



ITEMS FOR DEBATE – COUNCIL MEETING 25 MAY 2022

ADOPTION BY EXCEPTION RESOLUTION

RECOMMENDATION

That the Committee Recommendations for Items 12.1 and 12.2, and the Officer Recommendation for items 14.1 and 17.1 be adopted en bloc;

12.1	Finance Committee – 11/5/2022 – LIST OF PAYMENTS MADE – MARCH 2022
12.2	Finance Committee – 11/5/2022 – FINANCIAL ACTIVITY STATEMENTS – YEAR TO DATE AS AT 31 MARCH 2022
14.1	PROPOSAL TO DEDICATE AS PUBLIC ROAD, PORTION OF LOT 4959 OF CROWN RESERVE 42673, CAPE NATURALISTE ROAD, DUNSBOROUGH
17.1	COUNCILLORS' INFORMATION BULLETIN

ITEMS FOR DEBATE

Item No. 13.1	SECTION 31 RECONSIDERATION - PROPOSED RECEPTION CENTRE - LOT 21 (NO.64) ESPINOS ROAD, SABINA RIVER	Pulled by Officers	Page 49
<p><u>AMENDED OFFICER RECOMMENDATION</u></p> <p>That the Council determines:</p> <ol style="list-style-type: none">1. Notes that the development application for a ‘Reception Centre’ at Lot 21 (64), Espinos Road, Sabina River (DA21/0742), was deemed to be refused by the City pursuant to section 253 of the <i>Planning and Development Act 2005</i> on 13 December 2021 (“the decision”).2. Notes that, pursuant to review proceedings under the <i>State Administrative Tribunal Act 2004</i>, the Tribunal invited the City to reconsider the decision.3. That, Pursuant to section 31(2)(a) of the <i>State Administrative Tribunal Act 2004</i>, affirms the decision to refuse the development the Section 31 Reconsideration for development application DA21/0742 submitted for ‘Reception Centre’ at Lot 21 (64), Espinos Road, Sabina River as it is considered by the Council to be inconsistent with Local Planning Scheme No. 21 and the objectives of the zone within which it is located.4. That the Section 31 Reconsideration application is refused for the proposal referred to in (A) above subject to the following reasons – <p>REASONS FOR REFUSAL</p> <ol style="list-style-type: none">1. The proposed development is inconsistent with the City of Busselton <i>Local Planning Scheme No.21</i>, objectives of the Rural zone and the Local Rural Planning Strategy in that the proposal:<ol style="list-style-type: none">(a) would result in the introduction of a significant non-Rural use which would undermine the objectives of the Rural zone which include preserving the operation and development of established rural uses and would be inconsistent with the character and amenity of the area, contrary to objective (d) and (e) of the Rural Zone;(b) is contrary to the objective that non-agricultural uses will be secondary uses and compatible with the primary established agricultural uses and preserve the ongoing use and development of that land for productive agricultural purposes;(c) the proposal for 12,000 guests is considered to generate an unreasonable and excessive volume of traffic for the area beyond the anticipated traffic volumes considered acceptable in a rural locality;(d) in the absence of a traffic management plan, the proposal has not adequately demonstrated that the existing road network is capable of accommodating the proposed number of vehicles;(e) the noise levels generated by the proposal from music, vehicles, patrons, car parking areas and site infrastructure would result in an unacceptable detrimental impact on the amenity of the neighbouring properties and the wider locality;(f) in the absence of a dust management plan, the proposal has not adequately demonstrated how the amount of dust generated from the use of the access road and internal access road would not result in an unreasonable impact on the amenity of surrounding properties.			

2. The City is not satisfied that the bushfire management issues can be satisfactorily addressed by the proposed development in accordance with the objectives and intent of *State Planning Policy 3.7 - Planning in Bushfire Prone Areas* and the *Guidelines to Planning in Bushfire Prone Areas*:

- a) the proposal is located in an area of high bushfire risk and the risk assessment has not demonstrated that the risk can be managed, to ensure the protection of people, property and infrastructure;
- b) both access roads to the site traverse an Extreme Bushfire Hazard Level in excess of the length requirements specified in the Guidelines;
- c) the proposal has not adequately demonstrated the safe and efficient evacuation of patrons, whilst simultaneously providing a safe operational environment for emergency services, can be achieved resulting in placing life at an unacceptable level of risk; and
- d) inadequate provision of a suitable location for sheltering on site especially for the number of patrons proposed.

REASONS FOR AMENDMENT

The proposed changes to the wording of the Officer Recommendation is to clarify that the recommendation is not to substitute or vary the decision. It is to affirm a refusal, which was a decision that was deemed to have been made by the City at the expiry of the statutory timeframe to determine a development application, pursuant to s253 of the *Planning and Development Act 2005*.

Under Section 31 of the *State Administrative Tribunal Act 2004*, the Tribunal may invite the Local Government to reconsider its decision. Upon invitation, the Local Government may:

- (a) affirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and substitute its new decision.

If the decision-maker varies the decision or sets it aside and substitutes a new decision, the proceeding is taken to be for the review of the decision as varied, or the substituted decision.

OFFICER COMMENT

Not applicable.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations 1996*, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.

