



**City of Busselton**  
*Geographe Bay*

## **Council Agenda**

***12 August 2020***

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

[city@busselton.wa.gov.au](mailto:city@busselton.wa.gov.au)

**CITY OF BUSSELTON**

**MEETING NOTICE AND AGENDA – 12 AUGUST 2020**

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**TO: THE MAYOR AND COUNCILLORS**

**NOTICE** is given that a meeting of the Council will be held in the Council Chambers, Administration Building, Southern Drive, Busselton on Wednesday, 12 August 2020, commencing at 5.30pm.

Your attendance is respectfully requested.

**DISCLAIMER**

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



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**MIKE ARCHER**

**CHIEF EXECUTIVE OFFICER**

31 July 2020

CITY OF BUSSELTON

AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 12 AUGUST 2020

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1. **DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

2. **ATTENDANCE**

**Apologies**

**Approved Leave of Absence**

Nil

3. **PRAYER**

4. **APPLICATION FOR LEAVE OF ABSENCE**

Cr Sue Riccelli has foreshadowed she will request a Leave of Absence for the Ordinary Council Meeting to be held on 23 September 2020.

5. **DISCLOSURE OF INTERESTS**

6. **ANNOUNCEMENTS WITHOUT DISCUSSION**

**Announcements by the Presiding Member**

7. **QUESTION TIME FOR PUBLIC**

**Response to Previous Questions Taken on Notice**

**Public Question Time For Public**

8. **CONFIRMATION AND RECEIPT OF MINUTES**

**Previous Council Meetings**

8.1 **Minutes of the Council Meeting held 29 July 2020**

**RECOMMENDATION**

**That the Minutes of the Council Meeting held 29 July 2020 be confirmed as a true and correct record.**

**Committee Meetings**

- 8.2 Minutes of the Policy and Legislation Committee Meeting held 29 July 2020

**RECOMMENDATION**

**That the Minutes of the Policy and Legislation Committee Meeting held 29 July 2020 be noted.**

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

**Petitions**

**Presentations**









**Deputations**

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

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

## 12. REPORTS OF COMMITTEE

### 12.1 Policy and Legislation Committee - 29 July 2020 - REVIEW OF COUNCIL POLICY EVENTS AND RESCISSION OF COUNCIL POLICY 074: MARKETS

<b>STRATEGIC GOAL</b>	4. ECONOMY Diverse, resilient, prosperous
<b>STRATEGIC OBJECTIVE</b>	4.2 A community where local business is supported and in turn drives our economy
<b>SUBJECT INDEX</b>	Council Policies
<b>BUSINESS UNIT</b>	Community and Commercial Services
<b>REPORTING OFFICER</b>	Director, Community and Commercial Services - Naomi Searle
<b>AUTHORISING OFFICER</b>	Director, Community and Commercial Services - Naomi Searle
<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 Markets Policy   Attachment B Events Policy   Attachment C Events Policy - Tracked Changes   Attachment D Events Policy - Committee Amendments  

This item was considered by the Policy and Legislation Committee at its meeting on 29 July 2020, the recommendations from which have been included in this report.

#### OFFICER RECOMMENDATION

That the Council:

1. Adopts the Events Policy as per Attachment B; and
2. Rescinds Council Policy 074: Markets (Attachment A), effective immediately.

#### COMMITTEE RECOMMENDATION

That the Council:

1. Adopts the Events Policy inclusive of Committee amendments as per Attachment D; and
2. Rescinds Council Policy 074: Markets (Attachment A), effective immediately.

Reasons: The Committee recommended the additional wording at paragraph 5.7(g) to strengthen the objectives of the Policy in relation to the approval of applications to hold markets.

#### **EXECUTIVE SUMMARY**

This report recommends the rescission of Council policy 074: Markets (Markets Policy) (Attachment A), with the policy objectives and conditions having been incorporated into the City's 'Events' Council Policy (Events Policy) (Attachment B).

#### **BACKGROUND**

The objective of the Markets Policy is to ensure that markets held on City owned or managed land (City Land) do not adversely impact on local business and are successful, sustainable and appropriately accessible to the public. The Markets Policy outlines market locations and frequencies and sets out the requirement for markets to be approved under the City's Events Policy and event approval process.

The Markets Policy was reviewed in 2013, in response to an increase in the number of requests to hold new markets in various locations across the district. It was again reviewed in November 2014 with minor amendments made to market locations in the district and to provide for alternative venues for markets in Busselton.

At the May 2020 Policy and Legislation Committee meeting, officers recommended that the Markets Policy be rescinded to allow the City to respond more readily to the changes in market locations or to requests for new markets. The Committee felt that Council should retain strategic oversight in relation to markets and instead requested, as per an option presented, that officers incorporate the objectives of the Markets Policy into the Events Policy.

### **OFFICER COMMENT**

The Events Policy was reviewed, amended and endorsed by Council at its meeting on 12 February 2020 (C2002/034). While markets have always been processed as an 'event', as part of the review of the Events Policy, the definition of 'Event' was expanded to expressly include Markets.

Further to this, and as per the request of the Policy and Legislation Committee, it is recommended that the objectives and conditions of the Markets Policy are incorporated into the Events Policy. A track changes version is provided as Attachment C.

Markets are well established and function successfully within the City of Busselton, with the Markets Policy setting out maximum frequencies and locations for markets across the district. To provide for increased flexibility, while still maintaining appropriate oversight and control, it is recommended that the following changes are made as part of incorporating the conditions into the Events Policy:

- the maximum number of markets to be held in Busselton at the Busselton Community Garden be increased from one per fortnight to one a week (on a Saturday);
- the maximum number of markets to be held in Dunsborough be increased from one per fortnight to one per week (on a Saturday), to be held at either Lions Park or at the Dunsborough Playing Fields;
- the maximum number of markets to be held in Vasse be increased from one per fortnight to one per week (on a Saturday).

Additionally, it is recommended that the CEO have the ability to consider and approve applications for markets to be held at other locations.

### **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**

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the Governance Services Review carried out in 2017. The framework sets out the intent of Council policies, as opposed to operational documents such as staff management practices and 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:

1. Choose to retain the current maximum frequency and locations for markets.
2. Make other changes to the Events Policy.

**CONCLUSION**

The contents and objectives of the Markets Policy are proposed to be contained in the Events Policy. It is recommended that the Events Policy is adopted as proposed and that the Markets Policy be rescinded.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

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

Last updated 12/11/2014

<b>074</b>	<b>Markets</b>	<b>V4 Current</b>
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### 1. PREAMBLE / POLICY STATEMENT

The Policy will be used to guide applicants of the general approval process for all types of markets conducted on public land under the management of the City of Busselton. The City of Busselton will assess applications for the conduct of markets in accordance with legislative requirements under the City's Events Policy.

### 2. OBJECTIVE

The aim of the Policy is to ensure that markets that are held on City owned or managed land, do not adversely impact on local businesses, but are successful, sustainable, and appropriately accessible to the public. The City of Busselton is therefore committed to ensuring that the conduct of markets on such land is managed and controlled to protect and enhance the wellbeing of the community.

### 3. POLICY CONTENT

- (a) All market organisers must be licensed under the Trading in Public Places Local Law.
  - (b) All market organisers must be approved to conduct a market under the City of Busselton's Events Policy.
  - (c) All stall holders wishing to operate at a market must be registered with the market license holders.
  - (d) Council authorises a maximum of:
    - i) one (1) market on each Sunday only in Busselton, to be held at Signal Park, Busselton Foreshore;
    - ii) one (1) market each week only, to be held at the Busselton Cultural Precinct;
    - iii) one (1) market each fortnight on the second and fourth Saturday only of every month, to be held at the Busselton Community Garden, Roe Terrace Busselton, for local produce and artisan goods only, with a maximum of 20 market stalls;
    - iv) one (1) market each fortnight on the first, third and fifth Saturday only of every month in Vasse, to be held at Vasse Hall/Oval;
    - v) one (1) market each fortnight on the second and fourth Saturday of every month only, to be held at Lions Park Dunsborough for local produce and artisan goods only, subject to the development and implementation of a traffic management plan approved by the City of Busselton;
  - (e) Community and charitable organisations will be given preference to conduct markets at the above listed venues. Additional markets and other activities may be permitted with Council approval.
2. Prior to the completion of the Busselton Foreshore 'active core' redevelopment, earmarks the following alternate venues for markets in Busselton;
- a. Churchill Park, subject to scheduled local sporting arrangements; and
  - b. Carpark on the corner of Kent and Cammilleri Streets.

#### History

Council Resolution	Date	Information
C1411/282	12 November, 2014	Version 4
C1306/169	26 June, 2013	Version 3

COUNCIL POLICY


Council Policy Name:

Events

Responsible Directorate:

Community and Commercial Services

Version: Current

### 1. PURPOSE

1.1. The purpose of this Policy is to articulate the strategic importance of Events to the City of Busselton and to set out a framework for the attraction and promotion of Events. This Policy also sets out the City's position with respect to the attendance of Councillors and the CEO at Events in accordance with Section 5.90A of the Act.

### 2. SCOPE

2.1. This Policy is applicable to Events within the City of Busselton District and more broadly to Events across the South West region of WA.

### 3. DEFINITIONS

Term	Meaning
Act	<i>Local Government Act 1995</i>
District	City of Busselton local government area
Event	<p>An organised occurrence hosted by a person or organisation on public or private land where people assemble at a given time for a given purpose and which generally involves one or more of the following:</p> <ul style="list-style-type: none"> <li>• Preparation or sale of food;</li> <li>• Sale or consumption of alcohol;</li> <li>• Erection of infrastructure and / or signage;</li> <li>• Generation of additional noise;</li> <li>• Use / installation of electrical equipment;</li> <li>• Changes / interruptions to traffic flow;</li> <li>• Additional parking requirements;</li> <li>• Crowd control measures</li> </ul> <p>Includes:</p> <ul style="list-style-type: none"> <li>• Concerts and music festivals;</li> <li>• Sporting events;</li> <li>• Conferences;</li> <li>• Exhibitions, expos and fairs;</li> <li>• Functions (e.g. community or business events);</li> <li>• Markets; and</li> <li>• Any other activity in accordance with 5.90A(1)(e)</li> </ul>
Partner	Spouse, de-facto or other partner as approved
Policy	This City of Busselton Council policy entitled "Events"

#### 4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 4 – Economy and Key Goal Area 6 – Leadership of the City's Strategic Community Plan 2017 and specifically the following Community Objectives
- a. 4.3: Events and unique tourism experiences that attract visitors and investment.
  - b. 6.1: Governance systems, processes and practices are responsible, ethical and transparent.

#### 5. POLICY STATEMENT

- 5.1. The City has adopted the brand 'Events Capital WA', with the attraction, development and promotion of Events recognised by Council as a key strategic and competitive advantage for the development of a robust and prosperous economy and tourism industry, and an important contributor to the creation of vibrant places and an inclusive community
- 5.2. The City will actively engage with and assist Event organisers to support the development of a diverse year round calendar of Events, across the District.
- 5.3. The attraction, development, and approval of Events will be in accordance with the following objectives:
- a. generation of direct and indirect economic benefits to the community;
  - b. generation of social benefit, vibrancy, and promotion of cultural diversity and inclusion;
  - c. creation of a calendar of Events which brings visitors to the District year round and provides broad activation across the District; and
  - d. positive promotion of the District and the South West region of WA.
- 5.4. Events are categorised for their strategic importance as follows:
- a. Hallmark – an international or nationally recognised Event that creates significant economic benefit and typically attracts 5,000 plus participants / visitors;
  - b. Major – an Event which attracts visitors nationally and from outside of the region, showcases regional facilities and attractions, creates economic benefit and typically has between 2,000 and 5,000 participants / visitors;
  - c. Regional – an Event that attracts visitors to the region from within the State and from within the region, helps to build the City's Events Capital WA brand and has the potential to become a future Major or Hallmark Event;
  - d. Community – an Event which celebrates aspects of community life, has strong social / community benefit; more limited economic benefit, and is generally run by the community.
- 5.5. While Events are considered a positive contributor, the potential for Events to impact adversely on community safety, amenity and the environment is recognised. In order to manage risk, environmental and amenity impacts, Events held within the District must, subject to paragraph 5.6, be approved by the City prior to taking place. The event application process is outlined in the Events Application Operational Practice.
- 5.6. An Event approval is not required at venues which have an appropriate development approval under the City's town planning scheme and / or an approval in accordance with environmental health legislation.
- 5.7. Event applications will be assessed against the objectives outlined in paragraph 5.3 and the following criteria (or criteria similar):
- a. the nature, size and suitability of the Event;
  - b. the location of the Event, its suitability and whether it meets the City's objectives of broad activation;
  - c. the period of time the Event will operate;

- d. the amenity of the Event and the likely impacts on residents;
  - e. any conflicts with other Events or community use at or around the location;
  - f. the relevant experience of the operator and their capacity to manage key risks such as fire safety; and
  - g. for markets specifically, the organiser's ability to demonstrate that the market is being run for a charitable or community purpose.
- 5.8. The following location criteria will also be applied to assist in protection of sensitive areas, and to ensure the equitable use of the location by Event organisers and the general community:
- a. Meelup Regional Park:
    - i. Maximum of four trail based Events per calendar year, that is an Event that involves participants walking, running or cycling on trails or roads within the park; and
    - ii. Maximum of four site based Events per calendar year, that is an Event that involves use of a beach and / or adjacent picnic and car park area; and
    - iii. Maximum of one trail based and one site based Event per month.
  - b. Yallingup and Smith Beach:
    - i. Maximum of one international or national Event per year;
    - ii. Maximum of four other major Events per year, of up to four days each;
    - iii. Maximum of one minor Event per year, of up to four days;
    - iv. Maximum of eight club Events (run by local board riding clubs) per year.
  - c. Markets:
    - i. Maximum of one market each Sunday in Busselton, to be held at Signal Park;
    - ii. Maximum of one market each week, to be held at the Busselton Cultural Precinct;
    - iii. Maximum of one market each Saturday in Busselton, to be held at the Busselton Community Garden, for local produce and artisan goods only with a maximum of 20 stalls;
    - iv. Maximum of one market each Saturday in Dunsborough, to be held at Lions Park or Dunsborough Playing Fields for local produce and artisan goods only;
    - v. Maximum of one market each Saturday in Vasse, to be held at the Vasse Hall / Oval;
    - vi. Applications for other locations may be considered and approved by the CEO.
- 5.9. Fees upon application are payable as per the City of Busselton's Schedule of Fees and Charges.

#### **Events Sponsorship**

- 5.10. The City has an events sponsorship programme that is funded through a combination of municipal funds and funds derived from the industrial / commercial differential rate. The Marketing and Events Reference Group (MERG) makes recommendations to Council with respect to the allocation of funds towards Events.
- 5.11. Event sponsorship can be provided as cash or in-kind contributions, with sponsorship agreements entered into with Event organisers on either a single or multi-year basis.
- 5.12. Event sponsorship requests will be assessed against the objectives outlined in paragraph 5.3.
- 5.13. Events sponsored by the City will be evaluated to determine future funding levels.

#### **Event Attendance**

- 5.14. Councillor and CEO representation at Events is valued as a means of reinforcing the City's strategic positioning as the 'Events Capital WA', and to ensure Events are properly assessed for their benefit and ongoing relevance.

- 5.15. Invitations / tickets to Events may be provided to the City by Event organisers. Where attendance at these Events is approved in accordance with this Policy, the requirement to disclose a financial interest under the Act will not apply.
- 5.16. An invitation provided or addressed personally to a Councillor or to the CEO (for instance via a personal email account) will not be captured by this Policy, and the requirement to disclose a financial interest where the amount exceeds the amount prescribed under the *Local Government (Administration) Regulation 20A* will apply.
- 5.17. In addition to invitations / tickets provided by Event organisers, the CEO, in consultation with the Mayor, may purchase tickets for the purposes of City representation at an Event. The City will generally only purchase tickets for Hallmark and Major Events where attendance is demonstrated, through reference to the criteria in paragraph 5.18, as being in the City's interest.
- 5.18. In determining approval for attendance at Events under Section 5.90A(2)(c), Council (or the CEO under delegation) will consider criteria such as the following:
- a. who is providing the ticket to the Event;
  - b. the location of the Event;
  - c. whether the Event is sponsored by the City;
  - d. the relevance of the Event to the City's adopted policy objectives under paragraph 5.3;
  - e. the role of the Council member or CEO when attending the Event (participant, presenter, observer) and the value of their contribution;
  - f. the cost to attend the Event and / or the public value of attendance if the ticket is being provided at no cost to the Local Government;
  - g. the number of invitations / tickets received; and
  - h. the benefits or importance of Council and / or CEO representation at the event.
- 5.19. A list of established pre-authorized Events and attendees is provided at Attachment A. The attendees are authorised in order of priority, subject to the number of available invitations / tickets. Where there are insufficient invitations / tickets available for all pre-authorized attendees to attend, the CEO (in liaison with the Mayor) will determine final attendance.
- 5.20. It is considered appropriate for a Councillor or CEO's Partner to accompany them to an Event held outside of normal business hours. While the City will not generally pay for such attendance, invitations / tickets received by the City may be provided for this purpose where they are available.
- 5.21. The Mayor can delegate any approved attendance to an Event to the Deputy Mayor or another Council member.
- 5.22. This policy does not apply where a Councillor or the CEO attends an Event at their own cost and in a personal capacity.

## 6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. Events Strategy
- 6.3. Events Application Operational Practice

**7. REVIEW DETAILS**

<b>Review Frequency</b>		3 yearly		
<b>Council Adoption</b>	<b>DATE</b>		<b>Resolution #</b>	
<b>Previous Adoption</b>	<b>DATE</b>	12 February 2020	<b>Resolution #</b>	C2002/034

**Attachment A – Pre-authorized Events**

<b>Event</b>	<b>Event Organiser OR DATE</b>	<b>Attendee</b>
<b>Hallmark Events</b>		
Ironman WA	Ironman Oceania	Mayor CEO Deputy Mayor All Councillors
Cinefest Oz	Geographe French Australian Festivals Inc.	Mayor CEO Deputy Mayor All Councillors
Busselton Festival of Triathlon (Ironman 70.3)	Triathlon Western Australia	Mayor CEO Deputy Mayor All Councillors
Gourmet Escape	IMG Culinary	Mayor CEO Deputy Mayor All Councillors
Busselton Jetty Swim	Busselton Allsports Inc.	Mayor CEO Deputy Mayor All Councillors
Jazz by the Bay	Jazz by the Bay Association	Mayor CEO Deputy Mayor All Councillors
Forest Rally	West Australian Car Club (Inc)	Mayor CEO Deputy Mayor All Councillors
<b>Major Events</b>		
Cabin Fever	Creative Corner	Mayor CEO Deputy Mayor All Councillors
X-Adventure Dunsborough	Rapid Ascent Pty Ltd	Mayor CEO Deputy Mayor All Councillors



**COUNCIL POLICY**



Council Policy Name: Events

Responsible Directorate: Community and Commercial Services      Version: Current

**1. PURPOSE**

1.1. The purpose of this Policy is to articulate the strategic importance of Events to the City of Busselton and to set out a framework for the attraction and promotion of Events. This Policy also sets out the City’s position with respect to the attendance of Councillors and the CEO at Events in accordance with Section 5.90A of the Act.

**2. SCOPE**

2.1. This Policy is applicable to Events within the City of Busselton District and more broadly to Events across the South West region of WA.

**3. DEFINITIONS**

Term	Meaning
Act	<i>Local Government Act 1995</i>
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Event	An organised occurrence hosted by a person or organisation on public or private land where people assemble at a given time for a given purpose and which generally involves one or more of the following: <ul style="list-style-type: none"> <li>• Preparation or sale of food;</li> <li>• Sale or consumption of alcohol;</li> <li>• Erection of infrastructure and / or signage;</li> <li>• Generation of additional noise;</li> <li>• Use / installation of electrical equipment;</li> <li>• Changes / interruptions to traffic flow;</li> <li>• Additional parking requirements;</li> <li>• Crowd control measures</li> </ul> Includes: <ul style="list-style-type: none"> <li>• Concerts and music festivals;</li> <li>• Sporting events;</li> <li>• Conferences;</li> <li>• Exhibitions, expos and fairs;</li> <li>• Functions (e.g. community or business events);</li> <li>• Markets; and</li> <li>• Any other activity in accordance with 5.90A(1)(e)</li> </ul>
Partner	Spouse, de-facto or other partner as approved
Policy	This City of Busselton Council policy entitled “Events”

#### 4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 4 – Economy and Key Goal Area 6 – Leadership of the City's Strategic Community Plan 2017 and specifically the following Community Objectives
- a. 4.3: Events and unique tourism experiences that attract visitors and investment.
  - b. 6.1: Governance systems, processes and practices are responsible, ethical and transparent.

#### 5. POLICY STATEMENT

- 5.1. The City has adopted the brand 'Events Capital WA', with the attraction, development and promotion of Events recognised by Council as a key strategic and competitive advantage for the development of a robust and prosperous economy and tourism industry, and an important contributor to the creation of vibrant places and an inclusive community
- 5.2. The City will actively engage with and assist Event organisers to support the development of a diverse year round calendar of Events, across the District.
- 5.3. The attraction, development, and approval of Events will be in accordance with the following objectives:
- a. generation of direct and indirect economic benefits to the community;
  - b. generation of social benefit, vibrancy, and promotion of cultural diversity and inclusion;
  - c. creation of a calendar of Events which brings visitors to the District year round and provides broad activation across the District; and
  - d. positive promotion of the District and the South West region of WA.
- 5.4. Events are categorised for their strategic importance as follows:
- a. Hallmark – an international or nationally recognised Event that creates significant economic benefit and typically attracts 5,000 plus participants / visitors;
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  - c. Regional – an Event that attracts visitors to the region from within the State and from within the region, helps to build the City's Events Capital WA brand and has the potential to become a future Major or Hallmark Event;
  - d. Community – an Event which celebrates aspects of community life, has strong social / community benefit; more limited economic benefit, and is generally run by the community.
- 5.5. While Events are considered a positive contributor, the potential for Events to impact adversely on community safety, amenity and the environment is recognised. In order to manage risk, environmental and amenity impacts, Events held within the District must, subject to paragraph 5.6, be approved by the City prior to taking place. The event application process is outlined in the Events Application Operational Practice.
- 5.6. An Event approval is not required at venues which have an appropriate development approval under the City's town planning scheme and / or an approval in accordance with environmental health legislation.
- 5.7. Event applications will be assessed against the objectives outlined in paragraph 5.3 and the following criteria (or criteria similar):
- a. the nature, size and suitability of the Event;
  - b. the location of the Event, its suitability and whether it meets the City's objectives of broad activation;
  - c. the period of time the Event will operate;

- d. the amenity of the Event and the likely impacts on residents;
  - e. any conflicts with other Events or community use at or around the location;
  - f. the relevant experience of the operator and their capacity to manage key risks such as fire safety;  
and
  - g. for markets specifically, the organiser's ability to demonstrate that the market is being run for a charitable or community purpose.
- 5.8. The following ~~specific Event~~ location criteria will also be applied to assist in protection of sensitive areas, and to ensure the equitable use of the location by Event organisers and the general community:
- a. Meelup Regional Park:
    - i. Maximum of four trail based Events per calendar year, that is an Event that involves participants walking, running or cycling on trails or roads within the park; and
    - ii. Maximum of four site based Events per calendar year, that is an Event that involves use of a beach and / or adjacent picnic and car park area; and
    - iii. Maximum of one trail based and one site based Event per month.
  - b. Yallingup and Smith Beach:
    - i. Maximum of one international or national Event per year;
    - ii. Maximum of four other major Events per year, of up to four days each;
    - iii. Maximum of one minor Event per year, of up to four days;
    - iv. Maximum of eight club Events (run by local board riding clubs) per year.
  - c. Markets:
    - i. Maximum of one market each Sunday in Busselton, to be held at Signal Park;
    - ii. Maximum of one market each week, to be held at the Busselton Cultural Precinct;
    - iii. Maximum of one market each Saturday in Busselton, to be held at the Busselton Community Garden, for local produce and artisan goods only with a maximum of 20 stalls;
    - iv. Maximum of one market each Saturday in Dunsborough, to be held at Lions Park or Dunsborough Playing Fields for local produce and artisan goods only;
    - v. Maximum of one market each Saturday in Vasse, to be held at the Vasse Hall / Oval;
    - iv-vi. Applications for other locations may be considered and approved by the CEO.
- 5.9. Fees upon application are payable as per the City of Busselton's Schedule of Fees and Charges.

#### **Events Sponsorship**

- 5.10. The City has an events sponsorship programme that is funded through a combination of municipal funds and funds derived from the industrial / commercial differential rate. The Marketing and Events Reference Group (MERG) makes recommendations to Council with respect to the allocation of funds towards Events.
- 5.11. Event sponsorship can be provided as cash or in-kind contributions, with sponsorship agreements entered into with Event organisers on either a single or multi-year basis.
- 5.12. Event sponsorship requests will be assessed against the objectives outlined in paragraph 5.3.
- 5.13. Events sponsored by the City will be evaluated to determine future funding levels.

#### **Event Attendance**

- 5.14. Councillor and CEO representation at Events is valued as a means of reinforcing the City's strategic positioning as the 'Events Capital WA', and to ensure Events are properly assessed for their benefit and ongoing relevance.

- 5.15. Invitations / tickets to Events may be provided to the City by Event organisers. Where attendance at these Events is approved in accordance with this Policy, the requirement to disclose a financial interest under the Act will not apply.
- 5.16. An invitation provided or addressed personally to a Councillor or to the CEO (for instance via a personal email account) will not be captured by this Policy, and the requirement to disclose a financial interest where the amount exceeds the amount prescribed under the *Local Government (Administration) Regulation 20A* will apply.
- 5.17. In addition to invitations / tickets provided by Event organisers, the CEO, in consultation with the Mayor, may purchase tickets for the purposes of City representation at an Event. The City will generally only purchase tickets for Hallmark and Major Events where attendance is demonstrated, through reference to the criteria in paragraph 5.18, as being in the City's interest.
- 5.18. In determining approval for attendance at Events under Section 5.90A(2)(c), Council (or the CEO under delegation) will consider criteria such as the following:
- a. who is providing the ticket to the Event;
  - b. the location of the Event;
  - c. whether the Event is sponsored by the City;
  - d. the relevance of the Event to the City's adopted policy objectives under paragraph 5.3;
  - e. the role of the Council member or CEO when attending the Event (participant, presenter, observer) and the value of their contribution;
  - f. the cost to attend the Event and / or the public value of attendance if the ticket is being provided at no cost to the Local Government;
  - g. the number of invitations / tickets received; and
  - h. the benefits or importance of Council and / or CEO representation at the event.
- 5.19. A list of established pre-authorized Events and attendees is provided at Attachment A. The attendees are authorised in order of priority, subject to the number of available invitations / tickets. Where there are insufficient invitations / tickets available for all pre-authorized attendees to attend, the CEO (in liaison with the Mayor) will determine final attendance.
- 5.20. It is considered appropriate for a Councillor or CEO's Partner to accompany them to an Event held outside of normal business hours. While the City will not generally pay for such attendance, invitations / tickets received by the City may be provided for this purpose where they are available.
- 5.21. The Mayor can delegate any approved attendance to an Event to the Deputy Mayor or another Council member.
- 5.22. This policy does not apply where a Councillor or the CEO attends an Event at their own cost and in a personal capacity.

## 6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. Events Strategy
- 6.3. Events Application Operational Practice

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE	<del>12 February 2020</del>	Resolution #	<del>C2002/034</del>
Previous Adoption	DATE	<del>14/09/2016</del> <u>12 February 2020</u>	Resolution #	<del>C1609/232</del> <u>C2002/034</u>

**Attachment A – Pre-authorized Events**

<b>Event</b>	<b>Event Organiser OR DATE</b>	<b>Attendee</b>
<b>Hallmark Events</b>		
Ironman WA	Ironman Oceania	Mayor CEO Deputy Mayor All Councillors
Cinefest Oz	Geographe French Australian Festivals Inc.	Mayor CEO Deputy Mayor All Councillors
Busselton Festival of Triathlon (Ironman 70.3)	Triathlon Western Australia	Mayor CEO Deputy Mayor All Councillors
Gourmet Escape	IMG Culinary	Mayor CEO Deputy Mayor All Councillors
Busselton Jetty Swim	Busselton Allsports Inc.	Mayor CEO Deputy Mayor All Councillors
Jazz by the Bay	Jazz by the Bay Association	Mayor CEO Deputy Mayor All Councillors
Forest Rally	West Australian Car Club (Inc)	Mayor CEO Deputy Mayor All Councillors
<b>Major Events</b>		
Cabin Fever	Creative Corner	Mayor CEO Deputy Mayor All Councillors
X-Adventure Dunsborough	Rapid Ascent Pty Ltd	Mayor CEO Deputy Mayor All Councillors

COUNCIL POLICY



Council Policy Name:            Events

Responsible Directorate:      Community and Commercial Services      Version: Current

**1. PURPOSE**

1.1. The purpose of this Policy is to articulate the strategic importance of Events to the City of Busselton and to set out a framework for the attraction and promotion of Events. This Policy also sets out the City’s position with respect to the attendance of Councillors and the CEO at Events in accordance with Section 5.90A of the Act.

**2. SCOPE**

2.1. This Policy is applicable to Events within the City of Busselton District and more broadly to Events across the South West region of WA.

**3. DEFINITIONS**

Term	Meaning
Act	<i>Local Government Act 1995</i>
District	City of Busselton local government area
Event	An organised occurrence hosted by a person or organisation on public or private land where people assemble at a given time for a given purpose and which generally involves one or more of the following: <ul style="list-style-type: none"> <li>• Preparation or sale of food;</li> <li>• Sale or consumption of alcohol;</li> <li>• Erection of infrastructure and / or signage;</li> <li>• Generation of additional noise;</li> <li>• Use / installation of electrical equipment;</li> <li>• Changes / interruptions to traffic flow;</li> <li>• Additional parking requirements;</li> <li>• Crowd control measures</li> </ul> Includes: <ul style="list-style-type: none"> <li>• Concerts and music festivals;</li> <li>• Sporting events;</li> <li>• Conferences;</li> <li>• Exhibitions, expos and fairs;</li> <li>• Functions (e.g. community or business events);</li> <li>• Markets; and</li> <li>• Any other activity in accordance with 5.90A(1)(e)</li> </ul>
Partner	Spouse, de-facto or other partner as approved
Policy	This City of Busselton Council policy entitled “Events”

#### 4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 4 – Economy and Key Goal Area 6 – Leadership of the City’s Strategic Community Plan 2017 and specifically the following Community Objectives:
- a. 4.3: Events and unique tourism experiences that attract visitors and investment.
  - b. 6.1: Governance systems, processes and practices are responsible, ethical and transparent.

#### 5. POLICY STATEMENT

- 5.1. The City has adopted the brand ‘Events Capital WA’, with the attraction, development and promotion of Events recognised by Council as a key strategic and competitive advantage for the development of a robust and prosperous economy and tourism industry, and an important contributor to the creation of vibrant places and an inclusive community.
- 5.2. The City will actively engage with and assist Event organisers to support the development of a diverse year round calendar of Events, across the District.
- 5.3. The attraction, development, and approval of Events will be in accordance with the following objectives:
- a. generation of direct and indirect economic benefits to the community;
  - b. generation of social benefit, vibrancy, and promotion of cultural diversity and inclusion;
  - c. creation of a calendar of Events which brings visitors to the District year round and provides broad activation across the District; and
  - d. positive promotion of the District and the South West region of WA.
- 5.4. Events are categorised for their strategic importance as follows:
- a. Hallmark – an international or nationally recognised Event that creates significant economic benefit and typically attracts 5,000 plus participants / visitors;
  - b. Major – an Event which attracts visitors nationally and from outside of the region, showcases regional facilities and attractions, creates economic benefit and typically has between 2,000 and 5,000 participants / visitors;
  - c. Regional – an Event that attracts visitors to the region from within the State and from within the region, helps to build the City’s Events Capital WA brand and has the potential to become a future Major or Hallmark Event;
  - d. Community – an Event which celebrates aspects of community life, has strong social / community benefit; more limited economic benefit, and is generally run by the community.
- 5.5. While Events are considered a positive contributor, the potential for Events to impact adversely on community safety, amenity and the environment is recognised. In order to manage risk, environmental and amenity impacts, Events held within the District must, subject to paragraph 5.6, be approved by the City prior to taking place. The event application process is outlined in the Events Application Operational Practice.
- 5.6. An Event approval is not required at venues which have an appropriate development approval under the City’s town planning scheme and / or an approval in accordance with environmental health legislation.
- 5.7. Event applications will be assessed against the objectives outlined in paragraph 5.3 and the following criteria (or criteria similar):
- a. the nature, size and suitability of the Event;
  - b. the location of the Event, its suitability and whether it meets the City’s objectives of broad activation;
  - c. the period of time the Event will operate;



- d. the amenity of the Event and the likely impacts on residents;
- e. any conflicts with other Events or community use at or around the location;
- f. the relevant experience of the operator and their capacity to manage key risks such as fire safety; and
- g. for markets specifically, the organiser's ability to demonstrate that the market is being run for a charitable or community purpose, with a preference for local produce and artisan goods;

5.8. The following location criteria will also be applied to assist in protection of sensitive areas, and to ensure the equitable use of the location by Event organisers and the general community:

- a. Meelup Regional Park:
  - i. Maximum of four trail based Events per calendar year, that is an Event that involves participants walking, running or cycling on trails or roads within the park; and
  - ii. Maximum of four site based Events per calendar year, that is an Event that involves use of a beach and / or adjacent picnic and car park area; and
  - iii. Maximum of one trail based and one site based Event per month.
- b. Yallingup and Smith Beach:
  - i. Maximum of one international or national Event per year;
  - ii. Maximum of four other major Events per year, of up to four days each;
  - iii. Maximum of one minor Event per year, of up to four days;
  - iv. Maximum of eight club Events (run by local board riding clubs) per year.
- c. Markets:
  - i. Maximum of one market each Sunday in Busselton, to be held at Signal Park;
  - ii. Maximum of one market each week, to be held at the Busselton Cultural Precinct;
  - iii. Maximum of one market each Saturday in Busselton, to be held at the Busselton Community Garden, ~~for local produce and artisan goods only~~ with a maximum of 20 stalls;
  - iv. Maximum of one market each Saturday in Dunsborough, to be held at Lions Park or Dunsborough Playing Fields ~~for local produce and artisan goods only~~;
  - v. Maximum of one market each Saturday in Vasse, to be held at the Vasse Hall / Oval;
  - vi. Applications for other locations may be considered and approved by the CEO.

5.9. Fees upon application are payable as per the City of Busselton's Schedule of Fees and Charges.

#### **Events Sponsorship**

5.10. The City has an events sponsorship programme that is funded through a combination of municipal funds and funds derived from the industrial / commercial differential rate. The Marketing and Events Reference Group (MERG) makes recommendations to Council with respect to the allocation of funds towards Events.

5.11. Event sponsorship can be provided as cash or in-kind contributions, with sponsorship agreements entered into with Event organisers on either a single or multi-year basis.

5.12. Event sponsorship requests will be assessed against the objectives outlined in paragraph 5.3.

5.13. Events sponsored by the City will be evaluated to determine future funding levels.

#### **Event Attendance**

5.14. Councillor and CEO representation at Events is valued as a means of reinforcing the City's strategic positioning as the 'Events Capital WA', and to ensure Events are properly assessed for their benefit and ongoing relevance.

- 5.15. Invitations / tickets to Events may be provided to the City by Event organisers. Where attendance at these Events is approved in accordance with this Policy, the requirement to disclose a financial interest under the Act will not apply.
- 5.16. An invitation provided or addressed personally to a Councillor or to the CEO (for instance via a personal email account) will not be captured by this Policy, and the requirement to disclose a financial interest where the amount exceeds the amount prescribed under the *Local Government (Administration) Regulation 20A* will apply.
- 5.17. In addition to invitations / tickets provided by Event organisers, the CEO, in consultation with the Mayor, may purchase tickets for the purposes of City representation at an Event. The City will generally only purchase tickets for Hallmark and Major Events where attendance is demonstrated, through reference to the criteria in paragraph 5.18, as being in the City's interest.
- 5.18. In determining approval for attendance at Events under Section 5.90A(2)(c), Council (or the CEO under delegation) will consider criteria such as the following:
- who is providing the ticket to the Event;
  - the location of the Event;
  - whether the Event is sponsored by the City;
  - the relevance of the Event to the City's adopted policy objectives under paragraph 5.3;
  - the role of the Council member or CEO when attending the Event (participant, presenter, observer) and the value of their contribution;
  - the cost to attend the Event and / or the public value of attendance if the ticket is being provided at no cost to the Local Government;
  - the number of invitations / tickets received; and
  - the benefits or importance of Council and / or CEO representation at the event.
- 5.19. A list of established pre-authorized Events and attendees is provided at Attachment A. The attendees are authorised in order of priority, subject to the number of available invitations / tickets. Where there are insufficient invitations / tickets available for all pre-authorized attendees to attend, the CEO (in liaison with the Mayor) will determine final attendance.
- 5.20. It is considered appropriate for a Councillor or CEO's Partner to accompany them to an Event held outside of normal business hours. While the City will not generally pay for such attendance, invitations / tickets received by the City may be provided for this purpose where they are available.
- 5.21. The Mayor can delegate any approved attendance to an Event to the Deputy Mayor or another Council member.
- 5.22. This policy does not apply where a Councillor or the CEO attends an Event at their own cost and in a personal capacity.

## 6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*
- 6.2. Events Strategy
- 6.3. Events Application Operational Practice







7. REVIEW DETAILS

<b>Review Frequency</b>		3 yearly		
<b>Council Adoption</b>	<b>DATE</b>		<b>Resolution #</b>	
<b>Previous Adoption</b>	<b>DATE</b>	12 February 2020	<b>Resolution #</b>	C2002/034

**Attachment A – Pre-authorized Events**

<b>Event</b>	<b>Event Organiser OR DATE</b>	<b>Attendee</b>
<b>Hallmark Events</b>		
Ironman WA	Ironman Oceania	Mayor CEO Deputy Mayor All Councillors
Cinefest Oz	Geographe French Australian Festivals Inc.	Mayor CEO Deputy Mayor All Councillors
Busselton Festival of Triathlon (Ironman 70.3)	Triathlon Western Australia	Mayor CEO Deputy Mayor All Councillors
Gourmet Escape	IMG Culinary	Mayor CEO Deputy Mayor All Councillors
Busselton Jetty Swim	Busselton Allsports Inc.	Mayor CEO Deputy Mayor All Councillors
Jazz by the Bay	Jazz by the Bay Association	Mayor CEO Deputy Mayor All Councillors
Forest Rally	West Australian Car Club (Inc)	Mayor CEO Deputy Mayor All Councillors
<b>Major Events</b>		
Cabin Fever	Creative Corner	Mayor CEO Deputy Mayor All Councillors
X-Adventure Dunsborough	Rapid Ascent Pty Ltd	Mayor CEO Deputy Mayor All Councillors

## 12.2 Policy and Legislation Committee - 29 July 2020 - REVIEW OF COUNCIL POLICY: LOANS

<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>	Policy
<b>BUSINESS UNIT</b>	Finance
<b>REPORTING OFFICER</b>	Manager Financial Services - Paul Sheridan
<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 048 - Loans   Attachment B Council Policy: Loan Facilities (Proposed)   Attachment C Council Policy: Loan Facilities (Proposed) With Committee Amendments  

**This item was considered by the Policy and Legislation Committee at its meeting on 29 July 2020, the recommendations from which have been included in this report.**

### OFFICER RECOMMENDATION

**That the Council adopts the revised policy Loan Facilities (Attachment B) (the Policy) to replace the existing Council policy 048: Loans at Attachment A.**

### COMMITTEE RECOMMENDATION

**That the Council adopts the revised policy Loan Facilities, inclusive of Committee amendments as per Attachment C, to replace the existing Council policy 048: Loans at Attachment A.**

Reasons: The Committee recommended the deletion of paragraph 5.4, being superfluous to the objectives of the Policy; and amendments to paragraphs 5.9 and 5.10 for the purposes of clarity.

### **EXECUTIVE SUMMARY**

A review of Council Policy 048 – Loans has been undertaken, and having been updated to the new Council policy format and with minor amendments made for readability and clarity, a revised Council policy: Loan Facilities (the Policy) (Attachment B) is now presented to Council for endorsement.

### **BACKGROUND**

Council Policy 048: Loans was last reviewed in January 2018 with changes made relating to the criteria for Self Supporting Loan applications. Other minor changes made included acknowledgment of the Long Term Financial Planning process and changes in respect to Financial Ratios.

The City has developed and implemented a Policy Framework, which sets out the intent of Council policies, as opposed to operational documents such as Operational Practices and Guidelines. Council Policy 048: Loans has been reviewed by officers in this context and having been revised to ensure its ongoing relevance to the City's strategic objectives, has been transferred into the new Council policy template and minor amendments made for readability, is now presented for endorsement.

**OFFICER COMMENT**

Officers have completed a review of the Policy with changes being made to acknowledge the relevance of this Policy in regard to the Integrated Planning Framework and also to ensure no loan facility should cause the City to be outside of the recommended financial ratios pertaining to debt.

***Self-Supporting Loans***

Council policy 048: Loans stated that it did not apply to self-supporting loan facilities, however then went on to outline what would be considered in a self-supporting loan application, creating confusion. For clarity, officers have amended this and more clearly outlined the criteria in which an application for a self-supporting loan would be considered.

***Purpose and Scope***

Amendments have been made to streamline the Policy purpose as well as provide a clearer scope to guide the reader. Reference to intergenerational funding and equity when considering loans has also been included.

***Financial Ratios Guideline***

Reference has been made to give due regard to the Department of Local Government Sport and Cultural Industries (DLGSC) Operational Guideline 18 – Financial Ratios. This Guideline sets out basic and advanced standards for local governments in relation to a variety of key ratios.

In particular, the Debt Service Cover Ratio (Debt Ratio) is arrived at by calculating the annual operating surplus before interest and depreciation divided by principal and interest. A basic standard as recommended by DLGSC is 2.0.

These proposed changes to the Policy provide a more contemporary and prudent policy to ensure financial responsibility in relation to loan funding.

**Statutory Environment**

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

**Relevant Plans and Policies**

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the 2017 Governance Service 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:

1. Recommend that the Policy remain unchanged;
2. Recommend alternative amendments; or
3. Recommend that the Policy be withdrawn.

**CONCLUSION**

The Policy is presented for Council endorsement, and has been updated to the new Council policy format, with minor amendments made for readability and clarity. Amendments made include acknowledging the relationship to the integrated planning framework and financial ratios pertaining to debt.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

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

Last updated 31 January

048	Loans	V3 Current
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#### STATEMENT

The Council is committed to demonstrating financial responsibility in its utilisation of loan facilities to fund specific capital projects. It is also acknowledged that the funding of identified projects via loan facilities can actually assist in addressing intergenerational equity issues.

Additionally any proposal to utilise loan facilities as a funding source should always be considered against a number of predetermined criteria. This policy provides an overview of the associated criteria to be considered as part of any decision making process to utilise loan facilities.

The policy content does not apply to self-supporting loan facilities; as the purpose of such facilities is distinct from the City's own funding requirements. Each request for a Self-Supporting loan is to be considered on its individual merits and any application is to include a minimum of the following information:

- Request for Self-Supporting Loan in the amount of \$ for a term of xx years.
- Demonstrate capacity to meet loan repayments,
- Project scope,
- Total Cost of Project (project Budget) including all funding sources,
- The Total number of registered Members,
- Benefits the project will bring to members and the community, and
- Acknowledgement that the applicant is responsible for reimbursement to the City of Busselton of full costs associated with the loan and that the club will enter into a "LOAN REPAYMENT AGREEMENT" with the City of Busselton

#### PURPOSE

This policy provides guidelines in respect of the utilisation of loan facilities to fund the acquisition, construction or renewal of assets. Recognition of this policy will ensure that a consistent methodology is adopted when considering loans as a potential funding source.

#### SCOPE

As part of its strategic planning and Long Term Financial Planning processes, the Council will consider how significant projects are to be funded.

The use of loan facilities may be an appropriate, or even a preferred option, in respect of specific capital projects. However, in order to ensure that financial prudence is demonstrated when deliberating the utilisation of loan facilities in preference to other funding options, consideration of the guidelines as detailed in this policy must form part of any associated decision making process.

#### POLICY CONTENT

The following guidelines are to be considered as part of any proposal to utilise loan facilities:

- Loans are not to be utilised to fund operating expenditure
- Loans are not to be utilised to fund capital expenditure of a recurrent nature (e.g. road resurfacing and associated works or plant replacement unless funding becomes available via Federal / State or other additional grants that enables the City to bridge gaps in Asset Management Plans that could maximise leveraging opportunities.



Last updated 31 January

- A demonstrable economic benefit must be evident to support the use of loan facilities, as opposed to saving for the asset acquisition, construction or renewal. Priority for loan funding will be given to projects that will deliver greater community benefit and secondly generate revenue to offset associated loan repayments or can be funded from contributing revenue streams other than General Rates. These revenue streams may include specified area rates, service charges and fees and charges.
- The term of any loan facility is not to exceed the economic life of the asset.
- The repayment method for a loan facility will be via principal and interest repayments. Interest only payments or capitalisation can be considered where a financial benefit can be demonstrated; and the nature of the asset being funded is consistent with this methodology. As an example, a property acquisition / subdivision where the impact on the rate base is lesser during the initial phases and the full debt can be acquitted from the disposal of the land under development.
- In considering the utilisation of loan facilities, the City's capacity to repay must be assessed, with regard given to associated debt service coverage ratio which is to result in the City having a ratio above 4.0.

**Policy Background**

Policy Reference No. - 048  
 Owner Unit – Finance  
 Originator – Manager, Financial Services  
 Policy approved by – Council  
 Date Approved – 31 Jan, 2018  
 Review Frequency – As required  
 Related Documents –  
 Background/History -

**History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
C1801/005	31 January, 2018	Reviewed
C1505/125	27 May, 2015	Changes made after Ron Back review Version 3
C1109/280	14 September, 2011	Debt-free status no longer a priority Version 2

COUNCIL POLICY



Council Policy Name:            Loan Facilities

Responsible Directorate:        Financial and Corporate Services                      Version: Draft

**1. PURPOSE**

- 1.1. This Policy provides guidance in the utilisation of loan facilities which may be used to fund the acquisition, construction or renewal of assets
- 1.2. Application of this Policy will ensure that a consistent methodology is adopted when considering loan facilities as a potential funding source.

**2. SCOPE**

- 2.1. This Policy applies to all loan facilities taken out by the City, including Self-Supporting Loans.

**3. DEFINITIONS**

Term	Meaning
Debt Service Cover Ratio	Annual operating surplus before interest and depreciation divided by principal and interest.
Economic Life	The estimated period during which an asset is expected to be economically usable by one or more users, with normal repairs and maintenance.
Financial Ratios Guideline	Local Government Operational Guideline #18 – Financial Ratios published by the Department of Local Government Sport and Cultural Industries.
Policy	this City of Busselton Council policy titled “Loan Facilities”
Self-Supporting Loans	Loans taken out by City where the repayments are made by a third party e.g. club, organisation or ratepayers through a Special Area Rate/Service Charge.

**4. STRATEGIC CONTEXT**

- 4.1. This Policy links to Key Goal Area 6 - LEADERSHIP Visionary, collaborative, accountable, 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. As part of its long term financial planning processes, the Council will consider how significant projects are to be funded.
- 5.2. The City will utilise loan facilities to fund projects in a responsible manner. It is also acknowledged that the funding of projects via loan facilities can assist in addressing intergenerational equity issues.
- 5.3. Loans are not to be utilised to fund operating expenditure.

- 5.4. Loans are not to be utilised to fund capital expenditure of a recurrent nature unless funding becomes available via Federal / State or other additional grants that enables the City to fund the shortfall in asset management plans that could maximise leveraging opportunities.
- 5.5. Priority for loan funding will be given to projects that will deliver community and economic benefit, or generate revenue to offset associated loan repayments or can be funded from contributing revenue streams other than General Rates. These revenue streams may include specified area rates, service charges and fees and charges.
- 5.6. The term of any loan facility is not to exceed the Economic Life of the asset.
- 5.7. Loan facilities are not to be used to save for future asset acquisition, construction or renewal.
- 5.8. The repayment method for a loan facility will typically be via principal and interest repayments. Interest only payments or capitalisation can be considered where a financial benefit can be demonstrated, for example for a property acquisition / subdivision where the impact on the rate base is lesser during the initial phases and the full debt can be acquitted from the disposal of the land under development.
- 5.9. The City will not borrow funds if the Debt Service Cover Ratio is outside of the basic standard prescribed by the Department of Local Government Sport & Cultural Industries in their Financial Ratios Guideline.

**Self-Supporting Loans**

- 5.10. A Self-Supporting Loan will be considered on its individual merits with any application to include the following information:
  - a. the requested amount and over what term;
  - b. project scope;
  - c. total Cost of Project (project Budget) including all funding sources;
  - d. demonstrated capacity to meet loan repayments;
  - e. total number of registered members;
  - f. benefits the project will bring to the association’s members and the broader community; and
  - g. acknowledgement that the applicant is responsible for reimbursement to the City of Busselton of full costs associated with the loan and that the third party will enter into a loan repayment agreement“\ with the City of Busselton.

**6. RELATED DOCUMENTATION / LEGISLATION**

- 6.1. Local Government (Financial Management) Regulations 1996, part 2, section 50
- 6.2. Local Government Operational Guideline #18 – Financial Ratios

**7. REVIEW DETAILS**

<b>Review Frequency</b>		Every 3 years		
<b>Council Adoption</b>	<b>DATE</b>		<b>Resolution #</b>	
<b>Previous Adoption</b>	<b>DATE</b>	31 January 2018	<b>Resolution #</b>	C1801/005

COUNCIL POLICY


Council Policy Name:            Loan Facilities

Responsible Directorate:       Financial and Corporate Services

Version:    Draft

**1. PURPOSE**

- 1.1. This Policy provides guidance in the utilisation of loan facilities which may be used to fund the acquisition, construction or renewal of assets
- 1.2. Application of this Policy will ensure that a consistent methodology is adopted when considering loan facilities as a potential funding source.

**2. SCOPE**

- 2.1. This Policy applies to all loan facilities taken out by the City, including Self-Supporting Loans.

**3. DEFINITIONS**

Term	Meaning
Debt Service Cover Ratio	Annual operating surplus before interest and depreciation divided by principal and interest.
Economic Life	The estimated period during which an asset is expected to be economically usable by one or more users, with normal repairs and maintenance.
Financial Ratios Guideline	Local Government Operational Guideline #18 – Financial Ratios published by the Department of Local Government Sport and Cultural Industries.
Policy	this City of Busselton Council policy titled “Loan Facilities”
Self-Supporting Loans	Loans taken out by City where the repayments are made by a third party e.g. club, organisation or ratepayers through a Special Area Rate/Service Charge.

**4. STRATEGIC CONTEXT**

- 4.1. This Policy links to Key Goal Area 6 - LEADERSHIP Visionary, collaborative, accountable, 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. As part of its long term financial planning processes, the Council will consider how significant projects are to be funded.
- 5.2. The City will utilise loan facilities to fund projects in a responsible manner. It is also acknowledged that the funding of projects via loan facilities can assist in addressing intergenerational equity issues.
- 5.3. Loans are not to be utilised to fund operating expenditure.

~~Loans are not to be utilised to fund capital expenditure of a recurrent nature unless funding becomes available via Federal / State or other additional grants that enables the City to fund the shortfall in asset management plans that could maximise leveraging opportunities.~~

~~5.4. Loan facilities are not to be used to save for future asset acquisition, construction or renewal.~~

5.5. Priority for loan funding will be given to projects that will deliver community and economic benefit, or generate revenue to offset associated loan repayments or can be funded from contributing revenue streams other than General Rates. These revenue streams may include specified area rates, service charges and fees and charges.

5.6. The term of any loan facility is not to exceed the Economic Life of the asset.

~~5.7.1.1. Loan facilities are not to be used to save for future asset acquisition, construction or renewal.~~

~~5.8.5.7.~~ The repayment method for a loan facility will typically be via principal and interest repayments. Interest only payments or capitalisation can be considered where a financial benefit can be demonstrated, for example for a property acquisition / subdivision where the impact on the rate base is lesser during the initial phases and the full debt can be acquitted from the disposal of the land under development.

~~5.9.~~ The City will not borrow funds if the Debt Service Cover Ratio is outside of the basic standard prescribed by the Department of Local Government Sport & Cultural Industries in their ~~Financial Ratios Guideline~~.

~~5.10.5.8.~~

**Self-Supporting Loans**

~~5.11.5.9.~~ Any application for a Self-Supporting Loan will be considered on its individual merits with any application to include the following information:

- a. the requested amount and over what term;
- b. project scope;
- c. total Cost of Project (project Budget) including all funding sources;
- d. demonstrated capacity to meet loan repayments;
- e. total number of registered members;
- f. benefits the project will bring to the association's members and the broader community; and
- g. acknowledgement that the applicant is responsible for reimbursement to the City of Busselton of full costs associated with the loan and that the third party will enter into a loan repayment agreement<sup>24</sup> with the City of Busselton.

**6. RELATED DOCUMENTATION / LEGISLATION**

- 6.1. Local Government (Financial Management) Regulations 1996, part 2, section 50
- 6.2. Local Government Operational Guideline #18 – Financial Ratios

**7. REVIEW DETAILS**

Review Frequency		Every 3 years		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	31 January 2018	Resolution #	C1801/005

12.3 Policy and Legislation Committee - 29 July 2020 - REVIEW OF COUNCIL POLICY:  
COMPLAINTS HANDLING

<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>	Policy
<b>BUSINESS UNIT</b>	Information Services
<b>REPORTING OFFICER</b>	Manager Information Services - Kris Davis
<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 <a href="#">Council Policy: Complaints Management (Proposed)</a> Attachment B <a href="#">Council Policy 012: Complaints Handling (Current)</a> Attachment C <a href="#">Complaints Management (Proposed) With Committee Amendments</a>

**This item was considered by the Policy and Legislation Committee at its meeting on 29 July 2020, the recommendations from which have been included in this report.**

**OFFICER RECOMMENDATION**

**That the Council adopts the revised policy Complaints Management at Attachment A to replace the existing Council policy '012: Complaints Handling' at Attachment B.**

**COMMITTEE RECOMMENDATION**

**That the Council adopts the revised policy Complaints Management, inclusive of Committee amendments as per Attachment C, to replace the existing Council policy '012: Complaints Handling' at Attachment B.**

Reasons: The Committee recommended an amendment to the definition of "Complaint"; and recommended an amendment to paragraph 5.3 for reasons of consistency.

**EXECUTIVE SUMMARY**

This report presents a revised Council policy: Complaints Management (Attachment A) (the Policy), with officers recommending it replace the existing Council policy 012: Complaints Handling (Attachment B).

**BACKGROUND**

Council policy 012: Complaints Handling was implemented on 24 April 2012 (C1204/104) as a guide for Council and the City to manage complaints. The policy underwent a review on 12 October 2016 (C1610/095) at which time a reference to dealing with vexatious and/or malicious complainants was removed. The reason for this change was officers considered that the complaint investigation process will determine whether or not a complaint is substantiated. Identifying a complaint as vexatious or malicious was considered to be unnecessary and would not add to the process or assist to uphold the objectives of the Policy.

An operational practice and procedure (CUS 100 Complaints Handling Practice and Procedure) (the OPP) was developed by officers in 2012, and was the basis for a training program for City staff. A complaint register and a reporting mechanism was also established to improve complaints handling.

In 2017, as part of the regular practice of reviewing Council policies, a review was carried out on Council policy 018: Customer Service. It was established that the contents of this Customer Service policy would be more appropriately contained as a separate charter. At its Ordinary Meeting on 28 June 2017, Council resolved (C1706/154) to cancel Council policy 018: Customer Service and adopt the Customer Service Charter (the Charter) in its place. The Charter, in conjunction with Council policy 012: Complaints Handling and the OPP, provide overarching guidance for customer service provision across the City, including in the management of complaints.

### **OFFICER COMMENT**

The Policy has been transferred into the new Council policy template and reviewed by officers with the intent of refining the policy statement in accordance with the recommendations of the 2017 Governance Service Review (GSR). The Policy has been retitled “Complaints Management”, which is considered a more appropriate description of the purpose and scope of the Policy.

### **Purpose and Scope**

The Policy’s purpose and scope remains substantially the same, with the wording having been refined to provide greater clarity.

The Policy reflects the City’s strategic intent and approach to customer service and the management of complaints. The addition of the words “timely, impartial and equitable” emphasises the importance of complaint resolution as being “crucial to ensuring the delivery of quality services”.

Additionally, the statement “Council and the CEO will support and promote a culture where complaints are seen as opportunities to learn and improve service delivery” is intended to focus the Policy, and directs Councillors and officers to act in accordance with a culture that values continuous improvement and quality service provision.

### **Operational Detail**

Council policy 012 Complaints Handling contains a significant amount of detail which is already contained in, or is better suited to, operational practices and procedures, or other relevant documentation, including the Customer Service Charter, or the Elected Members and Employees Codes of Conducts. This operational detail has been removed from the Policy, maintaining the separation between the City’s policy and operational documents.

### **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 City has a policy framework which was developed and endorsed by Council in response to the recommendations of the GSR. The framework sets out the intent of Council policies, as opposed to operational documents such as operational practices and work procedures.

### **Financial Implications**

There are no financial implications associated with the officer recommendation.

**Stakeholder Consultation**

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

**Risk Assessment**

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

**Options**

As an alternative to the proposed recommendation the Council could:

1. Require further amendments to the Policy.
2. Retain the Policy in its current form.

**CONCLUSION**

The Policy has been transferred into the new Council policy template and reviewed by officers with the intent of refining the Policy and is presented for Council's consideration and endorsement.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

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



COUNCIL POLICY		
		
Council Policy Name:	Complaints Management	
Responsible Directorate:	Finance and Corporate Services	Version: Proposed

**1. PURPOSE**

- 1.1. Council recognises the importance of receiving, acknowledging and resolving Complaints from its community, to improve service provision.
- 1.2. The purpose of this Policy is to provide guidance and set out expectations in relation to the City’s Complaints management approach.

**2. SCOPE**

- 2.1. This Policy is applicable to the receipt and management of all Complaints as defined.
- 2.2. This Policy does not include those complaints dealt with under the *Local Government Act*, specifically being Part 4 - Division 9 Electoral Process, Part 4 - Division 10 Validity of Elections, Part 4 - Division 11 Electoral Offences, Part 5 - Division 6 Disclosure of Financial Interests and Gifts, and Part 5 - Division 9 Conduct of Certain Officials.

**3. DEFINITIONS**

Term	Meaning
Policy	this City of Busselton Council policy titled “Complaints Management”
Complaint	<p>An expression of dissatisfaction with a level of service, repeated lack of promised service or response, or the conduct of any person employed by the City of Busselton, which is not anonymous, made to the City of Busselton through its Councillors, the Chief Executive Officer or any of its employees in writing or verbally, where a response or resolution is explicitly or implicitly expected.</p> <p>A Complaint is not:</p> <ul style="list-style-type: none"> <li>a. A request for service;</li> <li>b. A request for information;</li> <li>c. The lodging of an appeal in accordance with a standard procedure or policy;</li> <li>d. A freedom of information enquiry;</li> <li>e. An allegation of a breach of the law by a third party; or</li> <li>f. An expression of dissatisfaction with a decision.</li> </ul>

**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 following Community Objectives:
- a. 6.1: Governance systems are responsible, ethical and transparent; and
  - b. 6.3: Accountable leadership that is supported by a skilled and professional workforce.

**5. POLICY STATEMENT**

- 5.1. The City of Busselton regards the provision of timely, impartial and equitable complaint resolution as a core strategic responsibility, and crucial to ensuring the delivery of quality services.
- 5.2. The City’s Code of Conduct and its Customer Service Charter details expectations in relation to employee behaviour and levels of service.
- 5.3. Council and the CEO will support and promote a culture where complaints are seen as opportunities to learn and improve service delivery.
- 5.4. The City will manage all Complaints in a manner that is:
- a. Focused on the customer with visible and accessible contact points provided for Complaints;
  - b. Responsive and empathetic to people who have cultural and language differences, disabilities, literacy issues and requirements relating to remote access;
  - c. Objective, fair and neutral;
  - d. Confidential wherever possible and respectful of a person’s privacy;
  - e. Accountable and transparent, with appropriate and efficient record-keeping and decision-making;
  - f. Outcome focused and ensures the customer is involved in the entire process until resolution of the Complaint;
  - g. Free of reprisals against any person involved in the Complaint management process; and
  - h. Accessible and accountable for the continued improvement of the management of Complaints.
- 5.5. The CEO will establish operational practices and mechanisms to facilitate the objectives of this Policy and ensure they are available to the community.

**6. RELATED DOCUMENTATION / LEGISLATION**

- 6.1. City of Busselton Customer Service Charter
- 6.2. City of Busselton Code of Conduct
- 6.3. *State Records Act 2000 (WA)*
- 6.4. CUS 100 (OPP) Complaints Handling Practice and Procedure

**7. REVIEW DETAILS**

<b>Review Frequency</b>		Every 3 years		
<b>Council Adoption</b>	<b>DATE</b>		<b>Resolution #</b>	
<b>Previous Adoption</b>	<b>DATE</b>	24 April 2012	<b>Resolution #</b>	C1204/104

Last updated 12/10/2016

012	Complaints Handling	V2 Current
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## STATEMENT

Council recognises and acknowledges the importance of providing impartial, equitable and timely complaint resolution to the community, its residents and stakeholders.

## PURPOSE

The intent of the Policy is to provide the guiding document for Council and the City with regards to complaints management in order to most effectively meet their service provision obligations to the community, its residents and stakeholders.

## SCOPE

This policy applies to all Employees of the City of Busselton.

## POLICY CONTENT

The City of Busselton regards the provision of excellent complaint resolution services as a core strategic responsibility. In development of this policy, the Council has considered community feedback and expectations, relevant internal and external processes, organisational risks and officer recommendations. In addition, this policy takes into consideration the existing City of Busselton Code of Conduct and Customer Service Policy, which broadly outlines responsible behaviour for all City Officers.

This policy applies directly to the delivery of services as documented in the City of Busselton Customer Service Charter. This policy is to ensure that everyone within the organisation understands the duties and responsibilities applicable at all levels.

The City of Busselton Complaint Handling Policy is our commitment to the community to address their complaints in a manner that is:

- Customer focused;
- Responsive and empathetic;
- Objective and fair;
- Confidential;
- Accountable and transparent;
- Outcome focused;
- Free of reprisals
- Accessible for review and improvement.

### Complaint Definition

The City of Busselton recognises a complaint to be:

*Any expression of dissatisfaction with a level of service, repeated lack of promised service or response, or the conduct and/or behaviour of any person employed by the City of Busselton, which is not anonymous, made to the City of Busselton through its Councillor, Chief Executive Officer or any of its employees in writing or verbally, where a response or resolution is explicitly or implicitly expected.*

*A complaint is therefore not:*

- A request for service;
- A request for information;
- A request for an explanation of a policy or procedure;
- The lodging of an appeal in accordance with a standard procedure or policy;
- A freedom of information enquiry;

Last updated 12/10/2016

- *An allegation of a breach of the law by a third party;*
- *An expression of dissatisfaction with a decision.*

**Responsibilities:**

Councillors will:

- Ensure guidelines for complaint handling service delivery as stated in this policy and the Customer Service Charter are current and relevant and that these guidelines continue to be customer and outcome focused;
- Review this policy on a periodic basis as required by changing community needs;
- Identify performance indicators for expected complaint resolutions, including expected levels of compliance and reporting requirements;
- Support the CEO and Executives in the provision of excellent complaint resolution services;

CEO and Executives will:

- Endorse and support all standards documented in this policy;
- Promote a positive attitude complaint and complainant handling;
- Endorse and support an organisational complaint handling procedure which includes, but is not limited to:
  - Processes to capture complaints;
  - Investigation methods and results;
  - Guidelines for resolution decisions;
  - Training requirements;
- Contribute to the regular periodic review of this policy by:
  - Engaging in regular community consultation to ensure current and future customer needs adequately addressed;
  - Identifying opportunities for improvements to complaint handling procedures;
- Support Managers and other staff in the provision of customer-focused complaint resolution;
- Establish mechanisms to monitor compliance with this policy;
- Establish processes to deal with failure to meet endorsed standards;
- Report to Council on performance indicators for Complaint resolution.

Managers will:

- Optimize and support complaint handling and resolution mechanisms in place to comply with this policy;
- Ensure officers under direct and indirect supervision are aware of and are following guidelines detailed in this policy and related procedures.
- Ensure new employees are made aware of the complaint policy and procedure and their requirements.

Last updated 12/10/2016

- Ensure ongoing training to foster and develop conflict resolution and other customer service related skills;
- Implement endorsed procedures to deal with failure to meet the standards of this policy;
- Report to the CEO and Executives on performance indicators for complaint resolution.

All Employees will:

- Comply with this policy and associated procedures;
- Actively support others in compliance with this policy and associated procedures;
- Undertake training and performance management as required to maintain an appropriate level of skill in conflict resolution and other customer service related skills;
- Report to Managers as required on performance indicators for complaint handling responsibilities.
- Support complainants through the complaints process as required:
- Seek and report on customer feedback, positive and negative, during the course of customer interaction.

**Procedures:**

Procedures developed for complaint handling will:

- Provide for various methods by which complaints can be lodged, taking into account complainants with disabilities, language issues and literacy issues.
- Include links to the Customer Service Charter agreed levels of service provision that incorporate appropriate timeframes and communication requirements.
- Be customer and outcome focused.
- Adhere to the standardised definition of 'complaint' as stated in the Policy.
- Give means to ensure as many true complaints are captured as is reasonably practical, including relevant documentation, investigation outcomes and resolutions.
- Outline a centralised complaint register format.
- Develop clear responsibilities for all officers across all levels within the organisation as set out in the Policy.
- Develop clear and accessible guidelines for appropriate complaint resolution.
- Comply with the State Records Act 2000.
- Provide clear guidelines for staff training requirements including:
  - New staff inductions;
  - Complaint handling training;
  - Conflict Resolution.
  - Periodic refresher courses;

Last updated 12/10/2016

- Provide guidelines to senior officers delegated to review all complaints, investigations and their resolutions on a regular basis with the goal of identifying trends and issues and providing guidance for service delivery.

**Policy Background**

Policy Reference No. – 012  
Owner Unit – Corporate Services  
Originator – Customer Service Coordinator  
Policy Approved by – Council  
Date Approved – 24 April 2012  
Review Frequency – As required  
Related documents – Customer Service Policy and Customer Service Charter

**History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
C1610/095	12 October 2016	Adjustment made to remove the line item relating to dealing with vexations and/or malicious complainants. Version 2
C1204/104	24 April, 2012	Date of Implementation Version 1

COUNCIL POLICY		
		
Council Policy Name:	Complaints Management	
Responsible Directorate:	Finance and Corporate Services	Version: Proposed

**1. PURPOSE**

- 1.1. Council recognises the importance of receiving, acknowledging and resolving Complaints from its community, to improve service provision.
- 1.2. The purpose of this Policy is to provide guidance and set out expectations in relation to the City’s Complaints management approach.

**2. SCOPE**

- 2.1. This Policy is applicable to the receipt and management of all Complaints as defined.
- 2.2. This Policy does not include those complaints dealt with under the *Local Government Act*, specifically being Part 4 - Division 9 Electoral Process, Part 4 - Division 10 Validity of Elections, Part 4 - Division 11 Electoral Offences, Part 5 - Division 6 Disclosure of Financial Interests and Gifts, and Part 5 - Division 9 Conduct of Certain Officials.

**3. DEFINITIONS**

Term	Meaning
Policy	this City of Busselton Council policy titled “Complaints Management”
Complaint	<p>An expression of dissatisfaction with a level of service, repeated lack of promised service or response, or the conduct of any person employed by the City of Busselton, which is not anonymous, made to the City of Busselton through its Councillors, the Chief Executive Officer or any of its employees in writing or verbally, where a response or resolution is explicitly or implicitly expected.</p> <p><b>A Complaint is not:</b></p> <ul style="list-style-type: none"> <li>a. A request for service;</li> <li>b. A request for information;</li> <li>c. The lodging of an appeal in accordance with a standard procedure or policy;</li> <li>d. A freedom of information enquiry;</li> <li>e. An allegation of a breach of the law by a third party; or</li> <li>f.a. An expression of dissatisfaction with a decision.</li> </ul>

#### 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 following Community Objectives:
- a. 6.1: Governance systems are responsible, ethical and transparent; and
  - b. 6.3: Accountable leadership that is supported by a skilled and professional workforce.

#### 5. POLICY STATEMENT

- 5.1. The City of Busselton regards the provision of timely, impartial and equitable complaint resolution as a core strategic responsibility, and crucial to ensuring the delivery of quality services.
- 5.2. The City’s Code of Conduct and its Customer Service Charter details expectations in relation to employee behaviour and levels of service.
- 5.3. ~~Council and the CEO~~ The City will support and promote a culture where complaints are seen as opportunities to learn and improve service delivery.
- 5.4. The City will manage all Complaints in a manner that is:
- a. Focused on the customer with visible and accessible contact points provided for Complaints;
  - b. Responsive and empathetic to people who have cultural and language differences, disabilities, literacy issues and requirements relating to remote access;
  - c. Objective, fair and neutral;
  - d. Confidential wherever possible and respectful of a person’s privacy;
  - e. Accountable and transparent, with appropriate and efficient record-keeping and decision-making;
  - f. Outcome focused and ensures the customer is involved in the entire process until resolution of the Complaint;
  - g. Free of reprisals against any person involved in the Complaint management process; and
  - h. Accessible and accountable for the continued improvement of the management of Complaints.

##### 5.5. A Complaint is not:

- a. A request for service;
- b. A request for information;
- c. The lodging of an appeal in accordance with a standard procedure or policy;
- d. A freedom of information enquiry;
- e. An allegation of a breach of the law by a third party; or
- f. An expression of dissatisfaction with a decision.

~~5.5.5.6.~~ 5.6. The CEO will establish operational practices and mechanisms to facilitate the objectives of this Policy and ensure they are available to the community.

#### 6. RELATED DOCUMENTATION / LEGISLATION







- 6.1. City of Busselton Customer Service Charter
- 6.2. City of Busselton Code of Conduct
- 6.3. *State Records Act 2000 (WA)*
- 6.4. CUS 100 (OPP) Complaints Handling Practice and Procedure



**7. REVIEW DETAILS**

<b>Review Frequency</b>		Every 3 years		
<b>Council Adoption</b>	<b>DATE</b>		<b>Resolution #</b>	
<b>Previous Adoption</b>	<b>DATE</b>	24 April 2012	<b>Resolution #</b>	C1204/104

12.4 Policy and Legislation Committee - 29 July 2020 - REVIEW OF COUNCIL POLICY: ELECTED MEMBER TRAINING AND PROFESSIONAL DEVELOPMENT

<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 Policy
<b>BUSINESS UNIT</b>	Governance Services
<b>REPORTING OFFICER</b>	Executive Assistant to Council - Lisa Haste 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 Elected Member Training and Professional Development Policy   Attachment B Elected Member Training and Professional Development Policy - marked up version   Attachment C Elected Member Training and Professional Development Policy with Committee Amendments  

This item was considered by the Policy and Legislation Committee at its meeting on 29 July 2020, the recommendations from which have been included in this report.

**OFFICER RECOMMENDATION**

That the Council adopts the revised Council Policy: Elected Member Training and Professional Development, as per Attachment A.

**COMMITTEE RECOMMENDATION**

That the Council adopts the revised Council Policy: Elected Member Training and Professional Development, inclusive of Committee amendments as per Attachment C.

Reasons: The Committee recommended the various amendments to the Policy for the purposes of clarity and improved readability.

**EXECUTIVE SUMMARY**

This report presents a revised 'Elected Member Training and Professional Development' Council Policy (Attachment A) (the Policy) for Council approval. The Policy inclusive of tracked changes is included at Attachment B to highlight the recommended amendments.

With a number of training and development opportunities spanning over multiple years, or costing more than the shared annual allowance, changes have been made to the Policy to allow for the allowance to be rolled over into the next financial year, allowing Elected Members the opportunity to undertake a broader range of professional development opportunities.

## **BACKGROUND**

The Policy was last reviewed on 24 April 2019 as a result of the Governance Service Review. Changes included the removal of the ability for unused funds to be carried forward into the next financial year. Since then, however, professional development opportunities have been recognised which exceed the specified annual allowance and are carried out over a number of years. In response, officers have informally discussed with Council the ability to isolate unspent funds from a financial year, for use in the next one, and are now formally proposing a change to the Policy to allow for this.

## **OFFICER COMMENT**

The Policy has been amended to allow for unspent funds from one year to be held in the reserve and used in the following financial year, with no more than two financial years' worth of the allowance to accrue. To assist in managing this, the Policy has also been amended to provide for a fixed allowance of \$3,000 per Elected Member per financial year. This was discussed as an option when the Policy was last reviewed and rejected due to the unknown costs of mandatory training that needs to be undertaken by new or re-elected members.

Six Elected Members are currently completing the mandatory training, at a total cost to date of \$6,262.35. This has been through a combination of face to face and online delivery. Four of the five modules are now available online and the fifth one will be available shortly. Each online module has a cost of \$195, with future costs not expected to exceed \$975 per Elected Member, on the basis of WALGA continuing with this mode of delivery.

An amount of \$3,000 per annum, with the ability to roll over unspent funds to the next financial year, is recommended as adequate to provide for both mandatory and ongoing professional development needs. In order to facilitate this change, officers have expanded the purpose of the Professional Development Reserve to include Elected Members. The Elected Members' Funds will be partitioned off from City Officer's funds in the Reserve.

## **Statutory Environment**

In accordance with section 2.7(2)(b) of the *Local Government Act 1995*, 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**

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the Governance Services Review carried out in 2017. The framework sets out the intent of Council policies, as opposed to operational documents such as staff management practices and operational practices.

## **Financial Implications**

Adoption of the Policy has no immediate budget implications, with the City's annual budget containing an amount to meet the Policy requirements. The cost of mandatory training is now known and, with the ability to use the unspent allocation of funds in the next financial year, the opportunity to participate in a greater range of training and development is enhanced.

## **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 specify a monetary figure for the allowance per financial year and instead continue to define allowance as an equal share of the total budget.

**CONCLUSION**

The proposed amendments to the Policy provide greater flexibility to Elected Members in accessing a greater range of professional development and training opportunities.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

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

COUNCIL POLICY



Council Policy Name: Elected Member Training and Professional Development

Responsible Directorate: Finance and Corporate Services      Version: Current

**1. PURPOSE**

- 1.1. The purpose of this Policy is to provide a framework within which elected members may access an allowance to fund continual training and professional development opportunities that will assist them to undertake their role through the development of relevant skills and competencies.
- 1.2. This Policy fulfils the City's requirements under Section 5.128 of the *Local Government Act 1995*.

**2. SCOPE**

- 2.1. This Policy is applicable to all elected members for their term of office.

**3. DEFINITIONS**

Term	Meaning
Allowance	\$3000 per Councillor per financial year
Policy	This City of Busselton Council policy entitled "Elected Members Training and Professional Development"

**4. STRATEGIC CONTEXT**

- 4.1. This Policy links to Key Goal Area 6 - Leadership of the City's Strategic Community Plan 2017 and specifically Community Objective 6.1: Governance systems, processes and practices are responsible, ethical and transparent.

**5. POLICY STATEMENT**

- 5.1. Elected members are encouraged to attend relevant training and development opportunities with the aim of:
  - a. Assisting elected members to understand their role and obligations;
  - b. Assisting elected members to meet the demands of their role by developing the necessary skills and knowledge;
  - c. Assisting elected members to achieve excellence in performance; and
  - d. Ensuring elected members work professionally in a team environment for the betterment of their constituents.
- 5.2. Each elected member will be allocated an Allowance to be used for attendance at training and development programs and courses.

- 5.3. Any unspent portion of the Allowance will be held in reserve, and may be used in the following financial year. No more than the total value of 2 years of the Allowance can be accrued.
- 5.4. The Allowance may be used for:
- a. Attendance at training run by the Western Australian Local Government Association (WALGA);
  - b. Attendance at Local Government Week run by WALGA, subject to paragraph 5.4; and
  - c. Other training and development opportunities where
    - i. the course or development opportunity is relevant to the functions of an elected member; or
    - ii. the course or development opportunity is relevant to an elected member's role or their role as an elected representative on a Council Committee or external body; and
    - iii. there is scope for the elected member to acquire skills relevant and beneficial to their role.
- 5.5. It is usual for the Mayor and the Deputy Mayor, along with the CEO or his delegate, to attend WALGA's Annual General Meeting (normally held in Local Government week). Where attendance is solely for the purposes of attending the Annual General Meeting the associated costs will not be taken from the Allowance.
- 5.6. Elected members may also be required under the Local Government Act 1995 (or any replacement legislation) to complete mandatory training. The Allowance will be used in the first instance for completion of mandatory training.

**Approvals and restrictions on training**

- 5.7. No more than two elected members may attend the same intrastate training and development opportunity at the same time unless the training is mandatory or universal to the functions of an elected member, or it is training being held within the City of Busselton or adjoining districts.
- 5.8. No more than two elected members may attend the same interstate training and development opportunity at the same time.
- 5.9. Attendance at an interstate training and development opportunity is not permitted within three months of the date of expiry of an elected member's current term of office.
- 5.10. Attendance at any overseas training and development opportunity requires the specific approval of Council.
- 5.11. Applications from elected members to attend training and development opportunities will be considered by the Mayor and Deputy Mayor in consultation with the CEO, with regard to be given to applicability of the training and development as it relates to the City of Busselton and to the individual elected member's functions (e.g. committee membership).
- 5.12. The application may only be approved where the costs including registration fees, travel, accommodation and an estimation of other expenses, (subject to Council Policy Fees Allowances and Expenses for Elected Members), can be accommodated within the Allowance.
- 5.13. Nothing in this Policy prevents the Council from approving over and above the allowance.

**Reporting Requirements**

- 5.14. On return from attending an interstate training and development opportunity elected members shall within 21 days provide either a written report to the City or a verbal presentation to a Councillor briefing session; the purpose being to facilitate knowledge sharing. The report / presentation should detail

knowledge and skills gained, benefits of attendance for the City, Council and community, and relevant recommendations.

- 5.15. Failure to provide a report or presentation within the approved timeframe may result in the elected member being required to reimburse costs associated with attendance to the City. The Mayor may approve an extension in circumstances deemed appropriate.

**6. RELATED DOCUMENTATION / LEGISLATION**

- 6.1. Council Policy - Fees Allowances and Expenses for Elected Members

**7. REVIEW DETAILS**

<b>Review Frequency</b>		3 yearly		
<b>Council Adoption</b>	<b>DATE</b>	24 April 2019	<b>Resolution #</b>	C1904/076
<b>Previous Adoption</b>	<b>DATE</b>	10 May 2017	<b>Resolution #</b>	C1705/103

COUNCIL POLICY



Council Policy Name: Elected Member Training and Professional Development

Responsible Directorate: Finance and Corporate Services      Version: Current

**1. PURPOSE**

1.1. The purpose of this Policy is to provide a framework within which elected members may access an ~~annual~~ allowance to fund continual training and professional development opportunities that will assist them to undertake their role through the development of relevant skills and competencies.

1.1.1.2. This Policy fulfils the City's requirements ~~under in~~ Section 5.128 of the Local Government Act 1995.

**2. SCOPE**

2.1. This Policy is applicable to all elected members for their term of office.

**3. DEFINITIONS**

Term	Meaning
Annual Allowance	<del>An amount which is an equal share of the allocation of \$3000 for each individual per Councillor per financial year in the budget allocation for Councillor training and development, allocated on a pro-rata basis for each elected member's term of office</del>
Policy	This City of Busselton Council policy entitled "Elected Members Training and Professional Development"

**4. STRATEGIC CONTEXT**

4.1. This Policy links to Key Goal Area 6 - Leadership of the City's Strategic Community Plan 2017 and specifically Community Objective 6.1: Governance systems, processes and practices are responsible, ethical and transparent.

**5. POLICY STATEMENT**

- 5.1. Elected members are encouraged to attend relevant training and development opportunities with the aim of:
- a. Assisting elected members to understand their role and obligations;
  - b. Assisting elected members to meet the demands of their role by developing the necessary skills and knowledge;
  - c. Assisting elected members to achieve excellence in performance; and
  - d. Ensuring elected members work professionally in a team environment for the betterment of their constituents.



5.2. Each elected member will be allocated an ~~Annual~~ Allowance to be used for attendance at training and development programs and courses.

5.2.5.3. ~~Where not used in any financial year~~ Any unspent portion of the Allowance, ~~the balance will carry over in reserve~~ held in reserve, and may be used in the following financial year. No more than the total value of 2 years of the ~~Annual~~ Allowance can be accrued.

5.3.5.4. The ~~Annual~~ Allowance may be used for:

- a. Attendance at training run by the Western Australian Local Government Association (WALGA);
- b. Attendance at Local Government Week run by WALGA, subject to paragraph 5.4; and
- c. Other training and development opportunities where
  - i. the course or development opportunity is relevant to the functions of an elected member; or
  - ii. the course or development opportunity is relevant to an elected member's role or their role as an elected representative on a Council Committee or external body; and
  - iii. there is scope for the elected member to acquire skills relevant and beneficial to their role.

5.4.5.5. It is usual for the Mayor and the Deputy Mayor, along with the CEO or his delegate, to attend WALGA's Annual General Meeting (normally held in Local Government week). Where attendance is solely for the purposes of attending the Annual General Meeting the associated costs will not be taken from the ~~Annual~~ Allowance.

5.5.5.6. Elected members may also be required under the Local Government Act 1995 (or any replacement legislation) to complete mandatory training. The ~~Annual~~ Allowance will be used in the first instance for completion of mandatory training.

#### **Approvals and restrictions on training**

5.6.5.7. No more than two elected members may attend the same intrastate training and development opportunity at the same time unless the training is mandatory or universal to the functions of an elected member, or it is training being held within the City of Busselton or adjoining districts.

5.7.5.8. No more than two elected members may attend the same interstate training and development opportunity at the same time.

5.8.5.9. Attendance at an interstate training and development opportunity is not permitted within three months of the date of expiry of an elected member's current term of office.

5.9.5.10. Attendance at any overseas training and development opportunity requires the specific approval of Council.

5.10.5.11. Applications from elected members to attend training and development opportunities will be considered by the Mayor and Deputy Mayor in consultation with the CEO, with regard to be given to applicability of the training and development as it relates to the City of Busselton and to the individual elected member's functions (e.g. committee membership).

