Total veh/h	HV %	Total veh/h	HV %	v/c	sec		Vehicles	Distance m			km/h
South: West St (S)													
2	T1	484	3.0	484	3.0	0.480	3.8	LOS A	4.7	33.3	0.33	0.51	36.8
3	R2	164	1.0	164	1.0	0.480	6.1	LOS A	4.7	33.3	0.33	0.51	26.6
Approach		648	2.5	648	2.5	0.480	4.4	LOS A	4.7	33.3	0.33	0.51	35.3
East: Peel Tce													
4	L2	116	5.0	116	5.0	0.211	6.3	LOS A	1.3	9.7	0.63	0.72	19.4
6	R2	49	16.0	49	16.0	0.211	8.6	LOS A	1.3	9.7	0.63	0.72	28.3
Approach		165	8.3	165	8.3	0.211	7.0	LOS A	1.3	9.7	0.63	0.72	23.5
North: West St (N)													
7	L2	72	6.0	72	6.0	0.411	6.9	LOS A	3.1	23.1	0.51	0.59	30.1
8	T1	361	8.0	361	8.0	0.411	6.5	LOS A	3.1	23.1	0.51	0.59	30.1
Approach		433	7.7	433	7.7	0.411	6.6	LOS A	3.1	23.1	0.51	0.59	30.1
All Vehicles		1246	5.1	1246	5.1	0.480	5.5	LOS A	4.7	33.3	0.43	0.57	32.0

**Table 10. SIDRA results for West Street/ Peel Terrace 3 Legs roundabout  
intersection – Weekday PM peak period (post-development including all other  
units at full occupancy – Year 2021)**

Movement Performance - Vehicles													
Mov ID	Turn	Demand	Flows	Arrival	Flows	Deg. Satn	Average Delay	Level of Service	95% Back of Queue	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed
		Total veh/h	HV %	Total veh/h	HV %	v/c	sec		Vehicles	Distance m			km/h
South: West St (S)													
2	T1	441	6.0	441	6.0	0.459	3.7	LOS A	4.4	32.4	0.33	0.52	36.4
3	R2	173	1.0	173	1.0	0.459	6.1	LOS A	4.4	32.4	0.33	0.52	26.5
Approach		614	4.6	614	4.6	0.459	4.4	LOS A	4.4	32.4	0.33	0.52	34.7
East: Peel Tce													
4	L2	171	3.0	171	3.0	0.312	7.6	LOS A	2.1	15.0	0.74	0.80	17.4
6	R2	48	11.0	48	11.0	0.312	9.9	LOS A	2.1	15.0	0.74	0.80	27.1
Approach		219	4.8	219	4.8	0.312	8.1	LOS A	2.1	15.0	0.74	0.80	20.8
North: West St (N)													
7	L2	121	2.0	121	2.0	0.556	7.2	LOS A	5.0	35.6	0.61	0.62	29.3
8	T1	486	3.0	486	3.0	0.556	6.8	LOS A	5.0	35.6	0.61	0.62	29.3
Approach		607	2.8	607	2.8	0.556	6.9	LOS A	5.0	35.6	0.61	0.62	29.3
All Vehicles		1440	3.9	1440	3.9	0.556	6.0	LOS A	5.0	35.6	0.51	0.60	30.4

**Table 11. SIDRA results for Peel Terrace crossover – Weekday AM peak period  
(10-year post-development including all other units at full occupancy – Year 2031)**

Movement Performance - Vehicles														
Mov ID	Turn	Demand Flows		Arrival Flows		Deg. Satn	Average Delay	Level of Service	95% Back of Queue		Prop. Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed
		Total veh/h	HV %	Total veh/h	HV %	v/c	sec		Vehicles veh	Distance m				km/h
South: Crossover 1 (S)														
4	L2	13	2.0	13	2.0	0.021	0.6	LOS A	0.1	0.5	0.31	0.19	0.31	12.7
6	R2	9	2.0	9	2.0	0.021	2.1	LOS A	0.1	0.5	0.31	0.19	0.31	19.2
Approach		22	2.0	22	2.0	0.021	1.2	LOS A	0.1	0.5	0.31	0.19	0.31	16.3
East: Peel Trc (E)														
7	L2	25	2.0	25	2.0	0.116	4.9	LOS A	0.0	0.0	0.00	0.10	0.00	38.8
8	T1	183	16.0	183	16.0	0.116	0.0	LOS A	0.0	0.0	0.00	0.10	0.00	49.8
Approach		208	14.3	208	14.3	0.116	0.6	NA	0.0	0.0	0.00	0.10	0.00	47.8
West: Peel Trc (W)														
2	T1	269	6.0	269	6.0	0.150	0.1	LOS A	0.1	0.7	0.04	0.03	0.04	57.5
3	R2	12	2.0	12	2.0	0.150	4.8	LOS A	0.1	0.7	0.04	0.03	0.04	34.9
Approach		281	5.8	281	5.8	0.150	0.2	NA	0.1	0.7	0.04	0.03	0.04	56.4
All Vehicles		512	9.1	512	9.1	0.150	0.4	NA	0.1	0.7	0.03	0.06	0.03	50.5

**Table 12. SIDRA results for Peel Terrace crossover – Weekday PM peak period  
(10-year post-development including all other units at full occupancy – Year 2031)**

Movement Performance - Vehicles														
Mov ID	Turn	Demand Flows		Arrival Flows		Deg. Satn	Average Delay	Level of Service	95% Back of Queue		Prop. Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed
		Total veh/h	HV %	Total veh/h	HV %	v/c	sec		Vehicles	Distance m				km/h
South: Crossover 1 (S)														
4	L2	16	2.0	16	2.0	0.032	0.8	LOS A	0.1	0.8	0.37	0.26	0.37	11.9
6	R2	14	2.0	14	2.0	0.032	2.9	LOS A	0.1	0.8	0.37	0.26	0.37	18.5
Approach		29	2.0	29	2.0	0.032	1.8	LOS A	0.1	0.8	0.37	0.26	0.37	15.8
East: Peel Trc (E)														
7	L2	28	2.0	28	2.0	0.148	4.9	LOS A	0.0	0.0	0.00	0.09	0.00	39.5
8	T1	243	11.0	243	11.0	0.148	0.0	LOS A	0.0	0.0	0.00	0.09	0.00	51.4
Approach		272	10.1	272	10.1	0.148	0.5	NA	0.0	0.0	0.00	0.09	0.00	49.4
West: Peel Trc (W)														
2	T1	335	2.0	335	2.0	0.182	0.1	LOS A	0.1	0.9	0.04	0.03	0.04	57.4
3	R2	14	2.0	14	2.0	0.182	5.1	LOS A	0.1	0.9	0.04	0.03	0.04	34.8
Approach		348	2.0	348	2.0	0.182	0.3	NA	0.1	0.9	0.04	0.03	0.04	56.3
All Vehicles		649	5.4	649	5.4	0.182	0.4	NA	0.1	0.9	0.04	0.06	0.04	50.5

**Table 13. SIDRA results for West Street crossover – Weekday AM peak period (10-year post-development including all other units at full occupancy – Year 2031)**

Movement Performance - Vehicles														
Mov ID	Turn	Demand veh/h	Flows HV %	Arrival Total veh/h	Flows HV %	Deg. Satn v/c	Average Delay sec	Level of Service	95% Back of Queue Vehicles veh	Back of Queue Distance m	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed km/h
South: West St (S)														
2	T1	766	3.0	766	3.0	0.437	0.3	LOS A	0.5	3.4	0.05	0.01	0.07	50.7
3	R2	16	2.0	16	2.0	0.437	9.7	LOS A	0.5	3.4	0.05	0.01	0.07	31.8
Approach		782	3.0	782	3.0	0.437	0.5	NA	0.5	3.4	0.05	0.01	0.07	49.9
East: Crossover 2 (E)														
4	L2	22	2.0	22	2.0	0.115	2.5	LOS A	0.4	2.6	0.74	0.69	0.74	10.2
6	R2	12	2.0	12	2.0	0.115	27.4	LOS D	0.4	2.6	0.74	0.69	0.74	5.9
Approach		34	2.0	34	2.0	0.115	11.1	LOS B	0.4	2.6	0.74	0.69	0.74	8.9
North: West St (N)														
7	L2	3	2.0	3	2.0	0.002	5.1	LOS A	0.0	0.0	0.00	0.67	0.00	25.0
8	T1	571	8.0	571	8.0	0.305	0.0	LOS A	0.0	0.0	0.00	0.00	0.00	59.9
Approach		574	8.0	574	8.0	0.305	0.0	NA	0.0	0.0	0.00	0.00	0.00	59.5
All Vehicles		1389	5.0	1389	5.0	0.437	0.6	NA	0.5	3.4	0.05	0.03	0.06	50.2

**Table 14. SIDRA results for West Street crossover – Weekday PM peak period (10-year post-development including all other units at full occupancy – Year 2031)**

Movement Performance - Vehicles														
Mov ID	Turn	Demand veh/h	Flows HV %	Arrival Total veh/h	Flows HV %	Deg Satn v/c	Average Delay sec	Level of Service	95% Back of Queue Vehicles veh	Back of Queue Distance m	Prop Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed km/h
South: West St (S)														
2	T1	722	6.0	722	6.0	0.432	0.8	LOS A	0.8	6.2	0.10	0.02	0.14	42.5
3	R2	19	2.0	19	2.0	0.432	14.0	LOS B	0.8	6.2	0.10	0.02	0.14	29.2
Approach		741	5.9	741	5.9	0.432	1.1	NA	0.8	6.2	0.10	0.02	0.14	41.8
East: Crossover 2 (E)														
4	L2	25	2.0	25	2.0	0.173	4.3	LOS A	0.5	3.8	0.83	0.83	0.83	8.5
6	R2	13	2.0	13	2.0	0.173	38.4	LOS E	0.5	3.8	0.83	0.83	0.83	4.7
Approach		38	2.0	38	2.0	0.173	15.7	LOS C	0.5	3.8	0.83	0.83	0.83	7.4
North: West St (N)														
7	L2	3	2.0	3	2.0	0.002	5.1	LOS A	0.0	0.0	0.00	0.67	0.00	25.0
8	T1	785	3.0	785	3.0	0.406	0.0	LOS A	0.0	0.0	0.00	0.00	0.00	59.9
Approach		788	3.0	788	3.0	0.406	0.0	NA	0.0	0.0	0.00	0.00	0.00	59.6
All Vehicles		1567	4.3	1567	4.3	0.432	0.9	NA	0.8	6.2	0.07	0.03	0.09	47.3



**Table 15. SIDRA results for West Street/ Peel Terrace 3 Legs roundabout intersection – Weekday AM peak period (10-year post-development including all other units at full occupancy – Year 2031)**

Movement Performance - Vehicles													
Mov ID	Turn	Demand Flows	Arrival Flows	Deg Satn	Average Delay	Level of Service	95% Back of Queue Vehicles	95% Back of Queue Distance	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed	
		Total veh/h	HV % veh/h	Total HV %	v/c	sec	veh	m				km/h	
South: West St (S)													
2	T1	581	3.0	581	3.0	0.580	3.9	LOS A	6.7	47.7	0.42	0.51	36.2
3	R2	197	1.0	197	1.0	0.580	6.3	LOS A	6.7	47.7	0.42	0.51	25.8
Approach		778	2.5	778	2.5	0.580	4.5	LOS A	6.7	47.7	0.42	0.51	34.6
East: Peel Tce													
4	L2	139	5.0	139	5.0	0.274	7.1	LOS A	1.8	13.2	0.71	0.78	18.0
6	R2	57	16.0	57	16.0	0.274	9.5	LOS A	1.8	13.2	0.71	0.78	27.2
Approach		196	8.2	196	8.2	0.274	7.8	LOS A	1.8	13.2	0.71	0.78	22.0
North: West St (N)													
7	L2	84	6.0	84	6.0	0.513	7.4	LOS A	4.3	32.1	0.62	0.64	29.2
8	T1	435	8.0	435	8.0	0.513	7.1	LOS A	4.3	32.1	0.62	0.64	29.2
Approach		519	7.7	519	7.7	0.513	7.1	LOS A	4.3	32.1	0.62	0.64	29.2
All Vehicles		1493	5.0	1493	5.0	0.580	5.9	LOS A	6.7	47.7	0.53	0.59	31.2

**Table 16. SIDRA results for West Street/ Peel Terrace 3 Legs roundabout intersection – Weekday PM peak period (10-year post-development including all other units at full occupancy – Year 2031)**

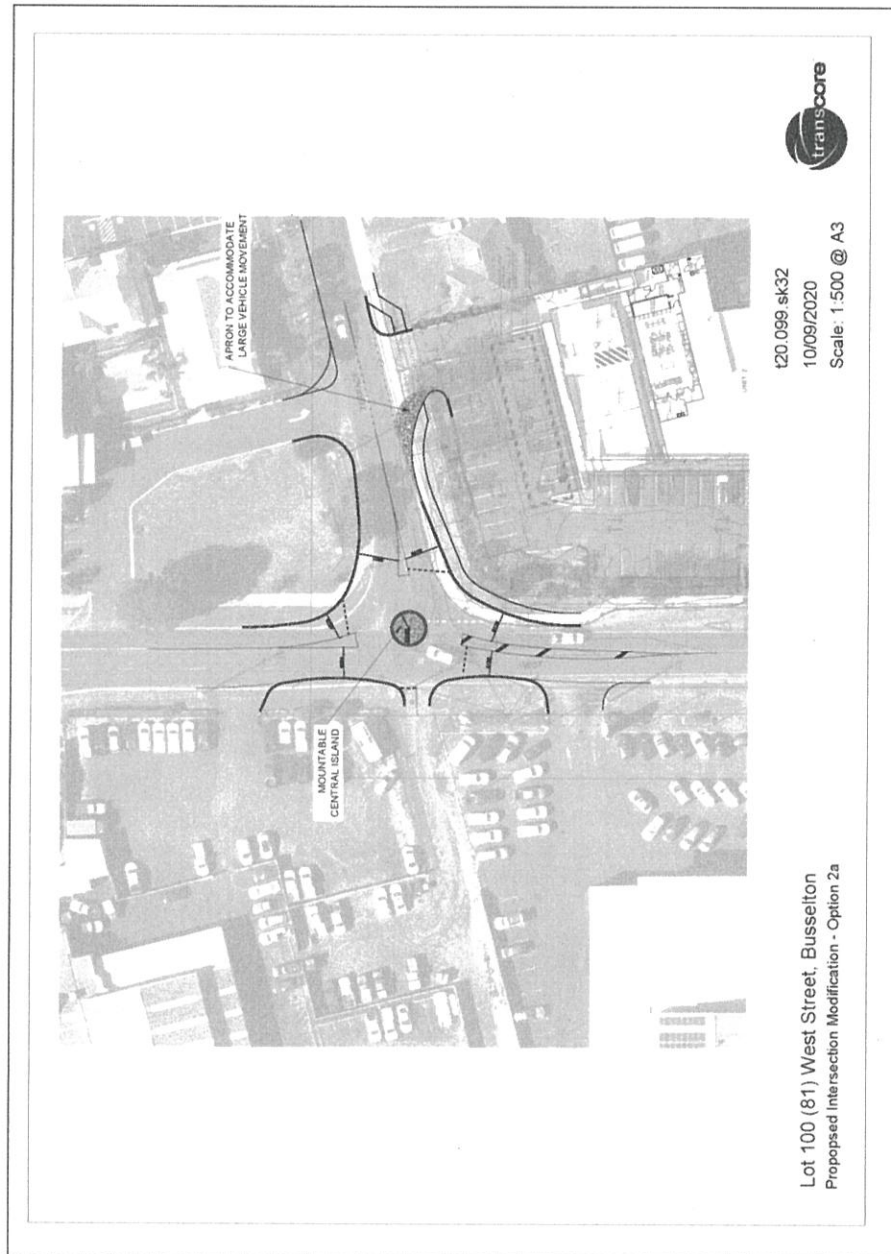
Movement Performance - Vehicles													
Mov ID	Turn	Demand Flows	Arrival Flows	Deg Satn	Average Delay	Level of Service	95% Back of Queue Vehicles	95% Back of Queue Distance	Prop. Queued	Effective Stop Rate	Aver. No. Cycles	Average Speed	
		Total veh/h	HV % veh/h	Total HV %	v/c	sec	veh	m				km/h	
South: West St (S)													
2	T1	527	6.0	527	6.0	0.553	3.9	LOS A	6.3	45.8	0.41	0.51	35.9
3	R2	207	1.0	207	1.0	0.553	6.2	LOS A	6.3	45.8	0.41	0.51	25.8
Approach		735	4.6	735	4.6	0.553	4.5	LOS A	6.3	45.8	0.41	0.51	34.2
East: Peel Tce													
4	L2	204	3.0	204	3.0	0.427	9.4	LOS A	3.2	23.1	0.86	0.91	15.0
6	R2	55	11.0	55	11.0	0.427	11.8	LOS B	3.2	23.1	0.86	0.91	25.0
Approach		259	4.7	259	4.7	0.427	9.9	LOS A	3.2	23.1	0.86	0.91	18.2
North: West St (N)													
7	L2	142	2.0	142	2.0	0.693	8.8	LOS A	8.2	58.5	0.78	0.71	27.5
8	T1	584	3.0	584	3.0	0.693	8.4	LOS A	8.2	58.5	0.78	0.71	27.5
Approach		726	2.8	726	2.8	0.693	8.5	LOS A	8.2	58.5	0.78	0.71	27.5
All Vehicles		1720	3.9	1720	3.9	0.693	7.0	LOS A	8.2	58.5	0.63	0.65	28.9