<p>Item No. 13.2</p>	<p>DRAFT DUNSBOROUGH PRECINCT STRUCTURE PLAN AND ASSOCIATED AMENDMENT 52 TO LOCAL PLANNING SCHEME NO. 21 - CONSIDERATION FOR INITIATION; AND AMENDMENT 50 MINISTERIAL DECISION</p>	<p>Pulled by Cr Cox</p>	<p>Page 3 <i>Supplementary Agenda</i></p>
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ALTERNATIVE RECOMMENDATION

That the Council:

1. In pursuance of Part 4 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), adopts the draft Dunsborough Precinct Structure Plan (**PSP - Attachment B**) for consultation, to be advertised concurrently with Amendment 52, as set out in the points below, **and subject to the following modifications –**
 - (a) **Delete objective (b) from page 1 of the PSP document;**
 - (b) **Realign the Structure Plan Boundary, as depicted on the PSP Map, to exclude Lot 5153 (1) Leslie Pearce Court and Lot 9020 Caves Road;**
 - (c) **Revise the depiction of R-AC4, R-AC0 and R60 residential density codings on the PSP Map, to be consistent with recommendations 2 I (a) and 2 I (b) below;**
 - (d) **Revise the PSP Map by deleting “Building Height Area (BHA)”, “3 Storey BHA”, “4 Storey BHA” and “5 Storey BHA” from the legend, and all building height areas shown on the PSP Map; and**
 - (e) **Revise the PSP document accordingly.**
2. In pursuance of Part 5 of the Regulations, prepares Amendment 52 to the *City of Busselton Local Planning Scheme No. 21* for consultation, for the purposes of:
 - I. Amending the Scheme Map (Attachment C) by:
 - (a) Amending the residential density code from R-AC3 to R-AC4 over **all lots zoned ‘Centre’ lots bound by Reserve 42545, Naturaliste Terrace, Reserve 42673, and Cape Naturaliste Road, Dunsborough.**
 - ~~(b) Amending the residential density code from R-AC3 to R-AC0 over the remainder of land zoned ‘Centre’, being:
 - ~~(i) Lots bound by Caves Road, Cape Naturaliste Road, Dunn Bay Road and Naturaliste Terrace;~~
 - ~~(ii) Lots bound by Dunn Bay Road, Cape Naturaliste Road, Reserve 42673 and Naturaliste Terrace;~~
 - ~~(iii) Lots bound by Dunn Bay Road, Naturaliste Terrace and Hannay Lane;~~
 - ~~(iv) Lots 1-7 (233) Naturaliste Terrace, and Lots 1-17 (31) and 112 to 104 (13 to 29) Dunn Bay Road; and~~
 - ~~(v) Lots bound by Reserve 26512, Chieftain Crescent, Seymour Boulevard, Reserve 38693 and Dunn Bay Road.~~~~
 - (b) Amending the residential density code from R80 to R60 over:
 - (i) Lots 51 and 87 to 102 Chieftain Crescent;
 - (ii) Lots 86 and 162 Chester Way;

- (iii) Lot 141 Lorna Street;
 - (iv) Lots 1 & 2 (4), 5 (2), 17, 18 and 41 to 43 Prowse Way;
 - (v) Lots 3 and 4 Greenacre Road; ~~and~~
 - (vi) Lot 60 (191) Naturaliste Terrace; ~~and~~
 - (vii) **Strata Plan 28592 (3 Dunn Bay Road).**
- (c) Amending the 'Drive Through Facility Control Area' Special Control Area to include the whole of:
- (i) Lots 1-2 (64) Dunn Bay Road;
 - (ii) Lot 1 (61) Dunn Bay Road; and
 - (iii) Reserve 42673.
- (d) Amending the zoning of a portion of 'Road' reserve at the northern end of Lorna Street, between serified portions of Reserve 26512, to redesignate as 'Recreation' reserve.
- (e) Realigning the zoning of Lot 400 (24) Dunn Bay Road and the portion of 'Road' reserve adjacent to the western and south western side of Lot 400 to be consistent with the cadastral boundary, as depicted on the Scheme Amendment Map.
- II. Retitling the "Centre" zone to "District Centre" zone throughout the Scheme, and amending the Scheme Map accordingly.
- III. Amending Table 1 "Zoning Table" in relation to the use classes 'Single House', 'Ancillary Dwelling', 'Repurposed Dwelling', 'Second-hand Dwelling', 'Marina', 'Marine Filling Station', 'Motor Vehicle, Boat or Caravan Sales' and 'Transport Depot', by replacing the symbol 'D' with the symbol 'X' in the Centre zone.
- IV. Amending clause 4.3 "Modifications of R-Codes" by changing sub-clause 4.3.2 to read as follows:
- "Building height provisions as specified under –*
- (a) *Table 3 and Deemed-to-Comply provision 5.1.6 C6 of Volume 1 of the R-Codes, and*
 - (b) *Table 2.1, and Acceptable Outcome A2.2.1 of Volume 2 of the R-Codes;*
- do not apply, except to land coded R-AC3, R-AC4, ~~R-AC0~~ or R80. In all other areas, maximum building height requirements are required to comply with the provisions of clause 4.8 of the Scheme."*
- V. Amending clause 4.8 "Height of Buildings" by amending sub-clause 4.8.9, removing reference to "Centre" zone.
- VI. Amending clause 4.21 "Development in the Regional Centre and Centre Zones" by removing reference to "Centre" zone, "Dunn Bay Road", "Naturaliste Terrace" and "Dunsborough".
- VII. Inserting a new clause 4.22 as follows, and renumbering subsequent clauses and clause references throughout the Scheme:
- "4.22 Development in the District Centre Zone**