5.11.5.12. The application may only be approved where the costs including registration fees, travel, accommodation and an estimation of other expenses, (subject to Council Policy Fees Allowances and Expenses for Elected Members), can be accommodated within the ~~Annual~~ Allowance.

~~5.12.5.13.~~ Nothing in this Policy prevents the Council from approving ~~additional funding for elected member training and professional development or a specific application to be funded outside of the Annual Allowance over and above the allowance.~~

**Reporting Requirements**

~~5.13.5.14.~~ On return from attending an interstate training and development opportunity elected members shall within 21 days provide either a written report to the City or a verbal presentation to a Councillor briefing session; the purpose being to facilitate knowledge sharing. The report / presentation should detail knowledge and skills gained, benefits of attendance for the City, Council and community, and relevant recommendations.

~~5.14.5.15.~~ Failure to provide a report or presentation within the approved timeframe may result in the elected member being required to reimburse costs associated with attendance to the City. The Mayor may approve an extension in circumstances deemed appropriate.

**6. RELATED DOCUMENTATION / LEGISLATION**

6.1. Council Policy - Fees Allowances and Expenses for Elected Members

**7. REVIEW DETAILS**

<b>Review Frequency</b>		3 yearly		
<b>Council Adoption</b>	<b>DATE</b>	24 April 2019	<b>Resolution #</b>	C1904/076
<b>Previous Adoption</b>	<b>DATE</b>	10 May 2017	<b>Resolution #</b>	C1705/103

COUNCIL POLICY



Council Policy Name: Elected Member Training and Professional Development

Responsible Directorate: Finance and Corporate Services      Version: Current

**1. PURPOSE**

- 1.1. The purpose of this Policy is to provide a framework within which elected members may access an allowance to fund ~~continual~~ ongoing training and professional development opportunities that will assist them to undertake their role through the development of relevant skills and competencies.
- 1.2. This Policy fulfils the City's requirements under Section 5.128 of the *Local Government Act 1995*.

**2. SCOPE**

- 2.1. This Policy is applicable to all elected members for their term of office.

**3. DEFINITIONS**

Term	Meaning
Allowance	\$3000 per Councillor per financial year
Policy	This City of Busselton Council policy entitled "Elected Members Training and Professional Development"

**4. STRATEGIC CONTEXT**

- 4.1. This Policy links to Key Goal Area 6 - Leadership of the City's Strategic Community Plan 2017 and specifically Community Objective 6.1: Governance systems, processes and practices are responsible, ethical and transparent.

**5. POLICY STATEMENT**

- 5.1. Elected members are encouraged to attend relevant training and development opportunities with the aim of:
  - a. assisting elected members to understand their role and obligations;
  - b. assisting elected members to meet the demands of their role by developing the necessary skills and knowledge;
  - c. assisting elected members to achieve excellence in performance; and
  - d. ensuring elected members work professionally in a team environment for the betterment of their constituents.
- 5.2. Each elected member will be allocated an ~~Allowance~~ allowance to be used for attendance at training and development programs and courses.

- 5.3. Any unspent portion of the ~~Allowance~~ allowance in each financial year will be held in reserve, and may be budgeted for used in the following financial year. No more than the total value of 2 years of the ~~Allowance~~ allowance can be accrued.
- 5.4. ~~The Allowance~~ Allowances under this Policy may be used for:
- attendance at training ~~run~~ conducted by the Western Australian Local Government Association (WALGA) ~~or other appropriate RTO providers;~~
  - attendance at ~~WALGA Annual General Convention and AGM~~ Local Government Week run by WALGA, subject to paragraph 5.54; and
  - other training and development opportunities where:
    - the course or development opportunity is relevant to the functions of an elected member; or
    - the course or development opportunity is relevant to an elected member's role or their role as an elected representative on a Council Committee or external body; and
    - there is scope for the elected member to acquire skills relevant and beneficial to their role.
- 5.5. It is usual for the Mayor, ~~and~~ the Deputy Mayor ~~and the CEO, or their delegates, along with the CEO or his delegate,~~ to attend WALGA's Annual General Meeting (normally held in Local Government week). Where attendance is solely for the purposes of attending the Annual General Meeting the associated costs will not be ~~taken drawn from the available from the covered~~ under this Policy Allowances.
- 5.6. Elected members may also be required under the *Local Government Act 1995* (or any replacement legislation) to complete mandatory training. ~~The Allowances provided under this Policy~~ will be used in the first instance for completion of mandatory training.

**Approvals and restrictions on training**

- 5.7. No more than two elected members may attend the same intrastate training and development opportunity at the same time unless the training is mandatory or universal to the functions of an elected member, or it is training being held within the City of Busselton or adjoining districts.
- 5.8. No more than two elected members may attend the same interstate training and development opportunity at the same time.
- 5.9. Attendance at an interstate training and development opportunity is not permitted within three months of the date of expiry of an elected member's current term of office.
- 5.10. Attendance at any overseas training and development opportunity requires ~~the specific approval~~ a resolution of Council ~~to approve.~~
- 5.11. Applications from elected members to attend training and development opportunities will be considered by the Mayor and Deputy Mayor in consultation with the CEO, with regard to be given to applicability of the training and development as it relates to the City of Busselton and to the individual elected member's functions (e.g. committee membership).
- 5.12. The application may only be approved where the costs including registration fees, travel, accommodation and an estimation of other expenses, (subject to Council Policy Fees Allowances and Expenses for Elected Members), can be accommodated within the Allowance.
- 5.13. Nothing in this Policy prevents the Council from approving over and above the allowance.

**Reporting Requirements**

- 5.14. On return from attending an interstate training and development opportunity elected members shall within 21 days provide either a written report to the City or a verbal presentation to a Councillor briefing session; the purpose being to facilitate knowledge sharing. The report / presentation should detail knowledge and skills gained, benefits of attendance for the City, Council and community, and relevant recommendations.
- 5.15. Failure to provide a report or presentation within the approved timeframe may result in the elected member being required to reimburse costs associated with attendance to the City. The Mayor may approve an extension in circumstances deemed appropriate.




**6. RELATED DOCUMENTATION / LEGISLATION**

- 6.1. Council Policy - Fees Allowances and Expenses for Elected Members

**7. REVIEW DETAILS**

<b>Review Frequency</b>		3 yearly		
<b>Council Adoption</b>	<b>DATE</b>	24 April 2019	<b>Resolution #</b>	C1904/076
<b>Previous Adoption</b>	<b>DATE</b>	10 May 2017	<b>Resolution #</b>	C1705/103

12.5 Policy and Legislation Committee - 29 July 2020 - PARKING LOCAL LAW 2020

<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>	Local Laws
<b>BUSINESS UNIT</b>	Corporate Services
<b>REPORTING OFFICER</b>	Legal Officer - Briony McGinty
<b>AUTHORISING OFFICER</b>	Director Finance and Corporate Services - Tony Nottle
<b>NATURE OF DECISION</b>	Legislative: to adopt legislative documents e.g. local laws, local planning schemes, local planning policies
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	Attachment A Current Local Law with Mark-ups <a href="#">↓</a> 
	Attachment B Proposed Local Law <a href="#">↓</a> 
	Attachment C Proposed Local Law with Committee Amendments <a href="#">↓</a> 

This item was considered by the Policy and Legislation Committee at its meeting on 29 July 2020, the recommendations from which have been included in this report.

**OFFICER RECOMMENDATION**

That the Council:

- 1) Commences the law-making process for the *City of Busselton Parking Local Law 2020*, the purpose and effect of the local law being as follows:
 

Purpose: To regulate and control the movement and parking of vehicles throughout the district.

Effect: To provide a well-regulated parking environment for all persons in the district.
- 2) Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the *Local Government Act 1995*, by:
  - (a) Giving Statewide public notice and local public notice of the Parking Local Law; and
  - (b) Giving a copy of the Parking Local Law and public notice to the Minister for Local Government.
- 3) Directs the CEO, after the close of the public consultation period, to submit a report to the Council on any submissions received on the Parking Local Law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the *Local Government Act 1995*.

## **COMMITTEE RECOMMENDATION**

**That the Council:**

- 1) Commences the law-making process for the *City of Busselton Parking Local Law 2020* inclusive of Committee amendments as per Attachment C, the purpose and effect of the local law being as follows:**

**Purpose:** To regulate and control the movement and parking of vehicles throughout the district.

**Effect:** To provide a well-regulated parking environment for all persons in the district.

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

**Reasons:** The Committee recommended the additional words to paragraph 3.9(b), to make it clear it does not apply to bicycles; and the deletion of paragraph 2.3(2) for the reasons this condition would not be enforced in practice by City officers.

## **EXECUTIVE SUMMARY**

The *Local Government Act 1995* (the Act) requires that local laws be reviewed every 8 years. The City's *Shire of Busselton Parking Local Law* (Current Local Law) was gazetted in 2011 and is due for review. The City has prepared an updated version which incorporates recent legislative changes impacting on the local law as well as updating infringement penalties which have not been amended for nearly 9 years.

It is recommended that the Council initiate the law-making process and authorise the CEO to commence advertising the proposed *City of Busselton Parking Local Law 2020* (Parking Local Law), which would repeal the Current Local Law and replace it with the Parking Local Law.

## **BACKGROUND**

Section 3.16 of the Act requires that local laws be reviewed every 8 years. The Current Local Law was gazetted on 30 November 2011 and came into effect shortly thereafter. Since that time, there have been some minor changes to state legislation relating to the regulation of motor vehicles, which impact on the Current Local Law.

Both the Current Local Law and the Parking Local Law are based on the relevant WALGA model that, among other things, ensures these local laws are consistent with WA road traffic laws, including the *Road Traffic Code 2000*.

The Parking Local Law seeks to provide the City with the ability to effectively regulate and control the movement and parking of vehicles throughout the district in order to provide a well-regulated parking environment for all persons in the district.

#### OFFICER COMMENT

The Current Local Law has operated effectively since its gazettal. The Current Local Law is based on the WALGA model but was modified to accommodate the particular circumstances of the locality. WALGA have not amended their model local law during this time. However, during its internal review, City officers have identified five instances where amendments to the local law should be made.

- (1) The *Local Government (Parking for People with Disabilities) Regulations 2014* (the Regulations) governs parking for people with disabilities. The terminology in the Regulations applying to disability parking permits has been amended necessitating minor amendments to the local law. Further, the Regulations provide for infringements for people who contravene disabled parking provisions. Therefore, the equivalent offence provisions contained within the Current Local Law are redundant and can be removed.
- (2) Similarly, the definition of “taxi” has been moved to the *Road Traffic Code 2000*.
- (3) Clause 3.1(5) of the Current Local Law, which creates the offence of parking a motorcycle or bicycle in a parking stall, has been removed. This clause is not currently enforced by rangers and, in relation to bicycles, presents obvious difficulties in the identification of offenders.
- (4) The modified penalties for offences have not been updated since the Current Local Law’s inception in 2011. Some modified penalties in the Parking Local Law have not seen an increase, there have been minor increases in some modified penalties (which is still below a CPI increase over the relevant period), and some offences have seen a moderate increase due to their potentially more significant impact on safety or amenity.
- (5) References to “Shire” should be updated to “City”.

City officers also considered introducing clauses to provide for residential parking permits. Currently, there are only two known properties within the district with no off-street parking. There is on-street parking available to these two properties, however, it is timed parking. The residents of the two properties have provided their vehicle registration numbers to the City and rangers manage this issue administratively. If the City were to introduce a residential parking permit system, this would require significant amendments to the local law and would need to be accompanied by a policy to guide decision-making under those provisions of the local law. It would also create a right of review for those people who are aggrieved by a decision to refuse a residential parking permit. Given the small number of properties affected, and the ease with which rangers can manage the situation, the introduction of residential parking permits is not recommended at this stage.

Given the small number of proposed changes to the Current Local Law, the City considered whether the changes should be made via an amendment local law or creating a new local law. Largely for administrative ease, it is considered that a new local law is preferable. It is simpler to draft (thus avoiding referencing errors in the amendments) and circumvents future challenges regarding the preparation of consolidated local laws.

Attachment 1 is the Current Local Law showing the suggested changes as mark-ups. Attachment 2 is the Parking Local Law which would be advertised for comment if the officer recommendation is accepted.



## **Statutory Environment**

### ***Local Government Act 1195***

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

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

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

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

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

### ***Purpose***

To repeal *Shire of Busselton Parking Local Law* and to extend to the Council the ability to regulate and control the movement and parking of vehicles throughout the district.

### ***Effect***

To provide a well-regulated parking environment for all persons in the district.

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

The Local Government Act Review has led to amendments to the requirements and particulars for public notice under sections 1.7 and 1.8 of the Act. The changes are awaiting proclamation pending finalisation of regulations covering public notice requirements. Should the amendments be proclaimed during this period, appropriate modifications to the process will be adopted.

### ***Parliamentary Scrutiny***

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

### **Relevant Plans and Policies**

The City of Busselton Consolidated Parking Scheme determines parking stalls, parking stations and parking areas created under the Current Local Law. Where a sign has been erected to give effect to a determination under the Current Local Law, it is deemed to have been erected by the local government under the Parking Local Law and will continue to have effect.

### **Financial Implications**

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

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

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

### **Stakeholder Consultation**

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

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

### **Risk Assessment**

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

### **Options**

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

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

### **CONCLUSION**

The Current Local Law requires review. It is outdated and should be repealed and replaced by an updated local law in line with current needs, expectations and operational requirements. The Parking Local Law will provide the City with adequate and effective controls for the purpose of managing and regulating parking throughout the district.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

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

**ShireCity of Busselton**

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**PARKING LOCAL LAW 202011**

*Local Government Act 1995*

**ShireCity of Busselton**

**Parking Local Law ~~2020~~1**

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ARRANGEMENT CONTENTS

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- 1.2 Commencement
- 1.3 Repeal
- 1.4 Definitions
- 1.5 Application of particular definitions
- 1.6 Application
- 1.7 Pre-existing signs
- 1.8 Classes of vehicles
- 1.9 Part of thoroughfare to which sign applies
- 1.10 Powers of the Council

**Part 2 - Parking stalls, parking stations and parking areas**

- 2.1 Determination of parking stalls, parking stations and parking areas
- 2.2 Vehicles to be within parking stall on thoroughfare
- 2.3 Parking prohibitions and restrictions

**Part 3 - Parking generally**

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#### **Part 6 - Other places where stopping is restricted**

- 6.1 Stopping in a shared zone
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- 6.3 Stopping near an obstruction
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- 6.5 Stopping on crests, curves, etc.
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- 6.12 Stopping on a carriageway – heavy and long vehicles
- 6.13 Stopping on a carriageway with a bicycle parking sign
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- ~~6.15 Stopping in a parking area for people with disabilities~~

#### **Part 7 - MISCELLANEOUS**

- 7.1 Removal of notices on vehicle
- 7.2 Unauthorised signs and defacing of signs
- 7.3 Signs must be complied with
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**Part 8 - Enforcement**

8.1 Legal proceedings

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**SCHEDULE 1 - PARKING REGION**

**SCHEDULE 2 - PRESCRIBED OFFENCES**

*Local Government Act 1995*

**ShireCity of Busselton**

**Parking Local Law 202011**

Under the powers conferred by the *Local Government Act 1995* and under all powers enabling it, the Council of the **ShireCity** of Busselton resolved on ~~9 November 2011~~ [add date] to make the following local law.

**~~Part 1 - Definitions and operation~~ Preliminary**

**1.1 Title**

This ~~local law~~ is the **ShireCity** of Busselton Parking Local Law 202011.

**1.2 Commencement**

This local law comes into operation ~~on the 14<sup>th</sup> day~~ 14 days after ~~the day on which it is~~ published in the *Government Gazette*.

**1.3 Repeal**

The **ShireCity** of Busselton Parking ~~Facilities By-Laws~~ Local Law 2011, published in the *Government Gazette* on ~~24 June 1994~~ 30 November 2011, is repealed.

**1.4 ~~Definitions~~ Terms used**

In this local law, unless the contrary intention appears -

*ACROD sticker* has the meaning given in the *Local Government (Parking for Disabled Persons) Regulations 1988*;

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

*authorised person* means a person appointed by the Council or the CEO, under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;

*authorised vehicle* means a vehicle authorised by the CEO or an authorised person, or under any written law, to be parked on a thoroughfare or parking facility;

*bicycle* has the meaning given ~~to it by~~ in the Code;

*bicycle path* has the meaning given ~~to it by~~ in the Code;

*bus* has the meaning given ~~to it by~~ in the Code;

*bus embayment* has the meaning given ~~to it by~~ in the Code;

*bus stop* has the meaning given ~~to it by~~ in the Code;



**bus zone** has the meaning given ~~to it by~~in the Code;

**caravan** has the meaning given ~~by~~in the *Caravans Parks and Camping Grounds Act 1995*;

**carriageway** means –

- (a) a portion of thoroughfare that is improved, designed or ordinarily used for vehicular traffic and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and
- (b) where a thoroughfare has 2 or more of those portions divided by a median strip, the expression means each of those portions, separately;

**centre** in relation to a carriageway, means a line or a series of lines, marks or other indications –

- (a) for a 2-way carriageway – placed so as to delineate vehicular traffic travelling in different directions; or
- (b) in the absence of any such lines, marks or other indications – the middle of the main, travelled portion of the carriageway;

**children's crossing** has the meaning given ~~to it by~~in the Code;

**CEO** means the Chief Executive Officer of the local government;

**City** means the City of Busselton;

**Code** means the *Road Traffic Code 2000*;

**commercial vehicle** –

- (a) means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers; and
- (b) includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

**Council** means the Council of the local government;

**disability parking permit** has the meaning given ~~to it in~~ the *Local Government (Parking for People with Disabilities) Regulations 2014*;

**district** means the district of the local government;

**driver** means any person driving or in control of a vehicle;

**edge line** for a carriageway means a line marked along the carriageway at or near the far left or the far right of the carriageway;

*emergency vehicle* has the meaning given ~~to it by~~in the Code;

*footpath* has the meaning given ~~to it by~~in the Code;

*GVM* (which stands for 'gross vehicle mass'), in relation to a vehicle, has the meaning given in the Road Traffic (Vehicles) Act 2012; ~~has the meaning given to it by the Code;~~

*loading zone* means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked 'loading zone';

*local government* means the ~~Shire~~City of Busselton;

*mail zone* has the meaning given ~~to it by~~in the Code;

*median strip* has the meaning given ~~to it by~~in the Code;

*motor cycle* has the meaning given ~~to it by~~in the Code;

*motor vehicle* means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

*no parking area* has the meaning given ~~to it by~~in the Code;

*no parking sign* means a sign with –

- (a) the words 'no parking' in red letters on a white background; or
- (b) the letter 'P' within a red annulus and a red diagonal line across it on a white background;

*no stopping area* has the meaning given ~~to it by~~in the Code;

*no stopping sign* means a sign with –

- (a) the words 'no stopping' or 'no standing' in red letters on a white background; or
- (b) the letter 'S' within a red annulus and a red diagonal line across it on a white background;

*occupier* has the meaning given ~~to it by~~in the Act;

*owner* -

- (a) where used in relation to a vehicle licensed under the *Road Traffic (Vehicles) Act 2012*, means the person in whose name the vehicle has been registered under that Act;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of, that vehicle; and
- (c) where used in relation to land, has the meaning given to it by the Act;

*park* has the meaning given ~~to it by~~in the Code;

**parking area** has the meaning given ~~to it by~~in the Code;

**parking facilities** –

- (a) means land, buildings, shelters, parking stations, parking stalls and other facilities open to the public generally for the parking of vehicles with or without charge; and
- (b) includes signs, notices and facilities used in connection with the parking of vehicles;

**parking region** means the area described in Schedule 1;

**parking stall** means a section or part of a thoroughfare or parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

**parking station** means any land, or structure provided for the purpose of accommodating vehicles with or without charge;

**pedestrian crossing** has the meaning given ~~to it by~~in the Code;

**public place** means any place to which the public has access whether or not that place is on private property;

**reserve** means any land -

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within the meaning of section 3.53 of the Act;

**Road Traffic Act** means the *Road Traffic Act 1974*;

**Schedule** means a Schedule to this local law;

**shared zone** has the meaning given ~~to it by~~in the Code;

~~**Shire** means the Shire of Busselton;~~

**sign** includes a traffic sign, inscription, road marking, mark, structure or device, on which may be shown words, numbers, expressions or symbols, that is -

- (a) approved by the CEO or an authorised person; and
- (b) placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking and stopping of vehicles;

**special purpose vehicle** has the meaning given ~~to it by~~in the Code;

**stop, in relation to a vehicle,** has the meaning given ~~to it by~~in the Code;

*symbol* includes any symbol specified by Australian Standard 1742.11-1999 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law ~~also is to be deemed taken~~ to include a reference to the corresponding symbol;

*taxi* has the meaning given to it by in the Code; ~~means a taxi within the meaning of the Taxi Act 1994 or a taxi-car in section 47Z of the Transport Co-ordination Act 1966;~~

*taxi zone* has the meaning given to it by in the Code;

*thoroughfare* has the meaning given to it by in the Act;

*traffic island* has the meaning given to it by in the Code;

*trailer* has the meaning given to it by in the Code;

*vehicle* has the meaning given to it by in the *Road Traffic (Administration) Act 2008*; and

*verge* means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line, but does not include a footpath.

#### 1.5 Application of particular ~~definition~~ terms

- (1) For the purposes of the application of the ~~definitions of terms~~ 'no parking area' and 'parking area', an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is ~~deemed taken~~ to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.
- (2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the Road Traffic Act, the Road Traffic (Administration) Act 2008, the Road Traffic (Vehicles) Act 2012 or in the Code, then the term is to have the meaning given to it in ~~that one of those Acts~~ or the Code.

#### 1.6 Application

- (1) Subject to subclause (2), this local law applies to the parking region.
- (2) This local law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.
- (3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

#### 1.7 Pre-existing signs

- (1) A sign that -
  - (a) was erected by the local government or the Commissioner of Main Roads before the commencement of this local law; and

(b) relates to the parking of vehicles within the parking region,  
is ~~deemed-taken~~ to have been erected by the local government under this local law.

(2) An inscription, word, number, expression or symbol on a sign referred to in subclause (1) operates and has effect according to its tenor.

(3) Where an inscription, word, number, expression or symbol relates to the stopping of vehicles, it is ~~deemed-taken~~ to operate and have effect as if it related to the parking of vehicles.

(4) Parts 2, 3, 4 and 5 of this local law do not apply to a bicycle parked at a bicycle rail or bicycle rack.

### 1.8 Classes of vehicles

For the purposes of this local law, vehicles are divided into classes as follows -

- (a) buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles.

### 1.9 Part of thoroughfare to which sign applies

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign is to be read as applying to that part of the thoroughfare which -

- (a) lies beyond the sign;
- (b) lies between the sign and the next sign beyond that sign; and
- (c) is on that side of the thoroughfare nearest to the sign.

### 1.10 Powers of the Council

The Council may, prohibit or regulate, by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with ~~the provisions of~~ this local law.

## Part 2 - Parking stalls, parking stations and parking areas

### 2.1 Determination of parking stalls, parking stations and parking areas

- (1) The Council may, constitute, determine or vary -
  - (a) parking stalls;

- (b) parking stations;
  - (c) parking areas;
  - (d) no parking areas;
  - (e) no stopping areas;
  - (f) permitted time and conditions of parking in parking stalls, parking stations and parking areas which may vary with the locality;
  - (g) permitted classes of vehicles which may park in parking stalls, parking areas and parking stations;
  - (h) permitted classes of persons who may park in specified parking stalls, parking stations and parking areas; and
  - (i) the manner of parking in parking stalls, parking stations and parking areas.
- (2) Where the Council makes a determination under subclause (1), the CEO must give local public notice of, and erect signs to give effect to, the determination.

## **2.2 Vehicles to be within parking stall**

- (1) Subject to subclauses (2), (3) and (4), a person must not park a vehicle in a parking stall otherwise than -
- (a) parallel to and as close to the kerb as is practicable;
  - (b) wholly within the stall; and
  - (c) if in a thoroughfare, headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.
- (2) Subject to subclause (3), where a parking stall is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.
- (3) If a vehicle is too long or too wide to fit completely within a single parking stall then the person parking the vehicle must do so within the minimum number of parking stalls needed to park that vehicle.
- (4) A person must not park a vehicle partly within and partly outside a parking area.

## **2.3 Parking prohibitions and restrictions**

- (1) A person must not -
- (a) park a vehicle so as to obstruct an entrance to or an exit from a parking station, or an access way within a parking station;

- (b) except with the permission of the CEO or an authorised person, park a vehicle on any part of a parking station contrary to a sign referable to that part;
  - (c) permit a vehicle to park on any part of a parking station, if an authorised person directs the driver of such vehicle to move the vehicle; or
  - (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked, but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked 'M/C', if the bicycle is parked in accordance with subclause (2).
- (2) A person must not park a bicycle in a parking stall unless -
- (a) the stall is marked 'M/C'; and
  - (b) the bicycle is parked against the kerb.
- (3) Despite subclause (1)(b), a driver may park a vehicle in a permissive parking stall or station (except in a parking area for people with disabilities) for twice the length of time allowed, provided that -
- (a) the driver's vehicle displays a current disability parking permit~~ACROD sticker~~; and
  - (b) a disabled person to which that disability parking permit~~ACROD sticker~~ relates is either the driver of the vehicle or a passenger in the vehicle.

### Part 3 - Parking generally

#### 3.1 Restrictions on parking in particular areas

- (1) Subject to subclause (3), a person must not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station -
- (a) if by a sign it is set apart for the parking of vehicles of a different class;
  - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
  - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) Subclause (3) applies to a driver if -
- (a) the driver's vehicle displays a current disability parking permit~~ACROD sticker~~; and

- (b) a person with a disability to which the disability parking permit ~~ACROD sticker~~ relates is either the driver of the vehicle or a passenger in the vehicle.
- (3) The driver may park a vehicle in a thoroughfare, part of a thoroughfare or part of a parking station, except in a thoroughfare or a part of a thoroughfare or part of a parking station to which a disabled parking sign relates, for twice the period indicated on the sign.
- (4) A person must not park a vehicle -
  - (a) in a no parking area;
  - (b) in a parking area, except in accordance with both the signs associated with the parking area and with this local law; or
  - (c) in a stall marked 'M/C' unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- ~~(5) A person must not park a bicycle, or a motorcycle without a sidecar or a trailer, in a parking stall unless the stall is marked 'M/C'.~~
- (6)(5) A person must not, without the ~~prior~~ permission of the ~~the~~ CEO or an authorised person, park a vehicle in an area designated by a sign stating 'authorised vehicles only'.

### 3.2 Parking vehicle on a carriageway

- (1) A person parking a vehicle on a carriageway other than in a parking stall must park it -
  - (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
  - (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
  - (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or any continuous line or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
  - (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a bicycle, or a motorcycle without a trailer, parked in accordance with this local law; and
  - (e) so that it does not obstruct any vehicle on the carriageway,unless otherwise indicated on a sign or by marks on the carriageway.



- (2) In this clause, 'continuous dividing line' means –
- (a) a single continuous dividing line only;
  - (b) a single continuous dividing line to the left or right of a broken dividing line; or
  - (c) 2 parallel continuous dividing lines.

**3.3 When parallel and right-angled parking apply**

Where a traffic sign associated with a parking area is not inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is -

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area must park it as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area must park it at approximately right angles to the centre of the carriageway.

**3.4 When angle parking applies**

- (1) This clause does not apply to -
- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over 3 tonnes; or
  - (b) a person parking either a motor cycle without a trailer, or a bicycle.
- (2) Where a sign associated with a parking area is inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area must park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

**3.5 General prohibitions on parking**

- (1) This clause does not apply to a vehicle that is permitted to be parked in a parking stall or to a bicycle in a bicycle rack.
- (2) Subclauses (3)(c), (e) and (g) do not apply to a vehicle that is permitted to be parked in a bus embayment.
- (3) Subject to any law relating to intersections with traffic control signals, a person must not park a vehicle so that any portion of the vehicle is -
- (a) between any other stationary vehicles and the centre of the carriageway;
  - (b) on or adjacent to a median strip;

- (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
- (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
- (e) on or within 10 metres of any portion of a carriageway bounded by a traffic island;
- (f) on any footpath or pedestrian crossing;
- (g) between the boundaries of a carriageway and any double longitudinal line consisting of 2 continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
- (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
- (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
- (j) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
- (k) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked,

unless a sign or markings on the carriageway indicate otherwise.

- (4) A person must not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side of -
  - (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or
  - (b) a children's crossing or pedestrian crossing.
- (5) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side of -
  - (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
  - (b) a children's crossing or pedestrian crossing.

- (6) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.

**3.6 Authorised person may order vehicle on thoroughfare to be moved**

The driver of a vehicle must not park, or continue to park, that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

**3.7 Authorised person may mark tyres**

- (1) An authorised person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person must not remove a mark made by an authorised person so that the purpose of the affixing of the mark is defeated or likely to be defeated.

**3.8 No movement of vehicles to avoid time limitation**

- (1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person must not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person must not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least 2 hours.

**3.9 No parking of vehicles exposed for sale and in other circumstances**

A person must not park a vehicle on any portion of a thoroughfare -

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the *Road Traffic (Vehicles) Act 2012*;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

**3.10 Parking on private land**

- (1) In this clause a reference to 'land' does not include land -
  - (a) which belongs to the local government;
  - (b) of which the local government is the management body under the *Land Administration Act 1997*;

- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act; or
  - (d) which is the subject of an agreement referred to in clause 1.6(2).
- (2) A person must not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person must not park a vehicle on the land otherwise than in accordance with the consent.

### **3.11 Parking on reserves**

A person, other than an employee of the local government in the course of his or her duties or a person authorised by the local government, must not drive or park a vehicle on or over any portion of a reserve other than on an area specifically set aside for that purpose.

### **3.12 Suspension of parking limitations for urgent, essential or official duties**

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the CEO or an authorised person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time to enable the person to carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1) the CEO or an authorised person may, for the duration of that permission, prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates.

## **Part 4 - Stopping generally**

### **4.1 No stopping and no parking signs, and yellow edge lines**

- (1) In this clause, 'unattended', in relation to a vehicle, means that the driver of the vehicle has left the vehicle and the driver is more than 3 metres from the closest point to the vehicle.
- (2) A driver must not stop on a length of carriageway, or in an area, to which a 'no stopping' sign applies.
- (3) A driver must not stop on a length of carriageway<sub>1</sub> or in an area<sub>1</sub> to which a 'no parking' sign applies, unless the driver is-
- (a) dropping off, or picking up, passengers or goods;
  - (b) does not leave the vehicle unattended; and
  - (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

- (4) A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.

## **Part 5 - Stopping in zones for particular vehicles**

### **5.1 Stopping in a loading zone**

A person must not stop a vehicle in a loading zone unless it is -

- (a) a motor vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
- (b) a motor vehicle taking up or setting down passengers,

but, in any event, must not remain in that loading zone -

- (c) for longer than a time indicated on the 'loading zone' sign; or
- (d) longer than 30 minutes (if no time is indicated on the sign).

### **5.2 Stopping in a taxi zone or a bus zone**

- (1) A driver must not stop in a taxi zone, unless the driver is driving a taxi.
- (2) A driver must not stop in a bus zone unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

### **5.3 Stopping in a mail zone**

A person must not stop a vehicle in a mail zone.

### **5.4 Other limitations in zones**

A person must not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to the sign, including any limitation on the sign in respect of classes of persons or vehicles, or specific activities allowed.

## **Part 6 - Other places where stopping is restricted**

### **6.1 Stopping in a shared zone**

A driver must not stop in a shared zone unless -

- (a) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;
- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;
- (c) the driver is dropping off, or picking up, passengers or goods; or

- (d) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

**6.2 Double parking**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.
- (2) This clause does not apply to -
  - (a) a driver stopped in traffic; or
  - (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

**6.3 Stopping near an obstruction**

A driver must not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

**6.4 Stopping on a bridge or in a tunnel, etc.**

- (1) A driver must not stop a vehicle on a bridge, causeway, ramp or similar structure unless -
  - (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
  - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) A driver must not stop a vehicle in a tunnel or underpass unless -
  - (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
  - (b) the driver of a motor vehicle stops at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

**6.5 Stopping on crests, curves, etc.**

- (1) Subject to subclause (2), a driver must not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres within a built-up area, and from a distance of 150 metres outside a built-up area.
- (2) A driver may stop on a crest or curve on a carriageway that is not in a built-up area if the driver stops at a place on the carriageway, or in an area, to which a sign applies and the driver is permitted to stop at that place under this local law.

**6.6 Stopping near a fire hydrant etc**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless -
  - (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
  - (b) the driver is driving a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.
- (2) In this clause a driver leaves the vehicle 'unattended' if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

**6.7 Stopping at or near a bus stop**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10 metres of the departure side of a bus stop, unless -
  - (a) the vehicle is a public bus stopped to take up or set down passengers; or
  - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) In this clause -
  - (a) distances are measured in the direction in which the driver is driving; and
  - (b) a trailer attached to a public bus is taken to be a part of the public bus.

**6.8 Stopping on a path, median strip, or traffic island**

The driver of a vehicle (other than a bicycle or an animal) must not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless the driver –

- (a) stops in an area to which a sign applies; and
- (b) the driver is permitted to stop at that place under this local law.

**6.9 Stopping on verge**

- (1) A person must not -
  - (a) stop a vehicle (other than a bicycle);
  - (b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
  - (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,

so that any portion of it is on a verge.

- (2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.
- (3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

**6.10 Obstructing access to and from a path, driveway, etc.**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is in front of a path, in a position that obstructs access by vehicles or pedestrians to or from that path, unless -
  - (a) the driver is dropping off, or picking up, passengers; or
  - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.
- (2) A driver must not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless -
  - (a) the driver is dropping off, or picking up, passengers; or
  - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

**6.11 Stopping near a letter box**

A driver must not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter box, unless the driver -

- (a) is dropping off, or picking up, passengers or mail; or
- (b) stops at a place on a length of carriageway, or in an area, to which a sign applies and the driver is permitted to stop at that place under this local law.

**6.12 Stopping on a carriageway – heavy and long vehicles**

- (1) A person must not park a vehicle or any combination of vehicles, that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes -
  - (a) on a carriageway in a built-up area, for any period exceeding one hour, unless engaged in the picking up or setting down of goods; or



(b) on a carriageway outside a built-up area, except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of goods vehicles.

(2) Nothing in this clause affects the limitations or condition imposed by any other clause or by any local law or sign relating to the parking or stopping of vehicles.

**6.13 Stopping on a carriageway with a bicycle parking sign**

The driver of a vehicle (other than a bicycle) must not stop on a length of carriageway to which a 'bicycle parking' sign applies, unless the driver is dropping off, or picking up, passengers.

**6.14 Stopping on a carriageway with motor cycle parking sign**

The driver of a vehicle must not stop on a length of carriageway, or in an area, to which a 'motor cycle parking' sign applies, or an area marked 'M/C' unless -

- (a) the vehicle is a motor cycle; or
- (b) the driver is dropping off, or picking up, passengers.

**Part 7 - MISCELLANEOUS**

**7.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, must not remove from the vehicle any notice put on the vehicle by an authorised person.

**7.2 Unauthorised signs and defacing of signs**

A person must not without the authority of the CEO or an authorised person -

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write on any part of a sign set up or exhibited by the local government under this local law.

**7.3 Signs must be complied with**

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

**7.4 General provisions about signs**

- (1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary, presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.
- (2) The first 3 letters of any day of the week when used on a sign indicate that day of the week.

**7.5 Special purpose and emergency vehicles**

Despite anything to the contrary in this local law -

- (a) the driver of a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop or park the vehicle in any place at any time; and
- (b) the driver of an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop or park the vehicle at any place at any time.

**7.6 Vehicles not to obstruct a public place**

- (1) A person must not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the CEO or an authorised person, or unless authorised under any written law.
- (2) A person does not contravene subclause (1) if the vehicle is left for a period not exceeding 24 hours.

## **Part 8 - Enforcement**

**8.1 Legal proceedings**

Evidentiary provisions relating to offences involving vehicles are contained in Division 2 of Part 9 of the Act.

**8.2 Offences and penalties**

- (1) A person who breaches a provision of this local law commits an offence.
- (2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) A person who commits an offence under this local law is to be liable, on conviction, to a penalty not exceeding \$5,000 and, if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

- (4) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

**SCHEDULE 1 - PARKING REGION**

[Clause 1.6]

The parking region is the whole of the district, but excludes the following portions of the district -

1. the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
2. prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
3. any road which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads or has been delegated by the Commissioner to the local government.

**SCHEDULE 2 - PRESCRIBED OFFENCES  
PARKING LOCAL LAW  
[Clause 8.2]**

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY \$
1	2.2	Failure to park wholly within parking stall	<del>650</del>
2	2.2(4)	Failure to park wholly within parking area	<del>650</del>
3	2.3(1)(a)	Causing obstruction in parking station	60
4	2.3(1)(b)	Parking contrary to sign in parking station	60
5	2.3(1)(c)	Parking contrary to directions of authorised person	60
6	2.3(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	<del>650</del>
7	3.1(1)(a)	Parking wrong class of vehicle	<del>650</del>
8	3.1(1)(b)	Parking by persons of a different class	<del>6055</del>
9	3.1(1)(c)	Parking during prohibited period	<del>6055</del>
10	3.1(4)(a)	Parking in no parking area	60
11	3.1(4)(b)	Parking contrary to signs or limitations	<del>650</del>
12	3.1(4)(c)	Parking vehicle in motor cycle only area	<del>650</del>
<del>13</del>	<del>3.1(5)</del>	<del>Parking motor cycle in stall not marked 'M/C'</del>	50
<del>13</del> <sup>4</sup>	3.1(6)	Parking without permission in an area designated for 'Authorised Vehicles Only'	<del>6055</del>
<del>14</del> <sup>5</sup>	3.2(1)(a)	Failure to park on the left of two-way carriageway	<del>1050</del>
<del>15</del> <sup>6</sup>	3.2(1)(b)	Failure to park on boundary of one-way carriageway	<del>650</del>
<del>16</del> <sup>7</sup>	3.2(1)(a) or 3.2(1)(b)	Parking against the flow of traffic	<del>6055</del>
<del>17</del> <sup>8</sup>	3.2(1)(c)	Parking when distance from farther boundary less than 3 metres	<del>6055</del>

<del>189</del>	3.2(1)(d)	Parking closer than 1 metre from another vehicle	<del>650</del>
<del>2019</del>	3.2(1)(e)	Causing obstruction	<del>1060</del>
<del>204</del>	3.3(b)	Failure to park at approximate right angle	<del>650</del>
<del>212</del>	3.4(2)	Failure to park at an appropriate angle	<del>560</del>
<del>223</del>	3.5(3)(a) and 6.2	Double parking	<del>51005</del>
<del>234</del>	3.5(3)(b)	Parking on or adjacent to a median strip	<del>650</del>
<del>245</del>	3.5(3)(c)	Denying access to private drive or right of way	<del>10055</del>
<del>256</del>	3.5(3)(d)	Parking beside excavation or obstruction so as to obstruct traffic	<del>1060</del>
<del>267</del>	3.5(3)(e)	Parking within 10 metres of traffic island	<del>6055</del>
<del>278</del>	3.5(3)(f)	Parking on footpath/pedestrian crossing	<del>10060</del>
<del>289</del>	3.5(3)(g)	Parking contrary to continuous line markings	<del>6505</del>
<del>3029</del>	3.5(3)(h)	Parking on intersection	<del>10055</del>
<del>304</del>	3.5(3)(i)	Parking within 1 metre of fire hydrant or fire plug	<del>1060</del>
<del>312</del>	3.5(3)(j)	Parking within 3 metres of public letter box	<del>6055</del>
<del>323</del>	3.5(3)(k)	Parking within 10 metres of intersection	<del>10055</del>
<del>334</del>	3.5(4)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	<del>1060</del>
<del>345</del>	3.5(5)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	<del>1060</del>
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<del>605</del> 9	6.8	Stopping on path, median strip or traffic island	<del>10050</del>
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Dated ~~10 November~~ 20~~2011~~

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

\_\_\_\_\_  
Chief Executive Officer  
Michael Stephen Lee Archer

\_\_\_\_\_  
~~Mayor~~President  
Grant Douglas Henley Ian William Stubbs



**City of Busselton**

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**PARKING LOCAL LAW 2020**

*Local Government Act 1995*

**City of Busselton**

**Parking Local Law 2020**

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**SCHEDULE 1 - PARKING REGION**

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*Local Government Act 1995*

City of Busselton

**Parking Local Law 2020**

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

**Part 1 - Preliminary**

**1.1 Title**

This is the *City of Busselton Parking Local Law 2020*.

**1.2 Commencement**

This local law comes into operation 14 days after it is published in the *Government Gazette*.

**1.3 Repeal**

The *Shire of Busselton Parking Local Law 2011*, published in the *Government Gazette* on 30 November 2011, is repealed.

**1.4 Terms used**

In this local law, unless the contrary intention appears -

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

*authorised person* means a person appointed by the Council or the CEO, under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;

*authorised vehicle* means a vehicle authorised by the CEO or an authorised person, or under any written law, to be parked on a thoroughfare or parking facility;

*bicycle* has the meaning given in the Code;

*bicycle path* has the meaning given in the Code;

*bus* has the meaning given in the Code;

*bus embayment* has the meaning given in the Code;

*bus stop* has the meaning given in the Code;

*bus zone* has the meaning given in the Code;

*caravan* has the meaning given in the *Caravans Parks and Camping Grounds Act 1995*;

**carriageway** means –

- (a) a portion of thoroughfare that is improved, designed or ordinarily used for vehicular traffic and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and
- (b) where a thoroughfare has 2 or more of those portions divided by a median strip, the expression means each of those portions, separately;

**centre** in relation to a carriageway, means a line or a series of lines, marks or other indications -

- (a) for a 2-way carriageway – placed so as to delineate vehicular traffic travelling in different directions; or
- (b) in the absence of any such lines, marks or other indications – the middle of the main, travelled portion of the carriageway;

**children’s crossing** has the meaning given in the Code;

**CEO** means the Chief Executive Officer of the local government;

**City** means the City of Busselton;

**Code** means the *Road Traffic Code 2000*;

**commercial vehicle** –

- (a) means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers; and
- (b) includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

**Council** means the Council of the local government;

**disability parking permit** has the meaning given in the *Local Government (Parking for People with Disabilities) Regulations 2014*;

**district** means the district of the local government;

**driver** means any person driving or in control of a vehicle;

**edge line** for a carriageway means a line marked along the carriageway at or near the far left or the far right of the carriageway;

**emergency vehicle** has the meaning given in the Code;

**footpath** has the meaning given in the Code;

**GVM** (which stands for 'gross vehicle mass'), in relation to a vehicle, has the meaning given in the *Road Traffic (Vehicles) Act 2012*;

**loading zone** means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked 'loading zone';

**local government** means the City of Busselton;

**mail zone** has the meaning given in the Code;

**median strip** has the meaning given in the Code;

**motor cycle** has the meaning given in the Code;

**motor vehicle** means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

**no parking area** has the meaning given in the Code;

**no parking sign** means a sign with –

- (a) the words 'no parking' in red letters on a white background; or
- (b) the letter 'P' within a red annulus and a red diagonal line across it on a white background;

**no stopping area** has the meaning given in the Code;

**no stopping sign** means a sign with –

- (a) the words 'no stopping' or 'no standing' in red letters on a white background; or
- (b) the letter 'S' within a red annulus and a red diagonal line across it on a white background;

**occupier** has the meaning given in the Act;

**owner -**

- (a) where used in relation to a vehicle licensed under the *Road Traffic (Vehicles) Act 2012*, means the person in whose name the vehicle has been registered under that Act;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of, that vehicle; and
- (c) where used in relation to land, has the meaning given to it by the Act;

**park** has the meaning given in the Code;

**parking area** has the meaning given in the Code;

**parking facilities** –

- (a) means land, buildings, shelters, parking stations, parking stalls and other facilities open to the public generally for the parking of vehicles with or without charge; and
- (b) includes signs, notices and facilities used in connection with the parking of vehicles;

***parking region*** means the area described in Schedule 1;

***parking stall*** means a section or part of a thoroughfare or parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

***parking station*** means any land or structure provided for the purpose of accommodating vehicles with or without charge;

***pedestrian crossing*** has the meaning given in the Code;

***public place*** means any place to which the public has access whether or not that place is on private property;

***reserve*** means any land -

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within the meaning of section 3.53 of the Act;

***Road Traffic Act*** means the *Road Traffic Act 1974*;

***Schedule*** means a Schedule to this local law;

***shared zone*** has the meaning given in the Code;

***sign*** includes a traffic sign, inscription, road marking, mark, structure or device, on which may be shown words, numbers, expressions or symbols, that is -

- (a) approved by the CEO or an authorised person; and
- (b) placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking and stopping of vehicles;

***special purpose vehicle*** has the meaning given in the Code;

***stop***, in relation to a vehicle, has the meaning given in the Code;

***symbol*** includes any symbol specified by Australian Standard 1742.11-1999 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law is taken to include a reference to the corresponding symbol;



*taxi* has the meaning given in the Code;

*taxi zone* has the meaning given in the Code;

*thoroughfare* has the meaning given in the Act;

*traffic island* has the meaning given in the Code;

*trailer* has the meaning given in the Code;

*vehicle* has the meaning given in the *Road Traffic (Administration) Act 2008*; and

*verge* means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line, but does not include a footpath.

#### 1.5 Application of particular terms

- (1) For the purposes of the application of the terms '**no parking area**' and '**parking area**', an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is taken to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.
- (2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the Road Traffic Act, the *Road Traffic (Administration) Act 2008*, the *Road Traffic (Vehicles) Act 2012* or in the Code, then the term is to have the meaning given in one of those Acts or the Code.

#### 1.6 Application

- (1) Subject to subclause (2), this local law applies to the parking region.
- (2) This local law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.
- (3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

#### 1.7 Pre-existing signs

- (1) A sign that -
  - (a) was erected by the local government or the Commissioner of Main Roads before the commencement of this local law; and
  - (b) relates to the parking of vehicles within the parking region,is taken to have been erected by the local government under this local law.
- (2) An inscription, word, number, expression or symbol on a sign referred to in subclause (1) operates and has effect according to its tenor.

- (3) Where an inscription, word, number, expression or symbol relates to the stopping of vehicles, it is taken to operate and have effect as if it related to the parking of vehicles.
- (4) Parts 2, 3, 4 and 5 of this local law do not apply to a bicycle parked at a bicycle rail or bicycle rack.

**1.8 Classes of vehicles**

For the purposes of this local law, vehicles are divided into classes as follows -

- (a) buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles.

**1.9 Part of thoroughfare to which sign applies**

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign is to be read as applying to that part of the thoroughfare which -

- (a) lies beyond the sign;
- (b) lies between the sign and the next sign beyond that sign; and
- (c) is on that side of the thoroughfare nearest to the sign.

**1.10 Powers of the Council**

The Council may prohibit or regulate, by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with this local law.

**Part 2 - Parking stalls, parking stations and parking areas**

**2.1 Determination of parking stalls, parking stations and parking areas**

- (1) The Council may constitute, determine or vary -
  - (a) parking stalls;
  - (b) parking stations;
  - (c) parking areas;
  - (d) no parking areas;
  - (e) no stopping areas;

- (f) permitted time and conditions of parking in parking stalls, parking stations and parking areas which may vary with the locality;
  - (g) permitted classes of vehicles which may park in parking stalls, parking areas and parking stations;
  - (h) permitted classes of persons who may park in specified parking stalls, parking stations and parking areas; and
  - (i) the manner of parking in parking stalls, parking stations and parking areas.
- (2) Where the Council makes a determination under subclause (1), the CEO must give local public notice of, and erect signs to give effect to, the determination.

## **2.2 Vehicles to be within parking stall**

- (1) Subject to subclauses (2), (3) and (4), a person must not park a vehicle in a parking stall otherwise than -
- (a) parallel to and as close to the kerb as is practicable;
  - (b) wholly within the stall; and
  - (c) if in a thoroughfare, headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.
- (2) Subject to subclause (3), where a parking stall is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.
- (3) If a vehicle is too long or too wide to fit completely within a single parking stall then the person parking the vehicle must do so within the minimum number of parking stalls needed to park that vehicle.
- (4) A person must not park a vehicle partly within and partly outside a parking area.

## **2.3 Parking prohibitions and restrictions**

- (1) A person must not -
- (a) park a vehicle so as to obstruct an entrance to or an exit from a parking station, or an access way within a parking station;
  - (b) except with the permission of the CEO or an authorised person, park a vehicle on any part of a parking station contrary to a sign referable to that part;
  - (c) permit a vehicle to park on any part of a parking station, if an authorised person directs the driver of such vehicle to move the vehicle; or

- (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked, but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked 'M/C', if the bicycle is parked in accordance with subclause (2).
- (2) A person must not park a bicycle in a parking stall unless -
  - (a) the stall is marked 'M/C'; and
  - (b) the bicycle is parked against the kerb.
- (3) Despite subclause (1)(b), a driver may park a vehicle in a permissive parking stall or station (except in a parking area for people with disabilities) for twice the length of time allowed, provided that -
  - (a) the driver's vehicle displays a current disability parking permit; and
  - (b) a disabled person to which that disability parking permit relates is either the driver of the vehicle or a passenger in the vehicle.

### **Part 3 - Parking generally**

#### **3.1 Restrictions on parking in particular areas**

- (1) Subject to subclause (3), a person must not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station -
  - (a) if by a sign it is set apart for the parking of vehicles of a different class;
  - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
  - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) Subclause (3) applies to a driver if -
  - (a) the driver's vehicle displays a current disability parking permit; and
  - (b) a person with a disability to which the disability parking permit relates is either the driver of the vehicle or a passenger in the vehicle.
- (3) The driver may park a vehicle in a thoroughfare, part of a thoroughfare or part of a parking station, except in a thoroughfare or a part of a thoroughfare or part of a parking station to which a disabled parking sign relates, for twice the period indicated on the sign.
- (4) A person must not park a vehicle -
  - (a) in a no parking area;

- (b) in a parking area, except in accordance with both the signs associated with the parking area and with this local law; or
  - (c) in a stall marked 'M/C' unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- (5) A person must not, without the permission of the CEO or an authorised person, park a vehicle in an area designated by a sign stating 'authorised vehicles only'.

**3.2 Parking vehicle on a carriageway**

- (1) A person parking a vehicle on a carriageway other than in a parking stall must park it -
- (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
  - (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
  - (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or any continuous line or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
  - (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a bicycle, or a motorcycle without a trailer, parked in accordance with this local law; and
  - (e) so that it does not obstruct any vehicle on the carriageway, unless otherwise indicated on a sign or by marks on the carriageway.
- (2) In this clause, 'continuous dividing line' means –
- (a) a single continuous dividing line only;
  - (b) a single continuous dividing line to the left or right of a broken dividing line; or
  - (c) 2 parallel continuous dividing lines.

**3.3 When parallel and right-angled parking apply**

Where a traffic sign associated with a parking area is not inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is -

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area must park it as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area must park it at approximately right angles to the centre of the carriageway.

**3.4 When angle parking applies**

- (1) This clause does not apply to -
  - (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over 3 tonnes; or
  - (b) a person parking either a motor cycle without a trailer, or a bicycle.
- (2) Where a sign associated with a parking area is inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area must park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

**3.5 General prohibitions on parking**

- (1) This clause does not apply to a vehicle that is permitted to be parked in a parking stall or to a bicycle in a bicycle rack.
- (2) Subclauses (3)(c), (e) and (g) do not apply to a vehicle that is permitted to be parked in a bus embayment.
- (3) Subject to any law relating to intersections with traffic control signals, a person must not park a vehicle so that any portion of the vehicle is -
  - (a) between any other stationary vehicles and the centre of the carriageway;
  - (b) on or adjacent to a median strip;
  - (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
  - (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
  - (e) on or within 10 metres of any portion of a carriageway bounded by a traffic island;
  - (f) on any footpath or pedestrian crossing;
  - (g) between the boundaries of a carriageway and any double longitudinal line consisting of 2 continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the

boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;

- (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
- (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
- (j) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
- (k) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked,

unless a sign or markings on the carriageway indicate otherwise.

- (4) A person must not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side of -
  - (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or
  - (b) a children's crossing or pedestrian crossing.
- (5) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side of -
  - (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
  - (b) a children's crossing or pedestrian crossing.
- (6) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.

### **3.6 Authorised person may order vehicle on thoroughfare to be moved**

The driver of a vehicle must not park, or continue to park, that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

### **3.7 Authorised person may mark tyres**

- (1) An authorised person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.

- (2) A person must not remove a mark made by an authorised person so that the purpose of the affixing of the mark is defeated or likely to be defeated.

**3.8 No movement of vehicles to avoid time limitation**

- (1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person must not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person must not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least 2 hours.

**3.9 No parking of vehicles exposed for sale and in other circumstances**

A person must not park a vehicle on any portion of a thoroughfare -

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the *Road Traffic (Vehicles) Act 2012*;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

**3.10 Parking on private land**

- (1) In this clause a reference to 'land' does not include land -
  - (a) which belongs to the local government;
  - (b) of which the local government is the management body under the *Land Administration Act 1997*;
  - (c) which is an 'otherwise unvested facility' within section 3.53 of the Act; or
  - (d) which is the subject of an agreement referred to in clause 1.6(2).
- (2) A person must not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person must not park a vehicle on the land otherwise than in accordance with the consent.



**3.11 Parking on reserves**

A person, other than an employee of the local government in the course of his or her duties or a person authorised by the local government, must not drive or park a vehicle on or over any portion of a reserve other than on an area specifically set aside for that purpose.

**3.12 Suspension of parking limitations for urgent, essential or official duties**

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the CEO or an authorised person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time to enable the person to carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1) the CEO or an authorised person may, for the duration of that permission, prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates.

## **Part 4 - Stopping generally**

**4.1 No stopping and no parking signs, and yellow edge lines**

- (1) In this clause, 'unattended', in relation to a vehicle, means that the driver of the vehicle has left the vehicle and the driver is more than 3 metres from the closest point to the vehicle.
- (2) A driver must not stop on a length of carriageway, or in an area, to which a 'no stopping' sign applies.
- (3) A driver must not stop on a length of carriageway, or in an area, to which a 'no parking' sign applies, unless the driver is-
  - (a) dropping off, or picking up, passengers or goods;
  - (b) does not leave the vehicle unattended; and
  - (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.
- (4) A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.

## **Part 5 - Stopping in zones for particular vehicles**

**5.1 Stopping in a loading zone**

A person must not stop a vehicle in a loading zone unless it is -

(a) a motor vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or

(b) a motor vehicle taking up or setting down passengers,

but, in any event, must not remain in that loading zone -

(c) for longer than a time indicated on the 'loading zone' sign; or

(d) longer than 30 minutes (if no time is indicated on the sign).

#### **5.2 Stopping in a taxi zone or a bus zone**

(1) A driver must not stop in a taxi zone, unless the driver is driving a taxi.

(2) A driver must not stop in a bus zone unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

#### **5.3 Stopping in a mail zone**

A person must not stop a vehicle in a mail zone.

#### **5.4 Other limitations in zones**

A person must not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to the sign, including any limitation on the sign in respect of classes of persons or vehicles, or specific activities allowed.

### **Part 6 - Other places where stopping is restricted**

#### **6.1 Stopping in a shared zone**

A driver must not stop in a shared zone unless -

(a) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;

(b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;

(c) the driver is dropping off, or picking up, passengers or goods; or

(d) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

#### **6.2 Double parking**

(1) A driver must not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.

(2) This clause does not apply to -

- (a) a driver stopped in traffic; or
- (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

**6.3 Stopping near an obstruction**

A driver must not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

**6.4 Stopping on a bridge or in a tunnel, etc.**

- (1) A driver must not stop a vehicle on a bridge, causeway, ramp or similar structure unless -
  - (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
  - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) A driver must not stop a vehicle in a tunnel or underpass unless -
  - (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
  - (b) the driver of a motor vehicle stops at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

**6.5 Stopping on crests, curves, etc.**

- (1) Subject to subclause (2), a driver must not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres within a built-up area, and from a distance of 150 metres outside a built-up area.
- (2) A driver may stop on a crest or curve on a carriageway that is not in a built-up area if the driver stops at a place on the carriageway, or in an area, to which a sign applies and the driver is permitted to stop at that place under this local law.

**6.6 Stopping near a fire hydrant etc**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless -
  - (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or

(b) the driver is driving a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.

(2) In this clause a driver leaves the vehicle 'unattended' if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

#### **6.7 Stopping at or near a bus stop**

(1) A driver must not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10 metres of the departure side of a bus stop, unless -

(a) the vehicle is a public bus stopped to take up or set down passengers;  
or

(b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.

(2) In this clause -

(a) distances are measured in the direction in which the driver is driving;  
and

(b) a trailer attached to a public bus is taken to be a part of the public bus.

#### **6.8 Stopping on a path, median strip, or traffic island**

The driver of a vehicle (other than a bicycle or an animal) must not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless the driver -

(a) stops in an area to which a sign applies; and

(b) the driver is permitted to stop at that place under this local law.

#### **6.9 Stopping on verge**

(1) A person must not -

(a) stop a vehicle (other than a bicycle);

(b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or

(c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,

so that any portion of it is on a verge.

(2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.

- (3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

**6.10 Obstructing access to and from a path, driveway, etc.**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is in front of a path, in a position that obstructs access by vehicles or pedestrians to or from that path, unless -
- (a) the driver is dropping off, or picking up, passengers; or
  - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.
- (2) A driver must not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless -
- (a) the driver is dropping off, or picking up, passengers; or
  - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

**6.11 Stopping near a letter box**

A driver must not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter box, unless the driver -

- (a) is dropping off, or picking up, passengers or mail; or
- (b) stops at a place on a length of carriageway, or in an area, to which a sign applies and the driver is permitted to stop at that place under this local law.

**6.12 Stopping on a carriageway – heavy and long vehicles**

- (1) A person must not park a vehicle or any combination of vehicles, that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes -
- (a) on a carriageway in a built-up area, for any period exceeding one hour, unless engaged in the picking up or setting down of goods; or
  - (b) on a carriageway outside a built-up area, except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of goods vehicles.
- (2) Nothing in this clause affects the limitations or condition imposed by any other clause or by any local law or sign relating to the parking or stopping of vehicles.

**6.13 Stopping on a carriageway with a bicycle parking sign**

The driver of a vehicle (other than a bicycle) must not stop on a length of carriageway to which a 'bicycle parking' sign applies, unless the driver is dropping off, or picking up, passengers.

**6.14 Stopping on a carriageway with motor cycle parking sign**

The driver of a vehicle must not stop on a length of carriageway, or in an area, to which a 'motor cycle parking' sign applies, or an area marked 'M/C' unless -

- (a) the vehicle is a motor cycle; or
- (b) the driver is dropping off, or picking up, passengers.

**Part 7 - MISCELLANEOUS**

**7.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, must not remove from the vehicle any notice put on the vehicle by an authorised person.

**7.2 Unauthorised signs and defacing of signs**

A person must not without the authority of the CEO or an authorised person -

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write on any part of a sign set up or exhibited by the local government under this local law.

**7.3 Signs must be complied with**

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

**7.4 General provisions about signs**

- (1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary, presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.
- (2) The first 3 letters of any day of the week when used on a sign indicate that day of the week.

**7.5 Special purpose and emergency vehicles**

Despite anything to the contrary in this local law -

- (a) the driver of a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop or park the vehicle in any place at any time; and
- (b) the driver of an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop or park the vehicle at any place at any time.

**7.6 Vehicles not to obstruct a public place**

- (1) A person must not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the CEO or an authorised person, or unless authorised under any written law.
- (2) A person does not contravene subclause (1) if the vehicle is left for a period not exceeding 24 hours.

**Part 8 - Enforcement**

**8.1 Legal proceedings**

Evidentiary provisions relating to offences involving vehicles are contained in Division 2 of Part 9 of the Act.

**8.2 Offences and penalties**

- (1) A person who breaches a provision of this local law commits an offence.
- (2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) A person who commits an offence under this local law is to be liable, on conviction, to a penalty not exceeding \$5,000 and, if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.
- (4) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

**SCHEDULE 1 - PARKING REGION**

[Clause 1.6]

The parking region is the whole of the district, but excludes the following portions of the district -

1. the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
2. prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
3. any road which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads or has been delegated by the Commissioner to the local government.



**SCHEDULE 2 - PRESCRIBED OFFENCES  
PARKING LOCAL LAW  
[Clause 8.2]**

<b>ITEM NO.</b>	<b>CLAUSE NO.</b>	<b>NATURE OF OFFENCE</b>	<b>MODIFIED PENALTY \$</b>
1	2.2	Failure to park wholly within parking stall	60
2	2.2(4)	Failure to park wholly within parking area	60
3	2.3(1)(a)	Causing obstruction in parking station	60
4	2.3(1)(b)	Parking contrary to sign in parking station	60
5	2.3(1)(c)	Parking contrary to directions of authorised person	60
6	2.3(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	60
7	3.1(1)(a)	Parking wrong class of vehicle	60
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Dated \_\_\_\_\_ 2020

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

\_\_\_\_\_  
Chief Executive Officer  
Michael Stephen Lee Archer

\_\_\_\_\_  
Mayor  
Grant Douglas Henley

**ShireCity** of Busselton

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**PARKING LOCAL LAW 20~~2011~~**

*Local Government Act 1995*

**ShireCity of Busselton**

**Parking Local Law 20~~2011~~**

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**SCHEDULE 1 - PARKING REGION**

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*Local Government Act 1995*

ShireCity of Busselton

**Parking Local Law 20~~11~~**

Under the powers conferred by the *Local Government Act 1995* and under all powers enabling it, the Council of the ShireCity of Busselton resolved on ~~9 November 2011~~ [add date] to make the following local law.

**Part 1 - ~~Definitions and operation~~ Preliminary**

**1.1 Title**

This ~~local law~~ is the ShireCity of Busselton Parking Local Law 20~~11~~.

**1.2 Commencement**

This local law comes into operation ~~on the 14<sup>th</sup> day~~ 14 days after ~~the day on which~~ it is published in the *Government Gazette*.

**1.3 Repeal**

The ShireCity of Busselton Parking ~~Facilities By-Laws~~ Local Law 2011, published in the *Government Gazette* on ~~24 June 1994~~ 30 November 2011, is repealed.

**1.4 ~~Definitions~~ Terms used**

In this local law, unless the contrary intention appears -

*ACROD sticker* has the meaning given in the *Local Government (Parking for Disabled Persons) Regulations 1988*;

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

*authorised person* means a person appointed by the Council or the CEO, under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;

*authorised vehicle* means a vehicle authorised by the CEO or an authorised person, or under any written law, to be parked on a thoroughfare or parking facility;

*bicycle* has the meaning given ~~to it by~~ in the Code;

*bicycle path* has the meaning given ~~to it by~~ in the Code;

*bus* has the meaning given ~~to it by~~ in the Code;

*bus embayment* has the meaning given ~~to it by~~ in the Code;

*bus stop* has the meaning given ~~to it by~~ in the Code;

**bus zone** has the meaning given ~~to it by~~in the Code;

**caravan** has the meaning given ~~by~~in the *Caravans Parks and Camping Grounds Act 1995*;

**carriageway** means –

- (a) a portion of thoroughfare that is improved, designed or ordinarily used for vehicular traffic and includes the shoulders, and areas, including embayments, at the side or centre of the carriageway, used for the stopping or parking of vehicles; and
- (b) where a thoroughfare has 2 or more of those portions divided by a median strip, the expression means each of those portions, separately;

**centre** in relation to a carriageway, means a line or a series of lines, marks or other indications –

- (a) for a 2-way carriageway – placed so as to delineate vehicular traffic travelling in different directions; or
- (b) in the absence of any such lines, marks or other indications – the middle of the main, travelled portion of the carriageway;

**children’s crossing** has the meaning given ~~to it by~~in the Code;

**CEO** means the Chief Executive Officer of the local government;

**City** means the City of Busselton;

**Code** means the *Road Traffic Code 2000*;

**commercial vehicle** –

- (a) means a motor vehicle constructed for the conveyance of goods or merchandise, or for the conveyance of materials used in any trade, business, industry or work whatsoever, other than a motor vehicle for the conveyance of passengers; and
- (b) includes any motor vehicle that is designed primarily for the carriage of persons, but which has been fitted or adapted for the conveyance of the goods, merchandise or materials referred to, and is in fact used for that purpose;

**Council** means the Council of the local government;

**disability parking permit** has the meaning given ~~to it~~in the *Local Government (Parking for People with Disabilities) Regulations 2014*;

**district** means the district of the local government;

**driver** means any person driving or in control of a vehicle;

**edge line** for a carriageway means a line marked along the carriageway at or near the far left or the far right of the carriageway;

*emergency vehicle* has the meaning given ~~to it by~~in the Code;

*footpath* has the meaning given ~~to it by~~in the Code;

*GVM* (which stands for 'gross vehicle mass'), ~~in relation to a vehicle, has the meaning given in the Road Traffic (Vehicles) Act 2012;~~ has the meaning given to it by the Code;

*loading zone* means a parking stall which is set aside for use by commercial vehicles if there is a sign referable to that stall marked 'loading zone';

*local government* means the [ShireCity](#) of Busselton;

*mail zone* has the meaning given ~~to it by~~in the Code;

*median strip* has the meaning given ~~to it by~~in the Code;

*motor cycle* has the meaning given ~~to it by~~in the Code;

*motor vehicle* means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle, but does not include a power assisted pedal cycle;

*no parking area* has the meaning given ~~to it by~~in the Code;

*no parking sign* means a sign with –

- (a) the words 'no parking' in red letters on a white background; or
- (b) the letter 'P' within a red annulus and a red diagonal line across it on a white background;

*no stopping area* has the meaning given ~~to it by~~in the Code;

*no stopping sign* means a sign with –

- (a) the words 'no stopping' or 'no standing' in red letters on a white background; or
- (b) the letter 'S' within a red annulus and a red diagonal line across it on a white background;

*occupier* has the meaning given ~~to it by~~in the Act;

*owner* -

- (a) where used in relation to a vehicle licensed under the *Road Traffic (Vehicles) Act 2012*, means the person in whose name the vehicle has been registered under that Act;
- (b) where used in relation to any other vehicle, means the person who owns, or is entitled to possession of, that vehicle; and
- (c) where used in relation to land, has the meaning given to it by the Act;

*park* has the meaning given ~~to it by~~in the Code;

**parking area** has the meaning given ~~to it by~~in the Code;

**parking facilities** –

- (a) means land, buildings, shelters, parking stations, parking stalls and other facilities open to the public generally for the parking of vehicles with or without charge; and
- (b) includes signs, notices and facilities used in connection with the parking of vehicles;

**parking region** means the area described in Schedule 1;

**parking stall** means a section or part of a thoroughfare or parking station which is marked or defined by painted lines, metallic studs, coloured bricks or pavers or similar devices for the purpose of indicating where a vehicle may be parked;

**parking station** means any land, or structure provided for the purpose of accommodating vehicles with or without charge;

**pedestrian crossing** has the meaning given ~~to it by~~in the Code;

**public place** means any place to which the public has access whether or not that place is on private property;

**reserve** means any land -

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an 'otherwise unvested facility' within the meaning of section 3.53 of the Act;

**Road Traffic Act** means the *Road Traffic Act 1974*;

**Schedule** means a Schedule to this local law;

**shared zone** has the meaning given ~~to it by~~in the Code;

~~**Shire** means the Shire of Busselton;~~

**sign** includes a traffic sign, inscription, road marking, mark, structure or device, on which may be shown words, numbers, expressions or symbols, that is -

- (a) approved by the CEO or an authorised person; and
- (b) placed on or near a thoroughfare or within a parking station or reserve for the purpose of prohibiting, regulating, guiding, directing or restricting the parking and stopping of vehicles;

**special purpose vehicle** has the meaning given ~~to it by~~in the Code;

**stop, in relation to a vehicle,** has the meaning given ~~to it by~~in the Code;

*symbol* includes any symbol specified by Australian Standard 1742.11-1999 and any symbol specified from time to time by Standards Australia for use in the regulation of parking and any reference to the wording of any sign in this local law ~~also is to be deemed taken~~ to include a reference to the corresponding symbol;

*taxi* has the meaning given ~~to it by~~in the Code; means a taxi within the meaning of the *Taxi Act 1994* or a taxi-car in section 47Z of the *Transport Co-ordination Act 1966*;

*taxi zone* has the meaning given ~~to it by~~in the Code;

*thoroughfare* has the meaning given ~~to it by~~in the Act;

*traffic island* has the meaning given ~~to it by~~in the Code;

*trailer* has the meaning given ~~to it by~~in the Code;

*vehicle* has the meaning given ~~to it by~~in the *Road Traffic (Administration) Act 2008*; and

*verge* means the portion of a thoroughfare which lies between the boundary of a carriageway and the adjacent property line, but does not include a footpath.

#### 1.5 Application of particular ~~definition~~terms

- (1) For the purposes of the application of the ~~definitions of terms~~ 'no parking area' and 'parking area', an arrow inscribed on a traffic sign erected at an angle to the boundary of the carriageway is ~~deemed taken~~ to be pointing in the direction in which it would point, if the signs were turned at an angle of less than 90 degrees until parallel with the boundary.
- (2) Unless the context otherwise requires, where a term is used, but not defined, in this local law, and that term is defined in the Road Traffic Act, the Road Traffic (Administration) Act 2008, the Road Traffic (Vehicles) Act 2012 or in the Code, then the term is to have the meaning given ~~to it in that one of those Acts~~ or the Code.

#### 1.6 Application

- (1) Subject to subclause (2), this local law applies to the parking region.
- (2) This local law does not apply to a parking facility or a parking station that is not occupied by the local government, unless the local government and the owner or occupier of that facility or station have agreed in writing that this local law will apply to that facility or station.
- (3) The agreement referred to in subclause (2) may be made on such terms and conditions as the parties may agree.

#### 1.7 Pre-existing signs

- (1) A sign that -
  - (a) was erected by the local government or the Commissioner of Main Roads before the commencement of this local law; and

(b) relates to the parking of vehicles within the parking region,  
is ~~deemed-taken~~ to have been erected by the local government under this local law.

- (2) An inscription, word, number, expression or symbol on a sign referred to in subclause (1) operates and has effect according to its tenor.
- (3) Where an inscription, word, number, expression or symbol relates to the stopping of vehicles, it is ~~deemed-taken~~ to operate and have effect as if it related to the parking of vehicles.
- (4) Parts 2, 3, 4 and 5 of this local law do not apply to a bicycle parked at a bicycle rail or bicycle rack.

### **1.8 Classes of vehicles**

For the purposes of this local law, vehicles are divided into classes as follows -

- (a) buses;
- (b) commercial vehicles;
- (c) motorcycles and bicycles;
- (d) taxis; and
- (e) all other vehicles.

### **1.9 Part of thoroughfare to which sign applies**

Where under this local law the parking of vehicles in a thoroughfare is controlled by a sign, the sign is to be read as applying to that part of the thoroughfare which -

- (a) lies beyond the sign;
- (b) lies between the sign and the next sign beyond that sign; and
- (c) is on that side of the thoroughfare nearest to the sign.

### **1.10 Powers of the Council**

The Council may; prohibit or regulate, by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with ~~the provisions of~~ this local law.

## **Part 2 - Parking stalls, parking stations and parking areas**

### **2.1 Determination of parking stalls, parking stations and parking areas**

- (1) The Council may; constitute, determine or vary -
- (a) parking stalls;

- (b) parking stations;
  - (c) parking areas;
  - (d) no parking areas;
  - (e) no stopping areas;
  - (f) permitted time and conditions of parking in parking stalls, parking stations and parking areas which may vary with the locality;
  - (g) permitted classes of vehicles which may park in parking stalls, parking areas and parking stations;
  - (h) permitted classes of persons who may park in specified parking stalls, parking stations and parking areas; and
  - (i) the manner of parking in parking stalls, parking stations and parking areas.
- (2) Where the Council makes a determination under subclause (1), the CEO must give local public notice of, and erect signs to give effect to, the determination.

## **2.2 Vehicles to be within parking stall**

- (1) Subject to subclauses (2), (3) and (4), a person must not park a vehicle in a parking stall otherwise than -
- (a) parallel to and as close to the kerb as is practicable;
  - (b) wholly within the stall; and
  - (c) if in a thoroughfare, headed in the direction of the movement of traffic on the side of the thoroughfare in which the stall is situated.
- (2) Subject to subclause (3), where a parking stall is set out otherwise than parallel to the kerb, then a person must park a vehicle in that stall wholly within it.
- (3) If a vehicle is too long or too wide to fit completely within a single parking stall then the person parking the vehicle must do so within the minimum number of parking stalls needed to park that vehicle.
- (4) A person must not park a vehicle partly within and partly outside a parking area.

## **2.3 Parking prohibitions and restrictions**

- (1) A person must not -
- (a) park a vehicle so as to obstruct an entrance to or an exit from a parking station, or an access way within a parking station;

- (b) except with the permission of the CEO or an authorised person, park a vehicle on any part of a parking station contrary to a sign referable to that part;
- (c) permit a vehicle to park on any part of a parking station, if an authorised person directs the driver of such vehicle to move the vehicle; or
- (d) park or attempt to park a vehicle in a parking stall in which another vehicle is parked, but this paragraph does not prevent the parking of a motorcycle and a bicycle together in a stall marked 'M/C', if the bicycle is parked in accordance with subclause (2).

~~(2) — A person must not park a bicycle in a parking stall unless—~~

~~(-) — the stall is marked 'M/C'; and~~

~~(-) — the bicycle is parked against the kerb.~~

~~(5)(2)~~ Despite subclause (1)(b), a driver may park a vehicle in a permissive parking stall or station (except in a parking area for people with disabilities) for twice the length of time allowed, provided that -

- (a) the driver's vehicle displays a current [disability parking permitACROD sticker](#); and
- (b) a disabled person to which that [disability parking permitACROD sticker](#) relates is either the driver of the vehicle or a passenger in the vehicle.

## Part 3 - Parking generally

### 3.1 Restrictions on parking in particular areas

- (1) Subject to subclause (3), a person must not park a vehicle in a thoroughfare or part of a thoroughfare, or part of a parking station -
  - (a) if by a sign it is set apart for the parking of vehicles of a different class;
  - (b) if by a sign it is set apart for the parking of vehicles by persons of a different class; or
  - (c) during any period when the parking of vehicles is prohibited by a sign.
- (2) Subclause (3) applies to a driver if -
  - (a) the driver's vehicle displays a current [disability parking permitACROD sticker](#); and



- (b) a person with a disability to which the [disability parking permit](#) ~~ACROD-sticker~~ relates is either the driver of the vehicle or a passenger in the vehicle.
- (3) The driver may park a vehicle in a thoroughfare, part of a thoroughfare or part of a parking station, except in a thoroughfare or a part of a thoroughfare or part of a parking station to which a disabled parking sign relates, for twice the period indicated on the sign.
- (4) A person must not park a vehicle -
  - (a) in a no parking area;
  - (b) in a parking area, except in accordance with both the signs associated with the parking area and with this local law; or
  - (c) in a stall marked 'M/C' unless it is a motorcycle without a sidecar or a trailer, or it is a bicycle.
- ~~(5) A person must not park a bicycle, or a motorcycle without a sidecar or a trailer, in a parking stall unless the stall is marked 'M/C'.~~
- ~~(6)~~(5) A person must not, without the ~~prior~~ permission of the ~~the~~ CEO or an authorised person, park a vehicle in an area designated by a sign stating 'authorised vehicles only'.

### 3.2 Parking vehicle on a carriageway

- (1) A person parking a vehicle on a carriageway other than in a parking stall must park it -
  - (a) in the case of a two-way carriageway, so that it is as near as practicable to and parallel with, the left boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
  - (b) in the case of a one-way carriageway, so that it is as near as practicable to and parallel with either boundary of the carriageway and headed in the direction of the movement of traffic on the side of the thoroughfare on which the vehicle is parked;
  - (c) so that at least 3 metres of the width of the carriageway lies between the vehicle and the farther boundary of the carriageway, or any continuous line or median strip, or between the vehicle and a vehicle parked on the farther side of the carriageway;
  - (d) so that the front and the rear of the vehicle respectively is not less than 1 metre from any other vehicle, except a bicycle, or a motorcycle without a trailer, parked in accordance with this local law; and
  - (e) so that it does not obstruct any vehicle on the carriageway,unless otherwise indicated on a sign or by marks on the carriageway.

- (2) In this clause, 'continuous dividing line' means –
- (a) a single continuous dividing line only;
  - (b) a single continuous dividing line to the left or right of a broken dividing line; or
  - (c) 2 parallel continuous dividing lines.

**3.3 When parallel and right-angled parking apply**

Where a traffic sign associated with a parking area is not inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), then unless a sign associated with the parking area indicates, or marks on the carriageway indicate, that vehicles have to park in a different position, where the parking area is -

- (a) adjacent to the boundary of a carriageway, a person parking a vehicle in the parking area must park it as near as practicable to and parallel with that boundary; and
- (b) at or near the centre of the carriageway, a person parking a vehicle in that parking area must park it at approximately right angles to the centre of the carriageway.

**3.4 When angle parking applies**

- (1) This clause does not apply to -
- (a) a passenger vehicle or a commercial vehicle with a mass including any load, of over 3 tonnes; or
  - (b) a person parking either a motor cycle without a trailer, or a bicycle.
- (2) Where a sign associated with a parking area is inscribed with the words 'angle parking' (or with an equivalent symbol depicting this purpose), a person parking a vehicle in the area must park the vehicle at an angle of approximately 45 degrees to the centre of the carriageway unless otherwise indicated by the inscription on the parking sign or by marks on the carriageway.

**3.5 General prohibitions on parking**

- (1) This clause does not apply to a vehicle that is permitted to be parked in a parking stall or to a bicycle in a bicycle rack.
- (2) Subclauses (3)(c), (e) and (g) do not apply to a vehicle that is permitted to be parked in a bus embayment.
- (3) Subject to any law relating to intersections with traffic control signals, a person must not park a vehicle so that any portion of the vehicle is -
- (a) between any other stationary vehicles and the centre of the carriageway;
  - (b) on or adjacent to a median strip;

- (c) obstructing a right of way, private drive or carriageway or so close as to deny a vehicle reasonable access to or egress from the right of way, private drive or carriageway;
- (d) alongside or opposite any excavation, works, hoarding, scaffolding or obstruction on the carriageway, if the vehicle would obstruct traffic;
- (e) on or within 10 metres of any portion of a carriageway bounded by a traffic island;
- (f) on any footpath or pedestrian crossing;
- (g) between the boundaries of a carriageway and any double longitudinal line consisting of 2 continuous lines or between a double longitudinal line consisting of a continuous line and a broken or dotted line and the boundary of a carriageway nearer to the continuous line, unless there is a distance of at least 3 metres clear between the vehicle and the double longitudinal line;
- (h) on an intersection, except adjacent to a carriageway boundary that is not broken by an intersecting carriageway;
- (i) within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug;
- (j) within 3 metres of a public letter pillar box, unless the vehicle is being used for the purposes of collecting postal articles from the pillar box; or
- (k) within 10 metres of the nearer property line of any thoroughfare intersecting the thoroughfare on the side on which the vehicle is parked,

unless a sign or markings on the carriageway indicate otherwise.

- (4) A person must not park a vehicle so that any portion of the vehicle is within 10 metres of the departure side of -
  - (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers; or
  - (b) a children's crossing or pedestrian crossing.
- (5) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of the approach side of -
  - (a) a sign inscribed with the words 'Bus Stop' or 'Hail Bus Here' (or with equivalent symbols depicting these purposes) unless the vehicle is a bus stopped to take up or set down passengers;
  - (b) a children's crossing or pedestrian crossing.

- (6) A person must not park a vehicle so that any portion of the vehicle is within 20 metres of either the approach side or the departure side of the nearest rail of a railway level crossing.

**3.6 Authorised person may order vehicle on thoroughfare to be moved**

The driver of a vehicle must not park, or continue to park, that vehicle on any part of a thoroughfare in contravention of this local law after an authorised person has directed the driver to move it.

**3.7 Authorised person may mark tyres**

- (1) An authorised person may mark the tyres of a vehicle parked in a parking facility with chalk or any other non-indelible substance for a purpose connected with or arising out of his or her duties or powers.
- (2) A person must not remove a mark made by an authorised person so that the purpose of the affixing of the mark is defeated or likely to be defeated.

**3.8 No movement of vehicles to avoid time limitation**

- (1) Where the parking of vehicles in a parking facility is permitted for a limited time, a person must not move a vehicle within the parking facility so that the total time of parking exceeds the maximum time allowed for parking in the parking facility.
- (2) Where the parking of vehicles in a thoroughfare is permitted for a limited time, a person must not move a vehicle along that thoroughfare so that the total time of parking exceeds the maximum time permitted, unless the vehicle has first been removed from the thoroughfare for at least 2 hours.

**3.9 No parking of vehicles exposed for sale and in other circumstances**

A person must not park a vehicle on any portion of a thoroughfare -

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is a motor vehicle which is not licensed under the *Road Traffic (Vehicles) Act 2012*;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle;  
or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

**3.10 Parking on private land**

- (1) In this clause a reference to 'land' does not include land -
- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*;

- (c) which is an 'otherwise unvested facility' within section 3.53 of the Act; or
  - (d) which is the subject of an agreement referred to in clause 1.6(2).
- (2) A person must not park a vehicle on land without the consent of the owner or occupier of the land on which the vehicle is parked.
- (3) Where the owner or occupier of the land, by a sign referable to that land or otherwise, consents to the parking of vehicles of a specified class or classes on the land for a limited period, a person must not park a vehicle on the land otherwise than in accordance with the consent.

**3.11 Parking on reserves**

A person, other than an employee of the local government in the course of his or her duties or a person authorised by the local government, must not drive or park a vehicle on or over any portion of a reserve other than on an area specifically set aside for that purpose.

**3.12 Suspension of parking limitations for urgent, essential or official duties**

- (1) Where by a sign the parking of vehicles is permitted for a limited time on a portion of a thoroughfare or parking facility, the CEO or an authorised person may, subject to the Code, permit a person to park a vehicle in that portion of the thoroughfare or parking facility for longer than the permitted time to enable the person to carry out urgent, essential or official duties.
- (2) Where permission is granted under subclause (1) the CEO or an authorised person may, for the duration of that permission, prohibit the use by any other vehicle of that portion of the thoroughfare or parking facility to which the permission relates.