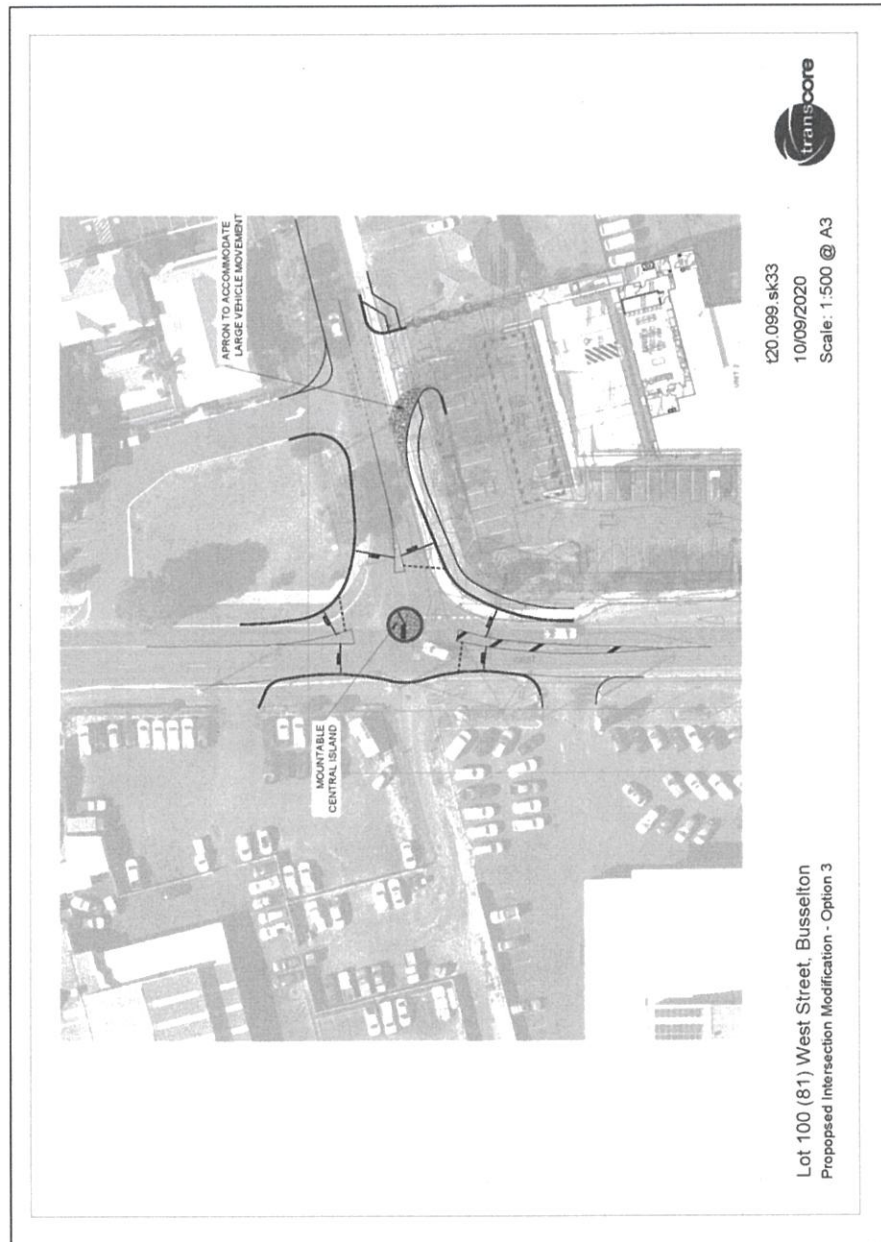


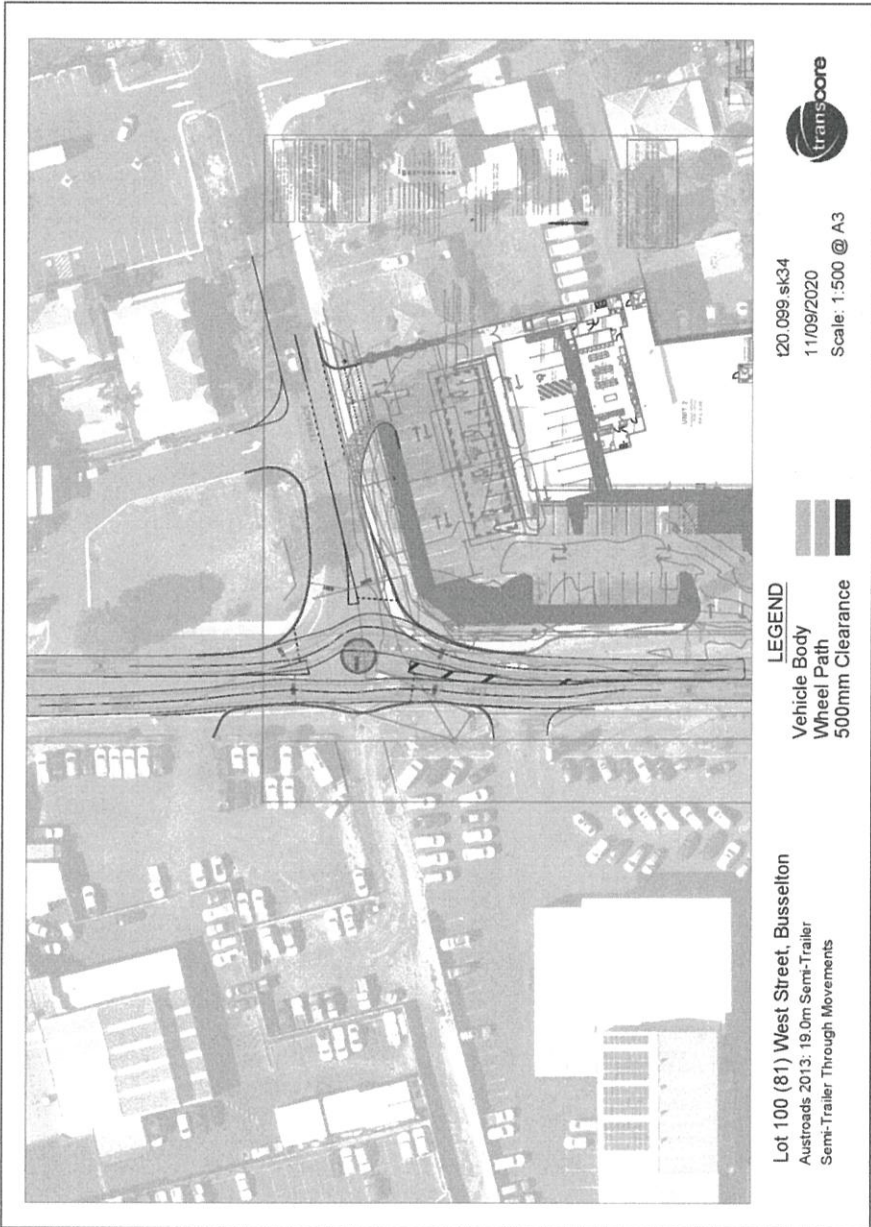
## Appendix E

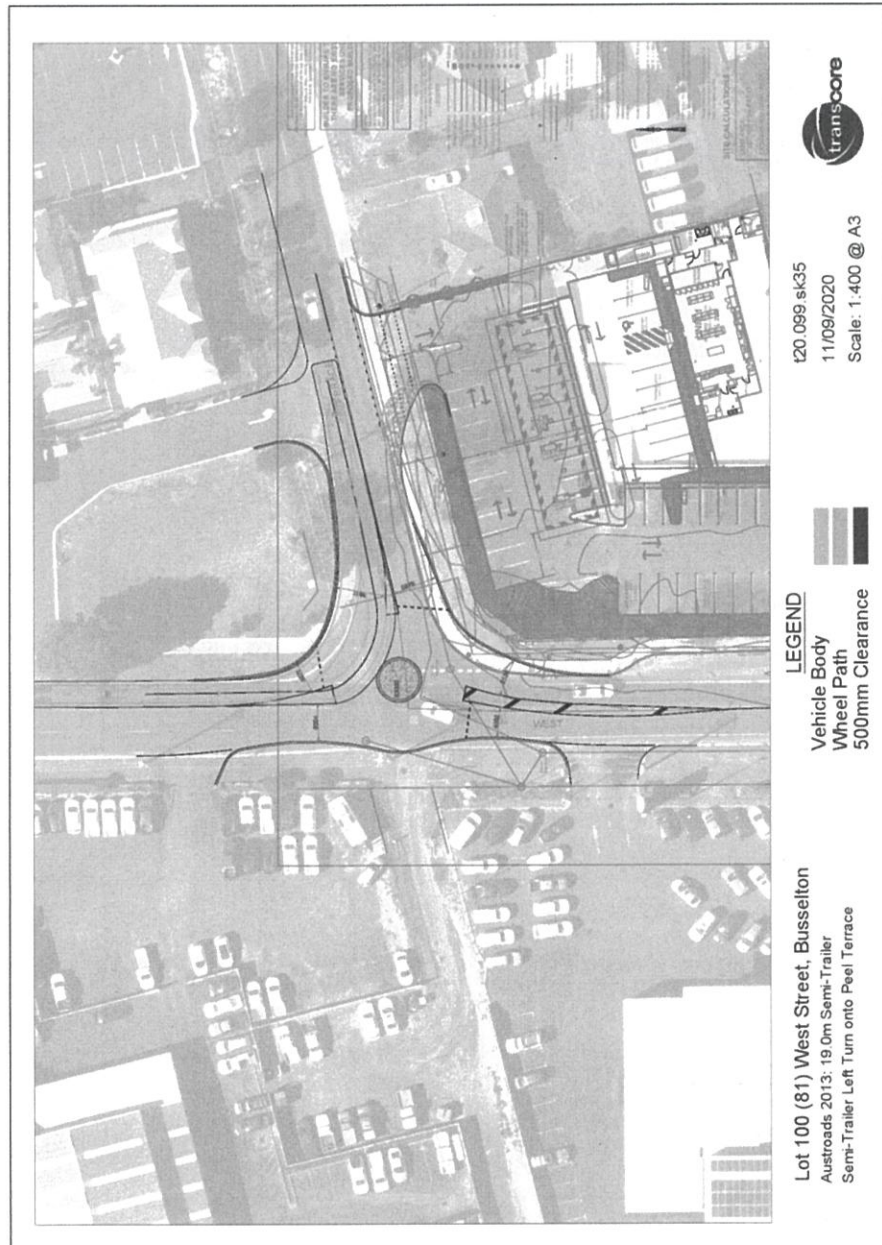
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### PROPOSED MINI-ROUNABOUT INTERSECTION DESIGNS AND TURN PATHS

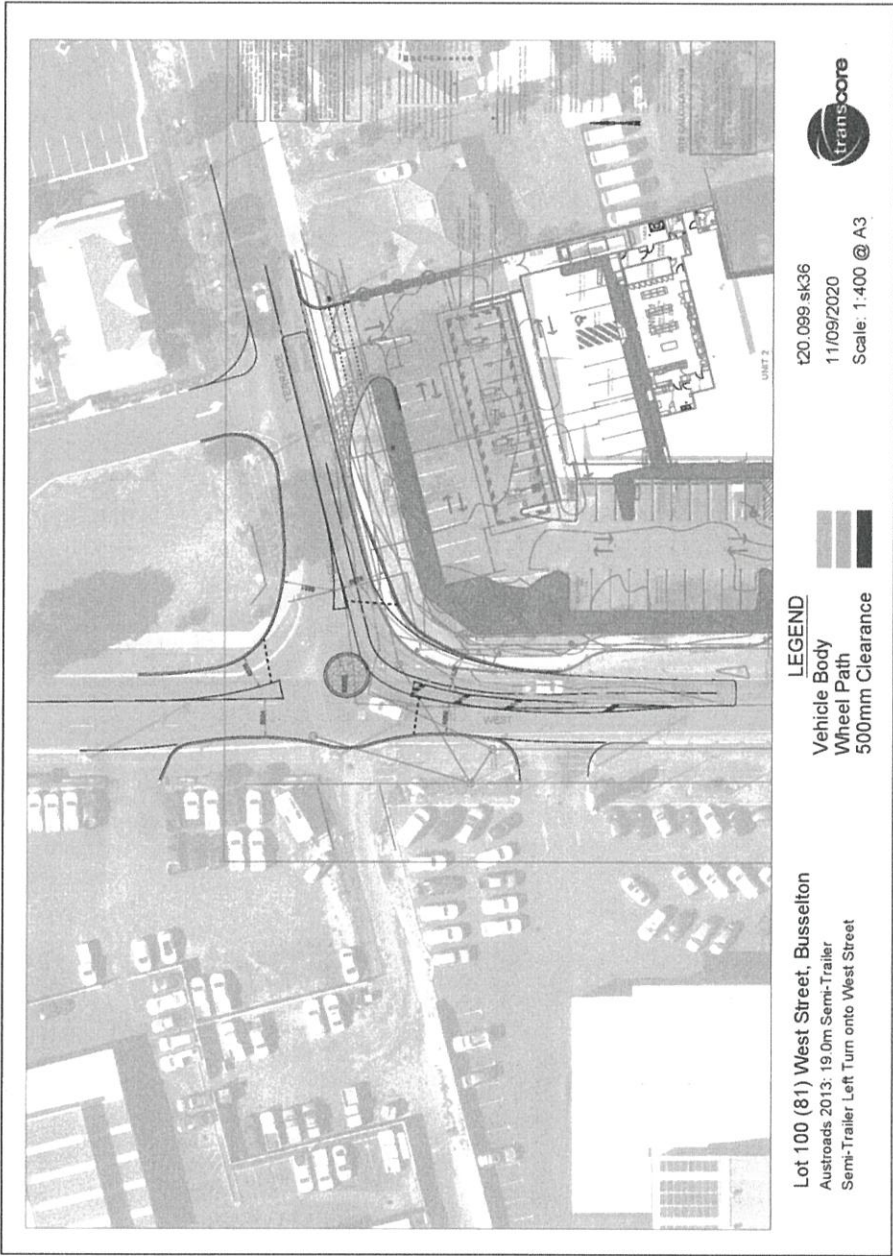


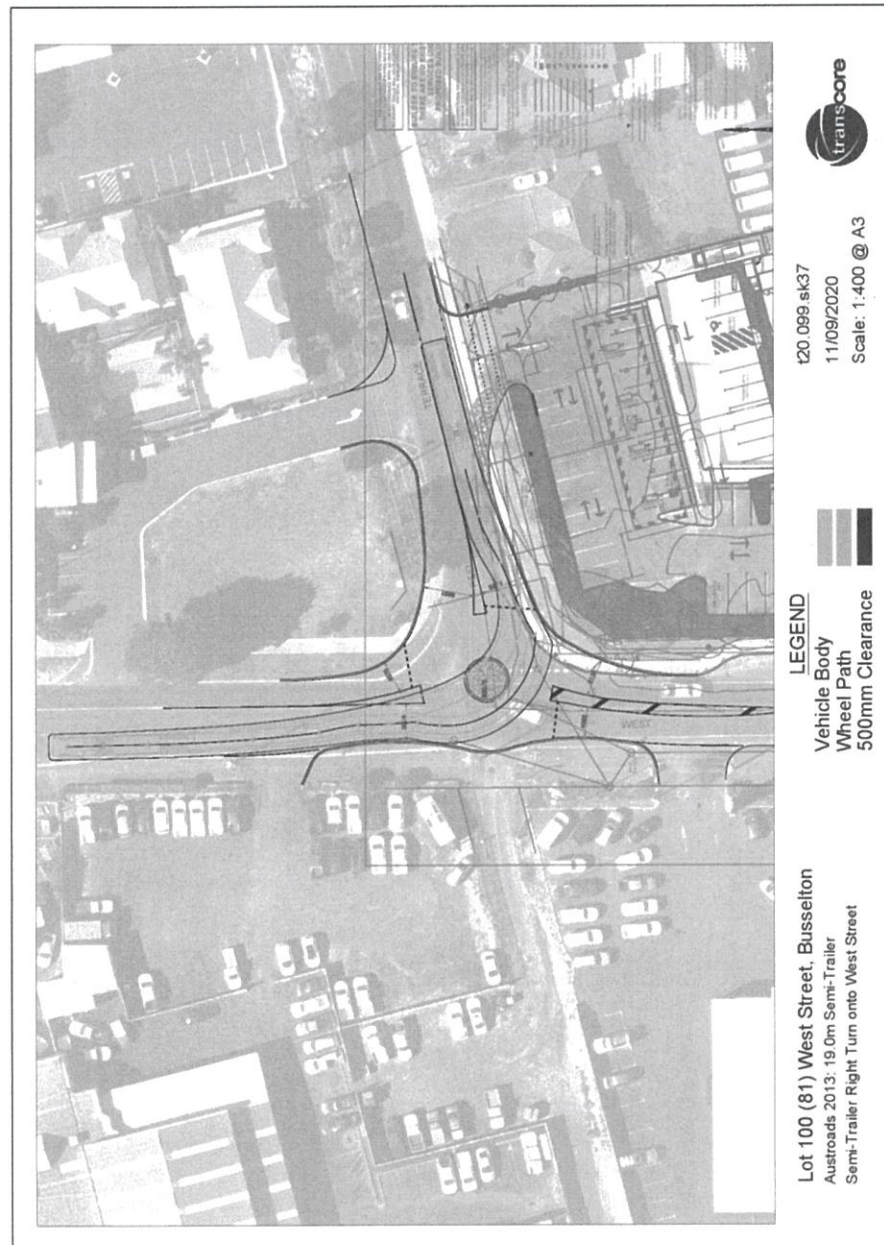


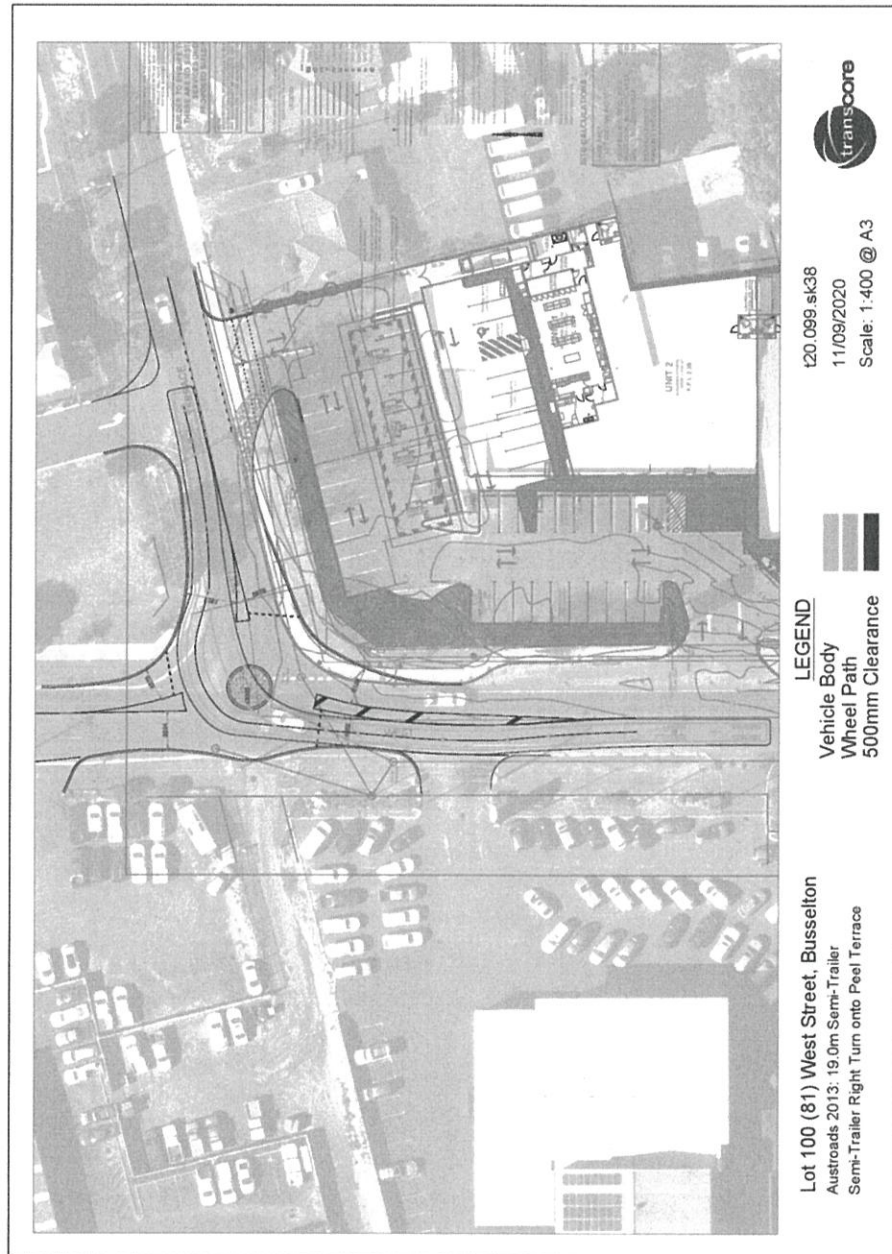














## Technical Memorandum



<b>To</b>	Daniell Abrahamse, City of Busselton	<b>From</b>	Andreas Wang, Cardno
<b>CC</b>	Oliver Darby, City of Busselton Ray Cook, Cardno	<b>Date</b>	14 September 2020
<b>Project</b>	CW1140900 - Proposed Petrol Station Access Modelling	<b>Location</b>	Perth
<b>Subject</b>	Results from Modelled Access Scenarios		
<b>Action Required</b>	NA	<b>Attachments</b>	NA

### 1 Introduction

Cardno has been engaged by the City of Busselton to undertake a traffic modelling exercise to evaluate the performance of the intersection of West Street / Peel Terrace under a number of different access scenarios for the proposed petrol filling station at the south-eastern corner of West Street / Peel Terrace.

The site, and associated access locations, is shown in **Figure 1-1**.

Figure 1-1 Study Area



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## 2 Scenarios Modelled

The following scenarios have been modelled as part of this modelling exercise:

- > **Scenario 1:** existing AM and PM peak hour volumes (i.e. no petrol station).
- > **Scenario 2:** as per Scenario 1, with the additional traffic generated by the proposed petrol station.
- > **Scenario 3:** as per Scenario 2 but with Access 2 limited to left-in, left-out turn movements.
- > **Scenario 4:** as per Scenario 3 but with a roundabout at the intersection of West Street / Peel Terrace.

### 2.1 Data Sources

#### 2.1.1 Intersection Traffic Volumes

The traffic turn volumes for the intersection of West Street / Peel Terrace for existing AM and PM traffic volumes were sourced from Section 7.3 of the Revised Transport Impact Assessment (Transcore, Rev r01f, dated July 2020).

#### 2.1.2 Development Traffic Generation

The traffic generation for the proposed development was sourced from Section 7.0 of the Revised Transport Impact Assessment (Transcore, Rev r01f, dated July 2020).



## Technical Memorandum



### 3 Traffic Modelling

#### 3.1 Model Area

The model area is shown in **Figure 3-1** and comprises of a section of West Street, a section of Peel Terrace, and Accesses 1 and 2.

Figure 3-1 Model Area



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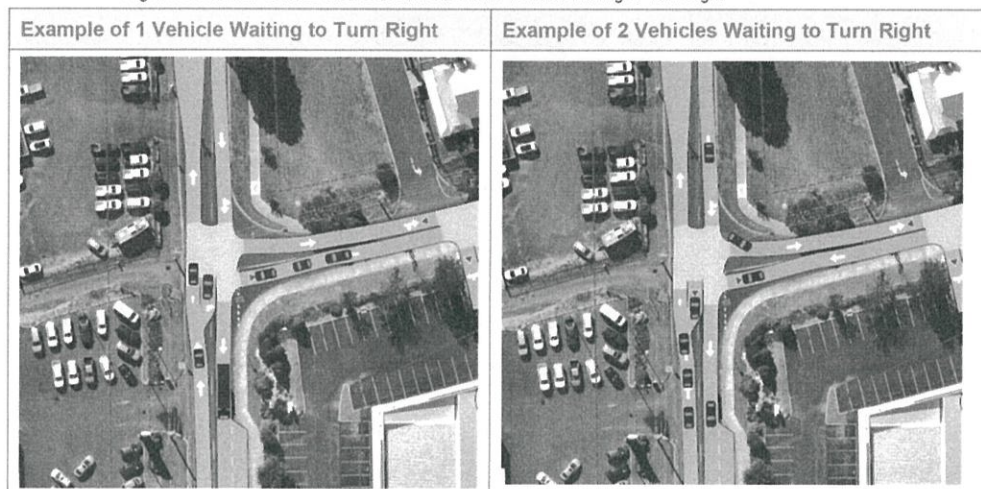


### 3.2 Vehicle Parameters and Behaviour

The vehicle and model parameters were set up in accordance with the Main Roads Western Australia Operational Modelling Guidelines.

While the existing intersection form of West Street / Peel Terrace does not include any dedicated turn lanes, the model was set up in a manner that allowed northbound vehicles to drive around a single stationary vehicle waiting to turn right from West Street to Peel Terrace as the road is considered sufficiently wide to allow for these movements. However, if more than 1 vehicle is waiting to turn right, the northbound vehicles are not able to drive around both of these vehicles. Examples of these vehicle behaviours are provided in Figure 3-2.

Figure 3-2 Left: Northbound vehicles driving around Stationary Vehicle waiting to Turn Right  
Right: Northbound vehicles unable to drive around 2 Vehicles waiting to Turn Right



## Technical Memorandum



### 4 Model Results

The intersection performance was measured in terms of Level of Service (LOS), which is a qualitative measure describing operational conditions within a traffic stream and the perception by motorists and/or passengers. The different levels of service can generally be described as shown in **Table 4-1**.

Table 4-1 Level of Service (LoS) Performance Criteria

LOS	Description	Signalised Intersection	Unsignalised Intersection*
A	Free-flow operations (best condition)	≤10 sec	≤10 sec
B	Stable flows (slight delays)	10-20 sec	10-15 sec
C	Stable flows (acceptable delays)	20-35 sec	15-25 sec
D	Approaching unstable flow	35-55 sec	25-35 sec
E	Unstable flow (intolerable delays)	55-80 sec	35-50 sec
F	Forced flow (queues fail to clear)	≥80 sec	≥50 sec

\* Does not include delays for through movements or left turns from major roads as per HCM2010 definitions

The model results for each of the modelled scenarios are summarised in **Table 4-2**.

Table 4-2 West Street / Peel Terrace Intersection LOS Summary for Scenarios 1-4

LOS		Scenario 1		Scenario 2		Scenario 3		Scenario 4	
		Approach	Intersection	Approach	Intersection	Approach	Intersection	Approach	Intersection
AM	East		B		B		B	A	A
	North	A		A		A		A	
	South	A		A		A		A	
PM	East			D		E	D	A	A
	North	A		A		A		A	
	South	A		A		A		A	

The model results suggest that the intersection is currently performing at LOS B during the AM peak hour and LOS C during the PM peak hour.

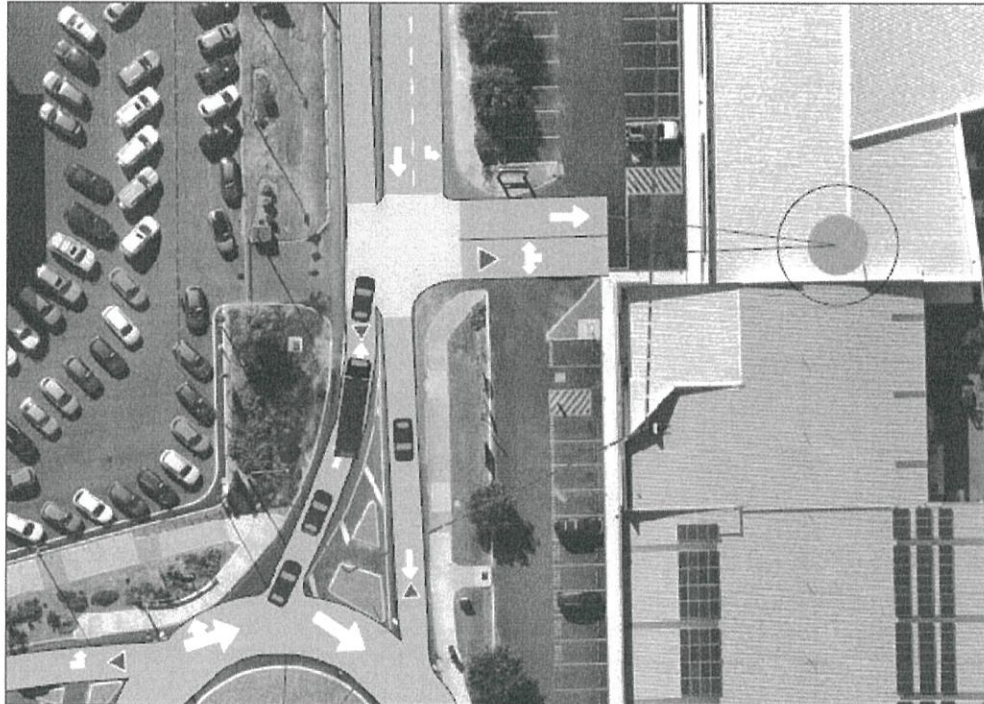
With the introduction of the additional traffic generated by the proposed petrol station (i.e. Scenario 2), the overall intersection LOS remains unchanged, although it is noted that the LOS for the eastern approach (Peel Terrace) deteriorates from LOS C to D during the PM peak hour. It is also noted that for Scenario 2, queueing at Access 2 was occasionally observed to extend to the roundabout further south as a result of stationary vehicles waiting to turn right from West Street to Access 2 (an example of this behaviour is provided in **Figure 4-2**) which reduces the safety and efficiency of West Street. Restricting the right-in movement from West Street at this Access is considered to be required to address this safety issue (which was tested under Scenario 3).