Development within the District Centre zone shall address the following provisions:

~~(a) In addition to the provisions of Volume 2 of the R-Codes, the following provisions apply to land coded R-AC0—~~

~~(i) Table 2 sets out the primary controls; and~~

~~(ii) Primary controls shall apply to Building Height Areas as shown on the Scheme Map.~~

TABLE 2 – R-AC0 PRIMARY CONTROLS

Building Height Area (BHA) / Primary Controls	3 storey BHA	4 storey BHA	5 storey BHA
Boundary Wall Height (storey)	3	2	2
Setback – min. primary street	Nil	Nil, unless otherwise specified in clause 4.22	
Setback – min. secondary street	Nil	Commercial use: Nil; and Non-commercial use: 2m; or unless otherwise specified in clause 4.22	
Setback – min. side	Nil	Nil, unless otherwise specified in clause 4.22	
Setback – min. rear	3m	Nil, unless otherwise specified in clause 4.22	
Plot Ratio	1.2	1.3	1.5

- (a) To achieve a consistent building line, increased lot boundary setbacks may be required on Naturaliste Terrace, between the intersections of Cyrilleen Way and Dunn Bay Road;
- (b) A 5 metre lot boundary setback shall be provided on the west side of Naturaliste Terrace, between the intersections of Dunn Bay Road and Caves Road. The setback area shall include:
- (i) A minimum 2.5 metre wide footpath and pedestrian shelter; and
 - (ii) A landscaped area adjacent to the boundary;
- (c) Additional primary and secondary street setbacks may be considered where development is providing an associated alfresco space within the setback area;
- (d) Development abutting Caves Road shall respond to the prominence and scenic character of Caves Road by addressing the following matters:
- (i) Buildings shall not be located within 6 metres of the Caves Road boundary;
 - (ii) Building design, finishes and materials shall respond to and enhance the scenic character of Caves Road;
 - (iii) Building services such as bin storage, utilities, storage tanks and the like shall be adequately concealed so they are not visible from Caves Road; and
 - (iv) Landscape planting shall provide an attractive interface between development and Caves Road;

- (e) *The upper storey external wall face and/or balcony roofs of the third storey shall be setback from the ground floor external wall face, a minimum of 4m on the interface of Reserves 42673, 35758 and 26513 (Dugalup Brook), Reserve 38693 (Lions Park) and Reserve 26512 (Seymour Park). ~~in accordance with the following:~~*
- (i) ~~Three storey development: the third storey setback a minimum of 4m on the interface of Reserves 42673, 35758 and 26513 (Dugalup Brook), Reserve 38693 (Lions Park) and Reserve 26512 (Seymour Park);~~*
- (ii) ~~Four and/or five storey development: the third and fourth storey setback a minimum of 4m on all boundaries; and~~*
- (iii) ~~Five storey development: the fifth storey setback a minimum of 8m on all boundaries;~~*
- (f) *No residential uses shall be permitted at ground floor fronting Dunn Bay Road, Naturaliste Terrace or Clark Street;*
- (g) *Buildings shall be articulated to break up perceived bulk and provide visual interest, particularly with buildings occupying a large/long site frontage;*
- (h) *Upper levels shall be designed to promote informal surveillance of the street through the use of balconies and/or large windows;*
- (i) *At the ground floor level, development shall address the street with a primary business entrance and a shop front façade;*
- (j) *Ground floor commercial uses shall incorporate transparent glazing for a minimum of 70% of all building frontages to adjacent streets;*
- (k) *Other than sites subject to clause 4.22 (eb), a pedestrian shelter through the provision of a verandah, awning or the like, shall be provided with a minimum depth of 2.5 metres over the footpath for the full width of the lot frontage;*
- (l) *Roller doors or screens of solid material on shop fronts will not be permitted, and security measures should be located and installed internally behind the glazing line;*
- (m) *~~On land coded R-AC0, nN~~ No vehicle access ways or car parking shall be provided between buildings and the street, or be visible from the street, unless required to provide access to car parking or loading areas behind or within buildings;*
- (n) *~~On land coded R-AC4,~~ Notwithstanding clause 4.22 (m), car parking is supported between buildings and the street on lots fronting Clark Street, and Naturaliste Terrace between Greenacre Road and Cyrilleean Way, subject to:*
- (i) Being limited to a single row of car parking bays; and*
- (ii) Inclusion of a 2 metre wide landscaping area adjacent to the street; and*
- (iii) In such case, the rear setback may be 3 metres;*
- (o) *All cross-overs shall be rationalised and strategically placed in locations where they will have the least impact on vehicle, pedestrian and cyclist movement;*
- (p) *Redevelopment sites shall incorporate shared use of car parking and reciprocal access arrangements with adjoining sites;*

- (q) For all boundaries abutting Reserves 42673, 35758 and 26513 (Dugalup Brook), Reserve 38693 (Lions Park) and Reserve 26512 (Seymour Park), no parking, loading bays, services or utilities are to be located on the public land interface;
- (r) Undercroft, decked or roof top car parks shall be located above or behind interactive street frontages at ground level, such as shops or other uses that promote activity and, where car parking is visible from a street or public space, high quality architectural detailing shall be incorporated into the façade and other external walls of all floors;
- (s) General plant, such as air-conditioning, television antennas, bins, hot water storage tanks, rain water tanks, satellite dishes and the like are to be adequately concealed and screened from the street or public view;
- (t) Signage and advertising shall not adversely detract from the architectural elements of the building, or visually dominate the building or the streetscape generally."