## **Part 4 - Stopping generally**

**4.1 No stopping and no parking signs, and yellow edge lines**

- (1) In this clause, 'unattended', in relation to a vehicle, means that the driver of the vehicle has left the vehicle and the driver is more than 3 metres from the closest point to the vehicle.
- (2) A driver must not stop on a length of carriageway, or in an area, to which a 'no stopping' sign applies.
- (3) A driver must not stop on a length of carriageway, or in an area, to which a 'no parking' sign applies, unless the driver is-
- (a) dropping off, or picking up, passengers or goods;
  - (b) does not leave the vehicle unattended; and
  - (c) completes the dropping off, or picking up, of the passengers or goods within 2 minutes of stopping and drives on.

- (4) A driver must not stop at the side of a carriageway marked with a continuous yellow edge line.

## **Part 5 - Stopping in zones for particular vehicles**

### **5.1 Stopping in a loading zone**

A person must not stop a vehicle in a loading zone unless it is -

- (a) a motor vehicle used for commercial or trade purposes engaged in the picking up or setting down of goods; or
- (b) a motor vehicle taking up or setting down passengers,

but, in any event, must not remain in that loading zone -

- (c) for longer than a time indicated on the 'loading zone' sign; or
- (d) longer than 30 minutes (if no time is indicated on the sign).

### **5.2 Stopping in a taxi zone or a bus zone**

- (1) A driver must not stop in a taxi zone, unless the driver is driving a taxi.
- (2) A driver must not stop in a bus zone unless the driver is driving a public bus, or a bus of a type that is permitted to stop at the bus zone by information on or with the 'bus zone' sign applying to the bus zone.

### **5.3 Stopping in a mail zone**

A person must not stop a vehicle in a mail zone.

### **5.4 Other limitations in zones**

A person must not stop a vehicle in a zone to which a traffic sign applies if stopping the vehicle would be contrary to the sign, including any limitation on the sign in respect of classes of persons or vehicles, or specific activities allowed.

## **Part 6 - Other places where stopping is restricted**

### **6.1 Stopping in a shared zone**

A driver must not stop in a shared zone unless -

- (a) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law;
- (b) the driver stops in a parking bay and the driver is permitted to stop in the parking bay under this local law;
- (c) the driver is dropping off, or picking up, passengers or goods; or

- (d) the driver is engaged in door-to-door delivery or collection of goods, or in the collection of waste or garbage.

**6.2 Double parking**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is between any other stopped vehicle and the centre of the carriageway.
- (2) This clause does not apply to -
  - (a) a driver stopped in traffic; or
  - (b) a driver angle parking on the side of the carriageway or in a median strip parking area, in accordance with this local law.

**6.3 Stopping near an obstruction**

A driver must not stop on a carriageway near an obstruction on the carriageway in a position that further obstructs traffic on the carriageway.

**6.4 Stopping on a bridge or in a tunnel, etc.**

- (1) A driver must not stop a vehicle on a bridge, causeway, ramp or similar structure unless -
  - (a) the carriageway is at least as wide on the structure as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
  - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) A driver must not stop a vehicle in a tunnel or underpass unless -
  - (a) the carriageway is at least as wide in the tunnel or underpass as it is on each of the approaches and a traffic sign does not prohibit stopping or parking; or
  - (b) the driver of a motor vehicle stops at a bus stop, or in a bus zone or parking area marked on the carriageway, for the purpose of setting down or taking up passengers.

**6.5 Stopping on crests, curves, etc.**

- (1) Subject to subclause (2), a driver must not stop a vehicle on, or partly on, a carriageway, in any position where it is not visible to the driver of an overtaking vehicle, from a distance of 50 metres within a built-up area, and from a distance of 150 metres outside a built-up area.
- (2) A driver may stop on a crest or curve on a carriageway that is not in a built-up area if the driver stops at a place on the carriageway, or in an area, to which a sign applies and the driver is permitted to stop at that place under this local law.

**6.6 Stopping near a fire hydrant etc**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is within 1 metre of a fire hydrant or fire plug, or of any sign or mark indicating the existence of a fire hydrant or fire plug, unless -
  - (a) the driver is driving a public bus, and the driver stops in a bus zone or at a bus stop and does not leave the bus unattended; or
  - (b) the driver is driving a taxi, and the driver stops in a taxi zone and does not leave the taxi unattended.
- (2) In this clause a driver leaves the vehicle 'unattended' if the driver leaves the vehicle so the driver is over 3 metres from the closest point of the vehicle.

**6.7 Stopping at or near a bus stop**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is within 20 metres of the approach side of a bus stop, or within 10 metres of the departure side of a bus stop, unless -
  - (a) the vehicle is a public bus stopped to take up or set down passengers; or
  - (b) the driver stops at a place on a length of carriageway, or in an area, to which a parking control sign applies and the driver is permitted to stop at that place under this local law.
- (2) In this clause -
  - (a) distances are measured in the direction in which the driver is driving; and
  - (b) a trailer attached to a public bus is taken to be a part of the public bus.

**6.8 Stopping on a path, median strip, or traffic island**

The driver of a vehicle (other than a bicycle or an animal) must not stop so that any portion of the vehicle is on a path, traffic island or median strip, unless the driver –

- (a) stops in an area to which a sign applies; and
- (b) the driver is permitted to stop at that place under this local law.

**6.9 Stopping on verge**

- (1) A person must not -
  - (a) stop a vehicle (other than a bicycle);
  - (b) stop a commercial vehicle or bus, or a trailer or caravan unattached to a motor vehicle; or
  - (c) stop a vehicle during any period when the stopping of vehicles on that verge is prohibited by a sign adjacent and referable to that verge,



so that any portion of it is on a verge.

- (2) Subclause (1)(a) does not apply to the person if he or she is the owner or occupier of the premises adjacent to that verge, or is a person authorised by the occupier of those premises to stop the vehicle so that any portion of it is on the verge.
- (3) Subclause (1)(b) does not apply to a commercial vehicle when it is being loaded or unloaded with reasonable expedition with goods, merchandise or materials collected from or delivered to the premises adjacent to the portion of the verge on which the commercial vehicle is parked, provided no obstruction is caused to the passage of any vehicle or person using a carriageway or a path.

**6.10 Obstructing access to and from a path, driveway, etc.**

- (1) A driver must not stop a vehicle so that any portion of the vehicle is in front of a path, in a position that obstructs access by vehicles or pedestrians to or from that path, unless -
  - (a) the driver is dropping off, or picking up, passengers; or
  - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.
- (2) A driver must not stop a vehicle on or across a driveway or other way of access for vehicles travelling to or from adjacent land, unless -
  - (a) the driver is dropping off, or picking up, passengers; or
  - (b) the driver stops in a parking stall and the driver is permitted to stop in the parking stall under this local law.

**6.11 Stopping near a letter box**

A driver must not stop a vehicle so that any portion of the vehicle is within 3 metres of a public letter box, unless the driver -

- (a) is dropping off, or picking up, passengers or mail; or
- (b) stops at a place on a length of carriageway, or in an area, to which a sign applies and the driver is permitted to stop at that place under this local law.

**6.12 Stopping on a carriageway – heavy and long vehicles**

- (1) A person must not park a vehicle or any combination of vehicles, that, together with any projection on, or load carried by, the vehicle or combination of vehicles, is 7.5 metres or more in length or exceeds a GVM of 4.5 tonnes -
  - (a) on a carriageway in a built-up area, for any period exceeding one hour, unless engaged in the picking up or setting down of goods; or

- (b) on a carriageway outside a built-up area, except on the shoulder of the carriageway, or in a truck bay or other area set aside for the parking of goods vehicles.
- (2) Nothing in this clause affects the limitations or condition imposed by any other clause or by any local law or sign relating to the parking or stopping of vehicles.

**6.13 Stopping on a carriageway with a bicycle parking sign**

The driver of a vehicle (other than a bicycle) must not stop on a length of carriageway to which a 'bicycle parking' sign applies, unless the driver is dropping off, or picking up, passengers.

**6.14 Stopping on a carriageway with motor cycle parking sign**

The driver of a vehicle must not stop on a length of carriageway, or in an area, to which a 'motor cycle parking' sign applies, or an area marked 'M/C' unless -

- (a) the vehicle is a motor cycle; or
- (b) the driver is dropping off, or picking up, passengers.

## **Part 7 - MISCELLANEOUS**

**7.1 Removal of notices on vehicle**

A person, other than the driver of the vehicle or a person acting under the direction of the driver of the vehicle, must not remove from the vehicle any notice put on the vehicle by an authorised person.

**7.2 Unauthorised signs and defacing of signs**

A person must not without the authority of the CEO or an authorised person -

- (a) mark, set up or exhibit a sign purporting to be or resembling a sign marked, set up or exhibited by the local government under this local law;
- (b) remove, deface or misuse a sign or property, set up or exhibited by the local government under this local law or attempt to do any such act; or
- (c) affix a board, sign, placard, notice or other thing to or paint or write on any part of a sign set up or exhibited by the local government under this local law.

**7.3 Signs must be complied with**

An inscription or symbol on a sign operates and has effect according to its tenor and a person contravening the direction on a sign commits an offence under this local law.

**7.4 General provisions about signs**

- (1) A sign marked, erected, set up, established or displayed on or near a thoroughfare is, in the absence of evidence to the contrary, presumed to be a sign marked, erected, set up, established or displayed under the authority of this local law.
- (2) The first 3 letters of any day of the week when used on a sign indicate that day of the week.

**7.5 Special purpose and emergency vehicles**

Despite anything to the contrary in this local law -

- (a) the driver of a special purpose vehicle may, only in the course of his or her duties and when it is expedient and safe to do so, stop or park the vehicle in any place at any time; and
- (b) the driver of an emergency vehicle may, in the course of his or her duties and when it is expedient and safe to do so or where he or she honestly and reasonably believes that it is expedient and safe to do so, stop or park the vehicle at any place at any time.

**7.6 Vehicles not to obstruct a public place**

- (1) A person must not leave a vehicle, or any part of a vehicle, in a public place so that it obstructs the use of any part of that public place without the permission of the CEO or an authorised person, or unless authorised under any written law.
- (2) A person does not contravene subclause (1) if the vehicle is left for a period not exceeding 24 hours.

## **Part 8 - Enforcement**

**8.1 Legal proceedings**

Evidentiary provisions relating to offences involving vehicles are contained in Division 2 of Part 9 of the Act.

**8.2 Offences and penalties**

- (1) A person who breaches a provision of this local law commits an offence.
- (2) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (3) A person who commits an offence under this local law is to be liable, on conviction, to a penalty not exceeding \$5,000 and, if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

- (4) The amount appearing in the final column of Schedule 2 directly opposite a clause specified in that Schedule is the modified penalty for an offence against that clause.

**SCHEDULE 1 - PARKING REGION**

[Clause 1.6]

The parking region is the whole of the district, but excludes the following portions of the district -

1. the approach and departure prohibition areas of all existing and future traffic control signal installations as determined by the Commissioner of Main Roads;
2. prohibition areas applicable to all existing and future bridges and subways as determined by the Commissioner of Main Roads; and
3. any road which comes under the control of the Commissioner of Main Roads unless the control of parking and parking facilities on that road is carried out subject to the control and direction of the Commissioner of Main Roads or has been delegated by the Commissioner to the local government.

**SCHEDULE 2 - PRESCRIBED OFFENCES  
PARKING LOCAL LAW  
[Clause 8.2]**

ITEM NO.	CLAUSE NO.	NATURE OF OFFENCE	MODIFIED PENALTY \$
1	2.2	Failure to park wholly within parking stall	<del>650</del>
2	2.2(4)	Failure to park wholly within parking area	<del>650</del>
3	2.3(1)(a)	Causing obstruction in parking station	60
4	2.3(1)(b)	Parking contrary to sign in parking station	60
5	2.3(1)(c)	Parking contrary to directions of authorised person	60
6	2.3(1)(d)	Parking or attempting to park a vehicle in a parking stall occupied by another vehicle	<del>650</del>
7	3.1(1)(a)	Parking wrong class of vehicle	<del>650</del>
8	3.1(1)(b)	Parking by persons of a different class	<del>6055</del>
9	3.1(1)(c)	Parking during prohibited period	<del>6055</del>
10	3.1(4)(a)	Parking in no parking area	60
11	3.1(4)(b)	Parking contrary to signs or limitations	<del>650</del>
12	3.1(4)(c)	Parking vehicle in motor cycle only area	<del>650</del>
<del>13</del>	<del>3.1(5)</del>	<del>Parking motor cycle in stall not marked 'M/C'</del>	50
<del>13</del> 4	3.1(6)	Parking without permission in an area designated for 'Authorised Vehicles Only'	<del>6055</del>
<del>14</del> 5	3.2(1)(a)	Failure to park on the left of two-way carriageway	<del>1050</del>
<del>15</del> 6	3.2(1)(b)	Failure to park on boundary of one-way carriageway	<del>650</del>
<del>16</del> 7	3.2(1)(a) or 3.2(1)(b)	Parking against the flow of traffic	<del>6055</del>
<del>17</del> 8	3.2(1)(c)	Parking when distance from farther boundary less than 3 metres	<del>6055</del>

<del>189</del>	3.2(1)(d)	Parking closer than 1 metre from another vehicle	<del>650</del>
<del>2019</del>	3.2(1)(e)	Causing obstruction	<del>1060</del>
<del>204</del>	3.3(b)	Failure to park at approximate right angle	<del>650</del>
<del>212</del>	3.4(2)	Failure to park at an appropriate angle	<del>560</del>
<del>223</del>	3.5(3)(a) and 6.2	Double parking	<del>51005</del>
<del>234</del>	3.5(3)(b)	Parking on or adjacent to a median strip	<del>650</del>
<del>245</del>	3.5(3)(c)	Denying access to private drive or right of way	<del>10055</del>
<del>256</del>	3.5(3)(d)	Parking beside excavation or obstruction so as to obstruct traffic	<del>1060</del>
<del>267</del>	3.5(3)(e)	Parking within 10 metres of traffic island	<del>6055</del>
<del>278</del>	3.5(3)(f)	Parking on footpath/pedestrian crossing	<del>10060</del>
<del>289</del>	3.5(3)(g)	Parking contrary to continuous line markings	<del>6505</del>
<del>3029</del>	3.5(3)(h)	Parking on intersection	<del>10055</del>
<del>304</del>	3.5(3)(i)	Parking within 1 metre of fire hydrant or fire plug	<del>1060</del>
<del>312</del>	3.5(3)(j)	Parking within 3 metres of public letter box	<del>6055</del>
<del>323</del>	3.5(3)(k)	Parking within 10 metres of intersection	<del>10055</del>
<del>334</del>	3.5(4)(a) or (b)	Parking vehicle within 10 metres of departure side of bus stop, children's crossing or pedestrian crossing	<del>1060</del>
<del>345</del>	3.5(5)(a) or (b)	Parking vehicle within 20 metres of approach side of bus stop, children's crossing or pedestrian crossing	<del>1060</del>
<del>356</del>	3.5(6)	Parking vehicle within 20 metres of approach side or departure side of railway level crossing	<del>1060</del>
<del>367</del>	3.6	Parking contrary to direction of authorised person	<del>6100</del>
<del>378</del>	3.7(2)	Removing mark of authorised person	<del>10065</del>
<del>389</del>	3.8	Moving vehicle to avoid time limitation	<del>650</del>

<del>403</del>	3.9(a)	Parking in thoroughfare for purpose of sale	<del>650</del>
<del>404</del>	3.9(b)	Parking unlicensed vehicle in thoroughfare	<del>1050</del>
<del>412</del>	3.9(c)	Parking a trailer/caravan on a thoroughfare	<del>650</del>
<del>423</del>	3.9(d)	Parking in thoroughfare for purpose of repairs	<del>1050</del>
<del>434</del>	3.10 (2)	Parking on land that is not a parking facility without consent	<del>10065</del>
<del>445</del>	3.10(3)	Parking on land not in accordance with consent	<del>1050</del>
<del>456</del>	3.11	Driving or parking on reserve	<del>1050</del>
<del>467</del>	4.1(2)	Stopping contrary to a 'no stopping' sign	<del>650</del>
<del>478</del>	4.1(3)	Parking contrary to a 'no parking' sign	<del>650</del>
<del>489</del>	4.1(4)	Stopping within continuous yellow lines	<del>650</del>
<del>5049</del>	5.1	Stopping unlawfully in a loading zone	<del>5100</del>
<del>504</del>	5.2	Stopping unlawfully in a taxi zone or bus zone	<del>1050</del>
<del>512</del>	5.3	Stopping unlawfully in a mail zone	<del>650</del>
<del>523</del>	5.4	Stopping in a zone contrary to a sign	<del>650</del>
<del>534</del>	6.1	Stopping in a shared zone	<del>1050</del>
<del>545</del>	6.3	Stopping near an obstruction	<del>10055</del>
<del>556</del>	6.4	Stopping on a bridge or tunnel	<del>1050</del>
<del>567</del>	6.5	Stopping on crests/curves etc	<del>10065</del>
<del>578</del>	6.6	Stopping near fire hydrant	<del>10065</del>
<del>589</del>	6.7	Stopping near bus stop	<del>10055</del>
<del>6059</del>	6.8	Stopping on path, median strip or traffic island	<del>10050</del>
<del>604</del>	6.9	Stopping on verge	<del>650</del>
<del>612</del>	6.10	Obstructing path, a driveway etc	<del>1050</del>



<del>623</del>	6.11	Stopping near letter box	<del>650</del>
<del>634</del>	6.12	Stopping heavy or long vehicles on carriageway	<del>10055</del>
<del>645</del>	6.13	Stopping in bicycle parking area	<del>650</del>
<del>656</del>	6.14	Stopping in motorcycle parking area	<del>650</del>
<del>67</del>	<del>6.15</del>	<del>Stopping in disabled parking area</del>	<del>120</del>
<del>668</del>	7.6	Leaving vehicle so as to obstruct a public place	<del>1060</del>
<del>679</del>	8.2(1)	All other offences not specified	<del>6045</del>


Dated ~~10 November~~ 20~~2011~~

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

\_\_\_\_\_  
Chief Executive Officer  
Michael Stephen Lee Archer

\_\_\_\_\_  
~~Mayor~~President  
Grant Douglas Henley Ian William Stubbs

12.6 Policy and Legislation Committee - 29 July 2020 - RECISSION OF COUNCIL POLICY: SHELTERS AND STRUCTURES ON LOCAL GOVERNMENT PROPERTY

<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 CP246: Shelters and Structures on Local Government Property 

**This item was considered by the Policy and Legislation Committee at its meeting on 29 July 2020, the recommendations from which have been included in this report.**

**COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**

**That the Council rescinds Council Policy 246: Shelters and Structures on Local Government Property (Attachment A), effective immediately.**

**EXECUTIVE SUMMARY**

This report recommends the rescission of Council policy 246: Shelters and Structures on Local Government Property (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 it has been determined by officers that the Policy is not strategic in nature and, as such, should be administered by the City as an Operational Practice.

**BACKGROUND**

In 2015, Council received a petition in relation to the semi-permanent placement of shelters on beaches for the duration of the summer period. Council did not support the placement of shelters for private use on beaches overnight. A policy that supported Council's position was developed and endorsed in March 2016.

The objective of the Policy was to provide consistent enforcement of the Council's position in relation to structures on beaches. The Policy sought to keep beaches a part of the natural environment, whilst still facilitating the use of structures which were required as part of other authorised events.

The Policy was reviewed in April 2017, with the main changes being to provide greater clarity in the management of structures erected on local government property. Definitions were amended and information relating to the removal of unauthorised structures was included. The reviewed Policy continued to support Council's position on the management of structures.

Officers have again reviewed the Policy in accordance with the City's policy review schedule and have found its contents to be more aligned to the functions already undertaken by officers in their administrative capacities.

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.

#### **OFFICER COMMENT**

The Policy, underpinned by the City of Busselton Local Government Property Local Law 2010, prohibits the retention of structures (including beach shades and windbreaks) on beaches overnight without the owner first obtaining a permit from the City.

Clause 3.14 of the City of Busselton Property Local Law 2010 states:

*(3) A person must not without a permit –*

*...(b) erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day.*

The Policy refers to the use of structures which are required as part of other authorised activities, such as events, by stating:

*...applications for the retention of other structures on local government property overnight will form part of the event application process...*

The management of structures on local government property is embedded in existing administrative practices and procedures, including the evaluation and approvals process of permit applications and the evaluation and approvals process of event applications. In addition, an internal guideline that sits within the Ranger and Emergency Services Activity Unit deals with the removal of structures.

Under the City's policy framework structure, a Council policy should provide a strategic statement of the Council's direction. Following a review of the Policy, it has been determined by officers that its content provides information more aligned to the administrative function of issuing permits, and the operational function of dealing with unauthorised/abandoned structures on local government property and particularly the beach, rather than a strategic statement or direction of the Council.

#### **Statutory Environment**

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

#### **Relevant Plans and Policies**

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

#### **Financial Implications**

There are no financial implications associated with the Officer Recommendation.

#### **Stakeholder Consultation**

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

#### **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. Retain Council Policy 246: Shelters and Structures on Local Government Property; and
2. Ask that officers present a revised policy for the Council's consideration at a later point in time.

**CONCLUSION**

Following a review of the Policy, it has been determined by officers that the Policy is not strategic in nature, and is already being administered by the City through existing processes and procedures. This report recommends the Policy be rescinded.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

If the Officer Recommendation is endorsed by the Council, the Policy will be immediately rescinded.

246	Shelters and Structures on Local Government Property	V2 Current
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#### PURPOSE

The purpose of this policy is to establish a framework for the management of structures erected on local government property within the City of Busselton.

#### SCOPE

This policy will guide the community and staff on circumstances when shelters or structures may be erected on local government property, and the circumstances in which structures that are considered an obstruction or a risk to public safety may be removed.

#### DEFINITIONS

**Beach Shelter:** a temporary structure being less than 15m<sup>2</sup> in area, and includes but is not limited to windbreaks, beach umbrellas, gazebos or any other manufactured or DIY structure similar in style.

**Event:** as defined in Council Policy 231 – Events.

**Local Government Property:** as defined in the *Local Government Property Local Law 2010*.

#### POLICY CONTENT

Pursuant to clause 3.14 (3) (b) of the City of Busselton *Local Government Property Local Law 2010* (the Local Law):

*“A person must not without a permit erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day”.*

##### Beach Shelters

Under the provisions of the Local Law beach shelters may only be erected for use during the hours of daylight and must be dismantled during those hours on the same day. The Local Law does not allow the City to issue permits for beach shelters to remain in place on local government property overnight.

##### Other Structures

Other structures such as marquees or tents may only be erected on local government property and left overnight where it is necessary for an event organised or approved by the City.

Applications for the retention of other structures on local government property overnight will form part of the event application process. Such applications will only be supported where the applicant:

1. Demonstrates there is no practical alternative to leaving the structure in place overnight.
2. Demonstrates the structural integrity/safety of the structure.
3. Holds a minimum of \$10m in Public Liability Insurance.

##### Unauthorised Structures

Under the *Local Government (Functions and General) Regulations 1996* the City may impound goods on local government property if they present a hazard to public safety; if they obstruct the lawful use of any place; or where a regulation or local law prohibits or regulates the placement of the goods and they are in a place contrary to that regulation or local law.

Where an unauthorised structure is obstructing community access, or presents an immediate risk to public safety due to structural integrity concerns (either due to its decrepit state or the manner in which it has been erected), the City will remove it immediately.

**Policy Background**

Policy Reference No – 246

Owner Unit – Ranger and Emergency Services

Originator – Ranger and Emergency Services Coordinator

Policy Approved by – Council

Date Approved –





Review Frequency – as required

Related Documents – City of Busselton *Local Government Property Local Law 2010*

**History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
C1604/076	13 April 2016	Date of Implementation Version 1
C1705/098	10 May 2017	Policy revised to provide clarity regarding beach shelters, and to expand the scope of the policy to include all local government property. Version 2

12.7 Policy and Legislation Committee - 29 July 2020 - PROPOSED CLIMATE CHANGE POLICY AND REVIEW OF ENVIRONMENT POLICY

<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>	Policy
<b>BUSINESS UNIT</b>	Environmental Services
<b>REPORTING OFFICER</b>	Senior Sustainability/Environment Officer - Mathilde Breton
<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 Draft Climate Change Policy  Attachment B WALGA Climate Change Policy Statement  Attachment C Environment Policy (Draft Tracked Changes)  Attachment D Draft Climate Change Policy Endorsed by Committee 

This item was considered by the Policy and Legislation Committee at its meeting on 29 July 2020, the recommendations from which have been included in this report.

**OFFICER RECOMMENDATION**

That the Council:

1. Adopt the Climate Change Policy as shown at Attachment A; and
2. Adopt the (Revised) Environment Policy as shown at Attachment C.

**COMMITTEE RECOMMENDATION**

That the Council:

1. Adopt the Climate Change Policy, inclusive of Committee amendments as per Attachment D; and
2. Adopt the (Revised) Environment Policy as shown at Attachment C.

Reasons: Due to an administrative error, the correct version of the draft climate change policy was not included in the Agenda. The correct version was circulated to Committee Members during the meeting for consideration. Amendments to the draft policy made during the meeting were subsequently agreed to by Committee Members.

**EXECUTIVE SUMMARY**

This reports presents a draft Council Climate Change Policy (Policy) (Attachment A) for consideration, in response to a resolution made at Council's 22 April 2020 meeting. The Policy is consistent with the Western Australian Local Government Association (WALGA) *Policy Statement on Climate Change* (WALGA Statement) (Attachment B), adapted to the City's policy template, governance framework and context in terms of the climate change related challenges facing the City. Consequential changes to the Council's Environment Policy are also recommended (see Attachment C).

## BACKGROUND

At its 22 April 2020 meeting, Council resolved (C2004/001):

*That the Council:*

- 1. Signs the Western Australian Local Government Association Climate Change Declaration (Attachment A);*
- 2. Continues to support the community in reducing the impacts of climate change and their greenhouse gas emissions; and*
- 3. Request that Officers draft a City of Busselton Council Policy, 'Climate Change', which is to be consistent with the Western Australian Local Government Association Policy Statement on Climate Change (Attachment B) and present to Council for endorsement by 31 July 2020, subject to public accessibility to the meeting being possible.*

With regard to Resolution 1 above, it is expected that the City will sign the WALGA Climate Change Declaration by July 2020. Due to COVID-19 restrictions, there had been difficulties obtaining the hard copy Climate Change Declaration signed by WALGA (for subsequent signing by the Mayor, on behalf of the City).

With respect to Resolution 2 above, work continues on a number of fronts, including through encouragement of active transport and coastal adaptation work.

With regard to Resolution 3 above, the WALGA Statement, which the Policy reflects, was endorsed by WALGA State Council on 4 July 2018, following consultation with member local governments. It represents the consolidated view of the local government sector and forms the basis of WALGA's climate change advocacy.

The WALGA Statement sets out that:

- *Local Government acknowledges:*
  - *The science is clear: climate change is occurring and greenhouse gas emissions from human activities are the dominant cause.*
  - *Climate change threatens human societies and the Earth's ecosystems.*
  - *Urgent action is required to reduce emissions, and to adapt to the impacts from climate change that are now unavoidable.*
  - *A failure to adequately address this climate change emergency places an unacceptable burden on future generations.*
- *Local Government is committed to addressing climate change.*
- *Local Government is calling for:*
  - *Strong climate change action, leadership and coordination at all levels of government.*
  - *Effective and adequately funded Commonwealth and State Government climate change policies and programs.*

The current WALGA Statement was updated from an earlier 2009 version to take account of developments in the scientific understanding of climate change, international and national political developments, and the perception of an increasing urgency for effective climate change adaptation and mitigation action.



Prior to the adoption of the WALGA Statement, the City had expressed its support through the South-West WALGA Zone, as well as through the 2016 adoption of the *Environment Strategy* (see 'Relevant Plans and Policies'). The City has also been and remains pro-active in both the climate change mitigation and adaptation spaces. Mitigation effort includes continued roof-top solar roll-out, reflected in the *Energy Strategy*. Adaptation effort includes the development of the City's 'Coastal Adaptation Strategy', recognising that the City is highly vulnerable to coastal processes and sea level rise.

#### OFFICER COMMENT

The report considered by Council in April contains further background and rationale for developing a Climate Change Policy. Given that, and given that the Council Resolution explicitly asks for presentation of a draft policy, consistent with the WALGA Statement, there is not seen to be a further need to set out a rationale for such a policy in this report. The focus here, therefore, is on explaining how officers have sought to reflect the WALGA Statement in a policy consistent with the City's policy template, governance framework and context.

The operative part of the Policy (i.e. the 'Policy Statement') consists of three parts, each briefly described below:

1. The WALGA Climate Change Declaration (which forms part 1.0 of the WALGA Statement) is replicated in 5.1-5.3, with the word 'City' replacing the words 'Local Government'. The Declaration was carefully worded to represent the views of the local government sector in WA, and the 'acknowledgement' component is also reflective of the stated policy positions of both government and opposition parties at both State and Federal level over a considerable period of time. 5.1 is a broad statement of intent, and inclusion in the Policy to reflect the WALGA Statement is seen as important.
2. 5.4 seeks to identify and recognise the climate change related risks that are or may have a significant impact on the City, its residents and ratepayers. The aim is to make the Policy a little more 'real', rather than simply talking about climate change in the abstract. It should be noted that most, if not all, of the identified risks, are risks that exist even in the absence of climate change, but which would be made more acute by climate change. The risks identified, are as follows (and which have been identified through numerous studies in the past):
  - a. Coastal erosion and inundation;
  - b. Bushfire;
  - c. Extreme weather events (storm, cyclone, heatwave, drought, flood);
  - d. Water availability, for both human and environmental use;
  - e. Changes to wetlands and waterways;
  - f. Loss of biodiversity;
  - g. Human health impacts (due to, amongst other things, an increase in vector-borne diseases and heatwaves); and
  - h. Increased transport and energy costs (due to efforts to mitigate climate change).
3. 5.5 indicates the City's support for the WALGA Statement more broadly, including the important advocacy role that local governments and WALGA can play on behalf of local communities – but without directly including that content in the City's own policy.

The City has developed and implemented a policy framework, which sets out the intent of Council policies, as opposed to operational documents such as Operational Practices and Guidelines. Given the City's policy framework and context, it was not considered appropriate to include further detail within a policy document.

### **Statutory Environment**

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

### **Relevant Plans and Policies**

The Officer Recommendation aligns to the following adopted plans or policies:

- Environment Policy (2018), sets out that, inter alia:

*5.2 The City will maintain an Environment Strategy to provide direction on how the City will meet the environmental aspirations of the community, as set out in the Strategic Community Plan, and to guide the City's activities.*

- City of Busselton Environment Strategy (2016) includes:

*Strategic Action 4.6 Develop a climate change declaration for the City.*

- City of Busselton Energy Strategy (2019) sets out that, inter alia:

*Vision: "Minimise energy costs and greenhouse gas emissions, through using energy as efficiently as possible and optimising our approach to generation and use of renewable energy, and to maximise returns to ratepayers through becoming a net energy generator".*

Targets:

- *To generate 100% of the City of Busselton electricity needs from renewable sources by 2030.*
- *To reduce City of Busselton corporate carbon emissions per capita to 50% on 2017/18 levels by 2030.*
- *Develop efficiency targets for fleet and plant by 2025.*

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the 2017 Governance Services 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. Implementation of climate change mitigation and adaptation measures can, however, have financial implications, both positive and negative. For instance, should the Council choose to move to an ongoing and more widespread FOGO bin service, there would be costs associated with doing so. Or, in another context, if the City failed to protect infrastructure from coastal processes and sea level rise (i.e. coastal erosion and inundation, salinisation of groundwater), there would be associated costs (and also costs associated with protection, if the Council had chosen to do that).

### **Stakeholder Consultation**

No external stakeholder consultation was required or undertaken in relation to this matter. Council Resolution C2004/001, which requested officers prepare a Climate Change Policy, was in response to a petition received by the Council in February 2020. The resolution of the Council set a timeframe for presentation of this report, which was to allow the Policy to be presented to Council once public accessibility to meetings becomes possible due to COVID-19 restrictions being lifted, as is now the case. That was in acknowledgment of the public interest in the matter of climate change.

### **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 such risks have been identified.

### **Options**

As an alternative to the proposed recommendation the Council could:

1. Amend the wording of the Policy.
2. Decide not to endorse a Climate Change Policy, but this would be contrary to Council Resolution C2004/001.

### **CONCLUSION**

Having a Climate Change Policy will signal even more clearly than is currently the case that the City takes the issue of climate change seriously and is committed to reducing and managing the impacts it is having on its operations and community. It also provides a clearer framework to support the extensive climate change mitigation and adaptation work already underway.

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

If adopted by the Council, the final Policy will be uploaded onto the City's website within 14 days of Council resolution.

COUNCIL POLICY



Council Policy Name: Climate Change Policy

Responsible Directorate: Planning and Development Services      Version: Draft

~~{Note version is either adopted, proposed, draft or archived}~~

**1. PURPOSE**

The purpose of this policy is to set out the Council's position –

- 1.1. On climate change generally and ~~of~~ key climate change issues affecting the City;
- ~~1.2.~~ Recognise the significant work done by the City in relation to both climate change mitigation and adaptation;
- ~~1.2.1.3.~~ ~~Strive to promote this Policy Statement and to act consistently with its contents;~~ and
- ~~1.3.1.4.~~ Set out the Council's support for the Western Australian Local Government Association's *Policy Statement on Climate Change*.

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**2. SCOPE**

- 2.1. This policy is applicable to all Council staff, Council Members, contractors and consultants acting on behalf of or employed by the Council. It applies to all aspects of the City's operations and responsibilities.....  
[who, what, when does this policy apply. If relevant articulate what decision making it is intended to guide.]

**3. DEFINITIONS**

Term	Meaning
Policy	this City of Busselton Council policy entitled "Climate Change Policy"
<b>WALGA Statement</b>	<i>Western Australian Local Government Association Policy Statement on Climate Change</i>
<u>Climate Change</u>	<b>To be added</b>
<u>Mitigation</u>	Reducing greenhouse gas emissions through reducing the amount of greenhouse gases that are released, or by enhancing the sinks that sequester (absorb or contain) emissions. (Source: IPCC – Intergovernmental Panel on Climate Change)
<u>Adaptation</u>	The adjustment in natural or human systems in response to actual or anticipated changes that reduces the harm, or takes advantage of the opportunities presented by climate change. (Source: IPCC – Intergovernmental Panel on Climate Change)
<u>Greenhouse Gas Emissions</u>	The release of greenhouse gases (as determined under the Kyoto Protocol as being carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, hydro fluorocarbons and per fluorocarbons) into the atmosphere which are widely recognised to cause global warming and climate disruptions.

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**4. STRATEGIC CONTEXT**

- 4.1. This policy links to Key Goal Area 3 of the City's Strategic Community Plan 2017 and specifically the following Community Objective/s:
  - a. 3.4 Climate change risks and impacts are understood, acknowledged and responded to through appropriate planning and community education.

4.2:

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5. POLICY STATEMENT

5.1. The City -.

a. As per 1.0 of WALGA Statement –

Local Government acknowledges:

- i. The science is clear: climate change is occurring and greenhouse gas emissions from human activities are the dominant cause.
- ii. Climate change threatens human societies and the Earth's ecosystems.
- iii. Urgent action is required to reduce emissions, and to adapt to the impacts from climate change that are now unavoidable.
- iv. A failure to adequately address this climate change emergency places an unacceptable burden on future generations.

Local Government is committed to addressing climate change.

Local Government is calling for:

- i. Strong climate change action, leadership and coordination at all levels of government.
- ii. Effective and adequately funded Commonwealth and State Government climate change policies and programs.

The City of Busselton acknowledges:

- I. The science is clear: climate change is occurring and greenhouse gas emissions from human activities are the dominant cause.
- II. Climate change threatens human societies and the Earth's ecosystems.
- III. Urgent action is required to reduce emissions, and to adapt to the impacts from climate change that are now unavoidable.
- IV. A failure to adequately address this climate change emergency places an unacceptable burden on future generations.

The City of Busselton is committed to addressing climate change.

The City of Busselton is calling for:

- I. Strong climate change action, leadership and coordination at all levels of government.
- II. Effective and adequately funded Commonwealth and State Government climate change policies and programs.

5.2. The City recognises that the following are Climate change related that are or may have a significant impact on the City, residents and ratepayers and the environment now and in coming decades –

- a. Increased Coastal erosion and inundation
- b. Increase in frequency and severity of Bushfire
- c. Increase in frequency and severity of extreme weather events
- d. Reduced potable water supplies availability, for both human and environmental use
- e. Changes to wetlands and waterways
- f. Energy and transport costs
- f. Loss of biodiversity
- g. Human health impacts (due to, amongst other things, an increase in vector-borne diseases and heatwaves)
- h. Increased transport and energy costs (due to efforts to mitigate climate change – this may need some more explanation)

5.3. The City supports the WALGA Statement

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Environment Policy
- 6.2. Energy Strategy
- 6.3. City of Busselton Climate Change Declaration
- 6.4. WALGA Climate Change Policy Statement

6.5. [State Planning Policy 2.6: State Coastal Planning Policy](#)  
6.6. [Local Government Act 1995](#)

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6-2-6.7.

7. REVIEW DETAILS

Review Frequency		3 yearly <small>[adjust if earlier review is appropriate]</small>		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE		Resolution #	



# Climate Change Policy Statement

*July 2018*



**Version tracking**

<b>Version number</b>	<b>Date</b>	<b>Author</b>	<b>Comments / Modifications</b>
1	February 2018	Laura Simes	Major revision of 2009 Climate Change Policy Statement, taking into account sector responses to the <i>WALGA Climate Change Position Statement Review Discussion Paper (November 2017)</i> .
2	May 2018	Laura Simes	Revisions taking into account sector comments on the <i>Draft Climate Change Policy Statement (March 2018)</i> . Reviewed by Nicole Matthews and Mark Batty.
3	July 2018	Laura Simes	Addition to include support for communities impacted, as recommended by State Council (July 2018).

ONE70  
LV1, 170 Railway Parade  
West Leederville WA 6007  
(08) 9213 2000





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## 1.0 Policy Statement

**Local Government acknowledges:**

- I. The science is clear: climate change is occurring and greenhouse gas emissions from human activities are the dominant cause.
- II. Climate change threatens human societies and the Earth's ecosystems.
- III. Urgent action is required to reduce emissions, and to adapt to the impacts from climate change that are now unavoidable.
- IV. A failure to adequately address this climate change emergency places an unacceptable burden on future generations.

**Local Government is committed** to addressing climate change.

**Local Government is calling for:**

- I. Strong climate change action, leadership and coordination at all levels of government.
- II. Effective and adequately funded Commonwealth and State Government climate change policies and programs.



## 2.0 Rationale

### 2.1 Purpose and intent of this document

Climate change is a key issue for Local Governments that impacts almost all aspects of their operations and responsibilities.

This Policy Statement represents the consolidated position of Western Australian Local Governments regarding this important issue.

WALGA will promote the Climate Change Policy Statement and act consistently with its content. The Policy Statement will form the basis for WALGA's climate change advocacy on behalf of the WA Local Government sector.

Individual Local Governments are encouraged to support and utilise this Policy Statement in developing and implementing their own climate change strategies and programs, but are not bound by the Policy.

### 2.2 The science is clear

**International scientific consensus is that climate change is occurring, and human activities are the dominant cause.**

The *Fifth Assessment Report*, the latest report of the scientific consensus-based Intergovernmental Panel on Climate Change (IPCC), found:

*Warming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, sea level has risen, and the concentrations of greenhouse gases have increased<sup>1</sup>.*

*Most aspects of climate change will persist for many centuries even if emissions of CO<sub>2</sub> are stopped<sup>2</sup>.*

*Surface temperatures will remain approximately constant at elevated levels for many centuries after a complete cessation of net anthropogenic CO<sub>2</sub> emissions. Due to the long time scales of heat transfer from the ocean surface to depth, ocean warming will continue for centuries. Depending on the scenario, about 15 to 40% of emitted CO<sub>2</sub> will remain in the atmosphere longer than 1,000 years. It is virtually certain that global mean sea level rise will continue beyond 2100, with sea level rise due to thermal expansion to continue for many centuries<sup>3</sup>.*

Further, the IPCC has also found:

*It is extremely likely [95–100%] that human influence has been the dominant cause of the observed warming since the mid-20th century.<sup>4</sup>*



### **2.3 Climate change is a global threat, and Australia has committed to being part of the solution**

As a signatory to the Paris Agreement under the United Nations Framework Convention on Climate Change and the United Nations Sustainable Development Goals (SDGs), Australia has committed to taking action on climate change and to ensuring that mitigation and adaptation action is equitable and consistent with the aims of the SDGs.

**Local Government is committed to meeting international obligations through Australia's participation in protocols and agreements established under the UNFCCC, including but not limited to the Paris Agreement and successive international treaties.**

The Paris Agreement expressly recognises the importance of engagement at all levels of government<sup>5</sup>. **Local Government is committed** to contributing to national and international emissions reduction targets to achieve the Paris Agreement goal of limiting global temperature rise to well below 2° Celsius and to pursue efforts to limit the temperature increase even further to 1.5° Celsius.

**Local Government acknowledges** that current worldwide commitments under the Paris Agreement are insufficient to achieve even the 2° Celsius goal<sup>6</sup>. Australia is a developed country with among the highest per capita greenhouse gas (GHG) emissions in the world<sup>7</sup>. Recognising this, **Local Government calls on the Commonwealth Government show international leadership, by committing to a more ambitious Paris target.**

**Local Government recognises** that both the impacts of climate change and the policy responses required to contribute to the avoidance of dangerous climate change have significant equity implications<sup>8</sup>. These equity considerations have domestic and international dimensions, for both present and future generations and for the survival of other species. Climate change disproportionately affects disadvantaged and marginalised groups<sup>9</sup> including the poor and rural and regional communities.

**Local Government supports an equitable transition to a carbon constrained world:**

- **globally**, the right of developing countries to increase their share of global wealth in ways that remain within the ecological capacities of the planet;
- **domestically**, the need to equitably share the cost of climate change adaptation and mitigation and ensure disadvantaged and marginalised groups receive adequate support. This includes provision of support and incentives for communities impacted by the transition (eg, by fostering innovation, and supporting workforce adjustment packages and new employment opportunities).

**Local Government supports the United Nations Sustainable Development Goals, and supports climate change action as part of a broader sustainable development agenda.**



## **2.4 Local Government is already acting on climate change, but all levels of Government must act**

**For Australia to meet its international obligations, all levels of government must act. The Western Australian and Commonwealth Governments have an obligation to address climate change in partnership with Local Government, and in consultation with the community.**

**Local Government calls on the Western Australian and Commonwealth Governments to develop a formalised coordinated approach, such as in the form of a Commonwealth/State/Local Government partnership agreement or Intergovernmental Agreement, establishing consistent and coordinated principles, objectives and actions across Australia that provides for long-term planning to address climate change.**

**The strategic, long-term planning that Local Government seeks from the Western Australian and Commonwealth Governments includes:**

- adequate ongoing funding for essential research, science and innovation to underpin climate change policy initiatives and program design<sup>10</sup>
- taking direct responsibility for the delivery of mitigation actions, adaptation and resilience planning in areas that lend themselves to centralised coordination at Western Australian or Commonwealth Government level;
- embedding climate change mitigation and adaptation considerations in Government projects and policies (government procurement, land management, development, investment strategies that move away from fossil fuels etc.);
- partnering with and resourcing Local Government to deliver community emissions reduction programs that are most effectively implemented at the Local Government level;
- removing existing barriers to climate mitigation and adaptation actions by Local Government; and
- ensuring all decisions are guided by the precautionary principle.

**Local Government calls on the Commonwealth Government to develop and implement a national plan for action to:**

- meet Australia's international obligations;
- ensure Australia is prepared to adapt to the impacts of climate change; and
- navigate the pathway to a low carbon economy, fostering innovation, new employment opportunities and economic growth.

**Local Government calls on the Western Australian Government for a major revision and update of the 2012 climate change strategy<sup>11</sup>.**



## 2.5 Local Government urges effective mitigation action

**Local Government recognises that there is a global climate emergency which requires urgent action.**

**Local Government is committed** to reducing operational GHG emissions and supporting the reduction of GHG emissions in the community.

**Local Government recognises** that Australia has the capacity to contribute to global climate change mitigation, by reducing emissions now, in a way that creates positive opportunities for communities, business and the economy.

**Local Government acknowledges** a successful response to the challenge of climate change requires cross-sectoral action by government, business and the community.

However, there are insufficient long-term Western Australian and Commonwealth Government plans or resources directed to climate change action. There is a particularly significant policy vacuum within the Western Australian Government, with negligible demonstrated or coordinated leadership or long-term planning. Australia and the world is seeing a shift away from fossil fuels towards energy efficient and renewable technologies that includes widespread uptake of rooftop solar<sup>12</sup>, battery storage<sup>13</sup>, energy trading<sup>14</sup>, virtual power plants<sup>15</sup>, electric vehicles<sup>16</sup>, energy efficiency and energy productivity<sup>17</sup>. The market, business, insurers, many Local Governments, communities and (other) State Governments are moving in this direction. **Local Governments are calling on the Western Australian and Commonwealth Governments** to accelerate action and remove barriers to transition to a low carbon, energy efficient economy.

**Local Government considers** a wide range of policy measures - from regulatory intervention and market-based mechanisms (such as an emissions trading scheme) through to voluntary schemes, education and behaviour change programs - are required to successfully achieve emissions reduction targets.

As part of the required national plan for action, **Local Government calls on the Commonwealth Government** to put in place efficient, effective and equitable measures to drive national emissions reductions.

Local Government is in a unique position to drive and implement mitigation programs, foster innovation and support sustainability at the community level, and has had successful collaborations and partnerships to implement such programs in the past<sup>18</sup>.

**Local Government calls on the Commonwealth Government** to partner with Local Government in its efforts to further reduce GHG emissions, including through:

- renewable energy projects (small scale and large scale);
- energy efficiency projects (eg, mass LED public lighting retrofits);
- waste management;
- enabling take-up of new renewable and sustainable technologies; and



- accelerating the take up of low or zero emissions vehicles (eg, Local Government electric vehicle fleets, installation of electric vehicle charging stations).

**Local Government calls on the Western Australian Government to:**

- follow the lead of the other States and Territories and introduce a State-level renewable energy and/or emissions reduction target;
- ensure that statutory planning policies are consistent with climate change mitigation priorities (eg, maintaining and increasing urban forest to reduce heat island effect, best practice building energy efficiency etc.); and
- drive mass LED public lighting retrofits, by addressing the regulatory hurdles and unaligned incentives that act as a disincentive to the uptake of low cost, energy efficient public lighting.

**Local Government calls on the Environmental Protection Authority** to take a stronger regulatory role in assessing and recommending conditions to mitigate the GHG emissions associated with major projects within the Environment Impact Assessment process<sup>19</sup>.

## 2.6 Local Government urges effective adaptation and resilience planning

**Local Government is committed** to the common goal of ensuring that Western Australia's human communities and natural ecosystems have the resources and assistance to enable them to build maximum resilience and adapt to climate change impacts that are now understood to be unavoidable.

**Local Government asserts** that it is the responsibility of all spheres of Australian Government to ensure that their decisions, policies and programs take into consideration the likely impact of climate change on current and future human settlements, natural resources and ecosystems and facilitate adaptation to these. These include but are not limited to disaster relief, national security, environment, energy, infrastructure and land use planning, water, housing, health and transport.

**Local Government notes** there are some policies, programs and limited funding for *coastal* adaptation in Western Australia, and a body of work completed in relation to bushfire planning and management. While this action is welcome, it is insufficient, and there is currently only *minimal* capacity and resourcing available to adapt to other effects of climate change, such as changes in temperature and rainfall, extreme weather events such as heatwaves and floods, flow-on effects such as the health and social impacts of climate change.

In many cases, Local Governments do not have the financial resources to shoulder the cost of implementing adaptation measures alone. This must be a shared responsibility.



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**Effective adaptation and resilience planning by Western Australian and Commonwealth Governments includes:**

- a strategic approach to progressing and funding action for climate change adaptation and building resilience;
- adequate assistance, including funding, for Local Governments and Commonwealth and State agencies engaged in adaptation action;
- recognising and planning for the impacts of climate change on biodiversity and agricultural productivity, particularly in relation to biosecurity;
- sustainable management of water resources;
- providing greater certainty for Local Governments managing their risk and liability flowing from adaptation planning decisions;
- a State-Wide Coastal Hazard Map;
- coastal management legislation in Western Australia to define and establish principles, objects, actions, roles and responsibilities for integrated coastal zone management, with specific reference to planned and managed retreat;
- ensuring the Western Australian planning system adequately incorporates consideration of climate change effects and adaptation issues; and
- hazard identification and planning beyond coastal planning, into current and expected effects of changes on extreme weather events, bushfires, biodiversity, invasive flora and fauna, health, social impacts etc.

**Local Government is also calling for national and state emergency management and disaster relief policies that adequately incorporate climate change in their planning and implementation.** Western Australia Natural Disaster Relief and Recovery Arrangements (WANDRRA) financial measures need to provide funding to reinstate a damaged or destroyed asset to a more disaster resilient standard, where this is an appropriate and cost effective response based on likely recurrence of the disaster event.

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<sup>1</sup> IPCC (2013). "Summary for Policymakers" in *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA at 4. Available at: <https://www.ipcc.ch/report/ar5/wg1/>.

<sup>2</sup> As above, at 27.

<sup>3</sup> As above, at 28.

<sup>4</sup> As above, at 17. The term "extremely likely" is defined by the IPCC as having an assessed likelihood of 95-100%: See "Chapter 1: Introduction" in *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA at 121 (footnote 2).

<sup>5</sup> United Nations Framework Convention on Climate Change (2015) *Adoption of the Paris Agreement*, 21<sup>st</sup> Conference of the Parties, Paris: United Nations at 2. Available at: [http://unfccc.int/files/home/application/pdf/paris\\_agreement.pdf](http://unfccc.int/files/home/application/pdf/paris_agreement.pdf).



<sup>6</sup> The Climate Action Tracker (Climate Analytics, Ecofys & NewClimate Institute) calculates the gap in current policies, Paris Commitments and the emissions reductions required to keep the world at a 1.5°C and a 2.0 °C increase. Available here: <https://climateactiontracker.org/global/cat-emissions-gaps/>.

<sup>7</sup> Australia has the highest per capita emissions of the OECD countries, and the seventh highest per capita in the world after Kuwait, Brunei, Qatar, Belize, Oman and Bahrain: CAIT Climate Data Explorer (World Resources Institute) (2018). *GHG Emissions Totals Excluding Land Use Change and Forestry Per Capita 2014*. Available at: <http://cait.wri.org/historical>.

<sup>8</sup> Althor, G. et al. Global mismatch between greenhouse gas emissions and the burden of climate change. *Sci. Rep.* 6, 20281; doi: 10.1038/srep20281 (2016). Available at: <https://www.nature.com/articles/srep20281>.

<sup>9</sup> "People who are socially, economically, culturally, politically, institutionally or otherwise marginalised are especially vulnerable to climate change" IPCC (2014). Summary for Policymakers" in *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, at 6. Available at: <http://www.ipcc.ch/report/ar5/wg2/>. See also CSIRO (2015). *Climate Change Adaptation for Health and Social Services*, edited by Rae Walker and Wendy Mason. CSIRO Publishing, and L Rickards et al. (2016). *On the Frontline: Climate Change & Rural Communities*. Climate Commission. Available at <https://www.climatecouncil.org.au/ruralreport>.

<sup>10</sup> For example, BOM and CSIRO's Climate Change in Australia: <https://www.climatechangeinaustralia.gov.au/>, Western Australian Marine Science Institution: <https://www.wamsi.org.au/>, National Climate Change Adaptation Research Facility: <https://www.nccarf.edu.au/> and CoastAdapt: <https://coastadapt.com.au/>.

<sup>11</sup> Western Australian Government (2012). *Adapting to our Changing Climate*. Available at: <https://www.der.wa.gov.au/your-environment/climate-change/254-adapting-to-climate-change>.

<sup>12</sup> See for example: A Bruce & I MacGill. "FactCheck Q&A: is Australia the world leader in household solar power?" *The Conversation*. 28 March 2016. Available at: <https://theconversation.com/factcheck-ganda-is-australia-the-world-leader-in-household-solar-power-56670>.

<sup>13</sup> See for example: N Harmsen. "Elon Musk's giant lithium ion battery completed by Tesla in SA's Mid North". *ABC News*. 24 November 2017. Available at: <http://www.abc.net.au/news/2017-11-23/worlds-most-powerful-lithium-ion-battery-finished-in-sa/9183868>; Climate Council. *Fully Charged: Renewables and Storage Powering Australia*. 2018. Available at: <https://www.climatecouncil.org.au/resources/battery-storage-2018/>.

<sup>14</sup> See for example: K Diss. "Blockchain technology fuels peer-to-peer solar energy trading in Perth start-up". *ABC News*. 11 October 2017. Available at: <http://www.abc.net.au/news/2017-10-11/blockchain-technology-fuels-peer-to-peer-energy-trading-start-up/9035616>.

<sup>15</sup> See for example: C Chang. "South Australian government strikes deal with Tesla to install free batteries to 50,000 homes". *News.com.au*. 5 February 2018. Available at: <http://www.news.com.au/technology/innovation/south-australian-government-strikes-deal-with-tesla-to-install-free-batteries-to-50000-homes/news-story/fd04731350da176c374383f3fb25e947/>.

<sup>16</sup> A Gray. "Countries are announcing plans to phase out petrol and diesel cars. Is yours on the list?" *World Economic Forum*. 26 September 2017. Available at: <https://www.weforum.org/agenda/2017/09/countries-are-announcing-plans-to-phase-out-petrol-and-diesel-cars-is-yours-on-the-list/>.

<sup>17</sup> Energy productivity is an indicator of the amount of economic output that is derived from each unit of energy consumed. See, for example, the Australian Alliance for Energy Productivity project to double productivity by 2030: <https://www.2xep.org.au/>.

<sup>18</sup> For example as delivery agents of the Commonwealth Government's Community Energy Efficiency Program (CEEP) and Local Government Energy Efficiency Program (LGEEP) and the Cities for Climate Protection.

<sup>19</sup> See commentary on State climate change in the EPA's *Annual Report 2016-2017* at 38-40. Available at: <http://www.epa.wa.gov.au/annual-reports/epa-annual-report-2016-2017>.





## Appendix A

### Acronyms

BOM	Bureau of Meteorology
CAIT	Climate Access Indicators Tool
CEEP	Community Energy Efficiency Program
CO <sub>2</sub>	Carbon dioxide
CPP	Cities for Climate Protection
CSIRO	Commonwealth Scientific and Industrial Research Organisation
GHG	Greenhouse Gas
ICLEI	International Council for Local Environmental Initiatives – Local Governments for Sustainability
IPCC	Intergovernmental Panel on Climate Change
LED	Light Emitting Diode
LGEEP	Local Government Energy Efficiency Program
NCCARF	National Climate Change Adaptation Research Facility
SDGs	Sustainable Development Goals
UNFCCC	United National Framework Convention on Climate Change
WALGA	Western Australian Local Government Association
WAMSI	Western Australian Marine Science Institution
WANDRRA	Western Australia Natural Disaster Relief and Recovery Arrangements
WRI	World Resources Institute



## Appendix B

### Background Information

#### Climate change in Australia<sup>1</sup>:

- Australia's climate has warmed in both surface air temperature and surrounding sea surface temperature by around 1°C since 1910.
- By late this century, Australia's average temperature is projected to increase by 3–5°C compared to a 1986–2005 baseline under the current global trajectory of greenhouse gas emissions, 1.5–2.5 °C for a medium emissions scenario or 0.5–1.5 °C for a low emissions scenario.
- There has been, and will continue to be, an increase in the number of days with weather conducive to fire in southern and eastern Australia. The number of days is projected to double by the end of the century under a high emissions scenario.
- May–July rainfall has reduced by around 19 per cent since 1970 in the southwest.
- Winter rainfall is projected to decrease across southern Australia, by a median of 17 per cent with a range of 2–32 per cent under a high emissions scenario by the end of the century, relative to 1986–2005, with more time spent in drought.
- Past and ongoing emissions commit us to further sea-level rise around Australia of around 6–19 cm by 2030, relative to the 1986–2005 baseline. By 2100, sea level rise could exceed two metres<sup>2</sup>.
- The rise in mean sea level will amplify the effects of high tides and storm surges.

**Intergovernmental Panel on Climate Change (IPCC):** This is the international body for assessing the science related to climate change. IPCC assessments provide a scientific basis for governments at all levels to develop climate related policies, and they underlie negotiations at the UN Climate Conferences. IPCC reports undergo multiple rounds of drafting and review to ensure they are comprehensive and objective and produced in an open and transparent way. Thousands of other experts contribute to the reports by acting as reviewers, ensuring the reports reflect the full range of views in the scientific community.

**Paris Agreement:** The first-ever universal, legally binding global climate deal, adopted by 195 countries at the UNFCCC Conference of Parties in Paris, December 2015. It aims to respond to the global climate change threat by keeping a global temperature rise this century well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5°C. It aims for global greenhouse gases to peak as soon as possible, and seeks to foster resilience and climate adaptation. Full text of the Paris Agreement is available [here](#). As of November 2017, all 195 countries have signed on to the Paris Agreement. The United States of America has indicated an intention to withdraw (it is unable to withdraw until November 2020). Further information tracking country ratifications and targets is available [here](#).

**Sustainable Development Goals (SDGs):** In September 2015, 193 countries (including Australia) agreed to the United Nations 17 Sustainable Development Goals (SDGs) and 169 targets. The SDGs are a successor to the Millennium Development Goals, but unlike the Millennium Development Goals, relate to all developed and emerging countries, as well as



developing countries. They aim to end poverty, hunger and inequality, take action on climate change and the environment, improve access to health and education, build strong institutions and partnerships, and more. Aims include climate action (Goal 13), affordable and clean energy (Goal 7), responsible consumption and production (Goal 12) and sustainable cities and communities (Goal 11). For further information on how the SDGs are relevant to Local Governments, see the Global Network of Cities, Local and Regional Government (UCLG) publication “The Sustainable Development Goals: What Local governments need to know”, available [here](#).

**United Nations Framework Convention on Climate Change (UNFCCC):** an international environmental treaty adopted on 9 May 1992. The UNFCCC objective is to “stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system”.

**Western Australia Natural Disaster Relief and Recovery Arrangements (WANDRRA):** provides a range of financial relief measures to assist communities to recover from an eligible natural disaster event, jointly funded by the Western Australian and Australian Governments, which reimburses Local Governments for the restoration and replacement of essential public assets owned by a local government to the extent necessary to restore the asset to the equivalent of its pre-disaster standard.

**Western Australian Local Government action on climate change:** WA Local Governments have, for a number of years, been actively engaged in a range of climate change mitigation and adaptation activity, together with education and encouraging awareness and behaviour change amongst residents. Many Local Governments have made voluntary commitments or pledges in relation to climate change, including the following:

Pledge	Description	Number of Local Government Participants
<b>Local Government Climate Change Declaration</b>	Developed by WALGA. A voluntary opportunity for Local Governments to demonstrate their political commitment to locally appropriate climate change adaptation and mitigation action. <sup>3</sup>	40 (representing 65% of the WA population)
<b>Divesting from fossil fuels</b>	Commitment to shift money out of banks that fund fossil fuels. <sup>4</sup>	12 (representing 30% of the WA population)
<b>Compact of Mayors</b>	A coalition of city leaders around the world committed to addressing climate change. <sup>5</sup>	4
<b>Cities Power Partnership</b>	Launched July 2017 by the Climate Council, aims to celebrate and accelerate emission reductions and clean energy in Australian towns and cities. <sup>6</sup>	10



In the past, Western Australian Local Governments have been key delivery agents of Commonwealth Government climate change mitigation programs, such as the Community Energy Efficiency Program (CEEP), the Local Government Energy Efficiency Program (LGEEP) and the Cities for Climate Protection (CCP) Program that was delivered by ICLEI with Commonwealth Government support. The LGEEP and CEEP grants assisted Local Governments in undertaking a wide range of building energy efficiency, LED public lighting and geothermal projects.

Program	Program dates	WA Local Government participants
Cities for Climate Protection	1999-2006	30
Local Government Energy Efficiency Program (LGEEP)	2011-2014	50 (includes 1 WALGA grant)
Community Energy Efficiency Program (CEEP)	2011-2016	15 (includes 1 WALGA grant)
Emissions Reduction Fund (ERF)	2014-present	2 (both transitioned from the Carbon Farming Initiative)

Adaptation is a current issue for Local Government, particularly as the effects of climate change are now unequivocally being felt, and Local Governments are in a position where they need to be planning for further effects of climate change in the future.

The Western Australian State Government provides around \$1.3 million funding per year under the CoastWest, Coastal Management Plan Assistance Program and Coastal Adaptation and Protection programs. In contrast, the New South Wales State Government (with a coastline one sixth the length of Western Australia), is providing \$63 million over five years. The Queensland State Government (with a coastline a little over half the length of Western Australia) provides \$12 million dollars over three years.

The Western Australian state planning system has encompassed coastal adaptation planning, but this has not yet been expanded to deal with other current and expected issues such as changes in temperature, rainfall and extreme weather events (including floods), heatwaves and bushfires.

<sup>1</sup> CSIRO 2016 *State of the Climate*. <https://www.csiro.au/en/Showcase/state-of-the-climate>.

<sup>2</sup> B Dennis and C Mooney. 2016. 'Scientists nearly double sea level rise projections for 2100, because of Antarctica'. *The Washington Post*. 30 March 2016. Available at: [https://www.washingtonpost.com/news/energy-environment/wp/2016/03/30/antarctic-loss-could-double-expected-sea-level-rise-by-2100-scientists-say/?noredirect=on&utm\\_term=.574c448f582f](https://www.washingtonpost.com/news/energy-environment/wp/2016/03/30/antarctic-loss-could-double-expected-sea-level-rise-by-2100-scientists-say/?noredirect=on&utm_term=.574c448f582f).

<sup>3</sup> For further information see here: <http://walga.asn.au/Policy-Advice-and-Advocacy/Environment/Climate-Change.aspx>.



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<sup>4</sup> For a list of Australian Local Governments that have committed to divest see here: <http://gofossilfree.org.au/fossil-free-councils/>. Not listed are City of Bayswater, City of Subiaco and the Shire of Mundaring, which have also recently committed to divest.

<sup>5</sup> Cities of Joondalup, Perth, Melville and Mandurah. Further information about the Compact of Mayors available here: <https://www.compactofmayors.org/>.

<sup>6</sup> Local Governments participating in the Cities Power Partnership are shown on the map here: <http://citiespowerpartnership.org.au/power-partners/>.

**COUNCIL POLICY**



Council Policy Name: Environment Policy

Responsible Directorate: Planning and Development Services

Version: Current

**1. PURPOSE**

1.1. The purpose of this Policy is to outline Council’s commitment towards continuous improvement in environmental management practices and the long-term protection of environmental values within the District.

**2. SCOPE**

2.1. This Policy applies to all land managed by the City and to all operations of the City.

**3. DEFINITIONS**

Term	Meaning
Policy	this City of Busselton Council policy entitled “Environment Policy”

**4. STRATEGIC CONTEXT**

4.1. This Policy links to Key Goal Area 3 - Environment of the City’s Strategic Community Plan 2017 and specifically the following Community Objective/s:

- a. 3.1: Development is managed sustainably and our environment valued;
- b. 3.2: Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations;
- c. 3.3: The health and attractiveness of our waterways and wetlands is improved to enhance community amenity

**5. POLICY STATEMENT**

5.1. The City will ensure:

- a. the proactive management of City land to protect and enhance environmental values;
- b. the establishment and maintenance of effective working relationships and partnerships with the community and other stakeholders to undertake environmental management;
- c. decision making by the City gives due regard to environmental values alongside economic and social considerations

5.2. The City will maintain an Environment Strategy to provide direction on how the City will meet the environmental aspirations of the community, as set out in the Strategic Community Plan, and to guide the City’s activities.

5.3. The City will ensure its decision making considers potential impacts on the environment by integrating environmental protection, social advancement and economic prosperity principles within sound governance frameworks.

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- 5.4. The City will implement best practice in its management of the environmental values of the District in order to identify and protect the City's exceptionally high biodiversity values.
- 5.5. The City will develop and maintain an Environmental Volunteer Management and Engagement Strategy with the aim of building and maintaining community capacity and engagement in relation to the management of the environmental values of the District, in particular through:
  - a. encouraging and supporting community participation and inclusiveness;
  - b. promoting community engagement and collaboration;
  - c. encouraging and nurturing partnerships
- 5.6. The City will plan, design, operate and conduct operations in a manner that minimises waste and resource consumption.

**6. RELATED DOCUMENTATION / LEGISLATION**

- 6.1. Local Environmental Planning Strategy
- 6.2. Environment Strategy 2016-2021
- [6.3. Environmental Volunteer Management and Engagement Strategy 2017](#)
- [6.3.6.4. Climate Change Policy](#)

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**7. REVIEW DETAILS**

<b>Review Frequency</b>		3 yearly		
<b>Council Adoption</b>	<b>DATE</b>	10 October 2018	<b>Resolution #</b>	C1810/202
<b>Previous Adoption</b>	<b>DATE</b>	9 November 2016	<b>Resolution #</b>	C1611/128

<b>COUNCIL POLICY</b>		
		
Council Policy Name:	Climate Change Policy	
Responsible Directorate:	Planning and Development Services	Version: Draft

**1. PURPOSE**

- 1.1. The purpose of this Policy is to:
- a. set out the Council’s position on climate change generally and key climate change issues affecting the City; and
  - b. set out the Council’s support for the Western Australian Local Government Association’s *Policy Statement on Climate Change*.

**2. SCOPE**

- 2.1. This Policy is applicable to all Council staff, Elected Members, contractors and consultants acting on behalf of or employed by the City. It applies to all aspects of the City’s operations and responsibilities.

**3. DEFINITIONS**

Term	Meaning
<b>Adaptation</b>	The adjustment in natural or human systems in response to actual or anticipated changes that reduces the harm, or takes advantage of the opportunities presented by climate change. (Source: IPCC – Intergovernmental Panel on Climate Change)
<b>Mitigation</b>	Reducing greenhouse gas emissions through reducing the amount of greenhouse gases that are released, or by enhancing the sinks that sequester (absorb or contain) emissions. (Source: IPCC – Intergovernmental Panel on Climate Change)
<b>Policy</b>	this City of Busselton Council policy titled “Climate Change Policy”
<b>WALGA Statement</b>	Western Australian Local Government Association <i>Policy Statement on Climate Change</i>

**4. STRATEGIC CONTEXT**

- 4.1. This Policy links to Key Goal Area 3 of the City’s Strategic Community Plan 2017 and specifically Community Objective 3.4 Climate change risks and impacts are understood, acknowledged and responded to through appropriate planning and community education.

**5. POLICY STATEMENT**

- 5.1. As per the WALGA Statement, the City of Busselton acknowledges:
- a. the science is clear: climate change is occurring and greenhouse gas emissions from human activities are the dominant cause;
  - b. climate change threatens human societies and the Earth’s ecosystems;
  - c. urgent action is required to reduce emissions, and to adapt to the impacts from climate change that are now unavoidable;



- d. a failure to adequately address this climate change emergency places an unacceptable burden on future generations.
- 5.2. The City of Busselton is committed to addressing climate change.
- 5.3. The City of Busselton is calling for:
- a. strong climate change action, leadership and coordination at all levels of government.
  - b. effective and adequately funded Commonwealth and State Government climate change policies and programs.
- 5.4. The City recognises that the following may have a significant impact on the City, residents and ratepayers and the environment now and in coming decades, and are of increased risk due to climate change:
- a. increased coastal erosion and inundation;
  - b. increase in frequency and severity of bushfire;
  - c. increase in frequency and severity of extreme weather events;
  - d. reduced water availability, for both human and environmental use;
  - e. changes to wetlands and waterways;
  - f. loss of biodiversity;
  - g. human health impacts (due to, amongst other things, an increase in vector-borne diseases and heatwaves);
  - h. increased transport and energy costs (due to efforts to mitigate climate change).
- 5.5. The City supports the WALGA Statement, in particular in relation to:
- a. recognising that local government cannot address climate risks on its own;
  - b. supporting a coordinated and proactive approach to mitigating and adapting to climate change related risks at the individual local government level;
  - c. continued support for partnerships with other local governments, with State and Federal Governments, with our communities and with business and industry, aimed at addressing the challenges of climate change; and
  - d. supporting coordinated and proactive local government advocacy at both State and Federal level in support of policy and funding initiatives that will mitigate climate change and support climate change adaptation.


## 6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. Environment Policy
- 6.2. Energy Strategy
- 6.3. City of Busselton Climate Change Declaration
- 6.4. WALGA Climate Change Policy Statement
- 6.5. State Planning Policy 2.6: State Coastal Planning Policy
- 6.6. *Local Government Act 1995*

7. REVIEW DETAILS

<b>Review Frequency</b>		3 yearly		
<b>Council Adoption</b>	<b>DATE</b>		<b>Resolution #</b>	
<b>Previous Adoption</b>	<b>DATE</b>		<b>Resolution #</b>	

12.8 Policy and Legislation Committee - 29 July 2020 - LOCAL PLANNING POLICY REVIEW - REVOCATION OF LPP 1.4, LPP 6.2 AND LPP 6.3; INITIATION OF REVISIONS TO LPP 1.3 AND LPP 6.1; AND INITIATION OF NEW LPP \*\* : ADVERTISING SIGNS

<b>STRATEGIC GOAL</b>	2. PLACE AND SPACES Vibrant, attractive, affordable
<b>STRATEGIC OBJECTIVE</b>	2.3 Creative urban design that produces vibrant, mixed-use town centres and public spaces.
<b>SUBJECT INDEX</b>	Development Control Policy
<b>BUSINESS UNIT</b>	Statutory Planning
<b>REPORTING OFFICER</b>	Senior Development Planner – Policy - Stephanie Navarro
<b>AUTHORISING OFFICER</b>	Director, Planning and Development Services - Paul Needham
<b>NATURE OF DECISION</b>	Legislative: to adopt legislative documents e.g. local laws, local planning schemes, local planning policies
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	<p>Attachment A LPP 1.4 : Single Dwelling Design  </p> <p>Attachment B LPP 6.2 : Drainage Infill Contributions  </p> <p>Attachment C LPP 6.3 : Mosquito Control  </p> <p>Attachment D Current LPP 1.3 : Private Jetties and Boat Lifting Structures  </p> <p>Attachment E Proposed LPP 1.3 : Private Jetties and Boat Lifting Structures - Amended  </p> <p>Attachment F Current LPP 6.1 : Stormwater Management  </p> <p>Attachment G Proposed LPP 6.1 : Stormwater Management - Amended  </p> <p>Attachment H Proposed LPP ** : Advertisements and Advertising Signs - New  </p>

This item was considered by the Policy and Legislation Committee at its meeting on 29 July 2020, the recommendations from which have been included in this report.

**OFFICER RECOMMENDATION**

That the Council:

1. Revokes the following Local Planning Policies as set out below:
  - (a) LPP 1.4 : Single Dwelling Design (Attachment A);
  - (b) LPP 6.2 : Drainage Infill Contribution (Attachment B); and
  - (c) LPP 6.3 : Mosquito Control Contribution (Attachment C).
2. Advertise the notice of revocation in a newspaper circulating within the Scheme area in accordance with clause 6 of Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. Initiates for the purposes of public consultation the following amended Local Planning Policies as set out below:
  - (a) LPP 1.3 : Private Jetties and Boat Lifting Structures (Attachment E); and
  - (b) LPP 6.1 : Stormwater Management (Attachment G).
4. Initiates for the purposes of public consultation a new Local Planning Policy – LPP \*\* : Advertisements and Advertising Signs (Attachment H); and
5. Advertise the initiated Local Planning Policies in a newspaper circulating within the Scheme area for four weeks in accordance with clause 6 of Part 2 of Schedule 2 –

**Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

**COMMITTEE RECOMMENDATION**

That the Council:

1. **Revokes the following Local Planning Policies as set out below:**
  - (a) **LPP 1.4 : Single Dwelling Design (Attachment A);**
  - (b) **LPP 6.2 : Drainage Infill Contribution (Attachment B); and**
  - (c) **LPP 6.3 : Mosquito Control Contribution (Attachment C).**
2. **Advertise the notice of revocation in a newspaper circulating within the Scheme area in accordance with clause 6 of Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**
3. **Initiates for the purposes of public consultation the following amended Local Planning Policies as set out below:**
  - (a) **LPP 1.3 : Private Jetties and Boat Lifting Structures (Attachment E); and**
  - (b) **LPP 6.1 : Stormwater Management (Attachment G).**
4. **Defer consideration of a new Local Planning Policy – LPP \*\* : Advertisements and Advertising Signs (Attachment H) to the next Committee meeting; and**
5. **Advertise the initiated Local Planning Policies in a newspaper circulating within the Scheme area for four weeks in accordance with clause 6 of Part 2 of Schedule 2 – Deemed Provisions for Local Planning Schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

Reasons: The Committee have requested further information and time to consider the proposed Local Planning Policy: Advertisements and Advertising Signs.

**EXECUTIVE SUMMARY**

The City is undertaking a comprehensive review of all its local planning policies (LPPs). It is proposed, as part of this report, that the following LPPs be revoked for the reasons outlined within this report:

1. LPP 1.4 : Single Dwelling Design; and
2. LPP 6.2 : Drainage Infill Contribution; and
3. LPP 6.3 : Mosquito Control Contribution.

In addition to the above, it is proposed that amendments to the following LPPs be initiated for the purposes of public consultation:

1. LPP 1.3 : Private Jetties and Boat Lifting Structures; and
2. LPP 6.1 : Stormwater Management.

Furthermore, it is proposed that a new LPP be initiated for the purposes of public consultation:

1. LPP \*\*: Advertisements and Advertising Signs.

It is noted that since the previous report to the Council on the LPP review, the numbering of the LPPs has been changed. The change was administrative only and therefore no resolution by Council was required.

## BACKGROUND

The *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) provide that LPPs may be prepared by a local government in respect of any matter relating to planning and development within the *City of Busselton Local Planning Scheme No. 21* (Scheme) area.

The intention of an LPP is to provide guidance to applicants/developers and the community in regard to the decision-making process, as well as to the local government when exercising discretion under the Scheme. LPPs must be consistent with the intent of the relevant Scheme provisions, including the *State Planning Policy 7.3 - Residential Design Codes* (R-Codes), and cannot vary development standards or requirements set out in a Scheme or impose any mandatory requirements upon development.

LPPs are to be given due regard in the assessment of development applications and are listed as a "matter to be considered" when making a determination of a development application under clause 67 of Schedule 2 of the Regulations.

In March 2019, the City commenced the first stage of the LPP review. This stage was policy neutral and did not alter the intent or provisions within the LPPs, however the LPPs were re-formatted into an easier-to-read template, taking the LPPs from a single manual structure and separating them into individual policies. These changes were adopted by Council at its meeting on 27 March 2019 (C1903/053).

The City has now commenced the second stage of the review process and is currently reviewing the content and relevance of all LPPs. Due to the number of LPPs and the complexity of issues which need to be addressed, this review has been broken down into a number of stages. It is proposed as part of this report that a number of LPPs be revoked, amended or initiated. A comprehensive description of each of the LPPs being considered is set out in the officer comment section of this report.

## OFFICER COMMENT

### 1. Policies Recommended For Revocation

#### LPP 1.4 : Single Dwelling Design

In 2007, the Council endorsed an LPP that combined the former 'Dual Occupant Development' and 'Residential Development' policies into a single policy, the 'Residential Design Guidelines' policy. This policy was created to deal with a number of issues relating to residential development not covered by the R-Codes, including clarifying what constitutes a single dwelling. At the time, it was considered that the planning and building framework did not adequately define what constitutes a single dwelling (i.e. the distinction between a 'Single House' and a 'Grouped Dwelling' was unclear) and therefore it was considered necessary to introduce a policy clarifying the matter.

Under the R-Codes, there are three main types of 'Dwellings' being 'Single House', 'Grouped Dwelling' and 'Multiple Dwelling'. These types of 'Dwellings' are defined within the R-Codes and, under clause 25 of Part 4 (General development requirements) of the Regulations, these definitions are to be read as part of the Scheme. They therefore have the same weight as land use definitions within the Scheme.

A recent State Administrative Tribunal (SAT) case, *Corp and Town of Cambridge [2019] WASAT 65*, dealt with this matter in relation to the land use classification of a dwelling. This case dealt with a development application that was refused by the Town of Cambridge, with one of the reasons for refusal being that the design of the dwelling resulted in it being considered to be two dwellings. The dwelling proposed two 'wings', each with a kitchen, living room, bathrooms and bedrooms, and therefore was considered by the Town to be two Grouped Dwellings (which was not permissible, as the minimum lot sizes for each dwelling at that density were unable to be met). While the dwelling proposed some shared elements, being a shared entry, laundry and garage, it was considered by the SAT that this was not sufficient for the dwelling to be considered a Single House, as the manner in which the dwelling would function was that of two separate dwellings. The case found that:

*There are no set criteria that are to be worked through in making an assessment of this type. There can be no fixed or rigid principles. In each instance, it will be an evaluative judgment and each application will turn on its own facts.*

The Corp decision referenced an earlier case in Victoria, *Casey City Council v Kelly [2004] VCAT 1838*, which found along the same lines:

*It is not just the physical characteristics of development that will determine the purpose for which land is used but rather the way in which that development functions or is used that will determine its purpose.*

When assessing a development application, it is considered that the definitions within the R-Codes are sufficient for the City to determine the use class of a development and, as per the Corp case (referenced above), each development is required to be assessed on a case-by-case basis. Therefore, it is considered that this Policy is redundant and should be revoked. It is proposed that the City's understanding of what constitutes a 'Dwelling' (in plain English terms, with appropriate disclaimers) will be addressed by the City via an information sheet.

#### LPP 6.2 : Drainage Infill Contribution

In 2014, the Council adopted two new Local Planning Policy provisions - LPP 6.1 : Stormwater Management and LPP 6.2 : Drainage Infill Contributions Provisions (C1410/244). These LPPs replaced three earlier Council policies, namely 182/3 (Vasse Diversion Drain Contributions), 183/3 (Local Drainage Contributions) and 184/3 (Main Drain Contributions).

The 'Building Code of Australia' requires stormwater to be disposed of in a way that avoids the likelihood of damage or nuisance to any other property however it does not specify the rate at which the stormwater is required to be retained.

LPP 6.2 was introduced to collect contributions in situations when stormwater could not be contained on site as in accordance with the volumetric requirements required under LPP 6.1 as the discharge of stormwater off-site placed additional pressure on the City's Infrastructure.

In a practical sense, the City always requires compliance with the volumetric requirements of the deemed-to-comply criteria of LPP 6.1 and does not perform an assessment under the design principles of the Policy. Furthermore, a number of issues arose from applying the contributions to development, including concerns regarding the consistency at which the contributions were applied and inadequate funds being collected to pay for the works necessary. It is noted that for larger scale development or subdivision, District, Local or Urban Water Management Plan/Strategy provides for the management of stormwater to local government requirements.

More importantly, however, Draft State Planning Policy 3.6 'Infrastructure Contributions' (Draft SPP 3.6), which is a seriously entertained document, specifies that a monetary contribution for public utilities (which includes drainage works) is only permitted where the matter has been included in a Developer Contribution Plan (DCP). As the City has no DCP for drainage infill, when Draft SPP 3.6 is adopted in final form (which is understood to be imminent) no suitable head of power to require a monetary contribution for drainage works would be in place and, as such, LPP 6.2 would be invalid.

It is therefore proposed that LPP 6.2 be revoked and LPP 6.1 be amended to simplify the requirements and remove the ability for insufficient stormwater infrastructure to be provided on site.

#### LPP 6.3 : Mosquito Control Contribution

LPP 6.3 : Mosquito Control Contribution requires a contribution towards mosquito management to be paid at the time of subdivision/commencement of development for every additional lot or dwelling within the policy area. The purpose of this contribution was to enable the City to effectively plan for the provision or extension of mosquito control operations that were likely to be required as a consequence of development in the area.

The current contribution rate is \$40.78 per additional dwelling/lot. The funds collected as part of this contribution have ceased to form part of the funding utilised for the City's ongoing mosquito management activities. It is considered that the administrative burden on the City and applicants associated with collecting these developer contributions is disproportionate to the relatively low monetary value of this contribution. Furthermore, there is no consideration of contributions of this nature in draft SPP 3.6 and as the City has no DCP for this contribution, when Draft SPP3.6 is adopted in final form there would be no suitable head of power to require a monetary contribution for mosquito management and, as such, LPP 6.3 would be invalid.

It is, therefore, recommended that the Policy be revoked.

## **2. Policies Recommended To Be Revised**

#### LPP 1.3 : Private Jetties and Boat Lifting Structures

LPP 1.3 : Private Jetties and Boat Lifting Structures was adopted by the Council in 2011 and provides a framework for the assessment and approval of jetties and boat lifting structures within waterways.

A number of amendments to LPP 1.3 are proposed including a number of formatting changes which are proposed to simplify and shorten the Policy. The main modification to the existing policy is to allow for the consideration of mechanical boat lifting structures. Currently, under part 4.2 'Boat Lifting Devices and Structures', mechanical boat lifting structures (including davits) are not permitted. This provision was included in the Policy as at the time that the original Policy was endorsed in part because the Port Geographe Landowners' Association did not support mechanical boat lifting facilities.

It is proposed that the assessment criteria be updated so as to allow for the consideration of mechanical boat lifting structures where it can be demonstrated that the structure will not detrimentally impact on the amenity of adjoining owners or the navigability, accessibility and useability of the canal. Given that davits are used to move larger type vessels from land to water, a provision has been included which specifies that davits will only be supported in 'Marinas' (as defined by the Scheme) where it can be demonstrated that the structure will not detrimentally impact on the amenity of the locality.

It is noted that noise from a development and land use, including but not limited to noise from the use of equipment and machinery (including the use of a boat lifting device), is to comply with the *Environmental Protection (Noise) Regulations 1997*.

The remainder of the key content contained within the Policy Statement section of the policy remains largely unchanged. However, the length of the policy has been reduced significantly through:

- The inclusion of the term 'Jetty' within the listed interpretations to include a Finger, Floating Land backed and L or T shaped structure;
- The amalgamation of individual Jetty provisions under the subheading '4.2 Jetties' and the relocation of provisions under '4.1 General Provisions';
- The removal of the subheading '4.3 Consultation with adjoining landowners and community groups'; and
- The removal of attachments on the basis that this information is able to be provided to applicants via an information sheet.