## Technical Memorandum



Figure 4-2 Queueing at Access 2 Extending to West Street Roundabout



With the restrictions to the turn movements at Access 2 under Scenario 3, the overall intersection LOS deteriorated to LOS D and the eastern approach (Peel Terrace) deteriorates to LOS E during the PM peak hour, as the turn restrictions at Access 2 will result in additional right-turning traffic at the intersection of West Street / Peel Terrace.

The model results for Scenario 4 (the intersection of West Street / Peel Terrace converted to a roundabout) suggest LOS A for all approaches during both the AM and PM peak hours.

## Technical Memorandum



### 5 Summary and Conclusions

Based on the results from the traffic modelling exercise undertaken by Cardno for a number of access scenarios for the proposed petrol filling station at the south-eastern corner of West Street / Peel Terrace, the following conclusions have been reached for each of the scenarios:

- > **Scenario 1** – The intersection of West Street / Peel Terrace is currently performing satisfactorily at LOS B and LOS C during the AM and PM peak hours, respectively.
- > **Scenario 2** – With the additional traffic expected to be generated by the proposed petrol filling station, the overall intersection LOS remains unchanged, although it is noted that the LOS for the eastern approach (Peel Terrace) deteriorates from LOS C to D during the PM peak hour.
- > **Scenario 3** – If turn restrictions are imposed to Access 2 to only allow left-turn movements, the overall intersection LOS deteriorates to LOS D and the eastern approach (Peel Terrace) deteriorates to LOS E during the PM peak hour, as the turn restrictions will result in additional right-turning traffic at the intersection of West Street / Peel Terrace.
- > **Scenario 4** – The conversion of the of the intersection to a roundabout form will result in LOS A for the intersection during both the AM and PM peak hours.

Based on the above, an upgrade to the intersection of West Street / Peel Terrace (such as the roundabout modelled in Scenario 4) will be required to ensure satisfactory intersection performance. As previously noted, it is considered necessary to restrict the turn movements at Access 2 to only allow left-in and left-out turn movements, in order to mitigate the risk of queues extending from this Access to the roundabout further south.





## Water quality protection note no. 56

December 2018

# Tanks for fuel and chemical storage near sensitive water resources

## Scope

This water quality protection note (WQPN) provides best management practices for liquid chemical and fuel storage tanks in and near sensitive water resources (see WQPN no. 4: *Sensitive water resources* for a definition). It applies to tanks, drums and intermediate bulk containers – including pipework fittings and filling and dispensing apparatus – that are:

- 250 litres and above in capacity
- permanent and temporary
- above-ground and underground
- outside or within another structure (e.g. shipping container, shed, trailer).

It replaces:

- WQPN 56: Tanks for elevated chemical storage (2006)
- WQPN 58: Tanks for temporary elevated chemical storage (2009)
- WQPN 60: Tanks for mobile fuel storage in public drinking water source areas (2013)
- WQPN 61: Tanks for ground level chemical storage (2008)
- WQPN 62: Tanks for underground chemical storage (2013)
- WQPN 64: Tanks – closure of underground storage (2013).

This note does not apply to solids, gas, water or wastewater storage. Transport and handling of chemicals and fuels are addressed in WQPN no. 65: *Toxic and hazardous substances*. Standard information to be read in conjunction with this note is in WQPN no. 3: *Using water quality protection notes*.

## Relevant legislation

Fuel and chemical storage in Western Australia (WA) is regulated via the following legislation:

- *Occupational Safety and Health Act 1984*
- Environmental Protection (Controlled Waste) Regulations 2004 (managed by Department of Water and Environmental Regulation)

Attachment F DWER Water Quality Protection Note No. 49 -  
Service Station and 56 - Tanks for Fuel and Chemical Storage  
near Sensitive Water Resources

- *Dangerous Goods Safety Act 2004* and Dangerous Goods Safety (Storage and Handling of Non-Explosives) Regulations 2007 (managed by Department of Mines, Industry Regulation and Safety).

Fuel and chemical storage in public drinking water source areas (PDWSAs) is covered by the *Metropolitan Water Supply Sewerage and Drainage Act 1909* and associated 1981 by-laws, and the *Country Areas Water Supply Act 1947* and associated 1957 by-laws. For consistency, and because updated legislation is planned, some of the requirements of the metropolitan act and by-laws are extended to all PDWSAs in WA as best management practices to help protect drinking water quality and public health.

## Water quality contamination risks

Tanks can cause contamination if the fuels and chemicals they contain escape into the environment, posing risks to ecosystems in waterways and groundwater, and to public health if they enter stormwater or recreational waters.

Chemicals and fuels that enter a drinking water source can be harmful to the health of people and animals consuming the water. Some contaminants may pose a risk even at very low concentrations, and water treatment processes cannot be guaranteed to remove all contaminants. Some chemicals, at certain concentrations, can affect people's health, causing illness, hospitalisation and even death. For example, benzene (a petroleum hydrocarbon) is carcinogenic (NHMRC & NRMCC 2011). For these reasons, systems need to be developed, established and followed to ensure fuel and chemicals are correctly stored and used.

For general information about protecting water quality, see WQPN no. 8: *Further reading*.

## Recommendations

Before installing fuel and chemical storage tanks, we recommend that you:

- consider alternative energy sources (such as solar or gas) that pose a lower risk to sensitive water resources before deciding to store fuel
- consider alternatives to using chemicals, such as using steam for weed control, to avoid the need to store chemicals.

If a tank is required, we recommend the following best management practices to protect sensitive water resources.

### Location

#### *Within public drinking water source areas*

- To avoid the risk of contamination, consider locations outside of PDWSAs for fuel and chemical storage and handling. For example, can vehicles and machinery be transported outside the PDWSA to be refuelled?
- If tanks must be placed within PDWSAs, see Table 1 for requirements.

To find out what PDWSAs are and how the department manages them, see Strategic policy: *Protecting public drinking water sources in Western Australia* and WQPN no. 25: *Land use compatibility tables for public drinking water source areas*.

Table 1: Requirements for fuel and chemical tanks in PDWSAs

Type of tank	P1	P2	P3
Above-ground tanks (no portion of the tank is on or below the ground)	Incompatible <sup>1</sup>	<p>Compatible with conditions:</p> <ul style="list-style-type: none"> <li>Outside wellhead protection zones (WHPZs)<sup>2</sup></li> <li>Capacity of 5000 L or less<sup>3</sup></li> <li>Outside reservoir protection zones (RPZs). If this is not possible then 100 m away from centreline of waterways and less than 250 L capacity</li> <li>Best management practices as outlined in the rest of this note</li> </ul>	<p>Compatible with conditions:</p> <ul style="list-style-type: none"> <li>Outside WHPZs and RPZs. If this is not possible, then 100 m away from bore or centreline of waterway and less than 250 L capacity</li> <li>Best management practices as outlined in the rest of this note</li> </ul>
Underground tanks (the whole tank or a portion of it is on or below the ground)	Incompatible <sup>4</sup>	Incompatible <sup>4</sup>	<p>Compatible with conditions:</p> <ul style="list-style-type: none"> <li>Outside RPZs<sup>5</sup></li> <li>100 m away from bores and the centreline of waterways<sup>5</sup></li> <li>Outside WHPZs; if not possible, then less than 250 L capacity</li> <li>2 m separation to maximum seasonal groundwater table</li> <li>Best management practices as outlined in the rest of this note</li> </ul>

<sup>1</sup> This land use is incompatible unless special circumstances apply (see 'Special circumstances' on page 8 of WQPN no. 25: *Land use compatibility tables for public drinking water source areas*). Subject to confirmation of these special circumstances, this land use may be considered to be compatible with conditions if it is directly associated with a primary land use that is compatible with conditions or acceptable with the applicable priority area. If these circumstances apply and management practices are acceptable, tanks must be located outside WHPZs<sup>2</sup> and RPZs and be 5000 L or less in capacity<sup>3</sup>.

<sup>2</sup> Under the Metropolitan Water Supply, Sewerage and Drainage By-laws 1981 ('the by-laws') (5.6.2), above ground tanks are prohibited in P1 and P2 WHPZs.

<sup>3</sup> Under the by-laws (5.6.5), above ground tanks over 5000 L require Minister for Water approval.

<sup>4</sup> Under the by-laws (5.6.2), underground tanks are prohibited in P1 and P2 areas of an underground water pollution control area (UWPCA).

<sup>5</sup> Under the by-laws (4.6.5.1 and 5.5.4), underground tanks are prohibited in RPZs and within 100 m of a bore or centreline of a waterway.



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*Waterways*

- Tanks should be located above the 1 per cent annual exceedance probability (AEP) flood level. To find out flood areas within Western Australia, visit [www.data.wa.gov.au](http://www.data.wa.gov.au).
- Areas subject to seasonal inundation or waterlogging should be avoided.
- Maintain an adequate buffer to help prevent contamination in the event of a fuel or chemical spill, between the tank and any waterways (including their foreshore areas). Refer to Appendix C: *Is a foreshore area sufficient to protect water quality in the waterway?* of Operational policy 4.3: *Identifying and establishing waterways foreshore areas*.
- For any land- or water-based developments or activities near the Swan, Canning, Helena or Southern rivers, please contact the Department of Biodiversity, Conservation and Attractions for special requirements.

*Wetlands*

- To find out the locations of wetlands, visit [www.data.wa.gov.au](http://www.data.wa.gov.au).
- For advice on wetland management requirements, contact your local government in the first instance, or the Department of Biodiversity, Conservation and Attractions.

*Landscape*

- Rocky slopes, steep slopes and land prone to erosion are not suitable for fuel and chemical storage tanks.

*Other land uses*

- Separation distances between your proposed land use or activity and sensitive land uses – such as urban areas – may apply, as per the Environmental Protection Authority's Guidance statement no. 3: *Separation distances between industrial and sensitive land uses*.

**Approvals**

- Please refer to WQPN no. 14: *Statutory approvals* for a list of approvals that you may need to obtain before commencing your proposed development or activity, and which agency is responsible for them.
- WQPN no. 18: *Information the department requires to assess a proposed development or activity* provides a list of what you may need to submit to our department.

**Design**

- Tanks should be designed in accordance with the appropriate Australian Standards, such as:
  - AS 1692:2006 *Steel tanks for flammable and combustible liquids*
  - AS 1940:2017 *The storage and handling of flammable and combustible liquids*
  - AS 3735:2001 *Concrete structures retaining liquids*
  - AS/NZS 4766:2006 *Polyethylene storage tanks for water and chemicals*



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- AS 4897:2008 *The design, installation and operation of underground petroleum storage systems*
- AS 4944:2008 *Petroleum products – Pipeline, road tanker compartment and underground tank identification.*
- In addition, if the tank is in a PDWSA:
  - Effective secondary barriers need to be installed to contain the system. For example, double-containment tanks (including pipework) with engineering controls such as sensors and shutdown devices will help to minimise the risk to drinking water quality. See Department of Mines, Industry Regulation and Safety's *Storage and handling of dangerous goods – code of practice* (2010) and Australian Standard 1940:2017 *The storage and handling of flammable and combustible liquids* for more information.
  - An adequate containment system or bunding must prevent the escape of contaminants into the environment, including capacity for contingencies such as malfunctions, firefighting water, storms and floods. Bunding is to be maintained in a good state of repair at all times. Consider installing enclosures or roofing to reduce the capacity required.
  - Manage fuel and chemical quantities so that only the required amounts are stored onsite.
  - A spill prevention kit should be readily accessible at all times.
  - Operators should be adequately trained and aware of the risks in PDWSAs.

**Operation and management**

*Toxic and hazardous substances*

- Handling and use of chemicals and fuels should be in accordance with WQPN no. 65: *Toxic and hazardous substances*, and the following Australian Standards:
  - AS 1940: 2017 *Storage and handling of flammable and combustible liquids*
  - AS 3780:2008 *Storage and handling of corrosive substances*
  - AS/NZS 4081:2001 *The storage and handling of liquid and liquefied polyfunctional isocyanates*
  - AS 4326:2008 *Storage and handling of oxidizing agents*
  - AS/NZS 4452:1997 *Storage and handling of toxic substances*
  - AS 4681:2000 *The storage and handling of Class 9 (miscellaneous) dangerous goods and articles*
  - others as appropriate.
- If a tank's contents are dangerous goods, ensure that tank placarding is consistent with Dangerous Goods Safety (General) Regulations 2007. If the contents are not dangerous goods, it is advisable to identify the contents for occupational health and safety purposes. This may include using a label or sign.

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*Stormwater*

- Uncontaminated stormwater from roofs and clean hardstand areas should be directed away from potentially contaminated areas and bunding capture zones, and managed as recommended in our *Stormwater management manual for Western Australia* (generally infiltrated onsite).
- Stormwater that may be contaminated should be treated and reused in the operations if appropriate, or appropriately disposed of (outside PDWSAs).
- See WQPN no. 52: *Stormwater management at industrial sites* for more information.

*Vehicles*

- Any vehicle or machinery servicing and repairs should be in accordance with WQPN no. 28: *Mechanical servicing and workshops*.
- Wash down of vehicles and any mechanical equipment should be undertaken as outlined in WQPN no. 68: *Mechanical equipment wash down*.
- All contaminated wash down water should be directed to an appropriate wastewater treatment system or disposed of appropriately (outside PDWSAs).

*Monitoring and maintenance*

- The tank system should be maintained in a good state of repair at all times to reduce the risk of leaks to the environment. This can be achieved via a regular inspection, testing and maintenance program. Refer to Australian Standard AS 4971:2008 *Inspection and integrity monitoring of large steel vertical petroleum storage tanks*.
- Administrative controls should be in place to ensure that the risk of contamination is managed, such as regular housekeeping and good operating procedures (Department of Mines and Petroleum 2010).
- There should be a system in place for immediately reporting and addressing leaks and spills. See *Incident response* heading for more information.
- Adequate security should be in place to deter unauthorised entry and possible vandalism, which could lead to damage of tanks and leaks to the environment.

*Personnel*

- If operating within a PDWSA, staff should be aware of this and how important it is to protect that drinking water source, and understand the incident response procedures. See our brochure *Living and working in PDWSAs*, and make this available to your staff.
- Staff should be trained so that they are able to follow required procedures in a safe manner. Training should include reference to the relevant *safety data sheets*.

*Incident response*

- Fuel or chemical spills or leaks that escape containment should immediately be reported to the department's Pollution Watch Hotline (1300 784 782) and if in a PDWSA, the Water Corporation (13 13 75).

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- Dangerous goods incidents should be reported to the Department of Mines, Industry Regulation and Safety, see *Reporting dangerous goods incidents – Guideline* (Department of Mines and Petroleum 2011).
- A contingency plan should be available to address emergency situations such as accidents, fires, spills, leaks and vandalism that could impact on the drinking water source. See WQPN no. 10: *Contaminant spills – emergency response* for more information.

#### Decommissioning tanks

- Careful management is required when emptying and disposing of the contents of tanks (and pipework) to ensure none escapes to the environment. Tanks and pipework need to be fully emptied into suitable storage vessels and transported off-site for correct disposal. Please contact the department for suitable disposal locations and methods.
- Contact the Department of Mines, Industry Regulation and Safety for guidance for decommissioning tanks.
- For closure of underground fuel tanks, refer to Australian Standard AS 4976:2008 *The removal and disposal of underground petroleum storage tanks*.

#### Contaminated sites

- Leaks or spills from fuel or chemical storage tanks can cause a site to become contaminated. Please contact the department's contaminated sites branch for more information about reporting and managing contaminated sites.

## References

Further reading is available in WQPN no. 8: *Further reading*. References cited in this note are as follows:

Department of Health 2017, *A compilation of Australian Standards on water holding tanks*, Government of Western Australia, Perth.

Department of Mines and Petroleum (now known as Department of Mines, Industry Regulation and Safety) 2010, *Storage and handling of dangerous goods – code of practice*, Government of Western Australia, Perth, available [www.dmir.wa.gov.au](http://www.dmir.wa.gov.au).

—2011, *Reporting dangerous goods incidents – Guideline*, Government of Western Australia, Perth, available [www.dmir.wa.gov.au](http://www.dmir.wa.gov.au).

Department of Water (now known as Department of Water and Environmental Regulation) various dates, Water quality protection notes (WQPNs), Government of Western Australia, Perth, available [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au).

- WQPN no. 3: *Using water quality protection notes*
- WQPN no. 4: *Sensitive water resources*
- WQPN no. 8: *Further reading*
- WQPN no. 10: *Contaminant spills – emergency response*
- WQPN no. 14: *Statutory approvals*
- WQPN no. 25: *Land use compatibility tables for public drinking water source areas*
- WQPN no. 28: *Mechanical servicing and workshops*



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- WQPN no. 65: *Toxic and hazardous substances*
- WQPN no. 68: *Mechanical equipment wash down*
- 2011, *Living and working in PDWSAs*, Government of Western Australia, Perth, available [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au).
- 2012, Operational policy 4.3: *Identifying and establishing waterways foreshore areas*, Government of Western Australia, Perth, available [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au).
- 2016, Strategic policy: *Protecting public drinking water sources in Western Australia*, Government of Western Australia, Perth, available [www.dwer.wa.gov.au](http://www.dwer.wa.gov.au).
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- Government of Western Australia 1909, *Metropolitan Water Supply Sewerage and Drainage Act*, Government of Western Australia, Perth, available [www.slp.wa.gov.au](http://www.slp.wa.gov.au).
- 1947, *Country Areas Water Supply Act*, Government of Western Australia, Perth, available [www.slp.wa.gov.au](http://www.slp.wa.gov.au).
- 1957, *Country Areas Water Supply By-laws*, Government of Western Australia, Perth, available [www.slp.wa.gov.au](http://www.slp.wa.gov.au).
- 1981, *Metropolitan Water Supply Sewerage and Drainage By-laws*, Government of Western Australia, Perth, available [www.slp.wa.gov.au](http://www.slp.wa.gov.au).
- 2004, *Environmental Protection (Controlled Waste) Regulations*, Government of Western Australia, Perth, available [www.slp.wa.gov.au](http://www.slp.wa.gov.au).
- 2004, *Dangerous Goods Safety Act*, Government of Western Australia, Perth, available [www.slp.wa.gov.au](http://www.slp.wa.gov.au).
- 2007, *Dangerous Goods Safety (Storage and Handling of Non-Explosives) Regulations 2007*, Government of Western Australia, Perth, available [www.slp.wa.gov.au](http://www.slp.wa.gov.au).
- National Health and Medical Research Council (NHMRC) & Natural Resource Management Ministerial Council (NRMCMC) 2011, *National water quality management strategy: Australian drinking water guidelines*, Australian Government, Canberra, available <https://www.nhmrc.gov.au/guidelines/publications/eh52>.
- Standards Australia 1997, *AS/NZS 4452:1997 Storage and handling of toxic substances*, SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).
- 2000, *AS 4681:2000 The storage and handling of Class 9 (miscellaneous) dangerous goods and articles*, SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).
- 2001, *AS 3735:2001 Concrete structures retaining liquids*, SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).
- 2001, *AS/NZS 4081:2001 The storage and handling of liquid and liquefied polyfunctional isocyanates* SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).



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- 2006, *AS 1692:2006 Steel tanks for flammable and combustible liquids*, SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).
- 2006, *AS/NZS 4766:2006 Polyethylene storage tanks for water and chemicals*, SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).
- 2008, *AS 3780:2008 Storage and handling of corrosive substances* SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).
- 2008 *AS 4326:2008 Storage and handling of oxidizing agents* SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).
- 2008, *AS 4897:2008 The design, installation and operation of underground petroleum storage systems*, SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).
- 2008, *AS 4944:2008 Petroleum products – Pipeline, road tanker compartment and underground tank identification*, SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).
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- 2008, *AS 4976:2008 The removal and disposal of underground petroleum storage tanks*, SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).
- 2017, *AS 1940:2017 The storage and handling of flammable and combustible liquids*, SAI Global, Sydney, available [www.standards.org.au](http://www.standards.org.au).

### Disclaimer

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Government of Western Australia  
Department of Water

## Water quality protection note 49

September 2013

*Looking after all our water needs*

### Service stations

#### Purpose

Service stations are considered an essential community facility in any developed society. They meet the fuel and basic vehicle maintenance needs of motorists. However they can pose contamination risks to water resources through:

- leakage of fuels from storage facilities, especially those located within single-walled underground tank systems
- spillage of engine coolant, fuel, hydraulic fluid, lubricants or solvents on the forecourt areas
- inappropriate containment or disposal of wastes such as car parts, batteries, tyres and fluids derived from mechanical servicing
- wastewater disposal from vehicle wash facilities.

This note is intended to inform industry operators, government officers, environmental consultants and community members on water quality protection aspects of service stations including initial planning, design, construction, operation and possible eventual closure.

Appendices provide additional background and technical advice as follows:

- A. Information on sensitive water resources, note limitations and updates
- B. Relevant statutes and administering agencies
- C. Data needed for assessing developments, followed by references and further reading, note disclaimer and how to provide feedback.

#### Scope

This note applies to the establishment and upgrade of service stations, fuel dispensing outlets and associated mechanical repair and vehicle wash facilities. The recommendations aim to cover the life cycle of these facilities.

The note is not intended to cover fuel storage depots, restaurants, roadhouses or convenience stores that sell food, drinks and household goods to service station customers.

## Advice and recommendations

### Location

- 1 Service stations and associated facilities should be established on land with the following attributes:
  - a zoned for a service station in the current local planning scheme
  - b accessible to essential services including water, communications, drainage, waste treatment and recycling facilities
  - c having sufficient onsite area to provide for the safe and effective management of any vehicle servicing materials and waste products
  - d adequate land area available for any intended future expansion of the premises
  - e located outside sensitive environments where service stations are excluded by statute, government plan or policy
  - f where the site owner has demonstrated that the risk contamination to the local environment is minimal
  - g appropriate separation (buffer) distances are provided to sensitive water resources (Appendix A).

### *Within proclaimed public drinking water source areas*

- 2 Within priority 1 (P1) and priority 2 (P2) areas of public drinking water source areas (PDWSAs), wellhead protection zones and reservoir protection zones, the establishment or expansion of service stations is incompatible with source protection objectives. The Department of Water will oppose development or expansion of service station facilities in these areas or zones.
- 3 Within priority 3 (P3) areas service stations are considered 'compatible with conditions', provided best practice environmental management is employed. Guidance on acceptable environmental management practice is given in this note or defined in project-specific conditions set by regulatory agencies with advice from the department. Under the water source protection by-laws, written approval from the department is needed before establishing any works within an underground water pollution control area. Our regional offices can provide PDWSA location information and approval procedures (see online information at <[www.water.wa.gov.au](http://www.water.wa.gov.au)> select *Contact us*).
- 4 Service stations should have a vegetated separation distance of at least 100 m to the full supply level of surface catchment reservoirs, enduring flow feeder streams and production bores providing public drinking water.

### *Near natural waterways*

Waterways managed by this department include all natural creeks, streams, brooks, rivers, inlets, estuaries and surface drainage systems.

- 5 Facilities should not be established on land subject to seasonal flooding, within defined flood plains or within waterway foreshore areas.



- 6 An adequate separation distance should be maintained between service stations and waterways (including foreshore areas) to protect the ecological and social values of the waterways and prevent degradation of water quality.
- 7 Foreshore areas are determined on the basis of the waterway values, vulnerability to threats and biophysical criteria as described in our Foreshore policy 1 – *Identifying the foreshore area*. Our Water note 23 and River restoration report 16, both titled *Determining foreshore reserves*, provide supporting information on defining foreshore areas (reference 5).
- 8 Natural vegetation buffers can improve water quality by filtering contaminated water before it enters a water body. Vegetation density and landform are important considerations when determining appropriate separation distances between land uses and waterways. For advice on buffer selection, see our Water quality protection note (WQPN) 6 *Vegetated buffers to sensitive water resources* (reference 5b).
- 9 Information on the location of sensitive water resources and waterway values is available from our local regional office (see <[www.water.wa.gov.au](http://www.water.wa.gov.au)> select *Contact us*). For location information online, see <[www.water.wa.gov.au](http://www.water.wa.gov.au)> select *Tools and data* > *Maps and atlases* > *Geographic data atlas*. These interactive maps show proclaimed *waterways management areas* in the southwest of Western Australia by opening the *Environment* layer. For general online information on waterways and guidance on best management practice select *Managing our water* > *Managing our rivers and estuaries*.
- 10 To seek development approval near natural waterways or any waters in a proclaimed management area, project details (Appendix C) should be provided and advice sought from the department's local regional office.