~~VIII. Amending the Scheme Map by inserting an additional information area named "Building Height Area," as depicted on the Scheme Amendment Map.~~

VIII. Amending Schedule 2 "Additional Uses" by:

- (a) Amending Additional Use No. A74 by deleting the following properties listed in the 'Particulars of Land' column, and amending the Scheme Map accordingly:
"Lots 51 and 87 to 102 Chieftain Crescent, Lots 86 and 162 Chester Way, Lots 139 to 141 Lorna Street, Lots 1-9 (20), 81 (18) and 115 to 127 Geographe Bay Road, Lots 1 to 17 (3) Dunn Bay Road, Lots 1 & 2 (4), 5 (2), 17, 18, 41 to 43 Prowse Way, Lots 3 and 4 Greenacre Road and Lot 60 (191) Naturaliste Terrace, Dunsborough."
- (b) Inserting an Additional Use (No. A84) provision as follows, and amending the Scheme Map accordingly:

A84	<i>Lots 51 and 87 to 102 Chieftain Crescent; Lots 86 and 162 Chester Way; Lots 139 to 141 Lorna Street; Lots 1-9 (20), 81 (18) and 115 to 127 Geographe Bay Road; Lots 1 to 17 (3) Dunn Bay Road; Lots 1 & 2 (4), 5 (2), 17, 18, 41 to 43 Prowse Way; Lots 3 and 4 Greenacre Road; and Lot 60 (191) Naturaliste Terrace, Dunsborough</i>	<i>Consulting Rooms Guesthouse Medical Centre Office Restaurant/Café Shop Tourist Accommodation</i>	<ol style="list-style-type: none"> 1. <i>The Additional Uses specified shall be deemed to be "D" uses for the purposes of the Scheme.</i> 2. <i>'Shop' land uses may be permitted at ground floor level only and occupy up to 50% of total development floor space, up to a maximum area of 300m² per lot.</i> 3. <i>A nil setback to the street shall be considered for a development that includes one or more of the Additional Uses specified and an active frontage.</i> 4. <i>Active frontages shall comply with the following design requirements:</i> <ol style="list-style-type: none"> a. <i>Minimum 50% transparent glazing;</i> b. <i>Roller doors or screens of solid material will not be permitted.</i>
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			<p>5. <i>The provisions of Clause 4.25 relating to cash in lieu of car parking shall apply.</i></p>
<p>3. Pursuant to Regulation 35 (2) of the Regulations, determine that Amendment 52 is a 'standard amendment' in accordance with r.34 of the Regulations as it is:</p> <p>(a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve; and</p> <p>(b) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission.</p> <p>4. Note that, as the draft Amendment is in the opinion of the Council consistent with Part V of the <i>Planning and Development Act 2005</i> (the Act) and Regulations made pursuant to the Act, upon preparation of necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by the Act, and on receipt of a response from the EPA indicating that the draft Amendment is not to be subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the Regulations. In the event that the EPA determines that the draft Amendment is to subject to formal environmental assessment, this assessment is to be prepared prior to advertising of the draft Amendment.</p> <p>5. Notes the Ministerial decision and Schedule of Modifications to modify Amendment 50 (Attachment D).</p>			

REASONS FOR ALTERNATIVE

The reason for removing Lot 5153 Leslie Pearce Court and Lot 9020 Caves Road is due to the fact that I do not believe that this is a viable location for a future reserve and/or carpark. In my opinion there are better locations for carparking closer to the Town Centre such as the under utilised parking adjacent to the Dunsborough Playing Fields.

The fundamental reason for down-coding the building heights specified in the Draft Dunsborough Precinct Structure Plan from R-AC0 4 and 5 storeys to R-AC-4 (3 storeys) is in response to widespread community concern over the height, scale and bulk of developments in excess of 3 storeys in the Town Centre of Dunsborough. The Dunsborough community have been doggedly determined in expressing their opposition to any proposed large-scale, mixed-use apartment buildings in the Town Centre over 3 storeys in height.

They have attended workshops, formed Committee's, signed petitions, sent e-mails and made presentations to JDAP. This opinion has been held for many years and was clearly illustrated when the community successfully lobbied to down-code lots on Geographe Bay road from R-80 to R-60. This was in direct response to a development application for a 4 storey apartment building on the corner of Geographe Bay Road and Dunn Bay Road. More recently, development applications for two large scale apartment buildings on Dunn Bay Road resulted in the community lodging hundreds of responses against the height, scale and bulk of the developments to JDAP.

My reason for down-coding Strata Plan 28592 from R80-R60 is to provide consistency in height with other lots on Geographe Bay Road, Lorna Street, Chester Way and Chieftain Crescent. The significant level of community objections to the 4 storey apartment development on the corner of Geographe Bay Road and Dunn Bay Road would suggest that there is no support for height over 3 storeys in this area.

The Dunsborough Precinct Structure Plan has been drafted as a response to the prevailing community concern outlined above. It is a vital tool that will be used to inform and guide how development progresses in the Town Centre.

Fundamentally a Precinct Structure Plan should aim to reflect the existing or desired future character of the local area. Character is defined in the R-Codes as an important aspect of local identity created through the combined effect of the following attributes;

1. The height, scale, setback, style and condition of existing buildings.
2. Land-uses and street based activity.
3. The physical form of the street including width and function, verges and footpaths.
4. Landscaping of the public and private realms.