The draft Policy has been reviewed by a Senior Planning Project Officer from the Marine division of the Department of Transport, who expressed support for the changes, in particular the updated wording with reference to consideration of mechanical boat lifting structures.

#### LPP 6.1 : Stormwater Management

As mentioned above, in 2014 the Council adopted two new Local Planning Policy Provisions; LPP 6.1: Stormwater Management and LPP 6.2 : Drainage Infill Contributions Provisions (C1410/244). LPP 6.1 : Stormwater Management was introduced to provide guidance to the community and industry on standards for on-site stormwater management including volumetric requirements.

LPP 6.1 currently includes a deemed-to-comply criteria, and design principles, for on-site stormwater management for different types of development. Under the current Policy, where on-site stormwater management methods was not in accordance with the volumetric requirements of the deemed-to-comply criteria of the Policy, the Policy enabled an assessment against the relevant design principles and included a requirement for the payment of contributions in accordance with LPP 6.2.

The volumetric requirements for on-site stormwater management systems is unchanged from the current Policy requirements however as LPP 6.2 is proposed to be revoked, for the reasons outlined above, the ability to provide insufficient stormwater management on site as well as any reference to LPP6.2 within this Policy, has been removed. Therefore, it is proposed as part of this revised Policy that that all stormwater be contained on site for a 1-year Average Recurrence Interval (ARI) for Single Houses (and associated outbuildings) on lots less than 4,000m<sup>2</sup>, which equates to 1m<sup>3</sup> of stormwater storage per 65m<sup>2</sup> of impervious surfaces. For all other types of development on lots less than 4,000m<sup>2</sup> all stormwater is required to be contained on site for a 5-year ARI, which equates to 1m<sup>3</sup> of stormwater storage per 40m<sup>2</sup> of impervious surfaces. The greater level of stormwater retention for development other than Single House is required, as generally these types of development have a larger proportion of impervious surfaces and therefore have a greater amount of stormwater run-off.

In some areas, lots are provided at the subdivision stage with a Drainage Property Connection which is a device used to discharge stormwater from a private lot directly into an integrated street conveyance and treatment system. In these instances, sufficient stormwater management systems in accordance with the rates prescribed under the policy are still required to be provided within the lot however the overflow from these systems may be directed into the Lot Drainage Connection should be installed provide a silt trap is provided to collect and remove waste.

For lots greater than 4,000m<sup>2</sup>, no set volumetric requirement is prescribed as it is considered that there is generally adequate setback and/or soft landscaped areas for the stormwater to be managed on-site without storage and infiltrations systems. Stormwater is still required to be contained on site such that it does not cause erosion to any building or adjoining properties. These standards are in keeping with the practices that are currently undertaken by the City.



It is therefore proposed that LPP 6.1 be amended to simplify the requirements and remove the ability for contributions to be made to allow stormwater infrastructure to lower standards to be provided on site.

### 3. Recommendation For New Policy

#### LPP \*\* : Advertisements and Advertising Signs

Advertising Signs are defined under this Policy to include “permanent structure/s used for the purpose of advertisement, or to draw attention to, a product, business, person or event”. It is not proposed that this Policy be applicable to portable signs as these are controlled by the *Activities in Thoroughfares and Public Places and Trading Local Law 2015* and guided by *Council Policy - Portable Advertising Signs in Public Places*.

Currently, the only controls applicable to Advertising Signs are contained with clauses 4.36.4, 4.41 and Schedule 11 – Exempted Advertising of the Scheme as outlined below:

- Clause 4.36.4 outlines requirements for entry statements within the Rural and Viticulture and Tourism zones; and
- Clause 4.41 outlines that Advertisements are prohibited if they advertise goods and services which are not produced, displayed or offered for sale, or which is otherwise not relevant to, the land upon which the advertisement is located; and
- Schedule 11 includes specific types and requirements for Advertising Signs that if met are exempt under clause 6.1 Permitted Development of the Scheme from requiring development approval.

In the absence of the prohibition under Clause 4.41 of the Scheme, there would be a widespread proliferation of such signage, including the potential for third party billboard advertising. It is considered that this type of advertising would significantly affect the visual amenity of the District, in particular along Bussell Highway and the entrances into the Busselton city centre and Dunsborough town centres. It is considered, under the current controls, the City has been relatively successfully in maintaining the natural and rural landscapes along these highly visible tourism routes providing a significant ‘point of difference’ relative to Perth and all other major regional centres in Western Australia. These are considered to be significant benefits that arise from that ‘point of difference.’

If an advertisement does not comply with the requirements of clause 4.36.4 or Schedule 11, there are no further controls in place and development applications are required to be assessed on a case by case basis against the “matters to be considered” of the Regulations. A lack of further requirements has resulted in uncertainty regarding what the City considers to be acceptable when determining a development application for an Advertising Sign which require approval.

It is therefore proposed as part of this Policy that provisions relating to the dimensions and maximum number of signs be introduced. Requirements for different zones are proposed to reflect the different land uses permissible in those areas, as well as the desired amenity of each zone.

The Policy also proposes to set requirements for signage which incorporates illumination. Currently the City does not have any specific controls around the illumination of advertisements. The Policy makes the distinction between animated signage and static illumination of advertisements. Animated Signage is defined under the Policy as follows:

*Animated Signage includes, but is not limited to, any signage or its content that is electronic and includes flashing or “chasing” lights, as well as video signs, plasma and LCD screen signs.*

It is proposed under the Policy that Animated Signage is not permissible for commercial purposes and is only permitted for not-for-profit organisations, schools and/or other authorities when used to display community messages. The City's *Local Planning Strategy*, *Leeuwin Naturaliste Sub-Regional Strategy* and associated *State Planning Policy 6.1* seek, inter alia, to support the retention of the existing visual and environmental character and amenity of the District and discourage commercialisation along travel route corridors. In line with the strategic direction provided in these documents, the proposed Policy intends to limit animated signage as it is considered that it would detract from the desirable visual amenity of the area and once approved.

Further, it would be very difficult to control what advertisements are displayed and ensure compliance with Clause 4.41 of the Scheme and to differentiate between an appropriate and inappropriate advertisement. As with 'billboard' type signage, it is considered that the primary beneficiary of allowing this kind of signage would be large businesses, in many cases state-wide or national chains, and such advertising would undermine visual amenity and local character. There are also substantial practical difficulties with enforcing controls that relate to dynamic content in signs. Note that the City has been approached on several occasions, including recently, seeking support for LED or similar signage.

Static Illumination is defined under the Policy as follows:

*Static Illumination means an internal or external light source that lights any type of sign. The light can not chase, flash or have any moving features or animations and includes light boxes, LED and Neon signs.*

It is proposed that Static Illumination of signage be permissible only where the application has been able to demonstrate to the City that there will be no detrimental impact on surrounding residential properties.

As part of the preparation of this Policy, the City has considered the requirements of other local governments within Western Australia, including the City of Bunbury and various Perth Metropolitan local governments. In addition, officers have reviewed the City's former local law relating to signs and other advertising devices (which was repealed in 2015) as well as previous development approvals for various types of signs within the City. It is considered that the provisions proposed within this Policy are consistent with the current requirements that are generally applied by the City when assessing development applications.

### **Statutory Environment**

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

#### ***Division 2 — Local planning policies***

##### ***3. Local planning policies***

- (1) The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.***
- (2) A local planning policy —***
  - (a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and***

- (b) *may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.*
- (3) *A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.*
- (4) *The local government may amend or repeal a local planning policy.*
- (5) *In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.*

**4. Procedure for making local planning policy**

- (1) *If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows –*
- (a) *publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of –*
- (i) the subject and nature of the proposed policy; and*
  - (ii) the objectives of the proposed policy; and*
  - (iii) where the proposed policy may be inspected; and*
  - (iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;*
- (b) *if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
- (c) *give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*
- (2) *The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).*
- (3) *After the expiry of the period within which submissions may be made, the local government must –*
- (a) *review the proposed policy in the light of any submissions made; and*
- (b) *resolve to –*
- (i) proceed with the policy without modification; or*
  - (ii) proceed with the policy with modification; or*
  - (iii) not to proceed with the policy.*
- (4) *If the local government resolves to proceed with the policy, the local government must publish notice of the policy in a newspaper circulating in the Scheme area.*
- (5) *A policy has effect on publication of a notice under subclause (4).*
- (6) *The local government –*

- (a) *must ensure that an up-to-date copy of each local planning policy made under this Scheme is kept and made available for public inspection during business hours at the offices of the local government; and*
- (b) *may publish a copy of each of those local planning policies on the website of the local government*

### **Relevant Plans and Policies**

The policies affecting this proposal include:

- *State Planning Policy 3.6 – Development Contributions; and*
- *Leeuwin Naturaliste Sub-Regional Strategy and associated State Planning Policy 6.1: Leeuwin-Naturaliste Ridge; and*
- *City of Busselton Local Planning Strategy 2019.*

#### **State Planning Policy 3.6**

State Planning Policies are made under section 26 of the *Planning and Development Act 2005*. The Western Australian Planning Commission and local governments must have due regard to the provisions of adopted policies in preparing planning schemes and making decisions on planning matters.

State Planning Policy 3.6 (SPP 3.6) sets out the principles and considerations that apply to development contributions for the provision of infrastructure in new and established urban areas, as well as the form, content and process to be followed in preparing a development contributions plan.

The policy provides the capacity to obtain development contributions towards community infrastructure (i.e. contributions that go beyond delivery of public open space or traditional 'hard' infrastructure such as roads, drainage and reticulated water, energy or telecommunications services) either by way of a development contributions plan or by a voluntary agreement between the developer and the relevant local government.

The objectives of the policy are:

- i. to promote the efficient and effective provision of public infrastructure and facilities to meet the demands arising from new growth and development;*
- ii. to ensure that development contributions are necessary and relevant to the development to be permitted and are charged equitably among those benefiting from the infrastructure and facilities to be provided;*
- iii. to ensure consistency and transparency in the system for apportionment, collecting and spending development contributions; and*
- iv. to ensure the social well-being of communities arising from, or affected by, development.*

#### **Leeuwin Naturaliste Sub-Regional Strategy and Associated State Planning Policy 6.1**

The Leeuwin Naturaliste Sub-Regional Strategy (LNSRS) is an overarching planning document that guides the future planning and development of all the land within the local government areas of the Shire of Augusta-Margaret River and the City of Busselton. The LNSRS was released in May 2019 with the following vision for the Leeuwin-Naturaliste sub-region:

*The Leeuwin-Naturaliste sub-region to continue to develop and be managed in a manner consistent with the character, amenity and value of the natural and built environments, and the efficient use and equitable distribution of resources.*

State Planning Policy 6.1 (SPP 6.1) includes a statement of intent to conserve the unique landscape values of the Leeuwin-Naturaliste Ridge, including those along travel route corridors. Both documents support the retention of the visual and environmental values along these routes and discourage commercialisation along travel route corridors. The City would consider that third party billboards along these routes would not be in keeping with the intention of LNSRS and SPP 6.1 and that controls regarding advertising signage, including restrictions on animated signage, proposed in the new LPP will reinforce intent of these documents.

### Local Planning Strategy 2019

The purpose of the LPS is to:

- set out the long-term (25 years-plus) broad planning direction for the whole of the District of the City of Busselton;
- provide a strategic rationale for decisions related to the planning and development of the District;
- apply state and regional planning policies relevant to the strategy; and
- provide a strategic rationale for decisions related to the planning and development of the District. The LPS consists of five 'planning themes' with Theme 4 : Environment, landscape and heritage relating to the natural, rural and urban landscapes of the District.

Strategies j) of Theme 4 states as follows:

- j) Protect and enhance the visual character of the District by avoiding the further commercialisation of land-use and development visible from: i) key public vantage points (e.g. scenic lookouts, trails) within National Parks and conservation parks; and ii) regional roads, strategic local roads and travel route corridors (as defined in the Leeuwin-Naturaliste Ridge State Planning Policy); as well as providing, wherever possible and consistent with maintaining landscape and visual character values, screening landscaped buffers where development is being undertaken in locations visible from these sites, roads and travel routes.*

It is considered that the controls regarding advertising signage, including restrictions on animated signage, is in keeping with the intent of the LPS.

### **Financial Implications**

There are no financial implications associated with the officer recommendation.

### **Stakeholder Consultation**

Part 2, Division 2 of the Deemed Provisions requires that a local government undertake consultation before adopting or amending a local planning policy (although a minor amendment can be made without consultation). At least 21 days must be allowed for the making of submissions.

It is proposed that consultation will be for a period of four weeks and will be undertaken as follows:

- Targeted letters/emails to key stakeholders within the region (where applicable);
- Notices in the local newspaper for four consecutive weeks, as well as on the City's website, including the subject and nature as well as objectives of the proposed LPP; and
- A portal is to be created using the City's *YourSay* platform for the online lodgment of submissions.

**Risk Assessment**

An assessment of the risks associated with the implementation of the officer recommendations has been undertaken using the City's risk assessment framework. No risks of a medium or greater level have been identified.

**Options**

As an alternative to the Officer Recommendation, the Council could:

1. Choose not to initiate one or more of the LPPs recommended to be initiated as part of this report;
2. Modify those LPPs before initiation; and/or
3. Choose not to revoke one or more of the LPPs recommended for revocation.

**CONCLUSION**

It is recommended that the Council support the proposed policy changes and initiation as described in this report.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Implementation of the Officer Recommendation would involve advertising the proposed LPPs as outlined in the consultation section of this report above. It is expected that this will commence within one month of the Council decision. A subsequent report will be presented to the Council following consultation outlining the nature of any submissions received and any necessary modifications to the LPPs (where applicable).

## Local Planning Policy No. 1.4 SINGLE DWELLING DESIGN



### 1. HEAD OF POWER

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

### 2. PURPOSE

To discourage the design and use of residential dwellings as defacto grouped dwellings and residential buildings and to provide guidance as to what constitutes a single dwelling.

This Policy recognises that:

- a) A building(s) clearly designed for use as a residential building or grouped dwelling is not a single dwelling;
- b) The City of Busselton expects the design of dwellings to reflect their intended use;
- c) The Scheme, R Codes and Building Code of Australia promote a variety of dwelling types including single dwellings, grouped dwellings and residential buildings. The use of a single house in a manner other than that which the Scheme permits will place the land owner in breach of the Scheme; an
- d) There are legitimate reasons for providing separate facilities within a single dwelling such as two kitchens for social, cultural, or religious reasons provided the dwelling is still designed and utilised as a single dwelling.

### 3. INTERPRETATION

N/A

### 4. POLICY STATEMENT

- 4.1 To ensure the protection of the residential amenity and the reasonable development of built form within the City, the following provisions apply:
  - a) Residential designs will be closely scrutinised at a planning and/or building assessment stage to determine whether the building is designed to be used as a Single Dwelling.
  - b) Designs that are determined by the City to represent a layout which could reasonably be utilised as a Grouped or Multiple Dwelling or a Residential Building shall be determined as a use other than a Single House pursuant to the Scheme and R Codes and an application for planning consent will be required.
  - c) Any building designed to be used as a residential building, i.e. a proposed building intended to be used for human habitation – a) temporarily by two or more persons or b) permanently by seven or more persons who do not comprise a single family shall be determined as a Residential Building pursuant to the Scheme and an application for Planning Consent will be required.
  - d) Designs that may be determined by the City to represent a layout which could reasonably be utilised as a Grouped or Multiple Dwelling or a Residential Building may include one or all of the following:
    - i. Mirroring of a layout and/or facilities.
    - ii. Duplicate laundry facilities.
    - iii. Independent external/internal access to a second or third storey.

## Local Planning Policy No. 1.4 SINGLE DWELLING DESIGN



iv. Mirroring of a floor plan connected by a breezeway or carport/garage.

4.2 The provisions of this Policy may be varied where the following applies:

- a) The application comprises an application for a Single Dwelling in combination with another dwelling type such as ancillary accommodation on the same lot. In these instances the application will be assessed under the R Codes, the Scheme and any applicable policy and determined accordingly.

### 5. REVIEW DETAILS

Review Frequency	2 yearly		
Council Adoption	10/3/2010		C1003/069
Previous Adoption	DATE		Resolution #

\* Policy number changed from LPP 1C to LPP 1.4 on the 11th May 2020. The change is administrative only, no resolution by Council required.



## Local Planning Policy No. 6.2 DRAINAGE INFILL CONTRIBUTIONS



### 1. HEAD OF POWER

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

### 2. PURPOSE

#### 2.1 Introduction

Stormwater management is critical in areas where intensification of land use is occurring through redevelopment or further development of land. A consequence of this form of development – termed infill development, is an increase in the extent of roofed and paved areas resulting in additional volumes of water needing to be managed. Some flows can be managed at source within the private lots, and this approach is addressed in *Local Planning Policy 8C Stormwater Management Provisions*. However it is the remaining and cumulative effect of surplus stormwater that is not managed within the private lot which will continue to place pressure on the City's drainage system in established areas.

This is critical in the established areas of the City where the drainage system is operating at or beyond capacity or without the treatment systems necessary to treat the stormwater before it enters drains, waterways and wetlands.

To address this problem, contributions can be made to the City at the time development or subdivision occurs. Contributions received can then be applied to upgrade, augment or extend stormwater and water quality measures off site within the City's streets and reserves.

These provisions set out the City's approach to assessing the need for and scale of contributions required from developers towards the upgrading of the City's stormwater and drainage management infrastructure from infill development and infill subdivision. The provisions provide for an efficient, equitable and measured approach to the assessment, securing and application of developer contributions to the upgrading of the City's drainage infrastructure. Contributions will ensure that drainage infrastructure is upgraded in areas required as a consequence of subdivision and development and that infrastructure continues to operate in a safe and efficient manner, despite the significant infill urban growth being experienced in the City.

These provisions replace former *Council Policy 182/3 – Vasse Diversion Drain Policy and Guidelines* and former *Council Policy 184/3 – Development Contribution Drainage (Main) Policy*. Unspent contributions remaining at the time these policies are rescinded will be applied to provide for and supplement the upgrading or augmentation of the City's stormwater drainage systems in the areas identified by these provisions.

These provisions need to be read in conjunction with the rest of the relevant planning framework, especially the other aspects of this *Local Planning Policy 6: Development Contribution Policy Provisions* and particularly *Local Planning Policy 8C: Stormwater Management Provisions*.

The provisions have also been prepared with due regard to principles relating to developer contributions established in common law and as set out in *State Planning Policy 3.6: Development Contributions for Infrastructure (SPP3.6)*. Users of these provisions should also be aware of other requirements that may arise from the local planning scheme and/or development guide plans or detailed areas plans, as well as the potential for contribution requirements related to roads, footpaths and community facilities infrastructure as well as other basic infrastructure, such as power, water, sewer and telecommunications.

## Local Planning Policy No. 6.2 DRAINAGE INFILL CONTRIBUTIONS



### 2.2 Methodology

The rationale for, and the preferred approach to the new local planning policy provisions is set out, as follows.

#### *General Approach – Rationale*

- 2.2.1 New development in greenfields areas is generally occurring in accordance with a local water management strategy and/or urban water management plan. In these areas stormwater management systems are in place to accommodate the quality and flow of excess stormwater from private lots to the street drainage system. This stormwater is then safely and efficiently managed prior to it entering a receiving water body. The need to extend or augment the City's drainage system does not arise as a consequence of development in these areas and therefore there is no need to consider a contribution payment to works to upgrade infrastructure as a result of these developments unless a greenfield development discharges into existing development drainage.
- 2.2.2 Infill developments other than single residential and new developments in greenfields areas are generally required to manage stormwater generated by the 5 year Annual Recurrence Interval (ARI) rainfall event on site pursuant to the City's stormwater management policy provisions.
- 2.2.3 Unlike single residential developments, infill developments are generally occurring in older designed and constructed subdivisions where the stormwater design for the subdivision has not anticipated the increased impervious areas and runoff into the street systems from infill developments. Similarly urban water management plans may not be in place in these areas to manage stormwater to contemporary standards. The street drainage system would need to be augmented or additional works undertaken to treat and/or manage water quality and additional flows prior to it entering a receiving water body.
- 2.2.4 Because development in these areas will contribute significantly more impervious area than that anticipated at the time the subdivision was designed, it follows that it is appropriate for a contribution to works to be made at the time of subdivision or development for this shortfall. Further to this there are generally very limited water quality treatment measures in place to manage and treat that water prior to it entering a receiving water body via the City's drainage system.
- 2.2.5 Without either the management of this stormwater within the lot, or the development making a contribution to the City to upgrade its stormwater system to manage the stormwater offsite, the City would need to upgrade the system at ratepayers' expense as a result of infill subdivision and development.
- 2.2.6 Given the above, developments could be given the option to either manage this water (stormwater generated by the 5 year ARI rainfall event) on site, in accordance with the design principles set out in the City's stormwater management policy provisions *8C Stormwater Water Management Provisions* or alternatively make a contribution to the upgrading of the City's drainage infrastructure in accordance with these policy provisions. This retains reasonableness and equity within the design of this policy provision and avoids the policy applying a mandatory upgrading charge on all infill developments.
- 2.2.7 The policy provisions will not apply single dwellings in in-fill areas. This is due to the low risks

## Local Planning Policy No. 6.2 DRAINAGE INFILL CONTRIBUTIONS



associated with managing stormwater for single dwellings, the availability of land within lots to manage stormwater, and the low demands these developments place on the public drainage system.

In broad terms the contribution to works for infill development will be based on stormwater generated by the 5 year ARI rainfall event which is approximately 25mm of rainfall in one hour. The 5 year ARI rainfall event has been selected for the following reasons:

- Serviceability of roads is a key element of drainage design.
- Road serviceability is based upon the 5 year ARI.
- Development will be required to manage as a minimum the 1 year ARI rainfall event (this is the minimum standard set out in the City's Stormwater Management planning policy provisions; Local Planning Policy 8C) within the lot, but will generally contribute additional storm water above the 1 year ARI rainfall event and up to the 5 year ARI rainfall event (and greater) within the street system.
- Management of larger quantities of stormwater within lots – for instance management of the 100 year ARI or the 50 year ARI would place an unreasonable imposition on infill development, or limit the potential for lots to realise their full infill potential, particularly for smaller lots or in instances where it would be impractical to manage this stormwater due to locality constraints or physical impediments.
- Increases in impervious areas in residential infill areas are typically localized within street blocks coded for infill, where existing 5 year ARI design infrastructure is at capacity or has exceeded capacity.

### 2.3 Principles for the Quantum of Charges

In terms of formulating a general contribution rate, the City's preference has been to keep the formula and the quantum simple and efficient for the purposes of implementation. The City's preference has been to adopt a rate of contribution per square metre of impervious area based upon the square metre of impervious area that is being added to the site.

The City also seeks to ensure that the contribution rate per square metre should be struck so that it is cost neutral to the developer and the City, and does not provide a positive incentive to the developer to avoid retaining stormwater that should otherwise be retained 'on lot'. This means that the charge should not be so low that there is a positive incentive to the developer to make a payment and not retain the 5 year ARI on site. If the cost to retain the stormwater for the 5 year ARI on site is significantly higher than the cost to make a payment then there will be an incentive to choose to make a payment to the City for the works.

Similarly the contribution should be largely cost neutral to the City. As the infrastructure provider, and as far as is practicable, the City should not be disadvantaged by the choice of a developer to make a payment to works. This means that the charges should meet the reasonable costs to the City to provide drainage and stormwater treatment measures within the street and reserve system that would otherwise be provided on site.

If the moneys received by the City are too low, the City will either be unable to fund works; shortfalls will need to be made from general rates revenue; or alternatively the City will need to source supplementary funding which may delay or postpone works.

## Local Planning Policy No. 6.2 DRAINAGE INFILL CONTRIBUTIONS



### 2.4 Calculation of Charges

If a developer chooses not to manage the 5 year ARI on site and instead chooses to make a contribution for the 5 year ARI event to the City, it is the difference in retention between the 1 year and 5 year ARI that provides the basis for determining the contribution rate under these provisions.

According to the Australian Bureau of Meteorology in the *Design Rainfall Intensity Chart*, a 1 year ARI storm event will generate 16.5mm of rainfall per hour whilst a 5 year storm event will generate 25mm of rainfall.

To calculate what a property should pay as a contribution, to the City for upgrading the urban stormwater drainage system for this “difference”, the method is set out as follows:

- a. If retention of up to the 5 year ARI (25 mm of rainfall) is provided onsite no charge applies.
- b. On current estimates it costs approximately \$2,500 for a standard single residential dwelling to meet the current standard of on-site stormwater retention for a 1 year ARI or 16.5 mm of rainfall.
- c. For a standard single dwelling of approximately 250m<sup>2</sup> of impervious area this equates to \$10/ m<sup>2</sup> of impervious area. To cater for the 5 year ARI, retention needs to retain an additional 34% of capacity i.e. 16.5mm of rainfall equates to 66% of 25mm of rainfall. Based upon relevant examples, the cost to provide this additional capacity on site is approximately estimated to be \$450. Therefore the total cost to manage the 5 year ARI on site is approximately \$2,950.
- d. Using the example above and assuming that the additional cost to provide 34% more capacity is estimated at \$450, for a standard 250 m<sup>2</sup> dwelling it would cost \$2,950 to manage 25 mm of rainfall in a one hour period. Therefore, the cost per square metre for the 5 year ARI is an additional \$1.80/sqm which is determined as: [ $\$2,950 \div 250\text{m}^2 = \$11.80/\text{m}^2$ ,  $\$11.80/\text{m}^2 - \$10/\text{m}^2 = \$1.80/\text{m}^2$ ].

Therefore, where developments cannot practically meet the requirements on site and/or developers choose to make a contribution to the City to meet the requirement off site, a drainage contribution should be made which is based on the difference between a 1 year ARI and 5 year ARI rainfall events which is \$1.80 per square metre of impervious area.

Contributions for residential strata and subdivision approvals are referenced to Table 1. The methodology behind the dollar values set out in Table 1 is as follows:

- a. In order to provide for effective administration of the contributions, the contribution rates for residential subdivision have been grouped according to the residential density coding.
- b. To calculate the contribution rate, the maximum permissible site coverage (in m<sup>2</sup>) of the average lot size of the applicable residential density coding is multiplied by \$1.80. Contributions are rounded to the nearest whole dollar.
- c. For lots coded at a density below R10 (ie. R5, R2.5, R2), the contribution will be capped at \$720 reflecting that it is usual for development on these lots not to reach the maximum site coverage allowed under the R-Codes and generally having a higher capability to manage stormwater on site.
- d. *For R12.5 lots, the contribution is \$640 to maintain consistency with the contribution rate advertised in these provisions. All other contributions are equal to or less than the contribution rate when these provisions were advertised in draft form.*
- e. For commercial and industrial strata and subdivision applications, lots have been grouped according to average size and the site coverage value is taken to be 90%. This value reflects the assumption that landscaping usually comprises 10% of the site area and therefore the balance of the site is available to be developed with impervious surfaces.

## Local Planning Policy No. 6.2 DRAINAGE INFILL CONTRIBUTIONS



### 3. INTERPRETATION

For the purposes of these provisions:

**Residential Infill** - means the use of land for grouped or multiple dwelling units and/or ancillary buildings within a lot through either the development approval process or the land subdivision process including strata title. The term includes the development or redevelopment of grouped and multiple dwellings, retirement dwellings, tourist accommodation and aged and dependent persons homes.

**Commercial and Industrial Infill** - means the use of land for development, redevelopment, expansion or intensification of commercial, industrial and other non-residential land uses and ancillary developments within a lot through either the development approval process or the land subdivision process including strata title.

**Contribution** – means a financial contribution payable to the City of Busselton for the purposes of stormwater and drainage works and includes the term ‘cost contribution’ and ‘contribution to works’.

**Impervious Surfaces** – means built surfaces that prevent absorption of water into the ground, such as roads, parking areas, paved areas and rooftops and has the same meaning as impermeable surface.

**ARI–(Average Recurrence Interval)** means the average or expected value of the periods between exceedances of a given rainfall total accumulated over a given duration (for the purpose of this policy should be taken as one hour duration unless otherwise specified).

**1 year ARI** means the one year average recurrence interval, of a one hour duration, which for Busselton and Dunsborough areas equates to 16.5mm of rainfall. The volume of stormwater runoff from impervious surfaces equates to 1m<sup>3</sup> per 60.5m<sup>2</sup>, however to achieve a rounded and consistent rate, the City has applied a rate of 1m<sup>3</sup> per 65m<sup>2</sup> at *8C Stormwater Management Provisions*.

**5 Year ARI** means the five year average recurrence interval, of a one hour duration, which for Busselton and Dunsborough areas equates to 25mm of rainfall. The volume of stormwater runoff from impervious surfaces equates to 1m<sup>3</sup> per 40m<sup>2</sup>.

### 4. POLICY STATEMENT

#### 4.1 Liability for contributions

These provisions are to be read in conjunction with *8C Stormwater Water Management Provisions* which sets minimum standards for the retention and infiltration of stormwater on site before any surplus water is directed to the City’s stormwater drainage system and/or street drainage system and only apply in the areas illustrated in Schedule 1.

4.1.1 A liability for payment of a contribution toward the management of stormwater only arises where:

- i) The proposal involves Residential ‘infill’; or
- ii) Commercial or Industrial ‘infill’, and
- iii) The proposal is situated within an area illustrated in Schedule 1, and
- iv) The proposal does not require an urban water management plan to be prepared for the subdivision or development for the purposes of managing urban stormwater, and
- v) The proposal will manage the 1 year ARI on site but not the 5 year ARI on site.

## Local Planning Policy No. 6.2 DRAINAGE INFILL CONTRIBUTIONS



### *Development*

- 4.1.2 Development Applications shall satisfy these policy provisions by making a contribution to the upgrading of the City's stormwater and drainage systems at a rate of \$1.80 per square metre of additional impervious area.

### *Subdivision and Strata*

- 4.1.3 In the case of strata and subdivision applications the City will request the WAPC to apply a condition of approval requiring upgrading of the City's drainage infrastructure as a consequence of the proposal. The condition shall be satisfied through payment to the City for stormwater and drainage systems upgrading in accordance with Table 1 for each proposed lot.

**TABLE 1 – Infill Subdivision and Strata per Lot Contribution Rates**

<b>Residential Infill</b>	
R2, R2.5 and R5	\$720
R10	\$720
R12.5	\$648
R15	\$599
R17.5	\$514
R20	\$405
R25	\$315
R30	\$297
R35	\$257
R40	\$218
R50	\$194
R60	\$162
R80	\$151
<b>Commercial and Industrial Infill</b>	
Area of lot/Strata	Contribution/lot
0 - 250m <sup>2</sup>	\$400
251 –750m <sup>2</sup>	\$1,200
751 – 1200m <sup>2</sup>	\$1,940
1201 +	\$2,200

### *General Requirements*

- 4.1.4 A liability to make a contribution arises only once and at the earliest stage of subdivision or strata or development in accordance with the following.
- i) Where a subdivision is proposed, a contribution will be sought on a per lot basis at the subdivision approval stage; or
  - ii) Where dwellings/units and/or commercial/industrial developments are proposed without concurrent subdivision, a contribution will be sought on an impervious square metre rate pursuant to 1.2 above at the development approval stage; and
  - iii) Where a lot may have further subdivision or development potential (for example, as a grouped dwelling site or conventional freehold subdivision), a contribution will be assessed and may also be required at the next development stage where additional dwellings or lots are proposed.

## Local Planning Policy No. 6.2 DRAINAGE INFILL CONTRIBUTIONS



The liability of developers to satisfy their contribution arises prior to whichever of the following two events occurs first -

- i) In the case of subdivision, where a contribution has not already been paid in relation to dwelling/s developed on the lot/s, the City endorsing a deposited plan for clearance of the relevant condition prior to the WAPC endorsing its approval on the deposited plan relating to the subdivision of the developer's land; or
- ii) In the case of development, where a contribution has not already been paid in relation to the subdivision of the lot/s on which dwelling/s are to be developed, prior to the commencement of the development (and the City shall apply conditions to planning consent notices requiring that a contribution is made prior to the commencement of the development).

4.1.5 Small increases in impervious areas will be exempt from the need to comply with these provisions. In cases where there is an ability to manage the 5 year ARI stormwater on site and the risks to the City's drainage infrastructure or water quality are low, an exemption from the need to comply with a contribution pursuant to these provisions will apply. These circumstances are set out as follows:

- i) A contribution arising from an assessment of the application in accordance with these provisions would be less than \$50.00.
- ii) The application is for a residential outbuilding associated with a lawfully approved grouped dwelling, or a minor addition to a lawfully approved grouped dwelling whereby the additional aggregate impervious area would not exceed the maximum site coverage set out in column 6 of Table 1 of the R Codes.

4.1.6 The calculation of the value of any contribution shall be based on the total area of all additional impervious areas but will not include the impervious areas of any structures removed or demolished to make way for the new development.

4.1.7 The contributions collected through these policy provisions [including those unspent and collected under the former policies namely *Council Policy 182/3 – Vasse Diversion Drain Policy and Guidelines* and former *Council Policy 184/3 – Development Contribution Drainage (Main)*] will be used to provide water quality improvements and upgrades to the City's stormwater and drainage system. Contributions collected and expended for this purpose shall include the planning, designing, administration and construction of these works but shall not extend to the maintenance of these works.

### 4.2 Administration of funds

The City will establish and maintain an account in accordance with the *Local Government Act 1995* into which contributions will be credited. All contributions, including any interest earned thereon, shall only be applied to the purposes set out in these provisions.

The contribution amounts set out in these provisions will be adjusted in accordance with a three year rolling average of quarterly movements in the Local Government Cost Index (LGCI) for WA (ABS) commencing 1 September 2014.

## Local Planning Policy No. 6.2 DRAINAGE INFILL CONTRIBUTIONS



### 5. REVIEW DETAILS

<b>Review Frequency</b>	2 yearly		
<b>Council Adoption</b>	<b>8/10/2014</b>		<b>C1410/243</b>
<b>Previous Adoption</b>	<b>10/3/2010</b>		<b>C1003/069</b>

*\* Policy number changed from LPP 6F to LPP 6.2 on the 11th May 2020. The change is administrative only, no resolution by Council required.*



## Local Planning Policy No. 6.3 MOSQUITO CONTROL CONTRIBUTION



### 1. HEAD OF POWER

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

### 2. PURPOSE

Mosquitoes can be abundant at various times of the year within the City of Busselton. These insects are opportunistic feeders that require a blood meal to effectively develop their eggs. As well as being a potential nuisance, they are also important vectors of disease, being the main transmitter of Ross River Virus and Barmah Forrester Virus.

Problems therefore arise where human activities or habitation occurs in close proximity to mosquito breeding areas. The extensive areas of both freshwater and tidal wetland within the City of Busselton provide ideal breeding conditions for mosquitoes. As a result of the proximity of these wetland areas to residential and tourist development within the City, mosquito nuisance and/or disease risks are likely to occur within this district from time to time.

The Environmental Protection Authority has published the "Guidance Statement for Management of Mosquitoes by Land Developers No. 40". This document aims to ensure that mosquito numbers on-site and off-site do not adversely affect the health, welfare and amenity of future residents.

The *City of Busselton Mosquito Control and Minimisation Strategy* adopted by the Council in 2004 identified the need for an integrated approach for mosquito control within the City. One of the aims of this Strategy is -

*To ensure that future developments do not increase the potential for mosquito nuisance and the risk to residents of Ross River Virus infection.*

To achieve this aim it is important that the principle whereby those that create future developments within close proximity to mosquito breeding areas contribute towards the control of mosquitoes that will impact those areas, the objective being to reduce the risk of mosquito borne disease that future occupants within the development may be exposed to.

#### Objectives

The primary purpose of these provisions is to enable the City to effectively plan for the provision or extension of mosquito control operations that will, or are likely to be required, as a consequence of development in the area or that have been provided in anticipation of or as a necessary component of the approval of such development.

Other purposes of these provisions are to:

- a) Ensure that an adequate level of mosquito control is provided throughout Busselton as development occurs;
- b) Ensure that the existing community is not burdened by the provision of mosquito control operations required as a result of future development; and
- c) Provide a comprehensive strategy for the assessment, collection, expenditure, accounting and review of development contributions on an equitable basis throughout Busselton City in a transparent and accountable manner.

## Local Planning Policy No. 6.3 MOSQUITO CONTROL CONTRIBUTION



### 3. INTERPRETATION

**Mosquito Control:** Operations designed to minimize the number of mosquitoes within a given area, by means of physical, chemical or biological methods, including adulticiding and larvaciding

### 4. POLICY STATEMENT

These provisions apply to the areas within the municipality of the City of Busselton that are within 5 km of recognized mosquito breeding areas (see attached map).

- 4.1 City may impose/require a condition on development and subdivision approvals requiring the payment of a monetary contribution in accordance with these provisions in order to ensure an adequate level of mosquito control to service the needs of the additional permanent resident population and the growth in tourist/visitor numbers.
- 4.2 A contribution is payable:
  - a) In the case of a planning approval, before the building licence is released to the applicant or prior to the release of the approved engineering plans; and
  - b) In the case of a subdivision application before clearance of the approved plans.
- 4.3 The City may accept the deferred or periodic payment of a contribution if the applicant or another person entitled to act upon the relevant consent demonstrates that:
  - a) Compliance with the provisions relating to when contributions are payable is unreasonable or unnecessary in the circumstances of the case; and
  - b) Non-compliance with the terms of Clause 4.2 will not prejudice the timing or the manner of the provision of the mosquito control for which the contributions were required.
- 4.4 The decision to accept a deferred or periodic payment is at the sole discretion of the City.
- 4.5 The City may accept an offer by the applicant to make a contribution by way of an "in kind" contribution.
- 4.6 The City may accept the offer of an in kind contribution if the applicant or any other person entitled to act upon the relevant consent satisfies the consent authority that:
  - a) Payment of the contribution in accordance with the provisions of the policy is unreasonable or unnecessary in the circumstances of the case;
  - b) The in kind contribution will not prejudice the timing or the manner of provision of the mosquito control for which the contribution was required; and
  - c) The value of the works to be undertaken are at least equal to the value of the contribution assessed in accordance with these provisions.
- 4.7 The initial contribution rate is \$32.50 per additional lot or dwelling unit within the policy area. It is the Policy of the City to review contribution rates from time to time to ensure that the monetary contributions reflect the costs associated with the provision of the particular mosquito control program. In relation to tourist development, retirement units and one bedroom dwelling units, the rate will be 50% of the full contribution rate.

## Local Planning Policy No. 6.3 MOSQUITO CONTROL CONTRIBUTION



- 4.8 Payment of the required contribution pursuant to these provisions does not in any way remove the obligation of any developer to undertake onsite mosquito management works required under any other policy or approval requirements.

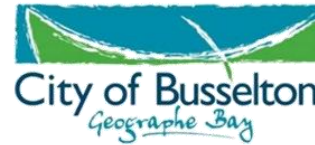
### **Expected development and the demand for mosquito control**

- 4.9 This section establishes the relationship (nexus) between the expected types of development in the area and the demand for mosquito control to meet that development.
- 4.10 The anticipated increase in resident and worker population will:
- a) Place greater demands on existing mosquito control; and
  - b) Require the provision of additional mosquito control which are not currently provided or, which may be provided but of insufficient capacity to cater for the anticipated increased demand.
- 4.11 The nexus between anticipated development in the City and the mosquito control program has been established having regard to:
- a) The type and extent of anticipated development;
  - b) The expected increase in population as a consequence of that development;
  - c) The location of the anticipated development in relation to known mosquito breeding areas;
  - d) The characteristics of the population and the risk of exposure to mosquito borne diseases; and
  - e) The availability and capacity of existing mosquito control in the area.
- 4.12 The proposed mosquito control programs will be carried out or have already been carried out to meet the likely needs as a consequence of new development or in anticipation of new development.
- 4.13 These provisions identify the main mosquito breeding sites relative to the communities which they may affect. The identification of the breeding sites has been determined having regard to the proximity to existing or future development and the productivity of the breeding sites.

### **The requirement for mosquito control**

- 4.14 The requirement for developers to address potential mosquito problems of a development that are generated "off-site" has been identified in the Environmental Protection Authorities document "Guidance Statement for Management of Mosquitoes by Land Developers No. 40".
- 4.15 The City already provides some of the mosquito control likely to be required by the expected types of development. However, this control will generally satisfy the needs of the existing population and in most cases there is no spare capacity available to serve the additional demand created by the incoming population.
- 4.16 The mosquito nuisance and/or disease risks are likely to increase with the increase in population as a result of development within the policy area in proximity to identified breeding sites.

## Local Planning Policy No. 6.3 MOSQUITO CONTROL CONTRIBUTION



### The contribution rate

4.17 The formula used for determining the initial contributions are as follows:

$$\text{Contribution} = \left( \frac{\$MCP \times [\text{Projected Additional Dwelling Units} / (\text{Existing dwelling units} + \text{Projected Additional Dwelling Units})]}{\text{Projected Additional Dwelling Units per Year}} \right)$$

Where:

- \$MCP – is the cost of the annual mosquito control program
- Existing Dwelling Units - is the number of existing dwelling units within the policy area
- Projected Additional Dwelling Units – is the anticipated increase in the number of dwelling units within the policy area to be created to the year 2016.
- Projected Additional Dwelling Units per Year - is the anticipated average number of dwelling units within the policy area to be created each year

4.18 For the purposes of calculating the contribution rate, the following cost components of the strategy have been excluded:

- Any recoverable funding which has been provided for implementation of the mosquito control strategy for which there is the understanding that this will be ongoing.

4.19 As tourists also create a component of the demand for a mosquito control strategy, it is considered reasonable to levy tourist developments accordingly. A contribution rate of 50% of the full rate is considered appropriate in that regard.

4.20 The current contribution rate is \$32.50 per lot/dwelling unit for subdivision and grouped dwelling development and \$16.25 per unit for tourist development, retirement units and one bedroom dwelling units.

4.21 The contribution rate will be reviewed periodically to ensure that the monetary contributions reflect the costs associated with the provision of the mosquito control program.

The contribution amounts set out in these provisions will be adjusted in accordance with a three year rolling average of quarterly movements in the Local Government Cost Index (LGCI) for WA (ABS) commencing 1 January 2011 (so, for instance, the contribution rate would be the quoted figure, multiplied by the average LGCI for all quarters between the second quarter of 2009 and the first quarter of 2012, divided by the average LGCI for all quarters between the first quarter of 2008 and the last quarter of 2010).

### 5. REVIEW DETAILS

<b>Review Frequency</b>	2 yearly		
<b>Council Adoption</b>	<b>10/3/2010</b>		<b>C1003/069</b>
<b>Previous Adoption</b>	<b>DATE</b>		<b>Resolution #</b>

\* Policy number changed from LPP 6C to LPP 6.3 on the 11th May 2020. The change is administrative only, no resolution by Council required.

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES



### 1. HEAD OF POWER

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

### 2. PURPOSE

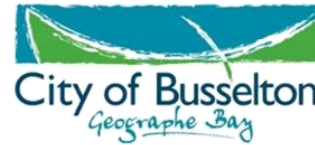
The purpose of this policy is to –

- a) Outline the minimum requirements for development within Port Geographe canals.
- b) Ensure that development within the Port Geographe canals maintains the existing visual amenity of the area.
- c) Ensure that development within the Port Geographe canals are appropriate in scale, structural design and context to the immediate residential living environment.
- d) Ensure that matters of safety, navigation and waterway amenity are appropriately considered in the approval process.

### 3. INTERPRETATION

<b>Davit -</b>	is a structure located on jetty and is capable of mechanically moving a vessel from a waterway to a dry lot.
<b>Canal Cul-de-sac Head -</b>	the terminus of a canal with only one entrance.
<b>Fixed Jetty -</b>	is a fixed structure, constructed on pylons and generally made of wood and steel.
<b>Floating Boat Lifting Structure -</b>	a floating structure, attached to mooring piles assuring the vessel is out of the water.
<b>Floating Jetty -</b>	a moveable structure, constructed on mooring piles on a floating pontoon.
<b>Jetty Envelope -</b>	a designated area as defined by an endorsed envelope plan in which the jetty is to be wholly constructed and contained within.
<b>Land Backed Jetty -</b>	a jetty constructed parallel to the canal wall.
<b>Mechanical Boat Lifting Structure -</b>	a solid metal structure, on pylons which lifts a vessel out of water.
<b>Mooring Piles -</b>	steel piles to secure a vessel by attaching the vessel to the piles.
<b>Mooring Envelope -</b>	an area identified by the endorsed envelope plan for the subject property

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES



in which any mooring pile is to be wholly constructed and contained within. The mooring envelope serves as the designated area for the storage and mooring of permitted vessels.

**Primary Walkway -** the walkway the vessel is moored at.

**Secondary Walkway -** is the walkway which is not supporting the mooring of a vessel.

#### 4. POLICY STATEMENT

Applies to all applications relating to private jetties and boat-lifting structures associated with private residential development within the Port Geopraphe canals.

The following provisions apply –

- a) jetties, moorings and boat lifting structures being designed and constructed having regard to the policy provisions and any specific conditions of approval;
- b) jetties being wholly located within the lot's designated jetty envelope;
- c) all vessels being wholly contained within the lots designated mooring envelope;
- d) jetties and canal walls having no structures built on them and not being roofed unless supported by this policy;
- e) comments from the Department for Planning and Infrastructure;
- f) comments received from community groups and adjoining landowners (where consultation is required); and
- g) any other matters relevant to the proper consideration of the proposal.

##### 4.1 Jetties

###### 4.1.1 Finger, 'T' or 'L' Shaped Jetties

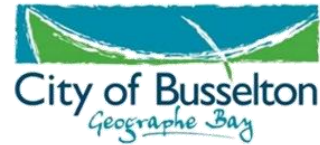
Planning approval for the construction of a finger, 'T' or 'L' shaped jetty is not required to be obtained from the City provided the following assessment criteria have been met:

- a) Piles associated with a jetty are located so as not to penetrate any revetment mattress, unless certification is provided from a structural engineer confirming there will be no associated structural impact.
- b) The width of primary walkways being a minimum of 1.2m and a maximum of 2.0m.
- c) The width of secondary walkways being a minimum of 0.9m and a maximum of 2.0m.
- d) Jetties shall be used for the purpose of accessing a moored or stored vessel only.
- e) No jetty structure shall place horizontal surcharge load on the canal wall.

Jetties that do not comply with the above mentioned criteria require planning approval from the City.

Finger, 'T' or 'L' shaped jetties require a building licence from the City and certification of structural integrity by a certified engineer.

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES



### 4.1.2 Land Backed Jetties

Planning approval for the construction of land backed jetties is not required to be obtained from the City provided the following assessment criteria have been met:

- a) Piles associated with a jetty are located so as not to penetrate any revetment mattress, unless certification is provided from a structural engineer confirming there will be no associated structural impact.
- b) The width of jetty being a minimum of 1.2m and a maximum of 2.0m.
- c) Jetties shall be used for the purpose of accessing a moored or stored vessel only.
- d) No jetty structure shall place horizontal surcharge load on the canal wall.

Jetties that do not comply with the above mentioned criteria require planning approval from the City.

Land backed jetties require a building licence from the City and certification of structural integrity by a certified engineer.

### 4.1.3 Floating Jetties

Planning approval is required for the construction of floating jetties.

The following assessment criteria apply to floating jetties:

- a) Piles associated with the jetty are located so as not to penetrate any revetment mattress unless certification is provided by a structural engineer confirming there will be no associated structural impact.
- b) The width of primary walkways being a minimum of 1.2m and a maximum of 2.5m.
- c) The width of secondary walkways being a minimum of 0.9m and a maximum of 2.0m.
- d) Jetties shall be used for the purpose of accessing a moored or stored vessel only.
- e) No jetty structure shall place horizontal surcharge load on the canal wall.

### 4.2 Boat Lifting Devices and Structures (including davits)

Planning approval is required for the construction of all boat lifting structures.

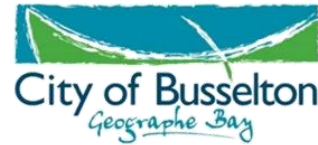
Davits will only be considered where it can be demonstrated that the structure will not detrimentally affect surrounding properties in relation to accessibility, amenity and safety.

Mechanical boat lifting structures are not supported.

The following assessment criteria apply to either boat lifting structures and davits:

- a) Boat lifting structures being wholly located within the designated jetty/mooring envelope.
- b) No boat lifting structures (including davits) shall be permitted to place a horizontal surcharge load on the canal wall.

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES



- c) Jetty structures are to be approved prior to considering approval of a boat lifting structure (including davits). Floating boat lifting structures directly adjacent to canal wall may be considered where it can be demonstrated that the structure will not place a horizontal surcharge load on the canal wall.
- d) Floating boat lifting structures are preferred for use in canal cul-de-sac heads.
- e) Piles associated with boat lifting structures are located so as not to penetrate any revetment mattress unless certification is provided by a structural engineer confirming there will be no associated structural impact.
- f) As part of the assessment process, consultation is to be undertaken for all mechanical boat lifting devices. Floating boat lifting devices do not normally require consultation.

The consultation process will follow that laid out in Provision 4.3 of this Policy.

#### 4.3 Consultation with adjoining landowners and community groups

For all mechanical boat lifting devices and where a proposed jetty or floating boat lifting structure is considered to have the potential to adversely impact on neighbouring residents, Council will require applicants to supply written comments from adjoining landowners and community groups to assist in determining the application.

Where written comments are not able to be obtained by the applicant, staff will provide written advice to adjoining landowners and community groups (at the applicants cost) of the proposed construction and invite them to submit comments to the City. If an adjoining landowner or community group does not respond within the time provided (generally 21 days), the City will consider the application on the basis that the landowner has not exercised their opportunity to comment.

Where objections are received the submission(s) will be reviewed and considered in light of the applications relevance against the Local Planning Scheme No. 21 and the provisions of this policy.

The objective of these provisions is to streamline the approval process and provide further interpretation of the Residential Design Codes and the Local Planning Scheme No. 21 in the assessment of applications for outbuilding development within the City of Busselton. These provisions is intended to control construction of any building that is defined under the Building Code of Australia as a Class 10A building (outbuilding), or a Class 7 or 8 building.

### 5. REVIEW DETAILS

<b>Review Frequency</b>	2 yearly		
<b>Council Adoption</b>	<b>10/03/2010</b>		<b>C1003/069</b>
<b>Previous Adoption</b>	<b>DATE</b>		<b>Resolution #</b>

*\* Policy number changed from LPP 11 to LPP 1.3 on the 11th May 2020. The change is administrative only, no resolution by Council required.*



## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES



### APPENDIX 1

#### Private Jetties Checklist

(To be completed by the applicant and included in the information provided with a planning application and building licence forms)

Application and Plan Information	Yes	No
Has the landowner signed the Development and Building Licence Application Form?	<input type="checkbox"/>	<input type="checkbox"/>
Does the proposed jetty only require a building licence?	<input type="checkbox"/>	<input type="checkbox"/>
Have the plans provided the following:		
- Appropriate Scale (1:100 or 1:200)	<input type="checkbox"/>	<input type="checkbox"/>
- The width and length of the proposed jetty	<input type="checkbox"/>	<input type="checkbox"/>
- The dimensions of the subject lot, jetty envelope and mooring envelope	<input type="checkbox"/>	<input type="checkbox"/>
- The correct alignment of the canal wall in relation to the proposed structure	<input type="checkbox"/>	<input type="checkbox"/>
- Location of all mooring piles.	<input type="checkbox"/>	<input type="checkbox"/>
<b>Details of Jetty</b>		
Is the proposed structure within the jetty envelope?	<input type="checkbox"/>	<input type="checkbox"/>
Is the width of primary walkway between 1.2m and 2.0m? (for finger, 'T' and 'L' shaped jetties only)	<input type="checkbox"/>	<input type="checkbox"/>

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES

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Is the width of the primary walkway between 1.2m and 2.5m? (for Floating jetties only)	<input type="checkbox"/>	<input type="checkbox"/>
Is the width of secondary walkway between 0.9m and 2.0m? (for finger, 'T', 'L' and Floating jetties only)	<input type="checkbox"/>	<input type="checkbox"/>
Is the width of the jetty between of 1.2 metres and 2.0m? (for land backed jetties only)	<input type="checkbox"/>	<input type="checkbox"/>
What type of jetty is proposed?		
- Finger	<input type="checkbox"/>	<input type="checkbox"/>
- Floating	<input type="checkbox"/>	<input type="checkbox"/>
- Land Backed	<input type="checkbox"/>	<input type="checkbox"/>
- 'L' Shaped	<input type="checkbox"/>	<input type="checkbox"/>
- 'T' Shaped	<input type="checkbox"/>	<input type="checkbox"/>
Is roofed structure, whether temporary or permanent, proposed to be erected on the jetty?	<input type="checkbox"/>	<input type="checkbox"/>
Do any associated piles penetrate the revetment mattress?	<input type="checkbox"/>	<input type="checkbox"/>
Is a boat lifting device proposed? (NB: Requires separate Planning Application)	<input type="checkbox"/>	<input type="checkbox"/>

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES



### APPENDIX 2

#### Boat Lifting Structures Guidelines

##### Approval of Boat Lifting Structure

Both planning and building licence approvals are required by the Shire of Busselton for all boat lifting structures within the Port Geographe canal waterways. These approvals are required prior to the Department for Planning and Infrastructure granting a licence for the structure. These approvals are required to:

- ensure that development within the Port Geographe canals maintains the existing visual amenity of the area;
- ensure that development within the Port Geographe canals are appropriate in scale, structural design and context to the immediate residential living environment;
- ensure that matters of safety, navigation and waterway amenity are appropriately considered in the approval process.

##### Assessment Process

An application for a boat lifting structure shall be made on the attached planning and building licence application forms which should be lodged together with the following:

The applicable planning application and building licence fees.

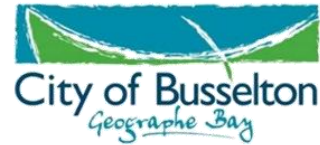
For a planning application, four (4) sets of scaled plans of the proposed structure, including a site plan (these can be submitted digitally if available).

For a building application, three (3) complete sets of scaled drawings of the proposed structure, including a site plan and two (2) copies of construction details indicating method of construction of the jetty endorsed in ink by a professional engineer. The engineer must also confirm that the jetty will not impact on the structural integrity of the existing canal wall.

In addition to the above information, the attached checklist must be completed and included in any planning application.

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES

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All applications for mechanical boat lifting structures require consultation with adjoining owners and community groups under the provisions of the Local Planning Policy – Private Jetties and Boat Lifting Structures Policy, such consultation shall be undertaken by the Shire unless written comments are obtained by the applicant. Consultation conducted by the Shire will incur a cost payable by the applicant. (NB: floating boat lifting structures will where it is determined that the structure has the potential to impact on the amenity of neighbouring residents).

Once the Shire has granted planning and building licence approval to the structure, a separate application is required to be submitted to the Department of Planning and Infrastructure (Coastal Facilities) who will require the Shire's planning and building licence approval for the structure (letter and plans) prior to the issue of a jetty licence.

### Assessment Criteria

- The structure is required to be located within the approved mooring envelope for the subject lot.
- A licensed jetty is required to be approved and constructed on the subject lot.
- The type of structure may be limited to a floating type in certain locations (such as in canal cul-de-sac heads).

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES



### APPENDIX 3

#### Boat Lifting Structures Checklist

(To be completed by the applicant and included in the information provided with a planning application and building licence forms)

Application and Plan Information	Yes	No
Has the landowner signed the Development and Building Licence Application Form?	<input type="checkbox"/>	<input type="checkbox"/>
Have seven copies of the plan been Provided? (4 for planning & 3 for Building)	<input type="checkbox"/>	<input type="checkbox"/>
Have the plans provided the following:		
- Appropriate Scale (1:100 or 1:200)	<input type="checkbox"/>	<input type="checkbox"/>
- The proposed boat lifting structures width and length	<input type="checkbox"/>	<input type="checkbox"/>
- The dimensions of the subject lot, jetty envelope and mooring envelope	<input type="checkbox"/>	<input type="checkbox"/>
- The correct alignment of the canal wall in relation to the proposed structure	<input type="checkbox"/>	<input type="checkbox"/>
- Location of all mooring piles.	<input type="checkbox"/>	<input type="checkbox"/>
<b>Details of the Boat Lifting Structure</b>		
Is the proposed structure within the designated mooring envelope?	<input type="checkbox"/>	<input type="checkbox"/>
Has a licensed jetty been approved and constructed for the subject lot?	<input type="checkbox"/>	<input type="checkbox"/>
What will the height of the vessels keel be	_____	

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES

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when the structure is in operation?

At what height will the top of the vessel be  
when the structure is in operation?

\_\_\_\_\_

What will the height of the structure be once  
constructed or in operation at its highest point  
in comparison to the canal wall?

\_\_\_\_\_

What type of structure is proposed?

- Floating
- Mechanical

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES



### 1. HEAD OF POWER AND SCOPE

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

### 2. PURPOSE

The purpose of this Policy is to outline the minimum requirements for the construction of Jetties and boat lifting structures to ensure that:

- 2.1 Structures are appropriate in scale, structural design and context to the surrounding environment; and
- 2.2 Matters of safety and navigation are appropriately considered; and
- 2.3 The amenity of the waterway and surrounding residents is maintained.

### 3. INTERPRETATION

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

**"Canal Cul-de-sac Head"** means the terminus of a canal with only one entrance.

**"Davit"** means a structure located on a jetty and which is capable of mechanically moving a vessel from a waterway to a dry lot.

**"Floating Boat Lifting Structure"** means a floating structure, attached to mooring piles assuring the vessel is out of the water, i.e. a floating pontoon/boat dock.

**"Floating Jetty"** means a moveable structure, constructed on mooring piles on a floating pontoon.

**"Jetty"** means a structure connected to a body of water that, wholly or in part, may be used for the purpose of launching or landing a vessel and the configuration can be one of the following arrangements-

- a) Finger shaped;
- b) Floating Jetty;
- c) Land Backed;
- d) 'L' shaped; or
- e) 'T' shaped.

**"Jetty Envelope"** means a designated area as defined by an endorsed envelope plan in which the jetty is to be wholly constructed and contained within.

**"Land Backed Jetty"** means a Jetty constructed parallel to the canal wall.

**"Mechanical Boat Lifting Structure"** means a solid metal structure, on pylons which lifts a vessel out of water.

**"Mooring Piles"** means steel piles to secure a vessel by attaching the vessel to the piles.

**"Primary Walkway"** means the walkway the vessel is moored at.

**"Revetment Mattress"** means the sloped rock section of a canal wall which protects the vertical limestone block retaining wall from scour and undermining.

## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES



“Scheme” means the *City of Busselton Local Planning Scheme No. 21* (as amended).

“Secondary Walkway” means a walkway which is not intended to support the mooring of a vessel.

### 4. POLICY STATEMENT

#### 4.1 JETTIES

*Note 1 : Under Part 6 Clause 6.1.1(c) of the Scheme, development approval is not required to be obtained from the City for a Jetty on a canal in the ‘Port Geographe Development Special Control Area’ where it is contained wholly within a specified mooring envelope and is in accordance with the design standards approved by the local government, as outlined below.*

Where a Jetty is not located within a Mooring Envelope (as defined by the Scheme) and/or does not satisfy any of the policy provisions below, a development application will be required. As part of the assessment of the development application the development will be assessed against, and required to meet, the Purpose of this Policy.

- 4.1.1 Jetties should be designed such that all vessels moored when parked at the Jetty will be wholly contained within the lots designated Mooring Envelope (where one exists); and
- 4.1.2 Jetties should have no structures built on them and should not have a roof structure; and
- 4.1.3 Jetties should not place a horizontal surcharge load on a canal wall. This will be required to be demonstrate through engineering details at the building permit stage; and
- 4.1.4 Piles associated with a Jetty are to be located so as not to penetrate any Revetment Mattress. Where piles are proposed to penetrate a Revetment Mattress, certification from a structural engineer will be required to be provided at the building permit stage confirming there will be no associated structural impact; and
- 4.1.5 The Primary Walkway should be limited to a minimum width of 1.2m and a maximum width of 2.0m, except for a Land Backed Jetty which has an allowable maximum width of 2.5m; and
- 4.1.6 The Secondary Walkway should be limited to a minimum width of 0.9m and a maximum width of 2.0m, except for a Floating Jetty which has an allowable maximum width of 2.5m; and
- 4.1.7 Jetties should be used for the purpose of accessing a moored or stored vessel only; and
- 4.1.8 With the exception of structures contained wholly within private land (i.e. jetties within dams on private properties), there is a general presumption against any Jetty or boat lifting structure being supported outside the Port Geographe Development Area given the likely significant adverse impacts on local character, coastal amenity and environmental values. In addition, any such structure is likely to require at least partial construction over Crown land managed by the City. There is a general presumption against private development on City land, except as outlined in the ‘Private Works on City Land, including private coastal protection works on City land Policy’.

*Note 2: Notwithstanding the above, a Building Permit is required for the construction of all Jetties which should include a certification of structural integrity by a certified structural engineer. In addition, all jetties require a Jetty Licence issued by the Department of Transport. The City may seek comment from the Department of Transport during the assessment process.*



## Local Planning Policy No. 1.3 PRIVATE JETTIES AND BOAT LIFTING STRUCTURES



### 4.2 BOAT LIFTING DEVICES AND STRUCTURES

The term boat lifting structure includes a Davit, Floating Boat Lifting Structure and Mechanical Boat Lifting Structure. All boat lifting structures require development approval and should have regard to the following provisions and the Purpose of this Policy:

- 4.2.1 Prior to an application for a boat lifting structure being submitted to the City, an associated Jetty is to be constructed or otherwise approved by the City and licenced by the Department of Transport; and
- 4.2.2 Boat lifting structures should be wholly located within the designated Jetty and/or Mooring Envelope (where one exists); and
- 4.2.3 No boat lifting structure should place a horizontal surcharge load on a canal wall. This will be required to be demonstrate through engineering details at the building permit stage; and
- 4.2.4 Piles associated with a boat lifting structure are to be located so as not to penetrate any Revetment Mattress. Where piles are proposed to penetrate a Revetment Mattress, certification from a structural engineer will be required to be provided at the building permit stage confirming there will be no associated structural impact; and
- 4.2.5 Floating boat lifting structures are preferred for use in Canal Cul-de-sac Heads; and
- 4.2.6 Mechanical Boat Lifting Structures will only be supported where it can be demonstrated by the Applicant that the structure will not detrimentally impact on the amenity of adjoining owners, the navigability, accessibility and useability of the canal; and
- 4.2.7 Davits will only be supported in Marinas and where it can be demonstrated by the Applicant that the structure will not detrimentally impact on the amenity of surrounding properties; and
- 4.2.8 No boat should be suspended from the Davit or Mechanical Boat Lift Structure at any time.

### 5. RELATED DOCUMENTATION / LEGISLATION

- 5.1 *Private Works on City Land, including private coastal protection works on City Land Policy.*

### 6. REVIEW DETAILS

Review Frequency		2 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	10/3/2010	Resolution #	C1003/069

\* Policy number changed from LPP 11 to LPP 1.3 on the 11th May 2020. The change is administrative only, no resolution by Council required.

## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



### 1. HEAD OF POWER

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

### 2. PURPOSE

#### 2.1 Objectives

This purpose of this policy is to ensure the safe and effective management of the quantity and quality of stormwater runoff.

The objectives are to:

- Manage stormwater efficiently and effectively to provide adequate protection for people and property from flooding;
- Mimic the predevelopment hydrology through the application of water sensitive urban design (WSUD) principles;
- Avoid stormwater runoff adversely impacting the quality of the receiving waters, including groundwater, waterways, wetlands, Lower Vasse River and the Geographe Bay.

#### 2.2 Application

2.2.1 These policy provisions vary the deemed to comply provisions of the R Codes (part 7.3.2) to the extent that they set standards for stormwater management other than those set out in the R Codes.

2.2.2 These provisions provide a performance based approach to the control of development through the application of 'design principles' and 'deemed to comply' requirements. The design principles outlined in these policy provisions enable an alternate pathway for innovative development proposals to be considered and assessed in conjunction with a development application. The 'deemed to comply' pathway for development applications, including applications for a building permit will satisfy the planning requirements and will be exempt from any further planning assessment. 'Deemed to comply' requirements that can't be satisfied for single residential development may be satisfied by the 'design principles' pathway with the approval of the City's building and engineering section.

2.2.3 Where the Local Planning Scheme exempts certain residential development from the need to obtain planning approval, including the erection on a lot of a single house and any incidental development, or a minor extension/ancillary development to a grouped dwelling except, where amongst other things, the development is inconsistent with any provision of an adopted Local Planning Policy; then compliance with the deemed to comply provisions of these policy provisions will maintain that exemption. Developments will require planning approval where the 'design principles' pathway is taken.

2.2.4 These provisions apply to all applications for a building permit (including the erection on a lot of a

## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



single house and/or any incidental development) or planning approval involving an increase in, or change to the impervious surfaces within the lot, including the development or replacement of any existing impervious structures and change of land use.

- 2.2.5 These provisions are to be read in conjunction with Developer Contributions Policy Provision 6F Drainage Infill Contributions as infill development other than single residential development may attract a contribution toward the upgrading or augmentation of City managed street drainage system infrastructure.
- 2.2.6 These provisions are to be read and applied in conjunction with the City of Busselton's Engineering Technical Specifications for the control of stormwater, the Building Code of Australia and related provisions including AS/NZS 3500.3:2003 Plumbing and Drainage: Part 3 - Stormwater Drainage.
- 2.2.7 Where a standard of stormwater management is prescribed in an Engineering Technical Specification or the Building Code of Australia, that standard will need to be met in addition to any standard or requirement prescribed in these provisions.
- 2.2.8 These provisions set a volumetric requirement for stormwater management based on certain rainfall events which occur (have an Average Recurrence Interval—ARI) approximately once every 1 year and once every 5 years, in order to manage normal but significant rainfall events (and all lesser rainfall events). In Busselton, this equates to approximately 16mm of rainfall in 1 hour (1 year ARI event) and 25mm of rainfall in 1 hour (5 year ARI event), although this varies slightly across the district.
- To manage stormwater runoff from these rainfall events, a volume of 1m<sup>3</sup> per 65m<sup>2</sup> of impervious area (1 year ARI event) and 1m<sup>3</sup> per 40m<sup>2</sup> of impervious area (5 year ARI event) is needed.
- 2.2.9 Where an approved District, Local or Urban Water Management Plan/Strategy provides for the management of stormwater (of the 1 year ARI and 5 year ARI) within a lot to local government requirements, the standards set out in these provisions prevail to the extent of any inconsistency.
- 2.2.10 Works undertaken by the local government will be expected to meet the quantitative and qualitative elements of these provisions.

### 3. INTERPRETATION

**ARI—(Average Recurrence Interval)** means the average or expected value of the periods between exceedances of a given rainfall total, accumulated over a given duration (for the purpose of this policy should be taken as one hour duration unless otherwise specified).

**A rural zone means** the Agriculture zone, Viticulture and Tourism zone, Rural Landscape zone, Conservation zone and Bushland Protection zone pursuant to the Local Planning Scheme.

**1 year ARI** means the one year average recurrence interval, of a one hour duration, which for Busselton and Dunsborough areas equates to 16.5mm of rainfall. The volume of stormwater runoff from impervious surfaces equates to 1m<sup>3</sup> per 60m<sup>2</sup>, although 1m<sup>3</sup> per 65m<sup>2</sup> is required in these provisions.

## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



**5 Year ARI** means the five year average recurrence interval, of a one hour duration, which for Busselton and Dunsborough areas equates to 25mm of rainfall. The volume of stormwater runoff from impervious surfaces equates to 1m<sup>3</sup> per 40m<sup>2</sup>.

**Residential Infill** means the use of land for grouped or multiple dwelling units and/or ancillary buildings within a lot through either the development approval process or the land subdivision process including strata title. The term includes the development or redevelopment of grouped and multiple dwellings, retirement dwellings, tourist accommodation and aged and dependent persons homes.

**Commercial and Industrial Infill** means the use of land for development, redevelopment, expansion or intensification of commercial, industrial and other non-residential land uses and ancillary developments within a lot through either the development approval process or the land subdivision process including strata title.

**Impervious Surfaces** – means built surfaces that prevent absorption of water into the ground, such as roads, parking areas, paved areas and rooftops and has the same meaning as impermeable surface.

**Infiltration Basins and Trenches** – means a depression, normally up to a metre in depth, designed to capture stormwater prior for infiltration into the soil profile. The term includes dry and ephemeral basins with or without wetland plantings.

**Biofilter** – means an excavated basin or trench that is filled with porous filter media and planted with vegetation to remove pollutants from stormwater runoff. Biofilters use biological and physical processes to treat stormwater and the term includes a rain garden, biofiltration system and bioretention system.

**Throttled Lot Connection** – means a device to discharge stormwater from a private lot directly into an integrated street conveyance and treatment system and normally includes a maintainable silt trap prior to street system entry. The areas of the City where a throttled lot connection is available are outlined at Schedule 3.

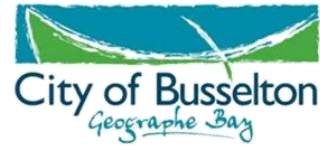
## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



### 4. POLICY STATEMENT

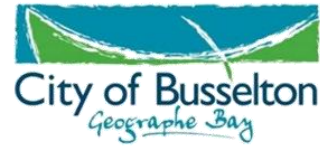
<b>Design Principles</b> <i>Development demonstrates compliance with the following design principles:</i>	<b>Deemed-to-Comply</b> <i>Development satisfies the following deemed-to-comply requirements:</i>
<b>5.1 Single House (and associated outbuildings, in all zones)</b>	
<p><b>P1</b> Efficient and effective management of stormwater through water sensitive urban design principles such that:</p> <ul style="list-style-type: none"> <li>i) Excess stormwater is not discharged to adjacent private lots (in areas of steep gradients, other than natural pre-development hydrology); and</li> <li>ii) Excess stormwater is safely conveyed to the street drainage system; and</li> </ul> <p><b>P2</b> Stormwater management does not unreasonably precipitate a loss of stormwater management capacity within the street drainage system or additional cost to the City to manage stormwater off site.</p> <p><b>P3</b> Stormwater management measures mimic the pre development hydrology as much as reasonably practicable.</p> <p><b>P4</b> Above ground storage and use and/or infiltration is maximised.</p> <p><b>P5</b> The drainage and hydrological characteristics of the land are considered in areas where flooding or high groundwater levels are evident.</p>	<p><b>C1</b> <i>Lots under 4000m<sup>2</sup> and with no throttled lot connection available</i></p> <p>Implementation of stormwater management details as set out on a site plan (with a building permit) which meet the following minimum standards:</p> <ul style="list-style-type: none"> <li>i) Stormwater is retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 40m<sup>2</sup> of impervious area, except where:                             <ul style="list-style-type: none"> <li>a) 'Stormwater is retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 65m<sup>2</sup> of impervious area and a contribution to the City is made in accordance with <i>Local Planning Policy 6F Drainage Contributions</i>.</li> </ul> </li> <li>ii) Stormwater retention/infiltration is met through either:                             <ul style="list-style-type: none"> <li>a) 'Above ground' storage and infiltration systems (e.g. rainwater tanks, under eaves rainwater tanks, and/or rainwater gardens; and/or</li> <li>b) Below ground storage and infiltration systems (e.g. soak-wells, rainwater tanks or infiltration cells).</li> </ul> </li> <li>iii) In the case of an application involving a lot that is located within the Wetland Areas as depicted on the Local Planning Scheme Maps, only 'above ground' storage and/or infiltration systems will be permitted e.g. rainwater tanks, under eaves rainwater</li> </ul>

**Local Planning Policy No. 6.1  
STORMWATER MANAGEMENT**



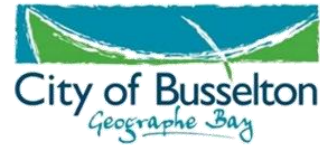
	<p>tanks, and/or rain gardens;</p> <p>iv) Stormwater in excess of that retained in accordance with (i) above is safely conveyed to the street drainage system;</p> <p>v) Driveways and paved areas to be shaped and inclined to direct runoff to natural, landscaped or pervious areas of the lot and to convey excess stormwater safely to the street drainage systems.</p> <p><b>C2 <i>Lots under 4000m<sup>2</sup> and with a throttled lot connection available</i></b></p> <p>Implementation of stormwater management details as set out on a site plan (with a building permit) which meet the following minimum standards:</p> <p>i) Compliance with the City's Engineering Technical Specifications for a silt trap and connection to the throttled lot direct connection as a part of the building permit;</p> <p>ii) Driveways and paved areas to be shaped and inclined to direct runoff to natural, landscaped or pervious areas of the lot and to convey excess stormwater safely to the street drainage system.</p> <p><b>C3 <i>Lots over 4000m<sup>2</sup> and with no throttled lot connection available</i></b></p> <p>Implementation of stormwater management details as set out on a site plan (with a building permit) which meet the following minimum standards:</p> <p>i) Stormwater is retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 65m<sup>2</sup> of impervious area;</p> <p>ii) The retention for use and/or infiltration requirements shall be met through:</p> <p>a) 'Above ground' storage and infiltration systems (e.g. rainwater tanks, under eaves rainwater tanks, landscaped gardens and detention basins and/or rain gardens)</p>
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## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



	<p>and/or;</p> <p>b) Below ground storage and infiltration systems (e.g. Soakwells, Rainwater tanks or infiltration cells); and/or</p> <p>c) The direction of surplus stormwater away from the building with downpipes and gully drains and the use of natural infiltration within the lot to infiltrate stormwater;</p> <p>iii) Driveways and paved areas to be shaped and inclined to direct runoff to natural, landscaped or pervious areas of the lot;</p> <p>iv) Appropriate retention for use and/or infiltration of stormwater prior to any water entering the street drainage system or any existing natural drainage systems such as wetlands, creeks, rivers or tributaries within the lot.</p>
<p><i>Notes:</i></p> <ul style="list-style-type: none"><li>• <i>The design and standard technical specifications for drawings accompanying the building plans will be deemed to comply where they are in accordance with Schedule 1 of this policy or the specifications set out in the City's Engineering Technical Specifications.</i></li><li>• <i>In the case of an application involving a lot that is located within the Wetland Area, as depicted on the Local Planning Scheme Maps, above ground storage and/or infiltration systems are encouraged for roof runoff e.g. rainwater tanks, under eaves rainwater tanks, and/or rain gardens.</i></li><li>• <i>Rainwater tank volumes will be credited to the minimum on site retention/infiltration requirement where they are designed and installed in accordance with the City's Engineering Technical Specifications.. Rainwater tanks must be plumbed into a laundry or toilet in order for all of the storage capacity in the tank to be credited to the total volumetric capacity to be detained or retained/infiltrated on site.</i></li><li>• <i>Rainwater tanks in excess of 5,000 litres capacity may require a building permit.</i></li></ul>	

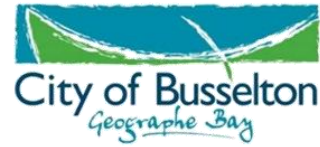
## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



<b>Design Principles</b> <i>Development demonstrates compliance with the following design principles:</i>	<b>Deemed-to-Comply</b> <i>Development satisfies the following deemed-to-comply requirements:</i>
<b>6.2 Commercial, Industrial, Mixed Use, Group and Multiple Residential, and other Residential Development in Urban Zones</b>	
<p><b>P1</b> Efficient and effective management of stormwater from the 5 year ARI rainfall event through the application of water sensitive urban design principles and practices.</p> <p><b>P2</b> Excess stormwater must be safely conveyed to the street drainage system.</p> <p><b>P3</b> Stormwater management does not unreasonably precipitate a loss of stormwater management capacity within the street drainage system or additional cost to the City to manage stormwater off site.</p> <p><b>P4</b> Stormwater from the site does not adversely impact the quality of receiving waters, including drains, groundwater, waterways, wetlands and Geographe Bay through the use of Water Sensitive Urban Design techniques such as :</p> <ul style="list-style-type: none"> <li>a) <b>Biofilters</b></li> <li>b) Infiltration trenches utilising amended soils for nutrient management</li> <li>c) Dry or ephemeral detention areas</li> <li>d) Living streams</li> <li>e) Constructed wetlands</li> </ul> <p><b>P5</b> The standards set out in any Water Quality Improvement Plan including the Water Quality Improvement Plan for the Vasse Wonnerup Wetlands and Geographe Bay (DoW, 2010).</p> <p><b>P6</b> Stormwater management measures mimic the pre development hydrology as much as reasonably practicable.</p>	<p><b>C1</b> <i>Lots with no throttled lot connection available</i></p> <p>Implementation of an approved stormwater management plan, (submitted with and assessed as part of a planning application) endorsed by the Engineering section which sets out the following minimum standards and requirements:</p> <ul style="list-style-type: none"> <li>i) Site Classification, soil types and groundwater levels (including seasonal groundwater level variation if sub-soil drainage is proposed);</li> <li>ii) Stormwater is retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 40m<sup>2</sup> of impervious area except: <ul style="list-style-type: none"> <li>a) Where an approved urban water management plan is in place, stormwater is retained for use and/or and infiltration within the lot at a rate which accords with that plan;</li> <li>b) Where there is no urban water management plan in place, stormwater is retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 65m<sup>2</sup> of impervious area and a contribution to the City is made in accordance with <i>Local Planning Policy Provision 6F Infill contributions (drainage)</i>.</li> </ul> </li> <li>iii) Stormwater in excess of that retained in accordance with (ii) above is safely conveyed to the street drainage system;</li> <li>iv) Areas where high risk operations occur (e.g. fuel or chemical storage areas) shall require separate <b>bunded</b> stormwater and/or process</li> </ul>

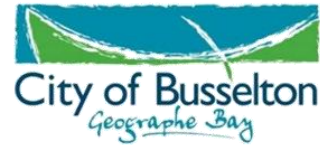


## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



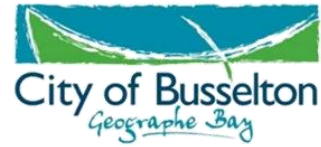
	<p>water systems with additional treatment (e.g. oil separators);</p> <p>v) Initial runoff from commercial and industrial sealed parking and loading areas shall be treated using bio-infiltration systems incorporated into landscaped areas, prior to release to below ground storage systems, in accordance with the City's Engineering Technical Specifications.</p> <p><b>C2 Lots with a throttled lot connection available</b></p> <p>Implementation of stormwater management details as set out on a site plan (with a building permit) which meet the following minimum standards:</p> <p>i) Compliance with the City's Engineering Technical Specifications for a silt trap and connection to the throttled lot direct connection as a part of the building permit;</p> <p>ii) Driveways and paved areas to be shaped and inclined to direct initial runoff from impervious areas to bio-infiltration systems incorporated into landscaped areas, prior to release to below ground storage systems, in accordance with the City's Engineering Technical Specifications, and excess stormwater conveyed safely to the street.</p>
<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>Stormwater from hard stand areas that comprises loose gravel, compacted limestone or any other bare earth areas shall be suitably retained, detained and/ or infiltrated to avoid sedimentation being carried into drainage areas within the property or other receiving water bodies.</li> <li>Rainwater tank volumes will be credited to the minimum on site retention/infiltration requirement where they are designed and installed in accordance with the City's Engineering Technical Specifications. Rainwater tanks must be plumbed into a laundry or toilet in order for all of the storage capacity in the tank to be credited to the total volumetric capacity to be detained or retained/infiltrated on site.</li> <li>Rainwater tanks in excess of 5000 litres capacity may require a building permit.</li> <li>Capture and use of the majority of roof runoff is strongly encouraged.</li> <li>Soakwells installed on lots classified as Class S, M and H sites require at least 3m, 4m and 5m offset respectively from a residence and/or adjacent building.</li> <li>Where a lot that is located lower than the stormwater system and with no hydraulic outlet, a pumped direct lot connection to the street drainage system may be permitted at the discretion of the City.</li> <li>Where no other options for discharge are available, discharge to a public reserve may be permitted if appropriate management measures are in place to control water quality and flow rate.</li> </ul>	

## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



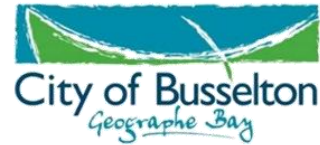
<b>Design Principles</b> <i>Development demonstrates compliance with the following design principles:</i>	<b>Deemed-to-Comply</b> <i>Development satisfies the following deemed-to-comply requirements:</i>
<b>6.3 Rural Industry and Non-Residential Development in Rural Zones (including wineries, restaurants, rural enterprises, etc.)</b>	
<p><b>P1</b> Efficient and effective management of stormwater the 5 year ARI rainfall event occurs through the application of water sensitive urban design principles and practices.</p> <p><b>P2</b> Stormwater from the site does not adversely impact the quality of receiving waters, including the street drainage system, groundwater, waterways, wetlands and Geographe Bay through the use of Water Sensitive Urban Design structural control such as :</p> <ul style="list-style-type: none"> <li>a) <b>Biofilters;</b></li> <li>b) Infiltration trenches utilising amended soils for nutrient management;</li> <li>c) Dry or ephemeral detention areas;</li> <li>d) Living streams; and</li> <li>e) Constructed wetlands.</li> </ul> <p><b>P3</b> Excess stormwater is not discharged directly to adjacent private lots, noting that this may occur naturally where existing <u>creaklines</u> and drainage pathways exist.</p> <p><b>P4</b> The standards set out in any Water Quality Improvement Plan including the Water quality improvement plan for the Vasse Wonnerup Wetlands and Geographe Bay (<u>DoW_2010</u>).</p> <p><b>P5</b> Stormwater management measures mimic the pre development hydrology as much as reasonably practicable.</p>	<p><b>C1</b> Implementation of an approved stormwater management plan, (submitted with and assessed as part of a planning application) endorsed by the Engineering section which sets out the following minimum standards and requirements:</p> <ul style="list-style-type: none"> <li>i) Site Classification, soil types and groundwater levels (including seasonal groundwater variation level if sub-soil drainage is proposed).</li> <li>ii) Stormwater is captured at a rate of 1m<sup>3</sup> per 40m<sup>2</sup> of impervious area and: <ul style="list-style-type: none"> <li>a) Where the lot discharges into a City managed street drainage system, retained for use, detained and/ or Infiltrated on the lot; or;</li> <li>b) Where lot runoff is directed to waterways and bodies, detained and/ or infiltrated in accordance with pre-development hydrology.</li> </ul> </li> <li>iii) The retention for use and/or infiltration requirements shall be met through either: <ul style="list-style-type: none"> <li>a) Above ground storage and/or infiltration systems (e.g. rainwater tanks, under eaves rainwater tanks, landscaped gardens and detention basins, rain gardens) and/or;</li> <li>b) Below ground storage and infiltration systems (e.g. <u>soakwells</u>, rainwater tanks or infiltration cells);</li> </ul> </li> <li>iv) Areas where high risk operations occur (e.g. fuel or chemical storage areas) shall require a separate <u>bunded</u> stormwater and/or process water systems with additional treatment</li> </ul>

## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



	<p>(e.g. oil separators);</p> <p>v) Initial runoff from sealed parking and loading areas shall be treated using bio-infiltration systems incorporated into landscaped areas, prior to release within the lot in accordance with the City's Engineering Technical Specifications;</p> <p>vi) Driveways and paved areas to be shaped and inclined to direct runoff to natural, landscaped or pervious areas of the lot.</p>
<p><i>Notes:</i></p> <ul style="list-style-type: none"><li>• Stormwater from hard stand areas that comprises loose gravel, compacted limestone or any other bare earth areas shall be suitably retained, detained and/ or infiltrated to avoid sedimentation being carried into drainage areas within the property, the street drainage system or other receiving natural drainage or water bodies.</li><li>• Rainwater tank volumes will be credited to the minimum on site retention/infiltration requirement where they are designed and installed in accordance with the City's Engineering Technical Specifications. Rainwater tanks will need to be plumbed into a laundry or toilet facility in order for all of the storage capacity in the tank to be credited to the total volumetric capacity to be detained or retained/infiltrated on site.</li><li>• Rainwater tanks in excess of 5000 litres capacity may require a building permit.</li><li>• <u>Soakwells</u> installed on lots classified as Class S, M and H sites require at least 3m, 4m and 5m offset respectively from a residence and/or adjacent building.</li></ul>	

## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



<b>Design Principles</b> <i>Development demonstrates compliance with the following design principles:</i>		<b>Deemed-to-Comply</b> <i>Development satisfies the following deemed-to-comply requirements:</i>	
<b>5.4 Erosion and Water Quality during Construction</b>			
<b>P1</b>	Measures applied to the construction phase of the project to ensure Stormwater from	<b>C1</b>	Implementation of an approved stormwater management plan (at the time a building
the site does not adversely impact the quality of receiving waters, including the street drainage system, groundwater, waterways, wetlands and Geographe Bay.		permit is issued) which includes best management practice methods for the construction phase of the project as set out in Schedule 2 in order to eliminate any risk of sedimentation, pollutants or litter entering the street drainage system or natural drainage and water bodies.	