*Within proclaimed waterways management areas*

Five management areas have been declared under the *Waterways Conservation Act 1976* to provide special protection to some rivers, inlets and estuaries. These areas are considered especially vulnerable to degradation. They are the Albany Waterways, Avon River, Leschenault Inlet, Peel-Harvey Estuary and Wilson Inlet management areas.

- 11 Development approval from the department is required in proclaimed management areas. Proponents should contact our local regional office and provide projects details for assessment (Appendix C). To discuss any technical aspects, contact our Drainage and Waterways Branch in Perth by phone on 6364 6700.

*Disturbance to bed or banks of a waterway*

- 12 A permit from the department under the *Rights in Water and Irrigation Act 1914* may be required to undertake any works that will alter the bed or banks of a waterway within a proclaimed river, surface water management area or irrigation district. Permits, if granted, may contain conditions such as a requirement to stabilise waterway banks or restore waterway vegetation.



*Within the Swan River Trust management area*

- 13 The Swan River Trust is responsible for the management and protection of the Swan-Canning river system. Activities and development close to the Swan, Canning, Helena or Southern rivers are likely to have an effect on the waters of the river system. Any proposals within or abutting the trust's development control area (DCA) should be referred to the trust for assessment and response. For more detail, see online information at <[www.swanrivertrust.wa.gov.au](http://www.swanrivertrust.wa.gov.au)> or phone the Trust on 9278 0900 or email [planning@swanrivertrust.wa.gov.au](mailto:planning@swanrivertrust.wa.gov.au).

*Near conservation valued wetlands*

The Department of Environment Regulation regulates chemical management and contaminated sites to prevent harm to sensitive environments such as wetlands. Certain waters have been given a conservation status under Ramsar, *A directory of important wetlands in Australia* or state environmental protection policy provisions (Appendix A).

- 14 Wetlands require an adequate buffer to protect them from the potential harm associated with nutrients and other chemicals to maintain ecological processes and functions within the wetland. Buffer distances should be negotiated based on wetland values, local biophysical factors and protective management techniques used to maintain or restore the values of the wetland. Recommended buffer distances are provided in the *Position statement wetlands WRC 2001* (reference 3) and Water note 4 *Wetland buffers* (reference 5c).

Additional information on identifying wetland buffers is contained in Chapter B4 of the Environmental Protection Authority's Guidance statement 33 *Environmental guidance for planning and development* (reference 6).

- 15 The Department of Parks and Wildlife is the lead agency for the management and conservation of wetlands. Any development proposed within 200 m of a wetland (including lakes, sump-lands, damp-lands and palusplain) should be forwarded to their regional office for assessment, with supporting information addressing the environmental risks. For online advice see <[www.dpaw.wa.gov.au](http://www.dpaw.wa.gov.au)>.

*Private water supply sources*

- 16 Scientific studies should be used to define site-specific separation buffers. However the following recommendation should be used where these studies are not practical (such as for small scale developments or where a potential buffer zone is severely disturbed).
- 17 For surface domestic or stock water supply points, their primary feeder streams, production bores/wells and aquaculture ponds (excluding above ground tanks), the separation distance from the external boundary of operational areas should be a minimum of 100 m. For other water supply uses, the minimum separation distance should be 50 m.

*Other location constraints*

- 18 Any land subject to periodic flooding is incompatible with service stations unless earthworks approved by regulatory agencies is used to raise the site above the statistical average flood level with a recurrence interval of 100 years (reference 6).

- 19 Steep land (slopes exceeding 1 in 10) should be avoided unless engineering measures prevent soil movement and provide for effective drainage management.

**Project assessment and regulation**

- 20 Owners and/or developers of service stations in sensitive environments should:
- a follow the recommendations given in the Australian Standard 4897 *The design, installation and operation of underground petroleum storage systems* (reference 9)
  - b send a notice of intent with details of their proposal to the local government and the resources safety division of the Department of Mines and Petroleum for assessment.
- 21 Within sensitive water resource areas (see Appendix A), the notice of intent for any proposed or upgraded service station should be sent to this department for assessment and written response prior to any commitment to development of the project. It should include an environmental management plan with the following details (in addition to those recommended in Appendix C):
- a a layout plan showing all key infrastructure including:
    - underground fuel storage and associated pipe-work and venting
    - paved forecourts and fuel dispenser areas
    - tank fill point sites
    - other paved areas such as car parks, wash down areas and driveway facilities
    - any unpaved areas with poorly draining soils
    - any vehicle wash facilities or cafe facilities
    - all goods and waste holding and/or treatment facilities
    - structural measures to protect the environment
    - the stormwater management system for the site.
  - b a detailed description of how site stormwater will be managed, including the installation of petrol and oil separators, any fuel or chemical containment and treatment facilities proposed
  - c details of any nearby environmental features, such as bores, waterways or wetlands, likely to be affected by discharges from the site
  - d a proposal for the interim storage and disposal of workshop wastes
  - e detailed description of the wastewater management system for any mechanical equipment wash down facilities, see WQPN 68 (reference 5b)
  - f a contingency plan for chemical spills and emergencies. For more information see our WQPN 10 *Contaminant spills - emergency response* (reference 5b).

**Design of infrastructure**

- 22 Designers should use industry best practice measures to minimise any fuel or other contaminant access to stormwater drains or soakage (references 4, 5 and 9). Additional information is provided in the stormwater management section below.

- 23 Recommended best practice measures include the connection of site washrooms and toilets to reticulated sewerage (if practicable), the use of double-contained fuel storage tank systems with an interstitial leak monitoring space, fuel tanks established in stable compacted soils and a waste materials recycling plan implemented..
- 24 All pipe-work containing petroleum products should be double-contained, with the outer annulus where practical draining to a fire-resistant spill box that facilitates monitoring and fuel recovery. Pipe-work that only briefly contains petroleum products, such as tank fill and vent pipes, may be of single walled construction.

*Forecourts and fuel dispenser areas*

- 25 The fuel dispenser area and forecourt should be covered, paved and graded to contain polluted runoff. This runoff should drain via collection sumps and then to an appropriate contaminated stormwater treatment system as described later under *Stormwater management*.
- 26 Measures should be taken to prevent uncontaminated external surface water from entering the forecourt. These include:
- a kerbing or grade changes for paved areas
  - b installing and maintaining stormwater collection systems, such as grated diversion drains or soak wells, to intercept runoff that would otherwise enter the forecourt
  - c establishing soaks that collect and permit infiltration of stormwater.

*Fuel tanks*

- 27 Information on fuel tanks is provided in our WQPN 56 *Tanks for above ground chemical storage* and WQPN 62 *Tanks for underground chemical storage* (reference 5b).
- 28 The area around tank fill boxes should be graded to collect fuel spills within a containment sump area and should be designed to prevent external surface water from entering the sump area. Pipe-work should direct overflow from the sump to the contaminated stormwater treatment system.
- 29 Any fill box containment sumps should be covered, protected and ventilated to control fire risk and prevent the entry of stormwater when tanks are not being refilled.
- 30 Fuel or hazardous chemical storage may require a licence from the Department of Mines and Petroleum, see online information at <[www.dmp.wa.gov.au](http://www.dmp.wa.gov.au)> select *Resources safety > Dangerous goods*.

*Stormwater management*

- 31 Stormwater that may be contaminated should pass through a well-maintained litter and silt trap, then an appropriately designed and regularly maintained fuel and oil trap (such as a coalescing plate separator or treatment unit providing equivalent performance).
- 32 Waste solids from the water treatment process should be collected and disposed of outside any sensitive environment, in accordance with the requirements of the local government.



33 Treated stormwater should meet the following criteria:

- a for sewer disposal, with the written approval of the sewerage service provider
- b for on-site soakage disposal, guided by the national guideline criteria for the protection of water resource values and considering local environmental characteristics. Guideline criteria to protect the quality of water resources are given in the *Australian and New Zealand guidelines for fresh and marine water quality* and the *Australian drinking water guidelines* (reference 2).

34 Clean wastewater, that has been effectively treated and tested, may be discharged to:

- a on-site soak wells
- b on-site leach drains
- c a reticulated sewer, where available and accepted by the system service provider such as the Water Corporation.

Otherwise wastewater should be contained, then transported offsite for approved disposal or consigned to impervious evaporation basins.

35 All uncontaminated stormwater runoff, such as from the roof or paved parking areas, should be directed towards soak wells, soakage/evaporation basins or an offsite drainage system (if approved by the drain service provider).

36 Additional guidance on stormwater management in urban areas is provided in the *Stormwater management manual for WA*, Chapter 7, Section 2.2.8 *Maintenance of vehicles, plant and equipment (including washing)* (reference 5e).

#### *Vehicle service bays*

37 These bays should be located in secure weatherproof buildings with reinforced concrete flooring that is seal coated to contain spilt fluids. All discharged fluids should drain to a purpose built containment system, pending treatment, recycling or disposal to an approved facility.

38 Batteries and tyres (new or used) should be stored in a secure weatherproof area. This is to ensure they are protected from hazards such as vandalism, fire and chemical spillage. Used batteries and tyres should be disposed of off-site at an approved facility.

39 Any solid wastes, such as oil filters, brake pads or motor parts, should be placed in weatherproof bins before recycling or off-site disposal at an approved facility.

#### *Vehicle wash facilities*

40 These facilities should be located in weatherproof areas and on hardstand flooring to prevent the loss of wash water and waxes to the environment and to prevent dilution of wastewater by rainfall.

41 The wash down area should drain to a holding tank where solids and oils can be treated and removed prior to effluent recycle or disposal.



- 42 Treatment facilities may include sedimentation, facilities to break oily emulsions (typically chemical coagulation or dissolved air flotation) and the recovery of petroleum hydrocarbons (such as oil, grease, tar and detergents) for recycle or disposal.
- 43 Any treated wastewaters released into the environment via soakage or drains should be compatible with the values of local water resources. Information on the water quality criteria to protect environmental waters is given in the National water quality management strategy papers 4 and 6 (reference 2).

#### Site operation

##### *Management and monitoring*

- 44 A written maintenance and servicing schedule should be available for all wastewater management installations to ensure they function both continuously and effectively.
- 45 Operators should regularly inspect and record (at least monthly) the operation of onsite waste holding and treatment systems including fuel and oil traps, sediment basins, and fuel leakage detection systems. Any deficiencies should be corrected without delay.
- 46 Where waste matter has accumulated in management systems, it should be removed immediately and disposed of at sites approved by local government. For more advice on monitoring underground tanks, see our WQPN 62 *Tanks for underground chemical storage* (reference 5b).

##### *Spill incident response*

- 47 Equipment should be installed onsite to use in the cleanup of any fuel, oil or chemical spills. Such equipment could include absorbent material, such as 'kitty litter', and waste storage skips. Any spill should be fully contained to avoid any harm to the surrounding environment.
- 48 All fuel or lubricant spills should be immediately cleaned up using absorbent materials. Used absorbent material should be placed in weatherproof containers and disposed of by an approved waste contractor.
- 49 Dispersants, such as detergents, may be needed to remove residues from a spill on paved surfaces. Effluent containing dispersants should be treated to break hydrocarbon emulsions before being released into the contaminated water treatment system.
- 50 Site operators should assign trained personnel and maintain a call roster to effectively handle incidents such as fuel and oil spills.
- 51 If significant environmental contamination occurs, details should be provided on detection to the Department of Environment Regulation, phone 1300 784 782 (24 hours). For incidents posing a fire or explosion risk to life or property phone 000 or the Department of Fire and Emergency Services communication centre on 9323 9333 (24 hours). For additional guidance, see our WQPN 10 *Contaminant spills - emergency response* (reference 5b).

52 Incident details and the associated response should be entered in a site incident log, which should then be retained for at least two years for scrutiny by regulatory authorities.

#### **Decommissioning of facilities**

53 When service stations are decommissioned or fuel tanks are replaced, a site contamination evaluation should be conducted by a competent and experienced environmental consultant. This evaluation should include testing for petroleum residuals near underground tanks, pipe-work and waste treatment facilities. A technical report should be prepared and copies retained for scrutiny by the Department of Environment Regulation's contaminated sites branch and future site owners. Additional information on this topic is contained in our WQPN 64 *Tanks - closure of underground chemical storage* (reference 5b).

## **Appendix A: Information on sensitive water resources, note limitations and updates**

### **Sensitive water resources**

Our water resources sustain ecosystems, aquatic recreation and aesthetic values as well as providing drinking, industry and irrigation supplies. Along with breathable air, uncontaminated water is essential for viable communities. Natural water resources should remain within defined quality limits to retain their ecological, social and economic values. Hence they require appropriate protection measures to minimise contamination risks.

Information on water quality parameters and processes to maintain water values are published in the Australian Government's national water quality management strategy papers. These papers are available online at <[www.environment.gov.au](http://www.environment.gov.au)> select *water > water policy and programs > water quality*.

The Department of Water strives to improve community awareness of catchment protection measures (for both surface water and groundwater) as part of a multi-barrier protection approach to sustain acceptable water resource quality. Human activity and many land uses pose a risk to water quality if contaminants in significant quantities are washed or leached into water resources.

Sensitive waters include estuaries, natural waterways, wetlands and groundwater. These waters support one or more of the environmental values described below.

### **Public drinking water sources**

#### *Overview*

Public drinking water source area (PDWSA) is the collective name given to any area proclaimed to manage and protect a community drinking water source. PDWSA include underground water pollution control areas, water reserves and catchment areas administered by the Department of Water under the provisions of the *Metropolitan Water Supply, Sewerage and Drainage Act 1909* or the *Country Areas Water Supply Act 1947*.



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For online information on the location of PDWSA, see < [www.water.wa.gov.au](http://www.water.wa.gov.au) > select *tools and data > maps and atlases > geographic data atlas*, then open *environment > public drinking water source areas*.

Within PDWSA, priority areas are defined (P1, P2 or P3) via publicly consulted drinking water source protection plans or land use and water management strategies. Priority areas are used to guide land planning, rezoning and development approval processes. Priority areas are assigned considering the current local planning scheme zoning, land tenure, the water source's strategic value and its vulnerability to harm. Each priority area is managed using a specific risk-based strategy to provide for effective water resource protection. The Department of Water develops these documents in consultation with other government agencies, landowners, industry and the community.

P1 areas are defined to ensure human activity does not degrade a water source. These areas are declared over land where the provision of high-quality drinking water for public use is the primary beneficial land value. P1 areas typically cover land controlled by the state government or one of its agencies. These areas are managed under the principle of *risk avoidance*, so most land development and human activity is normally opposed.

P2 areas are defined to ensure there is *no increased risk of pollution* to the water source once a source protection plan has been published. These areas are declared over land where low-intensity development exists (involving rural usage such as dry land grazing or cropping). Protection of public water supply sources is a high priority in P2 areas. These areas are managed in accordance with the principle of *risk minimisation*, and so the intensity of development should be restricted (via management conditions) and activities with a low water contamination risk are normally considered acceptable.

P3 areas are defined to *manage the risk of pollution* to the water source. These areas are declared over land where public water supply sources must co-exist with other land uses such as residential, commercial and/or light industrial development. Protection of P3 areas is mainly achieved through land use management measures e.g. contamination barriers. Environmental guidance (such as these notes) or site-specific development approval conditions are used to limit the water resources contamination risk from the land use or activity. If, however, the water source becomes contaminated, then water supplied from P3 sources may need to be more intensively treated or an alternative water supply source commissioned.

Additional protection zones are defined close to the point where drinking water is extracted or stored. These zones are called *wellhead protection zones* (WHPZ) and *reservoir protection zones* (RPZ). Statutory land use constraints apply to activities within these zones surrounding sources to safeguard these waters most vulnerable to contamination.

WHPZ are assigned around water production wells based on hydrological factors. Statutory land use restrictions apply within these zones as groundwater moves rapidly towards wells due to aquifer depressurisation by pumping. Any contaminants leaching from the ground surface in a WHPZ could rapidly migrate into scheme water supplies (before effective remedial action can occur). In sedimentary basins, WHPZ are usually circular, with a radius of 500 metres in P1 areas and 300 metres in P2 and P3 areas. These zones do not extend outside PDWSA boundaries.

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RPZ are defined over and around public water supply storage or pipe-head reservoirs. Statutory access and land use restrictions apply in RPZ. The aim is to restrict the likelihood of contaminants being deposited or washing into water sources in any runoff. RPZ are normally within state-controlled areas encompassing land up to two kilometres measured outward from the reservoir top water-level and include the inundated area when the reservoir is full.

For additional explanatory information on PDWSA, see our Water quality protection note (WQPN) 25 *Land use compatibility in public drinking water source areas*, WQPN 36 *Protecting public drinking water source areas*, WQPN 75 *Proclaimed public drinking water source areas*, note 76 *Land use planning in PDWSA* and WQPN 77 *Risk assessment in PDWSA*. These notes are available online at <[www.water.wa.gov.au](http://www.water.wa.gov.au)> select *publications* > *find a publication* > *series browse*.

*Established activities within PDWSAs*

Many land use activities were approved and established before publication of a source protection plan or land use and water management strategy.

Activity operators should ensure that modern environmental facilities and practices are progressively implemented and maintained so that the water resource contamination risk is minimised (within practicable and economic constraints).

*New or expanded activities in PDWSA*

Any development proposals that could affect a drinking water source should be referred to this department's local regional office with detailed supporting information for an assessment and written response.

The development proposal may be:

- approved (with or without conditions)
- delayed pending receipt of additional information before a decision is made; or
- opposed due to a statutory or policy conflict or inadequate protective measures provided to safeguard the water source.

To assist the assessment, operators should demonstrate that under all operating conditions the facilities and processes used on-site do not pose a significant water contamination risk.

*Buffers to water supply sources*

Native vegetation buffers should be used to separate compatible land use areas from the sources of drinking water including the full supply margins of reservoirs, their primary feeder streams and/or production bores. Advice on suitable buffer forms and dimensions is provided in our WQPN 6 *Vegetated buffers to sensitive water resources*.

*Within clearing control catchments*

Controls on vegetation clearing for salinity management in country areas are provided under part IIA of the *Country Areas Water Supply Act 1947*.



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These controls apply in the Wellington Dam, Harris River Dam, Mundaring Weir and Denmark River catchment areas and the Kent River and Warren River water reserves.

Details of clearing controls may be obtained from our regional offices, see online information at <[www.water.wa.gov.au](http://www.water.wa.gov.au)>, select *Contact us*.

#### Private water supply sources

Private water sources vulnerable to contamination include:

- drinking water sources for people or domesticated animals
- commercial or industrial water supply sources (requiring specific qualities that support activities such as aquaculture, cooling, food and mineral processing or crop irrigation)
- urban or municipal irrigation sources (where water quality may affect vegetation performance or people's health and wellbeing).

#### Underground ecosystems

Important underground ecological functions that may be at risk of contamination include groundwater- and cave-dwelling animals and microorganisms (generally located within soils that have open pore spaces such as sand, gravel and limestone).

#### Waterway ecological and social values

Waterways that have high social and conservation significance are described in the Western Australian Environmental Protection Authority (EPA) Guidance statement 33 *Environmental guidance for planning and development*, section B5.2.2. This statement is available online at <[www.epa.wa.gov.au](http://www.epa.wa.gov.au)> select *policies and guidelines > environmental assessment guidelines > guidance statements*.

The Department of Water manages natural waterways under Section 9 of the *Water Agencies (Powers) Act 1984* and the *Rights in Water and Irrigation Act 1914*. For online information, see <[www.water.wa.gov.au](http://www.water.wa.gov.au)> and select *managing water*. Apart from aquatic ecosystems and water sources, waterways provide social values including aesthetic appeal, drainage pathways and recreational opportunities for watercraft use, fishing, tourism, swimming and related aquatic activities. Engineered drains and constructed water features are normally not assigned ecological values because their primary function and operational factors outweigh their ecological value.

This department also administers the *Waterways Conservation Act 1976* which defines Western Australian waterways subject to specific regulatory controls. Currently proclaimed waterways include the Avon River, Peel-Harvey Inlet, Leschenault Inlet, Wilson Inlet and Albany waterways management areas.

#### Within the Swan-Canning Estuary catchment

The Swan River Trust is responsible for the protection and management of the Swan-Canning River system. The trust safeguards ecological and social values under the *Swan and Canning Rivers Management Act 2006*. Written approval is needed for any land- or water-based development within the Swan, Canning, Helena or Southern rivers and their

associated foreshore areas within the *Swan River Trust development control area (DCA)*. Human activity and development close to these areas are likely to have an effect on the waters of the river system. Development proposals within or abutting the DCA should be referred to the trust for assessment.

Developments outside the DCA, but near river tributaries or drainage systems should also be referred to the trust for assessment and advice. This is because water quality within the area may be affected by chemicals leached into groundwater flow. For detailed information, see online advice at <[www.swanrivertrust.wa.gov.au](http://www.swanrivertrust.wa.gov.au)>, phone 9278 0900 or email: [planning@swanrivertrust.wa.gov.au](mailto:planning@swanrivertrust.wa.gov.au).

#### **Wetland ecology**

Many important wetlands have been given conservation status under the Ramsar convention (described online at <[www.ramsar.org](http://www.ramsar.org)>), Japan and Australia migratory bird agreement (JAMBA), China and Australia migratory bird agreement (CAMBA), and Republic of Korea and Australia migratory bird agreement (ROKAMBA).

Wetlands are also protected under various national and Western Australian government policies. Conservation wetland data to guide land planning and development activities is provided via the following publications:

- *Directory of important wetlands in Australia* defines wetlands scheduled by the Australian Government. It is available online at <[www.environment.gov.au](http://www.environment.gov.au)> select *water > water topics > wetlands*.
- Wetlands with defined high conservation significance are described in the EPA (WA) guidance statement 33 *Environmental guidance for planning and development* (section B4.2.2). This statement is available online at <[www.epa.wa.gov.au](http://www.epa.wa.gov.au)> select *policies and guidelines > environmental assessment guidelines > guidance statements*.

The Department of Parks and Wildlife is the custodian of the state wetland datasets, and is responsible for maintaining and updating relevant information. These datasets are available online at <[www.dpaw.wa.gov.au](http://www.dpaw.wa.gov.au)>.

Wetlands datasets identified for conservation value or for resource enhancement include:

- *Geomorphic wetlands of the Swan Coastal Plain*
- *South coast significant wetlands*
- *Geomorphic wetlands Augusta to Walpole* (this dataset awaits detailed evaluation).

Wetlands that are highly disturbed by land use, or have been landscaped to provide a social amenity or drainage control function in urban settings, may not be assigned conservation values unless they are actively managed to maintain these values.

#### **Note limitations**

Many Western Australian aquifers, waterways and wetlands await detailed scientific evaluation, present data on their quality is sparse and their values remain unclassified. Unless demonstrated otherwise, any natural waters that are slightly disturbed by human activity are considered to have sensitive environmental values. Community support for these water values, the setting of practical management objectives, provision of

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sustainable protection services and effective implementation are vital to protecting or restoring water resources for both current needs and those of future generations.

This note provides a general guide on environmental issues, and offers solutions based on data searches, professional judgement and precedents. Recommendations made in this note do not override any statutory obligation or government policy statement. Alternative practical environmental solutions suited to local conditions may be considered. This note's recommendations shall not be used as this department's policy position on a specific matter, unless confirmed in writing. In addition, regulatory agencies should not use this note's recommendations in place of site-specific development conditions based on a project's assessed environmental risks. Any regulatory conditions should consider local environmental values, the safeguards in place and take a precautionary approach.