Restricting building height is imperative in preserving the character of Dunsborough, which is of vital importance not only to residents but also to visitors and tourists. Defining the character of Dunsborough is not a difficult task for the local community. When asked this question the same key words come up time and time again. Low-key. Coastal. Village. Small town character is something that Dunsborough residents value about their community and very much want to preserve.

We all acknowledge that growth is inevitable, however growth needs to be planned for in an appropriate manner. As a Councillor, I feel that it is my responsibility to be proactive and work collaboratively with the community to develop sustainable strategies for growth. Whilst we need to accept the inevitability of growth and development in Dunsborough it is imperative that we control density by limiting building heights to ensure that we maintain our unique coastal, village character.

OFFICER COMMENT

Building height and design

Building height is clearly the most significant issue of current community interest with respect to the PSP. The rationale for the proposals set out in the Draft PSP and associated amendment have been set out in the agenda report, and there is no need for that rationale to be outlined further in responding to the alternative motion.

It is, however, worth noting two more detailed matters with respect to the alternative recommendation that Councillors may wish to consider –

1. Under the R-AC4 coding, upper storey setbacks will not be required on street frontages, particularly in the most visible areas of Dunn Bay Road and Naturaliste Terrace, meaning that buildings may actually be higher, at three rather than two storeys, adjacent to those roads.
2. The State government may in the future decide to modify the R-Codes in such a way that the effect of the R-AC4 coding changes (as has occurred over the last few years with the R-AC3 coding). That is much less likely with an R-AC0 coding, as controls on height, setbacks and a range of other matters would be set out in the City's town planning scheme, rather than in the R-Codes.

Removal of Lot 5153 Leslie Pearce Court and Lot 9020 Caves Road from the PSP area

Whilst officers have concerns with this aspect of the alternative recommendation, officers also consider that removal of these lots from the PSP is preferable to proposing any alternative direction for the land.

Whilst the existing zoning is seen as broadly appropriate, if the land is not identified for public car parking, the existing zoning does create potential for some development that may be inappropriate in the context –

1. There are currently no explicit controls on the density or setback of development allowed on the Tourism Zoned portion of the site – which is essentially the eastern two-thirds of the site;
2. There are currently no explicit protections for the vegetation on the site through the planning system (although there may be through environmental regulation);
3. Some forms of development permissible on the site could generate very significant traffic, in a particularly traffic sensitive location; and
4. Some land-uses permissible in the Tourism Zone, such as Takeaway Food Outlet, could result in development not consistent with the desired character on such an important entry point into the Town Centre, and route through to the northern parts of Dunsborough and ultimately through to Cape Naturaliste.

Consistent with earlier Council resolutions in 2013/14, it is noted that Lot 9020 is an important strategic site in close proximity to the Dunsborough Town Centre, and offers the best opportunity to provide significant additional car parking capacity, noting upwards of 200 bays could be accommodated. It is envisaged it would be used as all day parking, mostly used by those working in the Town Centre.

The current development underway at the western end of Dunn Bay Road is less than 150 metres away. Lot 9020 is also around 450-500 metres from the intersection of Dunn Bay Road and Naturaliste Terrace.

Equivalent, public, all-day car parking areas in the Busselton City Centre are located 200 metres east of Queen Street, and the 'Harris Road' land, acquired in 2013 for future car parking supply, is 300 metres from Queen Street, and around 500 metres from the busiest section of Queen Street. The experience in Busselton (and in many other places), is that those working in town centres are often required to walk 500 metres or more to their workplace.

The only alternative all-day car parking opportunity identified through the PSP is the northern end of the Dunsborough Playing Fields. Whilst some additional capacity can be provided there relatively simply, accommodating significant additional parking would be more challenging.

Removal of Lot 9020 from the PSP means that potential future reservation of the land in the scheme, which could support subsequent acquisition of the land, will not be able to be as consulted on as part of the PSP process. If the land remains in the PSP area, the Council could decide to remove it from the PSP area after consultation, but it would not be appropriate to include it after consultation if it has not been included in the advertised draft.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations 1996*, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.

<p>Item No. 13.2</p>	<p>DRAFT DUNSBOROUGH PRECINCT STRUCTURE PLAN AND ASSOCIATED AMENDMENT 52 TO LOCAL PLANNING SCHEME NO. 21 - CONSIDERATION FOR INITIATION; AND AMENDMENT 50 MINISTERIAL DECISION</p>	<p>Pulled by Cr Henley</p>	<p>Page 3 <i>Supplementary</i> <i>Agenda</i></p>
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ALTERNATIVE RECOMMENDATION

That the Council:

1. In pursuance of Part 4 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), adopts the draft Dunsborough Precinct Structure Plan (Attachment B) for consultation, to be advertised concurrently with Amendment 52, as set out in the points below, **but subject to the following modifications** –
 - (a) **Revise the depiction of R80 and R60 residential density codings on the PSP Map, to be consistent with recommendations 2 I (c) below;**
 - (b) **Revise the PSP Map by deleting “5 Storey BHA” from the legend, and all corresponding “5 Storey BHA” depicted on the PSP Map;**
 - (c) **Revise the PSP Map by depicting “3 Storey BHA” designations over –**
 - (i) **Lots 1 and 2 (59 and 61) Dunn Bay Road, and Lots 1-7 (16) Cyrillean Way;**
 - (ii) **Lots 1-2 (64) Dunn Bay Road and future lot 3 as identified on the approved Plan of Subdivision 9073-SUB-01-C dated 20 August 2021;**
 - (iii) **Lots 4 (232), 1-8 (234), 1-11 (236) and 3 (238) Naturaliste Terrace;**
 - (iv) **Lots 1-7 (233), 1 (237), 8 (239), 7 (241), 14 (243) and 1-3 (245) Naturaliste Terrace;**
 - (v) **Lots 4-10 (35), 1-17 (31), 104 (29), 1-18 (25-27), 107 (23), 108 (21), 109 (19), 110 (17), 1-11 (15) and 112 (13) Dunn Bay Road; and**
 - (vi) **Lots 1-56 (12) Dunn Bay Road;**
 - (d) **Revise the PSP Map by depicting “4 Storey BHA” designations over –**
 - (i) **Lots 107 and 108 (55 and 57) Dunn Bay Road, and Lot 109 (6) Cyrillean Way;**
 - (ii) **Lots 2 (58), 1-6 (56), 1-10 (54) and 1-15 (42) Dunn Bay Road, and future lots 1 and 2 as identified on the approved Plan of Subdivision 9073-SUB-01-C dated 20 August 2021; and**
 - (iii) **Lots 1-22 (34) and 400 (24) Dunn Bay Road; and**
 - (e) **Revise the PSP document accordingly.**
2. In pursuance of Part 5 of the Regulations, prepares Amendment 52 to the *City of Busselton Local Planning Scheme No. 21* for consultation, for the purposes of:
 - I. **Amending the Scheme Map (Attachment C) by:**
 - (a) **Amending the residential density code from R-AC3 to R-AC4 over lots bound by Reserve 42545, Naturaliste Terrace, Reserve 42673, and Cape Naturaliste Road, Dunsborough.**
 - (b) **Amending the residential density code from R-AC3 to R-AC0 over the remainder of land zoned ‘Centre’, being:**

- (i) Lots bound by Caves Road, Cape Naturaliste Road, Dunn Bay Road and Naturaliste Terrace;
 - (ii) Lots bound by Dunn Bay Road, Cape Naturaliste Road, Reserve 42673 and Naturaliste Terrace;
 - (iii) Lots bound by Dunn Bay Road, Naturaliste Terrace and Hannay Lane;
 - (iv) Lots 1-7 (233) Naturaliste Terrace, and Lots 1-17 (31) and 112 to 104 (13 to 29) Dunn Bay Road; and
 - (v) Lots bound by Reserve 26512, Chieftain Crescent, Seymour Boulevard, Reserve 38693 and Dunn Bay Road.
- (c) Amending the residential density code from R80 to R60 over:
- (i) Lots 51 and 87 to 102 Chieftain Crescent;
 - (ii) Lots 86 and 162 Chester Way;
 - (iii) Lot 141 Lorna Street;
 - (iv) Lots 1 & 2 (4), 5 (2), 17, 18 and 41 to 43 Prowse Way;
 - (v) Lots 3 and 4 Greenacre Road; ~~and~~
 - (vi) Lot 60 (191) Naturaliste Terrace; ~~and~~
 - (vii) **Strata Plan 28592 (3 Dunn Bay Road).**
- (d) Amending the 'Drive Through Facility Control Area' Special Control Area to include the whole of:
- (i) Lots 1-2 (64) Dunn Bay Road;
 - (ii) Lot 1 (61) Dunn Bay Road; and
 - (iii) Reserve 42673.
- (e) Amending the zoning of a portion of 'Road' reserve at the northern end of Lorna Street, between serified portions of Reserve 26512, to redesignate as 'Recreation' reserve.
- (f) Realigning the zoning of Lot 400 (24) Dunn Bay Road and the portion of 'Road' reserve adjacent to the western and south western side of Lot 400 to be consistent with the cadastral boundary, as depicted on the Scheme Amendment Map.
- II. Retitling the "Centre" zone to "District Centre" zone throughout the Scheme, and amending the Scheme Map accordingly.
- III. Amending Table 1 "Zoning Table" in relation to the use classes 'Single House', 'Ancillary Dwelling', 'Repurposed Dwelling', 'Second-hand Dwelling', 'Marina', 'Marine Filling Station', 'Motor Vehicle, Boat or Caravan Sales' and 'Transport Depot', by replacing the symbol 'D' with the symbol 'X' in the Centre zone.
- IV. Amending clause 4.3 "Modifications of R-Codes" by changing sub-clause 4.3.2 to read as follows:
- "Building height provisions as specified under –*
- (a) *Table 3 and Deemed-to-Comply provision 5.1.6 C6 of Volume 1 of the R-Codes, and*

(b) Table 2.1, and Acceptable Outcome A2.2.1 of Volume 2 of the R-Codes; do not apply, except to land coded R-AC3, R-AC4, R-AC0 or R80. In all other areas, maximum building height requirements are required to comply with the provisions of clause 4.8 of the Scheme."