### 5. REVIEW DETAILS

<b>Review Frequency</b>		2 yearly		
<b>Council Adoption</b>	<b>8/10/2014</b>		<b>C1410/243</b>	
<b>Previous Adoption</b>	<b>10/3/2010</b>		<b>C1003/069</b>	

\* Policy number changed from LPP 8C to LPP 6.1 on the 11th May 2020. The change is administrative only, no resolution by Council required.

## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



### APPENDIX 1

#### TECHNICAL SPECIFICATIONS AND WSUD GUIDELINES

For detail regarding the construction standards of water sensitive urban design measures, please refer to the City's Engineering Technical Standards and Specifications (Section 6) available at <http://www.planning.wa.gov.au/>

For detail regarding guidance on a number of water sensitive urban design (WSUD) measures which may be employed to meet the City's requirements for stormwater management on individual lots, or through infill development and subdivision, please refer to the City's Water Sensitive Urban Design Guidelines at <http://www.busselton.wa.gov.au/>

### APPENDIX 2

#### BUILDING AND CONSTRUCTION SITE MANAGEMENT PRACTICES

Best management practices for building and construction site management for general development are outlined below. The City has a Local Law (Dust and Building Waste Control 2010) to ensure compliance with dust and building waste. Application of the measures set out below will assist in avoiding penalties for breach of the Local Law.

**Site Rule 1 — Prepare a plan before you start a job as it will make a big difference to how well you manage your site.**

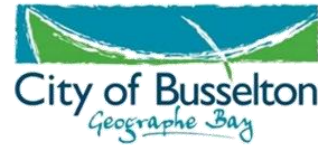
The plan should identify:

- Where is the lowest point on the site? Water always runs to the lowest point.
- Where will I put the crossover? Try to put the crossover as far away from the lowest point as possible. As water runs to the lowest point it is more likely to be wet and muddy.
- Where will I keep my stockpile?
- Stockpiles are best kept on site, as far away from the lowest point as practical.
- Where will I build my sediment control fence?
- Sediment control fences should be built on the lowest side/s of a site.
- Which trees and vegetation will be kept on site?
- Rope or fence off the areas you are going to keep. Keeping vegetation such as grassed areas will help to prevent damage to the surface of the site later on and may trap sediment.
  - a. Cut materials on site away from stormwater drains
  - b. Put sediment control filters down slope – such as sediment logs or a backup sediment fence.
  - c. Clean up when finished by disposing of the waste in a container where it can't get into the street drainage system. Do not hose where it slurry away.

#### Site Rule 2 — Contain stockpiles on site

Ensure suppliers to deliver stockpiles of sand, soil, and screenings cement mulch onto the site. Putting stockpiles such as sand, topsoil and mulch across footpaths and roads will cause a hazard to pedestrians and vehicles and can cause problems for the street drainage system. Stockpiles not stored properly can get washed or blown away and pollute stormwater runoff. This is particularly true of stockpiles that are high, have steep sides, or are put on hard surfaces where they can be blown or washed away.

## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



### Control Method 1 - Cover Stockpiles

- Place a tarp, plastic or bunded pallet under the area where the stockpile will be placed.
- Place a secured covering over the stockpile.
- Then place sediment control logs around the downslope base of the stockpile.

### Site Rule 3 — Keep mud off road and on site

The following simple methods will help you to protect the surface of your site and help stop vehicles from dropping mud on the road from their wheels.

- The best way to do this is to put crushed rock on the crossover or access point of your building site.
- Putting crushed rock on the access point of your site is a good way to prevent damage and provide a dry access point for vehicles.
- Where possible park vehicles off site.
- Make sure gravel does not collect in the gutter or on the footpath.
- Sweeping the footpath and road after delivery spills and at the end of each working day.

### Site Rule 4 — Keep litter contained on site

Many building sites have both building rubble and other rubbish spread across them. This causes many problems:

- Litter may spoil local creeks and drains.
- Litter blowing off site can block stormwater find its way to the coast.

### Site Rule 5 — Stop Erosion on site and contain Sediments Control

#### Control Method 1 - Keep areas of vegetation as a buffer strip at the site boundary.

Protect areas close to the boundary drains and gutters where surface water flows may carry sediments offsite. Decide what areas of vegetation are going to be kept on site. Mark and protect trees, shrubs and grassed areas.

#### Control Method 2 - Early downpipe connection.

Connecting downpipes early to the stormwater or on site detention system has a number of benefits:

- Less drainage problems on site
- Less mud on site after rain
- A safer site
- Reduces damage to building foundations

#### Control Method 3 – Pipe roof water onto a grassed or bunded area

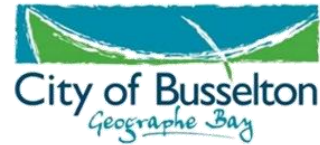
If it is not possible to connect to a stormwater system then pipe the water away from the building onto a vegetated area where there is good ground cover or lawned area or to a bunded area. This lets water seep into the ground with less damage to the surface of the soil.

#### Control Method 4 – Sediment Control Fencing

Sediment control fences stop sediment being washed off the site. The fence allows muddy water to pond behind it and for sediment to settle as the water slowly filters through. Geotextile fabrics are required. Shade cloth is NOT suitable. Regular maintenance is required. Remove excessive silt deposits after storms.

Sediment control fences are usually no higher than 900mm above natural ground level and the geotextile material is buried to 150mm deep below and behind supporting posts on the low side of the site between the site construction

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and the street, or where the e land may allow water to carry sediment off the building Site.

### Control Method 5 – Control dust and slurry from cutting

A large amount of dust can be made from cutting materials such as concrete bricks and tiles. When mixed with water this material can be turned into slurry and washed into waterways. Cement changes the acidity of water which can kill water plants and animals. The following methods will help to keep this waste on site and out of the waterways:

### Control Method 6 - Litter bins or covered skips

A smaller bin is okay for smaller rubbish like paper, food wrapping drink containers that may be blown off site. Council bins may be restricted from building sites.

The following simple methods will help you to stop litter leaving your site or being a hazard on site:

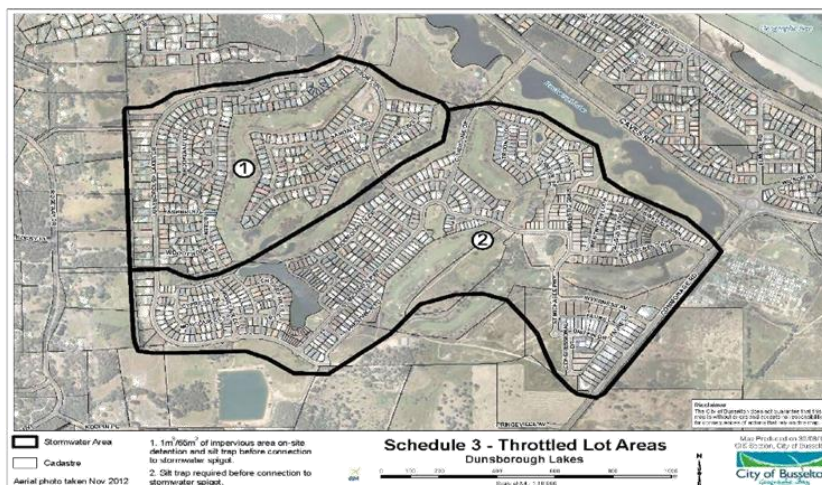
- A mesh bin with a closable lid is suitable for larger items like cardboard boxes, plastic wrapping and polystyrene.
- Empty the litter bin regularly. Don't allow overflow. Where possible, collect the materials from
- The litter bin for recycling and /or keep different materials in separate bins.

### **Site Rule 6 – Clean and Wash-up on site**

When cleaning up after painting, plastering or concreting it's most important to keep the wash water out of the street drainage system. Problems to the environment include:

- Oil based paints form a thin film over the surface of the water. This starves water plants and animals of oxygen.
- Paints and petrol chemicals can contain toxic compounds.
- Concrete changes the acidity of waterways which can kill water plants and animals.
- Concrete washings can harden and block drains.
- Roads around a building site can become dirty, slippery and dangerous.

Further details can be obtained from the following website <http://www.mbav.com.au/>



## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



### 1. HEAD OF POWER AND SCOPE

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

### 2. PURPOSE

The purpose of this Policy is to outline the minimum requirements for stormwater management to ensure:

- 2.1 Safe and effective management of the quantity and quality of stormwater runoff; and
- 2.2 Adequate protection for people and property from flooding; and
- 2.3 Stormwater runoff does not adversely impact the quality of the receiving waters, including groundwater, waterways, wetlands, Lower Vasse River and the Geographe Bay.

### 3. INTERPRETATION

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

**“Average Recurrence Interval (ARI)”** means the average or expected value of the periods between exceedances of a given rainfall total, accumulated over a given duration (for the purpose of this policy should be taken as one hour duration unless otherwise specified).

**“1 Year ARI”** means the one year average recurrence interval, of a one hour duration, which for Busselton and Dunsborough areas equates to 16.5mm of rainfall. The volume of stormwater runoff from Impervious Surfaces equates to 1m<sup>3</sup> per 60m<sup>2</sup>, although 1m<sup>3</sup> per 65m<sup>2</sup> is required in these provisions.

**“5 Year ARI”** means the five year average recurrence interval, of a one hour duration, which for Busselton and Dunsborough areas equates to 25mm of rainfall. The volume of stormwater runoff from Impervious Surfaces equates to 1m<sup>3</sup> per 40m<sup>2</sup>.

**“Drainage Property Connection”** means a device to discharge stormwater from a private lot directly into an integrated street conveyance and treatment system and normally includes a maintainable silt trap prior to street system entry.

**“Impervious Surfaces”** means built surfaces that prevent absorption of water into the ground, such as roads, parking areas, paved areas and rooftops.

**“R-codes”** means *State Planning Policy 7.3: Residential Design Codes Volume 1* (as amended).

**“Stormwater Management”** is the control of surface water runoff from Impervious Surfaces such as roofs, roads, driveways and paved areas which prevent the absorption of water into the ground.

### 4. POLICY STATEMENT

#### 4.1 SYSTEMS REQUIREMENTS

4.1.1 Stormwater shall be managed on-site by one or a combination of the following means:

- a) Above ground storage and infiltration systems (e.g. water tanks, rainwater gardens, detention basins); *and/or*



## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



b) Below ground storage and infiltration systems (e.g. soakwells, sumps or infiltration cells).

*Note 1: Development within 'Wetland Special Control Area' are encouraged to use 'above ground storage and infiltration systems' only.*

4.1.2 Notwithstanding 4.1.1 above, on lots greater than 4,000m<sup>2</sup> stormwater is not required to be contained within a storage and/or infiltration system however the applicant shall be required to demonstrate to the satisfaction of the City that stormwater can be suitably managed and contained within the Lot such that it does not cause erosion to the building/s or adjoining properties.

4.1.3 Where a Lot has a Drainage Property Connection overflow from the below ground storage and infiltration system, as required under Part 4.1.1 of this Policy, is required to be connected to the Drainage Property Connection via a silt trap.

*Note 2 : A Drainage Property Connection is generally provided within areas with poor soil permeability, high clay content or high winter groundwater table. Please contact the City of Busselton to determine if lot a Drainage Property Connection.*

### 4.2 VOLUMETRIC REQUIREMENTS

4.2.1 This Policy sets different volumetric requirement to manage Stormwater based on 1 Year ARI or 5 Year ARI rainfall events as follows;

- (a) Single Houses (including associated outbuildings) should satisfy the volumetric requirements specified in Table 1 below; and
- (b) All other development should satisfy the volumetric requirements specified in Table 2 below.

4.2.2 Where an approved District, Local or Urban Water Management Plan/Strategy provides for the management of stormwater (1 Year ARI and 5 Year ARI) within a lot, the standards set out in those provisions prevail over this Policy to the extent of any inconsistency.

TABLE 1 : SINGLE HOUSE (INCLUDING ASSOCIATED OUTBUILDINGS) ON A LOT LESS THAN 4,000M <sup>2</sup>	
All lots other than canal lots within Port Geographe with an overflow pipe within canal wall.	Stormwater runoff is retained for use and/or infiltration within the lot at a rate of <b>1m<sup>3</sup> of storage per 65m<sup>2</sup></b> of impervious area to accommodate 1 Year ARI.
Canal lots within Port Geographe with an overflow pipe within canal wall.  <i>Developers must confirm on site the location/existence of the overflow pipe.</i>	No on-site Stormwater Management is required and can be discharged in to the canal via the overflow pipe which is required to be connected to a silt-trap.

## Local Planning Policy No. 6.1 STORMWATER MANAGEMENT



**TABLE 2 : ALL OTHER DEVELOPMENT  
ON A LOT LESS THAN 4,000M<sup>2</sup>**

All lots	Stormwater runoff is retained for use and/or infiltration within the lot at a rate of <b>1m<sup>3</sup> of storage per 40m<sup>2</sup></b> of impervious area to accommodate 5 Year ARI except where an approved urban water management plan is in place stormwater management is to be in accordance with that plan.
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*Note 3: Where the R-codes are applicable, the Stormwater Management volumetric requirement prescribed in Tables 1 and 2 above sets the minimum standard for Stormwater Management to meet the deemed-to-comply criteria of clause 5.3.9 Stormwater Management of the R-codes.*

### 5. RELATED DOCUMENTATION/ LEGISLATION

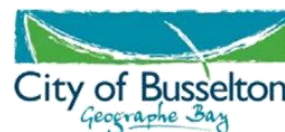
- 5.1 *City of Busselton Engineering Technical Specifications (Section 6 – Property Development Technical Requirements and Guidelines)*
- 5.2 *AS/NZS 3500.3:2003 Plumbing and Drainage: Part 3 - Stormwater Drainage*

### 6. REVIEW DETAILS

<b>Review Frequency</b>	2 yearly		
<b>Council Adoption</b>	<b>DATE</b>	<b>Resolution #</b>	
<b>Previous Adoption</b>	<b>DATE</b>	<b>Resolution #</b>	<b>C1410/243</b>

\* Policy number changed from LPP 8C to LPP 6.1 on the 11th May 2020. The change is administrative only, no resolution by Council required.

## Local Planning Policy No. X ADVERTISEMENTS AND ADVERTISING SIGNS



### 1. HEAD OF POWER AND SCOPE

This Policy has been adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions) and applies to all permanent or fixed Advertising Signs located across the whole of the City.

*Note 1: This Policy does not apply to Portable Signs, refer to Council Policy 'Portable Advertising Signs in Public Places' for provisions relating to Portable Signs.*

### 2. PURPOSE

The purpose of this Policy is to:

- 2.1 Provide guidance on the design and placement of Advertisements; and
- 2.2 Ensure that Advertisements within the City are:
  - a) Designed, constructed and maintained to a high aesthetic standard and quality of presentation; and
  - b) Integrated within the design of the development and are consistent with the character of the local area; and
  - c) Designed such that they do not result in visual clutter and/or have a detrimental impact on the streetscape or visual amenity of the surrounding area and present a visually attractive appearance to public areas; and
  - d) Consistent with the heritage values of a place (where applicable); and
  - e) Integrated and rationalised where a site contains multiple tenancies; and
  - f) Designed, constructed, secured and maintained so that they do not pose a hazard to motorists, pedestrians, cyclists and the public at large.

### 3. INTERPRETATION

Other than those terms defined below, and in Appendix 1 : 'Types of Advertising Signage' of this Policy, terms should be interpreted in the same way as they would be interpreted if they were contained or within the Scheme, including those terms defined in the deemed provisions and Schedule 11 of the Scheme -

**"Advertisement"** as defined by the Deemed Provisions and provided below -

means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, that is used wholly or partly for the purposes of advertising, announcing or directing, and includes —

- a) any hoarding or similar structure used, or adapted for use, for the display of advertisements; and
- b) any airborne device anchored to any land or building used for the display of advertising; and
- c) any vehicle or trailer or other similar object placed or located so as to serve the purpose of displaying advertising.

**"Advertising Sign"** means a permanent structure used for the purpose of Advertisement, or to draw attention to, a product, business, person or event.

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**“Main Roads WA Roads”** means any road which is under the care and control of Main Roads WA, including Primary Distributor & Regional Distributor Roads, and includes the following roads within the City;

- a) Caves Road;
- b) Bussell Highway from the southern boundary of the Shire of Capel to Causeway Road;
- c) Bussell Highway from the intersection with Caves Road to the northern boundary of the Shire of Augusta Margaret River;
- d) Busselton Bypass;
- e) Vasse Highway; and
- f) Sues Road.

**“Portable Sign”** means an Advertising Sign that is made from lightweight materials which can be easily moved and includes but is not limited to:

- a) ‘A’ frame of ‘T’ frame sign;
- b) Garage Sale Sign;
- c) Home Open Sign;
- d) Horizontal banner sign;
- e) City project sign;
- f) Vertical banner sign; and
- g) Variable message sign.

**“Scheme”** means the *City of Busselton Local Planning Scheme No. 21* (as amended).

**“Static Illumination”** means an internal or external light source that lights any type of sign. The light cannot chase, flash or have any moving features or animations and includes light boxes, LED and Neon signs.

#### 4. POLICY STATEMENT

##### 4.1 BACKGROUND

Clause 6.1 ‘Permitted Development’ of the Scheme outlines development which is exempt from requiring development approval. Clause 6.1.1(d) of the Scheme exempts; “the erection, placement or display of any advertisement and the use of land or buildings for that purpose as exempted by Schedule 11, except in respect of a place included in the Heritage List or in a heritage area.”

In addition to Clause 6.1.1 of the Scheme, the following Scheme provisions are also relevant to Advertising Signage within the City:

- Clause 4.36.4 of the Scheme outlines requirements for entry statements within the Rural and Viticulture and Tourism zones;
- Clause 4.41 ‘Prohibited Advertisements’ states; “Advertisements that advertise goods and services which are not produced, displayed or offered for sale, or which is otherwise not relevant to, the land upon which the advertisement is located, are prohibited”.

Where not exempted by Schedule 11 of the Scheme, Advertising Signage requires a development approval and an assessment against the Scheme and this Policy.

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### 4.2 SIGN TYPE AND ZONE SPECIFIC REQUIREMENTS

Advertisements should comply with 'Appendix 2: Zoning Specific Provisions - Free Standing Signs' or 'Appendix 3: Zoning Specific Provisions - Signs Attached to a Building'.

### 4.3 GENERAL REQUIREMENTS

In addition to the requirements above, the following considerations are relevant to applications for all Advertisements:

- (a) Advertisements should generally be integrated into the architectural design of all new development; and
- (b) All Advertisements should be contained wholly within the lot to which it relates with the exception of Cantilever and Verandah/Awning Signs which may project into the adjoining road reserve or other public land (with the appropriate consent of the agency responsible for managing that land); and
- (c) A minimum clearance of 2.75m (in accordance with the *Building Code of Australia*) should be provided underneath Pylon Sign - Large, Cantilever and Verandah/Awning signs unless it can be demonstrated that 2.75m clearance cannot reasonably be achieved and a lower clearance, should that be proposed, is unlikely to have any significant impact on pedestrian amenity or safety; and
- (d) Advertisements may utilise Static Illumination (as part of the development application, the applicant will be required to demonstrate to the satisfaction of the City that the Static Illumination will not cause a nuisance to occupiers of surrounding residential premises, cause a traffic hazard or distraction to drivers on the adjacent public road or be confused with traffic signals); and
- (e) Where approved, Static Illumination will only be permitted to be in use when the business is operating; and
- (f) Animated Signs are not supported by the City for commercial purposes;
- (g) Applications for Animated Signs will only be considered for not-for-profit organisation, school and/or other authority where used to display community messages; and
- (h) The City does not support more than one "Pylon Sign – Large", "Pylon Sign – Small" or "Commercial Flag Sign" per road frontage.

*Note 2: In addition to the City's requirements, approval from Main Roads WA is required for all advertisements on, in the vicinity of or visible from a Main Road. In addition, all illuminated signs within 50m of traffic signals require approval from Main Roads WA.*

*Note 3: Some Advertising Signs may require a Building Permit in addition to Development Approval.*

### 5. RELATED DOCUMENTATION/ LEGISLATION

5.1 *Activities in Thoroughfares and Public Places and Trading Local Law 2015.*

5.2 *Council Policy - Portable Advertising Signs in Public Places.*

### 6. REVIEW DETAILS

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




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APPENDIX 1 - TYPES OF ADVERTISING SIGNS	
<b>Freestanding signs</b>	
<p><b>“Pylon Sign – Large”</b> means an Advertising Sign supported by one or more pole that is not attached to a building and is greater than 1.2m in overall height.</p>	
<p><b>“Pylon Sign – Small”</b> means an Advertising Sign supported by one or more poles and not attached to a building and is no greater than 1.2m in overall height.</p>	
<p><b>“Entry Statement Sign”</b> as defined by the Scheme and provided below:  <i>“a structure placed at, and denoting, the entry point to a defined area or site and includes associated landscaping and structures.”</i></p>	
<p><b>“Commercial Flag Sign”</b> means a piece of cloth, or other flexible material, which is used to advertise a business and is attached to a pole that is permanently installed into the ground.</p>	
<p><b>“Animated Sign”</b> includes, but not limited to, any sign or its contents that is electronic and includes flashing or “chasing” lights, as well as video signs, plasma and LCD screen signs.</p>	
<b>Signs attached to building</b>	
<p><b>“Cantilever Sign”</b> means an Advertising Sign that is affixed to a building or structure at or by one of its ends.</p>	
<p><b>“Verandah/Awning Sign”</b> means an Advertising Sign affixed on, above or under a verandah and includes a sign that is affixed to cantilevered awnings and balconies.</p>	

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<p><b>“Window Sign”</b> means an Advertising Sign painted or affixed to either the interior or exterior surface of the glazed area of a window.</p>	 A line drawing of a building facade with two windows. Each window has a rectangular sign affixed to its exterior surface.
<p><b>“Wall Sign”</b> as defined in Schedule 11 of the Scheme and provided below:</p> <p><i>“a sign attached to or otherwise displayed on a building or a structure no part of which projects further than 0.3m from that building or structure other than an advertisement that is displayed on, above or below a verandah or a verandah fascia.”</i></p>	 A line drawing of a building facade with several signs attached to the wall. One sign is above a window, another is on the wall to the right, and a vertical sign is on the far right.
<p><b>“Roof Sign”</b> means an Advertising Sign that is erected or painted directly on the roof of a building.</p>	 A line drawing of a building with a sign mounted on its roof. The sign is rectangular and has the word "SIGN" written on it.

APPENDIX 2: ZONING SPECIFIC PROVISIONS - FREE STANDING SIGNS					
	<ul style="list-style-type: none"> <li>Residential</li> <li>Tourism lots without vehicular access from Bussell Highway.</li> </ul>	<ul style="list-style-type: none"> <li>Regional Centre</li> <li>Centre</li> <li>Local Centre</li> <li>Tourism lots with vehicular access from Bussell Highway.</li> </ul>	<ul style="list-style-type: none"> <li>Service Commercial</li> <li>Light Industry</li> <li>General Industry</li> </ul>	<ul style="list-style-type: none"> <li>Rural Landscape</li> <li>Conservation</li> <li>Bushland Protection</li> </ul>	<ul style="list-style-type: none"> <li>Rural</li> <li>Viticulture and Tourism</li> <li>Rural Residential</li> </ul>
<b>Pylon – Large</b>	Not permitted.	<ul style="list-style-type: none"> <li>One per Lot – multi tenancy sites should combine into one sign.</li> <li>Maximum Height : 6m or the height of the associated building whichever is lesser.</li> <li>Maximum Area : 10m<sup>2</sup></li> <li>Shall be located so as to not impede sightlines.</li> </ul>	<ul style="list-style-type: none"> <li>One per Lot – multi tenancy sites should combine into one sign.</li> <li>Maximum Height : 6m or the height of the associated building whichever is lesser.</li> <li>Maximum Area : 10m<sup>2</sup></li> <li>Shall be located so as to not impede sightlines.</li> </ul>	Not permitted.	Not permitted.
<b>Pylon – Small</b>	<ul style="list-style-type: none"> <li>One per lot when associated with an approved non-residential use.</li> <li>Maximum height : 1.2m</li> <li>Maximum area : 2m<sup>2</sup></li> <li>Shall be located so as to not impede sightlines.</li> </ul>	<ul style="list-style-type: none"> <li>One per Lot</li> <li>Maximum height : 1.2m</li> <li>Maximum area : 2m<sup>2</sup></li> </ul> <p>Shall be located so as to not impede sightlines.</p>	<ul style="list-style-type: none"> <li>One per Lot</li> <li>Maximum height : 1.2m</li> <li>Maximum area : 2m<sup>2</sup></li> </ul> <p>Shall be located so as to not impede sightlines.</p>	Not permitted.	Not permitted.
<b>Entry Statement</b>	Estate signage – case by case	Not permitted.	Not permitted.	<ul style="list-style-type: none"> <li>One per lot when associated with an approved non-residential use.</li> <li>Average height : 1.2m</li> <li>Maximum height : 1.8m</li> <li>Maximum length : 9m</li> </ul>	<ul style="list-style-type: none"> <li>One per lot when associated with an approved non-residential use.</li> <li>Average height : 1.2m</li> <li>Maximum height : 1.8m</li> <li>Maximum length : 9m</li> </ul>
<b>Commercial Flag</b>	Not permitted.	Not permitted.	<ul style="list-style-type: none"> <li>One per Lot</li> <li>Maximum height : 6m</li> <li>Maximum area of flag: 4.5m<sup>2</sup></li> </ul>	Not permitted.	Not permitted.
<b>Animated Sign</b>	Not permitted for commercial purposes. Only permitted for not-for-profit organisation, school and/or other authority to display community messages.				



APPENDIX 3: ZONING SPECIFIC PROVISIONS - SIGNS ATTACHED TO BUILDINGS					
	<ul style="list-style-type: none"> <li>Residential</li> <li>Tourism lots without vehicular access from Bussell Highway.</li> </ul>	<ul style="list-style-type: none"> <li>Regional Centre</li> <li>Centre</li> <li>Local Centre</li> <li>Tourism lots with vehicular access from Bussell Highway.</li> </ul>	<ul style="list-style-type: none"> <li>Service Commercial</li> <li>Light Industry</li> <li>General Industry</li> </ul>	<ul style="list-style-type: none"> <li>Rural Landscape</li> <li>Conservation</li> <li>Bushland Protection</li> </ul>	<ul style="list-style-type: none"> <li>Rural</li> <li>Viticulture and Tourism</li> <li>Rural Residential</li> </ul>
<b>Cantilever sign</b>	Not permitted.	<ul style="list-style-type: none"> <li>One per tenancy</li> <li>To be wholly located under the roofline and/awning.</li> <li>Maximum area : 2m<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>One per tenancy</li> <li>To be wholly located under the roofline and/awning.</li> <li>Maximum area : 2m<sup>2</sup></li> </ul>	Not permitted.	Not permitted.
<b>Verandah/ Awning</b>	Not permitted.	<ul style="list-style-type: none"> <li>One per tenancy</li> <li>Must be contained within the outline of the Verandah/ Awning</li> </ul>	<ul style="list-style-type: none"> <li>One per tenancy</li> <li>Maximum height &amp; Area : Must be contained within the outline of the Verandah/ Awning</li> </ul>	Not permitted.	Not permitted.
<b>Window<sup>1</sup></b>	Not permitted	<ul style="list-style-type: none"> <li>Maximum 25% of the glazing or 10m<sup>2</sup> per tenancy, whichever is lesser.</li> <li>Must not be solid or prevent two way vision.</li> </ul>	<ul style="list-style-type: none"> <li>Maximum 25% of the glazing or 10m<sup>2</sup> per tenancy, whichever is lesser.</li> <li>Must not be solid or prevent two way vision.</li> </ul>	Not permitted.	Not permitted.
<b>Wall<sup>2</sup></b>	Residential Use <ul style="list-style-type: none"> <li>Indicate the name of the building only</li> <li>Maximum letter and number height of 300mm.</li> </ul> Non Residential Use/s <ul style="list-style-type: none"> <li>Indicate the name &amp; contact details of the business only</li> <li>Maximum letter and number height of 300mm.</li> </ul>	<ul style="list-style-type: none"> <li>Maximum 25% of the façade or 10m<sup>2</sup> per tenancy, whichever is lesser.</li> </ul>	<ul style="list-style-type: none"> <li>Maximum 25% of the façade or 10m<sup>2</sup> per tenancy, whichever is lesser.</li> </ul>	Not permitted.	Not permitted.
<b>Roof</b>	Not permitted.	Not permitted.	Not permitted.	Not permitted.	Not permitted.
<b>Animated Sign</b>	Not permitted for commercial purposes. Only permitted for not-for-profit organisation, school and/or other authority to display community messages.				

Note 1: Advertisements affixed inside or painted on a shop window are exempt under Schedule 11 of the Scheme.

Note 2: Wall signage below the top of an awning or in the absence of an awning below a line measured at 5 metres from the ground floor level of any shop/bulky goods showroom.

**13. PLANNING AND DEVELOPMENT SERVICES REPORT****13.1 AMENDMENT 45 TO LOCAL PLANNING SCHEME AND PROPOSED STRUCTURE PLAN AFFECTING LOT 30 (70) MILLBROOK ROAD - CONSIDERATION FOR FINAL APPROVAL**

<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>	Local Planning Schemes
<b>BUSINESS UNIT</b>	Strategic Planning
<b>REPORTING OFFICER</b>	Strategic Planner - Janine Eriksson
<b>AUTHORISING OFFICER</b>	Director, Planning and Development Services - Paul Needham
<b>NATURE OF DECISION</b>	Legislative: to adopt legislative documents e.g. local laws, local planning schemes, local planning policies
<b>VOTING REQUIREMENT</b>	Simple Majority
<b>ATTACHMENTS</b>	<p>Attachment A <a href="#">Location Plan</a> </p> <p>Attachment B <a href="#">Scheme Amendment Map</a> </p> <p>Attachment C <a href="#">Structure Plan</a> </p> <p>Attachment D <a href="#">Schedule of Submissions</a> </p> <p>Attachment E <a href="#">Schedule of Modifications</a> </p> <p>Attachment F <a href="#">(Existing) Development Guide Plan (DGP50)</a> </p> <p>Attachment G <a href="#">Landuse Definitions and Permissibilities</a> </p> <p>Attachment H <a href="#">Draft Millbrook Structure Plan provisions (as advertised)</a> </p> <p>Attachment I <a href="#">Bushfire Management Plan</a> </p> <p>Attachment J <a href="#">Heritage Assessment</a> </p> <p>Attachment K <a href="#">Heritage Council - Millbrook Farm Statement of Significance</a> </p> <p>Attachment L <a href="#">Adjoining landowners notified</a> </p>

**OFFICER RECOMMENDATION**

That the Council:

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts Amendment No. 45 to the City of Busselton Local Planning Scheme No. 21 for final approval, in accordance with the modifications proposed in the 'Schedule of Modifications' shown at Attachment E, for the purposes of:

- a) Deleting Additional Use 52 from Schedule 2 Additional Uses.
- b) Amending Schedule 3 – Special Provision Areas as follows:

No.	Particulars of Land	Zone	Special Provisions
SP 71	As shown on Scheme Map	Rural Residential	<p>1. The following uses shall be deemed to be "A" uses for the purposes of Part 4 of the Scheme:</p> <ul style="list-style-type: none"> <li>• Art Gallery</li> <li>• Brewery</li> <li>• Chalet</li> <li>• Exhibition Centre</li> <li>• Hotel</li> <li>• Reception Centre</li> <li>• Rural Holiday Resort</li> </ul>

			<ul style="list-style-type: none"> <li>• Small Bar</li> <li>• Tavern</li> <li>• Tourist Accommodation</li> <li>• Winery</li> </ul> <p>2. Development within the Special Provision Area shall be limited to 2,500m<sup>2</sup> NLA, other than for:</p> <ul style="list-style-type: none"> <li>i. Development associated with the use (but not expansion) of existing buildings on the land (as at 1 January 2019); or</li> <li>ii. Development of a Single House or development ancillary to a Single House; or</li> <li>iii. Use of a Single House or development ancillary to a Single House as a Holiday Home (Single House), Bed and Breakfast, Home Business, Home Occupation or Home Office.</li> </ul>
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- c) Amending the Scheme Map accordingly (as per Attachment B).
2. Advises the Western Australian Planning Commission that Amendment No. 45 is considered a 'standard' amendment pursuant to the *Planning and Development (Local Planning Scheme) Regulations 2015* for the following reasons:
- a) It is an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve.
  - b) It is an amendment that would have minimal impact on land in the Scheme area that is not the subject of the amendment.
  - c) It is an amendment that does not result in significant environmental, social, economic or governance impacts on land in the Scheme area.
3. Pursuant to Part 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts the Structure Plan shown at Attachment C for final approval, in accordance with the modifications proposed in the Schedule of Modifications shown at Attachment E, and also on the basis that support for final adoption of the Structure Plan is contingent on the Hon. Minister for Planning's support for Amendment 45.
4. Pursuant to r.53 and Part 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, endorses the Schedule of Submissions at Attachment D, which has been prepared in response to the public consultation process undertaken in relation to Amendment No. 45 and the associated Millbrook Structure Plan.
5. Upon preparation of the necessary documentation, refers Amendment No. 45 and the Structure Plan to the Western Australian Planning Commission and Hon. Minister for Planning for consideration and determination in accordance with the *Planning and Development Act 2005*.
6. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should directions be given that modifications to Amendment No. 45 and/or the Millbrook Structure Plan are required, direct these modifications to be undertaken

**accordingly, on behalf of the Council, unless they are considered by Officers likely to significantly affect the purpose and intent of the Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination.**

- 7. Following final decisions by the Western Australian Planning Commission and Hon. Minister for Planning, the City undertakes further community consultation with the aim of identifying means by which pedestrian accessibility and inter-connection in the area may be improved.**

## **EXECUTIVE SUMMARY**

The Council is requested to consider adopting for final approval Amendment 45 ('Amendment') to *Local Planning Scheme 21* ('Scheme') and the related 'Structure Plan' (Attachment C) – collectively the 'proposals'. The purpose of the Amendment is to remove Additional Use 52 from Schedule 2 of the Scheme (which currently applies to Lot 30 Millbrook Road, Yallingup), and introduce Special Provision 71 under Schedule 3 of the Scheme to a portion of Lot 30 Millbrook Road. The Structure Plan is intended to supersede the existing Development Guide Plan ('DGP50'), which relates to the land.

The effect of the proposals is to reduce the potential scope, scale and footprint of non-residential development permissible on the land (relative to what is currently potentially permissible), whilst also providing for creation of a limited number of additional rural residential lots – in part in recognition of the loss of other development potential that is proposed. It is considered by City officers that the proposals would result in a planning framework that significantly reduces the potential for non-residential development that may have an impact on the amenity of the surrounding rural-residential area, whilst preserving some of the potential for non-residential development associated with important heritage assets on the land, and which was envisaged when the area was first developed for rural-residential purposes.

It is recommended that the Council adopt the proposal for final approval (subject to a number of recommended modifications) and forward them to the Western Australian Planning Commission (WAPC) and Hon. Minister for Planning for their consideration.

## **BACKGROUND**

The land affected by the proposals is within the fairly extensive rural-residential area located between and to the south of the Dunsborough and Yallingup townsites, often referred to as the 'Commonage', and as identified on the Location Plan at Attachment A. The land where there is a substantive change to the planning framework proposed is identified on that plan as the 'subject land'. The subject land is 24 hectares in area and contains heritage assets that are formally recognised at both State and local level (i.e. the subject land is listed on the State Heritage Register and the City's Heritage List).

The subject land has a variable topography associated with waterways, and includes three dams. The majority of the land is cleared, with areas of remnant vegetation in the southern area, and along Gunyulgup Brook to the north. There are also currently two dwellings and several other buildings in the western central part of the site, to the north-west of the largest of the three dams (including an historic mill).

The various lots in the area and Lot 30 Millbrook Road more particularly (i.e. the subject land or 'Millbrook Farm'), were created through the subdivision of original Lots 1 and 114 Millbrook Road, Yallingup. Those lots had a total area of 99 hectares, out of which 43 lots could have been created in accordance with DGP50, which was endorsed in May 2005 (Attachment F). In addition, up to 34 chalets and a range of other non-residential uses were and remain permissible on Lot 30. Of the potential 43 lots, a total of 41 lots have been created; and the non-residential uses have not been developed to date.

The non-residential development potential was, in part, achieved via inclusion of Additional Use 52 ('A52') in the Scheme, in parallel with the process of adopting DGP50. The details of A52 are set out in the 'Statutory Environment' section of this report. A52 is one of a number of similar designations that apply to sites within the Commonage, where a range of non-residential uses have been provided for in the Scheme.

The 'Rural-Residential' Zoning that applies to the land also allows for a range of non-residential uses (as permissible, but discretionary, uses) on all land subject of that Zoning. In addition, by virtue of what is currently clause 3.5.2 of the Scheme, land-use permissibilities for Rural-Residential Zoned lots greater than 20 hectares in area are as per those for the 'Rural' Zone (wherein a broader range of land-uses are permissible).

Prior to 2015, the Scheme also included a broad discretion to approve any land use on land identified on the Heritage List. That discretion was narrowed significantly, however, through the introduction by the State of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The Amendment proposes the deletion of A52 and its effective replacement by Special Provision 71 ('SP71'). In the Amendment, as adopted for advertising/consultation purposes, SP71 is as follows –

No.	Particulars of Land	Zone	Special Provisions
SP 71	As shown on Scheme Map	Rural Residential	<p>1. The following uses shall be deemed to be "A" uses for the purposes of Part 4 of the Scheme:</p> <ul style="list-style-type: none"> <li>• Art Gallery</li> <li>• Brewery</li> <li>• Chalet</li> <li>• Exhibition Centre</li> <li>• Hotel</li> <li>• Reception Centre</li> <li>• Rural Holiday Resort</li> <li>• Small Bar</li> <li>• Tavern</li> <li>• Tourist Accommodation</li> <li>• Winery</li> </ul> <p>2. Development within the Special Provision Area shall be limited to 2,500m<sup>2</sup> NLA, other than for:</p> <ol style="list-style-type: none"> <li>i. Development associated with the use (but not expansion) of existing buildings on the land (as at 1 January 2019); or</li> <li>ii. Development of a Single House or development ancillary to a Single House; or</li> <li>iii. Use of a Single House or development ancillary to a Single House as a Holiday Home (Single House), Bed and Breakfast, Home Business, Home Occupation or Home Office.</li> </ol>

The area proposed to be subject of SP71 is a portion of Lot 30 only (i.e. it is a significantly smaller area than that affected by A52), as illustrated on the Scheme Amendment Map (Attachment B).

Whilst some changes to SP71 are recommended by officers (see 'Officer Comment' and Attachment E – Schedule of Modifications), the fundamental intent of deleting A52, introducing SP71 and providing for further subdivision (through the Structure Plan) was and remains to –

1. Reduce the potential scope, scale and footprint of non-residential development permissible on the land, with the aim of providing greater protection of the amenity of the surrounding area;
2. Preserving some of the potential for non-residential development associated with important heritage assets on the land, and which was clearly envisaged when the area was first developed for rural-residential purposes;
3. Provide for creation of a limited number of additional rural residential lots – in part in recognition of the loss of other development potential that is proposed; and
4. Provide for logically consistent and robust land-use controls.

A table analysing the impact of the changes on land-use permissibilities is provided as Attachment G – and that issue is outlined and discussed in more detail in the 'Officer Comment' section of this report.

The Structure Plan (Attachment C) is intended to supersede DGP50. An overall Structure Plan review was required to ensure that the rural residential density requirements and emergency access requirements for bushfire planning (etc.) could be adequately addressed and integrated holistically, as well as a means of updating provisions to be consistent with the current planning framework.

The Structure Plan provides for the subdivision of the subject land into seven rural residential lots, ranging in size from 1.02ha – 1.69ha. In addition, creation of Lots 5 and 8 is also proposed. Proposed Lot 5 would have land use permissibilities which would be the same as any other Rural-Residential Zoned lot, but has an area of 4.14ha, and includes one of the existing dwellings and two associated dams. Proposed Lot 8 has an area of 10.8ha and incorporates the existing heritage buildings and would be subject of SP71 – and so have broader land-use permissibilities than the other lots.

The Structure Plan report is accompanied by a Bushfire Management Plan ('BMP' – Attachment I) and Heritage Assessment (Attachment J) Attachjand the Heritage Council – 'Millbrook Farm Statement of Significance' (Attachment K). Other than providing for subdivision as set out above, the Structure Plan also provides for -

1. Remnant vegetation and areas unsuitable for development based on bushfire assessment to be protected by the introduction of 'Building Exclusion Areas'; and
2. A new road and realigned fire emergency access way.

It was and remains the view of officers that final adoption of the Structure Plan would not be appropriate without the prior deletion of A52, and its replacement by SP71 (or something similar to SP71). That is because A52, if left in place, would provide for an inappropriately wide range of land-use permissibilities on the smaller proposed lots, and nor would the Scheme, in the absence of both A52 and SP71, provide for sufficient flexibility or sufficient control in relation to non-residential development potential on proposed Lot 8.

**2017 Development Application**

A development application for a 'Reception Centre' on the subject land was lodged in 2017 and subsequently approved by the Council on 28 March 2018. Approval was subject to conditions, including conditions relating to the potential future subdivision of the land and a restriction on the hours of operation (essentially, the condition required it to be a 'daytime only' facility).

An application for review (i.e. an 'appeal') was subsequently made in the State Administrative Tribunal ('SAT'), seeking variation of conditions of approval. That resulted in the Council reconsidering the conditions on 13 June 2018, and agreeing to modify the condition relating to the potential future subdivision of the subject land. A revised approval was then issued on 30 July 2018.

Ordinarily, a development approval requires that 'substantial commencement' occur within two years of the date of the decision notice. By virtue of notices issued by the Hon. Minister for Planning in response to the Covid-19 situation, though, that has been extended by two years. As such, substantial commencement must occur no later than 30 July 2022.

It should also be noted that, as with any other development approval, an application to further extend the term of approval could be lodged – and the ultimate decision should be the same, other than where there has been a change in the planning framework. It is nevertheless understood that there is no intention to proceed with implementing the approval.

Further information relating to the development application and associated appeal is set out in the agendas and minutes of the Council's 28 March and 13 June 2018 ordinary meetings, available on the City's website.

**OFFICER COMMENT****Key issues**

Key issues identified in the submissions and/or by City officers as part of the assessment of the proposals, and which require some consideration in the making of recommendations about the proposals to the WAPC and Hon. Minister for Planning, relate to –

1. Potential amenity impacts;
2. Potential environmental impacts and bushfire risk;
3. Heritage values; and
4. Pedestrian access through the subject land.

Each of these issues is outlined and discussed below, under appropriate sub-headings. It is seen as appropriate, however, to firstly set out the key rationale for the design of the proposals, as well as the recommended modifications – which in substantial part are aimed at addressing some of the issues raised in the submissions.

***Key rationale for the design of the proposals (from a City officer assessment perspective)***

Some of the key rationale for the design of the proposals was set out in the Background section above, as follows -

1. Reduce the potential scope, scale and footprint of non-residential development permissible on the land, with the aim of providing greater protection of the amenity of the surrounding area;
2. Preserving some of the potential for non-residential development associated with important heritage assets on the land, and which was clearly envisaged when the area was first developed for rural-residential purposes;
3. Provide for creation of a limited number of additional rural residential lots – in part in recognition of the loss of other development potential that is proposed;
4. Provide for logically consistent and robust land-use controls; and
5. Recognise that other controls also apply – such as those that specifically address noise or liquor licensing.

With respect to the first point above (i.e. reduce potential scope, scale and footprint of non-residential development), the scope, scale and footprint of non-residential permissible on the site is extensive. Development of a much larger scale than the Reception Centre that has been approved, but not implemented, would be permissible. That could include a 'Restaurant/Café', which could potentially contain a 'Small Bar' component for up to 120 people, could exceed 2,500 square metres in floor area, and contain an ancillary 'micro-brewery' component – and that would be possible under the 'base' Rural-Residential Zoning, even in the absence of A52, SP71, clause 3.5.2 of the Scheme, or the heritage related discretion that existed prior to 2015. All or part of that Restaurant/Café could then potentially accommodate hosted functions (as many restaurants and bars do now) on a regular basis. In addition to such a development, under the current planning framework, at least 34 chalets could be approved on the subject land, as could other kinds of accommodation.

Whilst, as with the earlier Reception Centre application, there would be a need for a detailed assessment of the impacts of such development, there is little in the way of specific controls or guidance about the acceptable scale or footprint of such development in the planning framework that would guide such assessment. As was the case with the Reception Centre application, issues suited to detailed technical analysis – such as noise – can be managed fairly well, other, more 'subjective' considerations, such as amenity in the broader sense, are harder to manage. That would especially be the case where, through the planning history of the site, the land has so clearly been identified as one where significant non-residential development is contemplated.

It is considered by City officers that the current planning framework, even in the absence of the Structure Plan proposal, provides insufficient protection of the amenity of the surrounding rural-residential community. The same is true with respect to many other sites in rural-residential areas across the City. That is an issue that has been identified as needing attention through the development of the City's new town planning scheme.



The proposals, though include several elements aimed at better managing the potential scope, scale and footprint of non-residential development on the subject land:

- a. The additional land-uses proposed via SP71 are proposed to be 'A' uses, meaning approval would be at the reasonable discretion of the City, following compulsory advertising;
- b. Most importantly, and uniquely at the current time, an explicit floorspace control on further non-residential development is proposed, of 2,500 square metres net lettable area; and
- c. The Structure Plan identifies Building Exclusion Areas in environmentally sensitive areas.

With respect to point b above, some developments which may provide a guide as to what sort of scale 2,500 square metres floor space represents are the following –

- Typically, residential building envelopes in rural residential areas are 2,000 square metres.
- Cape Lodge, Yallingup - approximate floor space of 3,870 square metres.
- Eagle Bay Brewery, Yallingup - approximately 1,900 square metres (restaurant) and 2343m<sup>2</sup> (square metres associated brewery infrastructure and outbuildings).
- Eight Willows Retreat, Metricup (which consists of a winery and chalets), approximate floor space of 4,985 square metres.
- Amelia Park Tavern, Abbey - approximate floor space of 1,500 square metres.
- Aravina Estate, Yallingup Siding - approximate floor space of 5,374 square metres.

With respect to the second point above (i.e. not the second dot point above, but the earlier point 2 - preserving potential for non-residential development), there are three key reasons why that is seen as appropriate. Firstly, the heritage assets on the land are very significant, and the long-term preservation of those assets, as in so many other cases, will be greatly assisted if there is flexibility and opportunity in terms of the future use and development of the land – i.e. a capacity for 'adaptive re-use' in heritage terms. Secondly, there is a very clear expectation of that kind of development being possible in the planning framework. Thirdly, more broadly, it is seen as appropriate that rural-residential areas accommodate more than purely low-density residential development (the same is true in other residential areas – where a range of other land-uses are approvable, and do exist, even if residential uses are predominant). The Commonage in particular is a large area, and it is seen as appropriate that it serves more than one function. The Commonage can and does serve a number of non-residential functions including: environment/biodiversity functions; some agricultural production functions; and tourism/economic functions associated with accommodation and some other kinds of commercial development (e.g. cafes).

What is also worth noting is that some submitters seem to have a view that, by preserving some of the development potential only possible via clause 3.5.2, which only applies to lots greater than 20 hectares in area, even if the subject land is subdivided to below that area, is somehow 'double-dipping' or something similar. That view is not supported by officers. In drafting A52, the City (then the Shire Of Busselton) would have been aware of the existence of what is now clause 3.5.2 (and which reflects a clause of the City's previous town planning scheme), and so the identification of some of the uses permissible by virtue of clause 3.5.2 in A52 would have been unnecessary. Note also that the degree of that redundancy has changed over time, as the range of permissible uses in both the Rural-Residential and the Rural Zones (formerly, the Agricultural Zone) has increased over time.

Finally on this point, it is important to note that the proposals do not result in any land-use being permissible on any of the land where that use is not currently permissible – but the proposal would result in a reduction in permissible uses on most of the land affected by the proposals. The only and partial exception to that is the use ‘Tourist Accommodation’ in the area proposed to be subject of SP71 – but in the rural-residential context, that use is essentially indistinguishable from the uses ‘Chalet’ or ‘Guesthouse’. A table analysing the impact of the changes on land-use permissibilities is provided as Attachment G.

With respect to the third point above (i.e. provide for creation of a limited number of additional rural residential lots), that is in part in recognition of the loss of other development potential that is proposed. That also, however, has several other benefits in terms of protecting the amenity of the surrounding rural-residential community.

Firstly, when combined with the removal of A52 and the fact that clause 3.5.2 would no longer apply, it means that, for most of the surrounding residents, the boundary will be with another, very similar, rural-residential property, rather than with a site where non-residential development is contemplated. Secondly, it would mean that there would be additional rural-residential properties, closer to where any of the most significant non-residential development is likely to occur (i.e. to the north-west of the largest dam), and so the total amount of noise or activity that could occur without having unacceptable amenity impacts on the nearest adjoining site would be lower than is currently the case. That would then provide a greater level of protection for the amenity of the existing, surrounding residents/properties than is currently the case.

With respect to the fourth point above (i.e. provide for logically consistent and robust land-use controls), there are two key considerations. Firstly, it is important that any additional development controls, specifically the floorspace control, are applied through a Special Provision Area designation, such as SP71, rather than through an Additional Use designation, such as A52. That is because any development control applied through an Additional Use designation would only apply to the identified additional uses (e.g. Reception Centre) but not to other permissible uses (e.g. Restaurant/Café). If the issue to be addressed is the potential amenity impact of non-residential development, it is clearly sensible for the controls to relate to all forms of non-residential development, and not just those permissible through an Additional Use designation.

Secondly, it is important that the relationship between land-uses is understood (and that they are understood correctly – noting land-uses are often not able to be understood or interpreted in Plain English terms). Some land-uses are, in effect, subsets of others (or, it is at least very strongly arguable that is the case). Reception Centre, for instance, is, in effect, a subset of Restaurant/Café. Small Bar is also, effectively, a subset of Restaurant/Café. Restaurant/Café is, in turn, a subset of ‘Tavern’, which is a subset of ‘Hotel’. ‘Guesthouse’ is another subset of Hotel. It is seen as sensible that, in most cases where the broader/more expansive use is permissible, the more specific use should generally also be permissible. If there are then concerns about the potential impact of some of the activities or development that may be encompassed by the permissible uses, those impacts are best addressed through controls specifically targeted at those impacts..

In this particular case, it is seen as important that Hotel is a permissible use. The planning definition of Hotel reflects the meaning of that term in the *Liquor Control Act 1988* (‘Liquor Act’), with the definition in the Scheme (which reflects State regulations) being as follows –

*“Hotel” means premises the subject of a hotel licence other than a small bar or tavern licence granted under the Liquor Control Act 1988 including any betting agency on the premises.*

Under the Liquor Act, any accommodation development, regardless of size, where alcohol is offered to guests (including in a mini-bar or similar) is a Hotel. It is considered that, on the subject land, a premises that may be marketed as a 'lodge', with perhaps 15 or 20 rooms, and which offers alcohol to guests, would potentially be appropriate (subject to detailed assessment at development application stage). If Hotel is not a permissible land-use, however, such a premises could not be approved.

With respect to the fifth point above (i.e. recognise that other controls also apply), there are two key sets of controls that bear consideration. Firstly, the liquor licensing controls. Where a liquor licence is being sought, there are a range of processes that must be followed including, where certain thresholds are met, community consultation and the 'public interest test'. Any significant development on the site involving a bar or other activity involving consumption of alcohol would be subject of the public interest test.

The second set of controls that bear consideration are regulations that specifically address noise (i.e. the *Environmental Protection (Noise) Regulations 1997* – 'Noise Regulations'). Whilst consideration of noise (as an important component of amenity) does not turn entirely on technical assessment against the Noise Regulations, it is an important component of such consideration. The earlier Reception Centre application is, in fact, an example of where the technical assessment of noise against the Noise Regulations has, even had that development proceeded, substantially addressed noise concerns – as the assessment had indicated that, to avoid unacceptable noise impacts, it would need to be a 'daytime only' venue (in substantial part, on the basis that the venue was intended to be a tent, rather than a permanent, solid structure, and would provide very little in the way of noise attenuation).

There are some submissions that have suggested that such a control (e.g. no activity of certain kinds past a certain time in the evening) should be incorporated into SP71. That is not considered appropriate. Firstly, it is the kind of detailed control that should not be incorporated into a town planning scheme – were such controls to be applied on a regular basis, a planning framework that is already overly lengthy and complicated would become significantly more so. Secondly, it would be quite a crude control, which would be hard to draft clearly and could have inadvertent consequences – for instance, would it be appropriate for the guests of a lodge to have a meal and drinks together past 10pm in the evening? The view of officers is that it would. Finally, it fails to recognise that there are other controls that would already act to mitigate potential impacts.

### ***Recommended modifications***

Whilst there is not considered to be a need to significantly depart from the initial rationale for the proposals, having considered the key issues in the light of the submissions received, City officers are recommending a number of modifications to the proposals, in substantial part aimed at better addressing some of the issues raised in the submissions. The recommended modifications are set in the Schedule of Modifications at Attachment E, and they are also described below.

Three changes to SP71 are recommended –

1. The inclusion of an objective, to guide the exercise of discretion that would be involved in applying the provisions;
2. The removal of 'Brewery' and 'Winery' as permissible uses; and
3. An additional provision, which would set out that non-residential development, other than that associated with short stay accommodation (such as chalets or a guesthouse), should be located within the north-western part of proposed Lot 8, to the north-west of the dam.

The first proposed change to SP71 (i.e. including an objective) reflects the fact that, in exercising discretion in assessing a development application, the local government is required to consider, amongst other things, 'the provisions of the Scheme' (as per clause 67(1) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*). Important amongst those provisions, when exercising discretion, are the objectives of the Zone in which development is proposed. That creates some difficulty where there are land-uses that are permissible in addition to the uses ordinarily permissible in the Zone – such as where an Additional Use designation, or something like SP71, applies.

Given that, it is seen as appropriate that, whenever additional uses are to be identified, there should be an objective set out, which then supplements the objectives of the Zone, with respect to development on the affected land (and, to the extent of any inconsistency, it would have greater weight than the objectives of the Zone).

It is proposed that the following objective be added to SP71 -

*The objectives of these provisions are to –*

- i. *Support the development of tourism and visitor oriented land uses on the land;*
- ii. *Ensure that such development is of a scope and scale, and is sensitively located, so as to be consistent with the preservation of a high level of amenity for the surrounding rural-residential area; and*
- iii. *Through supporting the development of tourism and visitor oriented land uses on the land, assist in the preservation, activation and adaptive re-use of the significant heritage assets and values of the land.*

The second proposed change to SP71 (i.e. removal of Brewery and Winery as permissible uses) reflects the fact that more detailed assessment of the site indicates that such uses would be difficult to develop on the land, especially the area to the north-west of the dam. Breweries and wineries can generate significant wastewater, requiring substantial wastewater treatment infrastructure (or connection to reticulated sewerage, which is not available in this area), which needs to be setback from watercourses. Given that and the nature of the site, a brewery or winery of any significant scale could not be developed on the land, certainly not in the area to the north-west of the dam, where such development would be most appropriate, as it is the location where such development is least likely to impact on the amenity of existing, adjoining rural-residential properties. It should be noted, though, that a small brewery or winery production facility, ancillary to other development (such as a Restaurant/Café) could still be potentially developed.

The third proposed change to SP71 (i.e. an additional provision, setting out where 'non-accommodation' development should be located) is intended to provide certainty around where a use such as a Restaurant/Café or Tavern would best be located to reduce potential impact on the amenity of existing, adjoining rural-residential properties – i.e. north-west of the dam. The proposed provision is quite difficult to draft (for instance, it would be useful if different land-uses could be treated differently, but that is not sensible, given that a Hotel or Guesthouse may include a 'dining' component, which may need to be physically integrated with the 'sleeping' component), and a provision which seeks to guide discretion in a fairly broad sense is considered appropriate, rather than something more prescriptive. The following is proposed -

*Any development that would involve any significant presence on site of persons not living or being temporarily accommodated on the site (such as Chalets or a Guesthouse) should generally be located in the north-western portion of the Special Provision Area, in proximity to the key heritage assets.*

A number of changes to the Structure Plan are also recommended –

1. Replace provision 1 to state “Subdivision shall be generally in accordance with this Structure Plan.”
2. Include provision 2 to state “No further subdivision of lots identified on the approved Structure Plan Map shall be allowed.”
3. Include provision 3 to state “As a condition of subdivision, unless acceptable alternative arrangements are made, a pedestrian access way shall be provided between the end of the proposed, new cul-de-sac and the eastern boundary of existing Lot 30, and that access way shall be placed between proposed Lots 5 and 6.”
4. Include provision 4 to state “As a condition of subdivision and prior to subdivisional works, a Drainage/Stormwater Management Plan is to be prepared to the satisfaction of the Local Government.”
5. Include provision 5 to state “Prior to application for subdivision, an Interpretation Plan and an Archaeological Management Plan prepared by an appropriately qualified and experienced archaeologist will be required to be submitted, to the satisfaction of the Department of Planning Land and Heritage.”
6. Include provision 6 to state “No development, fencing or clearing of may take place in a Building Exclusion Area except for the construction and maintenance of a Local Government approved access way or firebreak; or where Development Approval for fencing or associated clearing has been obtained from the Local Government.”

The rationale for these changes is set out in the paragraphs below and/or in the Schedule of Submissions and Schedule of Modifications.

### ***Potential amenity impacts***

The majority of public submissions received expressed concerns regarding the possible impact of potential development on the land on the amenity of the locality. Many submissions raised concerns relating to the levels of noise, operating times, scale and location of development, and traffic generation. Many submitters referred to the earlier Reception Centre application, stating that although they had objected to that use in the first instance, the conditions of approval (which restricted activities after 7pm) had, to varying degrees, satisfied some of their concerns. Addressing and managing these concerns, and other issues such as servicing and heritage values cannot be undertaken in detail until a specific development application for one or more of the land uses has actually been submitted.

At the time a development application is lodged, amenity considerations would be assessed in accordance with the Scheme. For example, any land use proposal likely to have noise generating concerns will be subject to a development application process that will require a noise assessment, and conditions to manage or mitigate potential noise impacts applied accordingly. Similarly, the process to consider land use and development will consider elements such as setbacks, separation to waterways, servicing, car parking, traffic management, scale and operation.

Landowners in the vicinity will also have the opportunity to comment on any application received for the additional uses, similarly to the process undertaken in the determination of the previous Reception centre application.

Whilst the underlying Rural-Residential provisions of the Scheme provide adequate direction for the assessment of development applications in most instances, SP71 further proposes to control the extent of development on proposed Lot 8 by limiting any additional allowable floor space to a maximum of 2,500m<sup>2</sup> net lettable area (excluding single house or similar development, or the retrofit of existing heritage buildings). This maximum floor space seeks to ensure that prospective development cannot occur at a scale that is inconsistent with the objectives of the core zone or the amenity of the surrounding locality. This floor space limit is considered appropriate, given the area SP71 shall apply to is approximately 10.8 hectares, with approximately 7.4 hectares of that land excluded from any development (i.e. Building Exclusion Area), leaving some 3.4 hectares of land over in which to accommodate development. Further controls are also proposed, through recommended modifications, as set out above and at Attachment F.

A high level of amenity can reasonably be expected in a Rural Residential area, although some activity which some may perceive as impacting on their amenity may occur. That is especially the case where the planning framework so clearly contemplates some non-residential development.

The question is more about what level of amenity impact might be reasonable? Further, as has been noted elsewhere in this report, the proposals do provide greater amenity protection and more control of non-residential development than is currently the case. Especially with the recommended modifications, the proposals are seen to provide an appropriate balance between amenity protection and support for non-residential development.

#### ***Potential environmental impacts and bushfire risk***

The potential impact of development on the waterways in and around the subject land was raised in a number of submissions, and advice from the Department of Water and Environmental Regulation (DWER) indicates that future development should observe the recommended separation distance to waterways. A Structure Plan provision has been recommended in the Schedule of Modifications which states that 'As a condition of subdivision, and prior to subdivisional works, a Stormwater and Drainage Management Plan is to be prepared to the satisfaction of the Local Government'. Whilst this is also a matter that can be addressed through the development application process, preliminary assessment demonstrates that the new rural residential lots have soils capable of receiving wastewater and are considered suitable for stand-alone on-site effluent disposal systems in accordance with the DWER Soil Waste Water Assessment (Appendix 3).

A Bushfire Management Plan (BMP) has been prepared on behalf of the landowners based on the objectives and criteria set out in WAPC bushfire policy and associated guidelines for a 'bushfire prone' area. The BMP assessment supports the proposed cul-de-sac design, subject to the realignment of the Emergency Access Way (EAW) to Dress Circle (to be provided as an easement, or right of carriageway, in favour of the City). This is a reference to E1, which is a Right of Carriageway (ROCW), which is in place across parts of Lot 30, and several other lots in the area, including a number under separate ownership. Department of Fire and Emergency Services (DFES) review of the BMP has resulted in important updates being required and additional matters being addressed. The process to modify a ROCW is extremely difficult, and it is not considered necessary or appropriate to modify the existing ROCW. What is recommended, however, is that a pedestrian access way (PAW) be provided across portion of what is currently Lot 30, and when combined with the proposed new cul-de-sac, that would render some of the ROCW on Lot 30 redundant in practice.

DFES raised the option for the proposed cul-de-sac being extended to provide a connection by public road from Millbrook Road to Dress Circle. Officers do not recommend the access be created as a public road due to topographical and land tenure constraints. The proposed cul-de-sac and the creation of the PAW are considered to improve legible access in the locality for the broader community benefit.

The Building Exclusion Area (BEA) indicated on the Structure Plan seeks to protect all stands of remnant vegetation and define areas otherwise unsuitable for development based on bushfire assessment. Provisions proposed in the Schedule of Modifications would clarify the presumption against development, fencing or clearing of remnant endemic vegetation within the BEA.

### ***Heritage values***

There are three distinct groups of heritage buildings on 'Millbrook Farm', all which were developed in the early 1920's. The structures recognised as having important heritage value include the water driven saw mill and water wheel, barn, the stables, blacksmith's forge, and two original residences of former landowners. The cluster of buildings form an overall heritage precinct classified by the National Trust (WA) in 1984, and is included as a Permanent Entry on the State Register of Heritage Place in 1999. The precinct is also included in the City's Heritage List, and the City included both 'Millbrook Farm' and the Millbrook Water Mill in its Municipal Heritage Inventory in 2014. The property also contains the 'Seymour Cottages' which were relocated to the site from Dunsborough in 1982.

The DPLH (Heritage) submission includes a request that, prior to subdivision, the WAPC require lodgement of an 'Interpretation Plan' (ensuring the provision of meaningful onsite interpretative material with any development of Lot 8) and an 'Archaeological Management Plan' (to provide for the identification, assessment and proposed management of the archaeological components of the place). The provisions of the Structure Plan are recommended to be modified to include reference to this requirement. DPLH (Heritage) would then require detailed design guidelines be prepared for the purpose of guiding future development affecting proposed Lots 3, 4, 5, 6 and 8. Any development application associated with the heritage precinct will be referred to DPLH (heritage) for detailed assessment.

### ***Pedestrian access through the subject land***

A number of submissions indicated that landowners in the area understood that they should have the capacity to walk through Lot 30 Millbrook Road, Yallingup (the subject land) - but that is not the case, in practice at present. It is understood that marketing material for the approved Millbrook subdivision identified nature trails intended to link the chalet developments proposed under DGP50. There is also a Right of Carriageway Easement E1 (ROCW) which traverses the property in a similar location to a nature trail identified on the marketing plan. The ROCW was created to the benefit of the City of Busselton, principally to help manage fire risk, and provides access to the City.

Whilst the ROCW does not effectively provide access to the public at large at this time, City officers consider that provision of pedestrian access is something that could potentially be achieved through the structure planning process. Officers also consider that pedestrian accessibility and inter-connection is an important planning and community objective, even in rural-residential areas, and has been under-provided for in the Commonage generally, including the Millbrook area. It is not considered necessary, and nor may it be possible, to resolve the question of what pedestrian access 'should' have been provided through earlier processes before determining future direction.

Officers investigated options of utilising the existing ROCW alignment or alternative routes to secure pedestrian access via a Public Access Way Reserve (PAW) within the subject land, however the alternative routes have been assessed as impractical due to the topography of the land. Officers recommend undertaking some targeted consultation regarding preferred access arrangements to provide pedestrian access from the subject land via the existing ROCW to Dress Circle at the time when the proposals have been subject of final determinations by the Minister and WAPC. The reason for deferring such consultation until that time is that those determinations may have a material effect on what may be possible and/or appropriate in the future.

A portion of the ROCW linking the proposed cul-de-sac and Dress Circle within Lot 30 is proposed to be supplemented with a PAW as described above (in the discussion of environmental and bushfire issues). The Structure Plan is recommended to be modified to include a notation to that effect. That will assist in resolving, but will not on its own, resolve the pedestrian accessibility issue.

Previous reporting on the Structure Plan indicated that an alternative route, following the western boundary of Lot 7 and extending past the southern boundary of Lot 6 to connect into the proposed cul-de-sac, could be supported to provide pedestrian access. This option is no longer supported, however, due to topographical considerations.

### **Statutory Environment**

The key elements of the statutory environment with respect to this proposal are set out in the *Planning and Development Act 2005*, the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations') and the Scheme.

#### ***Planning and Development Act 2005***

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

#### ***Planning and Development (Local Planning Schemes) Regulations 2015***

The Regulations, which came into operational effect on 19 October 2015, identify three different levels of amendments – basic, standard and complex. The resolution of the local government is to specify the level of the amendment and provide an explanation justifying this choice. This Amendment is considered to be a 'standard' amendment. Once an amendment process has been formally commenced by the Council, it must be followed to its conclusion, which in this case requires the forwarding of the amendment to the WAPC and Hon. Minister for Planning for their consideration (with the latter making the final decision). The Council can recommend that an amendment be adopted without modification, that it be adopted subject to modifications, or that it not be adopted. Local government decisions relating to amendments cannot be delegated to officers, and must be made by the Council itself.

The Regulations also set out the process for assessment and adoption of structure plans. The process requires the advertising of a draft structure plan, and the subsequent forwarding of the structure plan to the WAPC for their final consideration. The local government (in this case, the Council, but such decisions can be made by officers acting under delegation, where appropriate) can recommend that the WAPC adopt a structure plan without modification, subject to modifications or not be adopted.

The local government decisions in relation to amendments and structure plans cannot be subject to applications for review in the SAT, and nor can WAPC or Ministerial decisions in relation to amendments. WAPC decisions in relation to structure plans can, however, be subject of SAT proceedings – but only the applicant has a right to lodge such an application.



**City of Busselton Local Planning Scheme 21 (Scheme)**

The subject land is Zoned Rural Residential in the Scheme, and is also subject of A52, as set out below (as per Schedule 2 of the Scheme) -

No	PARTICULARS OF LAND	LAND USE PERMITTED/SPECIFIED	CONDITIONS
A52	Portions of Lots 1 and 110, being 9000, Millbrook Road, Yallingup (proposed Lots 30 and 43)	Additional Uses permitted on the specified land are: 1. Chalets & Holiday Cabins 2. Guesthouse 3. Restaurant/Café 4. Public Amusement 5. Recreation Private 6. Art & Craft Studio 7. Workshop & Sales 8. Boutique Brewery 9. Winery 10. Museum 11. Club Premises 12. Rural Holiday Resort 13. Caretakers Dwelling	1. The Additional Uses specified shall be deemed to be "D" uses for the purpose of Part 4 of the Scheme. 2. The Additional Uses, where permitted, shall be developed in a manner that is considered by the local government to be consistent with the endorsed DGP and maintenance of the rural and historic amenity of the locality.

Clause 3.5.2 of the Scheme also applies to the subject land currently, and sets out that land-use permissibilities for Rural-Residential Zoned lots greater than 20 hectares in area are as per those for the 'Rural' Zone (wherein a broader range of land-uses are permissible).

Elements of A52 are outdated and/or redundant, and would require review through the development of the City's new town planning scheme (which is required by the WAPC), even without the current proposals. For instance, 'Restaurant/Café' is now a permissible use in the Rural-Residential Zone, and so could be approved on the subject land even in the absence of A52.

The subject land is also located within the 'Landscape Value Area' (LVA), pursuant to clause 5.4 of the Scheme.

**Relevant Plans and Policies**

The key plans and strategies and policies most relevant to the proposal are -

1. *State Planning Policy 6.1: Leeuwin-Naturaliste Ridge Policy ('SPP6.1')*
2. *State Planning Policy 3.7: Planning in Bushfire Prone Areas and Guidelines for Planning in Bushfire Prone Areas ('SPP3.7' and 'Guidelines')*
3. *Leeuwin-Naturaliste Sub-Regional Strategy ('LNSRS')*
4. *City of Busselton Local Planning Strategy ('LPS')*
5. *City of Busselton Local Rural Planning Strategy ('LRPS')*
6. *Commonage Policy Area Consolidated Structure Plan ('CPACSP')*

The documents listed above are briefly outlined below, and are also available in full on the City and/or WAPC websites.

**SPP6.1**

SPP6.1 identifies the Commonage area as 'Rural Residential'. The landscape classes of 'Natural Landscape Significance' and 'Rural Landscape Significance' relate to the subject land and identify that natural and rural characteristics there contribute to significant landscape values. SPP6.1 also encourages that land used for rural residential development adopts a 'cluster principle' to help retain landscape values. The objectives of SPP6.1 have been accommodated in the Structure Plan by indicating a rural residential lot design which provides protection and enhancement of the natural vegetation and habitat linkages, and maintains rural land use features.

Section 4.5 of SPP6.1, 'Tourism Statement of Intent', states:

*A diverse and sustainable tourism base which complements the existing character and lifestyle of the policy area will be facilitated by:*

- *encouraging nature-based and cultural tourism opportunities;*
- *promoting low-scale tourist development that is consistent with local characteristics;*
- *encouraging innovative tourism development that responds to the local natural and cultural environment;*
- *assessing land use proposals for their impact on tourism; and*
- *conserving those landscape, cultural and environmental values that offer future tourism potential.*

Section 4.6 of SPP6.1, 'Cultural Heritage Statement of Intent', includes places of Aboriginal and non-Aboriginal cultural heritage significance being identified and conserved for the benefit of present and future generations by:

- *the establishment of the cultural heritage significance of the place;*
- *the development and implementation of an appropriate conservation policy for the place;*
- *the appropriate management of places in the public domain; and*
- *the encouragement of the use of available incentives to heritage conservation.*

The protection and enhancement of the heritage and tourism component of the subject land complies with the statement and intent of Section 4.5 and 4.6 of SPP6, and is proposed to be reflected in the recommended objective for SP71 as set out in Attachment F.

**SPP3.7 and Guidelines**

SPP3.7 directs how development should address bushfire risk management in Western Australia. It applies to all land which has been designated as 'bushfire prone' by the Fire and Emergency Services Commissioner, as highlighted on the 'Map of Bush Fire Prone Areas'. The Guidelines provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP3.7, providing advice on how bushfire risk is to be addressed when planning, designing or assessing a planning proposal within a designated bushfire prone area.

The subject land is located in a bushfire prone area and, consistent with the requirements of SPP3.7, a Bushfire Management Plan (BMP) has been prepared by appropriately accredited fire consultants.

**LNSRS**

The purpose of the LNSRS is to manage and plan for growth in the sub-region, to respond to environmental landform change, and to guide planning for the development of rural land uses.

The subject land is designated as 'Rural and Landscape Protection' in the LNSRS, and the WAPC strategic requirements relevant to such areas include:

15. *Balancing bushfire risk, biodiversity conservation and economic growth.*
17. *Supporting the identification through planning instruments or regional ecological corridors for biodiversity and wildlife, and to connect environmental assets.*

It has been assessed that the Amendment and Structure Plan proposals each achieve a desirable balance between mitigating bushfire risk, enabling biodiversity conservation, and allowing limited and localised economic activities. The LNSRS does not, however, provide much guidance or direction with respect to the proposals (or any similar proposals for this or other land that may emerge in the future).

**LPS**

The LPS does not provide much direction or guidance with respect to the proposals (or any similar proposals for this or other land that may emerge in the future). Theme 2 ('Activity centres and economy'), Strategy (h), does, however, set out that the planning framework and planning authorities should; "Continue to support low-key, small-scale tourism accommodation in rural areas".

**LRPS**

The subject land is located within Precinct 6 'Commonage' of the LRPS. The LRPS describes the precinct as 'comprising the existing Commonage Rural Residential Policy Area South of Dunsborough and north of Wildwood Road'.

The vision of the precinct is to:

- Consolidate rural residential land use and provide for diversification in small-scale and low-key tourist, rural and home based activities in a manner that sustains the existing natural environment, landscape values and residential amenity of the area with well-developed pedestrian and habitat/biodiversity links; and
- Promote the retention of the rural amenity and appropriate scaled rural land uses where compatible with rural residential amenity.

Section 7.6.7, 'Landuse Allocation', of the LRPS states that consideration of additional small scale tourist precincts be subject to Scheme Amendments where necessary and subject to appropriate locational, environmental, landscape and servicing considerations. Subdivision criteria of the LRPS state that rural residential subdivision is limited to existing rural residential zones and is to be in accordance with the adopted Structure and Development Guide Plans (including the CPACSP).

It is considered that the Amendment and Structure Plan proposal are each consistent with the vision and objectives of the precinct.

**CPACSP**

The CPACSP was endorsed by the City and the WAPC in 2004 as a guide to planning and development within the 'Commonage' area. It should be noted that the CPACSP is an overarching, guiding document and not a 'Structure Plan' in the sense of the term now used in the Regulations.

The subject land is located in 'Precinct 4' of the CPACSP, which has a requirement for a minimum lot size of 1 ha and an average lot size of 2 ha across that precinct. The CPACSP states that the designated average lot sizes must be maintained, although flexibility in minimum lot sizes may be permitted by the City (and WAPC) subject to demonstrated community benefits. 'Precinct 4' also indicates an area for 'proposed tourist development' and a 'tourist village'. Proposed Lot 8 in the Millbrook Structure Plan is located in the area generally indicated.

The Structure Plan and Amendment proposals are considered to be consistent with the relevant provisions of the CPACSP.

**Financial Implications**

There are no financial implications associated with the officer recommendation.

**Stakeholder Consultation**

The Amendment and Structure Plan were advertised for 54 days, from 15 April to 8 June 2020. An extension to the advertising period for the Structure Plan was approved by the WAPC due to exceptional circumstances (i.e. Covid-19 related). Usually, standard amendments are advertised for a minimum of 42 days and Structure Plans for 28 days.

The City advertised the Amendment and the Structure Plan in the *Busselton-Dunsborough Mail* and on the City's Website under the "Your Say" portal; a notice was placed on site and correspondence was sent to all adjoining landowners as indicated in Attachment L.

During the advertising period, a group of landowners formed the Gunyulgup Valley Action Group (GVAG). The City arranged a community information session, with the assistance of GVAG, via Zoom on 28 May 2020. Up to 27 people attended (although it is understood some may not have been present for the whole session).

A total of 64 submissions were received; 4 from government agencies and 60 from the community. A Schedule of Submissions is provided at Attachment D.

In very simple terms, the submissions indicate that the Structure Plan, in and of itself, seems to enjoy a degree of community support, the Amendment is a source of significant community concern. The key issues identified in the submissions are outlined and discussion in the Officer Comment section of this report.

**Risk Assessment**

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

**Options**

Should the Officer Recommendation not be supported, the following options could be considered -

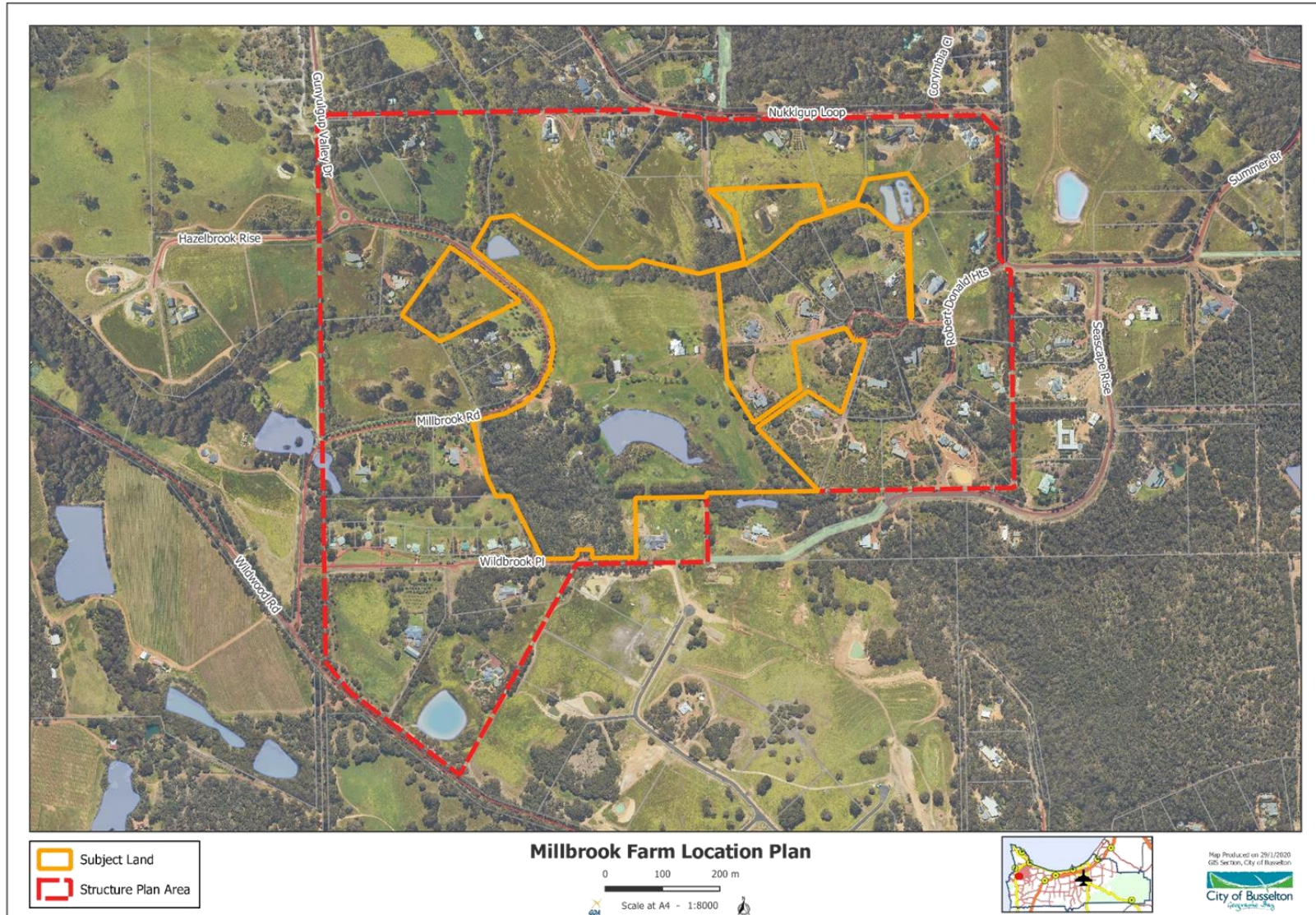
1. Recommend to the WAPC/Hon. Minister for Planning further or different modifications to the proposals; or
2. Recommend to the WAPC/Hon. Minister for Planning that the proposals not be approved.