Where a conflict arises between this note's recommendations and any activity that may affect a sensitive water resource, this note may be used to assist stakeholder negotiations. The negotiated outcome should not result in a greater water quality contamination risk than would apply if the recommended protection measures were used.

**Water quality protection note updates**

This note will be updated as new information is received, industry/activity standards change and resources permit. The currently approved version is available online at <[www.water.wa.gov.au](http://www.water.wa.gov.au)> select *publications* > *find a publication* > *series browse* > *water quality protection notes*.



## Appendix B: Statutory approvals relevant to this note include

What's regulated?	Western Australian statutes	Regulatory agency
Impact on the values and ecology of land or waters Contaminated sites	<i>Environmental Protection Act 1986 - Part V</i> Environmental regulation <i>Contaminated Sites Act 2003</i> and regulations 2004	Department of Environment Regulation < <a href="http://www.der.wa.gov.au">www.der.wa.gov.au</a> >
Transport, storage and handling of fuels, solvents, explosive and other dangerous goods	<i>Dangerous Goods Safety Act 2004</i> Dangerous goods safety regulations 2007	Department of Mines and Petroleum – Resources Safety Division < <a href="http://www.dmp.wa.gov.au">www.dmp.wa.gov.au</a> >
Licence to take surface water and groundwater	<i>Rights in Water and Irrigation Act 1914</i>	Department of Water – regional office < <a href="http://www.water.wa.gov.au">www.water.wa.gov.au</a> >
Service stations and tank systems in existing public drinking water source areas	<i>Metropolitan Water Supply, Sewerage and Drainage Act 1909</i> <i>Country Areas Water Supply Act 1947</i>	
Licence to discharge into managed waterways.	<i>Waterways Conservation Act 1976</i>	
Environmental protection policies Environmental impact assessment	<i>Environmental Protection Act 1986</i> -Parts III Policy or IV Environmental impact assessment	Minister for the Environment with advice from the Environmental Protection Authority < <a href="http://www.epa.wa.gov.au">www.epa.wa.gov.au</a> >
Approval for developments affecting the Swan estuary	<i>Swan and Canning Rivers Management Act 2006</i>	Swan River Trust < <a href="http://www.swanrivertrust.wa.gov.au">www.swanrivertrust.wa.gov.au</a> >
Discharge to sewer requires an industrial waste permit	<i>Metropolitan Water Supply, Sewerage and Drainage Act 1909</i> ; <i>Country Towns Sewerage Act 1948</i>	Water Corporation < <a href="http://www.watercorporation.com.au">www.watercorporation.com.au</a> > other sewer service provider
Subdivision of land Land zoning and development approval	<i>Planning and Development Act 2005</i>	Western Australian Planning Commission Department of Planning <a href="http://www.planning.wa.gov.au">www.planning.wa.gov.au</a> Local government

Relevant statutes are available from the *State law publisher* at <[www.slp.wa.gov.au](http://www.slp.wa.gov.au)>.

## Appendix C: Data needed to assess development proposals

Where facilities near sensitive waters are to be constructed or upgraded, the following data should be supplied with the development proposal:

- 1 Site owner/ operating tenant's name and contact details.
- 2 A site plan showing the location of the project facilities relative to tenements, leases, lots and roads. The plan should show the topography, any remnant vegetation cover, existing and proposed development areas and onsite water features and sources.



- 3 Details of site investigation of soil strata, depth to water table (if applicable) and data on the location, extent, hydrology, quality and dependencies on local water resources (including any seasonal variations) that could be affected by site facilities or operations.
- 4 The present local government land use zoning (where applicable). Current land use description, any site contamination history and its remediation.
- 5 Full description and scale of the activities planned for the project site, (site amenities, infrastructure, earthworks and chemical applications), construction and operating workforce and planned project operational life.
- 6 Describe intended commissioning date, operating hours and any expansion options.
- 7 Details of any proposed vegetation clearing, environmental buffers, site earthworks and services, including water supply, sewerage and drainage provisions.
- 8 Description of all materials/ chemicals to be stored or handled on site in commercial quantities, including a water use budget.
- 9 Description of the types, quantities and quality of solid and liquid waste (if applicable) that will be generated or disposed from the facility.
- 10 Description of planned material containment, waste management (treatment and disposal); with an environmental management plan and nutrient and irrigation management plan (where applicable)
- 11 Details of any environmental modelling conducted or planned monitoring system to demonstrate the effects of the project on local water resources
- 12 Planned operational and equipment maintenance procedures.
- 13 Details of any contingency measures proposed to minimise the impacts of chemical spills and safely dispose of contaminated waters that may result from storms, fire, flood, equipment malfunction or vandalism. Information should include workforce training, site monitoring and emergency response facilities.
- 14 Any project contractual agreements or regulatory approvals received.

For significant projects, development proponents should engage the services of a qualified and experienced consultant to professionally prepare their development proposal. This should ensure that government agencies can efficiently assess and respond to the proposal without delays caused by inadequate or poorly defined information.

## References and further reading

- 1 Australian Institute of Petroleum publications (withdrawn) available online at <[www.aip.com.au](http://www.aip.com.au)>Select *Industry accreditation and standards* > *withdrawn AIP publications*
- 2 Australian Government - national water quality management strategy papers, available online at <[www.environment.gov.au](http://www.environment.gov.au)> select *water* > *water policy and programs* > *water quality*:
  - a Paper 4 *Australian and New Zealand guidelines for fresh and marine water quality, 2000*
  - b Paper 6 *Australian drinking water guidelines 2011*

- c Paper 7 *Australian guidelines for water quality monitoring and reporting, 2000.*
- 3 The previous Department of Environment and Conservation (WA) publication available online at <[www.dpaw.wa.gov.au](http://www.dpaw.wa.gov.au)>
- Position statement - wetlands, WRC 2001.*
- 4 Department of Mines and Petroleum (WA) publication, for online information see <[www.dmp.wa.gov.au](http://www.dmp.wa.gov.au)> select *resources safety > dangerous goods .storage and handling*  
*Design, installation and operation of UG petroleum storage.*
- 5 Department of Water (WA) publications available online at < [www.water.wa.gov.au](http://www.water.wa.gov.au) >
- a Policy documents select *policies*  
*Foreshore policy 1 Identifying the foreshore area 2002.*
- b Water quality protection notes (WQPN), select *publications > find a publication > series browse > water quality protection notes*
- WQPN 06 *Vegetated buffers to sensitive water resources*
  - WQPN 10 *Contaminant spills - emergency response*
  - WQPN 25 *Land use compatibility in public drinking water source areas*
  - WQPN 36 *Protecting public drinking water source areas - an overview*
  - WQPN 28 *Mechanical servicing and workshops*
  - WQPN 56 *Tanks for above ground chemical storage*
  - WQPN 62 *Tanks for underground chemical storage*
  - WQPN 64 *Tanks - closure of underground chemical storage*
  - WQPN 65 *Toxic and hazardous substances - storage and use*
  - WQPN 68 *Wash-down of mechanical equipment.*
- c Water notes (WN) select *publications > find a publication > series browse*
- WN 4 *Wetland buffers*
  - WN 11 *Identifying the riparian zone*
  - WN 23 *Determining foreshore reserves.*
- d River restoration report 16 *Determining foreshore reserves 2001* select *publications > find a publication > series browse.*
- e *Stormwater management manual for Western Australia 2008* select *publications > find a publication > series browse > management manual.*
- 6 Engineers Australia publication available for purchase at < [www.engineersmedia.com.au](http://www.engineersmedia.com.au) > search *EA books*  
*Australian rainfall and runoff* (current edition).
- 7 Environmental Protection Authority (WA) publication available online at <[www.epa.wa.gov.au](http://www.epa.wa.gov.au)> select *guidance statements*  
*Guidance statement 33 Environmental guidance for planning and development.*

- 8 Motor trade association of Western Australia publications, online information available at <[www.mtawa.com.au](http://www.mtawa.com.au)> select the quick link *find about green stamp*
- a *Environmental assessments*
  - b *Environmental product and services directory*
  - c *Environmental guidelines and case studies*
  - d *Green stamp accreditation.*
- 9 Standards Australia - Australian standards available for purchase at <[www.saiglobal.com/shop/script/search.asp](http://www.saiglobal.com/shop/script/search.asp)>
- AS 4360 *Risk management*
  - AS 4897 *The design, installation and operation of underground petroleum storage systems*
  - AS 5667 *Water quality – sampling.*
- 10 Swan River Trust (WA), for online information see <[www.swanrivertrust.wa.gov.au](http://www.swanrivertrust.wa.gov.au)> *Environmental management and cleaner production directory for small to medium businesses.*

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## Feedback

We welcome your thoughts on this note. Feedback will help us prepare future versions.

To comment on this note or seek any clarification, please contact our water source protection planning branch (details below), citing the note topic and version.

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June 12-PR-(10822)



**Summary of Submissions**  
**PROPOSAL: Service Station - Lot 100 (81-93) west Street**  
**Consultation Period: 27 May 2020 - 11 June 2020**

Name and Address		Nature of Submission	Comment
<b>Public Submissions</b>			
1	Stuart Carlin Busselton	What is the reason for another fuel station in a built up area in Busselton when we have enough traffic problems as it is in this area, Please explain.	Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation
2	Rodney Johnston  Yalyalup	Objection. Concerns regarding; There is enough service stations in town now without adding another one. Being a multinational, money will be leaving town, not invested in town. Traffic is horrible now at that intersection. Busselton City has 16 service stations to a population of approx. 35,000 people. Bunbury and surrounds has 17 service stations to a population of approx. 120,000 people and in the metro there is 383 service stations to approx. 2,500,000 people. You want to keep pricing competitive, less service stations = lower overheads with more traffic= more competitive margin.	The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone  It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation  The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone
3	Georgia Lacava Yalyalup	Objection. Concerns regarding: Traffic congestion, over supply of fuel stations, unnecessary development	It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation  The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone
4	Paul Howe Yalyalup	Objection. Concerns regarding: Completely unnecessary, too much traffic congestion	Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation  The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone



Attachment G

Attachment G Schedule of Submissions

Summary of Submissions  
PROPOSAL: Service Station - Lot 100 (81-93) west Street  
Consultation Period: 27 May 2020 - 11 June 2020

5	Rosalie Lacava Yalyalup	Objection. Concerns regarding: The corner of West and Peel Terrace is a ridiculous place to put a service station as it is already a bottleneck and there will be more accidents if they decide to do so. Total disregard for local traffic, local housing local businesses and is an absolutely ridiculous idea and should not even be considered	Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation. The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone
6	Ruth Winsett Busselton	Objection. Concerns regarding: Terrible location, too close to the wetlands and river systems. Don't need another service station. Environmental disaster waiting to happen. Danger to the water table and all wildlife. City should refuse application immediately.	It is not the role of planning to control commercial competition Conditions have been placed on this application to ensure the development will not intercept the water table and adversely impact local wildlife.
7	Mary Smith Broadwater	Objection. Concerns regarding: 1) There is already enough (too many) service stations in town. By having another one, all the existing service stations will lose customers that they desperately need for their businesses to survive. 2) the traffic congestion at the corner of West St and Peel Tce is already at a frustrating level... to add the traffic exiting a service station onto either West St (only metres from a roundabout....) or Peel Tce (only metres from the ShipHotel/Dan Murphys driveway) would be ridiculous and dangerous.	It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone
8	Coin Bishop Busselton	Objection. Concerns regarding: Hi, West street is already a very busy street with traffic banked upped from the traffic lights, sometimes going all the way back to the roundabout turn into Kmart. The corner of west street and peel Tce is extremely busy now. At certain times of the day. Especially when schools finish and at five o'clock. Sometimes it difficult to exit Edwards street at these times. There is a day care centre in Edwards street (blue bird) the extra traffic and fumes could affect the children and my family. I don't think this would be in the best interests of the area.	It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone The service station is over 70m from the daycare centre; and the daycare centre is approximately 100m from the junction with Peel Tce. The proposal is set back an adequate distance from the daycare and the service station will have to adhere to a high level of environmental regulations to ensure there are no adverse impacts caused by fumes.

**Summary of Submissions**  
**PROPOSAL: Service Station - Lot 100 (81-93) west Street**  
**Consultation Period: 27 May 2020 - 11 June 2020**

9	Robert Logan	<p>Objection. Concerns regarding:</p> <p>This type of development will significantly increase the amount of traffic congestion in the area. With the development of the other premises on the same site and the development of the Power Centre across the road and the traffic now being directed from Steely St to emerge in this area there has already been a significant volume increase. Trying to get around the West Street/Peel Terrace corner is already causing long delays as the traffic builds back from the lights. This is an issue for both leaving and turning onto West Street. Another issue will be the traffic that wants to enter the service station from West Street going towards the lights. This will cause a backlog that will impinge on the flow of the roundabout as the traffic will quickly back up around the roundabout. Thus it will all come to a halt with the roundabout being blocked. There are currently thirteen fuel outlets between Causeway Road and Siesta park. Why do we need yet another one? What we currently have adequately covers the local area.</p>	<p>It is not the role of planning to control commercial competition</p> <p>Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation</p> <p>The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone</p>
10	Joan Ihms	<p>Objection. Concerns regarding:</p> <p>I was under the impression that we are all concerned for the environment and yet another possible hazard to our already fragile environment is planned. I believe we are also trying to support our established businesses. As near as I can tell the city and near suburbs already have at least 12 service stations and that is in about 9-10 kilometres. These businesses are probably reeling in horror and thinking "Here we go again" after the Dunsborough debacle. And after the Dunsborough debacle I would have thought that more lunacy like this would receive a resounding NO. So now do we the people have to go through this nonsense again ?</p> <p>Respectfully Mrs Joan Ihms</p>	<p>It is not the role of planning to control commercial competition</p> <p>Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation</p> <p>The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone</p>

**Summary of Submissions**  
**PROPOSAL: Service Station - Lot 100 (81-93) west Street**  
**Consultation Period: 27 May 2020 - 11 June 2020**

11	Kevin Thornton Busselton	<p>Objection. Concerns regarding:</p> <p>(1) Traffic congestion- there is already congestion in this area with vehicles entering and exiting from business premises such as the Power Centre, KFC and Dan Murphy's. It is not uncommon to see traffic held up by vehicles waiting to enter KFC. A petrol station, I believe, would only exacerbate this situation. (2) There are already adequate fuel outlets in the Busselton City township. (3) The proposed site is in close proximity to the wetlands area posing a risk of contamination should there be spillage or leakage from the underground tanks</p>	<p>It is not the role of planning to control commercial competition</p> <p>Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation</p> <p>The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone</p> <p>Conditions have been placed on this application to ensure the development will not intercept the water table and adversely impact local wildlife.</p>
12	Michael Parkinson Busselton	<p>Objection. Concerns regarding:</p> <p>I cannot see why we need another service station in West St, when there is a BP on cnr of Piers and Albert st, 2 on Causeway road being Shell and Puma as well 2 stations on Strelly St being Caltex. More importantly location of proposed station is on or very close to existing wetlands and river flood plain area. Any leakage from tanks would have dire consequences on wildlife and waterways and groundwater supplies. The existing road infrastructure on West St with opening of KMART and new commercial based shops is already struggling with traffic issues particularly when trying to egress from Peel Terrace. Further upgrade to road infrastructure in this area would need to be undertaken. Surely we can spend our rates on better things than this. Based on above I do not support this application.</p>	<p>It is not the role of planning to control commercial competition</p> <p>Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation</p> <p>The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone</p>

**Summary of Submissions**  
**PROPOSAL: Service Station - Lot 100 (81-93) west Street**  
**Consultation Period: 27 May 2020 - 11 June 2020**

13	Allison Fergusson Braodwater	Objection. Concerns regarding: Already a busy corner and will make that area impossible to navigate.	Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation  The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone
14	Katie Broughton West Busselton	Objection. Concerns regarding: Enough fuel stations & will create a busy intersection.	It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation  The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone
15	Judith Pump Dunsborough	Objection. Concerns regarding: Dangerous intersection will be created.	Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation  The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone
16	Pat Abbott West Busselton	Objection. Concerns regarding: It can see bottleneck problems as there are some already fairly often. Traffic exiting Peel Tce now are regularly held up trying to enter West St, often due to the fact there's a build-up of traffic at the lights and the new roundabout near Aldi	Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation  The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone



**Summary of Submissions**  
**PROPOSAL: Service Station - Lot 100 (81-93) west Street**  
**Consultation Period: 27 May 2020 - 11 June 2020**

17	Vines Dawn West Busselton	<p>Objection. Concerns regarding: There are enough Service Stations in Busselton already to support the population. The small and privately owned cannot compete if there are too many. A Service station there will cause a lot of congestion in that area at the roundabout.</p>	<p>It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone</p>
18	Janet Devenny Busselton	<p>Objection. Concerns regarding: Traffic flow thru this area is already a huge problem Very worried with contamination from fuel and tanks, have had a look at the plans, and space is very limited with what they propose to do. What will this do to the value of property in the area. As it will be a 24/7 operation, there will be people coming and going 24/7, so it could cause unruly behaviour, noise, and may cause people to loiter around the area, you need to keep people out of the CBD late at night. There is already plenty of fuel outlets in the CBD, do not think we need another.</p>	<p>It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation Conditions have been placed on this application to ensure the development will not intercept the water table and adversely impact local wildlife. The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone The operator will have security procedures in place to prevent antisocial behaviour. The development has to ensure the required noise levels are not breached at any time day or night. If noise because an issue this will be a matter for the City's Health Department to monitor and resolve.</p>
19	Janet Devenny Busselton	<p>Objection. Concerns regarding: Traffic flow thru this area is already a huge problem Very worried with contamination from fuel and tanks, have had a look at the plans, and space is very limited with what they propose to do. What will this do to the value of property in the area. As it will be a 24/7 operation, there will be people coming and going 24/7, so it could cause unruly behaviour, noise, and may cause people to loiter around the area, you need to keep people out of the CBD late at night. There is already plenty of fuel outlets in the CBD, do not think we need another.</p>	<p>It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation Conditions have been placed on this application to ensure the development will not intercept the water table and adversely impact local wildlife. The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone The operator will have security procedures in place to prevent antisocial behaviour. The development has to ensure the required noise levels are not breached at any time day or night. If noise because an issue this will be a matter for the City's Health Department to monitor and resolve. It is not the role of planning to control commercial competition</p>

**Summary of Submissions**  
**PROPOSAL: Service Station - Lot 100 (81-93) west Street**  
**Consultation Period: 27 May 2020 - 11 June 2020**

20	Janet Devenny	<p>Objection. Concerns regarding: Traffic flow thru this area is already a huge problem Very worried with contamination from fuel and tanks, have had a look at the plans, and space is very limited with what they propose to do. What will this do to the value of property in the area. As it will be a 24/7 operation, there will be people coming and going 24/7, so it could cause unruly behaviour, noise, and may cause people to loiter around the area, you need to keep people out of the CBD late at night. There is already plenty of fuel outlets in the CBD, do not think we need another.</p>	<p>It is not the role of planning to control commercial competition</p> <p>Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation</p> <p>Conditions have been placed on this application to ensure the development will not intercept the water table and adversely impact local wildlife.</p> <p>The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone</p> <p>The operator will have security procedures in place to prevent antisocial behaviour. The development has to ensure the required noise levels are not breached at any time day or night. If noise because an issue this will be a matter for the City's Health Department to monitor and resolve.</p>
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Attachment G

Attachment G Schedule of Submissions

Summary of Submissions  
PROPOSAL: Service Station - Lot 100 (81-93) west Street  
Consultation Period: 27 May 2020 - 11 June 2020

21	Peter and Elena Bishop	<p>Objection. Concerns regarding:</p> <p>We feel that it would be inappropriate for the following reasons. There are already seven other Service stations in the nearby area. Safety The traffic is already very busy at the West st. and Peel Tce. Intersections at certain times and will increase substantially. Trying to get out of Edwards street to turn right to go into the town centre can be quite challenging at times, especially if there is a lot of traffic coming out of the Ship Hotel and Dan Murphy's - even though I think that traffic, coming out of a parking area should give way, that does not happen. Also there are elderly people living in Edwards Street, some using "gophers" and with the expansion and close proximity of the Senior Citizen's Centre, traffic will only increase. Possible health issues for nearby residents from fumes and ground contamination. We also understood that area was for Commercial Development, not Industrial use. Thankyou</p>	<p>It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation</p> <p>Conditions have been placed on this application to ensure the development will not intercept the water table and adversely impact local wildlife.</p> <p>The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone</p> <p>The operator will have security procedures in place to prevent antisocial behaviour. The development has to ensure the required noise levels are not breached at any time day or night. If noise because an issue this will be a matter for the City's Health Department to monitor and resolve.</p> <p>Conditions will be attached to the development that will protect ground water from interception.</p> <p>The service station will have to adhere to a high level of environmental regulations to ensure there are no adverse impacts caused by fumes.</p>
22	David Barnsley Ambergate	<p>Objection. Concerns regarding:</p> <p>I think the location is not a good location for such a business there are residences butting up to the property the main issue I have is Peel Tce and West st intersection most hours of the day that intersection is a bottle neck if that becomes a petrol station then the traffic will no doubt increase making an already difficult location become even worse both of these roads need to be widened to accommodate the traffic level at present and we know that is not possible and then you have to try and squeeze a fuel truck in there for filling and that has to get in and out during business hours we don't need another fuel station in town we just need cheaper fuel from the rip off stations we have already</p>	<p>It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation</p> <p>The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone</p> <p>The operator will have security procedures in place to prevent antisocial behaviour. The development has to ensure the required noise levels are not breached at any time day or night. If noise because an issue this will be a matter for the City's Health Department to monitor and resolve.</p>

Attachment G Schedule of Submissions

Attachment G

Summary of Submissions  
PROPOSAL: Service Station - Lot 100 (81-93) west Street  
Consultation Period: 27 May 2020 - 11 June 2020

23	Kevin Fennessy Busselton	<p>Objection. Concerns regarding: As owners of lot 2 Bussell Hwy Busselton the site of which KFC is located i wish to strongly object to the proposal of a service station development on the corner of Peel terrace &amp; West streets My reasons being it would cause severe traffic problems particularly from the Peel terrace entrance when turning right into West Street to Bussell Hwy &amp; similarly when turning right into Peel Terrace from West Street, I have no doubt this will cause unnecessary congestion possibly causing nasty accidents , i therefore urge you not to approve this unrealistic proposal. Thank you, Yours faithfully, K.F. Fennessy, Owner, KEVRICH Pty. Ltd</p>	<p>Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation</p>
24	James and Mitchell Helen	<p>Objection. Concerns regarding: The service station will cause congestion on the corner of Peel Tec and West Street. Fuel fumes could be a safety hazard. We have a child minding centre in Edwards Street Taxi rank on the corner of Peel Tec and West Street We already have 6 service stations in a radius of 2km Already have congestion on the corner where KFC and the traffic lights are. c</p>	<p>It is not the role of planning to control commercial competition Traffic issues have been investigated and resolved between the applicant and the City. The service station will not significantly alter the current traffic situation The site is located within the Service Commercial Zone, a service station is an acceptable use in this zone The service station is over 70m from the daycare centre; and the daycare centre is approximately 100m from the junction with Peel Tce. The proposal is set back an adequate distant from the daycare and the service station will have to adhere to a high level of environmental regulations to ensure there are no adverse impacts caused by fumes. The Department of Mines, Industry regulation and Safety has determined that this proposal raises no significant issues with respect to mineral and petroleum resources, geothermal energy and basic raw materials. This proposal has also been referred to Dangerous Goods who will respond separately.</p>



**Summary of Submissions**  
**PROPOSAL: Service Station - Lot 100 (81-93) west Street**  
**Consultation Period: 27 May 2020 - 11 June 2020**