- V. Amending clause 4.8 "Height of Buildings" by amending sub-clause 4.8.9, removing reference to "Centre" zone.
- VI. Amending clause 4.21 "Development in the Regional Centre and Centre Zones" by removing reference to "Centre" zone, "Dunn Bay Road", "Naturaliste Terrace" and "Dunsborough".
- VII. Inserting a new clause 4.22 as follows, and renumbering subsequent clauses and clause references throughout the Scheme:

"4.22 Development in the District Centre Zone

Development within the District Centre zone shall address the following provisions:

- (a) In addition to the provisions of Volume 2 of the R-Codes, the following provisions apply to land coded R-AC0 –**
 - (i) Table 2 sets out the primary controls; and**
 - (ii) Primary controls shall apply to Building Height Areas as shown on the Scheme Map.**

TABLE 2 – R-AC0 PRIMARY CONTROLS

Building Height Area (BHA) / Primary Controls	3 storey BHA	4 storey BHA	5-storey BHA
Boundary Wall Height (storey)	3	2	2
Setback – min. primary street	Nil	Nil, unless otherwise specified in clause 4.22	
Setback – min. secondary street	Nil	Commercial use: Nil; and Non-commercial use: 2m; or unless otherwise specified in clause 4.22	
Setback – min. side	Nil	Nil, unless otherwise specified in clause 4.22	
Setback – min. rear	3m	Nil, unless otherwise specified in clause 4.22	
Plot Ratio	1.2	1.3	1.5

- (b) To achieve a consistent building line, increased lot boundary setbacks may be required on Naturaliste Terrace, between the intersections of Cyrilleen Way and Dunn Bay Road;**
- (c) A 5 metre lot boundary setback shall be provided on the west side of Naturaliste Terrace, between the intersections of Dunn Bay Road and Caves Road. The setback area shall include:**
 - (i) A minimum 2.5 metre wide footpath and pedestrian shelter; and**
 - (ii) A landscaped area adjacent to the boundary;**

- (d) *Additional primary and secondary street setbacks may be considered where development is providing an associated alfresco space within the setback area;*
- (e) *Development abutting Caves Road shall respond to the prominence and scenic character of Caves Road by addressing the following matters:*

 - (i) *Buildings shall not be located within 6 metres of the Caves Road boundary;*
 - (ii) *Building design, finishes and materials shall respond to and enhance the scenic character of Caves Road;*
 - (iii) *Building services such as bin storage, utilities, storage tanks and the like shall be adequately concealed so they are not visible from Caves Road; and*
 - (iv) *Landscape planting shall provide an attractive interface between development and Caves Road;*
- (f) *The upper storey external wall face and/or balcony roofs shall be setback from the ground floor external wall face, in accordance with the following:*

 - (i) *Three storey development: the third storey setback a minimum of 4m on the interface of Reserves 42673, 35758 and 26513 (Dugalup Brook), Reserve 38693 (Lions Park) and Reserve 26512 (Seymour Park); and*
 - (ii) *Four ~~and/or five~~ storey development: the third and fourth storey setback a minimum of 4m on all boundaries; ~~and~~*
 - ~~(iii) *Five storey development: the fifth storey setback a minimum of 8m on all boundaries;*~~
- (g) *No residential uses shall be permitted at ground floor fronting Dunn Bay Road, Naturaliste Terrace or Clark Street;*
- (h) *Buildings shall be articulated to break up perceived bulk and provide visual interest, particularly with buildings occupying a large/long site frontage;*
- (i) *Upper levels shall be designed to promote informal surveillance of the street through the use of balconies and/or large windows;*
- (j) *At the ground floor level, development shall address the street with a primary business entrance and a shop front façade;*
- (k) *Ground floor commercial uses shall incorporate transparent glazing for a minimum of 70% of all building frontages to adjacent streets;*
- (l) *Other than sites subject to clause 4.22 (c), a pedestrian shelter through the provision of a verandah, awning or the like, shall be provided with a minimum depth of 2.5 metres over the footpath for the full width of the lot frontage;*
- (m) *Roller doors or screens of solid material on shop fronts will not be permitted, and security measures should be located and installed internally behind the glazing line;*
- (n) *On land coded R-AC0, no vehicle access ways or car parking shall be provided between buildings and the street, or be visible from the street, unless required to provide access to car parking or loading areas behind or within buildings;*
- (o) *On land coded R-AC4, car parking is supported between buildings and the street, subject to:*

- (i) *Being limited to a single row of car parking bays; and*
- (ii) *Inclusion of a 2 metre wide landscaping area adjacent to the street; and*
- (iii) *In such case, the rear setback may be 3 metres;*
- (p) *All cross-overs shall be rationalised and strategically placed in locations where they will have the least impact on vehicle, pedestrian and cyclist movement;*
- (q) *Redevelopment sites shall incorporate shared use of car parking and reciprocal access arrangements with adjoining sites;*
- (r) *For all boundaries abutting Reserves 42673, 35758 and 26513 (Dugalup Brook), Reserve 38693 (Lions Park) and Reserve 26512 (Seymour Park), no parking, loading bays, services or utilities are to be located on the public land interface;*
- (s) *Undercroft, decked or roof top car parks shall be located above or behind interactive street frontages at ground level, such as shops or other uses that promote activity and, where car parking is visible from a street or public space, high quality architectural detailing shall be incorporated into the façade and other external walls of all floors;*
- (t) *General plant, such as air-conditioning, television antennas, bins, hot water storage tanks, rain water tanks, satellite dishes and the like are to be adequately concealed and screened from the street or public view;*
- (u) *Signage and advertising shall not adversely detract from the architectural elements of the building, or visually dominate the building or the streetscape generally."*

VIII. Amending the Scheme Map by inserting an additional information area named "Building Height Area," as depicted on the Scheme Amendment Map, **but subject to the following modifications:**