**CONCLUSION**

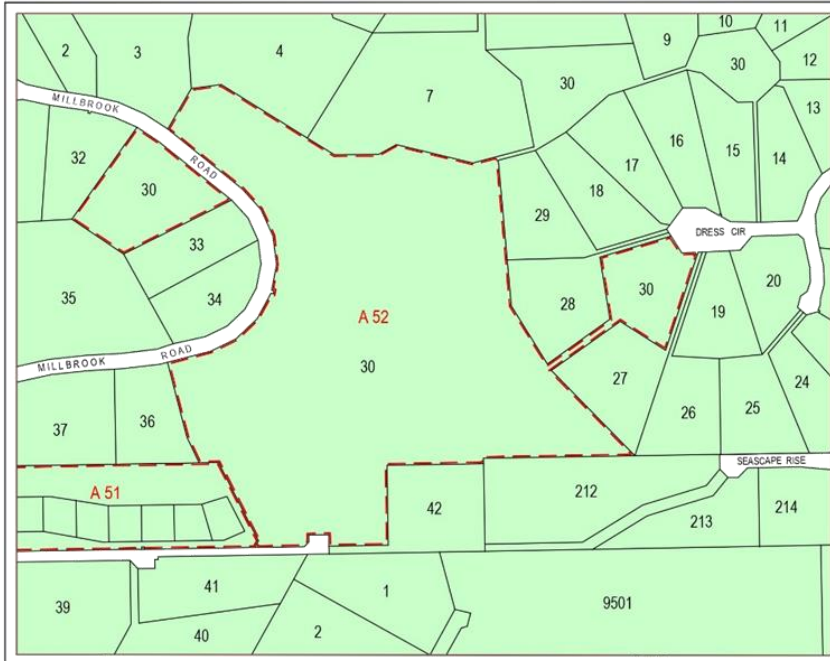
It is recommended that the Council adopt the Amendment and Structure Plan for final approval (subject to the recommended modifications) and forward them to the Western Australian Planning Commission (WAPC) and Hon. Minister for Planning for their consideration. It is considered that the proposals, suitably modified, provide for an appropriate and robust framework for controlling development on the land, and which strike a suitable balance between protecting amenity and the environment, whilst also providing for appropriate development opportunities and assisting with preservation of the heritage assets on the land.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the Officer Recommendation will involve the referral of Amendment 45 and the Structure Plan to the Western Australian Planning Commission for consideration and this will occur within one month of a resolution of the Council consistent with the Officer Recommendation.



CITY OF BUSSELTON  
LOCAL PLANNING SCHEME No. 21  
AMENDMENT No. 45



Legend :

ZONES :



Rural Residential

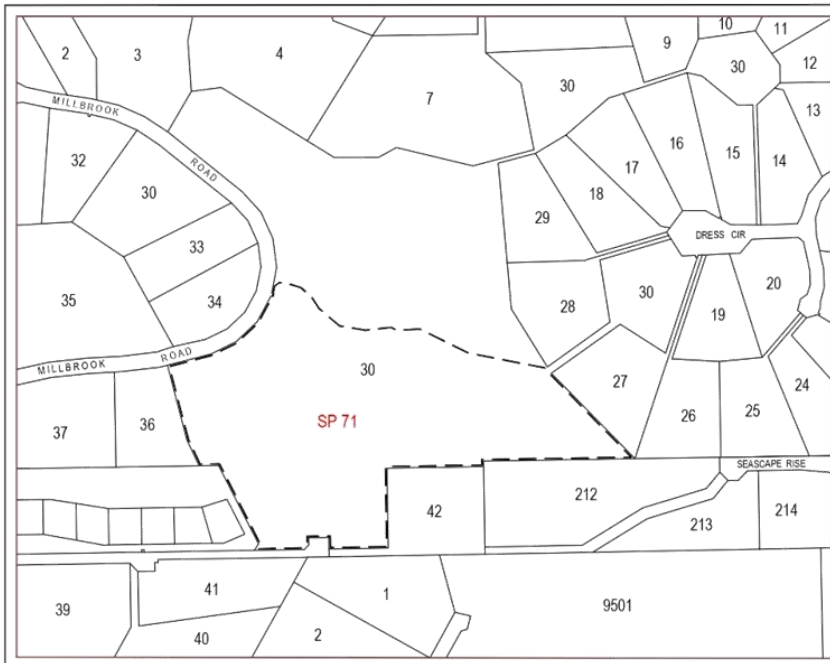


A 52  
Additional Uses



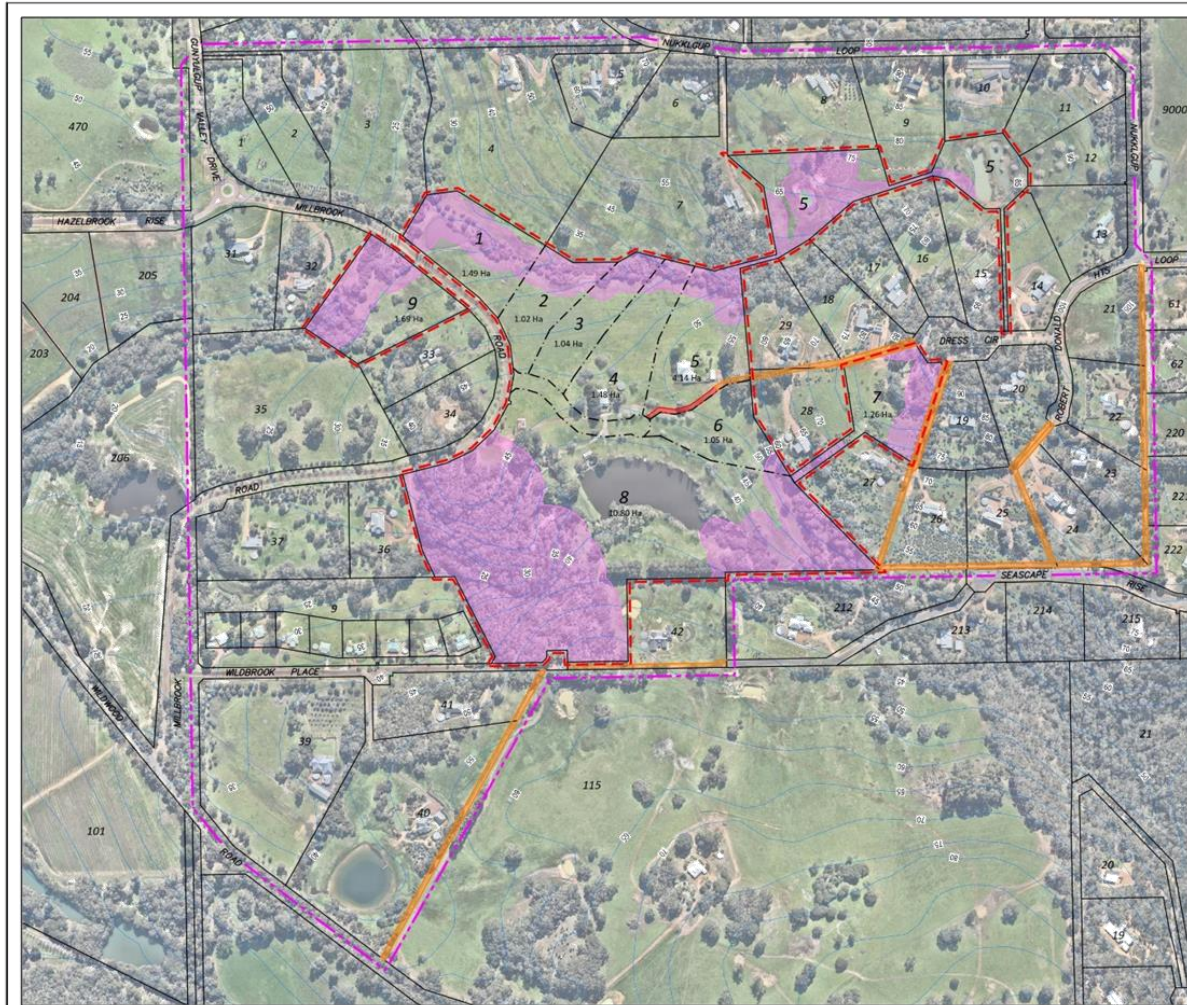
SP 71  
Special Provision Area

EXISTING ZONING

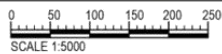


PROPOSED ZONING

SCALE 1 : 7500 @ A4



DATE PLOTTED: 26 November, 2019 - 9:53am



Revision	Date	Description
D	26.11.2019	Preliminary - Issued for Information
C	25.11.2019	Preliminary - Issued for Information
B	22.09.2019	Preliminary - Issued for Information
A	27.08.2019	Preliminary - Issued for Information

- LEGEND :**
- Overall Structure Plan Area
  - Area Subject to Re-Subdivision
  - Proposed Lot Boundary
  - Existing Emergency Access Way
  - Re-Aligned Emergency Access Way
  - Building Exclusion Area

**Development Summary :**  
( Overall Structure Plan Area )

Total Site Area : 99 Ha  
 Total Number of Lots : 50  
 Overall Density : 1 Lot / 1.98 ha  
 Minimum Lot Size : 1.02 Ha  
 Maximum Lot Size : 10.80 Ha

**Development Summary :**  
( Area Subject to Re-Subdivision )

Total Site Area : 24.38 Ha  
 Total Number of Lots : 9  
 Overall Density : 1 Lot / 2.7 ha  
 Minimum Lot Size : 1.02 Ha  
 Maximum Lot Size : 10.80 Ha

- NOTES :**
- Base Cadastre has been compiled from Landgate Information.
  - Contours have been digitised from Water Corporation Data.
  - Nearmap Aerial dated 18/08/2019
  - Boundaries, areas and dimensions are subject to final survey.

CLIENT	:	T. Koroveshi
SCALE	:	1 : 5000
DATE	:	26.11.2019
PLAN No	:	201907-SP-01
REVISION	:	D
PLANNER	:	T. Koroveshi
DRAWN	:	Civil Graphix

TIM KOROVESHI  
 TOWN PLANNING  
 CONSULTANT  
 64 ESPINOS ROAD  
 BUSSELTON WA 6280  
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MILLBROOK FARM STRUCTURE PLAN - MILLBROOK ROAD, YALLINGUP



**SUMMARY OF SUBMISSIONS**  
**PROPOSALS: AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006**  
**OFFICER: Janine Eriksson SUBMISSIONS CLOSE: 8<sup>th</sup> JUNE 2020**

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
<b>Agency Submissions</b>				
1.	Department of Fire and Emergency Services (DFES) DFES Land Use Planning <a href="mailto:advice@dfes.wa.gov.au">advice@dfes.wa.gov.au</a>	<p>Amendment – Supported compliant application</p> <p>Structure Plan – Not supported modifications required for the following:</p> <p>(i) Policy Measure 6.3 a) (ii) Preparation of a BAL Contour Map</p> <ul style="list-style-type: none"> <li>BAL Assessment – insufficient information and modification required.</li> <li>Footnote 1 of the Bushfire Management Plan (refer to page 25 of the BMP) is not supported by DFES and should be removed from the BMP to ensure accuracy. The definition ‘development site’ cannot be applied at this level of planning, as it relates to development applications associated with 78B (1) (a) or (b) of the Planning and Development (Local Planning Schemes) Regulations 2015.</li> </ul> <p>(ii) Policy Measure 6.3 c) Assessment against the bushfire protection criteria.</p> <ul style="list-style-type: none"> <li>The BAL ratings cannot be validated as described in the table above.</li> <li>Cul-de-sac and dead-end roads are to be avoided in bushfire prone areas and should only be used ‘where no alternative exists’. It has not been demonstrated that no alternative exists. The justification does not substantiate why the cul-de-sac design cannot be avoided.</li> </ul>	<p>Noted.</p> <p>Noted.</p> <p>(i) The comments were provided to the applicant to provide additional information to the BMP. The applicant has demonstrated that these the issues can be addressed through providing additional notes in the report.</p> <p>(ii) Noted See staff comment 1(i) above.</p> <p>The applicant has presented that there is no alternative option to provision of a cul-de-sac due to historic subdivision/development in the area surrounding the site that relates to land tenure and topography of the proponent’s land. Staff do not recommend the access be created as a public road. The process to modify a ROCW is extremely difficult, and it is not considered necessary or appropriate to modify the existing ROCW. A portion of the ROCW linking the proposed cul-de-sac and Dress Circle within Lot 30 is proposed to be</p>	<p>That the submission be noted.</p> <p>That the advice recommending changes to the BMP to consider replacing the cul-de-sac/EAW arrangement with a public road is not supported.</p> <p>That the Structure Plan be modified to include provision 3 to state:</p> <p>“3. As a condition of subdivision, unless acceptable alternative arrangements are made, a pedestrian access way shall be provided between the end of the proposed, new cul-de-sac and the eastern boundary of existing Lot 30, and that access way shall be placed between proposed Lots 5 and 6.”</p> <p>That the Structure Plan be modified to include a notation with the EAW that states ‘Indicative Pedestrian Access should a link to Dress Circle be secured’.</p> <p>That the BMP attached to the Structure Plan Report be updated in line with a version supported by DFES to address all remaining concerns raised.</p>

**SUMMARY OF SUBMISSIONS**  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<ul style="list-style-type: none"> <li>• A3.6 – not demonstrated. The BMP states that the fire service access route described as a 'realigned emergency access way' within the structure plan and to be revised as part of the development of the site can satisfy the acceptable solution.</li> <li>• It is unclear if the EAW meets the technical requirements of Table 6 of the Guidelines. DFES suggest review of the structure plan design and scope for the creation of a public road through the subject site north to ensure compliance with A3.1, whilst also providing an improved bushfire management outcome for the legacy design issues.</li> </ul>	<p>supplemented with a PAW which would also provide emergency access required by DFES. The provision of the cul-de-sac and realignment of the Pedestrian Access Way (PAW) provides a legible and improved access outcome in the locality with broader community benefit.</p> <p>DFES confirm that revisions to the BMP clarify that the cul-de-sac meets the technical requirements of Table 6 Column 2.</p>	
2.	Department of Water and Environmental Regulation Planning Advice South West Region (DWER) PO Box 261 Bunbury WA 6231	<p>(i) No objection to the Structure Plan however raise concern that effluent disposal will not meet the recommended separation distance to waterways for proposed lots 1, 2, 3 &amp; 6, and recommend building envelopes be specified for to maximise the separation between the effluent disposal areas and the waterway.</p> <p>(ii) Assessment of site capability within the subject land identifies that there will likely be limited questionable capacity for the site to adequately accommodate the onsite effluent produced in operation of a brewery or winery. The following concerns were raised in the submission from the Department of Water and Environmental Regulation (DWER):</p>	<p>Noted. The City can address these issues through the development application process given that the assessment demonstrates that the new lots have soils capable of receiving wastewater and are suitable for stand-alone on-site effluent disposal systems in accordance with the submitted Soil Waste Water Assessment (Appendix 3).</p> <p>Noted. Breweries and wineries can generate significant wastewater, requiring substantial wastewater treatment infrastructure (or connection to reticulated sewerage, not available in this area), and which needs to be setback from watercourses. A brewery or winery of any significant scale could not be developed on the land, and therefore will no longer be supported as part of the Amendment. It should be noted, though, that</p>	<p>That the submission be noted</p> <p>That the Amendment Document be modified so that Schedule 3 - Special Provision 71 (1) removes reference to the use class of 'Brewery' and 'Winery'.</p>

**SUMMARY OF SUBMISSIONS**  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<ul style="list-style-type: none"> <li>• The scope and output of effluent is uncertain and may not be permitted (licenced) for disposal on the lot;</li> <li>• Depending on the capacity of the proposed activity and the volume of effluent produced, it may be prescribed under the EP Act and a works approval be required;</li> <li>• In the event that the capacity of the proposed activity and volume of effluent produced does not result in it being prescribed under the EP Act, then any emissions from the development will fall under the Unauthorized Discharge Regulations and therefore will require approval from Department of Health (DoH) for discharge;</li> <li>• Due to the lot layout and potentially limited development area the proximity of any discharge to a proclaimed surface water resource would pose an unacceptable environmental risk; and</li> <li>• There is no guarantee that the subject lot has suitable soil capability to enable onsite disposal of the effluent produced by either a 'Brewery' or a 'Winery'.</li> </ul>	<p>a small brewery or winery production facility, ancillary to other development (such as a Restaurant/Café) could still be potentially be developed.</p>	
3	<p>Department of Planning, Lands and Heritage (Heritage) Locked Bag 2506 Perth WA 6001</p>	<p>Future development proposals arising from the uses identified in the Provisions will be assessed on their merits against the heritage values of the place.</p> <p>The proposed Structure Plan is supported, subject to the following conditions:</p>	<p>Noted.</p>	<p>That the submission be noted and that the Structure Plan be modified to include provision 5 to state:</p> <p>"5. Prior to application for subdivision, an 'Interpretation Plan' and an 'Archaeological Management Plan' prepared by an appropriately qualified and experienced</p>

**SUMMARY OF SUBMISSIONS**  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(i) The Structure Plan is to be amended to include an outline of the registered curtilage for Millbrook Farm.</p> <p>(ii) Prior to application for subdivision, the following will be required to be prepared, to the satisfaction of the Director, Heritage Development, Department of Planning Lands and Heritage:</p> <ul style="list-style-type: none"> <li>• An Interpretation Plan, specific to proposed Lot 8 - The Interpretation Plan is required to ensure the implementation of meaningful onsite interpretative material, coinciding with any development of Lot 8.</li> <li>• An Archaeological Management Plan (AMP) – The AMP is required to provide for the identification, assessment and management of the archaeological components of the place.</li> <li>• Detailed design guidelines – Design guidelines are to be prepared by a recognised heritage practitioner for the purpose of guiding possible future development affecting proposed Lots 3, 4, 5, 6 &amp; 8.</li> </ul> <p>The design guidelines are to be prepared in the context of the identified heritage values of the State Registered place and are to specifically address the following:</p> <ul style="list-style-type: none"> <li>• Proposed development zones and building envelopes, including guidance for the bulk and scale of any new structures.</li> </ul>	<p>(i) The heritage curtilage is included on the title and is not to be impacted by the structure plan, and will therefore not be recommended to be included on the structure plan.</p> <p>(ii) Supported. Recommend that the structure plan include an advice note to outline the requirement for preparation of an interpretation plan and archaeological management plan. The Design Guidelines will be addressed by the DPLH at the time of referral of development applications.</p>	<p>archaeologist will be required to be submitted, to the satisfaction of the Department of Planning Land and Heritage.”</p>

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<ul style="list-style-type: none"> <li>• Retention of significant view lines to retain any significant relationship between elements of the registered place.</li> <li>• Fencing</li> <li>• Materials and finishes</li> </ul>		
4	Department of Biodiversity, Conservation and Attractions PO Box 1693 Bunbury WA 6230	It is considered that the proposal and any potential environmental impacts will be appropriately addressed through the existing planning framework.	Noted.	That the submission be noted.
<b>Public Submissions</b>				
5	Sue and Nigel Wake (owner of 70 Seascape Rise, Yallingup WA 6282)  5 Reknown Way Sorrento WA 6020  (2 submissions)	Objection to allow uses hotel/tavern/brewery or other licensed facility on following grounds: (i) Loss of rural residential amenity and environment.	Noted.  (i) Amenity is addressed through application of LPS21 provisions when assessing development applications. It is seen as appropriate that there should be an objective set out, which then supplements the 'Rural Residential' objectives of the Zone, with respect to development on the affected land.  LPS21 currently applies Additional Use 52 to Lot 30 which provides zoning for additional tourism/commercial uses across the entirety of Lot 30 (24 ha), with the potential for 34 chalets currently supported by the existing Development Guide Plan 50 (DGP). The proposed Amendment removes AS2 and reduces the	That the submission be noted.  (i) That the Amendment Document be modified so that Schedule 3 - Special Provision 71 include the following:  <i>"The objectives of these provisions are to –</i>  <i>i. Support the development of tourism and visitor oriented land uses on the land;</i>  <i>ii. Ensure that such development is of a scope and scale, and is sensitively located, so as to be consistent with the preservation of a high level of amenity for the surrounding rural-residential area; and</i>

**SUMMARY OF SUBMISSIONS**  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(ii) Expectation of passive recreational areas and walking tracks haven't been provided.</p>	<p>area of land available for additional uses under Special Provision Area 71 to 10.8 hectares, and introduces an explicit floor space control on further non-residential development to 2,500 square metres net lettable area (NLA). The remaining area reverts to the underlying Rural Residential zone as proposed under the Millbrook Structure Plan.</p> <p>(ii) Noted. It is understood that marketing material for the original subdivision at Millbrook Farm identified nature trails intended to link the proposed chalet developments proposed under DGP50. There is also a Right of Carriageway Easement (E1) which traverses the site in a similar location to a 'nature trail' identified on the marketing plan. The ROCW easement was created in the benefit of the City of Busselton, essentially to help manage fire risk, and provides access to the City. Whilst the ROCW does not effectively provide access to the public at large at this time, the City considers that provision of pedestrian access is something that could potentially be achieved through the structure planning process. Officers investigated options of utilising the existing ROCW alignment or alternative routes to secure pedestrian access via a Public Access Way Reserve (PAW) within the subject land. The process to modify a</p>	<p><i>iii. Through supporting the development of tourism and visitor oriented land uses on the land, assist in the preservation, activation and adaptive re-use of the significant heritage assets and values of the land."</i></p> <p>(ii) That the Structure Plan be modified to include provision 3 to state:</p> <p>"3. As a condition of subdivision, unless acceptable alternative arrangements are made, a pedestrian access way shall be provided between the end of the proposed, new cul-de-sac and the eastern boundary of existing Lot 30, and that access way shall be placed between proposed Lots 5 and 6."That the Structure Plan be modified to include a notation with the EAW that states 'Indicative Pedestrian Access should a link to Dress Circle be secured'.</p>

**SUMMARY OF SUBMISSIONS**  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(iii) Support heritage museum, art gallery, artisan’s facility.</p> <p>(iv) Numerous existing venues already cater for uses.</p> <p>(v) Alternative use that showcases the history of Yallingup and heritage features of the site as an educational tourist and arts and crafts attraction operating during the day with closing at 6pm would be compatible with rural residential amenity.</p> <p>(vi) Scheme water will be required to service a large development.</p>	<p>ROCW is extremely difficult, and it is not considered necessary or appropriate to modify the existing ROCW. And the alternative routes have been assessed as impractical due to the topography of the land. A portion of the ROCW linking the proposed cul-de-sac and Dress Circle within Lot 30 is proposed to be replaced with a PAW which would also provide emergency access required by DFES. Officers recommend undertaking some targeted consultation regarding preferred access arrangements to provide pedestrian access Dress Circle at the time when the proposals have been subject of final determinations Minister and WAPC respectively.</p> <p>(iii) Noted. All the uses mentioned fall within use class definitions that are permissible under SP71.</p> <p>(iv) Noted.</p> <p>(v) Noted. Development conditions such as operation times will be addressed through subsequent development application processes. E.g. DA17/0651 (Reception Centre) was conditioned with a restriction of time based on the noise assessments.</p> <p>(vi) Water Supply and Effluent Disposal will be addressed through subsequent development processes in accordance with DWER Requirements and provisions</p>	

**SUMMARY OF SUBMISSIONS**  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
			of LPS21. See DWER submission 2 for details regarding future assessment. Scheme water is not available in the locality. Development of the kind envisaged regular occurs without scheme water.	
6	Michele Hartfield (owner 86 Nukklgup Loop Yallingup WA 6282) 3 William St Shenton Park WA 6008	<p>(i) Supportive of the conditions imposed by Council on the Reception Centre proposal (DA17/0651) with limited hours of operation and monitored noise levels. Query removal of condition without communication to affected landholders.</p> <p>(ii) Object to the proposed Brewery, Hotel, Reception Centre, Small Bar and Tavern based on following grounds:</p>	<p>(i) Noted. The removal of condition 8 from DA17/0651 that included “<i>should the lot be reduced in size to 20 hectares or less, the approved use shall cease</i>”, was based on the outcome of a State Administrative Tribunal (SAT) Appeal process where Council was invited to review the condition given the advice that a development condition is to relate to the proposed development and cannot control other processes such as future subdivision, or direct the application of non-conforming use rights. An appeal process does not include the requirement for public advertising.</p> <p>(ii) Noted. Assessment of site capability identifies that the subject land may have limitations in accommodating the onsite effluent produced through the operation of a brewery or winery and it is recommended that these uses be removed from proposed SP71. See submission 2 (DWER) staff recommendation. The additional land-uses of Reception Centre, Hotel, Tavern and Small Bar proposed via SP71 are proposed to be ‘A’ uses, meaning</p>	That the submission be noted.



**SUMMARY OF SUBMISSIONS**  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<ul style="list-style-type: none"> <li>a. Concerns regarding potential noise impact particularly at night.</li> <li>b. Loss of amenity.</li> <li>c. Landowners will have little chance on controlling the extent of future commercial proposals.</li> </ul>	<p>approval would be at the discretion of the City, following compulsory advertising. As per the Reception Centre application, issues suited to detailed technical analysis – such as noise – can be managed as advised through the Development Application process. The amendment reduces the potential scope, scale and footprint of non-residential development permissible on the land, with the aim of providing greater protection of the amenity of the surrounding area.</p> <ul style="list-style-type: none"> <li>a. Noted. Development of any of the uses proposed to be included in SP71 under AMD21/0045 will be subject to a separate development application process that will require a noise assessment.</li> <li>b. Noted. See staff comment 5(i) above.</li> <li>c. Noted. All future development applications in relation to uses included in SP71 are proposed to be an 'A' use under LPS 21, which requires public advertising. SP71 introduces an explicit floor space control on further non-residential development to 2,500 square metres NLA which is not currently provided under AS2.</li> </ul>	

**SUMMARY OF SUBMISSIONS**

**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006

**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
7	Brynn Chute (owner 121 Millbrook Road Yallingup WA 6282) 25 Perth Street Cottesloe, WA 6011	(i) No objection to the further subdivision of land. (ii) Oppose the uses proposed within the special provision area. (iii) Supportive of the conditions imposed by Council on the Reception Centre proposal (DA17/0651) with limited hours of operation and monitored noise levels (iv) A member and supporter of the Gunyulgup Valley Action Group (GVAG).	(i) Noted. (ii) Noted.  (iii)Noted. Development proposals will be addressed and determined through subsequent, and separate development application processes. (iv)Noted.	That the submission be noted.
8	George Pinakis (owner 37 Wildbrook Place, Yallingup WA 6282) 16 Hammond Rd, Claremont WA. (2 submissions)	(i) Object to the proposed new uses on lot 8 for the reasons that the range of uses and size is not suitable for the site. NLA does not include car parks, walkways or general public spaces, and does not indicate the height or bulk of any new development nor the amount of people and traffic. (ii) Suggest that a development plan (previously building envelope) be applied, then all those personally affected could make a true judgement on the proposals merits.  (iii) Consider the proposal against the City of Busselton’s Local Rural Planning Strategy Precinct 6 – Commonage. (iv) Suggest Council to consider limiting the scale and footprint of the A uses.	(i) Noted. The proposed 2500m <sup>2</sup> NLA is a necessary guide to restrict the extent of development on Lot 30. Development proposals will be assessed in accordance with the objectives and provisions of LPS21.  (ii) Noted. Building envelopes for each proposed lot operate to ensure placement of development will protect vegetation and mitigate fire risk; however this has now been addressed through the inclusion of a ‘Building Exclusion Area’ (BEA). (iii)Noted. The proposal is considered to appropriately address the current planning framework. (iv)Noted. SP71 proposes a limitation on the extent of proposed future uses to 2500m <sup>2</sup> NLA. See staff comment 6(ii)c above.	That the submission be noted.
9	Nick Trendos (owner 117 Millbrook Road Yallingup WA 6282 WA 6282)	(i) No objection to the further subdivision of land. (ii) Objection to the use of the land for any form of short term accommodation or commercial purpose.	(i) Noted. (ii) Noted. LPS21 currently applies Additional Use 52 (A52) to Lot 30 which provides zoning for both short term accommodation/chalets and commercial	That the submission be noted.

**SUMMARY OF SUBMISSIONS**

**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006

**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
	23 Gilmerton Way Greenwood WA 6024  (2 submissions)	(iii) Would like to see the current features of the estate being retained.	uses and is permissible across the entirety of Lot 30 (24 ha), with the potential for 34 chalets currently supported by the existing Development Guide Plan 50 (DGP). The proposed Amendment removes A52 and reduces the area of land for additional uses to 10.8ha under proposed SP71. The development potential for 34 chalets has been removed from the Structure Plan and the 2500m <sup>2</sup> NLA is now included to restrict the extent of development which is not currently provided for under the Scheme. The underlying Rural Residential zone allows some short term accommodation options in the form of Guesthouse and bed and breakfast, for example.  (iii) Noted. The proposed BEA protects all areas of significant remnant vegetation and ensure adequate bushfire safety separation. The State Heritage Listing and other heritage recognition will preserve the important heritage components. Also see staff comment 5(i) above.	
10	Vivienne Duggin 60 Nukklgup Loop, Yallingup WA 6282	(i) The proposed subdivision will impact on our view and also greatly impact on the flora and fauna in the area.	(i) Noted. The proposed Building Exclusion Area (BEA) protects all areas of remnant vegetation. The area is zoned Rural Residential and certain reasonable development is permissible and, equally reasonably, must be expected by adjoining landowners who may have previously enjoyed uninterrupted views.	That the submission be noted.

**SUMMARY OF SUBMISSIONS**

**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006

**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(ii) Concerns relate to displaced fauna (e.g. Kangaroos), lack of infrastructure and increased risk of fire.</p> <p>(iii) Object to proposed Lot 1, 2, 3 and 9 as the land should be preserved for heritage. Lining the stretch of road between the two bridges are poplar trees leading up to the historical precinct. There is a unique opportunity to make the full area between the two bridges an historical precinct and be placed on the national heritage list.</p> <p>(iv) Object to any additional street lightening.</p> <p>(v) Support development such as restaurant/café, museum, art and craft studio, small chalets and guest houses and private recreation, including walking trails.</p>	<p>(ii) Noted. See staff comment 10(i). A BMP has been prepared to address Bushfire Management.</p> <p>(iii) Noted. The property is included in the State heritage register and other heritage recognition will preserve the important heritage components.</p> <p>(iv) Noted.</p> <p>(v) Noted. The uses mentioned are all supported under proposed SP71. See staff comment 5(ii) above regarding walking trails.</p>	
11	<p>Tim Borzecki, Natasha Farrell, Cath Meaghan (owners of 5 (Lot 1) Wildbrook Place, Yallingup WA 6282)</p> <p>67 Clontarf Street, Sorrento WA</p>	<p>(i) No affiliation with other members of the strata, or the GVAG.</p> <p>(ii) Note that the proposal seeks to provide for additional consultation for future development proposals for a suite of land uses (essentially 'like for like' uses under the 2015 Regulations) that are already contemplated in Additional Use 52, and are proposed to be converted to Special Provision 71.</p> <p>(iii) View that the land uses in A52 forms part of the established planning framework, therefore have no comment on the desirability of these uses.</p> <p>(iv) Appreciate the leadership shown by the City to require an update to the Structure Plan and A52, and to redefine the Emergency Access Ways across the estate</p>	<p>(i) Noted.</p> <p>(ii) Noted.</p> <p>(iii) Noted.</p> <p>(iv) Noted.</p>	That the submission be noted.

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS: AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006**  
**OFFICER: Janine Eriksson SUBMISSIONS CLOSE: 8<sup>th</sup> JUNE 2020**

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		(v) Request that the boundary of SP71 be amended to exclude the 'Building Exclusion Zone' shown on the structure plan.	(v) Noted. Staff recommend retaining the SP71 boundary as proposed as the provisions associated with SP71 should apply to the whole site. The proposed DEA protects significant remnant vegetation and environmental features, and promotes improved fire safety.	
12	Barry Lang 13 Dress Circle, Yallingup WA 6282 WA 6282  (3 submissions)	<p>(i) Considers that the proposed changes to LPS 21/45 does not meet these requirements refers to the Leeuwin - Naturaliste Ridge Statement of Planning Policy (LNRSP).</p> <p>(ii) Request Council to reject the development application for Hotel, Tavern, Small Bar, Exhibition Centre, Reception Centre and Brewery.</p> <p>(iii) Support original uses on site.</p> <p>(iv) The development application for Reception Centre, was approved based on Lot size of 24 ha and the current proposal provides a lot of only 10.8 hectares in total, therefore a reception centre should not be considered.</p> <p>(v) Supportive of the area being preserved for significant heritage value with buildings such as a museum, blacksmith workshop, arts and crafts,</p>	<p>(i) Noted. The LNRSP does not provide detailed guidance for specific sites (with some exceptions for strategic sites). The proposal is broadly consistent with the LNRSP and the Leeuwin Naturaliste Sub Regional Strategy and the Local Planning Strategy.</p> <p>(ii) Noted. See staff comment in 6(ii) above.</p> <p>(iii) Noted.</p> <p>(iv) Noted. The development approval for the 'Reception Centre' was issued on 30 July 2018 (valid until 30 July 2022) and is therefore recommended to be included in the list of additional uses. See staff comment 6(i). As per the 'Reception Centre' application, issues suited to detailed technical analysis – such as noise – can be managed as advised through the Development Application process.</p> <p>(v) Noted. See staff comment 10(iii). All the uses mentioned fall within use class definitions that are permissible under SP71, with the exception of cultural centre</p>	<p>That the submission be noted and that the Structure Plan be modified to include provisions 6 and 7 to state:</p> <p>"6. No development, fencing or clearing of may take place in a Building Exclusion Area (BEA) except:</p> <ul style="list-style-type: none"> <li>• for the construction and maintenance of a Local Government approved access way or firebreak; or</li> <li>• where Development Approval for fencing or associated clearing has been obtained from the Local Government.</li> </ul> <p>7. In considering any Development Applications, there will be a general presumption against supporting works within the Building Exclusion Areas."</p>

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006  
**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>wildlife conservation facilities and an indigenous cultural centre, and café.</p> <p>(vi) Need to maintain rural residential lots and amenity.</p> <p>(vii) Close of Business should be 6pm.</p> <p>(viii) Scheme Water for fire prevention.</p> <p>(ix) Preserve Western Ringtail Possum habitat and black cockatoo.</p> <p>(x) Gunyulgup creek provides water source for flora and fauna and must be protected by installing adequate sewerage recycle systems.</p> <p>(xi) Lot 19 and Lot 17, Millbrook Estate, are registered "Land for Wildlife". The proposed Lot 8 of the new proposal encompassing the Dam and Heritage Site and the other additional 7 blocks should be included in a structured "Wildlife Corridor" program for the benefit of "High Value Habitat the "Endangered Western Ringtail Possum".</p>	<p>and blacksmith workshop which may be considered if ancillary to tourism use.</p> <p>(vi) Noted. See staff comment 5(i) above.</p> <p>(vii) Noted. See staff comment 7(iii) above.</p> <p>(viii) Noted. Scheme water isn't available in this location. The BMP recommends that the 50,000 litre water tank is suitable to cater for the additional lots.</p> <p>(ix) Noted. See staff comment 10 (i) above. All existing native vegetation/habitat areas are proposed to be protected under a Building Exclusion Area, which reflects the environmental linkages identified in the Commonage Policy Area Consolidated Structure Plan."</p> <p>(x) Noted. See staff comment 5(iv) above.</p> <p>(xi) Noted. All existing native vegetation/habitat areas are proposed to be protected under a BEA, which reflects the environmental linkages identified in the Commonage Policy Area Consolidated Structure Plan.</p>	
13	Julia Lang 13 Dress Circle, Yallingup WA 6282 (2 submissions)	(i) This proposal is not consistent with changes to previous LPS Amendments at Lot 34 Sheoak Drive which seemed to be a similar situation to this proposal.	(i) Noted. Sheoak Drive presents a different set of circumstances and does not relate to the current proposal.	That the submission be noted.

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS: AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006**  
**OFFICER: Janine Eriksson SUBMISSIONS CLOSE: 8<sup>th</sup> JUNE 2020**

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(ii) Objection to the proposed use Hotel, Tavern, Small Bar, Exhibition Centre, Reception Centre, Brewery, Rural Holiday Resort, Art Gallery, Tourist Accommodation, Winery.</p> <p>(iii) No objection to the following Recreation Private, Arts &amp; Craft, Studio Workshop &amp; Sales, Boutique Brewery, Winery, Museum, Club Premises, Rural Holiday Resort, Caretakers Dwelling and Café.</p> <p>(iv) Protect the "Amenity" and the habitat of flora and fauna. Protect Western Ringtail Possum Habitat</p> <p>(v) Proposal inconsistent with rural residential zoning for with additional traffic and noise. Any development must have regard for the heritage, landscape environmental and cultural value of the Location.</p> <p>(vi) Request time restrictions of 6:00 to 7:00 pm.</p> <p>(vii) Any use such as a hotel or tavern, with a large number of additional people must be supplied with scheme water.</p>	<p>(ii) Noted. See staff comment 6(ii) above.</p> <p>(iii) Noted. This list relates to the current permissibilities under the A52 of LPS21. This Amendment proposes to remove brewery, winery, caretakers dwelling, club premises and private recreation. See 24 (iii) below.</p> <p>(iv) Noted. See staff comments 5 (i), and 12(xi) above.</p> <p>(v) Noted. See staff comment 5(i) and 10 (iii) above.</p> <p>(vi) Noted. See staff comment 5(v) above.</p> <p>(vii) Noted. See staff comment 5(vi) above.</p>	
14	Suzanne Nelson 15 Dress Circle, Yallingup WA 6282	<p>Object to the proposed Amendment 45 for the following reasons:</p> <p>(i) Sales brochure for Millbrook farm estate provided expectation of passive recreational areas and walking tracks which haven't been provided.</p> <p>(ii) Concerns are with respect to the potential noise impact on our residence.</p> <p>(iii) Supportive of the conditions imposed by Council on the Reception Centre proposal (DA17/0651) with limited hours of operation and monitored noise levels. Do not want this to change.</p>	<p>Noted.</p> <p>(i) Noted. See staff comment 5(ii) above.</p> <p>(ii) Noted. See staff comment 6(ii)a. above.</p> <p>(iii) Noted. See staff comment 5(v),6(i) and 7(iii) above.</p>	That the submission be noted.

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS: AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006**  
**OFFICER: Janine Eriksson SUBMISSIONS CLOSE: 8<sup>th</sup> JUNE 2020**

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
15	David Palmer 17 Dress Circle, Yallingup WA 6282 (2 submissions)	<p>Object to the Amendment and uses such as hotel, bar or tavern, brewery , exhibition centre, reception centre for the following reasons:</p> <p>(i) Not appropriate to include additional 'A' uses on a Residential Rural lot reduced in area from 24.4ha to an area of only 10.8h. Uses should be reduced given the creation of new Residential Rural lots.</p> <p>(ii) The Special use must adequately deal with the effects of noise amplification/abatement, extra traffic, bushfire prevention and security of our homes.</p> <p>(iii) No clear development proposal but applies many scenarios. There is no specific location identified for such development on Lot 8.</p>	<p>Noted. See 6(ii)</p> <p>(i) Noted. See staff comment (5i) for reference. This comment encapsulates the intent of the amendment which is to limit the location of additional uses to the proposed 10.8 hectare which significantly reduces the extent of additional uses currently permissible across Lot 30.</p> <p>(ii) Noted. See staff comment 6(i)a above. A BMP has been prepared to address Bushfire Management.</p> <p>(iii)Noted. See staff comment 23(vi) below. LPS21 currently applies Additional Use 52 to Lot 30 which provides zoning for additional tourism/commercial uses across the entirety of Lot 30 (24 ha), with the potential for 34 chalets currently supported by the existing Development Guide Plan 50 (DGP). The proposed Amendment removes A52 and reduces the area of land available for additional uses under Special Provision Area 71 to 10.8 hectare and introduces an explicit floor space control on further non-residential development to 2,500 square metres net lettable area. The remaining area reverts to the underlying 'Rural Residential' zone as proposed under the Structure Plan. Specific proposals will be addressed through the Development Application process.</p>	<p>That the submission be noted and that the Amendment Document be modified so that Schedule 3 - Special Provision 71 include provision No.3 that states:</p> <p><i>“Any development that would involve any significant presence on site of persons not living or being temporarily accommodated on the site (such as Chalets or a Guesthouse) should generally be located in the north-western portion of the Special Provision Area, in proximity to the key heritage assets”.</i></p>



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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(iv) Would like to the 2500m<sup>2</sup> area restricted to the western margin of the Lot 8 adjoining the mill area.</p> <p>(v) It is not clear if the proposed access way (PAW) on the western boundary of Lot 7 and through the battle-axe block between Lot 27 and Lot 28 is to be cleared or remains excluded for development. We are unnerved about the statement “this route may serve or provide improved public access for residents in the location”.</p> <p>(vi) Consider that the 50,000l water tank for fire prevention needs to be increased if to benefit the valley community.</p> <p>(vii) Would like plans outlining street lighting on the proposed cul de sac adjoining Dress Circle.</p> <p>(viii) Adverse effect the residents property values, amenity, lifestyle, introduce conflicting land uses, negative environmental impacts on residents, flora, fauna and the natural beauty of the Gunyulgup Valley.</p> <p>(ix) Scheme water will be needed in the event that the uses do become approved.</p> <p>(x) No objection to the further subdivision of land.</p>	<p>(iv) Supported. Staff recommend that any non-residential uses be located in the north-west portion of the site.</p> <p>(v) Noted. The PAW/EAW option considered for this location in the reporting to Council prior to advertising is not recommended to proceed.. See staff comment 5(ii) for further information about public access.</p> <p>(vi) Noted. The BMP recommends that the 50,000 litre water tank is suitable to cater for the additional lots.</p> <p>(vii) Noted. Detail considered at the subdivision stage.</p> <p>(viii) Noted. See staff comment 5(i) above.</p> <p>(ix) Noted. See staff comment 5(vi) above. Scheme water is not available in this location.</p> <p>(x) Noted.</p>	
16	Neil Saggars 21 Nukklgup Loop, Yallingup WA 6282	(i) Object to inappropriate development application due to noise, traffic, and proximity of these	(i) This is not a Development Application; that will be a separate and distinct process. The Amendment sets out uses	That the submission be noted.

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006  
**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>proposed developments to existing residences is a major concern.</p> <p>(ii) Considers that the proposed changes to LPS 21/45 does not meet these requirements refers to the Leeuwin - Naturaliste Ridge Statement of Planning Policy (LNRSP).</p>	<p>that may be permissible under LPS21. The purpose of the Millbrook Structure Plan is to guide future subdivision.</p> <p>(ii) Noted. See staff comment 8(iii) above.</p>	
17	Mark Nelson 25 Millbrook Rd, Yallingup WA 6282 (2 submissions)	<p>Object to the proposed changes on the following grounds:</p> <p>(i) Increased noise from activities and traffic and destruction of amenity in the valley. Valley acoustics are like an amphitheatre. Therefore please consider small quiet day time uses such as a cafe and museum day time only.</p> <p>(ii) Considers that the proposed changes to LPS 21/45 does not meet these requirements refers to the Leeuwin - Naturaliste Ridge Statement of Planning Policy (LNRSP).</p> <p>(iii) Loss of amenity.</p> <p>(iv) Opening times are restricted and close at 6pm,</p> <p>(v) Limit capacity of people to site below 100</p> <p>(vi) Connect to Scheme water to protect environment/water quality.</p>	<p>Noted.</p> <p>(i) Noted See comments 5(i) above. The land use definition of a 'Museum' has been replaced by the term 'Exhibition Centre' under the LPS21 and is included under SP71. A café (as 'Restaurant/Café') is a permissible use in the 'Rural Residential' zone.</p> <p>(ii) Noted. See staff comment 8(iii) above.</p> <p>(iii) Noted. See staff comment 5(i) above.</p> <p>(iv) Noted. See staff comment 5(v) above.</p> <p>(v) Noted. See staff comment 5(v) above.</p> <p>(vi) Noted. See staff comment 5(vi) above.</p>	That the submission be noted.
18	Maureen Nelson 55 Wardenup Cres, Yallingup WA 6282 (2 submissions)	<p>(i) Object to any change to the LPS due to noise, traffic, amenity impacts and proximity of these proposed developments to existing residences.</p> <p>(ii) Request closing time restriction of 6:00m.</p> <p>(iii) Limit capacity to 120 people.</p>	<p>(i) Noted. See staff comment 5(i) above</p> <p>(ii) Noted. See staff comment 5(v) above.</p> <p>(iii) Noted. See staff comment 5(v) above.</p>	That the submission be noted.
19	Margot Nelson	<p>Object to any change to the LPS due to:</p> <p>(i) Noise - Valley acoustics are like an amphitheatre.</p>	<p>(i) Noted</p>	That the submission be noted.

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS: AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006**  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
	216 Whittle Rd, Yallingup WA 6282 (2 Submissions)	<ul style="list-style-type: none"> <li>(ii) Proximity of these proposed developments to existing residences</li> <li>(iii) Inconsistency with development on Sheoak Rd.</li> <li>(iv) Loss of amenity</li> <li>(v) Environmental impact. Impact on Flora and Fauna.</li> <li>(vi) Traffic impacts.</li> <li>(vii) Proposals incompatible with heritage values</li> <li>(viii) Inconsistent with the LNRSP.</li> <li>(ix) Bushfire Risks</li> <li>(x) Reception facility should be on site with a min 20Ha.</li> </ul>	<ul style="list-style-type: none"> <li>(ii) Noted. The area is zoned 'Rural Residential', and a high level of amenity can reasonably be expected in a Rural Residential area, although some activity which some may perceive as impacting on their amenity may occur. That is especially the case where the planning framework so clearly contemplates some non-residential development.</li> <li>(iii) Noted.</li> <li>(iv) Noted. See staff comment 5(i) above.</li> <li>(v) Noted. See Submission 12 staff comment and staff recommendation.</li> <li>(vi) Noted.</li> <li>(vii) Noted. See staff comment 10(iii) above.</li> <li>(viii) Noted. See staff comment 8(iii) above.</li> <li>(ix) Noted. A BMP has been prepared to address Bushfire Management.</li> <li>(x) Noted. See staff comment 6(i). The Reception Centre is currently an approved use on site, and is proposed to be an 'A' use under SP71, meaning approval would be at the discretion of the City, following compulsory advertising. As per the current Reception Centre application, issues suited to detailed technical analysis – such as noise – can be managed as advised through the Development Application process</li> <li>(xi) Noted. See staff comment 5(v) and 6 (i) above. As was the case with the Reception Centre application, issues suited to</li> </ul>	

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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		(xi) All amplified music to be contained inside a well attenuated building and not a tent and closing time restriction of 6:00m.	detailed technical analysis – such as noise – can be managed.	
20	David Ocello (owner 38 Hazelbrook Rise, Yallingup WA 6282)  9 Cassino Drive, Stirling WA	Object to the proposed changes on the following grounds: (i) Increased noise in the valley. Valley acoustics are like an amphitheatre. (ii) Not appropriate to include additional 'A' uses on a Residential Rural lot that has reduced in area from 24.4ha to one with area of only 10.8ha. It is more appropriate to reduce the special uses given the reduction in size and the creation of new Residential Rural lots in closer proximity to Lot 8.  (iii) Additional type of uses are more appropriate in an area zoned "Viticulture and Tourism" such as the case with "Cape Lodge". (iv) Considers that the proposed changes to LPS 21/45 does not meet these requirements refers to the Leeuwin - Naturaliste Ridge Statement of Planning Policy (LNRSP). (v) The proposed amendment will adversely affect the residents property values, amenity, lifestyle, introduce conflicting land uses, environmental impacts on residents, flora, fauna and the natural beauty of the Gunyulgup Valley.	(i) Noted.  (ii) Noted. See staff comment (5i) for reference. The intent of the amendment is to limit the location of additional uses to the proposed 10.8 hectare, significantly reducing the extent of additional uses currently permissible across Lot 30.  (iii) Noted.  (iv) Noted. See staff comment 8(iii) above.  (v) Noted. See staff comment 5(i) above.	That the submission be noted.
21	Mark Zed 52 Napier Street, Cottesloe, WA 6011	The key issues that we see with the proposed Amendment are: (i) Valley acoustics are like an amphitheatre. (ii) Proximity of possible new hotel / brewery to housing lots.	(i) Noted. (ii) Noted See staff comment 6(ii) and 15(iv) above regarding the location of uses, and see staff comment and recommendation	That the submission be noted.

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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(iii) The proposed amendment will adversely affect the residents property values, amenity, lifestyle, introduce conflicting land uses, environmental impacts on residents, flora, fauna and the natural beauty of the Gunyulgup Valley.</p> <p>(iv) Incompatible with the existing heritage</p> <p>(v) Considers that the proposed changes to LPS 21/45 does not meet these requirements refers to the Leeuwin - Naturaliste Ridge Statement of Planning Policy (LNRSP).</p>	<p>submission 2 regarding the recommendation to remove the brewery.</p> <p>(iii) Noted. See staff comment 5(i) above</p> <p>(iv) Noted. See staff comment 10(iii) above.</p> <p>(v) Noted. See staff comment 8(ii) above.</p>	
22	Michael Jones 28 Corymbia Close Yallingup WA 6282	<p>Support the initiative of the GVAG to amend the development proposal. Concerns include:</p> <p>(i) Valley acoustics are like an amphitheatre.</p> <p>(ii) Degradation of the environment</p> <p>(iii) Attracting large numbers of people</p> <p>(iv) Security of our properties</p>	<p>(i) Noted.</p> <p>(ii) Noted. See submission 12 staff comment and recommendation.</p> <p>(iii) Noted.</p> <p>(iv) Noted.</p>	That the submission be noted.
23	Anthea Pinakis 16 Hammond Rd, Yallingup WA 6282	<p>Support the Building Exclusion Area would like clarification on the following:</p> <p>(i) "Removal of remnant vegetation is discouraged" - Under what circumstances could vegetation from the Exclusion Area be removed?</p> <p>(ii) "No development shall be generally permitted within a Building Exclusion Area"</p> <p>(iii) Under what circumstances could development take place in the Exclusion Area"</p> <p>(iv) What does 'development ancillary to a single house' constitute, i.e. type, size? Use etc.</p>	<p>Noted</p> <p>(i) See submission 12 staff comment and recommendation.</p> <p>(ii) See submission 12 staff comment and recommendation.</p> <p>(iii) See submission 12 staff comment and recommendation.</p> <p>(iv) Development ancillary to a 'Single House' refers to minor development that would normally be associated with the use of</p>	That the submission be noted.

**SUMMARY OF SUBMISSIONS**  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(v) Reception Centre was approved subject to noise levels, hours of operation and lot size not being less than 20 hectares. Does the reduced size of Lot 8 not preclude it from the SP71 list?</p> <p>(vi) Could we be provided with a plan showing buildable areas of Lot 8?</p> <p>(vii) 2500m<sup>2</sup> NLA on top of the existing historic buildings seems very large.</p>	<p>the 'Single House', that would generally have minimal impact.</p> <p>(v) Noted. See staff comment 19(x) above.</p> <p>(vi) Noted. The details of developable areas on Lot 8 will be refined through the development application process. The guidance provided through the structure plan excludes the BEA for protection of vegetation and bushfire risk areas. The remaining land area for Lot 8 is approximately 3.4 hectares. The Scheme provisions will require that not more than 2500 square metres of additional NLA will be developed within this area. The setbacks to roads and waterways and buildings will dictate the location of the building area at development stage.</p> <p>(vii)Noted. By way of example the current building envelope for houses and associated outbuildings in a rural residential area is 2000m<sup>2</sup>.</p>	
24	<p>Petter Visser (owner 73 Millbrook Road, Yallingup WA 6282) 12 Begonia St Duncraig WA 6023</p>	<p>Object to the proposed Amendment 45 and associated Structure Plan for the following reasons:</p> <p>(i) The area has been developed as a rural residential area. We seek to defend and maintain the benefits of this pristine, quiet country retreat.</p>	<p>(i) Noted. See staff comment 5(i) above.</p> <p>(ii) Noted.</p>	<p>That the submission be noted.</p>

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS: AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006**  
**OFFICER: Janine Eriksson SUBMISSIONS CLOSE: 8<sup>th</sup> JUNE 2020**

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		(ii) The topography of the area is takes on the dynamics of an amphitheatre, exacerbated in the evening and night times. (iii) This amendment changes the whole environment of the area.	(iii) Noted. The amendment reduces the potential scope, scale and footprint of non-residential development permissible on the land, with the aim of providing greater protection of the amenity of the surrounding area. The Structure Plan provides improved outcomes in protection of vegetation/bushfire through indication of a BEA, and improved and legible access (cul de sac and EAW).	
25	Colin Blair 20 Dress Circle, Yallingup WA 6282  (6 submissions)	Objection to Amendment on the following grounds: (i) Considers the process manipulates planning laws to the benefit of the Applicant and the detriment to Community and the Environment.  (ii) Community Strategic Plan goal that ‘the environment valued, conserved and enjoyed’ is not met.  (iii) Hotel, Wedding Reception Centre, Bar, Tavern, Winery and Brewery is contrary to the relevant objectives and policies of the rural residential zone; fails in its tourism and cultural intent and in bushfire planning.	(i) Not agreed. The City has approached, assessed and consulted extensively with the public on the bone fide planning proposal. It has been dealt with openly and objectively and in accordance with the current Planning framework. (Including LPS 21). (ii) Not agreed. See staff comment 24(iii) above. Permissible development in the subject zone will be carefully managed and controlled with close consideration of environmental and heritage values etc.  (iii) Noted. See staff comment 6 (ii) and also see submission 2 (DWER) staff recommendation for removal of the ‘Brewery’ and ‘Winery’ use classes from the Amendment. See staff comment 5(i) regarding the amenity objectives. The	That the submission be noted.

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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(iv) Loss of amenity and inappropriate in scale with uses proposed NLA of 2,500m<sup>2</sup>.</p> <p>(v) Reception Centre development approval has lapsed.</p> <p>(vi) The development application for Reception Centre, was approved based on Lot size of 24 ha and the current proposal provides a lot of only 10.8 and therefore a Reception Centre is not permissible.</p>	<p>additional land-uses of 'Reception Centre', 'Hotel', 'Tavern' and 'Small Bar' proposed via SP71 are proposed to be 'A' uses, meaning approval would be at the discretion of the City, following compulsory advertising. As per the 'Reception Centre' application, issues suited to detailed technical analysis – such as noise – can be managed as advised through the Development Application process.</p> <p>(iv) Noted. See staff comment 23(vi), 23(vii) and 24(iii) above.</p> <p>(v) The 'Reception Centre' development approval was issued on 30 July 2018. Ordinarily, a development approval requires that 'substantial commencement' occur within two years of the date of the decision notice. By virtue of notices issued by the Hon. Minister for Planning in response to the Covid-19 situation, that has been extended by two years. As such, substantial commencement must occur no later than 30 July 2022, and therefore the approval remains valid.</p> <p>(vi) Noted See staff comment 23(v) above.</p> <p>(vii) Noted see staff comment 6(i) above.</p>	



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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(vii) Condition 8 of Development approval relating to a minimum of 20 hectares land holding was removed without consultation.</p> <p>(viii) Cape Lodge example provides no commonality as located on 16 hectares in agricultural area.</p> <p>(ix) This proposal is not consistent with changes to previous LPS Amendments at Lot 34 Sheoak Drive.</p> <p>(x) Gunyulgup Valley is effectively an amphitheatre.</p> <p>(xi) Will owners who bought property be financially compensated by the Council for changes?</p> <p>(xii) No objection to the further subdivision of land</p> <p>(xiii) Concern that night time light and noise will impact Western Ringtail possum habitat.</p> <p>(xiv) How does the Council plan to address the potential noise and social problems from wedding reception guests.</p>	<p>(viii) Noted. Comment not relevant to this proposal.</p> <p>(ix) Noted. See Staff comment 13(i) above.</p> <p>(x) Noted.</p> <p>(xi) Not applicable. Compensation does not apply where development is permissible under LPS21, See staff comment 19(ii).</p> <p>(xii) Noted.</p> <p>(xiii) Noted.</p> <p>(xiv) Noted. The approved 'Reception Centre' is not operating and an alternative reception centre venue has not yet been proposed. As stated in 25(iii) above, issues suited to detailed technical analysis – such as noise – can be managed as advised through the Development Application process.</p>	
26	Harry Karelis 51 Wildbrook Place, Yallingup WA 6282 WA 6282	<p>(i) Neither support or object the Amendment and Structure Plan following suggestions/comments made:</p> <p>(ii) The proposed "A" uses are out of keeping with the rural character of the valley and potential to be of a scale not appropriate.</p> <p>(iii) A proposed development area of 2,500m<sup>2</sup> on Lot 8 comprise a large percentage of what is currently open space.</p>	<p>(i) Noted.</p> <p>(ii) Noted. See staff comment 5(i) above.</p> <p>(iii) Noted. See staff comment 23(iv) above. There is no requirement for provision of public open space in Rural Residential zoned areas. Lot 30 is private land with</p>	That the submission be noted.

**SUMMARY OF SUBMISSIONS**  
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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<ul style="list-style-type: none"> <li>(iv) Consider limiting the list of "A" uses to activities that encourage small scale tourist amenities such as a cafe or small bar or art gallery, not including large scale hotel developments, breweries or wineries to maintain rural residential amenity</li> <li>(v) Reduce development area.</li> <li>(vi) Protect vegetation from development and access ways and provide building envelopes so surrounding residents can see where activity is to be located.</li> <li>(vii) Address boundary fencing issues.</li> </ul>	<p>the right to achieve development potential.</p> <ul style="list-style-type: none"> <li>(iv) Noted. See staff comment 6(ii), 24(iii) and 25(ii) above. The scale of development will be restricted by the 2500m<sup>2</sup> NLA.</li> <li>(v) Noted. See staff comment 24(ii),26(ii) and 26(iii) above.</li> <li>(vi) Noted See staff comment 8(ii), 12(xi) and 23(iv).</li> <li>(vii) Noted. The detail of boundary fencing is not addressed via an Amendment or Structure Plan process. Disputes with adjoining landowners' are dealt with through the Dividing Fences Act.</li> </ul>	
27	Frits de Vroet 21 Dress Circle, Yallingup WA 6282	<ul style="list-style-type: none"> <li>(i) Object to Tavern, Hotel, Rural Holiday Resort, Small Bar, Tourist Accommodation and Reception Centre as proposed land uses.</li> <li>(ii) The noise and additional traffic will negatively impact our property which is located next to Lot 8. Typical opening hours of these kinds of uses will be such that they provide disturbance across the day and evening time.</li> <li>(iii) The creation of Lot 6 will directly impact views.</li> <li>(iv) Provide building envelopes so surrounding residents can see where activity is to be located</li> <li>(v) Environmental impact –loss of flora and fauna.</li> </ul>	<ul style="list-style-type: none"> <li>(i) Noted. See staff comment 6(ii) above.</li> <li>(ii) Noted. See staff comment 5(i) and 5(v) above.</li> <li>(iii) See staff comment 10(iii) above.</li> <li>(iv) See staff comment 8(ii) and 23(iv) above.</li> <li>(v) Noted See staff comment 10(u) and 12 (xi) above.</li> </ul>	That the submission be noted.
28	Malcolm Brown 40 Nukkligup Loop, Yallingup WA 6282	No objection to the further subdivision of land.	Noted.	That the submission be noted.

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**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006

**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>Object to the Amendment, specifically the Winery, Brewery, Exhibition Centre, Hotel, Reception Centre, Small Bar and Tavern on the following grounds:</p> <p>(i) Attracting significant numbers of creating, traffic and noise issues that are not compatible with a rural-residential setting</p> <p>(ii) Noise - Valley acoustics are like an amphitheatre.</p> <p>(iii) 2500m<sup>2</sup> NLA is too large for this site.</p> <p>(iv) Lot size of only 10.8 hectares in total, therefore uses should not be considered as no longer applies the rural permissibility's.</p> <p>(v) Loss of amenity.</p>	<p>(i) Noted. See staff comment 5(i) above.</p> <p>(ii) Noted.</p> <p>(iii) Noted. See staff comment 23(vi) and (vii) above.</p> <p>(iv) Noted. Rural permissibilities will no longer apply. The 'Reception Centre' use class is being included as an 'A' use under SP71 as it is already an approved use on site. See staff comment 19(x) above.</p> <p>(v) Noted See staff comment 5(i) above.</p>	
29	<p>Julius Matthys (owner of 10 Dress Circle, Yallingup WA 6282)</p> <p>22 Cooper St Nedlands WA 6009</p>	<p>Object to the Amendment, on the following grounds</p> <p>(i) Clause 3.5.2 of the Scheme should continue to apply. Lot size of only 10.8 hectares in total, therefore rural use no longer applies and should not be considered.</p> <p>(ii) Additional new lots creates further conflict.</p> <p>(iii) Noise - Valley acoustics are like an amphitheatre</p> <p>(iv) Loss of Amenity. Need to maintain Rural Residential objectives.</p>	<p>(i) Noted. See staff comment 28(iv) above.</p> <p>(ii) Noted. See staff comment 19(ii) above.</p> <p>(iii) Noted.</p> <p>(iv) Noted. See staff comment 5(i) above.</p>	That the submission be noted.
30	<p>Alan Rowe 25 Wildbrook Place, Yallingup WA 6282</p> <p>(2 submissions,)</p>	<p>(i) Concern about noise, social issues traffic, and proximity of these proposed developments to existing residences if uses were to be approved.</p> <p>(ii) Objects to the uses hotel, bar, tavern, exhibition centre and reception centre for the reason that it will impact the amenity of the rural residential area, and lack of scheme water to host a large commercial operation.</p>	<p>(i) Noted. See staff comment 6(i)a and 19(ii) above.</p> <p>(ii) Noted see staff comment 5(i), 5(vi) and 6(ii) above.</p>	That the submission be noted.

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**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006

**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
31	<p>Gregory Sterrett (owner 70 Nukklgup Loop, Yallingup WA 6282)</p> <p>13B Thurloe St, Bicton, WA 6009.</p> <p>(2 submissions for 2 properties)</p>	<p>On behalf of Sterrett and Frost/O’Mahony families Object to the Amendment, on the following grounds</p> <p>(i) Loss of amenity particularly landscape, and concern with scale of proposed uses.</p> <p>(ii) Noise - Valley acoustics are like an amphitheatre, Concern with night-time noise and behaviours.</p> <p>(iii) Property value loss</p> <p>(iv) Support uses such as art galleries, local product centres with small show-rooms, chalets and other short term accommodation venues. Suggest smaller blocks for single houses might be an advantage for a central green area without compromising amenity of the valley as a whole</p> <p>(v) The original vision of Millbrook has been achieved and the opportunity to preserve the unique environment should not be missed.</p>	<p>(i) Noted see staff comment 5(i) and 8(i) above.</p> <p>(ii) Noted.</p> <p>(iii) Noted. Property values are not a valid planning consideration.</p> <p>(iv) Noted. The uses suggested are possible under the proposed zoning (with the exception of showrooms). The minimum lot size for the ‘Rural Residential’ zoned lots are guided by the CPACSP and in this case is 1 ha with an average of 2ha.</p> <p>(v) The existing Millbrook DGP allowed for the creation of three larger lots across the subject Lot 30 with potential for the development of 34 chalets and unrestricted scale and floor space of additional uses. The current proposal reduces the potential scope, scale and footprint of non-residential development permissible on the land, with the aim of providing greater protection of the amenity of the surrounding area. See 19(ii) above.</p>	<p>That the submission be noted.</p>
32	<p>Rachel Tandy (PO Box 1967) Seascape Rise,, Yallingup WA 6282, 6282</p>	<p>Object to the further changes to Development Application DA17/0651 as relative to Amendment No. 45. We understood that if further subdivided, that the additional uses would all be removed from Lot 30 and that this condition was removed without consultation.</p>	<p>Noted. The DA17/0651 is not being revised or replaced. A Development Application is a separate and distinct process. The Amendment sets out uses that may be permissible under LPS21. The Amendment does not alter the status of the current</p>	<p>That the submission be noted and that the Structure Plan be modified to include provision 4 to state: “4. As a condition of subdivision and prior to subdivisional works, a Drainage/Stormwater Management Plan is to be prepared to the satisfaction of the Local Government.”</p>

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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>Object to use Hotel, Exhibition Centre, Rural Holiday Resort, Bar, Reception Centre, Tavern. Rural Holiday Resort on the grounds:</p> <p>(i) affects rural residential amenity and incongruous to the purpose of the Gunyulgup Valley</p> <p>(ii) lack of consideration for the environmental value.</p> <p>(iii) The size of the proposed structure</p> <p>(iv) Accept uses Art and Craft Studio, Workshop and Sales, involving the Historical Buildings and Mill, Museum, Art Gallery, Environmental Visitors Centre e.g. Gondwana Link with specific restrictions and conditions including:</p> <ul style="list-style-type: none"> <li>• Limited operation to at 6 or 7 pm</li> <li>• Noise study</li> <li>• Study on ground water and impact on High Value Habitat for the endangered Western Ringtails in the Valley</li> </ul>	<p>Development Application for the 'Reception Centre'. See staff comment 6(i) above.</p> <p>(i) Noted. See staff comment 5 (i) above.</p> <p>(ii) Noted. See staff comment 12(xi) and staff recommendation for submission 12.</p> <p>(iii) Noted See staff comment 8(i) and 23(vi), 23 (vii) and 24(iii) above. There is no specific structure being considered at this time.</p> <p>(iv) Noted. See staff comment 5(iii) above.</p> <p>a. Noted. See staff comment 5(v) above</p> <p>b. Noted. See staff comment 6(ii) a above.</p> <p>c. Noted. A stormwater and drainage plan is required to be undertaken prior to subdivision. This wasn't included as a specific provision of the advertised structure plan and is now recommended to be included. Notwithstanding the inclusion of the provision to the requirement to address water management is</p>	

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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<ul style="list-style-type: none"> <li>• flora and fauna study to preserve all vegetation</li> <li>• Fire management</li> </ul>	mandatory through the subdivision and development process. d. Noted. See staff comment 12(xi) e. Noted. The BMP addresses fire management. See submission 2.	
33	Roger Cornes 8 Seascape Rise, Yallingup WA 6282	(i) Proposal inconsistent with rural residential zoning for with additional traffic and noise. (ii) Restrict operations to 6:00/ 7:00 pm. (iii) Any use such as a hotel or tavern, with a large number of additional people, must be supplied with scheme water.	(i) Noted. See staff comment 19(ii) and 5(i) above. (ii) Noted. See staff comment 5(iv) above. (iii) Noted. See staff comment 5(iv) above	That the submission be noted.
34	Judy McRae 19 Robert Donald Heights, Yallingup WA 6282	Object to the proposed changes on the following grounds: (i) Increased noise in the valley. Valley acoustics are like an amphitheatre (ii) The proposed amendment will adversely affect the, amenity, environmental impacts on residents, flora, fauna and heritage value (iii) Restrict operations to 6:00/ 7:00 pm (iv) Inconsistency with development on Sheoak Rd.	(i) Noted. (ii) Noted. See staff comment 5(i) and 12(xi) and 10(iii) above. (iii) Noted see staff comment 5(v) above. (iv) Noted. See staff comment 13(i) above.	That the submission be noted.
35	Ian Chiswell 85 Millbrook Rd, Yallingup WA 6282	(i) The proposed development is incompatible with rural residential amenity, particularly with potential night time noise and light. (ii) The proposed uses are suitable elsewhere; (iii) There is no provision of scheme water for the expected high number of people. (iv) Development will impact on the existing flora and fauna.	(i) Noted. See staff comment 5(i) above. (ii) Noted. See Staff comment 19(ii) above. (iii) Noted. See staff comment 5(vi) above. (iv) Noted. See staff comment 12(xi) above.	That the submission be noted.
36	Robert O'Mahony (owner of 70 Nukklgup Loop, Yallingup WA 6282) 33 Mallee Way Gwelup 6018	Object to the proposal hotel, bar, tavern, exhibition centre and reception centre on following grounds/ subject to suggested considerations: (i) Restrict operations between 6 or 7pm	(i) Noted see staff comment 5(v) above (ii) Noted. See staff comment 5(vi) above	That the submission be noted.

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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		(ii) Scheme water must be available for the large numbers of people. (iii) Loss of rural residential amenity. (iv) Development and clearing which will impact on flora and fauna impacting "high value habitat" for the endangered "Western Ringtail Possum".	(iii) (Noted. See staff comment 5(i) above. (iv) Noted. See staff comment 12(xi) above.	
37	Jemma Sterrett 89 Tamar St, Palmyra, Perth	Object to the proposal on the grounds of: Family holiday home and concern of loss of amenity Impact on other businesses.	Noted. See staff comment 5(i) above.	That the submission be noted.
38	Alina Tran ( daughter of owner of 70 Nukkgup Loop, Yallingup WA 6282) 33 Mallee Way Gwelup WA 6018	Object to the proposal hotel, bar, tavern, exhibition centre and reception centre on following grounds/ subject to suggested considerations: (i) Restrict operations between 6 or 7pm (ii) Scheme water must be available for the large numbers of people. (iii) Loss of rural residential amenity. (iv) Development and clearing which will impact on flora and fauna impacting "high value habitat" for the endangered "Western Ringtail Possum".	(i) Noted see staff comment 5(v) above. (ii) Noted. See staff comment 5(vi) above. (iii) Noted. See staff comment 5(i) above. (iv) Noted. See staff comment 12(xi) above.	That the submission be noted.
39	William O'Mahony 32 Camelia St North Perth 6006  (Son of owner of 70 Nukkgup Loop, Yallingup WA 6282)	Object to the proposal on the grounds of: (i) Family holiday home and concern of loss of amenity (ii) Impact on other businesses. (iii) loss of asset value . (iv) Development and clearing which will impact on flora and fauna impacting "high value habitat" for the endangered "Western Ringtail Possum". (v) likely increase of social issues (vi) lack of scheme water for large development (vii) Unique valley should be protected.	(i) Noted. See staff comment 5(i) above. (ii) Noted. Not a relevant planning consideration at this scale. (iii) Noted. See staff comment 31(iii) above. (iv) Noted. See staff comment 12 (xi) above. (v) Noted. See staff comment 19(ii) above. (vi) Noted. See staff comment 5(iv) above.	That the submission be noted

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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
			(vii) Noted. See staff comment 24(iii) and 39(i) above.	
40	Bill Scully 45 Nukklgup Loop Yallingup WA 6282	(i) Object to the proposal hotel, bar, winery, tavern, exhibition centre and reception centre on following grounds/ subject to suggested considerations:  (ii) Restrict operations between 6 or 7pm (iii) Scheme water must be available for the large numbers of people. (iv) Loss of rural residential amenity. (v) Development and clearing which will impact on flora and fauna impacting "high value habitat" for the endangered "Western Ringtail Possum". (vi) Considers that the proposed changes to LPS 21/45 does not meet these requirements refers to the Leeuwin - Naturaliste Ridge Statement of Planning Policy (LNRSP). (vii) Fire risk (viii) Loss of trails and concerned by lack of access (ix) Loss of property value (x) Heritage to be retained for tourism.	(i) Noted. See staff comment 6(ii) above.  (ii) Noted. See staff comment 5(v) above. (iii) Noted. See staff comment 5(vii) above.  (iv) Noted. See staff comment 5(i) above. (v) Noted. See staff comment 12(xi) and submission 12 staff recommendation above. (vi) Noted. See staff comment 8(iii) above.  (vii) Noted. See staff comment 13(ix) above. (viii) Noted. See staff comment 5(ii) above. (ix) Noted. See staff comment 31(iii) above. (x) Noted. See staff comment 10(iii) above.	That the submission be noted
41	David Jasper 79 Seascape Rise, Yallingup WA 6282, 6282	Object to Additional uses under SP71 particularly Hotel (more than 120 people allowed), and Small Bar, Tavern, or Reception Centre (each allowed up to 120 people) including: (i) Increased noise from activities and traffic and destruction of amenity in the valley. Valley acoustics are like an amphitheatre. Consider small quiet day time uses such as a cafe and museum day time more appropriate. (ii) Lot 30 is not an identified tourist precinct under the local tourism planning strategy and is not	Noted. See staff comment 6(ii) above.  (i) Noted. See staff comment 5(ii, 6(i)a and 12(v) above.	That the submission be noted



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		<p>identified as a Strategic or Non-Strategic Tourist Site, nor is it located within Strategic Tourism Precinct.</p> <p>(iii) Loss of amenity for rural residential, landscape and environment</p> <p>(iv) We understood that if further subdivided, that the additional uses would all be removed from Lot 30 and that this condition was removed without consultation.</p> <p>(v) Impact on waterways.</p> <p>(vi) Loss of emergency access ways. Allows access to the heritage precinct, from all directions.</p>	<p>(ii) Noted. The site is identified under the CPACSP as tourist site and this is reflected under A52 of LPS21.</p> <p>(iii) Noted. See staff comment 5(i) and 10(i)</p> <p>(iv) Noted. See staff comment 6(i) above.</p> <p>(v) Noted. See staff comment 32 (c ) above.</p> <p>(vi) Noted. See staff comment 24(iii) above.</p>	
42	<p>Lynley Mumme (owner of Lot 29 Dress Circle Yallingup WA 6282)  4 Cornwall St, Swanbourne</p>	<p>Object to the proposals on the grounds of</p> <p>(i) Increased noise from activities and traffic and destruction of amenity in the valley. Valley acoustics are like an amphitheatre</p> <p>(ii) Loss of rural residential amenity particularly in the evening when the area is so quiet.</p> <p>(iii) Increased Fire risk with other uses. If this structure plan is approved we would like to see the following conditions:</p> <p>(iv) Increase the proposed building exclusion zones and having appropriate building envelopes applied to the new lots to restrict development close to waterways and vegetation to protect fauna, landscape and address bushfire management.</p> <p>(v) Additional Planting for screening and design covenants on proposed lot 6.</p>	<p>(i) Noted. See staff comment 6(i)a above.</p> <p>(ii) Noted. See staff comment 5(i) above.</p> <p>(iii) Noted. See staff comment 13(ix) above.</p> <p>(iv) Noted. See staff comment 12(xi) above.</p> <p>(v) Noted. Extensive landscaping can have implications for bushfire management. Planting within private lots is not under</p>	That the submission be noted

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No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(vi) The right of carriageway easement servicing lots 18, 28, 29 and 30 should not be public.</p> <p>Amendment conditions should include:</p> <p>(vii) Small quiet day time uses such as a cafe and museum day time only</p> <p>(viii) Reduced Floor space</p> <p>(ix) Increased noise from activities and traffic and destruction of amenity in the valley. Valley acoustics are like an amphitheatre</p> <p>(x) Loss of rural residential amenity particularly in the evening when the area is so quiet.</p> <p>(xi) Increased Fire risk with other uses.</p>	<p>guidance from a structure plan or amendment.</p> <p>(vi) Noted.</p> <p>(vii) Noted. See staff comment 12(v) above.</p> <p>(viii) Noted. See staff comment 24(iii) and 6(ii) above.</p> <p>(ix) Noted. See staff comment 5(i) and 42(i) above.</p> <p>(x) Noted. See staff comment 5(i) above.</p> <p>(xi) Noted. See staff comment 13(ix) above.</p>	
43	Bruce Cameron (owner of 209 & 211 Gunyulgup Valley Drive, Yallingup WA 6282) 22 Dunvegan Road, Applecross WA	<p>Object to the proposal hotel, tavern, and reception centre on following grounds.</p> <p>(i) Concept does not fit with the concept of "small scale and low key tourist based activities".</p> <p>(ii) Loss of Rural and Rural Residential Amenity.</p> <p>(iii) If Hotel, Tavern and Reception Centre are excluded as permitted uses the remaining proposed permitted uses give adequate</p> <p>(iv) Remaining uses would be far less challenging to the objectives of the Precinct Vision.</p> <p>(v) Major weekend disruption.</p> <p>(vi) Scheme objectives should protect this area.</p>	<p>(i) Noted. See staff comment 24(iii) above.</p> <p>(ii) Noted. See staff comment 5(i) above.</p> <p>(iii) Noted. See staff comment 6(ii) above.</p> <p>(iv) Noted. See staff comment 8(ii) above.</p> <p>(v) Noted.</p> <p>(vi) Noted. See staff comment 5(i) above.</p>	That the submission be noted

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS: AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006**  
**OFFICER: Janine Eriksson SUBMISSIONS CLOSE: 8<sup>th</sup> JUNE 2020**

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
44	Lester McGown 75 Seascap Rise, Yallingup WA 6282	Object development for any; -Brewery -Tavern/Small Bar -Winery - Large Scale Accommodation Development on grounds: (i) Loss of amenity and increase in noise (ii) Environmental impact on the Valley (iii) low impact uses should be supported such as Restaurant/Café -Art and Craft Studio -Workshop & sales -Museum -Small scale Accommodation/Tourist Accommodation (iv) Considers that the proposed changes to LPS 21/45 does not meet these requirements refers to the Leeuwin - Naturaliste Ridge Statement of Planning Policy (LNRSP).	Noted. See staff comment 6(ii) above.  (i) Noted. See staff comment 5(i) above. (ii) Noted. See staff comment 12(v) above (iii) Noted. See staff comment 5(iii) above.  (iv) Noted. See staff comment 8(iii) above.	That the submission be noted
45	John White 32 Seascap Rise, Yallingup WA 6282	Object to the proposed based on Increased noise from activities and traffic and destruction of amenity in the valley.	Noted. See staff comment 5(i) and 6(i) above.	That the submission be noted
46	John Hancock 78 Nukklgup Loop Yallingup WA 6282	Object to the proposed land uses on the following grounds: (i) We bought into the area with no knowledge of such uses and if so would have bought elsewhere. (ii) The proposed amendment will adversely affect the, amenity, lifestyle, introduce conflicting land uses, environmental impacts on residents, flora, fauna and the natural beauty of the Gunyulgup Valley.	(i) Noted. See staff comment 19(ii) above. (ii) Noted. See staff comment 5(i) above.	That the submission be noted
47	Shirley Tracey 25 Robert Donald Heights Yallingup WA 6282 6282	Object to the proposed based on Increased noise from activities and traffic and destruction of amenity in the valley.	Noted. See staff comment 5(i) and 6(i) above.	That the submission be noted
48	Chris Avis (owner 25 Robert Donald Heights	My objection to the proposals is based on: (i) Noise - Valley acoustics are like an amphitheatre	(i) Noted.	That the submission be noted

**SUMMARY OF SUBMISSIONS**

**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006

**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
	Yallingup WA 6282)  4 Cremorne Court  (2 submissions)	(ii) The proposed amendment will affect amenity, lifestyle, environmental impacts on residents, flora, fauna and the natural beauty of the Gunyulgup Valley.  (iii) Council previously recognised noise as an issue in dealing with the Reception centre and this should be considered.	(ii) Noted. See staff comment 5(i) and 9(iii) above  (iii) Noted. See staff comment 6(i)a above	
49	Chris Avis on behalf of the Gunyulgup Valley Action Group (GVAG)	The members of the Gunyulgup Valley Action Group (GVAG) do not support Amendment 45 in the current for. The following concerns are raised regarding the Amendment and Structure Plan, particularly with respect to the proposed Brewery, Hotel, Tavern, Reception Centre and Winery, on the following grounds:  (i) Noise - Valley acoustics are like an amphitheatre  (ii) Proximity of possible new hotel / brewery to housing lots, particularly potential contamination of waterways and surrounding environment  (iii) The proposed amendment will adversely affect the residents property values, amenity, lifestyle, introduce conflicting land uses, environmental impacts on residents, flora, fauna, bushfire risk and the natural beauty of the Gunyulgup Valley  (iv) GVAG survey suggest that the residents support uses such as a Museum, Art & Craft Studio, Caretakers Dwelling, Café (limited size), Workshop & Sales as considered consistent with the Heritage values of the site which have not been adequately considered.  (v) Considers that the proposed changes to LPS 21/45 does not meet these requirements refers	Noted. See staff comment 6(ii) above.  (i) Noted. See staff comment 6(i)a above.  (ii) Noted. See staff comment 32c, 15(iv) and 6(i) above.  (iii) Noted. See staff comment 5(i), 12(xi) and 13(ix) above.  (iv) Noted. See staff comment 5(iii) above.  (v) Noted. See staff comment 8(iii) above.	That the submission be noted

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS: AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006**  
**OFFICER: Janine Eriksson SUBMISSIONS CLOSE: 8<sup>th</sup> JUNE 2020**

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>to the LNRSP. Special Uses in Residential Rural land use, Should not apply within LNRSP as is the intent of the policy.</p> <p>(vi) Viticulture and Tourism zone is more appropriate for the proposed uses.</p> <p>(vii) We are also concerned about the Impact on Flora and Fauna in the Gunyulgup Valley.</p> <p>(viii) Development and clearing which will impact on flora and fauna impacting "high value habitat" for the endangered "Western Ringtail Possum". Residents have been planting corridors between these high value habitat regions for the past 10 years. We would like to see a native corridors connecting to the High Value Habitat of Lot 30 as a condition of any development on this Lot.</p>	<p>(vi) Noted. See staff comment 19(ii) above.</p> <p>(vii) Noted. See staff comment 12(xi) above.</p> <p>(viii) Noted. See staff comment 12(xi) above.</p>	
50	<p>Gregory Sterrett 13B Thurloe St, Bicton, WA, 6157 (Co-owner of Holiday House/Property with Felicity Frost, 70 Nukklgup Loop, Yallingup WA 6282)</p>	<p>(i) Submission prepared by a lawyer on behalf of the landowners presents the following concerns regarding the proposals:</p> <p>(ii) A decision would be unsafe without further evaluation of significant issue including economic, traffic and noise.</p> <p>(iii) Loss of rural residential amenity.</p> <p>(iv) DGP 50 serves the needs of future development in the area and should not be reviewed as proposed.</p> <p>(v) Unclear considerations the City has undertaken with respect to the potential impact posed by the Amendment and Structure Plan to that same locality in comparison to those posed by DA17/0651.</p>	<p>(i) Noted.</p> <p>(ii) Noted. See staff comment 7(iii) above.</p> <p>(iii) Noted. See staff comment 5(i) above.</p> <p>(iv) Noted. See staff comment 24(iii) above.</p> <p>(v) Noted. See staff comment 24(iii) above. The detailed assessment of the impact of the proposals on the locality is not assessed in detail prior to advertising (as a requirement of the Planning and Development Regulations), and is now set out in the body of the Council Report.</p>	That the submission be noted.