No.	NAME & ADDRESS	Nature of Submission	Comment
<b>AGENCY SUBMISSIONS</b>			
1.	Department of Health	<p><b>Water Supply and Wastewater Disposal</b></p> <p>The development is required to connect to scheme water and reticulated sewerage and be in accordance with the Government Sewerage Policy (2019). Food Act Requirements All food related areas (food sales, cool room, etc.) to comply with the provisions of the Food Act 2008 and related code, regulations and guidelines and is available for download from: <a href="http://ww2.health.wa.gov.au/Articles/F_/Food-regulation-in-WA">http://ww2.health.wa.gov.au/Articles/F_/Food-regulation-in-WA</a>.</p>	Noted
2.	Main Road WA	Main Roads has no objection to the proposed development	Noted
4.	Department of Water and Environment and Regulation (Environmental Regulation)	<p><i>DWER have identified the following potential risks associated with this proposal from a water resources perspective -</i></p> <p>The Department has identified that the proposal has the potential for impact on the environment and water resources.</p>	Noted

**Summary of Submissions**  
**PROPOSAL: Service Station - Lot 100 (81-93) west Street**  
**Consultation Period: 27 May 2020 - 11 June 2020**

		<p>Key issues and recommendations are provided below and these matters should be addressed:</p> <ul style="list-style-type: none"> <li>• <b>Issue 1:</b> Acid sulphate soils</li> <li>• <b>Recommendation 1:</b> Model acid sulfate soils condition EN8 advice ENa1 should be applied to the conditional approval as published in Model Subdivision Conditions Schedule (DPLH, May 2020).</li> <li>• <b>Issue 2:</b> Flood</li> <li>• <b>Recommendation 2:</b> DWER recommends a minimum habitable floor level of 2.28 m AHD to ensure adequate flood protection, and the proponent contact the City for its coastal study on future sea level rise.</li> <li>• <b>Issue 3:</b> Stormwater and groundwater management</li> <li>• <b>Recommendation 3:</b> A stormwater and groundwater management plan be prepared to the satisfaction of the City</li> <li>• <b>Issue 4 :</b> The proposed dewatering may be subject to licensing under the RIWI Act</li> <li>• <b>Recommendation 4:</b> The proponent be advised to contact DWER on 97264111 for a licence to dewater under the RIWI Act if the proposed activity is to exceed the threshold specified at <a href="https://www.water.wa.gov.au/licensing/water-licensing/exemptions">https://www.water.wa.gov.au/licensing/water-licensing/exemptions</a></li> </ul>	
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**Summary of Submissions**  
**PROPOSAL: Service Station – Lot 100 (81-93) west Street**  
**Consultation Period: 27 May 2020 - 11 June 2020**

		Where the Department has a statutory role, planning applications should be considered prior to the Department issuing any relevant permits, licenses and/or approvals.  More detail pertaining to the above issues are provided in Attachment 1. Water Quality Protection Note No. 56 - Tanks for fuel and chemical storage near sensitive water resources and Water Quality Protection Note No. 49 - Service Stations  In the event there are modifications to the proposal that may have implications on aspects of environment and/or water management, the Department should be notified to enable the implications to be assessed.	
5.	Department of Mines, Industry Regulation and Safety	Based on the provided information, there are no issues identified. However the site and requirements will be fully assessed during the Dangerous Goods licence, application process where it will be assessed against relevant Australian Standards for compliance.	Noted
<b>INTERNAL SUBMISSIONS</b>			
1.	City of Busselton Environment Department	Storm water wash down pollution risk from hydrocarbon pollutants.  Fuel service apron needs to ensure the capture of all storm water and wash down waste using appropriate interceptor apparatus, to prevent discharge to City storm water system and to wetlands.	Noted

**Summary of Submissions**  
**PROPOSAL: Service Station - Lot 100 (81-93) west Street**  
**Consultation Period: 27 May 2020 - 11 June 2020**

2.	City of Busselton Health Department	<p>DWER Approval required – I note a referral to DWER for comments has occurred</p> <p>Installation of underground storage tanks (diesel, petrol etc) will require approval from DWER and site will be listed as a Contaminated Site requiring monitoring and remediation should use cease.</p> <p>Storage</p> <p>Storage and transportation of dangerous goods and chemicals to be in accordance with relevant legislation</p> <p>Ensure a suitable rubbish enclosure adequate to service the development is constructed and provided in accordance with the Shire of Busselton Health Local Laws 1997 prior to the occupation or use of the development.</p> <p>Noise</p> <p>Noise from the development and land use including but not limited to noise from air-conditioning systems, equipment, machinery, collection of rubbish and recycling bins, business activities and music is to comply with Environmental Protection (Noise) Regulations 1997. In particular the assigned decibel levels specified in the Regulations for three different time periods throughout the day.</p>
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Summary of Submissions  
PROPOSAL: Service Station - Lot 100 (81-93) west Street  
Consultation Period: 27 May 2020 - 11 June 2020

		<p>Food</p> <p>The food storage, retail and preparation areas to be designed and constructed in accordance with Food Act 2008, Food Regulations 2009 and the Food Standards Code Requirements.</p> <p>The food business is required to be registered with the City of Busselton. A Food Business Notification / Registration Form is to be submitted for approval by an Environmental Health Officer (include a detailed sketch plan of fit out of premise) prior to operating the food business.</p>	

**17. CHIEF EXECUTIVE OFFICERS REPORT****17.1 COUNCILLORS' INFORMATION BULLETIN**

<b>STRATEGIC GOAL</b>	6. LEADERSHIP Visionary, collaborative, accountable
<b>STRATEGIC OBJECTIVE</b>	6.1 Governance systems, process and practices are responsible, ethical and transparent.
<b>SUBJECT INDEX</b>	Councillors Information Bulletin
<b>BUSINESS UNIT</b>	Executive Services
<b>REPORTING OFFICER</b>	Reporting Officers - Various
<b>AUTHORISING OFFICER</b>	Director Finance and Corporate Services - Tony Nottle
<b>NATURE OF DECISION</b>	Noting: the item does not require a decision of Council and is simply for information purposes and noting
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Current State Administrative Tribunal Reviews Attachment B Letter from Chief Health Officer : COVID Event Plans and Approvals

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C2010/106** Moved Councillor P Carter, seconded Councillor L Miles

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

**17.1.1 State Administrative Tribunal Reviews**

**17.1.2 YouthCARE School Chaplaincy Service**

**17.1.3 Local Government Authorised Officer Involvement in COVID Event Plan Risk Assessment and Approval Process**

**CARRIED 8/0**

**EN BLOC**

**EXECUTIVE SUMMARY**

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

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

**INFORMATION BULLETIN****17.1.1 State Administrative Tribunal Reviews**

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

**17.1.2 YouthCARE School Chaplaincy Service**

Correspondence has been received from YouthCARE CEO, Stanley Jeyraj in acknowledgement of the City's contribution towards the YouthCARE school chaplaincy service:

*"Dear Mayor Grant,  
I thank you, fellow Councillors and officers at the City for the kind and generous contribution towards Youthcare's School Chaplaincy Service. We truly value your amazing support."*

**17.1.3 Local Government Authorised Officer Involvement in COVID Event Plan Risk Assessment and Approval Process**

Correspondence received from Dr Andrew Robertson, Chief Health Officer, Department of Health, is at Attachment B.

## Attachment A Current State Administrative Tribunal Reviews

## As at 25 September 2020

APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	RESPONSIBLE OFFICER	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
<b>CITY OF BUSSELTON</b>							
Lindberg v City of Busselton	4822 Bussell Highway, Busselton	October 2019	Review of a decision to give a direction under s.214.	Ben Whitehill / Lee Reddell	<ul style="list-style-type: none"> <li>Directions hearing on the 8 November 2019 against the decision of the City to give a direction under s.214.</li> <li>The matter was adjourned to a further directions hearing on 29 November 2019 in order to determine whether the application is misconceived or lacking in substance pursuant to s.47 of the <i>State Administrative Tribunal Act 2004</i></li> <li>Directions hearing on the 29 November 2019 where it was resolved:               <ul style="list-style-type: none"> <li>The application is amended by substituting Mr Doug Hugh Lindberg as applicant in place of Mr Johnson.</li> <li>The matter is listed for an on-site mediation on 6 January 2020.</li> <li>Mr Michael Johnson is invited to attend and participate in the mediation.</li> </ul> </li> <li>Mediation on 6 January 2020 where it was resolved that :               <ul style="list-style-type: none"> <li>the applicant is to provide additional information to the respondent by 3 February 2020;</li> <li>The matter is listed for mediation on 13 February 2020.</li> </ul> </li> <li>Mediation on 13 February where, following further discussion with the landowners and Mr Johnson, it was resolved to adjourn the proceeding back to a further directions hearing on 17 April 2020.</li> <li>Directions hearing on 17 April was vacated and listed for a directions hearing on 5 June 2020.</li> <li>Directions hearing on 5 June was vacated and listed for a directions hearing on 7 August 2020.</li> <li>Directions hearing on 7 August 2020 was vacated and listed for a directions hearing on 6 November 2020.</li> </ul>	Directions Hearing 6 November 2020	
Bishop v City of Busselton	545 Gale Road, Kaloorup	November 2019 - (DR 227 of 2019)  April 2020 – (DR 59 of 2020)	<p>Review of a decision to give a direction under s.214 (concrete batching and dumping rubbish)</p> <p>Review of a decision to refuse to grant develop approval for a 'Research Establishment'</p>	Ben Whitehill / Joanna Wilson	<ul style="list-style-type: none"> <li>Directions hearing on the 29 November 2019 against the decision of the City to give a direction under s.214</li> <li>The matter was adjourned to a further directions hearing on 13 December 2019 in order for the applicant to seek legal advice</li> <li>Directions hearing listed for 13 December 2019 was vacated</li> <li>S.214 direction issued by the City is stayed until further orders are made.</li> <li>The matter is listed for a directions hearing on 7 February 2020.</li> <li>Directions hearing on 7 February 2020 where it was resolved that :</li> </ul>	Directions Hearing 16 October 2020	



APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	RESPONSIBLE OFFICER	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
					<ul style="list-style-type: none"><li>- adjourned to a further direction hearing on 4 March 2020;</li><li>- By 6 March 2020, the respondent must file a statement of issues, facts and contentions and bundle of documents required under s 24 of the State Administrative Tribunal Act 2004.</li><li>• Directions on 4 March 2020, where it was discussed that City likely to refuse Application for DA for Research Establishment, that the order for City to file documents be revoked, and adjourned to 3 April 2020</li><li>• City refused Application for DA for Research Establishment on 12 March 2020</li><li>• Mr Bishop has applied to the SAT to have refusal reviewed</li><li>• Directions hearing on the 3 April 2020 adjourned to 17 April 2020 due to non-appearance of Mr Bishop.</li><li>• Directions hearing on the 17 April was vacated and listed for a directions hearing on 24 April 2020.</li><li>• Both review applications have now been listed for Mediation on 6 May 2020;</li><li>• Directions hearing on 5 May 2020 in order for both parties to agree on vacating the mediation on 6 May 2020 and re-listing for 3 June 2020.</li><li>• DR 277 of 2019 (relating to s214 notice for concrete batching) withdrawn and DR 59/2020 (relating to the refusal of the DA for Research Establishment) adjourned to a further mediation on 19 August 2020.</li><li>• Mediation on 19 August 2020 where the matter was referred to a directions hearing on 4 September 2020.</li><li>• Directions hearing on 4 September 2020 was vacated and listed for a directions hearing on 25 September 2020</li><li>• Mr Bishop failed to attend the directions on 25 September 2020. The matter was listed for a further directions hearing on 16 October 2020.</li></ul>		
Hotalit v City of Busselton	9 Prospect Close, Quindalup	November 2019 and January 2020	Review of a decision to give directions under s.214.	Ben Whitehill / Lee Reddell	<ul style="list-style-type: none"><li>• City issued 3 s 214 directions (Planning and Development Act 2005) October 2019; review applications lodged with SAT</li><li>• Due to administrative issues, review applications were dismissed. Re-commenced in January 2020 (DR 16/2020).</li><li>• Directions hearing held on 31 January 2020, adjourned to 28 February 2020 to enable the parties to confer, with a view to then being directed to mediation.</li><li>• Directions hearing on 28 February 2020 where the matter was referred to mediation on 16 March 2020.</li><li>• Mediation on 16 March 2020 where it was resolved that:<ul style="list-style-type: none"><li>- The parties are to liaise in respect of the additional information required for the determination of the</li></ul></li></ul>	The application for review has been withdrawn.	

WESTERN AUSTRALIAN PLANNING COMMISSION



Government of Western Australia  
Department of Health

Contact: (08) 9222 2000

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

Dear Mr Archer

**LOCAL GOVERNMENT AUTHORISED OFFICER INVOLVEMENT IN COVID EVENT  
PLAN RISK ASSESSMENT AND APPROVAL PROCESS**

I am writing to you about the updated approach to approving events during the COVID-19 pandemic in Western Australia (WA) and to highlight the important new role of authorised officers (in most instances environmental health officers; EHOs) in that process.

On Friday 18 September, the Hon. Mark McGowan (BA LLB MLA) announced a new framework for events approvals in WA, to take effect from 11.59pm, 24 September 2020. Officers authorised under the *Public Health Act 2016 (WA)* for the purpose of the *Health (Miscellaneous Provisions) Act 1911 (WA)* will be authorised under the *Closure and Restriction (Limit the Spread) Directions (No 6)* for this purpose.

The *Closure and Restriction (Limit the Spread) Directions (No 6)* will introduce the need for COVID Event Plans to be developed by event organisers/applicants for any event with greater than 500 patrons, that also requires approval under the *Health (Miscellaneous Provisions) Act 1911*. Authorised officers within local government will review low and medium risk COVID Event Plans for public and private events, where local government approval is required. It will also be a mandatory requirement for event organisers to register their event with the Department of Health (DOH) for inclusion in the events calendar via [https://ww2.health.wa.gov.au/Articles/A\\_E/Events-registration](https://ww2.health.wa.gov.au/Articles/A_E/Events-registration).

A suite of tools has been developed by the DOH, in collaboration with WA Police (WAPOL), the Department of Premier and Cabinet, the State Solicitor's Office and Department of Local Government, Sport and Cultural Industries. These tools are for use by authorised officers and event organisers to assist them to understand the changes to the events approval process and to support compliance with the Directions.

A comprehensive COVID Event Plan will need to consider the following aspects:

- Hand hygiene
- Physical distancing
- Public transport options
- Cleaning and disinfection
- Staff management and training
- Management of unwell staff, volunteers or patrons
- Communications
- Contact Tracing
- Waste Management
- Emergency Procedures

Each event must first be assessed using a risk assessment tool, to determine whether it is a low, medium or high risk from a public health (COVID-19) perspective. The role of the authorised officer within local government will then be to assess and approve COVID Event Plans for those events considered low or medium risk. COVID Event Plans for high risk events are to be escalated to the DOH for review/approval by myself as the Chief Health Officer, or a delegated person. Once the review process is complete, the outcome will be communicated to the local government and the event organiser.

A component of the COVID Event Plan may be the requirement for event organisers to engage COVID Safety Marshals. A COVID Safety Marshal is an individual whose role is to monitor that the public health measures outlined in the COVID Event Plan are implemented and complied with. The requirement for Safety Marshals, and the number required at the event, will be assessed by the approving authority.

COVID Event Plan enforcement and compliance is the responsibility of WAPOL. Authorised officers and COVID Safety Marshals will not play an enforcement role. All non-compliance issues should be reported to WAPOL at the time of the event.

I thank you for your support and assistance in responding to these challenging times. I acknowledge the support of local governments and authorised officers for their ongoing role in protecting public health.

Yours sincerely,



Dr Andrew Robertson  
**CHIEF HEALTH OFFICER**  
**DEPARTMENT OF HEALTH**



**ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION (WITHOUT DEBATE)****16. FINANCE AND CORPORATE SERVICES REPORT****16.1 BUSSELTON NETBALL ASSOCIATION SURRENDER AND NEW LEASE LOIS HANNAY PAVILION**

<b>STRATEGIC GOAL</b>	1. COMMUNITY: Welcoming, friendly, healthy
<b>STRATEGIC OBJECTIVE</b>	1.3 A community with access to a range of cultural and art, social and recreational facilities and experiences.
<b>SUBJECT INDEX</b>	Agreements and Contracts
<b>BUSINESS UNIT</b>	Corporate Services
<b>REPORTING OFFICER</b>	Senior Leasing and Property Officer - Ann Strang
<b>AUTHORISING OFFICER</b>	Director Finance and Corporate Services - Tony Nottle
<b>NATURE OF DECISION</b>	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Proposed Leased Premises Busselton Netball Association

<b>DISCLOSURE OF INTEREST</b>	
Date	14 October 2020
Meeting	Ordinary Council
Name/Position	Cr Grant Henley, Mayor
Item No./Subject	16.1 Busselton Netball Association Surrender and New Lease Lois Hannay Pavilion
Type of Interest	Financial (Proximity) Interest
Nature of Interest	My residential property adjoins the property that is the subject of the lease agreement.

5.40pm: At this time, the Mayor left the meeting and Deputy Mayor Cr Kelly Hick assumed the chair.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C2010/107** Moved Councillor R Paine, seconded Councillor P Carter

That the Council:

1. Resolves to accept a surrender of the current lease between the City of Busselton and Busselton Netball Association Inc.
2. Resolves to enter into a new lease, subject to the consent of the Minister for Lands, with the Busselton Netball Association Inc. for a portion of Reserve 17319, Lot 539 on Deposited Plan 404860, Volume LR3167, Folio 873, 2 King Street, Busselton, as shown outlined in orange on Attachment A, on the following terms:
  - (a) The term of the lease to be 10 years commencing on the date of surrender, with a further 10 year option;
  - (b) The rent to commence at \$230.00 inclusive of GST per annum and increased by \$5.00 on each anniversary;
  - (c) Ancillary to the permitted use, the lease will require the Tenant to make available for hire the common room, kitchen and ablutions to other sporting and community groups when not being used by the Tenant. The City in consultation with the Tenant will determine the schedule of hire charges;

- (d) The City may restrict access to the Premises up to 5 days per calendar year during approved City events held at Lou Weston Reserve;
- (e) A requirement for the Tenant to establish and maintain a contingency fund for the purpose of asset management and capital improvements to the Premises. The Tenant to contribute \$7,000 per annum into the account in the first three years of the Lease, in the fourth year the contribution to increase to \$10,000 per annum and thereafter increased by CPI.
- (f) A clause stating that should a State of Emergency be declared in Western Australia that prevents the Tenants' use of the Premises, the City will not commence enforcement action against the Tenant for failure to make the contribution amount (referred to in (e) above) in full during that period and will instead negotiate in good faith with the Tenant a variation to the contribution requirement under the lease; and
- (g) All costs associated with the preparation of the lease are to be met by the Tenant.

CARRIED 7/0

#### EXECUTIVE SUMMARY

The City obtained funding from the Department of Local Government, Sport and Cultural Industries (DLGSCI) through the Community Sport and Recreation Facilities Fund (CSRFF) towards the redevelopment of the netball courts and the Lois Hannay Pavilion (LHP), located on Reserve 17319 (Lou Weston).

The LHP is leased to the Busselton Netball Association Inc. (BNA). As the building footprint of the new pavilion differs from the existing leased premises it is recommended, and the BNA have agreed, to enter into a new lease. The new lease will reflect the current approach of responsible asset management, an agreement concerning hire of the facility to other sporting and community groups, and the grant of a longer term.

#### BACKGROUND

Lou Weston is Crown Land situated on Lot 539, Reserve 17319, King Street, Busselton, managed by the City for the purpose of 'Recreation'. The management order contains the power to lease any part of the reserve for terms up to 21 years, subject to the consent of the Minister for Lands. It is utilised all year round by various sporting clubs including Netball, Junior Football and Tee-ball. The use of the ovals on Lou Weston are managed through a seasonal hire arrangement. The Geographe Bay Yacht Club and the Busselton Fitness Club also lease portions of Lou Weston.

The BNA moved to Lou Weston in 1963. They became incorporated in 1971. In 1983, they funded the construction of the original LHP, which officially opened in May 1985. The BNA remained in occupation of the LHP without any formal tenure until 2013 when Council resolved (C1309/232) to enter into a lease of the whole building. The lease was for a term of 5 years with a further 5 year option. They are now into their second term of the lease which expires in 2024.

At the time of the original lease proposal being presented to Council, the BNA expressed their preference for a 21 year lease term. The shorter term was however recommended as the City had committed to developing a concept design for Lou Weston in the four year Corporate Plan, and the outcome of that would likely have an impact on their leased premises. The City did however grant a right of first refusal to the BNA should the premises be offered for lease at the end of the term. The provision was included to address BNA's concerns that the City would offer a lease of their premises to another group or entity after the 10 year expiry.



Since 2012, there has been extensive consultation undertaken with user groups at Lou Weston and the community to determine the future needs at Lou Weston. A concept design was prepared for a pavilion between the oval and the netball courts. However, following an unsuccessful funding application to the DLGSCI in 2017, the Council resolved in September 2018 (C1809/192) to support a submission for another CSRFF application - this time to redevelop both the existing LHP and netball courts at Lou Weston. The submission was based on the facility being a multi-use facility for users of the Lou Weston. The City was successful with this application. A grant agreement between the City and the DLGSCI was entered into in March this year, for the sum of \$400,000.

The tender for construction was awarded on 11 December 2019. The cost of the redevelopment of the LHP was in the vicinity of \$800,000. The BNA committed \$120,000 towards the project.

#### **OFFICER COMMENT**

The proposed lease premises are the areas outlined in orange and marked common room, store/referee room, co-ordinators room, kitchen, store - netball, dry store, female WC's, male WC's, UAT, ramp, bin enclosure and grease trap on the plan attached (the Premises).

The undercover area and access ways (Shared Use Areas) will be available for use by the general public and by users of Lou Weston via the seasonal hire arrangements. The use of the store room shown on the plan as 'store - other' has been excluded from the lease. This will provide flexibility for the City in respect to future use of this space.

The BNA are seeking a longer term tenure over the Premises. In recognition of their financial contribution to the LHP, their commitment to future asset management and the longevity of their association with the facility, officers consider a longer term to be appropriate and in keeping with current Council policy. To remain consistent with other leasehold interest on Lou Weston, it is recommended that a 10 year lease with a further 10 year option be offered.

The intention of the LHP is for a multi-use facility, therefore it is proposed that the lease be conditional on the BNA making the common room, kitchen and female, male and unisex disabled toilets (Function Space) available for hire by other sporting and community groups utilising Lou Weston. This will ensure the permitted use remains consistent with the submission for CRSFF grant funding. Although the toilets in LHP are not public, this condition aims to ensure the facilities are available for other user groups to utilise. The lease will also require that fees charged to other groups are reasonable and provide a mechanism by which the City may require a review of the fees if necessary.

It is also proposed that a provision be included in the lease allowing the City to restrict the BNA's access to the land and Premises during a City approved event on Lou Weston. This restriction will be limited to no more than five (5) days per calendar year.

As the BNA will be responsible for all maintenance of the Premises (excluding the Shared Use Areas and Other Store) it is recommended that the lease includes a requirement to establish and make ongoing yearly contributions to a building maintenance fund. Similar provisions have been included in recent leases to not-for-profit tenants. An amount of \$10,000 per annum is considered appropriate based on asset management modelling, increased annually by CPI. To provide a lead in time it is proposed that the BNA contribute \$7,000 per annum in the first three years, increasing to \$10,000 in the fourth year and thereafter reviewed by CPI. The BNA have a current practice of collecting \$10 per annum per player towards their current building maintenance requirements, and this year, with some reduced membership due to COVID-19, would have collected \$7,000, hence this is seen as a suitable initial amount.