- (a) **Delete "5 Storey BHA" from the legend, and all corresponding "5 Storey BHA" depicted on the Scheme Map;**
- (b) **Revise the Scheme Map by depicting "3 Storey BHA" designations over –**
 - (ii) **Lots 1 and 2 (59 and 61) Dunn Bay Road, and Lots 1-7 (16) Cyrillean Way;**
 - (iii) **Lots 1-2 (64) Dunn Bay Road and future lot 3 as identified on the approved Plan of Subdivision 9073-SUB-01-C dated 20 August 2021;**
 - (iv) **Lots 4 (232), 1-8 (234), 1-11 (236) and 3 (238) Naturaliste Terrace;**
 - (v) **Lots 1-7 (233), 1 (237), 8 (239), 7 (241), 14 (243) and 1-3 (245) Naturaliste Terrace;**
 - (vi) **Lots 4-10 (35), 1-17 (31), 104 (29), 1-18 (25-27), 107 (23), 108 (21), 109 (19), 110 (17), 1-11 (15) and 112 (13) Dunn Bay Road; and**
 - (vii) **Lots 1-56 (12) Dunn Bay Road;**
- (c) **Revise the Scheme Map by depicting "4 Storey BHA" designations over –**
 - (i) **Lots 107 and 108 (55 and 57) Dunn Bay Road, and Lot 109 (6) Cyrillean Way;**
 - (ii) **Lots 2 (58), 1-6 (56), 1-10 (54) and 1-15 (42) Dunn Bay Road, and future lots 1 and 2 as identified on the approved Plan of Subdivision 9073-SUB-01-C dated 20 August 2021; and**

(iii) Lots 1-22 (34) and 400 (24) Dunn Bay Road.

IX. Amending Schedule 2 “Additional Uses” by:

- (a) Amending Additional Use No. A74 by deleting the following properties listed in the ‘Particulars of Land’ column, and amending the Scheme Map accordingly:

“Lots 51 and 87 to 102 Chieftain Crescent, Lots 86 and 162 Chester Way, Lots 139 to 141 Lorna Street, Lots 1-9 (20), 81 (18) and 115 to 127 Geographe Bay Road, Lots 1 to 17 (3) Dunn Bay Road, Lots 1 & 2 (4), 5 (2), 17, 18, 41 to 43 Prowse Way, Lots 3 and 4 Greenacre Road and Lot 60 (191) Naturaliste Terrace, Dunsborough.”

- (b) Inserting an Additional Use (No. A84) provision as follows, and amending the Scheme Map accordingly:

A84	<p><i>Lots 51 and 87 to 102 Chieftain Crescent; Lots 86 and 162 Chester Way; Lots 139 to 141 Lorna Street; Lots 1-9 (20), 81 (18) and 115 to 127 Geographe Bay Road; Lots 1 to 17 (3) Dunn Bay Road; Lots 1 & 2 (4), 5 (2), 17, 18, 41 to 43 Prowse Way; Lots 3 and 4 Greenacre Road; and Lot 60 (191) Naturaliste Terrace, Dunsborough</i></p>	<p><i>Consulting Rooms Guesthouse Medical Centre Office Restaurant/Café Shop Tourist Accommodation</i></p>	<p>1. <i>The Additional Uses specified shall be deemed to be “D” uses for the purposes of the Scheme.</i></p> <p>2. <i>‘Shop’ land uses may be permitted at ground floor level only and occupy up to 50% of total development floor space, up to a maximum area of 300m² per lot.</i></p> <p>3. <i>A nil setback to the street shall be considered for a development that includes one or more of the Additional Uses specified and an active frontage.</i></p> <p>4. <i>Active frontages shall comply with the following design requirements:</i></p> <p style="margin-left: 20px;"><i>a. Minimum 50% transparent glazing;</i></p> <p style="margin-left: 20px;"><i>b. Roller doors or screens of solid material will not be permitted.</i></p> <p>5. <i>The provisions of Clause 4.25 relating to cash in lieu of car parking shall apply.</i></p>
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- 3. Pursuant to Regulation 35 (2) of the Regulations, determine that Amendment 52 is a ‘standard amendment’ in accordance with r.34 of the Regulations as it is:**

- (a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve; and
- (b) an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission.

4. Note that, as the draft Amendment is in the opinion of the Council consistent with Part V of the *Planning and Development Act 2005* (the Act) and Regulations made pursuant to the Act, upon preparation of necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by the Act, and on receipt of a response from the EPA indicating that the draft Amendment is not to be subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the Regulations. In the event that the EPA determines that the draft Amendment is to subject to formal environmental assessment, this assessment is to be prepared prior to advertising of the draft Amendment.
5. Notes the Ministerial decision and Schedule of Modifications to modify Amendment 50 (Attachment D).

REASONS FOR ALTERNATIVE

1. To provide for a diverse range of heights and setbacks to encourage an interesting and vibrant town centre aesthetically and economically.
2. To allow heights that are viable to develop while able to accommodate parking on constricted lots.
3. Allow apartment and mixed use development in the core of the town centre while acknowledging community concerns by restricting development on the transitional lots to 3 storey.

OFFICER COMMENT

Building height is clearly the most significant issue of current community interest with respect to the PSP. The rationale for the proposals set out in the Draft PSP and associated amendment have been set out in the agenda report, and there is no need for that rationale to be outlined further in responding to the alternative motion.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations 1996*, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.