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006  
**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		<p>(vi) Incompatibility with planning precedent in respect to Amendment decision of for Lot 34 Sheoak where the outcomes supported a preference within the local community that Lot 34 be developed for rural residential purposes only.</p> <p>(vii) City's previously failed to follow due process and its own precedents, which resulted in the disaggregation and breakdown of the City's centralised retail strategy when Amendment No. 181 was refused by the then Minister for Planning, Hon. John Day MLA. However the City approved two large-scale development applications (being a supermarket and a discount department store) on the site.</p> <p>(viii) Lack of information as to the benefit the Amendment and the Structure Plan will provide to existing and future residents.</p>	<p>Development Application is a separate and distinct process. The Amendment sets out uses that may be permissible under LPS21. The Amendment does not alter the status of the current Development Application for the 'Reception Centre'. Permissible development in the subject zone will be carefully managed and controlled with close consideration of environmental and heritage values, etc.</p> <p>(vi) Noted. See staff comment 13(i) above</p> <p>(vii) The point of view is noted, but this particular historical matter and outcome is of no primary concern or relevance to the proposal currently before the Council.</p> <p>(viii) Noted. See staff comment 24(iii) above. Some benefits of the proposal include:</p> <ul style="list-style-type: none"> <li>• Removal of Additional Use rights to 14 hectares of land and reverting the use to Rural Residential</li> </ul>	

**SUMMARY OF SUBMISSIONS**  
**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006  
**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
			<ul style="list-style-type: none"> <li>• The proposed BEA protects all areas of significant remnant vegetation and ensure adequate bushfire safety separation.</li> <li>• The State Heritage Listing and other heritage recognition will preserve the important heritage components in future development.</li> <li>• The provision of the cul-de-sac and realignment of the Emergency Access Way (EAW) provides a legible and improved access outcome in the locality with broader community benefit.</li> </ul>	
51	<p>Christian Colombera (owner of Lot 12 Nukklgup Loop Yallingup WA 6282)</p> <p>11 Muncaster Road, London, SW116NY</p>	<p>Object to the proposed additional usages, specifically: Hotel, Tavern, Small Bar, Exhibition Centre, Reception Centre and Brewery on the following grounds</p> <p>(i) Loss of rural residential amendment (ii) Environment impacts (iii) Landscape impacts (iv) Noise – Valley acts like an Amphitheatre (v) Increased traffic (noting recent accidents in the area), bush fire risk etc. (vi) Inconsistent with the LNRSP. (vii) Removal of condition from previous Development application without community consultation. (viii) The basis of Clause 8 in the development application for 10.8 hectares of proposed Lot 8 half the required land mass required for the approval of the wedding reception centre in the first place.</p>	<p>Noted. See staff comment 6(ii) above.</p> <p>(i) Noted. See staff comment 5(i) above. (ii) Noted. See staff comment 12(ix) above. (iii) Noted. See staff comment 10(i) above. (iv) Noted. (v) Noted. See staff comment 7(iii) and 13(ix) above. (vi) Noted. See staff comment (iii) above. (vii) Noted. See staff comment 6(i) above.</p> <p>(viii) Noted. See staff comment 6(i) above.</p>	<p>That the submission be noted.</p>

**SUMMARY OF SUBMISSIONS**

**PROPOSALS:** AMD21/0045 Amendment No. 45 – and Structure Plan DP 19/0006

**OFFICER:** Janine Eriksson **SUBMISSIONS CLOSE:** 8<sup>th</sup> JUNE 2020

No	NAME ADDRESS	Nature of Submission	COMMENT	RECOMMENDATION
		(ix) Community anguish	(ix) Noted. The consultation process carried out aimed to provide additional information during to process.	
		(x) Unclear motivations from developer/landowner.	(x) Noted. See staff comment 24(iii) above.	



**SCHEDULE OF MODIFICATIONS**

**ATTACHMENT E**

**AMD21/0045 & DP19/0006:** Amendment No. 45 and Millbrook Farm Structure Plan

Rezoning Lot 30 (No. 70) Millbrook Road, Yallingup from 'Additional Use 52 ' to include a portion as 'Special Provision No 71'

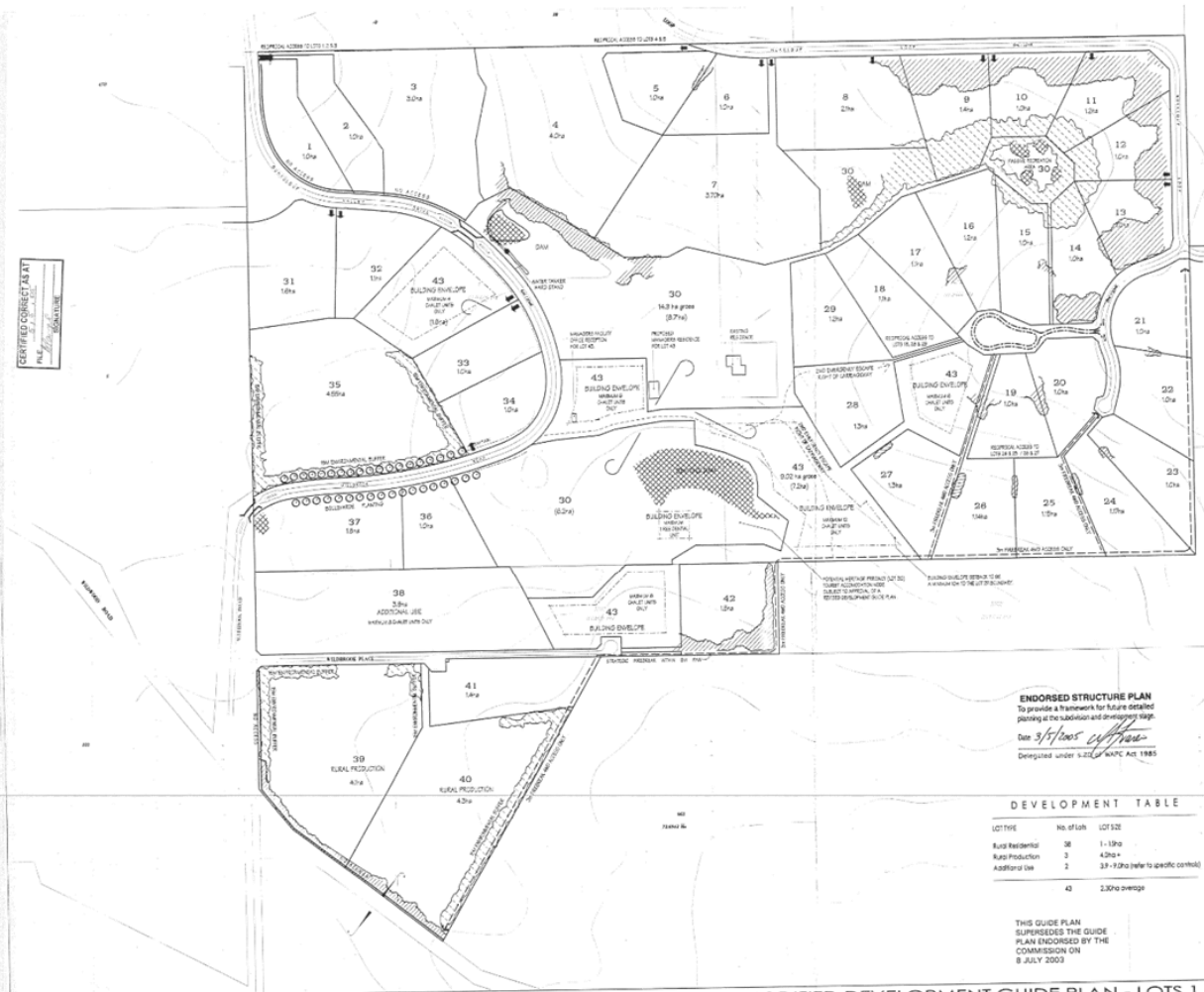
No.	Proposed Modification	Reason
1.	<p>That the <b>Amendment</b> be modified so that Schedule 3 - Special Provision 71 include the following:</p> <p><i>“The objectives of these provisions are to –</i></p> <ul style="list-style-type: none"> <li data-bbox="539 584 1055 632">i. <i>Support the development of tourism and visitor oriented land uses on the land;</i></li> <li data-bbox="539 647 1055 775">ii. <i>Ensure that such development is of a scope and scale, and is sensitively located, so as to be consistent with the preservation of a high level of amenity for the surrounding rural-residential area; and</i></li> <li data-bbox="539 791 1055 895">iii. <i>Through supporting the development of tourism and visitor oriented land uses on the land, assist in the preservation, activation and adaptive re-use of the significant heritage assets and values of the land.”</i></li> </ul>	<p>To provide an objective to guide amenity principles, particularly in development of the additional non-residential uses. The objective reflects the fact that, in exercising discretion in assessing a development application, the local government is required to consider, amongst other things, the 'the provisions of the Scheme' (as per clause 67(1) of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>). Thus it is seen as appropriate that there should be an objective set out, which then supplements the objectives of the Zone, with respect to development on the affected land.</p>
2.	<p>That the <b>Amendment</b> be modified so that Schedule 3 - Special Provision 71 (1) removes reference to the use class of 'Brewery' and 'Winery'.</p>	<p>Assessment of site capability within the subject land identifies that there will likely be limited questionable capacity for the site to adequately accommodate the onsite effluent produced in operation of a brewery or winery. The following concerns were raised in the submission from the Department of Water and Environmental Regulation (DWER):</p> <ul style="list-style-type: none"> <li data-bbox="1160 1110 1865 1158">• The scope and output of effluent is uncertain and may not be permitted (licenced) for disposal on the lot;</li> <li data-bbox="1160 1166 1865 1238">• Depending on the capacity of the proposed activity and the volume of effluent produced, it may be prescribed under the EP Act and a works approval be required;</li> <li data-bbox="1160 1246 1865 1316">• In the event that the capacity of the proposed activity and volume of effluent produced does not result in it being prescribed under the EP Act, then any emissions from the development will fall under the Unauthorized Discharge</li> </ul>

No.	Proposed Modification	Reason
		<p>Regulations and therefore will require approval from Department of Health (DoH) for discharge;</p> <ul style="list-style-type: none"> <li>• Due to the lot layout and potentially limited development area the proximity of any discharge to a proclaimed surface water resource would pose an unacceptable environmental risk; and</li> <li>• There is no guarantee that the subject lot has suitable soil capability to enable onsite disposal of the effluent produced by either a 'Brewery' or a 'Winery'.</li> </ul>
3.	<p>That the <b>Amendment Document</b> be modified so that Schedule 3 - Special Provision 71 include provision No.3 that states:</p> <p><i>"Any development that would involve any significant presence on site of persons not living or being temporarily accommodated on the site (such as Chalets or a Guesthouse) should generally be located in the north-western portion of Special Provision Area, in proximity to the key heritage assets".</i></p>	<p>The provision is intended to provide certainty around where a use such as a Restaurant/Café or Tavern would best be located to reduce potential impact on the amenity of existing, adjoining rural-residential properties – i.e. north-west of the dam. The north-west portion of the site is the most readily accessible location for car parking, and is close to the heritage components of the mill and associated structures. Also, previous noise modelling of indicated that the North West portion of the site was the most appropriate site for future development given that the most noise sensitive premises is located to the south of Lot 30 Millbrook Road.</p>
4.	<p>The <b>Structure Plan</b> be modified to replace provision 1 to state:</p> <p>"1. Subdivision shall be generally in accordance with this Structure Plan."</p>	<p>Modified to be simpler and more consistent with previously endorsed structure plans.</p>
5.	<p>That the <b>Structure Plan</b> be modified to include provision 2 to state:</p> <p>"2. No further subdivision of lots identified on the approved Structure Plan Map shall be allowed."</p>	<p>Modified to be simpler and more consistent with previously endorsed structure plans.</p>
6.	<p>That the <b>Structure Plan</b> be modified to include provision 3 to state:</p> <p>"3. As a condition of subdivision, unless acceptable alternative arrangements are made, a pedestrian access way shall be provided between the end of the proposed, new cul-de-sac and the eastern boundary of existing Lot 30, and that access way shall be placed between proposed Lots 5 and 6."</p>	<p>The BMP assessment supports the proposed cul-de-sac design, subject to the realignment of the Emergency Access Way (EAW) to Dress Circle (to be provided as an easement, or right of carriageway, in favour of the City). This is a reference to E1, which is a Right of Carriageway (ROCW), which is in place across parts of Lot 30, and several other lots in the area, including a number under separate ownership. Department of Fire and Emergency Services (DFES) review of the BMP has resulted in important updates being required and additional matters being addressed. The process to modify a ROCW is extremely difficult, and it is not considered necessary</p>

No.	Proposed Modification	Reason
		<p>or appropriate to modify the existing ROCW. What is recommended, however, is that a pedestrian access way (PAW) be provided across portion of what is currently Lot 30, and when combined with the proposed new cul-de-sac, that would render some of the ROCW on Lot 30 redundant in practice.</p> <p>DFES raised the option for the proposed cul-de-sac being extended to provide a connection by public road from Millbrook Road to Dress Circle. Officers do not recommend the access be created as a public road due to topographical and land tenure constraints. The proposed cul-de-sac and the creation of the PAW are considered to improve legible access in the locality for the broader community benefit.</p>
7.	That the <b>Structure Plan</b> be modified to replace the reference of “Realigned Emergency Access Way” to Pedestrian Access Way (PAW) in the legend.	Reason as per 6 above.
8.	That the <b>Structure Plan</b> be modified to include provision 4 to state: “4. As a condition of subdivision and prior to subdivisional works, a Drainage/Stormwater Management Plan is to be prepared to the satisfaction of the Local Government.”	As required
9.	The <b>Structure Plan</b> be modified to include provision 5 to state: “5. Prior to application for subdivision, an ‘Interpretation Plan’ and an ‘Archaeological Management Plan’ prepared by an appropriately qualified and experienced archaeologist will be required to be submitted, to the satisfaction of the Department of Planning Land and Heritage.”	Based on advice from the Department of Planning Land and Heritage (Heritage)
10.	The <b>Structure Plan</b> be modified to include provision 6 and 7 to state: “6. No development, fencing or clearing of may take place in a Building Exclusion Area (BEA) except: <ul style="list-style-type: none"> <li>• for the construction and maintenance of a Local Government approved access way or firebreak; or</li> <li>• where Development Approval for fencing or associated clearing has been obtained from the Local Government.</li> </ul>	Provisions require rewording consistent with previous recent Structure Plans approved in the Commonage area, and to provide clarification for the purpose of the BEA.

No.	Proposed Modification	Reason
	7. In considering any Development Applications, there will be a general presumption against supporting works within the Building Exclusion Areas."	
11.	The Bushfire Management Plan in Appendix Two of the Structure Plan Report be updated with the Bushfire Management Plan approved by the Department of Fire and Emergency Services.	Based on advice from Department of Fire and Emergency Services (DFES) as described in the Schedule of Submissions.

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**PLANNING POLICY STATEMENTS**

Except as otherwise provided for in these Specific Planning and Development Controls, development of land within the area the subject of the Development Guide Plan shall be in accordance with the Shire of Yassalton District Town Planning Scheme No 20:

1. Shared easements of access will be between lots 1, 2 and 3, 4 and 5, 4 and 23, 24 and 27, 18, 28 and 29, and 30 and 43.
2. Lot 30 may be utilised for the purposes of Recreation Agriculture Including viticulture.
3. A Drainage Management Plan is required to be prepared as a condition of subdivision approval.
4. Council will not consent to any subdivision until a Fire Management Plan has been prepared in accordance with the requirements of the Fire and Emergency Services Authority to the satisfaction of Council and that any subdivision shall reflect the requirements of the Fire Management Plan, where required, firebreaks shall be subject to an assessment by Council of the Council or included within Public Access Ways, or relied on the title of the affected lots in accordance with the notations Fire Management Plan. Firebreaks shown on this Plan within lots 21-28, 30 and 42 that be maintained by the owners of the lots and a covenant or similar shall be placed on those lots requiring same.
5. Council will not consent to any subdivision until an archaeological investigation of the site is undertaken to the requirements of the Department of Indigenous Affairs to the satisfaction of Council and that any subdivision shall reflect the requirements of the archaeological investigation.
6. Council will not consent to any subdivision until a Decided Row Plans study has been undertaken to the requirements of the Department of Conservation and Land Management to the satisfaction of Council and that any subdivision shall reflect the requirements of the Decided Row Plans study.
7. Council will not consent to any subdivision that would create proposed Lot 30 until a Conservation Plan that includes appropriate Design Guidelines is prepared to the requirements of the Heritage Council of WA and that any subdivision shall reflect the requirements of the Conservation Plan.
8. At subdivision, all lots designated Rural Production shall include a requirement that memorials shall be placed on the titles of Rural Production lots (encompassing the 13 hectare minimum with environmental values) as depicted on the Development Guide Plan.
9. At subdivision, a Landscape and Forestry Management Plan shall be prepared for the site indicating all revegetation proposals and vegetation protection measures, including proposals for the tree planting areas indicated on the Comminge Policy Area Structure Plan and proposals for the removal or pruning of some of the big gums where they are not required to buffer the proposed subdivision in order to improve visual amenity in the locality and enclose some endemic vegetation.
10. At subdivision, vegetation shall be planted on proposed lots 1, 2 and 3 to a minimum that a dwelling will not impinge upon the visual amenity of the adjoining residence on Lot 49 Curragalup Valley Drive.
11. At subdivision, memorials shall be placed on all titles indicating that fencing of lot boundaries across strategic freeways and/or public access ways is not permitted under any circumstances.
12. Construction of dams shall:
  - \* require planning consent prior to construction;
  - \* be limited to water supply for intensive agriculture on Rural Production Lots and existing dams only;
  - \* not include the loss of significant remnant vegetation;
  - \* provide for the continued environmental flow (summer flow) of streams which will be determined during assessment of applications for planning consent; and
  - \* be in accordance with Council's Dams Policy.
13. Development of lot 30 and/or 43 is to be consistent with the heritage values of the site and generally in accordance with the Wildbrook Farm Development Plan (Concept Search April, 2003) as contained within Amendment 28 to the Shire of Yassalton Town Planning Scheme No 20 or any alternative plan approved by both Council and the Heritage Council. Any further development on lot 30 additional to the concept search is April, 2003, shall be subject to the prior approval of a revised Development Guide Plan prepared pursuant to Clause 28 of the scheme.
14. It is intended to create a right of highway to the benefit of the shire of Yassalton on lots 30 and 43 when the specific location of the highway is determined, including providing a connection from the Wildbrook Place channel road to the remainder of the development, at the time of development of the subdivision.
15. All development on lots 30 and 43 as permitted pursuant to the additional use provisions of the schemes shall be subject to prior development approval.
16. Development on Lots 19, 20, 28, 30-37 & 43 is restricted to those uses permitted within the Rural Residential Zone only under the Shire of Yassalton District Town Planning Scheme No 20.
17. Building envelope locations are to be determined at the subdivision stage to the satisfaction of FEMA and the Shire of Yassalton.
18. Access from Lot 43 to the eastern cul-de-sac east of the termination of Wildbrook Place is permitted subject to the following conditions:
  - \* limit of access to a maximum of 4 shafts only located in the channel building envelope adjoining Wildbrook Place;
  - \* shafts to be constructed by pedestrian 0.9m high or similar to remainder of shafts lot development on lot 43;
  - \* shafts developed in the Wildbrook Place channel building envelope are to be developed to form part of the overall integrated layout facility and shall not be developed separately at the first stage of accommodation development.

This is the Development Guide Plan adopted by Council at its meeting of the 19 February 2020

Chief Executive Officer *[Signature]* Date 12/08/20

**ENDORSED STRUCTURE PLAN**  
To provide a framework for future detailed planning at the subdivision and development stage.  
Date: 3/4/2020  
Designated under s.226 of the WAPC Act 1985

**DEVELOPMENT TABLE**

LOT TYPE	No. of Lots	LOT SIZE
Rural Residential	38	1.1ha
Rural Production	3	4.2ha
Additional Use	2	3.9 + 7.2ha (refer to specific controls)
	43	2.3ha average

THIS GUIDE PLAN SUPERSEDES THE GUIDE PLAN ENDORSED BY THE COMMISSION ON 8 JULY 2003

**LEGEND**

EXISTING RESERVATION	PROPOSED HIGH DENSITY RESIDENTIAL	EXISTING DAM	EXISTING BUILDING
LOT ACCESS LOCATIONS	PROPOSED LOW DENSITY RESIDENTIAL	EXISTING HERITAGE PRECINCT BOUNDARY	
BUILDING ENVELOPE			

**NOTES**

1. All dimensions are in metres unless otherwise stated.

2. The proposed plan shall be prepared in accordance with the provisions of the Town Planning Act 1985 and the Town Planning Regulations 1985.

3. The proposed plan shall be prepared in accordance with the provisions of the Town Planning Act 1985 and the Town Planning Regulations 1985.

**KEY**

K. HENFIELD	CLIENT
12,800	SCALE
1:6,400	DATE
04/2020	PLANNING
L. SMITH	DESIGNER
M. WENTH	CHECKER

**PROJECT**

1/12/2020 Yassalton District Council  
1/12/2020 Yassalton District Council  
1/12/2020 Yassalton District Council  
1/12/2020 Yassalton District Council  
1/12/2020 Yassalton District Council

**coltatz-smith**  
ENVIRONMENTAL PLANNERS  
1200 PLYMOUTH PROJECT MANAGER

Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be	Rural-Residential (proposed situation outside SP71 area) - # indicates a use which was permissible but which would not be
<i>Chalets &amp; Holiday Cabins</i>	(Chalet) means a dwelling forming part of a tourist facility that is — (a) a self-contained unit that includes cooking facilities, bathroom facilities and separate living and sleeping areas; and (b) designed to accommodate short-term guests with no guest accommodated for periods totalling more than 3 months in any 12 month period.	Self-contained short stay unit (chalet - holiday cabin not defined) - subset of tourist accommodation	D	D	D	A	X (#)

Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * <i>indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be</i>	Rural-Residential (proposed situation outside SP71 area) - # <i>indicates a use which was permissible but which would not be</i>
<i>Guesthouse</i>	means a single building on a lot (which may be in addition to any single house already developed) utilised for the purpose of providing holiday accommodation and typically offering full board for guests. The building would be characterised by individual suites which are serviced by centralised dining (not being a public restaurant/café) and other facilities. Suites would not be selfcontained and occupation would generally be reliant on services provided by management.	Non-self-contained accommodation for more than six people, consisting of suites and centralised facilities - subset of tourist accommodation	A	A	D	A	A

Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be	Rural-Residential (proposed situation outside SP71 area) - # indicates a use which was permissible but which would not be
<i>Restaurant/Café</i>	Food and drinks for consumption on premises, including liquor, and up to 120 people in a 'bar' setting - subset of tavern	Food and drinks for consumption on premises, including liquor, and up to 120 people in a 'bar' setting - subset of tavern	D	A	D	A	A
<i>Public Amusement</i>	Not defined - no close equivalent	Would be interpreted in Plain English terms - possibly quite broad	NA	D	D	NA	NA
<i>Recreation - Private</i>	means premises that are – (a) used for indoor or outdoor leisure, recreation or sport; and (b) not usually open to the public without charge.	Indoor or outdoor leisure, recreation or sport - not free of charge	D	A	D	A	A
<i>Art &amp; Craft Studio</i>	Not defined - no close equivalent	Would be interpreted in Plain English terms	NA	D	D	NA	NA
<i>Workshop &amp; Sales</i>	Not defined - no close equivalent	Would be interpreted in Plain English terms - could be very broad	NA	D	D	NA	NA



Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * <i>indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be</i>	Rural-Residential (proposed situation outside SP71 area) - # <i>indicates a use which was permissible but which would not be</i>
<i>Boutique Brewery</i>	Not defined, but Brewery is - see below	Not defined, but Brewery is - see below - would possibly be interpreted as per Brewery	NA	D	D	NA	NA
<i>Winery</i>	means premises used for the production of viticultural produce and associated sale of the produce.	Place where wine is produced, and can include an associated bar/restaurant component	D	D	D	A	X (#)
<i>Museum</i>	Not defined - probably subset of Exhibition Centre	Would be interpreted in Plain English terms	NA	D	D	NA	NA
<i>Club Premises</i>	Club Premises means premises used by a legally constituted club or association or other body of persons	Premises of a club - e.g. RSL, football club	A	D	D	X (#)	X (#)

Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be	Rural-Residential (proposed situation outside SP71 area) - # indicates a use which was permissible but which would not be
<i>Rural Holiday Resort</i>	united by a common interest.	Short stay accommodation with more than 10 chalets, suites etc - if 10 units or less, could be hotel, guesthouse, chalets etc	X	D	D	A	X (#)
<i>Caretaker's Dwelling</i>	means a dwelling on the same site as a building, operation (including tourist development) or plant and occupied by a caretaker of that building, operation or plant.	House occupied by a caretaker	X	D	D	X	X (#)

Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * <i>indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be</i>	Rural-Residential (proposed situation outside SP71 area) - # <i>indicates a use which was permissible but which would not be</i>
<i>Art Gallery</i>	means premises – (a) that are open to the public; and (b) where artworks are displayed for viewing or sale.	A place where art is sold or displayed - subset of exhibition centre	NA	NA	D	A	NA
<i>Brewery</i>	means premises the subject of a producer’s licence authorising the production of beer, cider or spirits granted under the Liquor Control Act 1988.	Place where beer, cider or spirits is produced, and can include an associated bar/restaurant component	A	X	A	A	X (#)
<i>Exhibition Centre</i>	Display or sale of artistic, cultural or historical material	Display or sale of artistic, cultural or historical material	A	X	A	A	X

Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be	Rural-Residential (proposed situation outside SP71 area) - # indicates a use which was permissible but which would not be
<i>Hotel</i>	means premises the subject of a hotel licence other than a small bar or tavern licence granted under the Liquor Control Act 1988 including any betting agency on the premises.	Any accommodation where alcohol is available in the rooms/suites and any accommodation associated with a licensed restaurant or tavern	A	X	A	A	X (#)
<i>Reception Centre</i>	means premises used for hosted functions on formal or ceremonial occasions.	Hosted functions - subset of restaurant	A	X	A	A	X (#)
<i>Small Bar</i>	means premises the subject of a small bar licence granted under the Liquor Control Act 1988.	Up to 120 people in a bar setting - or seated restaurant style - subset of restaurant or tavern	A	X	A	A	X (#)

Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * <i>indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be</i>	Rural-Residential (proposed situation outside SP71 area) - # <i>indicates a use which was permissible but which would not be</i>
<i>Tavern</i>	means premises the subject of a tavern licence granted under the Liquor Control Act 1988.	A bar for more than 120 people - can also include restaurant space - subset of hotel	A	X	A	A	X (#)
<i>Single House</i>	A dwelling standing wholly on its own green title or survey strata lot, together with any easement over adjoining land for support of a wall or for access or services and excludes dwellings on titles with areas held in common property.	One house on one lot	P	P	P	P	P

Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be	Rural-Residential (proposed situation outside SP71 area) - # indicates a use which was permissible but which would not be
<i>Residential Building</i>	A building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation: - temporarily by two or more persons; or - permanently by seven or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school.	A lodging house or hostel	A	X	A	X (#)	X (#)

Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be	Rural-Residential (proposed situation outside SP71 area) - # indicates a use which was permissible but which would not be
<i>Place of Worship</i>	means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.	A church or similar and could include associated facilities (church hall, youth group etc)	A	A	A	A	A
<i>Community Purpose</i>	means premises designed or adapted primarily for the provision of educational, social or recreational facilities or services by organisations involved in activities for community benefit.	A community hall or similar - unlikely to be developed on private land	D	A	D	A	A

Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be	Rural-Residential (proposed situation outside SP71 area) - # indicates a use which was permissible but which would not be
<i>Animal Establishment</i>	means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry — intensive or veterinary centre.	A kennels or cattery	D	A	D	A	A
<i>Educational Establishment</i>	means premises used for the purposes of providing education including premises used for a school, higher education institution, business college, academy or other educational institution.	A school or training facility	D	D	D	D	D



Land use	Formal definition / meaning	Simplified/ Plain English meaning	Rural	Rural-Residential + A52	Rural + A52 (current situation)	Rural-Residential + SP71 - (proposed situation within SP71 area, before recommended modifications) - * <i>indicates a use that would become permissible which was not previously, # indicates a use which was permissible but which would not be</i>	Rural-Residential (proposed situation outside SP71 area) - # <i>indicates a use which was permissible but which would not be</i>
<i>Tourist Accommodation</i>	means single occupancy accommodation units, which may be self-contained and may include associated central facilities for the exclusive use of guests, and includes serviced apartments.	Single occupancy short stay units, may be self-contained, may include shared facilities - subset of rural holiday resort	X	X	X	A (*)	X

The Structure Plan Provisions as advertised.

The Structure Plan requirements have therefore been reviewed and set out as follows:

1. Subdivision shall be generally in accordance with this Structure Plan, although minor variations may be permitted by appropriate authorities at the detailed subdivision stage.
2. No development shall generally be permitted within a Development Exclusion Area as identified on the Structure Plan without prior approval of appropriate authorities. In relation to all other lots, development shall be contained within the current endorsed building envelopes.
3. A Fire Management Plan applies to all lots within the Structure Plan and carries with it ongoing fire management responsibilities for lot owners to maintain fire protection measures and emergency access to an appropriate standard.
4. All future development within proposed Lot 8 as permitted pursuant to proposed Special Provision 71 of the scheme shall be subject to prior development approval.



# Bushfire Management Plan

Millbrook Farm Structure Plan, Millbrook Road

Yallingup

Project No: EP19-124(01)

Prepared for Merifield  
May 2020

The cover image features a dark grey, cracked earth texture. A horizontal band of dark grey color spans across the middle, containing the text 'Prepared for Merifield May 2020' in white. A thin green horizontal line is positioned just below the dark grey band. The bottom right corner of the image is rounded.

Prepared for Merifield

Doc No.: EP19-124(01)—002c BRB | Version: C

**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



## Document Control

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This document has been prepared primarily to consider the layout of development and/or the appropriate building construction standards applicable to development, where relevant. The measures outlined are considered to be prudent minimum standards only based on the standards prescribed by the relevant authorities. The level of bushfire risk mitigation achieved will depend upon the actions of the landowner or occupiers of the land and is not the responsibility of the author. The relevant local government and fire authority (i.e. Department of Fire and Emergency Services or local bushfire brigade) should be approached for guidance on preparing for and responding to a bushfire.

Notwithstanding the precautions recommended in this document, it should always be remembered that bushfires burn under a wide range of conditions which can be unpredictable. An element of risk, no matter how small, will always remain. The objective of the Australian Standard AS 3959-2018 is to "prescribe particular construction details for buildings to reduce the risk of ignition from a bushfire while the front passes" (Standards Australia 2018). Building to the standards outlined in AS 3959 does not guarantee a building will survive a bushfire or that lives will not be lost.

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## Executive Summary

Koroveshi Town Planning is preparing an amendment to the existing structure plan (formerly referred to as a 'Development Guide Plan') on the behalf of Kevin Merifield (the proponent) to support the future subdivision of Lot 30 Millbrook Road, Yallingup (herein referred to as 'the site') for rural residential and tourism purposes. The site is 24.38 hectares (ha) in size and is located approximately 4 kilometres (km) south-east of Yallingup townsite within the City of Busselton. The site is generally bounded by Millbrook Road to the west, Wildbrook Place to the south (with Wildwood Road and other rural residential development further south) and existing rural residential landholdings to the north and east.

We understand that as part of progressing the structure plan amendment, the City of Busselton have requested that the *Lots 1 and 114 Millbrook Road, Yallingup Development Guide Plan* (Koltasz Smith 2005) be updated to align with current structure plan requirements. As part of this, bushfire has been identified as a key consideration to be factored into the structure plan.

The site is recognised to contain important heritage values, with a number of the buildings/features within the site listed on both the state and local heritage register (Heritage Council State Heritage Office, 2019). These features relate to Millbrook Farm, which consists of a timber and wattle and daub barn, dairy, houses (associated with a prominent architect), a water wheel, mill race, dam wall, saw pit and lime kiln, and were constructed circa the 1920s. Millbrook Farm has historical and social links to the development of Yallingup as a tourism destination.

The site is currently identified as a 'bushfire prone area' under the state-wide *Map of Bush Fire Prone Areas* prepared by the Office of Bushfire Risk Management (OBRM 2019). The identification of an area within a declared bushfire prone area necessitates further assessment of the bushfire risk and the suitability of the proposed development to be undertaken in accordance with *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP 3.7) (WAPC 2015) and the *Guidelines for Planning in Bushfire Prone Areas Version 1.3* (the Guidelines) (WAPC and DFES 2017).

The overarching purpose of SPP 3.7 and its policy intent, is best summarised as preserving life and reducing the impact of bushfire on property and infrastructure through effective risk-based land use planning. Importantly SPP 3.7 requires the determining authority to apply its consideration to the satisfaction of the precautionary principle as provided at Clause 6.11.

Pursuant to the considerations required by SPP 3.7, this Bushfire Management Plan (BMP) examines various responses to the likely long-term bushfire risk (following development) that will make the ultimate use of the land suitable for its intended purpose. As part of this, a bushfire attack level (BAL) assessment has been undertaken to determine the associated bushfire risk, the applicable BAL ratings (if any) across the site, and in turn the building siting and construction response that will achieve compliance with the bushfire protection criteria and satisfy the precautionary principle.

**Bushfire Management Plan**

Millbrook Farm Structure Plan, Millbrook Road Yallingup



As part of assessing the long-term bushfire risk to the site, the vegetation within 150 m of the site has been classified in accordance with AS 3959. The following bushfire hazards were identified within and surrounding the site:

- Forest (Class A) vegetation, largely associated with a patch of remnant vegetation within the southern portion of the site, and areas within surrounding rural residential landholdings to the east, south and west.
- Woodland (Class B) vegetation, associated with an ephemeral waterway (Gunyulgup Brook) located within the northern portion of the site and remnant vegetation in the south-eastern portion of the site, as well as private landholdings to the west and south-west.
- Shrubland (Class C) vegetation, associated with a man-made dam in the north-eastern portion of the site and private landholdings abutting Robert Donald Heights to the east of the site.
- Grassland (Class G) vegetation, located to the north of the site within a private landholding abutting Nukklgup Loop.

Under the City of Busselton Firebreak and Fuel Hazard Reduction Notice, land zoned 'Rural-residential' requires landowners to undertake parkland clearing within all open paddocks and along the boundaries of properties. Clearing necessitates the removal of dead vegetation and cropping of grass to a height of no greater than 10 cm in accordance with directions provided by the City of Busselton. This means that all areas that are parkland cleared within the site and broader structure plan area have been identified as 'low threat' in accordance with Section 2.2.3.2 of *Australian Standard 3959-2018 Construction of buildings in bushfire prone areas* (AS 3959) (Standards Australia 2018) and the requirements of the City of Busselton Firebreak and Fuel Hazard Reduction Notice.

Based on the identified hazards and existing land management, the BMP has been able to demonstrate that within structure plan area (and associated development layout) there is sufficient area (i.e. a development site) with which a habitable building could be located so that a BAL rating of BAL-29 or less is achieved. Areas identified as being subject to a BAL rating of BAL-40 or BAL-FZ (flame zone) have been identified as a 'building exclusion area' and included in the structure plan. It is relevant to note that in accordance with *Position Statement: Tourism land uses in bushfire prone areas October 2019* (WAPC 2019a), future tourism land uses (potentially associated with the lot containing the heritage listed buildings) may be supported within areas identified as part of the 'development exclusion area', however will require further detailed assessment in accordance with SPP 3.7. The specific location of the building envelope and associated APZ can be determined as part of subdivision and/or development approval stages.

Overall, the outcomes of this BMP demonstrate that as development progresses, it will be possible for the bushfire protection criteria outlined in the Guidelines to be satisfied. This includes:

- **Location:** all future proposed habitable buildings can be located in an area subject to a BAL rating of BAL-29 or less. Some of the existing heritage buildings are located in areas that are subject to a BAL rating of BAL-40 or BAL-FZ (even though they are located in low threat areas). These buildings will be used for future tourism land uses and will be considered in the context of *Position Statement: Tourism land uses in bushfire prone areas October 2019* (WAPC 2019a).

## Bushfire Management Plan

Millbrook Farm Structure Plan, Millbrook Road Yallingup



- **Siting and Design:** each lot (based on the proposed development layout) is appropriately sized to accommodate a future building that is able to achieve a BAL rating of BAL-29 or less based on the developable land. In determining whether the lots are sized and located appropriately to support future development, a 'building exclusion area' has been defined within each lot. The 'building exclusion area' is based on areas subject to a BAL rating greater than BAL-29 (i.e. BAL-40 and BAL-FZ), and will enable buildings to be located so that an appropriate asset protection zone can be maintained and existing remnant vegetation will not need to be removed.
- **Vehicular Access:** appropriate vehicle access can be provided through access to a number of public roads, including Nukklgup Loop to the east, Millbrook Road to the west and Wildwood Road (which provides egress to Caves Road, approximately 1.3 km to the west of the site, and a number of regional roads to the east, including Bussell Highway). Caves Road is a major north-south regional connector, providing egress to broader regional road network. A cul-de-sac is proposed as part of the future development, however is less than 200 m in length and services no more than 8 lots (achieving the acceptable solution). An existing fire service access route (described as an 'emergency access way' within the structure plan, based on modern nonclementure) within the site (facilitated through previous subdivision) will be realigned as part of the proposed development and will connect the proposed the cul-de-sac to the existing Dress Circle (and the broader road network) in the east. This easement is currently registered on the certificate of title in the favour of the City of Busselton.
- **Water:** the site is not located within the reticulated water network. Therefore, a minimum of 50 000 L will be required to be provided as part of the future subdivision. The location of any water supply infrastructure will be determined in consultation with the City of Busselton and/or local fire brigades as part of the subdivision process. It is possible that an existing water standpipe located within the structure plan area (but outside the site) may provide an appropriate water supply for the proposed development and no additional water supply infrastructure may be required.

The investigation undertaken in this BMP demonstrates that the acceptable solutions and/or intent of each bushfire protection criteria can be met by appropriate management/mitigation measures. Accordingly, the structure plan amendment and future development satisfies the precautionary principle, clause 6.11 of SPP 3.7. This BMP and the determined BAL ratings has demonstrated a capability that the future building applications at each lot will be able to comply with the requirements of SPP 3.7.

Prepared for Merifield

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### Appendix A

Amended Structure Plan (Koroveshi Town Planning 2019)

### Appendix B

Additional photographs

### Appendix C

Asset Protection Zone Standards

## List of Abbreviations

*Table A1: Abbreviations – General terms*

General terms	
AS	Australian Standard
APZ	Asset Protection Zone
BAL	Bushfire Attack Level
BMP	Bushfire Management Plan
BPAD	Bushfire Planning and Design
ESL	Emergency Services Levy
FDI	Fire Danger Index
FZ	Flame Zone

*Table A2: Abbreviations – units of measurement*

Units of measurement	
cm	Centimetre
ha	Hectare
km	Kilometre
m	Metre
m <sup>2</sup>	Square metre
mm	Millimetre

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Table A3: Abbreviations – Organisations

Organisations	
BoM	Bureau of Meteorology
DBCA	Department of Biodiversity Conservation and Attractions
DFES	Department of Fire and Emergency Services
DoW	Department of Water (now known as Department of Water and Environment Regulation)
DPIRD	Department of Primary Industries and Regional Development
DPLH	Department of Planning, Lands and Heritage
DWER	Department of Water and Environmental Regulation
EPA	Environmental Protection Authority
OBRM	Office of Bushfire Risk Management
SES	State Emergency Services
WALGA	Western Australia Local Government Association
WAPC	Western Australian Planning Commission

Table A4: Abbreviations – Legislation and policies

Legislation	
Guidelines	<i>Guidelines for Planning in Bushfire Prone Areas version 1.3 (WAPC and DFES 2017)</i>
SPP 3.7	<i>State Planning Policy 3.7 Planning in Bushfire Prone Areas (WAPC 2015)</i>

Table A5: Abbreviations – Planning and building terms

Planning and building terms	
AS 3959	<i>Australian Standard 3959-2018 Construction of buildings in bushfire-prone areas</i>
LPS	Local Planning Scheme

## 1 Introduction

### 1.1 Background

Koroveshi Town Planning is preparing an amendment to the existing structure plan (formerly referred to as a 'Development Guide Plan') on the behalf of Kevin Merifield (the proponent) to support the future subdivision of Lot 30 Millbrook Road, Yallingup (herein referred to as 'the site') for rural residential and tourism purposes, as shown in **Appendix A**. The site is shown in **Figure 1** and is 24.38 hectares (ha) in size and is located approximately 4 kilometres (km) south-east of Yallingup townsite within the City of Busselton. This site is bounded by Millbrook Road to the west, Wildbrook Place to the south (with Wildwood Road and other rural residential development further south) and existing rural residential landholdings to the north and east.

The site is recognised to contain important heritage values, with a number of the buildings/features within the site listed on both the state and local heritage register (Heritage Council State Heritage Office, 2019). These features relate to Millbrook Farm, which consists of a timber and wattle and daub barn, dairy, houses (associated with a prominent architect), a water wheel, mill race, dam wall, saw pit and lime kiln, and were constructed circa the 1920s. Millbrook Farm has historical and social links to the development of Yallingup as a tourism destination.

The site is currently identified as a 'bushfire prone area' under the state-wide *Map of Bush Fire Prone Areas* prepared by the Office of Bushfire Risk Management (OBRM 2019) and is shown in **Plate 1** below. The identification of an area within a declared bushfire prone area necessitates further assessment of the bushfire risk and suitability of the proposed development to be undertaken in accordance with *State Planning Policy 3.7 Planning in Bushfire Prone Areas* (SPP 3.7) (WAPC 2015) and the *Guidelines for Planning in Bushfire Prone Areas Version 1.3* (the Guidelines) (WAPC and DFES 2017).

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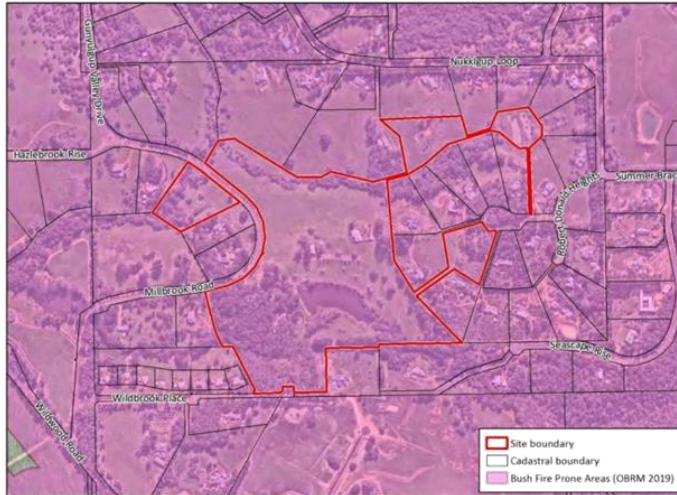


Plate 1: Areas within and surrounding the site identified as 'bushfire prone areas' (as indicated in purple) under the state-wide Map of Bush Fire Prone Areas (OBRM 2019).

### 1.2 Aim of this report

The aim of this BMP is to assess bushfire hazards within the site and nearby areas and ensure that the threat posed by any identified hazards can be appropriately mitigated and managed for future development and therein demonstrate satisfaction of the precautionary principle, clause 6.11 of SPP 3.7. It has been prepared to support the proposed structure plan amendment for the site and addresses the requirements of SPP 3.7 (WAPC 2015), the Guidelines (WAPC and DFES 2017) and *Australian Standard 3959-2018 Construction of buildings in bushfire-prone areas (AS 3959)* (Standards Australia 2018). The document provides an assessment of the general bushfire management strategies to be considered as part of the future development within the site and includes:

- An assessment of the existing classified vegetation in the vicinity of the site (within 150 m) and consideration of bushfire hazards that will exist in the post-development scenario (**Section 3**).
- Commentary on how future development can achieve the bushfire protection criteria outlined within the Guidelines (**Section 5**).
- An outline of the roles and responsibilities associated with implementing this BMP (see **Section 6**).

The portion of the site containing the heritage-listed values is proposed to support tourism land uses in the future, and accordingly Emerge Associates have considered the recently released *Position Statement: Tourism land uses in bushfire prone areas October 2019* (WAPC 2019a). This document is intended as a risk-based guide to bushfire protection relevant to the characteristics of a tourism land use and its context whilst balancing the aims of opportunity, environmental protection, landscape amenity and cultural heritage. It recognises that the intrinsic link between tourism land uses and the natural environment may mean that the acceptable solutions in SPP 3.7 and the supporting

*Guidelines for Planning in Bushfire Prone Areas Version 1.3* (WAPC and DFES 2017) cannot always be satisfied. Where this occurs, it instead provides guidance to support the operation of tourism developments in bushfire prone areas that still meet the intent of SPP 3.7.

### 1.3 Statutory policy and framework

The following key legislation, policies and guidelines are relevant to the preparation of a bushfire management plan:

- *Fire and Emergency Services Act 1998*
- *Bush Fires Act 1954*
- *Planning and Development Act 2005 and associated regulations*
- *Building Act 2011 and associated regulations*
- *State Planning Policy 3.7 Planning in Bushfire Prone Areas (WAPC 2015)*
- *Guidelines for Planning in Bushfire Prone Areas version 1.3 (WAPC and DFES 2017)*
- *Position Statement: Tourism land uses in bushfire prone areas October 2019 (WAPC 2019a)*
- *Australian Standard AS 3959 – 2018 Construction of buildings in bushfire-prone areas (Standards Australia 2018)*

### 1.4 Description of the proposed development

The structure plan area in which the site is located forms part of the *Lots 1 and 114 Millbrook Road, Yallingup Development Guide Plan* (Koltasz Smith 2005), which the majority of the structure plan area developed in accordance with. This has resulted in a number of rural residential lots of various sizes that are connected by the public road network or an existing right-of-way access (i.e. strategic fire service access routes/ emergency access ways). The site forms the portion of the Development Guide Plan area that has not been developed and the proposed development layout is provided in the amended structure plan provided in **Appendix A**.

The structure plan area (including the site) is zoned 'Rural residential' under the City of Busselton Local Planning Scheme (LPS) No.21. The central portion of the site is also identified to have additional uses (Additional Use No. 52) which allows for a range of tourism type land uses (such as chalets, guesthouse, recreation, boutique brewery etc.) and is associated with the existing heritage listed values including Millbrook Mill and Limekiln.

### 1.5 Description of land characteristics

The natural topographical contours indicate the site has variable topography associated with a number of waterways that intersect the site and structure plan area, as shown in **Figure 1**. The majority of the site slopes to the south-west and is approximately 25 m Australian Height Datum (m AHD) in the south-western portion of the site, rising to 85 AHD in the north-eastern portion of the site.

The majority of the site has previously been cleared of native vegetation since prior to 1996, based on a review of publicly available aerial photography (Landgate 2019). Areas of intact remnant native vegetation exist within the southern portion of the site, while more disturbed vegetation (i.e. remnant native trees over paddock grasses) occur within the northern portion of the site, associated with Gunyulgup Brook. As outlined previously, a number of heritage-listed buildings are present within the central portion of the site and were constructed circa 1920 to 1980. Examples of these heritage features are provided in **Plate 2** and **Plate 3**. Considerations of the environmental values relevant to the proposed development of the site are further discussed in **Section 2**.

The existing land uses surrounding the site (within 150 m) include:

- Existing rural residential landholdings within the broader structure plan area, to the north, south, east and west of the site. This includes some short-stay holiday homes located on Robert Donald Heights and Seascape Rise to the east of the site.
- Wildbrook Place to the south of the site, with Wildwood Road located further south.
- Nukklgup Loop is located to the north of the site, while Gunyulgup Valley Drive and Millbrook Road are located to the west of the site.



*Plate 2: Millbrook Mill and maintained grounds, looking west towards the building.*



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*Plate 3: An example of the maintained grounds looking east towards one of the heritage buildings.*

## 2 Environmental Considerations

In accordance with the *Bushfire Management Plan – BAL Contour* template prepared by the Department of Planning, Lands and Heritage (DPLH) (2018), this BMP has considered whether there are any environmental values that may require specific consideration through either protection, retention or revegetation. To support this, a review of publicly available databases, as well as site specific information (where available), has been undertaken, with particular reference to the Shared Location Information Platform (SLIP) databases. A summary of the search results has been provided in **Table 1**.

The site is comprised of well-maintained grass areas with scattered remnant native trees, as well as planted endemic and non-endemic species (i.e. parkland cleared areas), and areas containing remnant native vegetation in variable condition and is associated with the ephemeral waterways. Due to the historical disturbance within the site, the parkland cleared areas are unlikely to contain any conservation significant values. While no site-specific ecological surveys have been undertaken to date, the remnant vegetation within the southern portion of the site appears to be more intact (containing multiple vegetation layers) and in better condition and may contain conservation significant flora, vegetation and fauna values.

*Table 1: Summary of potential environmental considerations that may be associated with the site (based on a search of the SLIP databases and site-specific information)*

Key environmental feature (Information in brackets refers to mapping data source)	Yes / no / potentially occurring within the site	If yes / potentially, describe value that may be impacted
Conservation category wetlands and buffer (Geomorphic wetlands, Leeuwin Naturaliste Ridge and Donnybrook to Nannup-Unreviewed (DBCA-043))	No	Not applicable. No wetlands have been mapped within the site. Approximately 600 m to the east of the site is an area mapped as a 'Palusplain' wetland.
Waterways (DWER-031)	Yes	A number of waterways traverse the site, including Gunyulgup Brook in the north-west of the site and runs from a south-east to north-west direction, meandering eventually towards Smiths Beach.
RAMSAR wetlands (DBCA-010)	No	Not applicable. No RAMSAR wetlands are located within or nearby to the site.
Threatened and priority flora (DBCA-036)	Potentially	If threatened or priority flora are located within the site, these will likely be restricted to the area of remnant native vegetation within the southern portion of the site which does not appear to have been subject to historic disturbance. Other areas within the site have been historically grazed by livestock, with kangaroos grazing extensively in these areas currently (including Gunyulgup Brook which is composed of trees over paddocks grasses) and as a result conservation significant values are unlikely to be present.

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*Table 1: Summary of potential environmental considerations that may be associated with the site (based on a search of the SLIP databases and site-specific information) (continued)*

Key environmental feature (information in brackets refers to mapping data source)	Yes / no / potentially occurring within the site	If yes / potentially, describe value that may be impacted
Threatened and priority fauna (DBCA-037)	Potentially	If threatened or priority fauna habitat is located within the site, it will be restricted to the area of intact remnant vegetation within the southern portions of the site as well as the overstorey species associated with the waterways traversing the site.
Threatened ecological communities (TEC) (DBCA-038)	Potentially	If threatened or priority ecological communities are located within the site, these will likely be restricted to the area of remnant native vegetation within the southern portion of the site which does not appear to have been subject to historic disturbance. Other areas within the site have been historically grazed by livestock, with kangaroos grazing extensively in these areas currently (including Gunyulgup Brook which is composed of trees over paddocks grasses) and as a result conservation significant values are unlikely to be present.
Clearing regulations – Environmentally Sensitive Areas (DWER-046)	No	No ESAs are identified within the site or structure plan area. The nearest ESA is located approximately 2 km to the north-west of the site, and appears to be generally associated with Leeuwin-Naturaliste National Park.
DBCA controlled lands or waters (DBCA-011)	No	No DBCA controlled lands or waters are identified within the site or structure plan area. The nearest DBCA controlled lands or waters are located approximately 2 km north-west of the site, associated with Leeuwin-Naturaliste National Park.
Conservation Covenants Western Australia (DPIRD-023)	No	Not applicable.
Aboriginal heritage (DAA-001)	No	No Aboriginal heritage sites are identified within the site or structure plan area. A registered Aboriginal Site, 'Yallingup Brook' (Site 18498) was identified approximately 1.8 km to the north-west of the site.
Non-indigenous heritage (SHO-003)	Yes	As outlined, a portion of Lot 30 Millbrook Road is identified as a registered non-indigenous heritage site namely, 'Millbrook Farm' (Place no. 429), which extends over approximately 10 ha within the south western portion of the site. The site is described as 'a group of living and working buildings in a picturesque setting with cultural heritage significance as an important visual landmark'.

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### 2.1 Native vegetation – modification and clearing

As part of the proposed future development of the site, it is likely that the majority of existing remnant native vegetation will be retained in its current form and includes the large area of remnant native vegetation within the south-western portion of the site and existing remnant trees associated with the various waterways. An exception to this is the vegetation identified as Plot 18 in **Figure 2**, which will be modified as part of future development and to enable the provision of an asset protection zone

If any clearing/modification of native vegetation is proposed in the future, this will need to be in accordance with a clearing permit (pursuant to the *Environmental Protection Act 1986* (EP Act)) or a valid exemption. Clearing of native vegetation undertaken in accordance with addressing conditions associated with a subdivision approval, pursuant to the *Planning and Development Act 2005*, or as part of implementing Firebreak and Fuel Hazard Reduction Notices, are generally exempt from requiring a clearing permit pursuant to Schedule 6 of the *Environmental Protection Act 1986* (where approved by a responsible authority).

### 2.2 Revegetation and landscape plans

No revegetation is proposed within the site as part of future development.

The existing garden areas and maintained grounds within the site that are identified as low threat in accordance with Section 2.2.3.2 of AS 3959 are proposed to be retained and maintained into the future, as part of protecting and enhancing the cultural heritage values of the site as well as satisfying the requirements of the City of Busselton Firebreak and Fuel Hazard Reduction Notice for parkland cleared rural residential landholdings. Ongoing management of these areas can be enforced through the City of Busselton Firebreak and Fuel Hazard Reduction Notice.

Areas of low threat vegetation in accordance with Section 2.2.3.2 of AS 3959 will be required to be maintained within each proposed lot, specifically the parkland cleared areas, and any future asset protection zone around habitable buildings (except for buildings associated with tourism land uses, which may have different asset protection zone requirements). The establishment and ongoing management of the low threat areas will be the responsibility of future lot owners, and may include (but is not limited to):

- Maintain areas to have a fine fuel loading of 2 tonnes per hectare or less, particularly within the asset protection zone.
- Regular mowing/slashing of grass to less than 100 mm in height (where present).
- Regular removal of weeds and built up dead material (such as fallen branches, leaf litter etc.). This may include burning of dead/fallen material during the appropriate burning periods (or in accordance with permits issued by the City of Busselton).
- Low pruning of trees (branches below 2 m in height removed where appropriate/applicable, primarily within the asset protection zone).
- Application of ground/surface covers such as mulch or non-flammable materials as required/applicable.

### 3 Bushfire Assessment Method

The bushfire risk for the site has been assessed in accordance with the Guidelines (WAPC and DFES 2017) and AS 3959.

The objective of AS 3959 is to improve the ability of buildings in a designated bushfire prone area to better withstand attack from bushfire. It provides a consistent method for determining a radiant heat level (radiant heat flux) as a primary consideration of bushfire attack on a building or object. It also prescribes simple construction responses to Class 1, 2, 3 and 10a buildings to reduce the likelihood of ignition corresponding to the determined radiant heat level. The radiant heat level is categorised based on six ascending Bushfire Attack Level (BAL): BAL-LOW, BAL-12.5, BAL-19, BAL-29, BAL-40 and BAL-FZ. The categories BAL-40 and BAL-FZ are within the flame length of a bushfire when the Fire Danger Index (FDI) exceeds FDI 80.

AS 3959 provides an assessment of radiant heat flux levels at various distances from classified vegetation (up to 100 m). It provides scientifically validated fuel loads for classified vegetation and the bushfire behaviour that may result from the effective slope beneath vegetation and the weather and climatic conditions described by a Fire Danger Index (FDI) (FDI 80 applies in WA). AS 3959 is used to determine appropriate setbacks of buildings to achieve different levels of radiant heat exposure (i.e. BAL-12.5 to BAL-FZ).

Not all vegetation is a classified bushfire risk. Vegetation and ground surfaces that are exempt from classification as a potential hazard is identified as a low threat under Section 2.2.3.2 of AS 3959. Low threat vegetation includes the following:

- a) The vegetation of any type that is more than 100 m from the site.
- b) Single areas of vegetation less than 1 ha in area and not within 100 m of other areas of vegetation being classified.
- c) Multiple areas of vegetation less than 0.25 ha in area and not within 20 m of the site or each other.
- d) Strips of vegetation less than 20 m wide (measured perpendicular to the elevation exposed to the strip of vegetation) regardless of length and not within 20 m of the site or each other, or other areas of vegetation being classified.
- e) Non-vegetated areas, including waterways, roads, footpaths, buildings and rocky outcrops.
- f) Vegetation regarded as low threat vegetation due to factors such as flammability, moisture content or fuel load. This includes grassland managed in a minimal fuel condition, mangroves and other saline wetlands, maintained lawns, golf courses (i.e. playing areas and fairways), maintained public reserves and parklands, sporting fields, vineyards, orchards, cultivated gardens, banana plantations, market gardens (and other non-curing crops), commercial nurseries, nature strips and windbreaks.

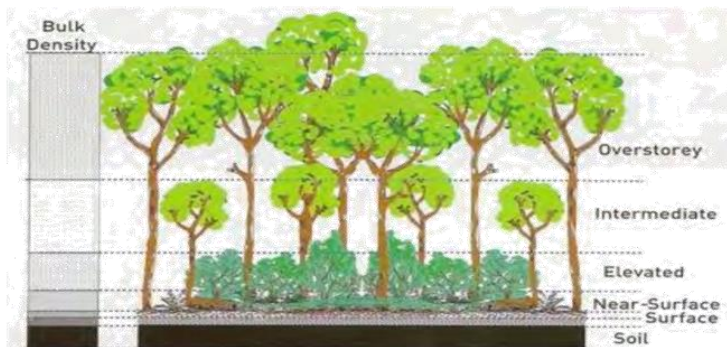
### 3.1 Bushfire attack level (BAL) assessment

In accordance with Appendix Five of the Guidelines, a BAL assessment has been undertaken to assess the structure plan for the site, with a known lot layout, to determine the BAL ratings for future habitable buildings based on the vegetation classification, effective slope and a Fire Dander Index (FDI) of 80. This has been used to illustrate the BAL ratings and siting compliance opportunities on a BAL contour plan.

#### 3.1.1 Assessment inputs

##### 3.1.1.1 Vegetation classification

Assessing bushfire hazards takes into account the classes of vegetation within the site and surrounding area for a minimum of 150 m, in accordance with AS 3959. The assignment of vegetation classifications is based on an assessment of vegetation structure, which includes consideration of the various fuel layers of different vegetation types. For example, fuel layers in a typical forest environment can be broken-down into five segments as illustrated in **Plate 4** below. These defined fuel layers are considered when determining the classification of vegetation and associated bushfire hazard levels.



*Plate 4: The five fuel layers in a forest environment that could be associated with fire behaviour (Gould et al. 2007)*

An assessment of existing vegetation and effective slope within the site and surrounding 150 m was undertaken on the 17 October 2019 in accordance with AS 3959 and the Guidelines to provide context for the siting of the classified vegetation and give a broader understanding of the likely intensity of the fire. An additional site visit was undertaken on the 1<sup>st</sup> November 2019.

**Table 2** below outlines the pre-development AS 3959 vegetation classifications (and associated photo locations) within and surrounding the site, and are also shown in **Figure 2**. Additional photo locations that have not been included in **Table 2** are provided in **Appendix B**.

It is relevant to note that a post-development vegetation scenario has not been prepared as the vegetation within the site and surrounding area is expected to largely remain the same. An exception to this is Plot 18 in the eastern portion of the site which is assumed to be modified (to achieve low threat) as part of future development and could be considered low threat accordingly and/or form part of an asset protection zone. This has been annotated on **Figure 2**.

#### 3.1.1.2 Effective slope

The effective slope under areas of classified vegetation will impact the direction and rate of spread of a bushfire. For the purposes of this BMP, the slope of the land beneath the areas of classified vegetation have been determined through the analysis of topographic survey contours across the site and surrounding 150 m and site observations.

Effective slope for each area of classified vegetation present in the post-development scenario is shown in **Figure 3** and outlined in **Table 2**. It is important to note that in the future different lots within the site may be oriented differently to any single area of classified vegetation resulting in a different effective slope. This means that while one piece of classified vegetation may be upslope from one lot, the same piece of classified vegetation may be downslope from another nearby lot. **Figure 3** represents the effective slope that is most relevant to future development within the site.

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Table 2: Vegetation classification (existing site conditions) and effective slope (based on post development scenario)





Pre-development (see Figure 2)			
Plot no.	AS 3959 classification	Effective slope (Figure 3)	Site photo/s (location points shown in Figure 2)
1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18	<p>Forest vegetation has been identified within the site and surrounds and is largely associated with areas of existing remnant vegetation with upper, mid and low storey fuels layers present. It is expected that this vegetation will largely remain in its existing condition and be retained in the long term.</p> <p>An exception is Plot 18 in the eastern portion of the site which is assumed to be modified as part of future development and will be considered a low threat. Vegetation will be retained but will form part of an asset protection zone and will be modified accordingly.</p> <p><b>AS 3959 classification (Figure 2):</b> Forest (Class A)</p> <p><b>Photo points:</b> 5, 10, 13, 15, 17, 18, 22, 23, 30, 31, 36, 37, 47, 53</p>	<p>The forest vegetation is subject to a variable effective slope, depending upon the location within the landscape (i.e. steep banks associated with a waterway) and/or orientation to the future development within the site.</p> <p><u>Plot 1 to 10</u> Flat/upslope</p> <p><u>Plot 11</u> Downslope 0-5</p> <p><u>Plot 12 and 13</u> Downslope 5-10</p> <p><u>Plot 14, 15 and 16</u> Downslope 10-15</p> <p><u>Plot 17</u> Downslope &gt;15</p> <p><u>Plot 18</u> Not applicable</p>	 <p>Photo location 5: remnant vegetation with variable fuel layers along a waterway, to the west of the site</p>  <p>Photo location 17: remnant vegetation with variable fuel layers near existing residences to the east of the site.</p>  <p>Photo location 22: remnant vegetation with upper and mid-storey fuel layers, near existing residences to the east of the site.</p>  <p>Photo location 36: Remnant native vegetation with variable fuel layers within the southern portion of the site. Associated with steeped sloped areas.</p>

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Table 2: Vegetation classification (existing site conditions) and effective slope (based on post development scenario) (continued)




Pre-development (see Figure 2)			
Plot no.	AS 3959 classification	Effective slope (Figure 3)	Site photo/s (location points shown in Figure 2)
19, 20, 21, 22, 23 and 24	<p>Woodland vegetation has been identified within the site and surrounds.</p> <p>The majority of the identified woodland vegetation ((Plot 19, 20, 21 and 22) is associated with remnant native trees (predominantly <i>Agonis flexuosa</i>) over unmanaged grasses and occur in association with a number of waterways within the site and/or structure plan area. The trees largely occur within the base of the waterway (i.e. the flat portions) and the extent of fuel load has been considered on this basis.</p> <p>Two small areas of woodland vegetation (Plot 23 and Plot 24) have been identified within nearby rural residential landholdings in association with remnant native trees and/or planted trees over a grassy understorey (with scattered small shrubs). There is evidence of some management, but it is unclear if this occurs regularly so has been identified as a bushfire hazard.</p> <p><b>AS 3959 classification (Figure 2):</b> Woodland (Class B)</p> <p><b>Photo points:</b> 1, 2, 3, 6, 8, 9, 25, 45</p>	<p><u>Plot 19, 20, 21, 22 and 23</u> Flat/upslope</p> <p><u>Plot 24</u> Downslope 0-5</p>	 <p>Photo location 2: Trees (predominantly <i>Agonis flexuosa</i>) over unmanaged grasses associated with a waterway in the western portion of the site, identified as woodland</p>  <p>Photo location 8: Trees (predominantly <i>Agonis flexuosa</i>) over unmanaged grasses associated with a waterway in the western portion of the site, identified as woodland</p>  <p>Photo location 25: Trees (predominantly <i>Agonis flexuosa</i>) over unmanaged grasses associated with the waterbody in the southern portion of the site, identified as woodland</p>  <p>Photo location 45: Trees over predominantly grasses and scattered small shrubs, some management but identified as woodland, located to the south of the site.</p>

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Table 2: Vegetation classification (existing site conditions) and effective slope (based on post development scenario) (continued)


Pre-development (see Figure 2)			
Plot no.	AS 3959 classification	Effective slope (Figure 3)	Site photo/s (location points shown in Figure 2)
25, 26, 27 and 28	<p>Shrubland vegetation has been identified within the northern portion of the site (Plot 25 and 26) and to the south-east of the site (Plot 27 and 28).</p> <p>The vegetation associated with Plot 25 and 26 is a mix of bracken fern and sedge vegetation that has grown around an existing dam/soak which feeds into the waterway that runs through the northern portion of the site. There appears to be revegetation occurring in this area and accordingly has been identified as a bushfire hazard.</p> <p>The vegetation associated with Plot 27 and 28 is composed of grass trees (<i>Xanthorrhoea preissii</i>) over grass surrounding a number of existing dwellings. The grass trees are less than 2 m in height. There appears to be limited evidence of management of fuel loads in this area, with the grass trees maintaining large skirts of dead leaves. Accordingly, these areas have been identified as a bushfire hazard.</p> <p><b>AS 3959 classification (Figure 2):</b> Shrubland (Class C)</p> <p><b>Photo points:</b> 12, 48, 49</p>	<p><u>Plot 25, 26 and 27</u> Flat/upslope</p> <p><u>Plot 28</u> Downslope 5-10</p>	 <p>Photo location 12: Shrubland vegetation (largely bracken fern and sedges) associated with the dam in the north-eastern portion of the site</p>  <p>Photo location 48: Grass tree (<i>Xanthorrhoea preissii</i>) dominated areas around existing dwelling to the east of the site</p>  <p>Photo location 48: Grass tree (<i>Xanthorrhoea preissii</i>) dominated areas around existing dwelling to the south-east of the site</p>

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Table 2: Vegetation classification (existing site conditions) and effective slope (based on post development scenario) (continued)

Pre-development (see Figure 2)			
Plot no.	AS 3959 classification	Effective slope (Figure 3)	Site photo/s (location points shown in Figure 2)
29	<p>Grassland vegetation has been identified in a private landholding to the north of the site. This area of grass forms part of a larger vegetated area, and while there appears to be some management, it is not clear if this is enforceable under the City of Busselton Firebreak and Fuel Hazard Reduction Notice, which has different requirements for the vegetated portions of rural residential lots (compared to the parkland cleared areas). Accordingly, this vegetation has been assessed as a bushfire hazard.</p> <p><b>AS 3959 classification (Figure 2):</b> Grassland (Class G)</p> <p><b>Photo points:</b> 55</p>	<p><u>Plot 29</u> Flat/upslope</p>	 <p><i>Photo location 55: Areas of grassland to the north of the site, some management appears to occur.</i></p>

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<div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: left;"> <p><b>Bushfire Management Plan</b></p> <p>Millbrook Farm Structure Plan, Millbrook Road Yallingup</p> </div> <div style="text-align: right;">  </div> </div>	

Table 2: Vegetation classification (existing site conditions) and effective slope (based on post development scenario) (continued)





Pre-development (see Figure 2)			
Plot no.	AS 3959 classification	Effective slope (Figure 3)	Site photo/s (location points shown in Figure 2)
30	<p>Non-vegetated areas such as dams/water bodies, roads, driveways, existing buildings and areas of mineral earth within and surrounding the site have been excluded in accordance with Clause 2.2.3.2(e) of AS 3959.</p> <p><b>AS 3959 classification (Figure 2):</b> Non-vegetated (exclusion clause 2.2.3.2(e))</p> <p><b>Photo points:</b> 4, 14, 24, 33, 41, 46, 52, 54, 56</p>	Not applicable	<div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%; text-align: center;">  <p><i>Photo location 4: Existing dam within the western portion of the site</i></p> </div> <div style="width: 50%; text-align: center;">  <p><i>Photo location 33: Large water body within the southern portion of the site and existing heritage buildings.</i></p> </div> <div style="width: 50%; text-align: center;">  <p><i>Photo location 41: Existing public road (Millbrook Road) within the structure plan area. Managed road reserve and planted ornamental trees present.</i></p> </div> <div style="width: 50%; text-align: center;">  <p><i>Photo location 46: driveway and fire services access route/emergency access way to the south of the site.</i></p> </div> </div>

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Table 2: Vegetation classification (existing site conditions) and effective slope (based on post development scenario) (continued)

Pre-development (see Figure 2)			
Plot no.	AS 3959 classification	Effective slope (Figure 3)	Site photo/s (location points shown in Figure 2)
31	<p>The site and surrounding rural residential lots contain existing gardens and managed grounds that are regularly mowed and maintained and have been identified as low-threat vegetation. This is in accordance with the City of Busselton Firebreak and Fuel Hazard Reduction Notice in which rural residential lots that are parkland cleared need to undertake fuel load management which includes maintaining grass below 10 cm in height and removing built-up dead material.</p> <p><b>AS 3959 classification (Figure 2):</b> Low threat vegetation (exclusion clause 2.2.3.2(f))</p> <p><b>Photo points:</b> 7, 11, 16, 19, 20, 21, 27, 28, 29, 32, 34, 35, 38, 39, 40, 42, 43, 44, 50, 51, 57</p>	Not applicable	 <p>Photo location 7: Managed grass areas to the north of the site.</p>  <p>Photo location 29: Managed grounds and water feature around and existing dwelling to the south of the site.</p>  <p>Photo location 35: Managed grounds and grass areas around existing heritage buildings, with the Mill visible to the right of the photo</p>  <p>Photo location 57: Managed grounds and grass areas within the eastern portion of the site</p>

### 3.1.1.3 Post-development assumptions

The BAL assessment, to determine the predicated BAL ratings applicable to the site, has assumed the following:

- **Designated FDI:** 80
- **Flame temperature:** 1090
- **Vegetation classification:** Forest (Class A), woodland (Class B), shrubland (Class C) and grassland (Class G) vegetation identified in **Figure 2**.
- **Effective slope beneath classified vegetation:** Downslope <15°, downslope 10-15°, downslope 5-10°, downslope 0-5° and flat/upslope (see **Figure 3**).
- **Setback distances:** as per Table 2.5 in AS 3959 with the relevant distances used to inform the BAL contour plan provided in **Figure 4** and summarised in **Table 3**.

In addition to the above, the following key assumptions have informed this assessment:

- All areas of classified vegetation that has been identified either within the site or outside have been assumed to remain in its current state (unless stated otherwise), and will therefore remain a bushfire hazard.
- Areas of low threat vegetation within and surrounding the site will continue to be managed and/or considered to achieve low threat in accordance with Section 2.2.3.2 of AS 3959 based on the existing maintenance regimes, and/or as per the requirements of the City of Busselton Firebreak and Fuel Hazard Reduction Notice.

It is relevant to note that the exact location of the building envelopes within the proposed lots and any associated asset protection zone will be determined at the future subdivision and/or building licence stage. However, to understand whether the lots are appropriately sized to ensure future habitable buildings can be located in an area that can achieve a BAL rating of BAL-29 or less, the BAL assessment has considered the classified vegetation and effective slope to determine a 'building exclusion area'. This is discussed further below.

### 3.1.2 Assessment outputs

The BAL assessment completed for the site indicates that each lot is suitably sized to accommodate a future habitable building that will not be exposed to a BAL rating exceeding BAL-29, see **Figure 4**. The BAL-FZ and BAL-40 contours determined as part of this assessment have then been used to inform the determination of the ‘building exclusion area’ (shown in **Figure 5**). This is discussed further in **Section 5**.

It is relevant to note that the BAL ratings determined as part of this BMP are only applicable to future development within the site. Any future development within the broader structure plan area should be assessed separately.

**Table 3** provides a summary of the setback distances necessary from classified vegetation to achieve the indicated BAL ratings, with the BAL Contour Plan (**Figure 4**) being a visual representation of these distances. The setback distances are based on the post-development classified vegetation, effective slope (**Figure 3**) and are taken from Table 2.5 of AS 3959.

*Table 3: Setback distances based on vegetation classification and effective slope and Table 2.5 of AS 3959, as determined by the method 1 BAL assessment*

Plot number (see Figure 2)	Vegetation classification (see Figure 2)	Effective slope (see Figure 3)	Distance to vegetation (from Table 2.5 of AS 3959)	BAL rating (see Figure 4)
Plots 1 to Plot 17	Forest (Class A)	Flat/upslope	< 16 m	BAL-FZ
			16 - < 21 m	BAL-40
			21 - < 31 m	BAL-29
			31 - < 42 m	BAL-19
			42 - < 100 m	BAL-12.5
			> 100 m	BAL-LOW
		Downslope 0-5°	< 20 m	BAL-FZ
			20 - < 27 m	BAL-40
			27 - < 37 m	BAL-29
			37 - < 50 m	BAL-19
			50 - < 100 m	BAL-12.5
			> 100 m	BAL-LOW
		Downslope 5-10°	< 26 m	BAL-FZ
			26 - < 33 m	BAL-40
			33 - < 46 m	BAL-29
			46 - < 61 m	BAL-19
			61 - < 100 m	BAL-12.5
			> 100 m	BAL-LOW



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Table 3: Setback distances based on vegetation classification and effective slope and Table 2.5 of AS 3959, as determined by the method 1 BAL assessment (continued)

Plot number (see Figure 2)	Vegetation classification (see Figure 2)	Effective slope (see Figure 3)	Distance to vegetation (from Table 2.5 of AS 3959)	BAL rating (see Figure 4)			
Plots 1 to Plot 17 (continued)	Forest (Class A) (continued)	Downslope 10-15°	< 33 m	BAL-FZ			
			33 - < 42 m	BAL-40			
			42 - < 56 m	BAL-29			
			56 - < 73 m	BAL-19			
			73 - < 100 m	BAL-12.5			
			> 100 m	BAL-LOW			
		Downslope > 15°	< 42 m	BAL-FZ			
			42 - < 52 m	BAL-40			
			52 - < 68 m	BAL-29			
			68 - < 87	BAL-19			
			87 - < 100 m	BAL-12.5			
			> 100 m	BAL-LOW			
			Plots 19 to Plot 24	Woodland (Class B)	Flat/upslope	< 10 m	BAL-FZ
						10 - < 14 m	BAL-40
14 - < 20 m	BAL-29						
20 - < 29 m	BAL-19						
29 - < 100 m	BAL-12.5						
> 100 m	BAL-LOW						
Downslope 0-5°	< 13 m	BAL-FZ					
	13 - < 17 m	BAL-40					
	17 - < 25 m	BAL-29					
	25 - < 35 m	BAL-19					
			35 - < 100 m	BAL-12.5			
			> 100 m	BAL-LOW			

Continued below.

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Table 3: Setback distances based on vegetation classification and effective slope and Table 2.5 of AS 3959, as determined by the method 1 BAL assessment (continued)

Plot number (see Figure 2)	Vegetation classification (see Figure 2)	Effective slope (see Figure 3)	Distance to vegetation (from Table 2.5 of AS 3959)	BAL rating (see Figure 4)
Plot 25 to Plot 28	Shrubland (Class C)	Flat/upslope	< 7 m	BAL-FZ
			7 - < 9 m	BAL-40
			9 - < 13 m	BAL-29
			13 - < 19 m	BAL-19
			19 - < 100 m	BAL-12.5
			> 100 m	BAL-LOW
		Downslope 5-10°	< 8 m	BAL-FZ
			8 - < 11 m	BAL-40
			11 - < 17 m	BAL-29
			17 - < 25 m	BAL-19
			25 - < 100 m	BAL-12.5
			> 100 m	BAL-LOW
Plots 29	Grassland (Class G)	Flat/upslope	< 6	BAL-FZ
			6 - < 8	BAL-40
			8 - < 12	BAL-29
			12 - < 17	BAL-19
			17 - < 50	BAL-12.5
			> 50 m	BAL-LOW

## 4 Identification of Bushfire Hazard Issues

From a bushfire hazard management perspective, the key issues that are likely to require management and/or consideration as part of future development within the site include:

- Provision of appropriate separation distance from permanent bushfire hazards within and surrounding the site, including the existing remnant native vegetation values within the northern and southern portions of the site which are proposed to be retained. Separation distances will ensure a BAL rating of BAL-29 or less can be achieved at new habitable buildings. This will include maintaining areas within the site around future habitable buildings to a low threat standard in accordance with Section 2.2.3.2 of AS 3959 to achieve a BAL rating of BAL-29 or less and will need to be constructed to the appropriate standards. As part of this, a 'building exclusion area' has been provided based on all areas that are BAL-40 or BAL-FZ and will inform where new habitable buildings (unless associated with tourism land uses) can occur.
- Maintaining identified areas within the site to a low threat standard in accordance with the City of Busselton Firebreak and Fuel Hazard Reduction Notice without detrimentally impacting the existing landscape and environmental values within the site. The majority of the site is a highly managed landscape, with ongoing maintenance visible.
- Provision of appropriate vehicular access within the site and broader structure plan area that is safe and available during an emergency, and in particular provides suitable access to multiple destinations. This will require consideration of the current fire service access routes and changes that may be required based on the provision of the proposed cul-de-sac road.
- Provision of appropriate water supply and associated infrastructure based on the site being located in a non-reticulated water supply area. An existing standpipe located on the southern side of Millbrook Road (to the west of the site) may be sufficient for fire-fighting requirements and/or additional standalone static water supply may be required.

These issues are considered further in **Section 5**.

## 5 Assessment Against the Bushfire Protection Criteria

This BMP provides an outline of the mitigation strategies that will ensure that as development progresses within the site, an acceptable solution and/or performance-based system of control can be adopted for each of the bushfire protection criteria detailed within Appendix Four of the Guidelines (WAPC and DFES 2017). The bushfire protection criteria identified in the Guidelines and addressed as part of this BMP are:

- Element 1: Location of the development
- Element 2: Siting and design of the development
- Element 3: Vehicular access
- Element 4: Water supply.

As part of future development, the intent of the bushfire protection criteria can be **satisfied through an acceptable solution** approach. A summary of how this can be achieved and an associated compliance statement for each has been provided in **Table 4**. The required mitigation strategies are also summarised in **Figure 5**.

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Table 4: Summary of bushfire protection criteria and compliance statement

Bushfire protection criteria	Intent	Method of compliance		Proposed bushfire management strategies	Compliance statement
		Acceptable solution	Performance solution		
Element 1: Location	To ensure that strategic planning proposals, subdivision and development applications are located in areas with the least possible risk of bushfire to facilitate the protection of people, property and infrastructure.	A1.1 Development location Yes.	N/A	<p>It is possible for all existing and future proposed habitable buildings to be located in an area subject to a low or moderate bushfire hazard, given buildings will be located in areas identified as a low threat in accordance with Clause 2.2.3.2(e) or (f) of AS 3959. Appendix Two of the Guidelines (WAPC and DFES 2017) states that non-vegetated or low threat areas will be considered a 'low' hazard, except where within 100 m of a moderate or extreme hazard (i.e. associated with areas of classified vegetation), and in that case would be subject to a 'moderate' hazard. Proposed habitable buildings within 100 m of forest, woodland or shrubland vegetation (extreme hazards) would be subject to a moderate hazard while the remainder would be subject to a 'low' hazard and is, therefore, able to satisfy the acceptable solution.</p> <p><i>Position Statement: Planning in bushfire prone areas - Demonstrating Elements 1: Location and Element 2: Siting and design</i> (WAPC 2019b) also clarified this position, in which the 'developable land' is noted as the "land that can accommodate a habitable dwelling", and achieves a 'moderate' bushfire hazard level when it achieves a BAL rating of BAL-29 or less. Future habitable buildings can be located in an area subject to a BAL rating of BAL-29 or less based on the BAL assessment and has been indicated by the 'building exclusion area' in <b>Figure 5</b>.</p> <p>It is noted that based on the outcomes of the BAL assessment (<b>Section 3.1.2</b>) it is possible that not all the existing historic buildings may be able to achieve a BAL rating of BAL-29 or less as portions of the site are likely to be subject to a BAL rating of BAL-40 or BAL-FZ due to the presence of classified vegetation within the site or in close proximity to the site, however this can be considered further in accordance with <i>Position Statement: Tourism land uses in bushfire prone areas</i> (WAPC 2019) given the permitted uses within the site. This is further discussed with regard to Element 2 below.</p> <p>The acceptable solution can be satisfied.</p>	Based on the outlined management measures, future development would be able to comply with and meet the intent of Element 1: Location.

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Table 4: Summary of bushfire protection criteria and compliance statement (continued)

Bushfire protection criteria	Intent	Method of compliance		Proposed bushfire management strategies	Compliance statement
		Acceptable solution	Performance solution		
Element 2: Siting and design	To ensure the siting and design of development minimises the level of bushfire impact.	A2.1 Asset Protection Zone		<p>Asset protection zones (APZ) around buildings are important bushfire protection measures influencing the safety of people and property. An APZ is a low fuel area immediately surrounding a building, and can include non-flammable features such as irrigated landscapes, gardens, driveways, public roads and managed public open space. APZs are generally enforceable through a local government firebreak notice, as is the case with the City of Busselton.</p> <p>The majority of the site is or will be considered low threat due to the presence of well-maintained gardens and grounds which are subject to regular maintenance to manage fuel loads (as per the requirements of the City of Busselton Firebreak and Fuel Hazard Reduction Notice for rural residential zoned land). The bushfire hazards applicable to future development within the site are associated with the forest, woodland and shrubland vegetation within the site, and the forest, woodland, shrubland and grassland vegetation located within surrounding private landholdings, as shown in <b>Figure 2</b>. It is important to note that the outcomes of the BAL assessment are not relevant to the broader structure plan area.</p> <p>The BAL assessment indicates that it will be possible to locate future habitable buildings within areas subject to a BAL rating of BAL-29 or less based on the proposed development layout, as shown in <b>Figure 4</b>. Large portions of the site can achieve a BAL rating of BAL-29 or less, with the majority of the site able to achieve BAL-12.5 or BAL-LOW. To assist with future approvals, the outcomes of the BAL assessment have been used to determine a 'building exclusion area' (see <b>Figure 5</b>). The 'building exclusion area' is based on areas subject to a BAL rating greater than BAL-29 (i.e. BAL-40 and BAL-FZ). No future habitable buildings should be constructed in this area, although it is noted that the 'building exclusion area' can form part of the asset protection zone for a habitable building.</p> <p>As part of future development and in order ensure a BAL rating of BAL-29 or less is able to be achieved at future habitable buildings, future landowners will need to maintain an APZ around the perimeter of the habitable buildings. The APZ should be the minimum width necessary to achieve BAL-29 based on the classified vegetation and effective slope within 100 m of the dwelling, and will need to be maintained to achieve low threat in accordance with Section 2.2.3.2 of AS 3959 and should be designed and maintained to satisfy Element 2, Schedule 1 of Appendix Four of the Guidelines (WAPC and DFES 2017). The management of the APZ will be the responsibility of the landowner.</p> <p>Continued below.</p>	Based on the outlined management measures, future development would be able to comply with and meet the intent of Element 2: Siting and design.
		Yes.	N/A		

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Table 4: Summary of bushfire protection criteria and compliance statement (continued)

Bushfire protection criteria	Intent	Method of compliance		Proposed bushfire management strategies	Compliance statement
		Acceptable solution	Performance solution		
Element 2: Siting and design (continued from above)	Continued from above	A2.1 Asset Protection Zone	N/A.	Continued from above.  An exception to the above is the tourism land uses that may be associated with the existing historic buildings located within the site, of which a number may be subject to a BAL rating of BAL-40 or BAL-FZ. Recently, the WAPC, through the release of <i>Position Statement: Tourism land uses within bushfire prone areas</i> (2019), have recognised that tourism development may have merit to be approved where it is not able to meet the acceptable solutions of SPP 3.7 (i.e. achieving a BAL rating of BAL-29 or less) provided human safety can be assured and if the buildings are not depended upon as a primary place of residence. This is due to the inherent environmental, landscape and amenity values that are typically associated with tourism land uses that cannot always be managed or mitigated to achieve the acceptable solutions detailed within the Guidelines. Accordingly, the location of tourism land uses within the building exclusion area could be permitted subject to a detailed risk assessment in accordance with <i>Position Statement: Tourism land uses within bushfire prone areas</i> (2019). This would need to be addressed as part of future development approval applications when detail on the proposed tourism land use is available.  Overall, the acceptable solution can be satisfied for all new habitable buildings. All new Class 1, 2, 3 and 10a buildings, where located within a designated bushfire prone area and an area subject to a BAL rating of BAL-12.5 or higher, will need to satisfy higher construction standards in accordance with AS 3959.	Continued from above.

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Table 4: Summary of bushfire protection criteria and compliance statement (continued)

Bushfire protection criteria	Intent	Method of compliance		Proposed bushfire management strategies	Compliance statement																																																
		Acceptable solution	Performance solution																																																		
Element 3: Vehicular access	To ensure vehicular access serving a subdivision/ development is available and safe during a bushfire event.	A3.1 Two access routes		<p>The site (and broader structure plan area) currently have access to a number of existing public roads, including Dress Circle (which connects to Nukklgup Loop) in the east, and Millbrook Road/Gunyulgup Valley Drive to the west (which provides egress to Wildwood Road which connects with Caves Road and/or Caves Road) (approximately 1.3 km to the west of the site) and Bussell Highway (approximately 13 km to the east of the site) and is generally shown in <b>Figure 5</b>.</p> <p>A cul-de-sac is proposed as part of the development of the site (discussed further below), which will connect to Millbrook Road and the broader public road network. A revised fire services access route network will also be provided within the structure plan area (compared to what was previously approved) based on the proposed road layout (and the right-of-way easement in the site will be amended accordingly) and is outlined further below. Through the proposed vehicle access measures, access to two different destinations can be achieved.</p>	Based on the outlined management measures, future development would be able to comply with and meet the intent of Element 3: Vehicular access.																																																
		Yes	N/A																																																		
		A3.2 Public road		<p>The proposed new public roads within the site, can and will comply with the minimum standards outlined in Appendix Four of the Guidelines (WAPC and DFES 2017) or as agreed with the City of Busselton and includes a minimum 6 m-wide trafficable surface. An excerpt of the requirements (from Table 6 of Appendix Four the Guidelines) has been provided below. This can be accommodated through the subdivision process.</p> <p><i>Excerpt of Table 6 from Appendix Four of the Guidelines (WAPC &amp; DFES 2017)</i></p> <table border="1"> <thead> <tr> <th>TECHNICAL REQUIREMENTS</th> <th>1 Public road</th> <th>2 Cul-de-sac</th> <th>3 Private driveway</th> <th>4 Emergency access way</th> <th>5 Fire service access routes</th> </tr> </thead> <tbody> <tr> <td>Minimum trafficable surface (m)</td> <td>6*</td> <td>6</td> <td>4</td> <td>6*</td> <td>6*</td> </tr> <tr> <td>Horizontal clearance (m)</td> <td>6</td> <td>6</td> <td>6</td> <td>6</td> <td>6</td> </tr> <tr> <td>Vertical clearance (m)</td> <td>4.5</td> <td>N/A</td> <td>4.5</td> <td>4.5</td> <td>4.5</td> </tr> <tr> <td>Maximum grade &lt;50 metres</td> <td>1 in 10</td> <td>1 in 10</td> <td>1 in 10</td> <td>1 in 10</td> <td>1 in 10</td> </tr> <tr> <td>Minimum weight capacity (t)</td> <td>15</td> <td>15</td> <td>15</td> <td>15</td> <td>15</td> </tr> <tr> <td>Maximum crossfall</td> <td>1 in 33</td> <td>1 in 33</td> <td>1 in 33</td> <td>1 in 33</td> <td>1 in 33</td> </tr> <tr> <td>Curves minimum inner radius (m)</td> <td>8.5</td> <td>8.5</td> <td>8.5</td> <td>8.5</td> <td>8.5</td> </tr> </tbody> </table> <p>*Refer to E3.2 Public roads: Trafficable surface</p>	TECHNICAL REQUIREMENTS	1 Public road	2 Cul-de-sac	3 Private driveway	4 Emergency access way	5 Fire service access routes	Minimum trafficable surface (m)	6*	6	4	6*	6*	Horizontal clearance (m)	6	6	6	6	6	Vertical clearance (m)	4.5	N/A	4.5	4.5	4.5	Maximum grade <50 metres	1 in 10	1 in 10	1 in 10	1 in 10	1 in 10	Minimum weight capacity (t)	15	15	15	15	15	Maximum crossfall	1 in 33	1 in 33	1 in 33	1 in 33	1 in 33	Curves minimum inner radius (m)	8.5	8.5	8.5	8.5	8.5	
TECHNICAL REQUIREMENTS	1 Public road	2 Cul-de-sac	3 Private driveway		4 Emergency access way	5 Fire service access routes																																															
Minimum trafficable surface (m)	6*	6	4	6*	6*																																																
Horizontal clearance (m)	6	6	6	6	6																																																
Vertical clearance (m)	4.5	N/A	4.5	4.5	4.5																																																
Maximum grade <50 metres	1 in 10	1 in 10	1 in 10	1 in 10	1 in 10																																																
Minimum weight capacity (t)	15	15	15	15	15																																																
Maximum crossfall	1 in 33	1 in 33	1 in 33	1 in 33	1 in 33																																																
Curves minimum inner radius (m)	8.5	8.5	8.5	8.5	8.5																																																
Yes	N/A																																																				



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Table 4: Summary of bushfire protection criteria and compliance statement (continued)

Bushfire protection criteria	Intent	Method of compliance		Proposed bushfire management strategies	Compliance statement	
		Acceptable solution	Performance solution			
Element 3: Vehicular access  (continued from above)	Continued from above	A3.3 Cul-de-sac (including dead-end-road)		<p>A single cul-de-sac road is proposed within the site as part of the amendment to the structure plan. This cul-de-sac is able to achieve the requirements of the acceptable solution, including:</p> <ul style="list-style-type: none"> <li>The requirements outlined within Table 6 of Appendix Four the Guidelines, including being a minimum of 6 m-wide.</li> <li>Having a maximum length of 200 m and servicing no more than 8 lots. The cul-de-sac is less than 200 m in length and is only proposed to service six lots, with the remaining lots serviced by existing public roads.</li> <li>Having a turn-around areas with a minimum 17.5 m kerb-to-kerb radius.</li> </ul>	Continued from above.	
		Yes	N/A			
		A3.4 Battle-axe				Not applicable. No battle-axe properties are proposed as part of the development.
		N/A	N/A			
		A3.5 Private driveway longer than 50 m				The exact length of the future private driveways for the future development within the site is unknown at this stage and will depend on the final location of the building envelopes within each lot. However, it is possible that the private driveways will be longer than 50 m in length based on the proposed rural residential development and size of the lots. If private driveways longer than 50 m in length are required, they will need to meet the minimum requirements outlined within Table 6 of Appendix Four of the Guidelines (or as agreed with the City of Busselton), including construction suitable for two-wheel-drive vehicles, minimum horizontal and vertical clearance, overtaking bays (if required) and appropriate turn around areas. This can be confirmed at the building licence stage.
		Yes	N/A			
A3.6 Emergency access way		Not applicable. As the proposed cul-de-sac road is less than 200 m in length and services no more than 8 lots, an emergency access way is not required. It is noted that a number of ‘emergency access ways’ (which have been previously identified as ‘fire service access routes’) exist within the structure plan area, whose integrity has been retained through the proposed amendment to the structure plan and has been discussed further below.				
N/A	N/A					

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Table 4: Summary of bushfire protection criteria and compliance statement (continued)

Bushfire protection criteria	Intent	Method of compliance		Proposed bushfire management strategies	Compliance statement
		Acceptable solution	Performance solution		
Element 3: Vehicular access  (continued from above)	Continued from above	A3.7 Fire service access routes (perimeter roads)		<p>The current structure plan (i.e. Development Guide Plan) covering the site provides for an existing and extensive fire service access route network that connects with public roads and other fire service access routes within the structure plan area and also more broadly within the surrounding region. This network of fire service access routes are currently provided as ‘right-of-way’ easements and exist on lot titles, and have therefore been considered as part of the proposed structure plan amendment. This is to ensure that the existing access arrangements are maintained, even if the proposed development of the site would not necessarily trigger any such requirements.</p> <p>The intent of the existing fire service access routes through the central portion of the site is proposed to be maintained, although will be modified on the basis that the amended structure plan will provide for a cul-de-sac road, rather than the current fire service access route (also described as an ‘emergency access way’ within the structure plan (based on modern nonclementure), and provided as a ‘right-of-carriageway’ easement on title). The existing ‘right-of-way’ easement within the central portion of the site will be amended and realigned (based on the proposed lot layout) to make way for the proposed-cul-de-sac road but to also maintain connection to Dress Circle, providing an east-west connection across the structure plan area (as was previously accommodated within the Development Guide Plan). All other ‘right-of-way’ easements within the site that were proposed as part of the Development Guide Plan will be removed. This is shown in <b>Figure 5</b>. This will ensure that areas of the structure plan not subject to this amendment will have their existing vehicle access maintained. The fire service access route (described as a ‘realigned emergency access way’ within the structure plan (see <b>Appendix A</b> and <b>Figure 5</b>)) and to be revised as part of the development of the site can satisfy the acceptable solution.</p> <p>It is noted that all other existing fire service access routes (described as ‘existing emergency access ways’ in <b>Appendix A</b> and <b>Figure 5</b>) are not subject to the structure plan amendment and will continue to be maintained as per the existing easements on title and maintenance arrangements, which are to the benefit of the City of Busselton.</p>	Continued from above.
		A3.8 Firebreak width		Where required, firebreaks will be provided in accordance with the City of Busselton Firebreak and Fuel Hazard Reduction Notice and may vary depending upon the presence of strategic firebreaks (i.e. fire service access routes).	
		Yes.	N/A		
		Yes.	N/A		

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Table 4: Summary of bushfire protection criteria and compliance statement (continued)

Bushfire protection criteria	Intent	Method of compliance		Proposed bushfire management strategies	Compliance statement
		Acceptable solution	Performance solution		
Element 4: Water	To ensure water is available to the subdivision, development or land use to enable people, property and infrastructure to be defended from bushfire.	A4.1 Reticulated areas		Not applicable.	Based on the outlined management measures, future development would be able to comply with and meet the intent of Element 4: Water.
		N/A	N/A		
		A4.2 Non-reticulated areas		<p>Development is located within an Emergency Services Levy (ESL) Category 5 area, which indicates that bushfire events are responded to by the state-wide emergency services (SES) network and usually a bush fire brigade.</p> <p>The site is in an area where no reticulated water supply is available, and therefore, individual lots are responsible for their own domestic water supply which includes the provision of individual water tanks and appropriate tanks fittings, a per the requirements of the City of Busselton.</p> <p>It is unclear from the available information if a suitable static water supply has been provided as part of previous development stages associated with the existing structure plan and will need to be confirmed as part of the subdivision process. It is possible a minimum 50 000 L will be required to be provided within the public reserve as part of future subdivision and could be through the use of a standpipe or a standalone water tank. As required, hardstand and turn-around areas suitable for a type 3.4 fire appliance will also be required within 3 m of the water tank/standpipe.</p> <p>The location of any water supply infrastructure can be determined in consultation with the City of Busselton and/or local fire brigades as part of the subdivision process. It is possible that an existing water standpipe located within the structure plan area (but outside the site, see <b>Figure 5</b>) may provide an appropriate water supply for the proposed development and no additional water supply infrastructure may be required.</p>	
		Yes	N/A		
A4.3 Individual lots within non-reticulated areas (only for use if creating 1 additional lot and cannot be applied cumulatively)		Not applicable.			
		N/A	N/A		

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## 5.1 Additional management strategies

### 5.1.1 Future approval considerations

The BAL assessment within this document is considered to be a conservative assessment of potential bushfire risk posed to future habitable buildings within the site based on the assumptions outlined in **Section 3** and will be a relevant consideration as part of future development to ensure a BAL rating of BAL-29 or less is achieved at new habitable buildings

The measures to be implemented through this structure plan and associated future subdivision process have been outlined as part of this BMP and can be used to support future planning and development approval processes. If the development layout changes, a revised BMP is likely to be required to support any future subdivision application. Otherwise, subject to certification of the results of the BAL assessment undertaken to support this BMP, the predicted BAL ratings within this BMP (see **Figure 4**) can be used to support the building licence process.

It is relevant to note that no new habitable buildings should be constructed in the 'building exclusion area' (shown in **Figure 5**), although it is noted that the APZ for a habitable building can be located in this area. Tourism land uses can be located in the 'building exclusion area', however would be dependent the outcomes of a detailed risk assessment completed in accordance with *Position Statement: Tourism land uses within bushfire prone areas* (2019a). This would need to be addressed as part of future development approval applications when detail on the proposed tourism land use is available.

The existing buildings within the site are not required to satisfy higher construction standards as per AS 3959 unless significant renovations are proposed, but it is recommended that the landowner considers voluntarily increasing the current building standards to at least BAL-12.5 to provide additional protection from embers (as a minimum). Further advice on this can be provided if required.

### 5.1.2 Landscape management

#### 5.1.2.1 Within the site

Within the site, an APZ will need to be maintained around each proposed habitable building and should be maintained to achieve low threat in accordance with Section 2.2.3.2 of AS 3959. This area should be designed and maintained to satisfy Element 2, Schedule 1 of Appendix Four of the Guidelines (WAPC and DFES 2017), as shown in **Appendix C**. The management of the APZ within each of the proposed lots will be the responsibility of the respective landowner.

The APZ should be the minimum width necessary to achieve BAL-29 based on the classified vegetation and effective slope within 100 m of the habitable building. The BAL assessment results (**Section 3.1.2** and **Figure 4**) will inform the APZ.

## Bushfire Management Plan

Millbrook Farm Structure Plan, Millbrook Road Yallingup



### 5.1.2.2 Surrounding the site

#### **Within existing private landholdings**

Where indicated as a low threat in **Figure 2**, private landholdings surrounding the site will be managed by the applicable landowners in accordance with the City of Busselton Firebreak and Fuel Hazard Reduction Notice (as published) and/or in accordance with existing maintenance regimes.

#### **Existing road reserves**

The existing public road reserves surrounding the site will continue to be maintained by the relevant management authority (i.e. the City of Busselton) in accordance with existing management practices. It is expected that trafficable surfaces will be maintained free of vegetation (as per current practices).

### 5.1.3 City of Busselton Firebreak and Fuel Hazard Reduction Notice

As outlined previously, the City of Busselton releases a Firebreak and Fuel Hazard Reduction Notice annually (or as required) to provide a framework for bushfire management. The City of Busselton is able to enforce this order in accordance with Section 33 of the *Bush Fires Act 1954* and landowners will need to ensure compliance with this notice as published or in accordance with directions provided by the City of Busselton. This is likely to include (but is not limited to):

- Maintenance of appropriate APZ around buildings and fixed assets within a landholding and can be based on the requirements of an approved bushfire management plan.
- Maintenance of parkland cleared areas to a low threat standard (i.e. grass less than 10 cm in height, dead material regularly removed)
- Particular standards for fire breaks, driveways and access ways, including the location of the firebreak, horizontal and vertical clearances and trafficable surface standards.

The City of Busselton firebreak notice should be referred to for further detail.

### 5.1.4 Vulnerable or high-risk land uses

Policy measure 6.6 of SPP 3.7 requires any proposal relating to a vulnerable or high-risk land use subject to a BAL rating of BAL 12.5 or higher to address the applicable policy provisions, and at structure planning, this generally means ensuring that provision has been made for emergency evacuation. It is possible that tourism land uses permitted within the southern portion of the site could be considered 'vulnerable' as defined by the Guidelines.

The proposed development is able to accommodate vulnerable land uses and the potential future evacuation requirements given:

- Suitable separation to minimise bushfire risk can be provided within the site, with a majority of habitable buildings likely to achieve a BAL rating of BAL-29 or less. Habitable buildings (associated with the existing historic buildings) unable to achieve BAL-29 or less will be considered in the context of *Position Statement: Tourism land uses within bushfire prone areas* (WAPC 2019a), with a detailed risk assessment to be completed to support future proposed tourism land uses.

## Bushfire Management Plan

Millbrook Farm Structure Plan, Millbrook Road Yallingup



- The proposed development will have appropriate direct access to Millbrook Road/Gunyulgup Valley Drive (as well as Dress circle/Nukklgup Loop via an existing fire services access route (also described as an 'emergency access way' in the structure plan), that will be partially realigned based on a revised development layout), providing for vehicle access that is available and safe during a bushfire with access to Wildwood Road/Caves Road and Bussell Highway.
- Suitable vehicle access, including turn-around areas, can be provided within the site allowing for safe fire-fighting and vehicle passing.
- The site will be subject to a high level of management based on the existing landscape values (which includes mature cultivated gardens, manicured lawn areas and removal of dead material) and would be maintained as part of any proposed future tourism land use.

All land uses classed as vulnerable and located in areas subject to a BAL rating greater than BAL-12.5 must address policy measure 6.6 at the development application stage, including an emergency evacuation plan. Furthermore, *Position Statement: Tourism land uses within bushfire prone areas* (WAPC 2019) will also need to be addressed.

### 5.1.5 Public education and preparedness

Community bushfire safety is a shared responsibility between individuals, the community, government and fire agencies. DFES has an extensive Community Bushfire Education Program including a range of publications, a website and Bushfire Ready Groups. The DFES publication '*Prepare. Act. Survive.*' (DFES 2014) provides advice on preparing for and surviving the bushfire season. Other downloadable brochures are available from <http://www.dfes.wa.gov.au/safetyinformation/fire/bushfire/pages/publications.aspx>

The City of Busselton provides bushfire safety advice to residents/visitors available from their website <https://www.busselton.wa.gov.au/Environment-Waste/Fire-Emergency-Information>. Professional, qualified consultants also offer bushfire safety advice and relevant services to residents and businesses in high risk areas in addition that that provided in this BMP.

In the case of a bushfire in the area, advice would be provided to residents by the City of Busselton, DFES and/or Department of Biodiversity Conservation and Attractions (DBCA) on any specific recommendations with regard to responding to the bushfire, including evacuation if required. It is highly recommended that future residents make themselves aware of their responsibilities with regard to preparing for and responding to a potential bushfire that may impact them, their family and property regardless of the BAL rating applicable to their dwelling.

## 6 Responsibilities for Implementation and Management of Bushfire Measures

**Table 5** outlines the future responsibilities of the proponent (developer), landowner and the City of Busselton associated with implementing this BMP with reference to ongoing bushfire risk mitigation measures for existing land uses (through compliance with the City of Busselton Firebreak and Fuel Hazard Reduction Notice) or future mitigation measures to be accommodated as part of the development process. These responsibilities will need to be considered as part of the subsequent development and implementation process.

*Table 5: Responsibilities for the implementation of this BMP*

Management action	Timing
<b>Proponent</b>	
Provide a copy of this BMP to the relevant decision-makers to support approval of the proposed structure plan amendment.	To support the structure plan approval process.
If the development layout changes significantly compared to that assessed as part of this BMP, prepare a new/revised BMP in accordance with SPP 3.7, the Guidelines and AS 3959 to support future subdivision applications, based on the proposed detailed layout and in consideration of existing bushfire hazards or those that will be present following development. If the development layout does not change, this BMP can be used to support a future subdivision application.	To support each future subdivision application.
Where required, and based on the outcomes this BMP or subsequent BMP/s, make spatial provision within the subdivision layout/design to accommodate: <ul style="list-style-type: none"> <li>• For the cul-de-sac roads, ensure it is less than 200 m in length and meets the requirements outlined in Appendix Four of the Guidelines (if applying an acceptable solution), or as agreed with the City of Busselton.</li> <li>• For private driveways longer than 50 m, ensure these meet the requirements outlined in Appendix Four of the Guidelines (if applying an acceptable solution), or as agreed with the City of Busselton.</li> <li>• Ensure new habitable buildings are located outside the building exclusion area (shown in <b>Figure 5</b>) so that BAL-29 or less applies. Separation distances should be in accordance with the minimum distances outlined in <b>Table 3</b> of this BMP for the corresponding vegetation plot/classification, or as determined in subsequent BMPs/BAL assessments.</li> </ul>	To support each future subdivision application.
Ensure provision is made for the permanent water supply for fire-fighting purposes, which may require upgrade to the existing standpipe and/or provision of a standalone 50,000 L in the public reserve (i.e. on land ceded to the City of Busselton). The specific form and/or location of the fire-fighting water supply should be confirmed with the City of Busselton.	To support each future subdivision application.
Ensure provision is made for the fire service access route (i.e. the 'realigned emergency access way', shown in <b>Figure 5</b> ) to connect the cul-de-sac road to existing fire service access route and Dress Circle. This road should be provided as an 'easement in gross' or 'right-of-carriageway' easement to the benefit of the City of Busselton, as per Appendix Four of the Guidelines.	To support the creation of lot titles.
Where no new BMP is prepared, certify BAL ratings for all lots designated as bushfire prone at the time titles are created, based on the BAL Contour Plan and/or in accordance with a BAL assessment if the site conditions are different. The certified BAL ratings can be submitted by lot owners to the City of Busselton to support future building licences.	To support the creation of lot titles.
Comply with the City of Busselton fire control order as required.	At all times, where applicable.



**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



Table 5: Responsibilities for the implementation of this BMP (continued)

Management action	Timing
<b>Developer/property owner/occupier (at development application)</b>	
At the development application stage of assessment, for tourism land uses, undertake a detailed risk assessment in accordance with <i>Position Statement: Tourism land uses within bushfire prone areas</i> (WAPC 2019) to determine management measures necessary to support tourism land uses in consideration of the important heritage, environmental and landscape amenity values.	To support future development application.
<b>Property owner/occupier (where no new BMP is prepared)</b>	
Ensuring construction of new dwelling/s complies with AS 3959, as per the applicable BAL rating, determined as part of this BMP (outlined within <b>Section 3</b> of this BMP) or through a separate BAL assessment. The BAL rating for a new dwelling should not exceed BAL-29.	As part of building design and construction
If dwellings are subject to additional construction in the future, such as renovations, compliance with AS 3959 is required (i.e. where located within a designated bushfire prone area and identified to have a BAL rating greater than BAL-LOW).	As part of building design and construction
Within the site, an APZ will need to be maintained around existing and proposed habitable building, and should be maintained to achieve low threat in accordance with Section 2.2.3.2 of AS 3959. This area should be designed and maintained to satisfy Element 2, Schedule 1 of Appendix Four of the Guidelines (WAPC and DFES 2017), as shown in <b>Appendix C</b> . The APZ should be the minimum width necessary to achieve BAL-29 based on the classified vegetation and effective slope within 100 m of the habitable building. The BAL assessment results (and/or future risk assessment for tourism land uses) ( <b>Section 3.1.2</b> and <b>Figure 4</b> ) will inform the APZ width.	As part of building design and construction and ongoing
Maintain the private driveways so that this is in a suitable condition and available to two-wheel drive and emergency vehicles at all times.	Ongoing, where required
Ensuring that their property complies with the City of Busselton Firebreak and Fuel Hazard Reduction Notice/s as published and/or in accordance with directions given by the local government. This includes maintaining the entire lot to a low threat standard.	Ongoing, where applicable
<b>City of Busselton</b>	
Ensuring community fire-fighting water resources under the City's control is available at all times.	Ongoing, as required
Maintaining public road reserves under their management to appropriate standards, where required/applicable.	Ongoing, as required
Monitoring vegetation fuel loads in public reserves (and private landholdings) and liaising with relevant stakeholders to maintain fuel loads at appropriate fuel levels, where required/applicable.	Ongoing, as required
Monitoring compliance with the City of Busselton Firebreak and Fuel Hazard Reduction Notice and enforcing requirements as required.	Ongoing, as required

## 7 Applicant Declaration

### 7.1 Accreditation

This BMP has been prepared by Emerge Associates who have been providing bushfire risk management advice for more than six years, undertaking detailed bushfire assessments (and associated approvals) to support the land use development industry.

Anthony Rowe is a Fire Protection Association of Australia (FPAA) Level 3 Bushfire Planning and Design (BPAD) accredited practitioner (BPAD no. 36690) with over nine years' experience and is supported by a number of team members who have undertaken BPAD Level 1 and Level 2 training and are in the processing of gaining formal accreditation.

### 7.2 Declaration

I declare that the information provided is true and correct to the best of my knowledge.

Signature:



**Name:** Anthony Rowe

**Company:** Emerge Associates

**Date:** 21/05/2020

**BPAD Accreditation:** Level 3 BPAD no. 36690

Signature:



**Name:** Kirsten Knox

**Company:** Emerge Associates

**Date:** 21/05/2020

## 8 References

### 8.1 General references

Department of Fire and Emergency Services (DFES) 2014, *Prepare. Act. Survive.*, Perth. August 2014.

Koltasz Smith 2005, *Lots 1 and 114 Millbrook Road, Yallingup Development Guide Plan*

Standards Australia 2018, *AS 3959-2018 Construction of buildings in bushfire-prone areas*, Sydney.

Western Australian Planning Commission (WAPC) 2015, *State Planning Policy 3.7 Planning in Bushfire Prone Areas*, Perth.

Western Australian Planning Commission (WAPC) 2019a, *Position Statement: Tourism land uses in bushfire prone areas October 2019*, Western Australian Planning Commission, Perth.

Western Australian Planning Commission (WAPC) 2019b, *Position Statement: Planning in bushfire prone areas - Demonstrating Elements 1: Location and Element 2: Siting and design November 2019*, Western Australian Planning Commission, Perth.

Western Australian Planning Commission and Department of Fire and Emergency Services (WAPC and DFES) 2017, *Guidelines for Planning in Bushfire Prone Areas Version 1.3*, Western Australia. December 2017.

### 8.2 Online references

Landgate 2019, *Map Viewer*, viewed October 2019, <https://www0.landgate.wa.gov.au/maps-and-imagery/interactive-maps/map-viewer>

Office of Bushfire Risk Management (OBRM) 2019, *Map of Bush Fire Prone Areas*, viewed September 2019, <https://maps.slip.wa.gov.au/landgate/bushfireprone/>

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**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



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## Figures



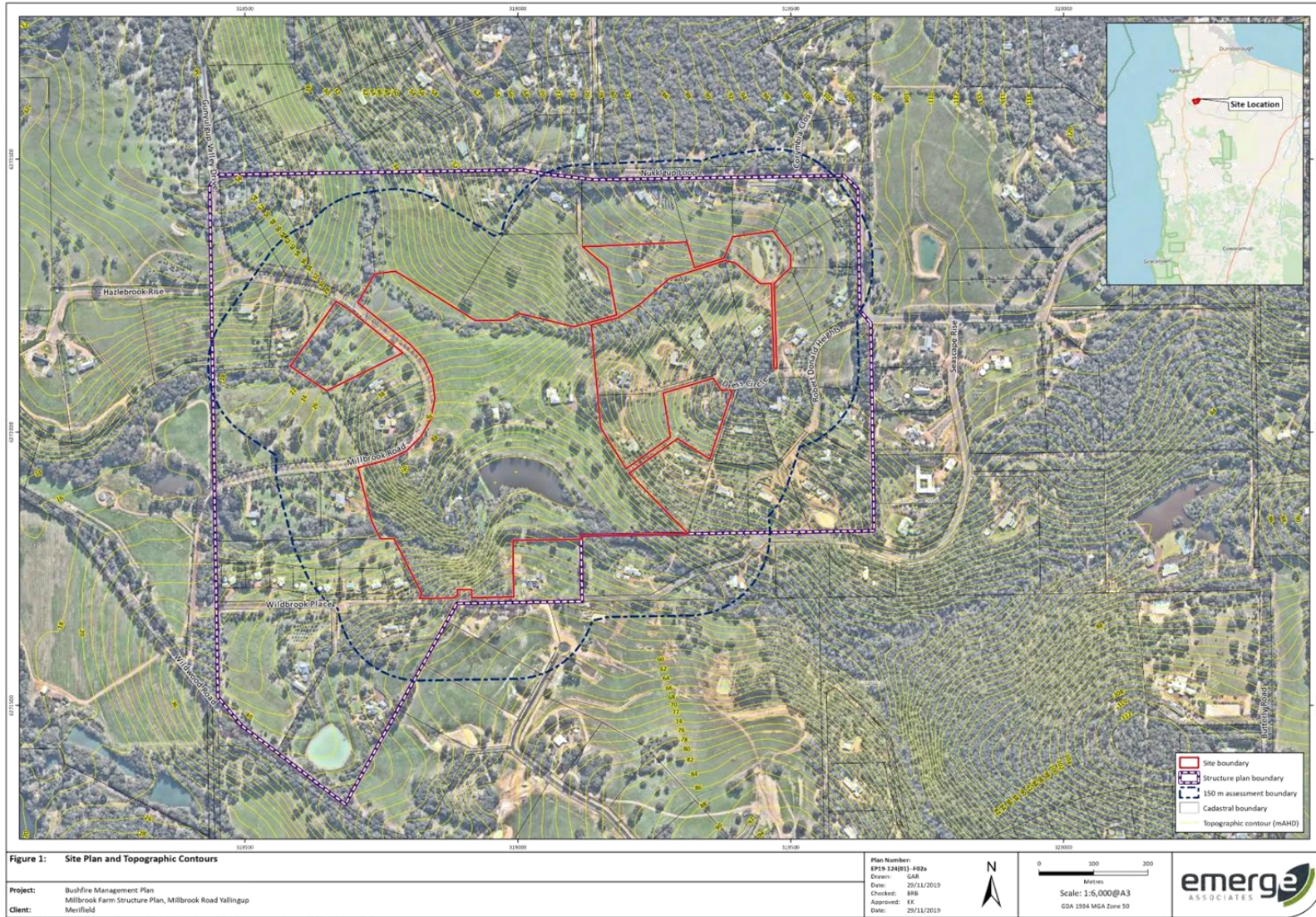
*Figure 1: Site Plan and Topographic Contours*

*Figure 2: Existing Site Conditions – AS 3959 Vegetation Classifications*

*Figure 3: Post Development Conditions – Effective Slope*

*Figure 4: Bushfire Attack Level Contours*

*Figure 5: Spatial Representation of Bushfire Management Strategies*



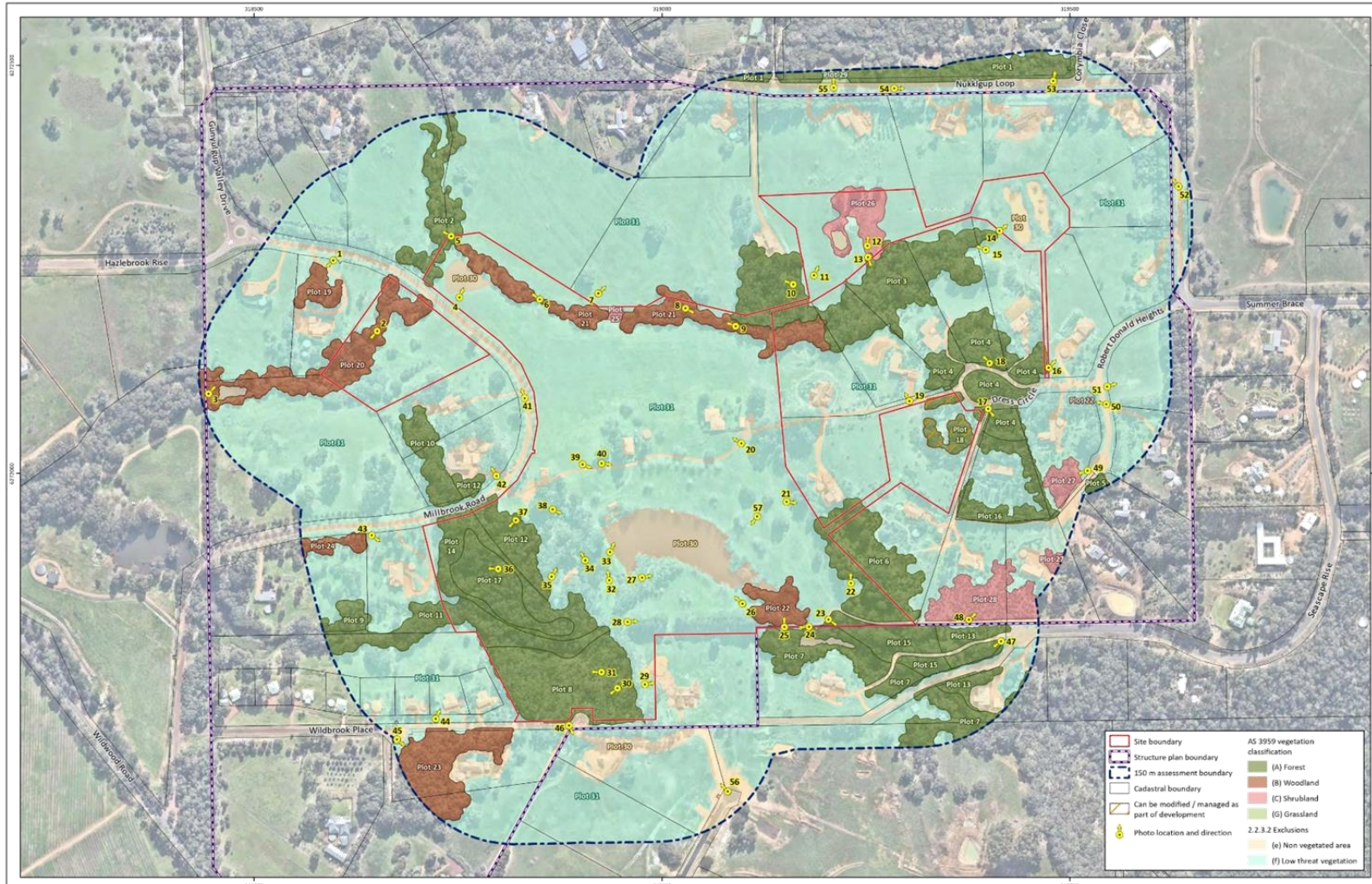
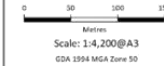


Figure 2: Existing Site Conditions – AS 3959 Vegetation Classifications

**Project:** Bushfire Management Plan  
Millbrook Farm Structure Plan, Millbrook Road Yallingup  
**Client:** Merifield

Plan Number:  
EP19-124(01) 403a  
Drawn: GMB  
Date: 29/11/2019  
Checked: RB  
Approved: KE  
Date: 29/11/2019



While Emmerge Associates makes every attempt to ensure the accuracy and completeness of data, Emmerge accepts no responsibility for externally sourced data used.

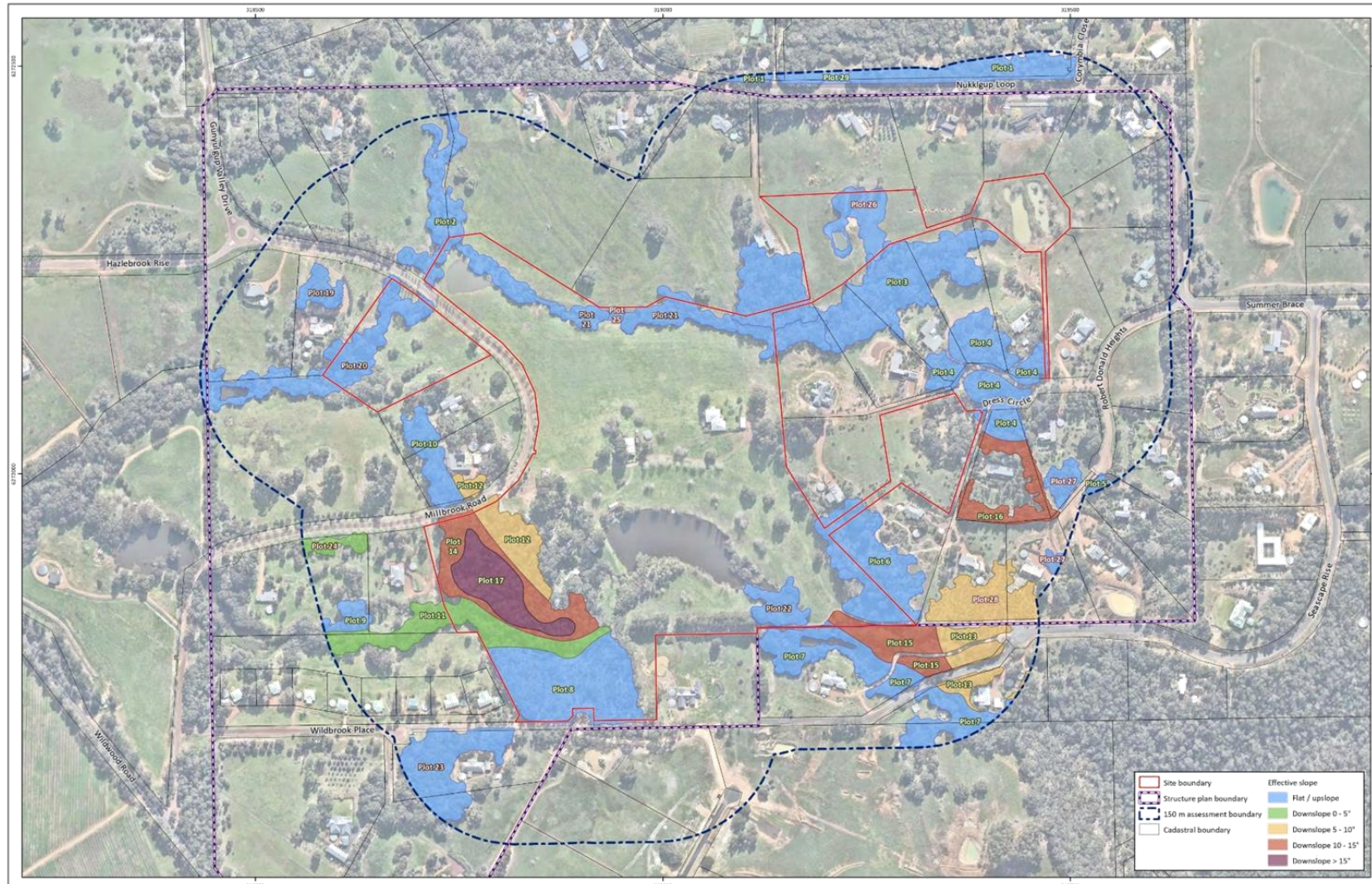
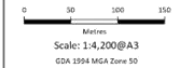


Figure 3: Existing Site Conditions – Effective Slope

**Project:** Bushfire Management Plan  
Millbrook Farm Structure Plan, Millbrook Road Yallingup  
**Client:** Merifield

Plan Number:  
EP19-124(01) #046  
Drawn: GAB  
Date: 29/11/2019  
Checked: BJB  
Approved: EK  
Date: 29/11/2019



**emerge**  
ASSOCIATES  
Scale: 1:4,200@A3  
GDA 1994 MGA Zone 50

While Emmerge Associates makes every attempt to ensure the accuracy and completeness of data, Emmerge accepts no responsibility for externally sourced data used.



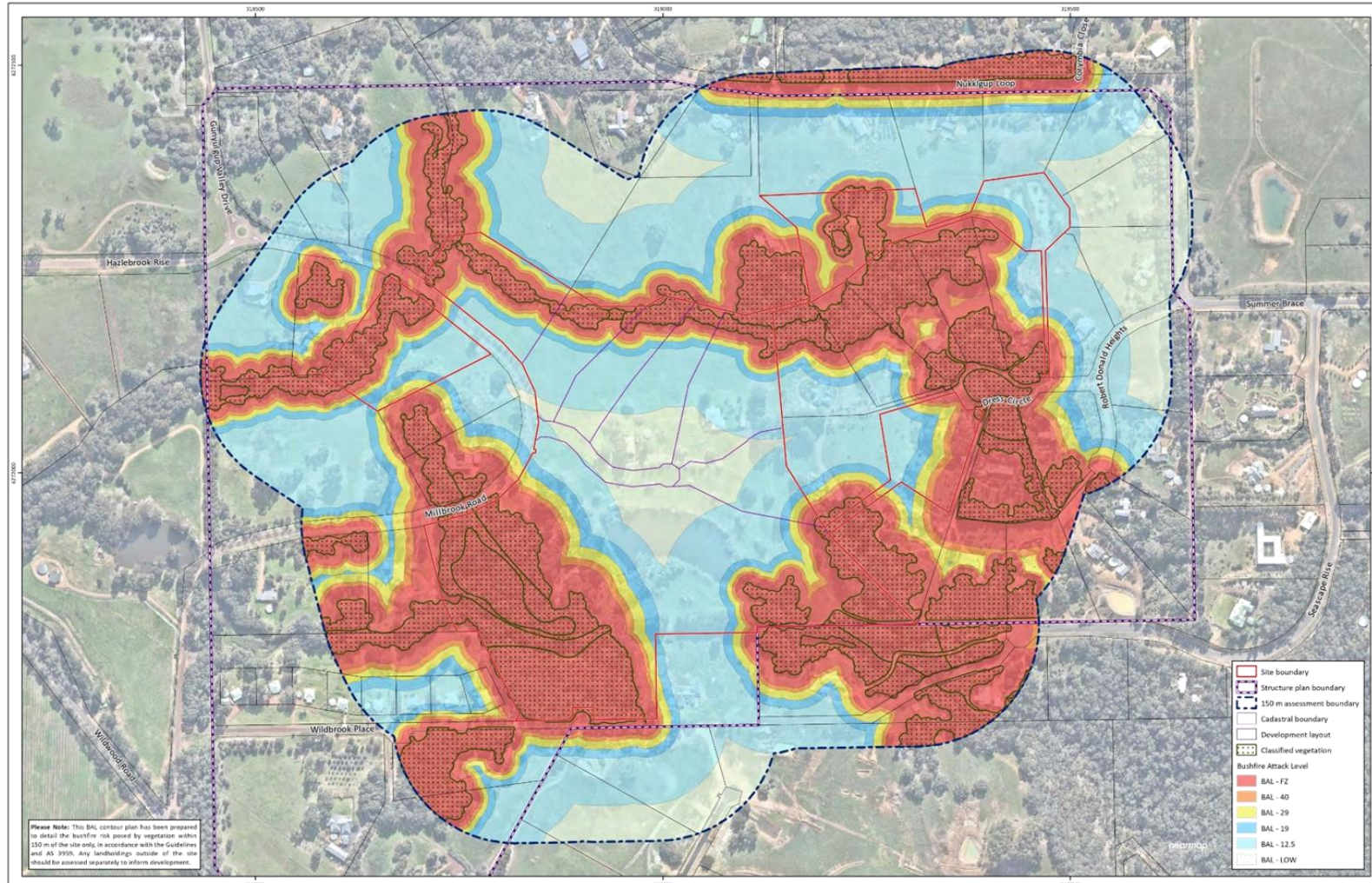
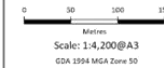


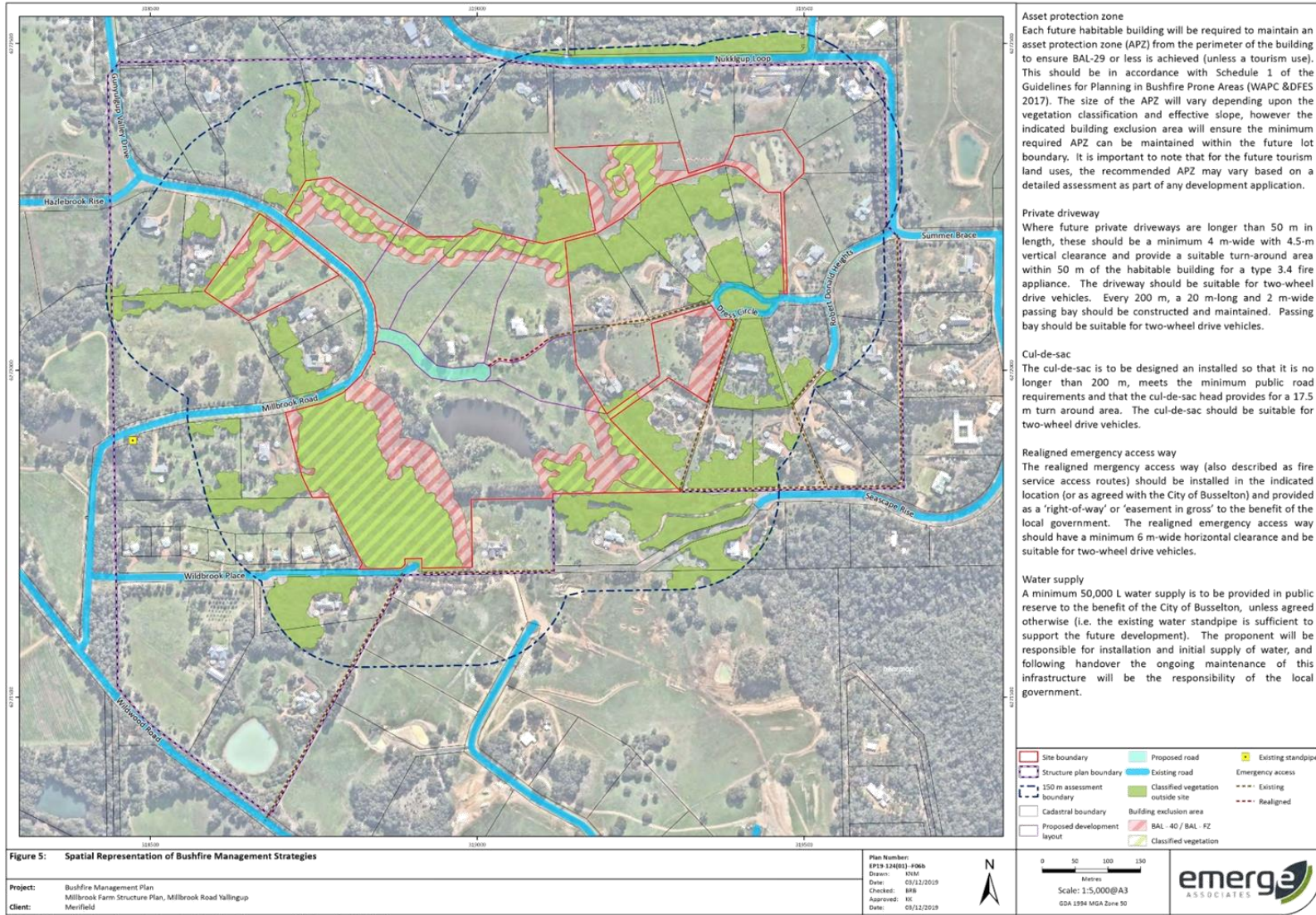
Figure 4: Bushfire Attack Level Contours

**Project:** Bushfire Management Plan  
Millbrook Farm Structure Plan, Millbrook Road Valligup  
**Client:** Merifield

**Plan Number:** EP19-124(01) #05a  
**Drawn:** GAB  
**Date:** 29/11/2019  
**Checked:** BBS  
**Approved:** EK  
**Date:** 29/11/2019



While Emmerge Associates makes every attempt to ensure the accuracy and completeness of data, Emmerge accepts no responsibility for externally sourced data used.

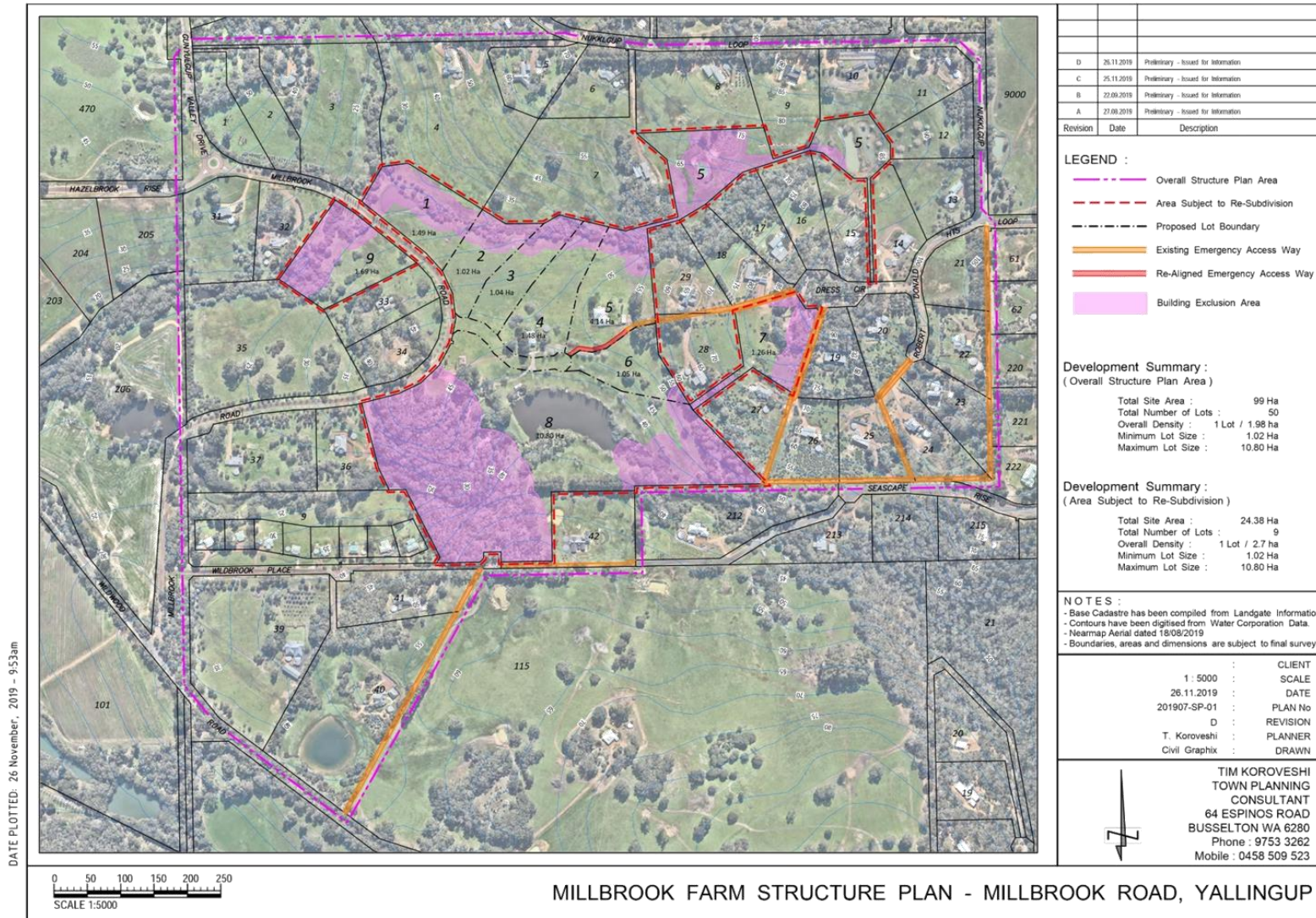


While Emerge Associates makes every attempt to ensure the accuracy and completeness of data, Emerge accepts no responsibility for externally sourced data used.

# Appendix A

Amended Structure Plan (Koroveshi Town Planning 2019)





## Appendix B

Additional photographs



**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



Table B1: Additional photo points organised by plot, as shown within Figure 2

**Plot 1 to 18**

**AS 3959 classification (Figure 2): Forest (Class A)**



Photo location 10: Remnant native vegetation within landholdings to the north, identified as forest



Photo location 13: Areas of remnant vegetation and revegetated areas, in the eastern portion of the site, identified as forest



Photo location 15: vegetation along drainage line, identified as low forest vegetation.



Photo location 18: Remnant native vegetation within landholdings to the east, identified as forest



Photo location 23: remnant native vegetation (low and upper storey) along a waterway, identified as low forest vegetation.



Photo location 30: Remnant native vegetation within the southern portion of the site, identified as forest

**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



Table B1: Additional photo points organised by plot, as shown within Figure 2 (continued)

**Plot 1 to 18**

**AS 3959 classification (Figure 2): Forest (Class A) (continued)**



Photo location 31: Remnant native vegetation on bank of waterway within the southern portion of the site, identified as forest



Photo location 37: Remnant native vegetation within the western portion of the site, identified as forest



Photo location 47: remnant and/or planted vegetation (mid and upper storey), identified as low forest vegetation.



Photo location 53: mix of remnant native vegetation and planted trees to the north of the site, identified as forest.

**Plot 19, 20, 21, 22, 23 and 24**

**AS 3959 classification (Figure 2): Woodland (Class B)**



Photo location 1: Trees over unmanaged grasses to the west of the site, identified as woodland



Photo location 3: Trees (predominantly *Agonis flexuosa*) over unmanaged grasses associated with a waterway, identified as woodland

**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



Table B1: Additional photo points organised by plot, as shown within Figure 2 (continued)

**Plot 19, 20, 21, 22, 23 and 24**

**AS 3959 classification (Figure 2): Woodland (Class B) (continued)**



Photo location 6: Trees (predominantly *Agonis flexuosa*) over unmanaged grasses associated with a waterway, identified as woodland



Photo location 9: Trees (predominantly *Agonis flexuosa*) over unmanaged grasses associated with a waterway, identified as woodland

**Plot 30**

**AS 3959 classification (Figure 2): Non-vegetated (e)**



Photo location 14: dam within the western portion of the site, identified as non-vegetated.



Photo location 24: existing fire services access route/emergency access way within the southern portion of the site.



Photo location 52: public road (Nukklgup Loop) to the east of the site.



Photo location 54: public road (Nukklgup Loop) to the north of the site.



**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



Table B1: Additional photo points organised by plot, as shown within Figure 2 (continued)

Plot 30	
AS 3959 classification (Figure 2): Non-vegetated (e) (continued)	
	
<i>Photo location 56: driveway and fire services access route/emergency access way to the south of the site.</i>	
Plot 31	
AS 3959 classification (Figure 2): Low threat vegetation (f)	
	
<i>Photo location 11: managed grass within the site, in accordance with rural residential zoning.</i>	<i>Photo location 16: managed gardens and grass associated with residence to the east.</i>
	
<i>Photo location 19: managed gardens and grass associated with residence adjacent to the site.</i>	<i>Photo location 21: managed gardens and grass associated with existing residence within the site.</i>

**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



Table B1: Additional photo points organised by plot, as shown within Figure 2 (continued)

**Plot 31**

**AS 3959 classification (Figure 2): Low threat vegetation (continued)**



Photo location 21: managed gardens and grass associated with residence to the east.



Photo location 27: areas of managed grass under trees within the southern portion of the site



Photo location 28: windbreak planting along southern boundary of the site



Photo location 32: managed grass/grounds associated with existing heritage buildings



Photo location 34: managed grass/grounds associated with existing heritage buildings



Photo location 38: managed grass/grounds associated with existing heritage buildings

**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



Table B1: Additional photo points organised by plot, as shown within Figure 2 (continued)

**Plot 31**

**AS 3959 classification (Figure 2): Low threat vegetation (continued)**



Photo location 39: managed grass/grounds associated with existing heritage buildings



Photo location 40: managed grass/grounds associated with existing heritage buildings



Photo location 42: managed grass/gardens and driveway associated with residence to the west



Photo location 43: managed grass/grounds associated with residence to the west



Photo location 44: managed grass/gardens and driveway associated with residence to the south



Photo location 50: areas of managed grass under trees within the residence to the east of the site

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**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



Table B1: Additional photo points organised by plot, as shown within Figure 2 (continued)

**Plot 31**

**AS 3959 classification (Figure 2):** Low threat vegetation (continued)



*Photo location 51: managed grass within rural residential lot to the east of the site*

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**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



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# Appendix C

Asset Protection Zone Standards



## Bushfire Management Plan

Millbrook Farm Structure Plan, Millbrook Road Yallingup

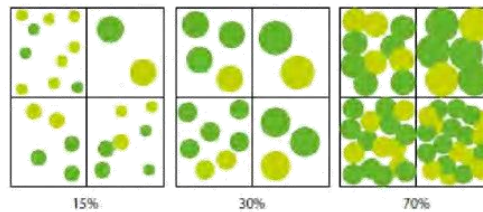


### ELEMENT 2: SITING AND DESIGN OF DEVELOPMENT

#### SCHEDULE 1: STANDARDS FOR ASSET PROTECTION ZONES

- **Fences:** within the APZ are constructed from non-combustible materials (e.g. iron, brick, limestone, metal post and wire). It is recommended that solid or slatted non-combustible perimeter fences are used.
- **Objects:** within 10 metres of a building, combustible objects must not be located close to the vulnerable parts of the building i.e. windows and doors.
- **Fine Fuel load:** combustible dead vegetation matter less than 6 millimetres in thickness reduced to and maintained at an average of two tonnes per hectare.
- **Trees (> 5 metres in height):** trunks at maturity should be a minimum distance of 6 metres from all elevations of the building, branches at maturity should not touch or overhang the building, lower branches should be removed to a height of 2 metres above the ground and/or surface vegetation, canopy cover should be less than 15% with tree canopies at maturity well spread to at least 5 metres apart as to not form a continuous canopy.

Figure 18: Tree canopy cover – ranging from 15 to 70 per cent at maturity



- **Shrubs (0.5 metres to 5 metres in height):** should not be located under trees or within 3 metres of buildings, should not be planted in clumps greater than 5m<sup>2</sup> in area, clumps of shrubs should be separated from each other and any exposed window or door by at least 10 metres. Shrubs greater than 5 metres in height are to be treated as trees.
- **Ground covers (<0.5 metres in height):** can be planted under trees but must be properly maintained to remove dead plant material and any parts within 2 metres of a structure, but 3 metres from windows or doors if greater than 100 millimetres in height. Ground covers greater than 0.5 metres in height are to be treated as shrubs.
- **Grass:** should be managed to maintain a height of 100 millimetres or less.

Plate C 1 Excerpt from 'Schedule 1: Standards for Asset Protection Zones' as outlined within Appendix Four of the Guidelines (WAPC and DFES 2017)

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**Bushfire Management Plan**  
Millbrook Farm Structure Plan, Millbrook Road Yallingup



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**APPENDIX FOUR – HERITAGE ASSESSMENT (Prepared By  
Judith Murray Cultural Heritage & History)**

## Judith Murray Cultural Heritage + History

Heritage Consultant

Professional Historians Association member

Judith Murray Cultural Heritage + History supports Australia ICOMOS through Institutional membership

Building Assessments, Conservation Management Plans and Historical Research

PO Box 454 Busselton WA 6280 ABN 34 225 710 792  
Phone 0400073114 Email: [lockeville@westnet.com.au](mailto:lockeville@westnet.com.au)

30 July 2019

### Reference to Proposed Structure Plan/Subdivision of Millbrook Farm/Millbrook Water Mill in Millbrook Road, Yallingup

I have been requested by Tim Korovesi, Town Planning Consultant, 64 Espinos Road, Busselton WA 6280 to refer to the above Proposed Structure Plan/Subdivision for 9 lots; and to report on any heritage issues that may be impacted by the Proposed Structure Plan/Subdivision over the site. A recent telephone discussion with Adelyn Siuw, Director of Heritage Development at the Heritage Council of WA, served to clarify the requirements deemed necessary to move this project forward.

*Millbrook Farm* was placed as a Permanent Entry on the Register of Heritage Places on 23 April 1999. The Memorial H231729 dated 23 September 1999, was lodged by the Heritage Council of WA on 3 September 1999 (reference No. 0429) and this refers to Register of Heritage Places Permanent Data Base No. 0429 over *Millbrook Farm*, Millbrook Road, Yallingup dated 23 April 1999.

As well, the place was Classified by The National Trust of Australia (WA) in 1984 and *Millbrook Farm* and *Millbrook Water Mill* were both included in the [then] Shire of Busselton Heritage Municipal Inventory as Category 1, which was formally adopted by Council on 20 June 1996. Since that time, the City of Busselton has added both *Millbrook Farm* and *Millbrook Water Mill* to their Heritage List dated 2014. It was placed as a Permanent Entry on the Register of the National Estate on 18 April 1989.

Millbrook Farm Conservation Plan (July 2002); Register of Heritage Places - Assessment Documentation (1999); and City of Busselton MHI (2013) documentation informs the history of *Millbrook Farm*, which follows the construction of a timber mill by carpenter Robert Donald in the early 1920s and the extensive development of his property in Millbrook Road in Yallingup. Along with son Jack Donald, he constructed a Water Wheel in 1922 to power the Sawmill machinery.

Robert Donald was responsible, along with partner and brother-in-law, Chris Hough, for the construction of the first Caves House in Yallingup in 1903, using timber hauled from a mill in Busselton. Later in 1938-9, Robert constructed the second Caves House Hotel with

[Heritage Report on Proposed Structure Plan/Subdivision of Millbrook Farm/Millbrook Watermill in Millbrook Road Yallingup](#)

son Jack (after the first one was destroyed by fire) and using timber milled at *Millbrook Farm*. Robert also constructed a number of buildings in Busselton, including the Vasse Hotel, Busselton Hotel, Busselton Council Chambers and a section of the Busselton Jetty. A succinct chronology has been attached as a reference to the history of the place.

The proposal to subdivide the heritage components onto three individual lots - each with an independent curtilage area, does not appear to adversely affect the heritage features or heritage values of the property. There are three distinct groups of buildings, which form several interesting cultural environments: the water driven saw mill, barn, the new stables, blacksmiths, old Donald house and bandstand: and the distinctly different Seymour buildings (all on Lot 8); as well as the two Donald residences, which consist of (fmr) home of Jack Donald (Lot 4) and the original home of Robert Donald (Lot 5). The historic structures are to remain in-situ and will continue to be connected by their close proximity and as a result exhibit as a large and significant heritage precinct.

A number of covenants are extant, and several exist over the Lots 4, 5 and 8 on the Proposed Structure Plan/Subdivision of *Millbrook Farm*. These existing covenants preclude fencing and the planting of vegetation within the subject area. In general, they are appropriate to the Subdivision Proposal and will continue within the new Structure Plan, remaining unchanged to prevent the subsequent construction of fencing and to specify no tree planting on the proposed new lots.

The existence of the covenants is an important component of the Structure Plan as it allows there to remain a visual link between each of the two houses on Lots 4 and 5 and the other buildings on Lot 8, reinforcing the original intent of the builder and promoting the site as a heritage precinct.

A road off Millbrook Road that borders Lots 4, 5 and 8 will be widened and terminate in a cul-de-sac. As well an extant fire easement crossing Lot 5 will be adjusted to border Lots 5 and 7. The demographics of these changes do not impact on material height variations and therefore do not affect the visible connection between the lots.

The *Millbrook Farm* site has significant potential for adaptive re-use as a tourist destination. Re-purposing a number of the buildings, in particular the three Seymour Cottages that were relocated to the site from Dunsborough in 1982 and the old Donald house would be appropriate. These buildings were reconstructed on site using early building techniques and original fabric (where possible) to present the original design models. Re-purposing these cottages for other uses, would serve to allow public access to the site. This would also assist in providing some financial support for the owners and benefit the long-term conservation of the structures by supporting the notion that buildings (and in particular timber buildings) deteriorate if they remain empty over long periods. There remains the potential to develop further accommodation in the area outside the curtilage area of Lot 8, as a means to supplement the tourist potential and to allow public access to one of our major heritage sites in the Yallingup area.

The property has landscape qualities and appears to be in good condition. It has been well maintained over a period of more than 40 years, with major conservation works

[Heritage Report on Proposed Structure Plan/Subdivision of Millbrook Farm/Millbrook Watermill in Millbrook Road Yallingup](#)

undertaken at the site by the owners, and continued maintenance of the property as deemed necessary. Kevin Merifield took on a scholarship role from 1976 when the property was transferred to Willyabrup Holdings and later as the owner. He was committed to restore/conservate the building fabric of *Millbrook Farm* and the larger environment and should be commended for his efforts. Support for his application for subdivision, would provide a good heritage outcome for the site.



1. **DATA BASE No.** 0429
2. **NAME** *Millbrook Farm* (1920s, 1978, 1980)
3. **LOCATION** Millbrook Road, Yallingup
4. **DESCRIPTION OF PLACE INCLUDED IN THIS ENTRY**  
Those parts of Sussex Locations 461 and 474, being part of the land comprised in Certificates of Title Volume 1037 Folio 996 and Volume 1502 Folio 518 as together are defined in Heritage Council of Western Australia survey drawing No. 0429 prepared by Steffanoni Ewing and Cruickshank Pty. Ltd.
5. **LOCAL GOVERNMENT AREA** Shire of Busselton
6. **OWNER** Kevin Dale Merifield.
7. **HERITAGE LISTINGS**
  - Register of Heritage Places: Interim Entry 08/01/1999  
Permanent Entry 23/04/1999
  - National Trust Classification: Classified 05/06/1984
  - Town Planning Scheme: Adopted 1983
  - Municipal Inventory: Adopted 20/06/1996
  - Register of the National Estate: Permanent 18/04/1989
8. **CONSERVATION ORDER**  
-----
9. **HERITAGE AGREEMENT**  
-----
10. **STATEMENT OF SIGNIFICANCE**  
*Millbrook Farm*, comprising timber and wattle and daub barn (1924), dairy (1930s), Robert Donald's House (1929) and Jack Donald's House (1927) in the vernacular style, as well as a water wheel, mill race and dam wall (1922), saw pit (c. 1922) and lime kiln (c. 1920s), is considered to have cultural heritage significance for the following reasons:
  - the use of a water wheel to drive a saw mill is unique in Western Australia;

the complex to displays a rich and diverse range of activities that date from the 1920s. These include timber milling, lime burning and farming;

the complex has historical and social links with the development of Yallingup as a tourist destination;

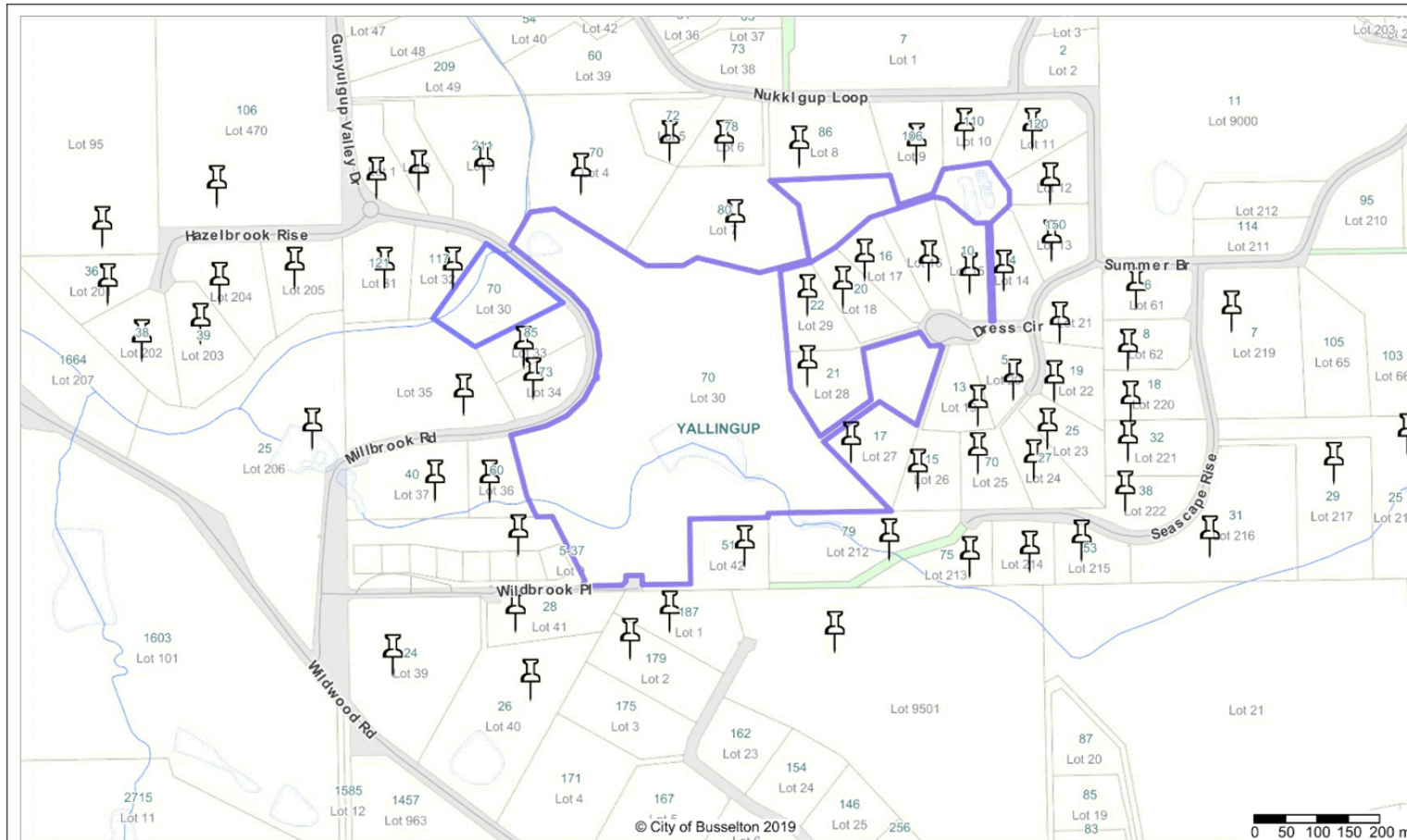
the place forms a cultural environment that is enhanced by its setting near a creek and the surrounding cleared pasture;



the place is closely associated with Robert Donald who constructed numerous buildings in the Busselton and Yallingup areas, including the first Caves House and the second Caves House;

the place has historical importance due to the construction methods used by Robert and Jack Donald in the construction of the water wheel; and,

the place has a strong potential to contain important archaeological deposits.

The buildings constructed during the 1970s and 1980s are considered to have low significance. They include the stables, blacksmithy, reconstructed Donald house, bandstand, toilets, workshop and gift shop.



	<p>Disclaimer: Every effort has been made to make the information displayed here as accurate as possible. This process is ongoing and the information is therefore ever changing and cannot be disseminated as accurate. Care must be taken not to use this information as correct or legally binding. To verify information contact the City of Busselton office.</p>		6/04/2020	
			1:8196 @ A4L	

**14. ENGINEERING AND WORK SERVICES REPORT**

Nil



## 15. COMMUNITY AND COMMERCIAL SERVICES REPORT

### 15.1 COMMUNITY SPORT AND RECREATION FACILITIES FUND - SMALL GRANTS ROUND APPLICATIONS JULY 2020

<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>	CSRFF JULY 2020 ROUND
<b>BUSINESS UNIT</b>	Community and Commercial Development
<b>REPORTING OFFICER</b>	Senior Sport and Recreation Project Officer - Brendan McNally
<b>AUTHORISING OFFICER</b>	Director, Community and Commercial Services - Naomi Searle
<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 Site Plan - Sir Stewart Bovell Sports Park   Attachment B Site Plan - Busselton Horse and Pony Club Inc.  

### OFFICER RECOMMENDATION

That the Council endorses:

1. The priority rankings and ratings of the applications to the Department of Local Government, Sport and Cultural Industries' Community Sport and Recreation Facilities Fund as:
  - a) Ranking 1 of 2, project rating A : City of Busselton, Sir Stewart Bovell Sports Park, sporting talent hub masterplan; and
  - b) Ranking 2 of 2, project rating B: Busselton Horse and Pony Club Inc., upgrade of the all-weather dressage arena on Reserve 32066, 310 Queen Elizabeth Avenue, Ambergate.
2. An application to the Department of Local Government, Sport and Cultural Industries' Community Sport and Recreation Facilities Fund, July 2020, for:
  - a) A \$14,348 contribution towards the of the Sir Stewart Bovell Sports Park sporting talent hub masterplan;
  - b) A \$7,157 contribution towards the Busselton Horse and Pony Club Inc. upgrade dressage arena.
3. The allocation of up to \$10,000 towards the Busselton Horse and Pony Club Inc. application to upgrade the all-weather dressage arena, to be funded from the 2020/21 community assistance program budget.

### **EXECUTIVE SUMMARY**

Each year, local government authorities are required to rate and prioritise the Community Sport and Recreation Facilities Fund (CSRFF) submissions received within their municipality.

The CSRFF 2020/21 July small grant round applications must be submitted by local government authorities to the Department of Local Government, Sport and Cultural Industries (DLGSC) by 14 August 2020. The purpose of this report is to meet the CSRFF criteria, by outlining the submissions received for projects within the City and request that Council rates and ranks the applications prior to forwarding to DLGSC for final consideration.

## BACKGROUND

The CSRFF program is administered by DLGSC and provides financial assistance, one third of the total estimated project cost, to well-planned sport and recreation facility projects that will maintain or increase physical activity or result in a more rational use of facilities.

In 2020/21, the total project value for the small grant round is up to \$300,000 (excluding GST).

In order to assist with the evaluation of submissions to ensure projects are viable and appropriate, DLGSC has developed an assessment criteria. Accordingly, each submission is to be assessed against those criteria and local government authorities are required to rate and prioritise local submissions using the following guide:

RATE	DESCRIPTION
A	Well planned and needed by the municipality
B	Well planned and needed by the applicant
C	Needed by the municipality, more planning required
D	Needed by the applicant, more planning required
E	Idea has merit, more preliminary work needed
F	Not recommended

Applications for the current funding round must be assessed and submitted to the South West Office of DLGSC no later than 14 August 2020.

During September to November 2020 the applications, along with others received throughout the State, will be evaluated and ranked by relevant State Sporting Associations and the CSRFF Assessment Panel. Successful applications are announced following this assessment with funding expected to be available around December 2020.

There are two (2) applications for this round of funding:

1. The City of Busselton - Sir Stewart Bovell Sports Park, sporting talent hub masterplan;
2. Busselton Horse & Pony Club Inc., upgrade of dressage arena at Reserve 32066, 310 Queen Elizabeth Avenue, Ambergate.

## OFFICER COMMENT

### Sir Stewart Bovell Sports Park

Owned in freehold by the City of Busselton, Sir Stewart Bovell Sports Park plays an important role in providing outdoor sporting facilities for the region and district. Home to hockey, Aussie Rules, cricket, football (soccer) and diamond sports the 20ha sports park, together with 4ha of land purchased to the south, forms part of project site to identify opportunities for future developments (Attachment A).

The Sport and Recreation Facilities Strategy 2020-2030 (SRFS) identifies that a masterplan of Sir Stewart Bovell Sports Park is a key priority for the City of Busselton district and broader region. This project will ensure the development of the sports park is well planned, fit for purpose and guide the future staged development of the park to capitalise on the opportunity for a sports talent hub in the region.

This project will assess the opportunities, including the West Coast Eagles Football Club MoU and land available to the south of SSBSP, and will lead to a well-planned, considered and informed approach to future grant applications and new/upgraded infrastructure.

Busselton Horse & Pony Club Inc. (BHPC)

The BHPC propose to upgrade the current dressage arena to enable the club to increase membership and provide sporting infrastructure so more people can participate in horse sports training and events (Attachment B). This project was first proposed as part of the March 2020 Community Bids workshop before the program was paused and refocused to response and recovery initiatives.

Parts of the existing arena have been assessed as unsafe and this is limiting the number of members able to participate at any one time. The upgrades will make the area an all-weather surface, increase the carrying capacity and safety of this equestrian arena and will enable up to 6 riders to participate in any one lesson.

SRFS also notes horse sports and highlights the need to focus on the safety of playing surfaces and increasing the carrying capacity of arenas and trails.

Assessment Summary

As part of the CSRFF process, local governments are required to undertake an internal assessment of projects against CSRFF key principles of facility provision.

Sir Stewart Bovell Sports Park (SSBSP): The following is a summary of the CSRFF criteria assessed for the sporting talent hub masterplan application.

<b>Assessment criteria</b>	<b>Satisfactory</b>	<b>Unsatisfactory</b>	<b>Not relevant</b>
Project justification	✓		
Planned approach	✓		
Community input	✓		
Management planning	✓		
Access and opportunity	✓		
Design			✓
Financial viability	✓		
Co-ordination	✓		
Potential to increase Physical activity	✓		
Sustainability	✓		

Busselton Horse & Pony Club Inc. (BHPC): The following is a summary of the CSRFF criteria assessed for the upgrade of dressage area application.

<b>Assessment criteria</b>	<b>Satisfactory</b>	<b>Unsatisfactory</b>	<b>Not relevant</b>
Project justification	✓		
Planned approach	✓		
Community input	✓		
Management planning	✓		
Access and opportunity	✓		
Design	✓		
Financial viability	✓		
Co-ordination	✓		
Potential to increase Physical activity	✓		
Sustainability	✓		

Recommendation Summary

Ranking 1 of 2: Sir Stewart Bovell Sports Park, sporting talent hub masterplan

Rating: A: Well planned and needed by the municipality

CSRFF request: \$14,348 (ex GST)

Ranking 2 of 2: Busselton Horse and Pony Club Inc., upgrade of dressage area

Rating: B: Well planned and needed by the applicant

CSRFF request: \$7,157 (ex GST)

Statutory Environment

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

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plans and policies:

- City of Busselton Community Strategic Plan 2017 (review 2019).
- Sport and Recreation Facilities Strategy 2020-2030 (SRFS) – provides a long term strategy to inform, guide and underpin the planning and provision of indoor and outdoor community sporting and recreation facilities to meet existing and future needs of the district.
- Social Plan 2015-2025 - a key goal of this Plan is to “create needed, quality, sustainable recreation and leisure facilities and services for our community”.

Financial Implications

The City of Busselton has allocated \$46,000 in the 2020/21 municipal budget to undertake site investigations at SSBSP and the development of a masterplan. The proposed funding breakdown is as follows:

Contribution towards project	Amount (ex GST)
City of Busselton	\$28,695
CSRFF	\$14,348
Total project cost	\$43,043

The application received from the BHPC for the upgrade of the dressage arena at a total cost of \$21,473 (ex GST), one third of which is requested through CSRFF and a proposed allocation of \$10,000 from the City’s Community Assistance Program, with BHPC funding the balance of the project through its facility reserves. The proposed funding breakdown is as follows:

Contribution towards project	Amount (ex GST)
Busselton Horse and Pony Club Inc.	\$4,316
City of Busselton 2020/21 Community Assistance Program July Round	\$10,000
CSRFF	\$7,157
Total project cost	\$21,473

### **Stakeholder Consultation**

Extensive targeted engagement was undertaken as part of the SRFS, with views and data extracted from 501 individual survey responses, 79 local sporting club/association meetings and 168 submissions on the draft SRFS.

This engagement identified that; there is a lack of available sport space to participate, additional grass sport space should be one of the City's main priorities, facilities are ageing and do not meet sport (and safety) guidelines and there are limited facilities that meet current standards for unisex facilities.

Both proposed projects align with the outcomes of this targeted engagement.

Consultation has taken place with DLGSC staff at the South West office in regards to both projects.

### **Risk Assessment**

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

### **Options**

As an alternative to the proposed recommendation the Council could decide not to support the BHPC application and BHPCs request for a contribution from the Community Assistance program and/or request the ranking and priority of the two (2) application be amended.

Alternate options may impact on the achievability of the projects.

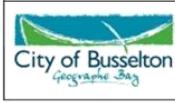
### **CONCLUSION**

The applications received for the CSRFF July 2020 small grant round show sound reasoning and justification. It is recommended that the two applications are assessed and ranked as follows:

- 1 of 2, project rating A - City of Busselton Sir Stewart Bovell Sports Park sporting talent hub masterplan; and
- 2 of 2, project rating B - Busselton Horse & Pony Club Inc., upgrade of dressage arena at Reserve 32066, 310 Queen Elizabeth Avenue, Ambergate.

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

On endorsement, officers will finalise the grant applications and provide the full contents of the applications to the DLGSC South West office before the closing time on 14 August.



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Bovell Sports Park

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SITE PLAN  
Busselton Horse and Pony Club Inc.

24/07/2020

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**16. FINANCE AND CORPORATE SERVICES REPORT**

Nil



**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 SAT Reviews  

**OFFICER RECOMMENDATION**

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

**17.1.1 A summary of the current State Administrative Tribunal reviews is attached.**

**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 attached.

**As at 24 July 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> </ul>	Directions Hearing 7 August 2020	
Bishop v City of Busselton	545 Gale Road, Kaloorup	November 2019 - (DR 227 of 2019)  April 2020 – (DR 59 of 2020)	Review of a decision to give a direction under s.214 (concrete batching and dumping rubbish)  Review of a decision to refuse to grant develop approval for a 'Research Establishment'	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 :                             <ul style="list-style-type: none"> <li>adjourned to a further direction hearing on 4 March 2020;</li> </ul> </li> </ul>	Mediation 19 August 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>- 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> </ul>		
Hotait 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 current development applications;</li> <li>- Preparation of a 'livestock management plan' that might form the basis of a development application.</li> <li>- Adjourned to a further mediation on 21 May 2020.</li> </ul> </li> <li>• Adjourned to a Directions Hearing on 24 July 2020, to provide time for Applicants to provide documentation and City to consider applications</li> <li>• Adjourned to a Directions Hearing on 28 August 2020, to provide the City time to determine the development</li> </ul>	Directions hearing on 28 August 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
					application and consider the s 214 directions.		
Harris v City of Busselton		May 2020	Review of a decision to cancel a registration ( <i>Dog Act 1976</i> )	Ben Whitehill / Sharon Woodford-Jones	<ul style="list-style-type: none"> <li>• City cancelled registration of dog on 30 April 2020.</li> <li>• Applicant lodged application for review 11 May 2020.</li> <li>• Directions hearing on 16 June 2020 applicant did not attend adjourned to 7 July 2020.</li> <li>• Directions hearing 7 July 2020, resolved not suitable for mediation and made the following orders:                             <ul style="list-style-type: none"> <li>- statement of issues, facts and contentions (SIFC) and s24 bundle of documents to be filed by the City by 4 August 2020;</li> <li>- applicant to file response by 25 August 2020;</li> <li>- adjourned to a further direction hearing on 8 September 2020.</li> </ul> </li> </ul>	4 August 2020 SIFC and s24 bundle to be filed	
<b>JOINT DEVELOPMENT ASSESSMENT PANEL</b>							
NIL							
<b>WESTERN AUSTRALIAN PLANNING COMMISSION</b>							
NIL							

**18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**19. URGENT BUSINESS**

**20. CONFIDENTIAL MATTERS**

Nil

**21. CLOSURE**