The recent pandemic has raised a concern for the BNA in respect to their ability to meet this requirement should similar unforeseen circumstances arise. In order to offer increased security in such an event, it is proposed that the City would not issue a breach should the BNA fail to meet the obligation in respect to the contribution due to a State of Emergency be declared in Western Australia that affects the BNA's use of the Premises.

### **Statutory Environment**

When disposing of property whether by sale, lease or other means, a local government is bound by the requirement of section 3.58 of the *Local Government Act* which requires giving local public notice when disposing of property. There are exemptions to this process under Regulation 30(2)(b)(i) and (ii) of the *Local Government (Functions & General) Regulations* which states:

*Disposal of land to incorporated bodies with objects of benevolent, cultural, educational or similar nature and the members of which are not enlisted to receive any pecuniary profit from the body's transactions, are exempt from the advertising and tender requirements of section 3.58 of the Local Government Act.*

The constitution of BNA is such that this exemption applies.

The land on which the LHP is located is within Reserve 17319, Lot 539, Deposited Plan 404860, Volume LR3167, Folio 873, being Crown Land for the designated purpose of Recreation. The City is the management body under Management Order N534868. The City has the power to lease or licence for periods up to 21 years, subject to the consent of the Minister for Lands.

Under Section 18(2) of the *Land Administration Act 1997*, approval of the Minister for Lands is required for a lease on a Crown Reserve. Additionally, the lease is to be lodged with Landgate in accordance with the *Transfer of Land Act 1893* (TLA).

### **Relevant Plans and Policies**

The recommendation to enter into a lease with BNA is generally consistent with the principles of the Council policy adopted by Council on 13 May 2020. While this policy generally provides for a lease term for a not for profit, sporting and community organisation of 5 years plus a 5 year option (exercisable by the tenant), it also contemplates circumstances where it is appropriate to offer a longer lease term. The longer term proposed for the BNA is consistent with other current leasehold interests of Lou Weston, such as the Busselton Fitness Club and the Geographe Bay Yacht Club.

Lou Weston was identified in the City of Busselton Sport and Recreation Facilities Strategy 2020-2030 in Key Area 1 as a District Facility for netball and one of the highest used sporting facilities in the City.

### **Financial Implications**

Other than general maintenance requirements associated with shared seating and infrastructure, there are no financial implications associated with entering into a lease with BNA for the Premises. The lease will include requirements for the tenants to pay outgoings including services and insurance as well as meet the costs of maintenance and repair of the Premises, including structural repairs.

The rent applied to community and sporting groups leasing City owned or managed land is currently \$230.00 per annum increased by \$5.00 on each anniversary (all amounts are inclusive of GST). It is proposed that this annual rent be charged to the BNA.

### **Stakeholder Consultation**

There has been extensive consultation undertaken with the community and user groups in respect to the concept plan for Lou Weston. The LHP has been designed to accommodate the BNA's needs associated with their use, in particular when used in conjunction with their use of the courts.



The BNA have been consulted concerning the terms and conditions of the proposed lease.

### **Risk Assessment**

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

### **Options**

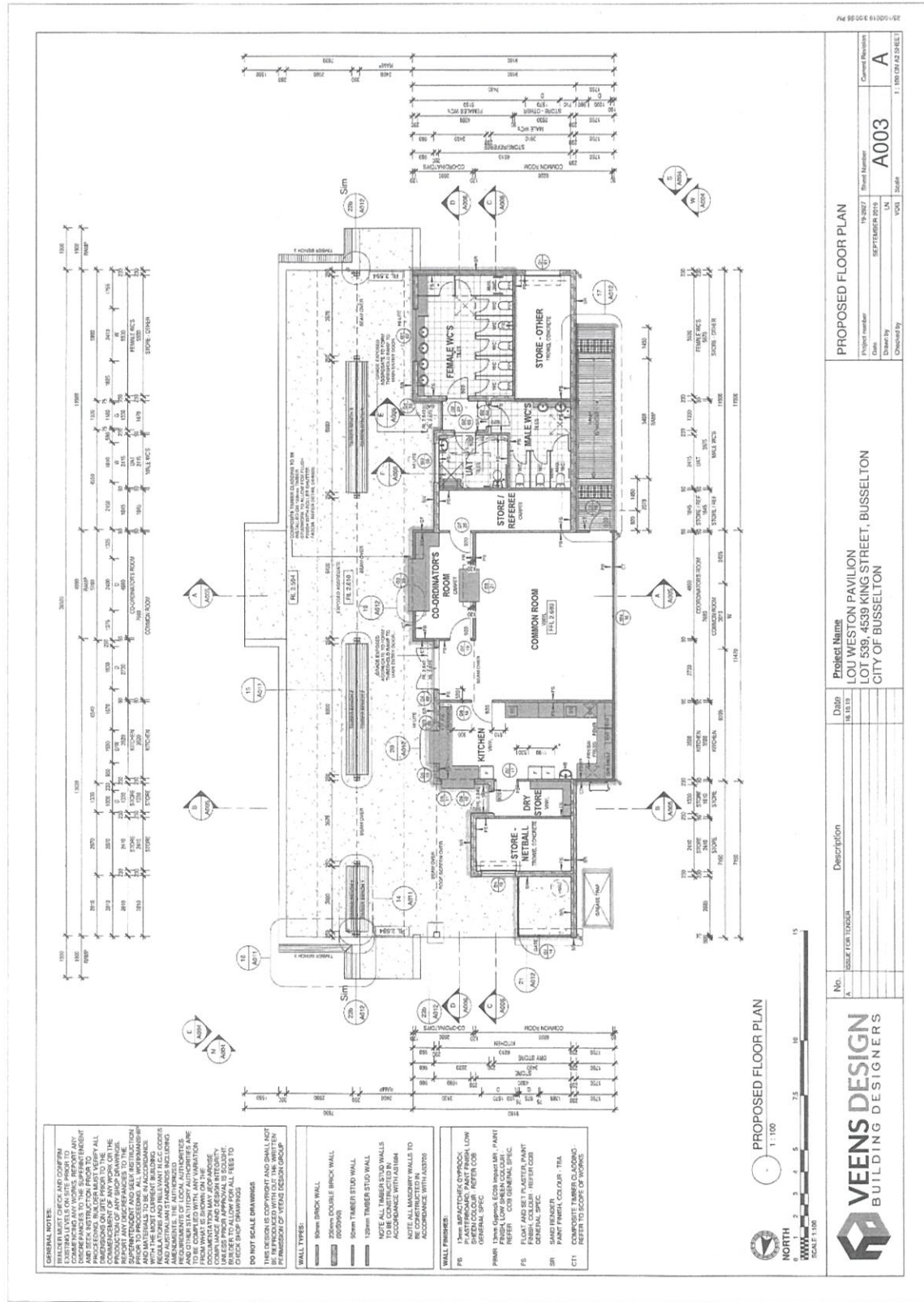
As an alternative to the proposed recommendation, the Council could resolve to enter into a shorter or longer term lease, however not exceeding 21 years.

### **CONCLUSION**

The grant of a long term lease which includes the specific provisions outlined in this report are the culmination of collaboration and negotiations that City Officers consider are a fair reflection of the needs and requirements of both parties in a changing environment. The term is also consistent with the leases of other portions of Lou Weston to not for profit organisations with similar long term association and attachment to the facility. The commitment to make the LHP available to other sporting disciplines is welcomed as a positive move towards accommodating a wider variety of sporting offerings in the district.

### **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

It is anticipated that the lease and surrender would be forwarded to the BNA and executed by all parties no later than 30 November 2020.



5.41pm: At this time, the Mayor re-entered the meeting and assumed the Chair.

## ITEMS FOR DEBATE

### 12.1 Policy and Legislation Committee - 23/09/2020 - REVIEW OF COUNCIL POLICY: SHARK HAZARD RESPONSE

<b>STRATEGIC GOAL</b>	6. LEADERSHIP Visionary, collaborative, accountable
<b>STRATEGIC OBJECTIVE</b>	6.1 Governance systems, process and practices are responsible, ethical and transparent.
<b>SUBJECT INDEX</b>	Council Policies
<b>BUSINESS UNIT</b>	Environmental Services
<b>REPORTING OFFICER</b>	Ranger & Emergency Services Coordinator - Ian McDowell
<b>AUTHORISING OFFICER</b>	Director, Planning and Development Services - Paul Needham
<b>NATURE OF DECISION</b>	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Council Policy: Shark Hazard Response (Proposed) Attachment B Council Policy: 044 Shark Hazard Response (Current) Attachment C Council Policy: Shark Hazard Response (Proposed) with Committee Amendments

This item was considered by the Policy and Legislation Committee at its meeting on 23/09/2020, the recommendations from which have been included in this report.

### OFFICER RECOMMENDATION

That the Council adopts the revised Council Policy: Shark Hazard Response (Attachment A), to replace the current Council Policy 044: Shark Hazard Response (Attachment B).

### COMMITTEE RECOMMENDATION

Moved Councillor S Riccelli, seconded Councillor P Carter

That the Council adopts the revised Council Policy: Shark Hazard Response inclusive of Committee amendments as per Attachment C (as circulated to the Committee), to replace the current Council Policy 044: Shark Hazard Response (Attachment B).

There was opposition to the Committee Recommendation and Cr Hick moved the following amendments which were foreshadowed prior to the meeting:

### COUNCIL DECISION AND AMENDMENT

**C2010/108** Moved Deputy Mayor K Hick, seconded Councillor J Barrett-Lennard

That the Council adopts the revised Council Policy: Shark Hazard Response as per Attachment C with the following amendments:

1. Replace 'Shark Monitoring Network' in paragraph 5.2 with 'shark monitoring network' to remove potential reference as a defined term;
2. Replace the word 'shall' with the word 'will' in paragraph 5.7;
3. Replace the term 'Fisheries' with 'Department of Primary Industries and Regional Development (Fisheries branch)' in paragraph 5.7;



4. Amend paragraph 5.8(b) to read: “providing information on Patrolled Beaches within the City including patrol dates and times”; and
5. Amend paragraph 5.8(c) to read: “encouraging swimmers to swim at Patrolled Beaches or within the beach enclosures at Busselton and Dunsborough”.

CARRIED 8/0

The amendments to the Committee Recommendation were carried and the motion as amended became the substantive motion, which was then put to a vote:

#### **COUNCIL DECISION AND AMENDED COMMITTEE RECOMMENDATION**

**C2010/109** Moved Councillor S Riccelli, seconded Councillor P Carter

**That the Council adopts the revised Council Policy: Shark Hazard Response inclusive of Committee amendments as per Attachment C and with the above additional amendments to replace the current Council Policy 044: Shark Hazard Response (Attachment B).**

CARRIED 8/0

Reasons: The term “shark monitoring network” should be written in lower case as it is not a defined term.  
The term ‘Fisheries’ is considered to be an informal term and the paragraph should be amended to refer precisely to the responsible State Government department.  
Paragraphs 5.8(b) and 5.8(c) to be amended to use the words “Patrolled Beach” as it is a defined term.  
Other minor amendments made to the clarity and readability of the Policy.

#### **EXECUTIVE SUMMARY**

This report presents a revised Council Policy: Shark Hazard Response (the Policy) (Attachment A) with the current policy having been reviewed as part of the City’s overall review of its Council policies.

#### **BACKGROUND**

The existing Council policy: 044 Shark Hazard Response (Attachment B) was developed in October 2015. Upon review, officers consider the current policy contains information that is very much operational in nature.

The City has implemented a Policy Framework document, the purpose of which is to provide a structure for the development and maintenance of documents intended to guide the City’s approach to decision making, namely Council Policies, Operational Practices, Work Processes and Guidelines. In early 2019, the City in conjunction with the Shire of Augusta Margaret River, developed and implemented an operational practice (OP) with the aim of providing a consistent local government approach when responding to shark attacks and sightings along the neighbouring coastline. The Shark Hazard Response OP was approved by the City’s Chief Executive Officer and came into force in March 2019.

#### **OFFICER COMMENT**

Under the City’s policy framework and structure, a Council policy should provide a strategic statement of the Council’s direction. Following a review of the current policy, it has been determined by officers that much of its content provides information more aligned to the operational functions of responding to shark attacks or shark sightings.



The Policy reflects the more strategic aspects of responding to a shark attack, with the operational content having been removed. The removal of the operational content from the Policy will not impact on the City's approach to shark attacks or sightings, as these processes are well documented in the City's Shark Hazard Response OP.

### **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's policies. The Council does this on recommendation of a Committee it has established under the provisions of 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.

### **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**

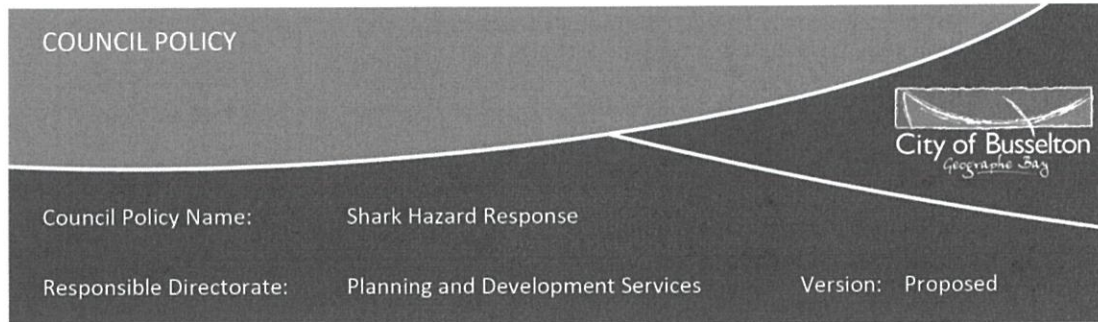
As an alternative to the proposed recommendation the Council could ask that officers revise the Policy further taking into account any matters raised by the Council in relation to the City's shark hazard response.

### **CONCLUSION**

Following a review of the current policy: 044 Shark Hazard Response, it was determined the policy was largely operational in nature and duplicated much of what is already documented in the City's Shark Hazard Response OP. A revised Policy is presented to Council for endorsement.

### **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The Policy will be placed on the City's website within one week of Council adoption.



**1. PURPOSE**

- 1.1. The purpose of this Policy is to guide the City's approach in response to shark attacks and shark sightings, as well as a broader approach for water safety warnings and information provided to the public.

**2. SCOPE**

- 2.1. This Policy is applicable to beach areas under the care, control and/or management of the City.

**3. DEFINITIONS**

Term	Meaning
The City	the City of Busselton
Operational Practice	developed for administrative purposes to set direction in relation to an organisational practice (City of Busselton Policy Framework)
Patrolled Beach	a beach that has a SLSWA beach safety and surveillance service in operation
Policy	this Council Policy titled "Shark Hazard Response"
Salmon Season	the period when schools of Salmon are running off the WA Coast (March to May)
SLSWA	Surf Life Saving Western Australia

**4. STRATEGIC CONTEXT**

- 4.1. This Policy links to Key Goal Area 1 – Community of the City's Strategic Community Plan 2017 and specifically the Community Objective 1.1: a friendly safe and inclusive community with a strong community spirit.

**5. POLICY STATEMENT**

- 5.1. The Chief Executive Officer will prepare more detailed internal Operational Practices to supplement this policy and to guide operational staff in the exercise of their functions. The City will seek to align its response protocols with those of the Shire of Augusta Margaret River.
- 5.2. The Chief Executive Officer will consult with Councillors as appropriate in the development of those Operational Practices.
- 5.3. The City will continue to advocate through the State Government the management of sharks including a consistent state wide approach to shark sightings and incidents regardless of land tenure.
- 5.4. Shark sighting reports received from the SLSWA helicopter surveillance service and Shark Monitoring Network generally provide details about the location of the shark, size, species and in some instances direction of travel, which are essential for making decisions about swimmer safety. The SLSWA

helicopter surveillance and Shark Monitoring Network service when available, will inform the City's response to a shark sighting.

- 5.5. In the event of a shark attack fatality, WA Police are the lead agency. The City will provide assistance with the management of the shark attack and implement beach safety measures as considered necessary and under the direction of the WA Police.
- 5.6. Where an order to capture a shark has been granted to the Department of Primary Industries and Regional Development (Fisheries) and a direction given to swimmers to leave the water following a shark attack, the decision to re-open a beach for swimming should be not less than 24 hours after the shark attack occurred and/or after Fisheries advise that the order to capture the shark has been lifted.
- 5.7. The decision to re-open beaches under the care and control of the City shall be made by the City in consultation with Fisheries.
- 5.8. At a Patrolled Beach, an SLSWA life guard is the authorised person for responding to a shark sighting and for implementing the SLSWA response procedure which may include sounding alarms to alert swimmers, clearing the water of swimmers and monitoring shark presence.
- 5.9. Community awareness of shark hazards will be promoted by:
  - a. providing information on the City website about how to access recent reports of shark activity from the WA Government information and communication platforms including Shark Smart website and SLSWA Twitter feed, the times and dates of SLSWA patrolled beaches to encourage swimmers to use SLSWA patrolled beaches and the beach enclosures at Dunsborough and Busselton;
  - b. temporary signage installed in accordance with the City's Shark Hazard Response Operational Practice to inform beach users and swimmers that a shark has been sighted in the vicinity and provide information on how to access the latest shark sighting report information from SLSWA and from the WA Government information and communication platforms; and
  - c. temporary signage to inform beach users and swimmers of increased shark activity during the annual salmon season.

## 6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. The City's Operational Practice for: Shark Hazard Response

## 7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	14 October 2015	Resolution #	C1510/286

Last updated 14/10/2015 (implementation)

044	Shark Hazard Response	V1 Current
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#### 1. PURPOSE

The purpose of this policy is to –

- 1.1. Provide direction for responding to shark attacks and shark sightings, as well as the broader approach to water safety warnings and information provided to the public.
- 1.2. Guide the administration of the City of Busselton Property Local Law 2010, under which a sign may be erected to regulate, prohibit or restrict specific activities on the beach or in the water and the giving of directions to swimmers to leave the water if a shark is suspected of being in the vicinity of the beach.

#### 2. SCOPE

This policy applies to beach areas under the care, control or management of the City, excluding privately owned land and land in National Park, extending along the coast from the Shire of Capel boundary to the Shire of Augusta Margaret River boundary.

#### 3. INTERPRETATION

**Authorised Person** means the Chief Executive Officer or a person or class of persons appointed under section 9.10 of the Local Government Act 1995 for the purpose of administering the City of Busselton Property Local Law 2010 and Jetty Local Law 2014

**SLSWA** means Surf Life Saving Western Australia

**Patrolled Beach** means a beach that has a SLSWA beach safety and surveillance service in operation.

**Unverified Shark Sighting** means a shark sighting reported to the City from Water Police WA and forwarded to the City from the Water Police WA.

**Verified Shark Sighting** means a shark sighting reported to the City by the SLSWA Helicopter service and or WA Government Shark Monitoring Network.

#### 4. GENERAL PRINCIPLES

- 4.1. The Chief Executive Officer will prepare more detailed internal procedures/protocol to supplement this policy and to guide operational staff in the exercise of their functions. The Chief Executive Officer will consult with Councillors as appropriate in the development of those procedures/protocol.
- 4.2. This policy recognises that at a beach patrolled by SLSWA, the on duty life saver will be responsible for implementing shark sighting response in accordance with the SLSWA standard operating procedures.
- 4.3. The City will engage with the Margaret River Busselton Tourism Association and Busselton Jetty Environment and Conservation Association with the aim of having these organisations assist the City's response to shark sightings including the



Last updated 14/10/2015 (implementation)

active placement of shark sighting signage at the Busselton Beachfront and on the Busselton Jetty generally in accordance with this policy.

- 4.4. Shark sighting reports received from the SLSWA helicopter surveillance service and Shark Monitoring Network generally provide details about the location of the shark, size, species and in some instances direction of travel, which are essential for making decisions about swimmer safety. The SLSWA helicopter surveillance and Shark Monitoring Network service when available, will inform the City's response to a shark sighting.
- 4.5. In the event of a shark attack fatality, WA Police are the lead agency. The City will provide assistance with the management of the shark attack and implement beach safety measures as considered necessary and under the direction of the WA Police.
- 4.6. Where an order to capture a shark has been granted to the Department of Fisheries and a direction given to swimmers to leave the water following a shark attack, the decision to re-opening a beach for swimming should be not less than 24 hours after the shark attack occurred and or after the Department of Fisheries advise that the order to capture the shark has been lifted.
- 4.7. Better community awareness and education about the shared responsibility of risk is needed. The City will actively promote the WA Governments Shark Smart website, SLSWA twitter feed and other communication platforms in place to inform the community of recent reports of shark activity.

## 5. POLICY CONTENT

- 5.1. At a Patrolled Beach, an SLSWA life guard is the authorised person for responding to a shark sighting and for implementing the SLSWA response procedure which may include sounding alarms to alert swimmers, clearing the water of swimmers and monitoring shark presence.
- 5.2. City Rangers are authorised persons for the purpose of responding to a shark sighting. Subject to availability (i.e. during rostered hours, usually 6am-6pm, seven days per week, and when priorities allow, noting that fire/emergency management response, dog attacks or other work that addresses more pressing risks will be prioritised when there is a need to prioritise due to resources being finite), City Rangers will respond to a verified shark sighting at an unpatrolled beach as follows:
  - 5.2.1. If the shark sighted is less than 2.5 metres in length, the City will maintain normal operations and not take any action.
  - 5.2.2. If the shark sighted is greater than 2.5 meters in length and less than 500 meters from the shore, temporary signage is to be placed on the beach immediately adjacent to the shark sighting location, at intervals of approximately 500 metres and/or on key beach entry points, for a distance of approximately 500 meters from a point on the beach immediately adjacent to the shark sighting location.

Last updated 14/10/2015 (implementation)

- 5.2.3. Signage installed on a beach shall not mean beach closure and shall be advisory signage only and remain in place for at least two hours from the time of installation after the last shark sighting (if after 5pm, signs are to remain in-situ overnight).
- 5.3. Unless the authorised person has a very clear basis to think there is a significantly high risk than is normally the case (i.e. there is always a level of risk as only a very small portion of shark activity is ever seen) the City will generally not install signage and patrol beaches as a response to an unverified shark sighting where the report relates to an unpatrolled beach, except where the unverified shark sighting is more than 2.5 meters in length and is within one 500 meters from the Busselton Jetty and or within 500 meters of the Dunsborough beach area adjacent to the intersection of Dunn Bay Road and Geographe Bay Road.
- 5.4. In response to a shark sighting at the Busselton Jetty an authorised person will install on the Busselton Jetty in an appropriate location, signage approved by the City to inform the public entering the Busselton Jetty of the time and location of shark sighting. Signage shall remain in place for at least two hours after the last shark sighting (if after 5pm, signs are to remain in-situ overnight).
- 5.5. Community awareness of shark hazard will be promoted by:
- 5.5.1. Providing information on the City website about how to access recent reports of shark activity from the WA Government information and communication platforms including Shark Smart website and SLSWA Twitter feed, the times and dates of SLSWA patrolled beaches to encourage swimmers to SLSWA patrolled beaches and the beach enclosures at Dunsborough and Busselton.
- 5.5.2. Installing permanent signage at key beach car parks to inform and promote to beach users, how to access the most recent information on local shark activity and include appropriate QR codes for international visitors.
- 5.5.3. Temporary signage installed in accordance with this policy shall inform beach users and swimmers that a shark has been sighted in the vicinity and provide information on how to access the latest shark sighting report information from SLSWA and from the WA Government information and communication platforms.

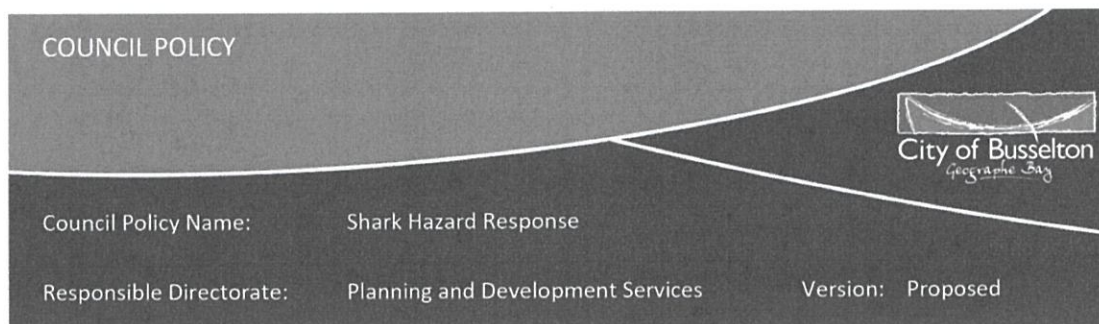
**Policy Background**

Policy Reference No. - 044  
Owner Unit – Environmental Services  
Originator – Manager, Environmental Services  
Policy approved by – Council  
Date Approved – 14 October, 2015  
Review Frequency – As required  
Related Documents – N/A

Last updated 14/10/2015 (implementation)

**History**

Council Resolution	Date	Information
C1510/286	14 October, 2015	Version 1



## 1. PURPOSE

- 1.1. The purpose of this Policy is to guide the City's approach in response to shark attacks and shark sightings, water safety warnings and related information provided to the public.

## 2. SCOPE

- 2.1. This Policy is applicable to beach areas under the care, control and/or management of the City.

## 3. DEFINITIONS

Term	Meaning
Patrolled Beach	a beach that has a <u>Surf Life Saving Western Australia</u> beach safety and surveillance service in operation
Policy	this Council Policy titled "Shark Hazard Response"

## 4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 1 – Community of the City's Strategic Community Plan 2017 and specifically the Community Objective 1.1: a friendly safe and inclusive community with a strong community spirit.

## 5. POLICY STATEMENT

- 5.1. The City advocates to the State Government for a consistent state wide approach to the management of sharks including shark sightings and incidents, regardless of land tenure.
- 5.2. The City is informed of shark sightings by the Surf Life Saving Western Australia (SLSWA) helicopter surveillance and the Shark Monitoring Network service when available.
- 5.3. Shark sighting reports generally provide details about the location of the shark, size, species and in some instances direction of travel, all of which inform decisions about swimmer safety and the City's response.
- 5.4. At a Patrolled Beach, a SLSWA life guard is the authorised person for responding to a shark sighting and for implementing the SLSWA response procedure; which may include sounding alarms to alert swimmers, clearing the water of swimmers and monitoring shark presence.
- 5.5. In the event of a shark attack fatality, WA Police are the lead agency. The City will provide assistance with the management of the shark attack and implement beach safety measures as necessary and under the direction of the WA Police.



5.6. ~~Where, following a shark attack, an order to capture a shark is granted to the Department of Primary Industries and Regional Development (Fisheries) and a direction is given to swimmers to leave the water, beaches will generally not be re-opened less than 24 hours after the shark attack occurred, and/or after Fisheries advise that the order has been lifted.~~

5.7. The decision to re-open a beach shall be made by the City in consultation with Fisheries.

5.8. Community awareness of shark hazards will be promoted by:

- a. ~~providing information on the City's website about how to access~~ recent reports of shark activity, ~~from information and communication platforms such as the Shark Smart website and SLSWA Twitter feed, Patrolled Beach information to encourage swimmers to use Patrolled Beaches, and information about the beach enclosures at Dunsborough and Busselton;~~
- b. temporary signage installed to inform beach users and swimmers that a shark has been sighted in the vicinity and to provide information on how to access the latest shark sighting report information; and
- c. temporary signage at key locations to inform beach users and swimmers of increased shark activity during the annual salmon season, being March to May.

## 6. RELATED DOCUMENTATION / LEGISLATION

6.1. Shark Hazard Response Operational Practice

## 7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	14 October 2015	Resolution #	C1510/286

12.2 Policy and Legislation Committee - 23/09/2020 - REVIEW OF COUNCIL POLICY: LEGAL REPRESENTATION FOR COUNCIL MEMBERS AND EMPLOYEES

<b>STRATEGIC GOAL</b>	6. LEADERSHIP Visionary, collaborative, accountable
<b>STRATEGIC OBJECTIVE</b>	6.1 Governance systems, process and practices are responsible, ethical and transparent.
<b>SUBJECT INDEX</b>	Council Policies
<b>BUSINESS UNIT</b>	Governance Services
<b>REPORTING OFFICER</b>	Governance Coordinator - Emma Heys
<b>AUTHORISING OFFICER</b>	Director Finance and Corporate Services - Tony Nottle
<b>NATURE OF DECISION</b>	Executive: substantial direction setting, including adopting strategies, plans and policies (excluding local planning policies), tenders, setting and amending budgets, funding, donations and sponsorships, reviewing committee recommendations
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Council Policy: Legal Representation for Council Members and Employees (Proposed) Attachment B Council Policy: Legal Representation for Council Members and Employees (Current)

This item was considered by the Policy and Legislation Committee at its meeting on 23/09/2020, the recommendations from which have been included in this report.

**COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**

Moved Councillor K Cox, seconded Councillor P Carter

That the Council adopts the revised Council policy: Legal Representation for Council Members and Employees at Attachment A, to replace the current Council policy '085: Legal Representation for Council Members and Employees' at Attachment B.

There was opposition to the Committee Recommendation and Cr Hick moved the following amendments which were foreshadowed prior to the meeting:

**COUNCIL DECISION AND AMENDMENT**

**C2010/110** Moved Deputy Mayor K Hick, seconded Councillor L Miles

That the Council adopts the revised Council policy: Legal Representation for Council Members and Employees at Attachment A, with the following amendments:

1. Add the words "current or former" before "Council member or employee" to the definition of 'Applicant', and to paragraphs 5.1 and 5.6.
2. Delete from the definition of 'Approved Lawyer' the point which reads "approved in writing by the Council or the CEO under delegated authority", and amend paragraph 5.4 to read: "Legal representation must be provided by an Approved Lawyer and the engagement of an Approved Lawyer must be approved in writing by the Council or the CEO under delegated authority".
3. Delete the definition of 'Legal Proceedings' and any reference to a defined term Legal Proceedings in the body of the Policy.
4. Add the defined term 'Approved Lawyer' to paragraph 5.6(c) and delete the words "(or law firm)" so that it reads: "the Approved Lawyer who is to be asked to provide the legal representation".

5. Add the words “to the best of the Applicant’s knowledge, the Applicant...” to paragraph 5.7(a) so that it reads: “a declaration by the Applicant that he or she has acted in good faith, and, to the best of the Applicant’s knowledge, the Applicant has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates”.
6. Amend paragraph 5.8 to replace the words “As far as possible” with the words “Other than in exceptional circumstances” so that it reads: “Other than in exceptional circumstances, the application is to be made before commencement of the legal representation to which the application relates”.
7. Amend paragraph 5.9 to read:  
“The Council must determine all applications made under this Policy. Applications to the Council must:
  - a. be accompanied by a report prepared by the CEO; or
  - b. where the CEO is the Applicant, the accompanying report must be prepared by an appropriate employee, generally a Director or senior governance employee”.
8. Amend paragraph 5.10 to read:  
“In determining an application, the Council may:
  - a. refuse;
  - b. approve; or
  - c. approve subject to conditions”.
9. Add the words “of approval of an application” and delete the words “but are not restricted to” from paragraph 5.11 so that it reads: “Conditions of approval of an application may include a financial limit and/or a requirement to enter into a formal agreement, including a security agreement relating to the payment, and repayment of legal representation costs”.
10. Amend paragraph 5.12 to read:  
“The Council, in approving an application in accordance with this Policy:
  - a. must set a limit on the costs to be paid, based on the estimated costs in the application; and
  - b. may also consider and approve additional costs in respect of the same matter”.
11. Delete paragraph 5.13.
12. Replace the words “Council members or employee” with “Applicant” in paragraphs 5.13, 5.17 and 5.17(b).
13. Add the words “for urgent legal representation” and “for Council’s notification” to paragraph 5.16 so that it reads: “An application for urgent legal representation approved by the CEO under delegation is to be submitted for Council’s noting to the next ordinary meeting of the Council”.

CARRIED 8/0



The amendments to the Committee Recommendation were carried and the motion as amended became the substantive motion, which was then put to a vote:

**COUNCIL DECISION AND AMENDED COMMITTEE RECOMMENDATION**

**C2010/111**

Moved Councillor K Cox, seconded Councillor P Carter

**That the Council adopts the revised Council policy: Legal Representation for Council Members and Employees at Attachment A, with the above additional amendments, to replace the current Council policy '085: Legal Representation for Council Members and Employees' at Attachment B.**

**CARRIED 8/0**

Reasons: It should be expressly stated throughout the body of the Policy that the Policy applies to former Council members and employees, so the definition of Applicant, and paragraphs 5.1 and 5.6 should include this additional wording.  
The final point in the definition of 'Approved Lawyer' is better contained in the body of the Policy.  
The term "legal proceedings" has a common meaning and does not need to be a defined term (and should therefore be in lower case).  
In certain contexts, the words "Council member or employee" is better replaced with the defined term "Applicant".  
Inclusion of the words "to the best of the Applicant's knowledge, the Applicant..." in paragraph 5.7(a) reflects that an Applicant, where they have acted in good faith may have inadvertently breached a law without knowledge and that they should only need to declare to their best of knowledge that they have not acted unlawfully.  
Other amendments made throughout to refer to defined terms (e.g. Approved Lawyer), and for greater clarity and readability.

**EXECUTIVE SUMMARY**

This report presents a revised Council policy: Legal Representation for Council Members and Employees (Attachment A) (the Policy) with officers recommending it replace the current Council policy '085: Legal Representation for Council Members and Employees' (Attachment B).

**BACKGROUND**

Council policy '085: Legal Representation - Costs Indemnification Policy' was implemented in 2008 and amended in 2012, with minor changes made to align the policy with the re-released Department of Local Government Guideline. Further changes were made to the policy in 2017, with the title amended to 'Legal Representation for Council Members and Employees'. An update to the Council delegation relating to urgent legal representation was also made at this time.

The Policy was presented to the Policy and Legislation Committee at the meeting of 25 August 2020. The Committee requested minor amendments to the wording and for the Policy to be returned to the Committee for consideration at its next meeting.

**OFFICER COMMENT**

The Policy provides strategic guidance and clarity as to when and under what circumstances a Council Member and Employee of the City may receive assistance for legal representation.

The Policy has been transferred into the new Council policy template and reviewed by officers, with minor amendments proposed to improve readability and clarity. Additional amendments have also been made in response to feedback from the Policy and Legislation Committee, namely to amend the definition of an Approved Lawyer and to reword paragraphs 5.15 and 5.16 for 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.

**Relevant Plans and Policies**

The Department of Local Government has provided an Operational Guideline and model policy in relation to legal representation for Council members and employees. The Policy maintains alignment overall with this model policy.

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the 2017 Governance Systems Review. The framework sets out the intent of Council policies, as opposed to operational documents such as Operational Practices.

**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**

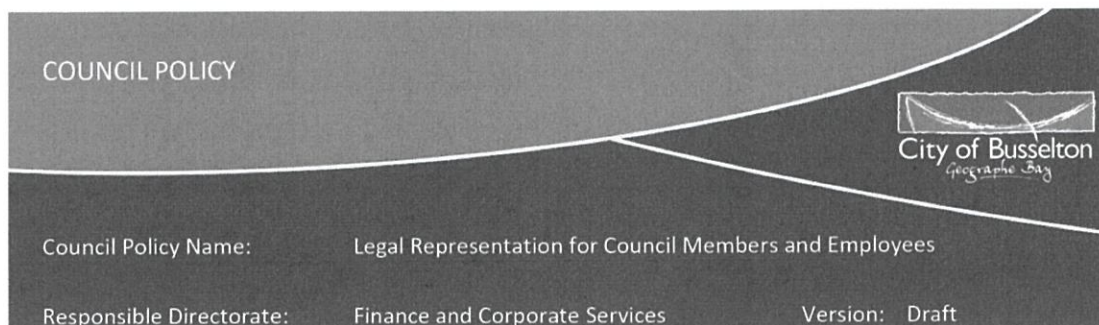
As an alternative to the proposed recommendation, the Council could require further amendments to the Policy.

**CONCLUSION**

A revised 'Legal Representation for Council Members and Employees' Council policy is presented for Council's approval.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The Policy will be placed on the City's website within one week of Council adoption.



## 1. PURPOSE

- 1.1. The purpose of this Policy is to provide guidance as to when the City may protect the interests of Council members and employees who become involved in legal proceedings because of their official functions.

## 2. SCOPE

- 2.1. This Policy is applicable to any current or former Council member or employee of the City of Busselton, subject to meeting the criteria set out in the Policy.

## 3. DEFINITIONS

Term	Meaning
Applicant	A Council member or employee who makes an application under paragraph 5.6 of this Policy.
Approved Lawyer	<ul style="list-style-type: none"><li>• a Lawyer as defined in section 4 'Terms relating to lawyers' and section 5 'Terms relating to legal practitioners' under the <i>Legal Profession Act 2008</i>; and</li><li>• from a law firm on the City's or WALGA's panel of legal service providers, if relevant, unless the Council considers that this is not appropriate - for example where there is or may be a conflict of interest or insufficient expertise; and</li><li>• approved in writing by the Council or the CEO under delegated authority.</li></ul>
Legal Proceedings	May be civil, criminal or investigative.
Policy	This City of Busselton Council policy titled "Legal Representation for Council Members and Employees".

## 4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 6 - Leadership of the City's Strategic Community Plan 2017 and specifically the Community Objective 6:1: Governance systems, process and practices are responsible, ethical and transparent.

## 5. POLICY STATEMENT

- 5.1. The City of Busselton may assist Council members and employees to meet reasonable expenses incurred in relation to Legal Proceedings they become involved in as a result of carrying out their official functions.
- 5.2. The provision of assistance must be justified for the good government of the district. Additionally, the following key criteria will apply when determining whether the City will pay the legal representation costs of a Council member or employee:

- a. the legal representation must relate to a matter that arises from the performance, by the Council member or employee, of his or her functions;
  - b. the legal representation must be in respect of legal proceedings that have been, or may be, commenced;
  - c. in performing his or her functions, to which the legal representation relates, the Council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
  - d. the legal representation costs do not relate to a matter that is of a personal or private nature.
- 5.3. If the criteria in clause 5.2 are satisfied, the City may approve the payment of legal representation costs in the following circumstances:
- a. where proceedings are brought against a Council member or employee in connection with his or her functions - for example, an action for defamation or negligence arising out of a decision made or action taken by the Council member or employee;
  - b. to enable proceedings to be commenced and/or maintained by a Council member or employee to permit him or her to carry out his or her functions - for example where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council member or employee;
  - c. where exceptional circumstances are involved - for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.
- 5.4. Legal representation must be provided by an Approved Lawyer.
- 5.5. The City will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action or a negligence action, instituted by a Council member or employee.

**Application for Payment**

- 5.6. A Council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the Council or the CEO. The Applicant is to give details of:
- a. the matter for which legal representation is sought;
  - b. how that matter relates to the functions of the Council member or employee making the application;
  - c. the lawyer (or law firm) who is to be asked to provide the legal representation;
  - d. the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
  - e. an estimated cost of the legal representation; and
  - f. why it is in the interests of the City for payment to be made.
- 5.7. The application is to contain:
- a. a declaration by the Applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates; and
  - b. a signed statement that he or she:
    - i. has read, and understands, this Policy;
    - ii. acknowledges that any approval of legal representation costs is conditional on the repayment provisions of paragraph 5.17 and any other conditions to which the approval is subject; and
    - iii. undertakes to repay to the City any legal representation costs in accordance with the provisions of paragraph 5.17 of this Policy.
- 5.8. As far as possible the application is to be made before commencement of the legal representation to which the application relates.



- 5.9. An application to the Council is also to be accompanied by a report prepared by the CEO, or where the CEO is the Applicant, by an appropriate employee, generally a Director or senior governance employee.
- 5.10. The Council may:
- a. refuse;
  - b. approve; or
  - c. approve subject to conditions
- an application for payment of legal representation costs.
- 5.11. Conditions may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.
- 5.12. The Council, in approving an application in accordance with this Policy, shall set a limit on the costs to be paid, based on the estimated costs in the application. Nothing prevents the Council from considering and approving additional costs in respect of the same matter.
- 5.13. In assessing an application, the Council may have regard to any City insurance policies that may apply to the Council members or employee.

**Revocation and Variation**

- 5.14. The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.
- 5.15. The Council may, subject to natural justice principles and consistent with the findings of a court, tribunal or inquiry, determine that a Council member or employee whose application has been approved has, in respect of the matter:
- a. not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
  - b. given false or misleading information in respect of the application
- and where the Council makes such a determination, the legal representation costs paid by the City are to be repaid by the Council member or employee in accordance with 5.17.

**Delegation to Chief Executive Officer**

- 5.16. An application approved by the CEO under delegation is to be submitted to the next ordinary meeting of the Council.

**Repayment of legal representation costs**

- 5.17. A Council member or employee whose legal representation costs have been paid by the City is to repay the City:
- a. all or part of those costs - in accordance with a determination by the Council under paragraph 5.15;
  - b. as much of those costs as are available to be paid by way of set-off - where the Council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid legal representation costs.
- 5.18. The City may take action in a court of competent jurisdiction to recover any monies due to it under this Policy.

**6. RELATED DOCUMENTATION / LEGISLATION**

- 6.1. Local Government Operational Guideline 'Legal Representation for Council Members and Employees'
- 6.2. Delegation DA1-19 Urgent Legal Representation



Council Policy: Legal Representation for Council Members and  
Employees (Proposed)

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	8 March, 2017	Resolution #	C1703/043

Last updated 8 March 2017

085	Legal Representation for Council Members and Employees	V3 Current
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## 1.0 PURPOSE

This policy is designed to protect the interests of Council members and employees (including past members and former employees) where they become involved in legal proceedings because of their official functions. In most situations the City of Busselton may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings. In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district.

## 2.0 SCOPE

The policy applies to any current or former Council member or employee of the City of Busselton, subject to meeting the criteria set out in the policy.

## 3.0 POLICY CONTENT

### 3.1 Definitions

**approved lawyer** is to be –

- (a) a 'certified practitioner' under the *Professions Act 2008*
- (b) from a law firm on the City's or WALGA's panel of legal service providers, if relevant, unless the Council considers that this is not appropriate – for example where there is or may be a conflict of interest or insufficient expertise; and
- (c) approved in writing by the Council or the CEO under delegated authority.

**council member or employee** means a current or former Commissioner, Council member or employee of the City of Busselton.

**legal proceedings** may be civil, criminal or investigative.

**legal representation** is the provision of legal services, to or on behalf of a Council member or employee, by an approved lawyer that are in respect of:

- (a) a matter or matters arising from the performance of the functions of the Council member or employee; and
- (b) legal proceedings involving the Council member or employee that have been, or may be, commenced.

**legal representation costs** are the costs, including fees and disbursements, properly incurred in providing legal representation.

**legal services** includes advice, representation or documentation that is provided by an approved lawyer.

**payment** by the City of Busselton of legal representation costs may be either by –

- (a) a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the Council member or employee.

Last updated 8 March 2017

### **3.2 Payment Criteria**

There are four major criteria for determining whether the City of Busselton will pay the legal representation costs of a Council member or employee. These are –

- (a) the legal representation costs must relate to a matter that arises from the performance, by the Council member or employee, of his or her functions;
- (b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;
- (c) in performing his or her functions, to which the legal representation relates, the Council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

### **3.3 Examples of legal representation costs that may be approved**

If the criteria in clause 3.2 of this policy are satisfied, the City may approve the payment of legal representation costs –

- (a) where proceedings are brought against a Council member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the Council member or employee; or
- (b) to enable proceedings to be commenced and/or maintained by a Council member or employee to permit him or her to carry out his or her functions - for example where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council member or employee; or
- (c) where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.

The City will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Council member or employee.

### **3.4 Application for payment**

A Council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the Council or the CEO. The written application for payment of legal representation costs is to give details of –

- (a) the matter for which legal representation is sought;
- (b) how that matter relates to the functions of the Council member or employee making the application;
- (c) the lawyer (or law firm) who is to be asked to provide the legal representation;
- (d) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
- (e) an estimated cost of the legal representation; and
- (f) why it is in the interests of the City for payment to be made.

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The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates. As far as possible the application is to be made before commencement of the legal representation to which the application relates.

An application to the Council is also to be accompanied by a report prepared by the CEO or where the CEO is the applicant by an appropriate employee.

### **3.5 Written Statement**

The application is to be accompanied by a signed written statement by the applicant that he or she –

- (a) has read, and understands, the terms of this Policy;
- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of Clause 3.11 and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the City any legal representation costs in accordance with the provisions of clause 3.11 of this policy.

### **3.6 Application for Payment**

In relation to clause 3.5 (c), when a person is to be in receipt of such monies the person should sign a document which requires repayment of those monies to the local government as may be required by the local government and the terms of the policy.

### **3.7 Legal representation costs – Limit**

The council in approving an application in accordance with this policy shall set a limit on the costs to be paid based on the estimated costs in the application. A council member or employee may make a further application to the council in respect of the same matter.

### **3.8 Council Powers – Decision process and conditions**

The council may –

- (a) refuse;
- (b) grant; or
- (c) grant subject to conditions

an application for payment of legal representation costs.

Conditions may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.

In assessing an application, the Council may have regard to any insurance benefits that may be available to the applicant under the City's Councilmembers' or employees' insurance policy or its equivalent.



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### **3.9 Revocation and variation**

The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

The Council may, subject to natural justice principles, determine that a Council member or employee whose application has been approved has, in respect of the matter for which legal representation costs were approved –

- (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- (b) given false or misleading information in respect of the application

A determination under this clause may be made by the Council only on the basis of, and consistent with, the findings of a court, tribunal or inquiry.

Where the Council makes a determination under this clause, the legal representation costs paid by the City are to be repaid by the Council member or employee in accordance with 3.11.

### **3.10 Delegation to Chief Executive Officer**

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the council, the powers of the council under clause 3.8, to a maximum of \$10,000 in respect of each application.

An application approved by the CEO is to be submitted to the next ordinary meeting of the Council. Council may exercise any of its powers under this Policy.

### **3.11 Repayment of legal representation costs**

A Council member or employee whose legal representation costs have been paid by the City is to repay the City –

- (a) all or part of those costs – in accordance with a determination by the Council under clause 3.9;
- (b) as much of those costs as are available to be paid by way of set-off – where the Council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid legal representation costs.

The City may take action in a court of competent jurisdiction to recover any monies due to it under this Policy.

### **Policy Background**

Policy Reference No. - 085  
Owner Unit – Office of the Chief Executive  
Originator – Manager, Governance Services  
Policy approved by – Council  
Date Approved – 8 March, 2017  
Review Frequency – As required  
Related Documents – N/A

Last updated 8 March 2017

**History**

Local Government Operational Guidelines Number 14 – modified April 2006

Council Resolution	Date	Information
C1703/043	8 March, 2017	Policy amended to include Department of Local Government recommendations Version 3
C1206/166	27 June, 2012	Department of Local Government has republished its model policy. This version is based on that model policy Version 2
		Version 1

14. **ENGINEERING AND WORK SERVICES REPORT**

Nil

15. COMMUNITY AND COMMERCIAL SERVICES REPORT

Nil



**18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**19. URGENT BUSINESS**

Nil

**20. CONFIDENTIAL REPORTS**

Nil

**21. CLOSURE**

The Presiding Member closed the meeting at 5.50pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 226 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 28 OCTOBER 2020.

DATE: 28/10/2020 PRESIDING MEMBER:

