



## **Council Agenda**

***27 May 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 – 27 MAY 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, 27 May 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**

15 May 2020



**CITY OF BUSSELTON**

**AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 27 MAY 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**

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 13 May 2020**

**RECOMMENDATION**

That the Minutes of the Council Meeting held 13 May 2020 be confirmed as a true and correct record.

**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**

Nil

### 13. PLANNING AND DEVELOPMENT SERVICES REPORT

#### 13.1 SCHEME AMENDMENT 28 ('OMNIBUS 3') TO LOCAL PLANNING SCHEME 21 - CONSIDERATION FOR ADOPTION FOR FINAL APPROVAL

<b>STRATEGIC GOAL</b>	2. PLACE AND SPACES Vibrant, attractive, affordable
<b>STRATEGIC OBJECTIVE</b>	2.1 Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
<b>SUBJECT INDEX</b>	Town Planning Schemes and Amendments
<b>BUSINESS UNIT</b>	Strategic Planning
<b>REPORTING OFFICER</b>	Principal Strategic Planner - Louise Korovesi
<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 Yalyalup  </p> <p>Attachment B Ambergate North &amp; Chapman Hill Industrial  </p> <p>Attachment C Old Broadwater Farm  </p> <p>Attachment D Vasse  </p> <p>Attachment E Dunsborough Lakes  </p> <p>Attachment F Yalyalup Industrial  </p> <p>Attachment G Lot 9001 Layman Rd Geographe  </p> <p>Attachment H Lots 9501 &amp; 585 Port Lane Geographe  </p> <p>Attachment I Lots 509 &amp; 612 Spinnaker Blvd Geographe  </p> <p>Attachment J DCA 2 Yalyalup  </p> <p>Attachment K DCA 4 Vasse  </p> <p>Attachment L DCA 3 Old Broadwater Farm  </p> <p>Attachment M DCA 5 Dunsborough Lakes  </p> <p>Attachment N Development Investigation Area Eagle Bay  </p> <p>Attachment O Development Investigation Area Okapa Rise Dunsborough  </p> <p>Attachment P Development Investigation Area Smiths Beach Yallingup  </p> <p>Attachment Q Development Investigation Area Ambergate  </p> <p>Attachment R Development Investigation Area Beachgrove Place Geographe  </p> <p>Attachment S Development Investigation Area Rendezvous Road Vasse  </p> <p>Attachment T Development Investigation Area Molloy Street Busselton  </p> <p>Attachment U Development Investigation Area Lots 40 &amp; 41 Vasse Hwy Bovell  </p> <p>Attachment V Schedule of Modifications  </p> <p>Attachment W Location Plan Lots 78 &amp; 92 Busselton Bypass Broadwater  </p> <p>Attachment X Lot 6 &amp; portion of Lot 10 Bussell Highway Broadwater  </p> <p>Attachment Y Broadwater Structure Plan Precinct 1 East  </p> <p>Attachment Z Location Plan Lot 9052 Northerly Street Vasse  </p> <p>Attachment AA Local Planning Strategy  </p> <p>Attachment AB Schedule of Submissions  </p>

**OFFICER RECOMMENDATION**

That the Council:

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts Amendment 28 to Local Planning Scheme 21 for final approval, in accordance with the modifications proposed in the Schedule of Modifications shown at Attachment V, for the purposes of:

1. Part 3 – Zones

- 1.1 Modifying Part 3 (Zones) by –

- a) Amending clause 3.1.1 by deleting 'Vasse Development' and 'Deferred Vasse Development' and inserting 'Urban Development' and 'Industrial Development'.
- b) Deleting clause 3.2.13 'Vasse Development Zone'.
- c) Deleting clause 3.2.14 'Deferred Vasse Development Zone'.
- d) Inserting new sub-clauses as follows:

- i. **3.2.13 URBAN DEVELOPMENT ZONE**

**Objectives**

- a. *To designate land for future urban development and provide a basis for more detailed structure planning in accordance with this Scheme.*
- b. *To provide for a range of residential densities to encourage a diversity of residential housing opportunities.*
- c. *To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.*
- d. *To proactively plan for vibrant and attractive activity centres in urban areas developed along 'main-street' lines with activated public streets, high levels of pedestrian and civic amenity and a mix of public spaces including, retail, commercial, café, restaurant, bar, entertainment, tourism and community uses.*
- e. *To provide for a range of recreational, community, cultural and social facilities to meet the needs of a growing and diverse population.*
- f. *To provide for the protection of natural areas and habitats within urban areas.*

- ii. **3.2.14 INDUSTRIAL DEVELOPMENT ZONE**

**Objectives**

- a. *To designate land for future industrial development.*
- b. *To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme.*
- c. *Encourage and facilitate employment generating development which will contribute to the economic and social well-being of the district;*
- d. *Provide for a range of industrial and associated activities, so as to meet the needs of the wider community for industrial services and facilities;*
- e. *Minimise land use conflict between industrial and other land uses and protect the amenity of zones abutting the Industrial Development Zone;*
- f. *Improve the amenity and visual appearance of industrial areas through appropriate design and landscaping;*
- g. *Encourage the consolidation of industrial development into areas*

*which have been appropriately zoned and structure planned for that purpose; and provide for appropriate servicing, accessibility and connectivity.*

- e) Amending clause 3.6 (Land Use Permissibility in the Special Use, Vasse Development and Deferred Vasse Development zones) as follows –

- i. Amending the title of the clause to *“Land Use Permissibility in the Special Use, Urban Development and Industrial Development Zones.*
- ii. Deleting clause 3.6.2.
- iii. Deleting clause 3.6.3.
- iv. Amending Table 1 - Zoning Table by deleting the ‘Vasse Development’ and ‘Deferred Vasse Development’ columns.

2. Part 4 – General Development Requirements

2.1 Amend clause 4.2 to read as follows –

**4.2 R-Codes**

**4.2.1** *The R-Codes, modified as set out in clause 4.3, are to be read as part of this Scheme.*

**4.2.2** *The local government –*

- a) must make a copy of the R-Codes available for public inspection during business hours at the offices of the local government; and*
- b) may publish a copy of the R-Codes on the website of the local government.*

**4.2.3** *The coding of land for the purposes of the R-Codes is shown by the coding number superimposed on a particular area contained within the boundaries of the area shown on the Scheme Map.*

**4.2.4** *The R-Codes apply to an area if the area has a coding number superimposed on it in accordance with subclause 4.2.3.*

2.2 Amend clause 4.3 Special Application of Residential Design Codes by –

- a) Amending the title of the clause to *“Modification of R-Codes”.*
- b) Inserting a footnote to clause 4.3.1 to read: *“refer also to Special Provision Areas – Schedule 3.*

3. Part 5 – Special Control Areas

3.1 Amending sub-clause 5.12.2 as follows –

**5.12.2** *Development contribution areas are shown on the Scheme map as ‘DCA’ with a purple border and a number and included in Schedule 11.*

4. Schedules

4.1 Amend Schedule 3 – ‘Special Provision Areas’ by –

- a) Amending ‘Special Provision Area No. 23’ (‘Yalyalup’) to read as follows and

amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP23	Lot 501 Blum Boulevard, Lot 2 Bussell Highway, Lots 9032 and 6 Cable Sands Road, Lot 9034 Joseph Drive, Lots 31 and 32 Lyddy Road, Yalyalup	Urban Development Special Purpose (Yalyalup Development Area) Special Purpose (Yalyalup Deferred Development Area)	<ol style="list-style-type: none"> <li>1. The local government has prepared a draft Noise Management Plan for Busselton Regional Airport, which requires approval by the Environmental Protection Authority. The local government may recommend conditions on the subdivision and development of land requiring noise amelioration measures consistent with the draft Noise Management Plan and subsequently with the Noise Management Plan as finally approved by the Environmental Protection Authority.</li> <li>2. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 23.</li> </ol>

b) Amending 'Special Provision Area No. 36' ('Yalyalup Industrial') to read as follows –

No	Particulars of Land	Zone	Special Provisions
SP36	Lots 9501 and 205 Vasse Highway, Lots 9009, 1602, 76 and portion of Lot 74 Neville Hyder Drive, Lots 300, 11 and 17 Vasse Highway and portion of Lot 75 Bussell Highway, Yalyalup	Industrial Development	<ol style="list-style-type: none"> <li>1. Prior to lodgement of a subdivision application, a drainage management framework shall be prepared for Lots 9009, 205, 74 and 75 that outlines a coordinated approach to, and demonstrates acceptable measures for, stormwater management, to the satisfaction of the City of Busselton and Department of Water and Environmental Regulation.</li> <li>2. The 'Local Commercial Centre and Service Station precinct' is intended to accommodate uses for convenience goods and services to cater for workers and visitors to the industrial park generally consistent with uses permissible in the Business zone but the following uses will also be prohibited – Bed and Breakfast, Hotel, Transport Depot, Motel, Single House, Grouped Dwelling,</li> </ol>



			<p>Multiple Dwelling and Tourist Accommodation.</p> <p>3. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 36.</p>
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c) Amending 'Special Provision Area No. 39' ('Ambergate North') to read as follows–

No	Particulars of Land	Zone	Special Provisions
SP39	<p>Lots 163, 161, 7, 9, 35, 15, 51, 50, 33, 11, 4, 3, 1, 2363, 2364, 2365 and portion of Lots 2191, 2192 and 2193</p> <p>Queen Elizabeth Avenue, Lot 301</p> <p>Busselton Bypass and Lots 2, 126, 22, 804 and portion of Lot 57</p> <p>Chapman Hill Road, Busselton</p>	<p>Urban Development</p> <p>Agriculture</p>	<p>1. The Local Development Plan for the Village Centre shall include the following requirements to the satisfaction of the City of Busselton and WAPC:</p> <ul style="list-style-type: none"> <li>a) initial retail facilities to be located at the entrance (northern end) of the Village Centre;</li> <li>b) identification of a Department Store site and proposed interim land use including the method of land use transition and a shop retail floorspace threshold that is not to be exceeded until such time as the interim use has been developed;</li> <li>c) provision for bulky goods retailing in addition to shop retail development; and</li> <li>d) inclusion of an education / technology precinct.</li> </ul> <p>2. Retail floor space within the Village Centre shall be limited to 14,000m<sup>2</sup> NLA.</p> <p>3. Retail floor space within the Village Centre shall not exceed 9,000m<sup>2</sup> NLA or accommodate a Discount Department Store until the following has occurred:</p> <ul style="list-style-type: none"> <li>a) The development of two Discount Department Stores in the Busselton City Centre;</li> <li>b) The development of a minimum 50,000m<sup>2</sup> of shop retail NLA in the Busselton City Centre; and</li> <li>c) Confirmation of compliance with a City-level hierarchy as established in an adopted Commercial Strategy or Local</li> </ul>

		<p><b>Planning Strategy for the City.</b></p> <ol style="list-style-type: none"><li><b>4. For the purposes of Special Provision Area 39, 'Department Store' shall be defined as "a single large shop retail store organised into departments offering a variety of merchandise; commonly part of a retail chain with NLA of greater than 5,000m<sup>2</sup>.</b></li><li><b>5. For the purposes of Special Provision Area 39, 'City Centre' is defined as the land bound by Marine Terrace, Brown Street, Peel Terrace and West Street.</b></li><li><b>6. Retail floor space within the Local Centre shall not exceed 500m<sup>2</sup> NLA until the Village Centre has a developed retail floor space of a minimum 5,000m<sup>2</sup> NLA.</b></li><li><b>7. Any application for subdivision shall be accompanied by an Urban Water Management Plan (UWMP) applicable to the application area that has been adopted/endorsed by the City of Busselton on advice from the Department of Water and Environmental Regulation.</b> <b>The UWMP is to provide particular consideration to the usage and impact of drainage outcomes on the northern bushland and wetland area.</b></li><li><b>8. All development and subdivision shall meet the requirements and objectives of an approved Water Quality Improvement Plan for the Vasse Wonnerup Wetlands and Geographe Bay to the satisfaction of the City of Busselton and Department of Water and Environmental Regulation.</b></li><li><b>9. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 39.</b></li><li><b>10. A Development Contribution Plan shall be prepared to the satisfaction of the City of Busselton and WAPC. The DCP is to be prepared in consultation with all landowners in Special Provision Area 39 and is to</b></li></ol>
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			comprehensively address the staging of development and the equitable provision of community facilities, public open space and civil infrastructure. Contributions shall be made by all landowners within Special Provision Area 39 in accordance with the requirements of the endorsed DCP.
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d) Amending 'Special Provision Area No. 42' ('Dunsborough Lakes') to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP42	Lot 9050 Clubhouse Drive, Lot 5000 Waterville Road, Lots 9070 and 5006 Dunsborough Lakes Drive, Lot 40 Dunsborough Lakes Drive, Lots 41, 1150 and 9069 Commonage Road and land bound by Commonage Road, Inverness Avenue, Dunsborough Lakes Drive and St Michaels Parkway, Dunsborough	Special Purpose Urban Development	<ol style="list-style-type: none"> <li>1. Land designated 'Tourist' on the Dunsborough Lakes Estate Structure Plan can be developed to permit up to 25% of units as 'unrestricted length of stay' to the satisfaction of the City. No other unit shall be occupied for more than a total of 3 months in any 12 month period.</li> <li>2. Development of the unrestricted length of stay component shall occur on the basis of no more than one unit for every three restricted stay units that have been developed.</li> <li>3. Salinity and nutrient monitoring of groundwater and surface water shall be carried out by the developer and reported to the City of Busselton, the Department of Biodiversity, Conservation and Attractions and the Department of Water and Environmental Regulation every 12 months. Local Development Plans will not be considered unless a salinity and nutrient monitoring report has been submitted to the local government at every 12 month interval.</li> <li>4. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 42.</li> </ol>

e) Amending 'Special Provision Area No. 43' ('Old Broadwater Farm') to read as follows–

No	Particulars of Land	Zone	Special Provisions
SP43	Land generally bound by the Busselton Bypass, New River Ramble, Smokebox Avenue and Pickmore Circus, West Busselton	Urban Development Residential	<ol style="list-style-type: none"> <li>1. Clause 4.3.1 does not apply to land within Special Provision Area 43.</li> <li>2. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 43.</li> </ol>

f) Amending 'Special Provision Area No. 48' ('Ambergate Industrial/Service Commercial') to read as follows –

No	Particulars of Land	Zone	Special Provisions
SP48	Lot 11 and portion of Lot 803 Chapman Hill Road, Bovell	Industrial Development	<ol style="list-style-type: none"> <li>1. The intent of this special provision area is to enable the use and development of the site as a service commercial and mixed light industrial precinct.</li> <li>2. The following uses shall be "P" uses - <ul style="list-style-type: none"> <li>• Bulk Store</li> <li>• Bus Depot</li> <li>• Chandlery</li> <li>• Convenience Store</li> <li>• Educational Establishment</li> <li>• Lunch Bar</li> <li>• Light Industry</li> <li>• Liquid Fuel Depot</li> <li>• Medical Centre</li> <li>• Motor Vehicle and Marine Sales Premises</li> <li>• Motor Vehicle Repair</li> <li>• Motor Vehicle Wash</li> <li>• Research and Development Facility</li> <li>• Plant Nursery</li> <li>• Public Utility</li> <li>• Recreation Area</li> <li>• Recreation Facility</li> <li>• Service Industry</li> <li>• Service Station</li> <li>• Showroom</li> <li>• Transport Depot</li> <li>• Veterinary Hospital</li> <li>• Warehouse</li> </ul> </li> </ol> <p>All other uses are not permitted.</p>

			<p>3. For the purposes of Special Provision 48 'Research and Development Facility' means "a building or buildings predominantly used for tertiary industrial activity involved in the research and development of goods and services, and may include small scale manufacturing that is directly associated with, and ancillary to, the predominant use."</p> <p>4. Notwithstanding Part 4 of the deemed provisions of the Scheme, the Structure Plan shall include the following details and development shall also comply with:</p> <ul style="list-style-type: none"><li>a) no direct vehicular access to lots from Chapman Hill Road or Busselton Bypass;</li><li>b) vehicular access to the precinct shall be limited to controlled, shared access points from Chapman Hill Road and the Ambergate North entry road only;</li><li>c) service roads and shared, coordinated parking and access shall be provided within the land and along the service road frontage;</li><li>d) protection of sites of heritage, conservation or environmental significance;</li><li>e) built form and presentation guidelines to ensure the appropriate design and siting of buildings;</li><li>f) particular design requirements for landmark buildings to be located at the corner of the Busselton Bypass and Chapman Hill Road and the corner of the Ambergate North entry road and Chapman Hill Road; and</li><li>g) other information considered relevant by the local government.</li></ul> <p>5. All development that adjoins the Busselton Bypass shall have a minimum 24m building setback.</p>
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			6. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 48.
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g) Amending 'Special Provision Area 55' ('Heron Lake') to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP55	Land fronting Cockatoo Loop, Tortoise Rise and Bendjar Grove, Vasse	Residential	Clause 4.3.1 of the Scheme does not apply to land within Special Provision Area 55.

h) Inserting a new 'Special Provision Area 64' ('Vasse Townsite') as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions																								
SP64	Northerly Street, Vasse	Urban Development	<div><div><div>1. The ‘Shop’ retail floor space shall be limited to a net lettable area of 1,150m<sup>2</sup> to be allocated across the eastern and western precincts as follows -</div><table><tr><th colspan="3">Allocated Shop Retail Floorspace (m<sup>2</sup> NLA)</th></tr><tr><th>Lot No.</th><th>East</th><th>West</th></tr><tr><td>Lot 3 (Vol 1739 &amp; Folio 662)</td><td>100m<sup>2</sup></td><td>-</td></tr><tr><td>Lot 21 (Vol 1670 &amp; Folio 209)</td><td>100m<sup>2</sup></td><td>-</td></tr><tr><td>Lots 2 (Vol 1149 &amp; Folio 421), 50 (Vol 1003 &amp; Folio 757) &amp; 51 (Vol 1149 &amp; Folio</td><td>319m<sup>2</sup></td><td>-</td></tr><tr><td>Lots 2 (Vol 1470 &amp; Folio 802) &amp; 21 (Vol 1999 &amp; Folio 434)</td><td>-</td><td>437m<sup>2</sup></td></tr><tr><td>Lot 19 (Vol 4 &amp; Folio 122A)</td><td>-</td><td>194m<sup>2</sup></td></tr><tr><td>Total (1,150m<sup>2</sup>)</td><td>519m<sup>2</sup></td><td>631m<sup>2</sup></td></tr></table></div><div><div>2. ‘Shop’ retail shall have the same definition as that set out in the Scheme.</div><div>3. The permissibility of land uses shall be in accordance with the ‘Local/Neighbourhood Centre’ zone but the following uses shall be ‘X’ uses: , ‘Hospital’, ‘Marina’, ‘Marine Filling Station’, ‘Motor Vehicle, Boat or Caravan Sales’, ‘Restricted Premises’ and ‘Transport Depot’.</div><div>4. Main street retail/commercial development (with residential opportunities at upper levels) shall provide direct pedestrian access and deliver a high level of pedestrian amenity.</div><div>5. Changes in building height, façade treatments, building materials and the location of iconic</div></div></div>	Allocated Shop Retail Floorspace (m <sup>2</sup> NLA)			Lot No.	East	West	Lot 3 (Vol 1739 & Folio 662)	100m <sup>2</sup>	-	Lot 21 (Vol 1670 & Folio 209)	100m <sup>2</sup>	-	Lots 2 (Vol 1149 & Folio 421), 50 (Vol 1003 & Folio 757) & 51 (Vol 1149 & Folio	319m <sup>2</sup>	-	Lots 2 (Vol 1470 & Folio 802) & 21 (Vol 1999 & Folio 434)	-	437m <sup>2</sup>	Lot 19 (Vol 4 & Folio 122A)	-	194m <sup>2</sup>	Total (1,150m <sup>2</sup> )	519m <sup>2</sup>	631m <sup>2</sup>
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			<p>landmark buildings in strategic locations will be encouraged to create visual interest and contribute positively to the streetscape.</p> <p>6. Where development is proposed along the boundary of existing development adjacent to the Urban Development zone, it shall be setback as per the setback requirements applicable to the lowest residential coding of the adjacent lots.</p> <p>7. Significant redevelopment is to consolidate access points, and where possible, be located over common boundaries to facilitate reciprocal access to properties.</p> <p>8. Direct vehicle access to Northerly Street from the indicative secondary access points will not be supported.</p> <p>9. Off-street parking is to be located behind, and sleeved by, buildings facing Northerly Street.</p> <p>10. Prior to development, stormwater and groundwater management, including management of the 100yr ARI event, is to be determined in consultation with the City of Busselton and having regard to Local Planning Policy.</p>
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i) Inserting a new 'Special Provision Area 65' ('Vasse Village Centre') to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP65	Land generally bound by Reserve 48251, Reserve 50351, Northerly Street and Bussell Highway, Vasse	Urban Development	The maximum recommended retail floor space allowable shall generally be limited to 4,650m <sup>2</sup> (NLA).

j) Inserting a new 'Special Provision Area 66' ('Birchfields Village, Vasse') to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP66	Land generally bound by Busselton Bypass, Northerly Street, Kaloorup Road, Heritage Drive, Caprock Crescent and Cottage Drive, Vasse	Residential Special Purpose	<p>1. With the exception of lots coded R30 or R40 (as identified for strata development potential on a Local Development Plan) clause 4.3.1 of the Scheme does not apply to land within this Special Provision Area.</p> <p>2. Garages or carports accessed from the primary street shall be setback a minimum of 6.0m from the street boundary and, where possible, be a greater setback than the front building elevation to ensure that the garage is not a prominent feature of the streetscape.</p>

k) Inserting a new 'Special Provision Area 67' ('Dawson Village, Vasse) to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP67	Land generally bound by Bussell Highway, Lynwood Street, Reserve 48251 and Reserve 50351, Vasse	Residential Special Purpose	<ol style="list-style-type: none"> <li>1. For lots with a rear drainage easement, the front setback to the dwelling may be reduced to a minimum of 4 metres. No further setback averaging will apply. The front setback to the garage is to comply with the requirements of the R-Codes.</li> <li>2. Clause 4.3.1 of the Scheme does not apply to land within this Special Provision Area.</li> </ol>

l) Inserting a new 'Special Provision Area 68' (Vasse 'Urban Development' zone) to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP68	Lot 9554 Napoleon Promenade, Lots 4000 and 9000 Yebble Drive, Lot 9521 Bussell Highway, Lots 9052 and 221 Northerly Street, Lot 461 Florence Road and Lot 250 Kaloorup Road, Vasse	Urban Development	<ol style="list-style-type: none"> <li>1. Notwithstanding the requirement for a structure plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 68.</li> <li>2. Lot 221 Northerly Street, Vasse contains important environmental values including, but not limited to, poorly represented vegetation and habitat for Western Ringtail Possum (<i>Pseudocheirus occidentalis</i>) and Black Cockatoo species (<i>Calyptohynchus latirostis</i>, <i>Calyptohynchus baudinii</i> and <i>Calyptohynchus bandsi naso</i>). Future structure planning should require these environmental values to be retained, managed and protected for conservation purposes.</li> </ol>

m) Inserting a new 'Special Provision Area 69' ('Port Geographe') to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP69	Lots 9501 and 585 Port Lane, Lot 9002 Layman Road and Lot 590 and 612 Spinnaker Boulevard, Geographe	Urban Development	<ol style="list-style-type: none"> <li>1. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated structure plan shall be required for the whole of Special Provision Area 69.</li> <li>2. Prior to subdivision or development the proponent is to prepare a Development Contribution Plan to the satisfaction of the City of Busselton and</li> </ol>



			WAPC to ensure appropriate and timely contributions towards community facilities, public open space and civil infrastructure on a progressive and staged basis.
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4.2 Deleting Schedule 7 - 'Vasse Development Zone – Special Provisions'.

4.3 Deleting Schedule 8 – 'Deferred Vasse Development Zone – Special Provisions' and renumber the remaining Schedules and Schedule references accordingly.

4.4 Amending Schedule 11 – 'Development Contribution Area' as it relates to DCA1 by deleting the second paragraph under 'Method for calculating cost contributions' and inserting the following:

*"A cost contribution is to be applied only once and at the first available stage of development or subdivision since the coming into effect of the Development Contribution Plan. However, where a contribution is not applied at the earliest stage, a contribution may still be applied at the next available stage where appropriate."*

4.5 Amending Schedule 11 – 'Development Contribution Areas' by inserting the following and amending the Scheme map accordingly –

Ref No:	DCA 2 - Yalyalup
Area	As identified on the Scheme map
Relationship to other planning instruments	The Development Contribution Plan operates in association with the endorsed Yalyalup Structure Plan and endorsed Lot 18 Vasse Highway ("Via Vasse") Structure Plan and generally conforms with the Long Term Financial Plan
Infrastructure and administrative items to be funded	<ul style="list-style-type: none"> <li>• Multi-purpose Community Centre</li> <li>• Active Open Space (land costs for playing fields and development, reticulation and lighting of playing fields as a senior oval facility, capital cost of pavilion and parking and ancillary facilities)</li> <li>• Preparation of the Development Contribution Plan</li> <li>• District Facilities: <ul style="list-style-type: none"> <li>○ Busselton to Dunsborough Recreation Trail</li> <li>○ Dunsborough to Yallingup Recreation Trail</li> <li>○ Rails to Trails</li> <li>○ Cultural Performing Arts Centre</li> <li>○ Lower S/W Learning and Information Facility</li> <li>○ Regional Gallery Facility upgrade</li> <li>○ Youth Centre</li> <li>○ Foreshore facilities and playgrounds</li> <li>○ Boat Ramps</li> <li>○ Environmental protection, management and implementation</li> <li>○ Active playing fields and regional sporting headquarters for soccer and cricket</li> </ul> </li> </ul>

<b>Method for calculating contributions</b>	Contributions are apportioned to individual developers based on the proportion of the dwelling yield of their development to the total dwelling yield in the Development Contribution Area
<b>Period of operation</b>	Ten years from the commencement of the operation of the Development Contribution Plan or until completion of the subdivision and development, if sooner
<b>Priority and timing</b>	As set out in the Development Contribution Plan
<b>Review Process</b>	Ten years from the commencement of the operation of the Development Contribution Plan or within that period, when appropriate, having regard to the rate of development.
<b>Ref No:</b>	DCA 3 – Old Broadwater Farm
<b>Area</b>	As identified on the Scheme map
<b>Relationship to other planning instruments</b>	The Development Contribution Plan operates in association with the endorsed Old Broadwater Farm Structure Plan and generally conforms with the City Of Busselton Strategic Plan 2010 – 2020, City of Busselton Leisure Services Plan, the City of Busselton Cultural Plan and the Long Term Financial Plan
<b>Infrastructure and administrative items to be funded</b>	<p>District - Community Infrastructure:</p> <ul style="list-style-type: none"> <li>• Busselton to Dunsborough Recreation Trail</li> <li>• Dunsborough to Yallingup Recreation Trail</li> <li>• Rails to Trails</li> <li>• Cultural Performing Arts Centre</li> <li>• Lower S/W Learning and Information Facility</li> <li>• Regional Gallery Facility upgrade</li> <li>• Youth Centre</li> <li>• Foreshore facilities and playgrounds</li> <li>• Geographe Leisure Centre (group fitness centre)</li> <li>• Boat Ramps</li> <li>• Environmental protection, management and implementation</li> <li>• Public Art</li> <li>• District Community Centre</li> <li>• Dunsborough Sport and Recreation Zone (6.5 hectare playing field for district facility)</li> <li>• Active playing fields and regional sporting headquarters for soccer and cricket</li> <li>• Administration of the Development Contribution Plan</li> </ul>
<b>Method for calculating contributions</b>	Costs as set out in Schedule 2 of the Development Contribution Plan are apportioned to the developer and are based on the dwelling yield of the development in the Development Contribution Plan Area
<b>Period of operation</b>	Ten years from the commencement of the operation of the Development Contribution Plan or until completion of subdivision and development, if sooner
<b>Priority and timing</b>	As set out in the Development Contribution Plan
<b>Review process</b>	Ten years from the commencement of the operation of the Development Contribution Plan or within that period, when appropriate, having regard to the rate of development.

<b>Ref No:</b>	<b>DCA 4 - Vasse</b>
<b>Area</b>	<b>As identified on the Scheme map</b>
<b>Relationship to other planning instruments</b>	The Developer Contribution Plan operates in association with the endorsed Vasse Structure Plan, the endorsed Vasse Townsite Structure Plan, the endorsed Heron Lake Structure Plan, the endorsed Vasse Village Centre Structure Plan and generally conforms to the Long Term Financial Plan
<b>Infrastructure and administrative items to be funded</b>	<ul style="list-style-type: none"> <li>• Upgrading and maintenance of Newtown Oval</li> <li>• Development of a consolidated and integrated active open space facility adjacent to the Cape Naturaliste College to be known as the 'Vasse Sporting Complex'</li> <li>• Community purposes site adjacent to the Village Centre</li> </ul>
<b>Method for calculating contributions</b>	Developers within the Development Contribution Area will provide contributions based on a per lot basis at subdivision clearance stage and requirements for ceding land or development of infrastructure in association with specified stages of subdivision
<b>Period of operation</b>	Ten years from the commencement of the operation of the Development Contribution Plan or until completion of the subdivision and development, if sooner
<b>Priority and timing</b>	As set out in the Development Contribution Plan
<b>Review process</b>	Ten years from the commencement of the operation of the Development Contribution Plan or within that period, when appropriate, having regard to the rate of development
<b>Ref No:</b>	<b>DCA 5 – Dunsborough Lakes</b>
<b>Area</b>	<b>As identified on the Scheme map</b>
<b>Relationship to other planning instruments</b>	The Development Contribution Plan operates in association with the endorsed Dunsborough Lakes Structure Plan and generally conforms with the Long Term Financial Plan
<b>Infrastructure and administrative items to be funded</b>	<ul style="list-style-type: none"> <li>• Ceding of land for public purposes (primary school site) and district open space</li> <li>• Development of district level active open space, including playing fields, change rooms, pavilion and related infrastructure such as parking and lighting</li> </ul>
<b>Method for calculating contributions</b>	Cost contributions are apportioned to the developer and are based on the estimated dwelling yield of the development in the Development Contribution Area
<b>Period of operation</b>	Ten years from the commencement of the operation of the Development Contribution Plan or until completion of the subdivision and development, if sooner
<b>Priority and timing</b>	As set out in the Development Contribution Plan
<b>Review process</b>	Ten years from the commencement of the operation of the Development Contribution Plan or within that period, when appropriate, having regard to the rate of development

**5. Landscape Value Area****5.1 Realigning the 'Landscape Value Area' boundary to exclude –**

- a) The land generally bound by the Busselton Bypass, the Buayanyup Drain, Harbeck Drive, Octopus Lane and Gribble Court, Vasse as shown on the Scheme map, and amending the Scheme map accordingly.
- b) Lot 9507 New River Ramble, West Busselton as shown on the Scheme map, and amend the Scheme map accordingly.

**6. Wetland Area**

Realigning the 'Wetland Area' boundary to exclude the land generally bound by the Busselton Bypass, Gribble Court and Morwong Street, Vasse as shown on the Scheme map, and amend the Scheme map accordingly.

**7. Development Investigation Area****7.1 Amending the 'Development Investigation Area' boundary by –**

- a) Excluding Lot 300 (Reserve 50512) and portion of Lot 338 (Reserve 50575), Lots 301 – 304, Lots 311 – 322 and Lots 329 – 366 Carnarvon Castle Drive, Lots 305 – 310 Vixen Close and Lots 323 – 328 Annamaria Rise, Eagle Bay as shown on the Scheme map, and amend the Scheme maps accordingly.
- b) Excluding Lots 401 – 405 Sloan Drive, Lots 408, 9000 and 2002 (Reserve 49991) Capstone Court, Lots 406 and 407, Lots 412 – 418, Lots 420 – 432 and Lots 2000 (Reserve 49412) and 2001 (Reserve 49928) Okapa Rise, Dunsborough as shown on the Scheme map, and amend the Scheme map accordingly.
- c) Excluding Location 4131 Smiths Beach Road, Yallingup as shown on the Scheme map, and amend the Scheme map accordingly.
- d) Excluding Lots 2001, 2003 & 610 Fairway Drive, Lots 2005 and 2014 New River Ramble, portion of Lot 502 Swampen Lane and the land generally bound by Settlers Gate, Pickmore Circus, Mulberry Lane, New River Ramble and Mary Elizabeth Ramble, West Busselton as shown on the Scheme map, and amend the Scheme map accordingly.
- e) Excluding Lots 25, 250, 23, 60, 26, 333, 5136 (Reserve 45588) and portion of Lots 803 and 2321 Chapman Hill Road and portion of Lots 80 and 283 Lindberg Road, Bovell and the land generally bound by the Busselton Bypass, Queen Elizabeth Avenue, Ambergate Road, Chapman Hill Road and the Vasse Diversion Drain as shown on the Scheme map, and amend the Scheme map accordingly.
- f) Excluding Lot 100 and 102 Ford Road, Lots 103 – 118 and Lot 472 Beachgrove Place, Geographe as shown on the Scheme map, and amend the Scheme map accordingly.
- g) Excluding Lots 1 – 10 and Lot 8001 (Reserve 51685) Spoonbill Rd, Lots 8003 (Reserve 51688 and 8004 (Reserve 51689), Lots 11 – 18 and 28 -33 Penguin Way, Lots 34 & 35 Pardalote Road, Lots 26 & 27, 9002, 202 and 19 - 24 Norwood Pass, Lots 25 and 36 – 48 Goshawk Way, portion of Lot 2005 (Reserve 49437) Carriage Terrace and Lot 9500 Busselton Bypass, Vasse as shown on the Scheme map, and amend the Scheme map accordingly.

- h) Excluding Lots 1 – 3, 228 and B5 Molloy Street, Busselton as shown on the Scheme map, and amend the Scheme map accordingly.
- i) Including Lot 40 and portion of Lot 41 Vasse Highway, Bovell as shown on the Scheme map, and amend the Scheme map accordingly.

**8. Land proposed to be rezoned to Urban Development and Industrial Development**

**8.1 In respect of land within Yalyalup ('Provence') –**

- a) Rezoning Lot 9033 Joseph Drive, Lot 2 Bussell Highway, Lot 31 Lyddy Road and Lot 9032 Cable Sands Road, Yalyalup from 'Special Purpose (Yalyalup Development Area)' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.
- b) Rezoning Lot 6 Cable Sands Road, Yalyalup from 'Special Purpose (Deferred Yalyalup Development Area)' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

**8.2 In respect of land within Ambergate North –**

Rezoning Lot 301 Busselton Bypass, Lot 2 and 126 Chapman Hill Road and portion of Lots 804 and 22 Chapman Hill Road, Bovell from 'Special Purpose (Ambergate North Development Area)' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

**8.3 In respect of land within Old Broadwater Farm –**

Rezoning portion of Lot 9507 New River Ramble, West Busselton from 'Special Purpose (Old Broadwater Farm Development Area)' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

**8.4 In respect of land within Vasse –**

- a) Rezoning portion of Lot 9554 Napoleon Promenade, Vasse from 'Vasse Development' to 'Industrial Development' as shown on the Scheme map, and amend the Scheme map accordingly.
- b) Rezoning Lots 122, 102, 108, 109, 110, 120, 111, 106 and portion of Lots 9553 and 9554 Napoleon Promenade, Lots 104 and 105 Birak Lane, Lot 121 Minion Court, Lot 9521 Bussell Highway, Lot 9000 Yebble Drive, Lot 174 and portion of Lot 250 Kaloorup Road and Lot 9052 and portion of Lot 221 Northerly Street, Vasse from 'Vasse Development' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.
- c) Rezoning Lot 461 Florence Road, portion of Lot 250 Kaloorup Road and portion of Lot 221 Northerly Street, Vasse from 'Deferred Vasse Development' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.
- d) Rezoning Lot 22 Newtown Close, Lots 8 and 9 Dowell Road and Lots 74, 75, 2, 21, 19, 51, 50, 2, 3, 4, and 21 Northerly Street, Vasse from 'Vasse Development' to 'Urban Development' and apply a residential density code of R-AC3 as shown on the Scheme map, and amend the Scheme map accordingly.

**8.5 In respect of land within Dunsborough Lakes –**

Rezoning Lot 5000 Waterville Drive, Lot 9050 Clubhouse Drive, Lot 9068 Kawana Boulevard, Lots 5006, 9067 and 40 Dunsborough Lakes Drive and Lot 41 Commonage Road, Dunsborough Lakes from 'Special Purpose (Dunsborough Lakes Development Area)' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

**8.6 In respect of land within Yalyalup Industrial –**

a) Rezoning Lots 9501, 17 and 205 Vasse Highway, Lots 9009, 76 and portion of Lot 74 Neville Hyder Drive and portion of Lot 75 Bussell Highway, Yalyalup from 'Special Purpose (Yalyalup Industrial Development)' to 'Industrial Development' as shown on the Scheme map, and amend the Scheme map accordingly.

b) Rezoning Lots 300 and 11 Vasse Highway and Lot 1602 Neville Hyder Drive, Yalyalup from 'Special Purpose (Yalyalup Industrial Development)' to 'Reserve for Public Purposes' as shown on the Scheme map, and amend the Scheme map accordingly.

**8.7 In respect of land within Chapman Hill Industrial/Service Commercial -**

Rezoning Lot 11 and portion of Lot 803 Chapman Hill Road, Bovell from 'Special Purpose (Ambergate Industrial/Service Commercial Development Area)' to 'Industrial Development' as shown on the Scheme map, and amend the Scheme map accordingly.

**8.8 In respect of land within Port Geographe –**

a) Rezoning portion of Lot 9001 Layman Road, Geographe from 'Residential R20', 'Residential R20/R40', 'Reserve for Recreation' and 'Reserve for Public Purposes' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

b) Rezoning Lots 9501 and 585 Port Lane, Geographe from 'Business' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

c) Rezoning Lots 509 and 612 Spinnaker Boulevard, Geographe from 'Tourist' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

**9. Normalising endorsed structure plans where subdivision and development has occurred.****9.1 In respect of land within Yalyalup (Provence) –**

Rezoning land generally bound by Vasse Highway, Lot 501 Vasse Highway, Joseph Drive, Lot 9032 Cable Sands Road and the Busselton Outer Bypass Corridor, Yalyalup from 'Special Purpose (Yalyalup Development Area)' to 'Residential R5', 'Residential R10', 'Residential R12.5', 'Residential R15', 'Residential R20', 'Residential R25', 'Residential R30' and 'Reserve for Recreation' as shown on the Scheme map, and amend the Scheme map accordingly.

**9.2 In respect of land within Old Broadwater Farm –**

Rezoning the land generally bound by the Busselton Bypass, Fairway Drive, Pickmore Circus, Pianobox Boulevard and Lot 9507 New River Ramble, West Busselton from 'Special Purpose (Old Broadwater Farm Development Area)' to 'Residential R12.5', 'Residential R20', 'Residential R30', 'Residential R40' and 'Reserve for Recreation' as shown on the Scheme map, and amend the Scheme map accordingly.

**9.3 In respect of land within Vasse –**

***'Birchfields Village'***

- a) Rezoning the land generally bound by the Busselton Bypass, Northerly Street, Orlando Boulevard, Arup Drive, Heritage Drive, Kaloorup Road and land zoned 'Rural Residential' and 'Rural' to the east and south from 'Vasse Development' to 'Residential R5', 'Residential R10', 'Residential R20', 'Residential R30', 'Residential R40', 'Special Purpose (Single House, Restaurant, Convenience Store & Cottage Industry)', 'Reserve for Recreation' and 'Reserve for Public Purposes' as shown on the Scheme map, and amend the Scheme map accordingly.

***'Dawson Village'***

- b) Rezoning the land generally bound by Bussell Highway, Lynwood Street, the 'Rails to Trails' reserve and the Buayanyup River Drain reserve from 'Vasse Development' to 'Residential R20', 'Residential R30', 'Residential R40', 'Special Purpose (Aged Persons Accommodation & Park Home Park)' and 'Reserve for Recreation' as shown on the Scheme map, and amend the Scheme map accordingly.

***'Vasse LIA'***

- c) Rezoning the land generally bound by Bussell Highway, Northerly Street, Lynwood Street and the 'Rails to Trails' reserve from 'Vasse Development' to 'Industrial', 'Urban Development' and 'Reserve for Recreation' as shown on the Scheme map, and amend the Scheme map accordingly.

***'Heron Lake'***

- d) Rezoning the land contained within Special Provision Area 55 from 'Special Purpose (Heron Lake Development Area)' to 'Residential R12.5' and 'Reserve for Recreation' as shown on the Scheme map, and amend the Scheme map accordingly.

**9.4 In respect of land within Dunsborough Lakes Estate –**

Rezoning the land generally bound by Caves Road, Commonage Road, Dunsborough Lakes Drive from 'Special Purpose (Dunsborough Lakes Development Area)' to 'Residential R5', 'Residential R10', 'Residential R20', 'Residential R25', 'Residential R30', 'Residential R40', 'Special Purpose (Private Recreation)', 'Special Purpose (Office)', 'Reserve for Public Purposes' and 'Reserve for Recreation' as shown on the Scheme map, and amend the Scheme map accordingly.

2. Advise the Western Australian Planning Commission that Amendment 28 is considered by the Council to be a 'complex' amendment, pursuant to the *Planning and Development (Local Planning Schemes) Regulations 2015*, as it proposes to identify development contribution areas and amend a development contribution plan.
3. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations*

**2015, endorses the Schedule of Submissions at Attachment AB, which has been prepared in response to the public consultation process undertaken in relation to Amendment 28.**

- 4. Upon preparation of the necessary documentation, refers the adopted Amendment 28 to the Western Australian Planning Commission for consideration and determination in accordance with the *Planning and Development Act 2005*.**
- 5. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should directions be given that modifications to Amendment 28 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.**

## **EXECUTIVE SUMMARY**

The Council is requested to consider adopting draft Amendment 28 ('Omnibus 3') to Local Planning Scheme 21 (LPS21) for final approval. Amendment 28 seeks to align the various 'development zone provisions' throughout LPS21 with both the deemed provisions and the model provisions set out by the *Planning and Development (Local Planning Schemes) Regulations 2015*. Amendment 28 also seeks to introduce consolidated and Regulation compliant development zone provisions into the Scheme, including the introduction of two new zones being 'Urban Development' and 'Industrial Development'.

Advertising of the Amendment resulted in eleven external agency and four public submissions. No objections were raised, however modifications are being recommended in response to matters raised in submissions.

Officers are recommending that Amendment 28 be adopted for final approval, in accordance with recommended modifications, and referred to the Western Australian Planning Commission and Minister for Planning for final approval.

## **BACKGROUND**

On 15 October 2014, the City of Busselton *Local Planning Scheme No. 21* (LPS21) was published in the Government Gazette. LPS21, which incorporates the Scheme text and Scheme map, controls and guides development and growth within the City of Busselton.

In October 2015 new *Planning and Development (Local Planning Schemes) Regulations* came into effect. The Regulations affect arrangements for local planning schemes, strategies and amendments. In addition to a 'model scheme text' (known as the Model Provisions), the Regulations introduced a set of 'deemed provisions' that form part of all local planning schemes.

The deemed provisions, amongst other things, require a structure plan and an activity centre plan to be prepared in a manner and form approved by the Western Australian Planning Commission (WAPC) and set out the information to be included in a structure plan. The manner and form for the preparation of structure plans and activity centre plans, pursuant to the Regulations, is set out in the *Planning and Development (Local Planning Schemes) - Structure Plan Framework 2015*.



Essentially, the purpose of a structure plan is to coordinate the future subdivision and zoning of an area of land. The Regulations outline that a structure plan may be prepared for an area that is:

- identified in a local planning scheme as being suitable for urban or industrial development (through zones such as Urban or Industrial Development);
- otherwise identified in a scheme as being required prior to subdivision or development of land;
- as a requirement under a State Planning Policy (SPP); or
- as required by the WAPC for orderly and proper planning purposes.

The Model Scheme Text contains many of the core legal and administrative provisions of schemes (including zones) which can be applied consistently across the State, with scope to vary the planning content to suit local circumstances. Of relevance to this Amendment, the Model Scheme Text includes an 'Urban Development' zone and an 'Industrial Development' zone.

LPS21 does not contain either of these zones. Instead, LPS21 identifies seven 'development' and 'deferred development' areas that sit within a 'Special Use' zone, as well as 'Vasse Development' and 'Deferred Vasse Development' zones, with land use controls and requirements for matters to be addressed prior to, or as part of, the subdivision process (for example, the preparation and approval of environmental management plans, treatment of interfaces between buffers and adjoining land uses and noise amelioration measures) via endorsed structure plans. These zones/areas are:

- Special Use (Yalyalup Development)
- Special Use (Yalyalup Deferred Development)
- Special Use (Ambergate North Development Area)
- Vasse Development Zone
- Vasse Deferred Development Zone
- Special Use (Heron Lake Development Area)
- Special Use (Old Broadwater Development Area)
- Special Use (Dunsborough Lakes Development Area)
- Special Use (Yalyalup Industrial Development)
- Special Use (Ambergate Industrial/Service Commercial Development Area)

Additional development area provisions are contained within the Scheme via: various Scheme clauses; Schedule 3 – 'Special Provision Areas'; Schedule 8 – 'Vasse Development Zone – Special Provisions'; and Schedule 9 – 'Deferred Vasse Development Zone – Special Provisions'. In some areas, further subdivision and development controls are afforded by 'local development plans', which are a lower level planning instrument than either a structure plan or activity centre plan.

Prior to the Gazettal of the Regulations, the planning framework for the City's development areas gave the applicable structure plan the force and effect of the local planning scheme in terms of zones and land use. The deemed provisions of the Regulations override any operational scheme provisions that seek to give a structure plan the force and effect of a scheme, however a local government is required to have 'due regard' to any approved structure plan.

In order to have the force and effect of a scheme, an approved structure plan needs to be incorporated or 'normalised' into a scheme via a scheme amendment or as part of a scheme review – effectively, the structure plan's provisions need to be incorporated into the scheme itself, which then renders the structure plan itself redundant, at least as far as the land directly affected is concerned.

#### **Amendment 28**

The purpose of Amendment 28 is to essentially align the various 'development zone provisions' throughout LPS21 with both the deemed provisions and the model provisions set out by the Regulations and to introduce consolidated development zone provisions into the Scheme.

In summary, Amendment 28 seeks to:

1. Consolidate the 'Development' zones by:
  - a) removing the 'Vasse Development' and 'Deferred Vasse Development' zones and associated Scheme clauses and Schedules 8 and 9;
  - b) introducing new 'Urban Development' and 'Industrial Development' zones and associated objectives and consolidated scheme provisions;
  - c) rezoning the unsubdivided/undeveloped portions of the 'Vasse Development', 'Deferred Vasse Development', 'Special Use' urban development areas and 'Special Use' deferred urban development areas to 'Urban Development' and the unsubdivided/undeveloped portions of the 'Special Use' industrial development areas to 'Industrial Development'; and
  - d) incorporating proposals for Port Geographe.
2. Incorporate Development Contribution Plans into LPS21 by amending Schedule 12 - 'Development Contribution Area'.
3. Review Schedule 3 – 'Special Provision Areas' that are applicable to the 'Special Use' development areas and remove provisions that are:
  - a) deemed provisions or inconsistent with the *Planning and Development (Local Planning Schemes) Regulations 2015*;
  - b) superseded or redundant as requirements have been completed, or subdivision and development has occurred; or
  - c) subject to other requirements of the planning framework.
4. Review the 'Landscape Value Area' and 'Wetland Area' where land has been subdivided for urban purposes (Vasse and Old Broadwater Farm).
5. Review the 'Development Investigation Area' where requirements for rezoning and structure planning have been completed and to reflect the strategic direction for the Bovell urban growth area as set out in the City's *Local Planning Strategy*.
6. 'Normalise' endorsed structure plans where subdivision has occurred by rezoning existing lots to specific zones (e.g. in the case of residential land, rezoning the land to 'Residential' and applying a residential density code, e.g. 'R20').

The above items are discussed in greater detail below.

## **1. Consolidate the 'Development' zones**

### **a) 'Vasse Development' and 'Deferred Vasse Development' zones**

Clause 3.1.1 of LPS21 sets out the various zones by which the Scheme is classified and reflected on the Scheme map. It is proposed to delete the 'Vasse Development' zone and the 'Deferred Vasse Development' zone as they represent a planning framework that is not compliant with the Regulations (see resolution 1.1a). It is proposed to amend or delete the following clauses and Schedules from the Scheme as they will become redundant with the deletion of these zones -

- i. Clause 3.2 – objectives and policies for the 'Vasse Development' and 'Deferred Vasse Development' zones respectively (see resolution 1.1b and 1.1c respectively).
- ii. Clause 3.6.2 - establishes the link to Schedule 8 Vasse Development zone – Special Provisions (see resolution 1.1f ii).

- iii. Clause 3.6.3 – establishes the link to Schedule 9 Deferred Vasse Development zone – Special Provisions (see resolution 1.1f iii).
- iv. Table 1 – Zoning Table lists the 'Vasse Development' and 'Deferred Vasse Development' zones with land uses in accordance with Schedule 8 and Schedule 9 respectively. It is proposed to delete these zones from Table 1 (resolution 1.1f vi).
- v. Delete Schedule 8 Vasse Development zone – Special Provisions and Schedule 9 Deferred Vasse Development zone – Special Provisions (see resolutions 4.2 and 4.3 respectively).

*b) 'Urban Development' and 'Industrial Development' zones*

It is proposed to consolidate the non-Regulation compliant development areas/zones into two new zones: 'Urban Development' and 'Industrial Development'. Amendments to clause 3.2 shall introduce the 'Urban Development' zone and associated objectives (see resolution 1.1d i). Proposed objectives a), b) and c) are MST compliant, with the remaining objectives reflecting the objectives and strategies set out in the draft LPS and the *City of Busselton Strategic Community Plan 2017*.

Amendments to clause 3.2 shall introduce the 'Industrial Development' zone and associated objectives (see resolution 1.1d ii). Objectives a) and b) are MST compliant, with the remaining objectives reflecting the objectives and strategies of the draft LPS and the *City of Busselton Strategic Community Plan 2017*.

It is proposed to amend clause 3.6 'Land Use Permissibility in the Special Use, Vasse Development and Deferred Vasse Development Zones' by deleting 'Vasse Development' and 'Deferred Vasse Development' and inserting 'Urban Development' and 'Industrial Development' (see resolution 1.1e i).

The land within the Vasse townsite is currently zoned 'Vasse Development' and is subject to the endorsed *Vasse Townsite Structure Plan*. The Vasse Townsite is functionally integrated within the existing Vasse planned settlement and it is proposed to include the area in the Urban Development zone as an adjunct to the detailed planning outcomes for the Vasse Village (see resolution 8.4d).

The *Vasse Townsite Structure Plan* also provides guidance on which lots within the townsite may be developed with a 'Shop' (including retail floorspace allocations) and other general land use permissibilities. It is proposed to incorporate these controls into the Scheme by amending Schedule 3 - 'Special Provision Areas' by placing the Vasse Townsite in a new Special Provision Area 64 (refer to section 3 of this report and resolution 4.1h). Statutory force and effect to the design principles currently set out on the Vasse Townsite Structure Plan are proposed to be incorporated into the Scheme via Special Provision Area 64.

*c) Land to be included in the 'Urban Development' and 'Industrial Development' zones*

It is proposed to rezone the un-subdivided/undeveloped portions of the 'Vasse Development' zone, 'Deferred Vasse Development' zone, 'Special Use' development areas and a 'Special Use' deferred development area to 'Urban Development' and 'Industrial Development'. The proposals will align the zoning of the land with the Regulations and require subdivision and development to be guided by a comprehensive structure plan.

The land proposed to be rezoned is located in the following areas:

- i. Special Use (Yalyalup Development Area) - see resolution 8.1a and Attachment A;
- ii. Special Use (Deferred Yalyalup Development Area) - see resolution 8.1b and Attachment A;
- iii. Special Use (Ambergate North Development Area) - see resolution 8.2 and Attachment B;

- iv. Special Use (Old Broadwater Farm Development Area) - see resolution 8.3 and Attachment C;
- v. Vasse Development - see resolutions 8.4a, 8.4b & 8.4d and Attachment D;
- vi. Deferred Vasse Development - see resolution 8.4c and Attachment D;
- vii. Special Use (Dunsborough Lakes Development Area) - see resolution 8.5 and Attachment E;
- viii. Special Use (Yalyalup Industrial Development Area) - see resolutions 8.6a & 8.6b and Attachment F; and
- ix. Special Use (Ambergate Industrial/Service Commercial Development Area) - see resolution 8.7 and Attachment B.

*d) Proposals for Port Geographe*

A proposal has been formally submitted to modify the endorsed structure plan as it relates to Lot 9001 Layman Road, Geographe. The land is already zoned for residential development and, as the structure plan modifications are inconsistent with existing zones and residential density codings, Amendment 28 provides for the inclusion of the land in the 'Urban Development' zone to allow the structure plan to be assessed and applied in a manner consistent with what occurs in other urban growth areas in the City (see resolution 8.8a and Attachment G).

Lot 9501 and Lot 585 Port Lane, Geographe are zoned 'Local Centre' under LPS21. The land parcels form part of the Village Centre precinct on the Port Geographe Structure Plan, with a land use designation of 'Residential R60' (including mixed use retail and commercial). The developer is seeking to rationalise the landholdings and development outcomes in order to stimulate development within and around the Village Centre. To assist this process rezoning the subject land to 'Urban Development' is proposed (see resolution 8.8b and Attachment H).

Lot 590 and Lot 612 Spinnaker Boulevard, Geographe are zoned 'Tourism' under LPS21 and designated 'Tourist Accommodation' on the Port Geographe Structure Plan. The two sites are significant in the context of the Port Geographe marina, both being 'landmark' sites, however the 'Tourism' zone is considered to be too restrictive with respect to the range of permissible land uses.

The zoning has effectively prevented any coordinated development proposals being progressed for the two sites. It is proposed to rezone the lots to 'Urban Development' to provide more flexibility than the current zoning allows with detailed zoning and land use outcomes to be updated through the preparation of a new structure plan over the sites (see resolution 8.8c and Attachment I).

## **2. Development Contribution Areas**

Clause 5.12 of the Scheme deals with the application and operation of Development Contribution Areas. There is currently one Development Contribution Area (DCA-1) incorporated into LPS21 via Schedule 12: 'Development Contribution Areas'. DCA-1 includes six development contribution 'precincts' for community based infrastructure contributions that are applied as a result of subdivision and development.

Schedule 12 of LPS21 identifies a 'Development Contribution Area' and a 'Development Contribution Plan' with a corresponding Scheme clause (clause 5.12) that set out the requirements for the preparation, endorsement and updating of development contributions plans. Schedule 12 also sets out the application and operation of the individual development contribution plan, including infrastructure items to be delivered and cost apportionment within the development contribution area. Excluded from DCA-1 are the City's development areas (being Yalyalup, Vasse, Old Broadwater Farm and Dunsborough Lakes) that have individual development contribution plans prepared and adopted over them.

*State Planning Policy 3.6 - Development Contributions* requires development contribution plans to be incorporated into local planning schemes. It is therefore proposed to incorporate the development contribution plans/areas for Yalyalup, Vasse, Old Broadwater Farm and Dunsborough Lakes into Schedule 12 (see resolution 4.5 and Attachments J - M). It is proposed to amend clause 5.12.2 by replacing the specific reference to 'DCA-1' with 'DCA' (see resolution 3.1) to reflect proposed changes to Schedule 12.

It is also proposed to amend DCA-1 in relation to the method for calculating cost contributions. LPS21 permits contributions at the development application stage where there has been a subdivision approval prior to DCA-1 coming into effect. However, where the Western Australian Planning Commission does not impose a contribution condition at subdivision stage under the current planning framework, it is arguable that the City cannot then impose a condition at the development application stage. It is proposed to clarify the City's ability to do so by amending the relevant clause in Schedule 12 DCA-1 (see resolution 4.4). That will help ensure fair and consistent development contribution requirements.

### **3. Review of Schedule 3: 'Special Provision Areas'**

A 'Special Provision Area' listed under Schedule 3 of LPS21 and identified spatially on the Scheme map is a type of Special Control Area. With the exception of the 'Vasse Development' and 'Deferred Vasse Development' zones, a number of Special Provision Areas are associated with 'Special Use' development areas and endorsed structure plans for the City's urban and industrial growth areas.

The provisions applicable to each Special Provision Area are broadly similar in that they set out: matters to be addressed by a structure plan or local development plan; the process for the assessment, advertising and approval of structure plan/local development plan proposals; requirements relating to subdivision and development approvals; and appeal rights. Other provisions address matters specific to the area such as land use permissibilities and retail floor space restrictions.

A review of Schedule 3 - Special Provision Areas that are applicable to the 'Special Use' development areas has been undertaken. The purpose of the review is to remove provisions that are:

- a) duplications of deemed provisions or inconsistent with the *Planning and Development (Local Planning Schemes) Regulations 2015*;
- b) superseded or redundant as requirements have been completed or subdivision and development has occurred; or
- c) subject to other requirements of the planning framework.

It is proposed to retain provisions that the City wishes to continue to have statutory force and effect until development within the Special Provision Area(s) is completed.

The changes proposed to Schedule 3 (see resolution 4.1) are described below:

1. Amend Special Provision Area 23 (see resolution 4.1a) - SP23 relates to the 'Special Use (Yalyalup Development)' and 'Special Use (Yalyalup Deferred Development)' and requires subdivision and development to be guided by an endorsed structure plan and local development plans. SP23 sets out the matters to be addressed through the preparation of those plans and contains numerous provisions that are either: deemed provisions; inconsistent with the Regulations; matters to be addressed at subdivision stage; or matters that have already been completed. The removal of these provisions is proposed. Provision 11, which relates to the potential requirement for noise amelioration measures consistent with a Noise Management Plan for the Busselton Margaret River Regional Airport, is proposed to be retained.

The boundary of Special Provision Area 23 is also proposed to be amended to exclude subdivided land proposed to be 'normalised' into LPS21, Lot 501 Blum Boulevard and Lot 32 Lyddy Road (to reflect the advice of the EPA) and applies only to land in the proposed 'Urban Development' zone (Attachment A).

2. Amend Special Provision Area 36 (see resolution 4.1b) - SP36 relates to the 'Special Use (Yalyalup Industrial Development)' and requires subdivision and development to be guided by an endorsed structure plan. SP36 sets out the matters to be addressed through the preparation of a structure plan and contains numerous provisions that are either: deemed provisions; inconsistent with the Regulations; or matters to be addressed at subdivision stage. The removal of these provisions is proposed. As the land the subject of SP36 has not received any subdivision approvals, provisions 7, 8 and 9 that require the preparation of a drainage management framework and management plans for remnant vegetation, landscape buffers and fauna are proposed to be retained.
3. Amend Special Provision Area 39 (see resolution 4.1c) - SP39 relates to the 'Special Use (Ambergate North Development Area)' and requires subdivision and development to be in accordance with an endorsed structure plan. SP39 sets out the matters to be addressed through the preparation of a structure plan and local development plans and contains numerous provisions that are either deemed provisions, inconsistent with the Regulations; or matters to be addressed at subdivision stage. The removal of these provisions is proposed. Provisions 12 - 18 are proposed to be retained as they deal with retail floorspace controls for the future village centre and local centre and the requirement for the preparation of a development contribution plan to address the staging of development and the equitable provision of community facilities, public open space and civil infrastructure. As the land the subject of SP39 has not received any subdivision approvals, provisions 19, 20 and 21 are also proposed to be retained. These provisions relate to: drainage outcomes on bushland/wetland areas; the Water Quality Improvement Plan for the Vasse-Wonnerup wetlands; and guidance for achieving sustainability outcomes for development.
4. Amend Special Provision Area 42 (see resolution 4.1d) - SP42 relates to the 'Special Use (Dunsborough Lakes Development Area)' and requires subdivision and development to be in accordance with an endorsed structure plan. SP42 sets out the matters to be addressed through the preparation of a structure plan and local development plans and contain numerous provisions that are either deemed provisions, inconsistent with the Regulations or matters to be addressed at subdivision stage. The boundary of Special Provision Area 42 is also proposed to be amended to exclude subdivided land proposed to be 'normalised' into LPS21 and applies only to land in the proposed 'Urban Development' zone, 'Enterprise Park' and Lot 1150 Commonage Road - as discussed under section 6 of this report (Attachment E).
5. Amend Special Provision Area 43 (see resolution 4.1e) - SP43 relates to the 'Special Use (Old Broadwater Farm Development Area)'. SP43 sets out the matters to be addressed through the preparation of a structure plan and contains provisions that are either deemed provisions, inconsistent with the Regulations, matters to be addressed at subdivision stage, or are redundant/completed. The removal of these provisions is proposed. The boundary of Special Provision Area 43 is also proposed to be amended to exclude land that has already been ceded to the Crown for the purpose of 'Reserve', and applies to land in the proposed 'Urban Development' zone and subdivided residential areas to prevent re-subdivision of lots under clause 4.3.1 of LPS21 (Attachment C).

6. Amend Special Provision Area 48 (see resolution 4.1f) - SP48 relates to the 'Special Use (Ambergate Industrial/Service Commercial Development Area)' and requires subdivision and development to be generally in accordance with an endorsed structure plan. SP48 sets out the matters to be addressed through the preparation of a structure plan and contains provisions that are either deemed provisions, inconsistent with the Regulations, matters to be addressed at subdivision stage, or are redundant/completed. The removal of these provisions is proposed. It is proposed to retain the provisions relating to permissible land uses, definitions and development outcomes.
7. Amend Special Provision Area 55 (see resolution 4.1g) – SP55 relates to the 'Special Use (Heron Lake Development Area)' and requires subdivision and development to be generally in accordance with an endorsed structure plan and contains provisions that are either deemed provisions, inconsistent with the Regulations or are redundant as requirements have already been fulfilled. It is proposed to remove these provisions. The boundary of Special Provision Area 55 is also proposed to be amended to exclude land that has already been ceded to the Crown for the purpose of 'Reserve' and applies only to subdivided residential land to prevent re-subdivision of lots under clause 4.3.1 of LPS21 (Attachment D).

As part of the above, the endorsed structure plans and local development plans have also been reviewed and it is proposed to carry over certain provisions into Schedule 3 - 'Special Provision Areas' to enable statutory force and effect. The key conditions proposed to be transferred from structure plans and local development plans into Schedule 3 are summarised below:

- a) SP36 (Yalyalup Industrial): requirements for a drainage management framework and land use permissibilities for the future local commercial centre (see resolution 4.1a).
- b) SP42 (Dunsborough Lakes): length of stay provisions for the tourism precinct (see resolution 4.1d).
- c) SP43 (Old Broadwater Farm): re-subdivision of lots pursuant to clause 4.3.1 of LPS21 not permitted (see resolution 4.1 e).
- d) SP55 (Heron Lake): re-subdivision of lots pursuant to clause 4.3.1 of LPS21 not permitted (see resolution 4.1g).
- e) Proposed SP64 (Vasse townsite): retail floor space allocation, land use permissibilities and provisions to guide redevelopment (see resolution 4.1h and Attachment D).
- f) Proposed SP65 (Vasse Village Centre): retail floor space cap (see resolution 4.1i and Attachment D).
- g) Proposed SP66 ('Birchfields' village - Vasse): development standards (see resolution 4.1j and Attachment D).
- h) Proposed SP67 ('Dawson' village - Vasse): development standards (see resolution 4.1k and Attachment D).

For existing and proposed Special Provision Areas that would include land zoned 'Urban Development' or 'Industrial Development' new provisions outlining requirements for a single, integrated structure plan for the whole of the Special Provision Area are proposed to allow for orderly and proper planning.

#### **4. Amend the 'Landscape Value Area' and 'Wetland Area' Boundary**

A 'Landscape Value Area' (LVA) identified on the Scheme map is considered to have a high level of natural visual amenity. Subdivision and development are not to detrimentally affect the scenic amenity of land within this area. The LVA alignment at Vasse and Old Broadwater Farm is found within the areas zoned for urban development. The LVA alignment also includes land that has been subdivided for residential purposes. The result is that owners of lots within the LVA must submit a Development Application for all development. This is clearly not the intent of the residential use of the land in this area and is the result of an outdated LVA alignment.

It is proposed to amend the boundary of the LVA where land has been subdivided and developed for urban purposes. These areas include parts of Vasse (see resolution 5.1a and Attachment D) and the western portion of the Old Broadwater Farm Development Area (see resolution 5.1b and Attachment C).

Land within a 'Wetland Area' identified on the Scheme map requires planning approval for all development. The alignment of the 'Wetland Area' at Vasse is found within the areas zoned for residential development, including land that has been subdivided and developed. It is proposed to realign the boundary of the 'Wetland Area' in relation to Vasse to exclude the urban component (see resolution 6 and Attachment D).

## **5. Amend the 'Development Investigation Area' boundary**

The 'Development Investigation Area' (DIA) of LPS21 identifies land on the Scheme map for development investigation and requires the preparation of a structure plan and rezoning of the land consistent with the land uses proposed. It is proposed to amend DIA boundaries where -

- a) Scheme requirements for structure planning and rezoning have been completed and subdivision/development has either substantially commenced, or has been completed, and therefore the DIA is effectively redundant;
- b) land that is identified in the *Busselton Urban Growth Strategy* for urban development is not designated for that purpose in the *Local Planning Strategy*, and therefore there is no strategic support to retain the DIA; and
- c) land is strategically identified in the *Local Planning Strategy* for urban development.

### **5.1. Redundant DIA**

There are numerous DIAs where requirements for structure planning and rezoning have been completed and subdivision/development has either substantially commenced, or has been completed, and therefore the DIA is redundant. It is proposed to remove these DIAs as the Scheme requirements have already been met.

The DIAs proposed to be amended or removed include:

- a) rural residential subdivision immediately west of Eagle Bay (see resolution 7.1a and Attachment N);
- b) rural residential subdivision immediately northwest of the Dunsborough urban area (see resolution 7.1b and Attachment O);
- c) Lot 4131 Smiths Beach Road, Yallingup (see resolution 7.1c and Attachment P);
- d) Old Broadwater Farm Development Area and adjacent parts of the New River wetlands (see resolution 7.1d and Attachment C);
- e) Ambergate North (see resolution 7.1e and Attachment Q);
- f) Beachgrove Place, Geographe (see resolution 7.1f and Attachment R);
- g) Subdivided rural residential land between Rendezvous Road and the Busselton Bypass (see resolution 7.1g and Attachment S); and
- h) Molloy Street (see resolution 7.1h and Attachment T).



### 5.2 *DIA not Strategically Supported by the Local Planning Strategy*

Prior to the *Local Planning Strategy*, the *Busselton Urban Growth Strategy 2006* (BUGS) provided the strategic guidance for urban and industrial growth areas within the City and a number of DIAs on the Scheme map reflect the recommendations of the BUGS. The LPS supercedes the BUGS and, as such, the DIAs that are not identified in the LPS as urban growth areas have no strategic rationale for retention and are therefore proposed to be removed from the Scheme map. The DIA includes land commonly known as 'Ambergate South' (see resolution 7.1e and Attachment Q).

### 5.3 *Land Strategically Identified by the Local Planning Strategy*

Amendment 28 considers 'Bovell (9)' which is strategically identified in the City's *Local Planning Strategy* for future urban development. It is proposed to place 'Bovell (9)' in the Development Investigation Area to enable the planned and progressive development of the land for urban purposes in a manner and a time appropriate to the orderly and proper planning and development of the land and the locality (see resolution 7.1i and Attachment U). Land in a DIA requires comprehensive structure planning and rezoning of land prior to subdivision and development occurring.

## 6. **'Normalise' endorsed structure plans where subdivision has occurred within development zones**

It is proposed to consolidate the zonings applicable to land within the various existing 'development zones' where that land has now been subdivided, and can now have a substantive zoning directly applied (e.g. in the case of residential land, rezoning the land to 'Residential', and applying a residential density code e.g. 'R20'). It is anticipated that as subdivision and development progresses within each development zone, the applicable structure plan will be progressively consolidated via basic amendments to LPS21. The areas proposed to be consolidated are:

- a) The subdivided land subject to the *Busselton Airport North Structure Plan* ('Provence' Yalyalup) and the *Via Vasse Structure Plan* (see resolution 9.1 and Attachment A).
- b) The subdivided land subject to the *Old Broadwater Farm Structure Plan* (see resolution 9.2 and Attachment C).
- c) The subdivided land subject to the *Vasse Overall Structure Plan* (see resolution 9.3a-c and Attachment D).
- d) The subdivided land subject to the *Heron Lake Structure Plan* (see resolution 9.3d and Attachment D).
- e) The subdivided land subject to the *Dunsborough Lakes Structure Plan* (see resolution 9.4 and Attachment E).

With respect to the *Dunsborough Lakes Structure Plan*, 'Enterprise Park' and Lot 1150 Commonage Road are to remain under the current zoning i.e. 'Special Use (Dunsborough Lakes Development Area)'. The intended direction for Enterprise Park was to zone the land 'Restricted Business' rather than 'Light Industry' as that zone best reflects the existing nature and type of land uses. However, occurring concurrently with the commencement of Amendment 28 in 2018 was Amendment 29 (Omnibus 4) to LPS21 (which sought to align the zones in LPS21 with the standard set of zones set out in the Model Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* and a proposal to modify the *Dunsborough Lakes Structure Plan* in relation to Lot 1150 Commonage Road by replacing the current 'Aged Care Site' land use designation with 'Residential', 'Restricted Business', 'Office' and 'Aged Persons Accommodation'.

Given that the timing of decisions relating to Amendment 29 and the structure plan proposal were uncertain when Amendment 28 was initiated, one zoning change for 'Enterprise Park' to 'Service Commercial' and Lot 1150 to 'Residential' and 'Service Commercial' with 'Office' as an 'Additional Use' will be undertaken via a 'basic' amendment.

**OFFICER COMMENT**

Substantive matters identified since the initiation of Amendment 28 and through the assessment of outcomes of consultation are listed below and addressed under appropriate subheadings:

1. Alignment of Amendment 28 with changes to LPS21 introduced by Amendment 29.
2. Proposed Development Investigation Area for Bovell.
3. Rezoning request to include Lots 78 and 92 Busselton Bypass, Broadwater in the 'Urban Development' zone.
4. Rezoning request to include Lot 6 and portion of Lot 10 Bussell Highway, Broadwater in the 'Urban Development' zone.
5. Rezoning request to include Lot 9052 Northerly Street, Vasse in the 'Industrial Development' zone.

**Amendment 29 to LPS21**

The Gazettal of Amendment 29 ('Omnibus 4') on 7 June 2019 brought a number of elements of the Scheme into alignment with Model Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The elements included, amongst other things: retitling of certain zones (e.g. 'Special Purpose' to 'Special Use') with corresponding changes to the Scheme map; amending inconsistent land use titles and definitions within Schedule 1 of the Scheme; and introducing a new Schedule 5 – 'Special Use' with corresponding changes to Schedule numbering and Scheme references.

Amendment 28 now requires modification to ensure alignment with the changes to LPS21 introduced by Amendment 29, with correct references to zones (including representation on the Scheme map), Schedules and land use titles (including those amended and deleted by Amendment 29) throughout the Scheme Amendment document and resolution.

The recommended changes to Amendment 28 are listed in the Schedule of Modifications at Attachment V.

**Proposed Development Investigation Area for Bovell**

Amendment 28 proposes to place Lot 40 Vasse Highway and Lot 41 Drovers Road, Bovell in a 'Development Investigation Area' (DIA) as the land is identified as a 'medium-term urban growth area' Bovell (9) by the City's *Local Planning Strategy*.

The Department of Fire and Emergency Services has specifically commented on this element of Amendment 28, advising that the Bovell (9) DIA would potentially facilitate an intensification of land use that could result in an increased bushfire risk and therefore *State Planning Policy 3.7 Planning in Bushfire Prone Areas* should be applied. Strategic planning proposals (i.e. amendments) require a bushfire assessment (relevant to the nature and scale of the proposal) and assessment against Appendix 4 of the Guidelines. For local planning scheme amendments, the preparation of a Bushfire Hazard Level Assessment (BHL) across the whole of the land by a suitably accredited Bushfire Planning Practitioner is more appropriate where there is limited detail regarding the final lot layout. As such, this element of Amendment 28 does not currently meet the planning requirements.

The purpose of a DIA is to enable the planned and progressive development of the land for other purposes in a manner and at a time appropriate to the orderly and proper planning and development of the land and the locality. This would necessitate a scheme amendment to place the Bovell (9) land in an appropriate zone, such as 'Urban Development', and the preparation of a comprehensive structure plan to guide subsequent subdivision (which would be informed by a suite of technical investigations including a bushfire management plan).

However, given the nature of the submission received, and in light of a similar experience with the City-led Amendment 36 (rezoning 'Rural' and 'Rural Residential' land in Vasse East to 'Urban Development'), it is unlikely that further negotiation would result in DFES agreeing to defer bushfire assessment of the Bovell land to the structure planning stage (even though this would be a practical and pragmatic approach given that future structure planning can address this issue in the context of more detailed planning). It is also worth noting that the WAPC did not agree to progress Amendment 36 until this issue had been resolved (which has occurred via the City providing a BHL to the satisfaction of DFES) and potentially Amendment 28 could similarly, and undesirably, stall over this issue.

Since Amendment 28 was initiated in April 2018, the strategic direction for Bovell has been strengthened and confirmed through the final approval of the City's *Local Planning Strategy* and the *Leeuwin Naturaliste Sub-Regional Strategy* by the WAPC. Both documents identify Bovell for urban land use. It is therefore considered that a DIA over the land would not serve any worthwhile strategic purpose, particularly as the strategic planning framework effectively provides the context for orderly and proper structure planning and rezoning processes to commence at an appropriate time. Officers are therefore recommending that this element of Amendment 28, being resolution 7.1i, is removed (refer to the Schedule of Modifications at Attachment V).

#### **Rezoning Request for Lots 78 and 92 Busselton Bypass, Broadwater**

One public submission requests the inclusion of Lots 78 and 92 Busselton Bypass, Broadwater in Amendment 28 in order to rezone the land from 'Rural' to 'Urban Development'. The location of the subject land is provided at Attachment W. In support of the request, the submission includes the following points:

- The land is contiguous with the Old Broadwater Farm residential estate to the east.
- The land is identified as a Development Investigation Area under LPS21 which requires land to be appropriately zoned and structure planned prior to subdivision and development.
- The southern portion of the land is identified as 'a current urban growth area' by the City's Local Planning Strategy.
- The land could be included in a new Special Provision Area with conditions to provide additional guidance for planning.
- Inclusion in the Urban Development zone would enable appropriate planning and environmental investigations to determine areas for urban development, conservation and/or other uses.

The primary intent of Amendment 28 is to align the City's current development zones (Vasse, Provence, Dunsborough Lakes etc) and their associated Scheme provisions with the Regulations. Amendment 28 addresses land that is already zoned and structure planned for urban and industrial development purposes.

The zoning request does not meet contemporary planning requirements. The land is currently zoned 'Rural' and within a 'Development Investigation Area'. The land is not within a zoned development area, nor is there an approved structure plan in place to guide future zoning and subdivision. The land has significant environmental constraints including, but not limited to, wetlands, wetland buffers, native vegetation and bushfire risk.

The Regulations require that there is sufficient analysis undertaken to demonstrate that land contained within an Urban Development zone is actually capable and suitable for development. The proximity of the land to existing residential subdivision to the east, its inclusion in a 'Development Investigation Area' under LPS21 and an urban growth area under the *Local Planning Strategy* do not preclude this requirement for strategic analysis. Assessment of bushfire risk and proximity to important wetlands are fundamental issues for investigation to determine the appropriateness of rezoning and a suitable developable area.

For these reasons, officers are recommending that the submission is not supported.

**Rezoning Request for Lot 6 and portion of Lot 10 Bussell Highway, Broadwater**

One public submission requests the inclusion of Lots 6 and portion of 10 Bussell Highway, Broadwater in Amendment 28 in order to rezone the land from 'Residential R20' to 'Urban Development' (Attachment X). The subject land is located approximately 7km west of the Busselton City Centre and is bordered by residential development and the Broadwater wetlands. The *Broadwater Structure Plan* (which comprises two parts: Precinct 1 East adopted in 2005, and Precinct 2 West adopted in 2016) has provided the guidance for subdivision and development in the locality. Lots 6 and 10 are within Precinct 1 – East which is provided at Attachment Y.

The City has recently discussed with key landowners and their representatives, matters in respect to the review and rationalisation of the *Broadwater Structure Plan*, as well as how best to guide the zoning and subdivision of those potentially developable areas which remain in this structure planning area. Since the adoption of the *Broadwater Structure plan*, subdivision and development has been approved and subsequently carried out over most of Precinct 2.

The potential urban development area most clearly affected by changes to the planning framework introduced since the adoption of the *Broadwater Structure Plan* (especially in terms of regulatory requirements in planning for bushfire, ecological linkages, water management and clearing of remnant native vegetation, as well as the current blanket 'Residential R20' zoning) are those remaining landholdings in Precinct 1 – East, and most significantly Lots 6 and 10.

Whilst the landowner could proceed with the development of Lots 6 and 10 under the current zoning, there would need to be the standard requisite site investigations (hydrology, flora and fauna, bushfire risk and so forth), as well as a modification to the *Broadwater Structure Plan* itself to guide integrated subdivision and development. A Scheme amendment would also be required to avoid discrepancies between land uses and residential densities proposed by a revised Structure Plan and the underlying zoning. The preparation and progression of a Scheme Amendment proposal and modified *Broadwater Structure Plan* would be a lengthy process (18 months +), especially given the need for specialist technical site investigations to inform subdivision/development outcomes.

Unlike greenfields (undeveloped) land in the City's other development areas, Lots 6 and 10 were not included in Amendment 28 for rezoning to 'Urban Development' because the current 'Residential R20' zoning is compliant with the Regulations.

To assist with the timely review of the planning framework for this precinct and to streamline the process, officers are recommending that Amendment 28 be modified to include the current 'Residential R20' zoned portion of Lots 6 and 10 in the 'Urban Development' zone along with a new Special Provision Area (consistent with the approach proposed by Amendment 28 for the City's other development areas). This would ensure that appropriate structure planning is undertaken to guide future zoning and subdivision.

Of relevance to consideration of this submission, the City is currently undertaking traffic counts to assist in assessing and determining an optimum road network to connect the eastern and western precincts of the Broadwater Structure Plan area, together with identifying appropriate road intersections with Bussell Highway and Broadwater Boulevard. The City intends to commission a suitably qualified traffic management consultant to review those findings and further advice on traffic movement needs throughout the Broadwater area (modelled on assumed full subdivision and development). The outcome of this assessment would be an important consideration in any review of the planning framework applicable to the Broadwater locality.

**Rezoning Request for Lot 9052 Northerly Street, Vasse**

One public submission requests a modification to Amendment 28 to change the current proposed 'Urban Development' zoning of Lot 9052 Northerly Street to 'Industrial Development' (Attachment Z).

Lot 9052 is designated as a recreation reserve by the endorsed *Vasse Structure Plan*, which is an anomaly arising from the formulation of the structure plan around 20 years ago. The property is a freehold lot held in fee simple (i.e. not a reserve or other Crown land parcel) and is not required for recreational purposes as demonstrated by a recent the public open space audit undertaken for a current review of the *Vasse Structure Plan*.

A number of land uses have been discussed and considered previously by City officers, senior representatives of the DPLH and the landowner/landowner's representative. Agricultural land uses were effectively ruled out, as were active recreation (sports ovals and the like) or conservation areas. Since Amendment 28 was initiated Lot 9052 is now being recognised as potentially a natural 'extension area' of the Vasse LIA or 'Business Park' north of the Franklin Wetland and west of Lynwood Street. In this regard the landowner/landowner's representative have prepared a concept plan for the future subdivision and development of Lot 9052 for light industrial and general industrial uses, including consideration of a service station.

Inclusion of Lot 9052 in the Industrial Development zone would provide the strategic planning framework within which the landowner could seek a future modification to the *Vasse Structure Plan* to change the designation of the land from recreation reserve to light and general industrial uses.

**Statutory Environment**

The key elements of the statutory environment in relation to Scheme Amendments are set out in the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*. The Amendment has been prepared having regard to the Act, the Regulations and Model Scheme Text and Deemed Provisions contained therein.

The *Planning and Development (Local Planning Schemes) Regulations 2015* identifies 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.

**Relevant Plans and Policies**

The key plans and policies most relevant to Amendment 28 include: *State Planning Policy 3.6 – Development Contributions*; the *City of Busselton Local Planning Strategy (2019)*; the *Leeuwin Naturaliste Sub-Regional Strategy (2019)*; the various endorsed Structure Plans for the 'development areas'; and Local Development Plans for specific areas within overall structure plan areas. Each is discussed under appropriate subheadings.

***State Planning Policy 3.6 – Development Contributions***

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.

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.*

#### ***City of Busselton Local Planning Strategy (2019)***

The purpose of the *Local Planning Strategy* (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; and provide a strategic rationale for decisions related to the planning and development of the District; especially decisions related to the progressive review and amendment of the local planning scheme. The LPS map is provided at Attachment AA. The LPS also sets out four ‘frameworks’ relating to: settlement; urban growth areas; activity centres; and industrial/service commercial growth areas.

#### ***Leeuwin Naturaliste Sub-Regional Strategy (2019)***

The primary purpose of this strategy is to manage and plan for growth in the Leeuwin Naturaliste sub-region (comprising the City of Busselton and the Shire of Augusta-Margaret River) and to inform a review of *State Planning Policy 6.1 - Leeuwin-Naturaliste Ridge*. Other purposes are to: integrate local and regional land use planning to provide for population and economic growth; respond to environmental and coastal landform change; and guide planning for the development of urban, industrial and rural land uses and associated infrastructure.

#### ***Structure Plans & Local Development Plans***

There are a number of endorsed structure plans (a number of which were adopted as ‘development guide plans’, pursuant to earlier scheme provisions) that guide the subdivision and development of land for urban and industrial development within their boundaries. Some of the structure plans also identify a requirement for local development plans to guide more detailed development outcomes. The structure plans and local development plans are listed below –

##### ***Structure plans:***

- Busselton Airport (North) Structure Plan and Lot 31 Bussell Highway, Yalyalup (‘Provence’)
- Via Vasse Structure Plan
- Ambergate North Structure Plan
- Vasse Overall Structure Plan
- Vasse Townsite Structure Plan
- Heron Lake Structure Plan
- Old Broadwater Farm Structure Plan
- Dunsborough Lakes Structure Plan
- Yalyalup Industry Park Structure Plan
- Ambergate Industrial/Service Commercial Structure Plan

*Local development plans:*

- Birchfields Village (Vasse)
- Dawson Village (Vasse)
- Vasse Light Industrial Area
- Vasse Village Centre
- Local Development Plans 1 to 4 –Yalyalup ('Provence')
- Local Development Plan 6 'Enterprise Park' ('Dunsborough Lakes')

**Financial Implications**

There are no financial implications associated with the officer recommendation.

**Stakeholder Consultation**

Amendment 28 was advertised for 60 days ending 23 December 2019. A Schedule of Submissions is provided at Attachment AB. Four public submissions were received and the following matters were raised:

- Rezoning request to include Lots 78 and 92 Busselton Bypass, Broadwater in the 'Urban Development' zone.
- Rezoning request to include Lot 6 and portion of Lot 10 Bussell Highway, Broadwater in the 'Urban Development' zone.
- Rezoning request to include Lot 9052 Northerly Street, Vasse in the 'Industrial Development' zone.

These matters are discussed in the Officer Comment section of this report.

Eleven submissions were received from State agencies, with Telstra, Water Corporation, Department of Planning, Lands and Heritage, Department of Primary Industry and Regional Development and Department of Water all having no objection to Amendment 28.

The following agencies made specific comment on Amendment 28:

- Department of Fire and Emergency Services (DFES) – advising that the proposed Development Investigation Area for Lot 40 and portion of Lot 41 Vasse Highway, Bovell should have *State Planning Policy 3.7 Planning in Bushfire Prone Areas* applied. This is addressed in the Officer Comment section of this report with a recommendation set out in the Schedule of Modifications.
- Department of Biodiversity, Conservation and Attractions (DBCA) – advice provided in relation to: the *Port Geographe Structure Plan* (fencing and landscaping); *Provence Structure Plan* (remnant vegetation); and Smiths Beach (Landscape Value Area under LPS21). The matters raised are addressed in the Schedule of Submissions.

**Risk Assessment**

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

**Options**

As an alternative to the proposed recommendation the Council could:

1. Resolve not adopt the Amendment for final approval (and provide a reason for such a decision).
2. To seek further information before making a decision.

**CONCLUSION**

The information contained within this report confirms that Amendment 28 is an appropriate outcome consistent with the orderly and proper planning of the City of Busselton and as such, it is recommended that the Amendment be adopted for final approval.

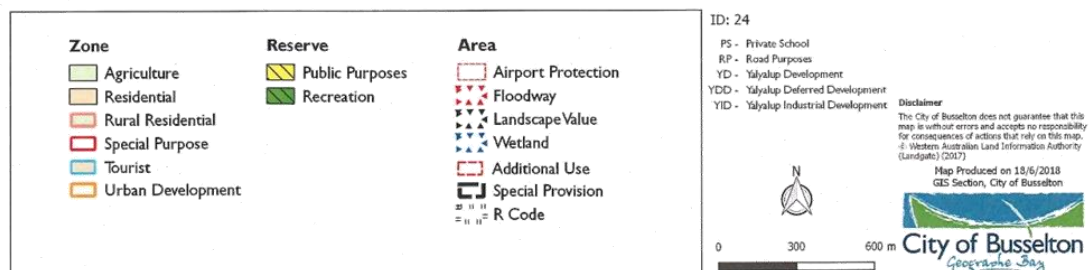
**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the Officer Recommendation will involve the provision of the Amendment documentation to the Western Australian Planning Commission and this will occur within one month of the Council decision.



## SCHEME AMENDMENT MAP

City of Busselton  
Local Planning Scheme No.21 Amendment No.28  
Sheets 27 & 28: Yalyalup

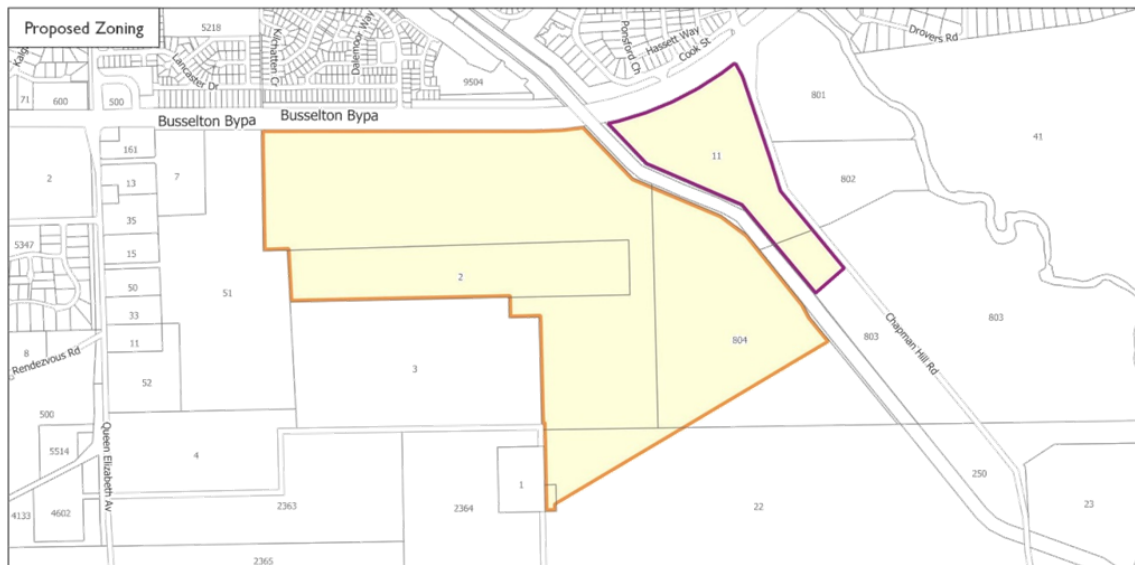
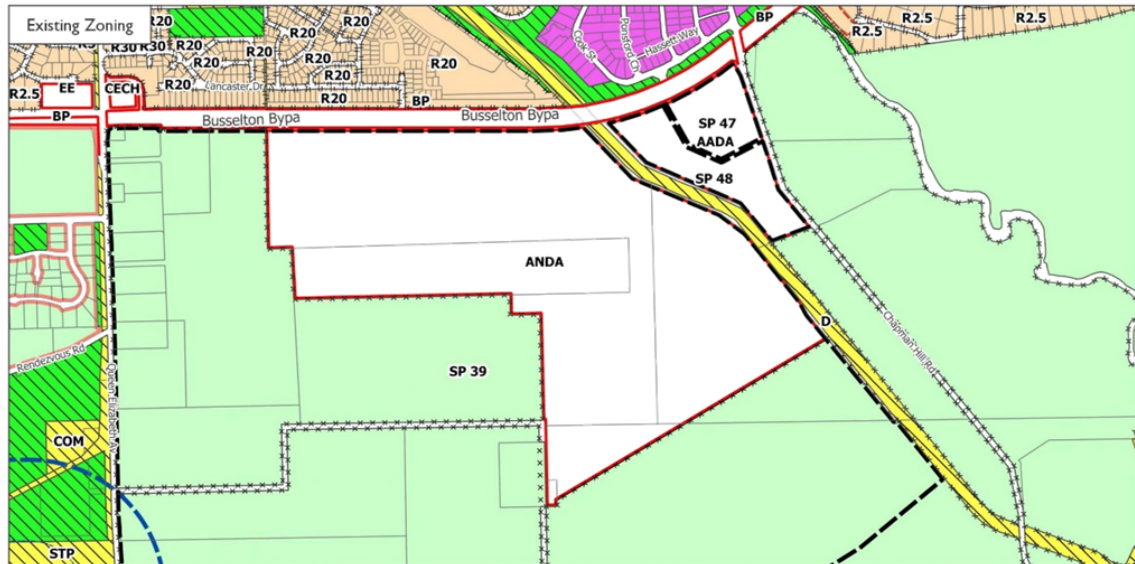


# SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheets 1 & 24: Ambergate North & Ambergate Industrial/Service Commercial, Bovell



Zone	Reserve	Area
Agriculture	Public Purposes	Development Investigation
Industrial	Recreation	Waste Water Buffer
Residential		Waste Water Exclusion
Rural Residential		Special Provision
Special Purpose		Additional Use
Urban Development		R Code
Industrial Development		

ID: 21

AADA - Ambergate Automotive Development Area  
 ANDA - Ambergate North Development Area  
 BP - Bypass  
 CECH - Church Site, Educational Establishment, Child Care & Hall  
 COM - Community Purposes  
 D - Drain  
 EE - Educational Establishment  
 STP - Sewerage Treatment Plan

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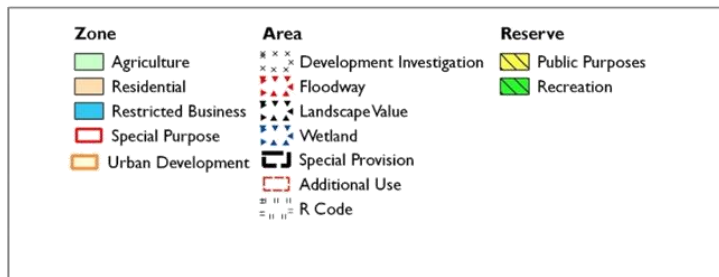
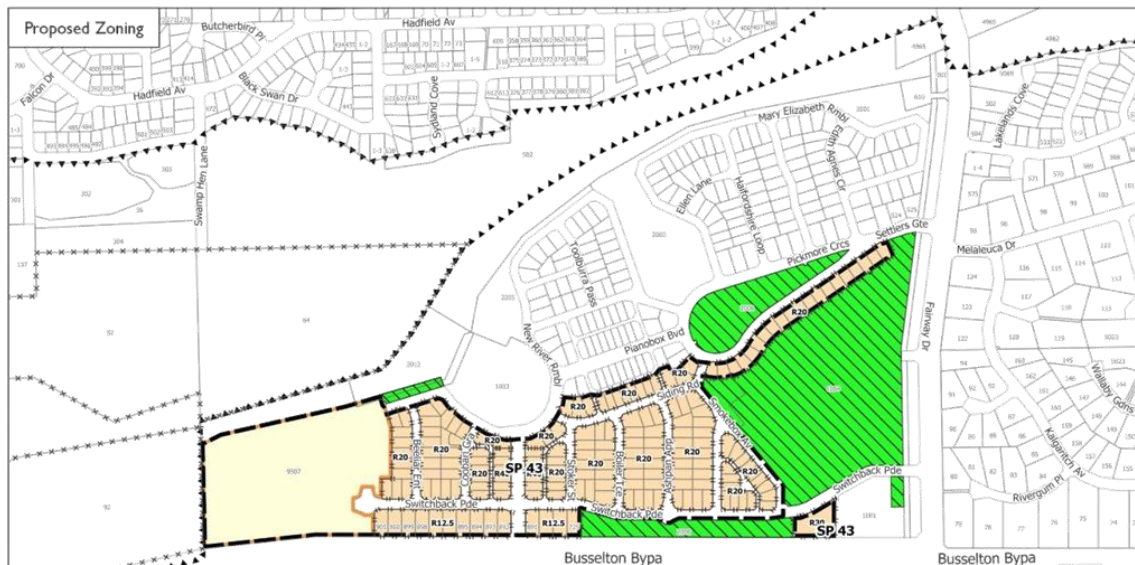


# SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheets 21: Old Broadwater Farm, West Busselton



ID: 28

BP - Bypass

OBFDA - Old Broadwater Farm Development Area

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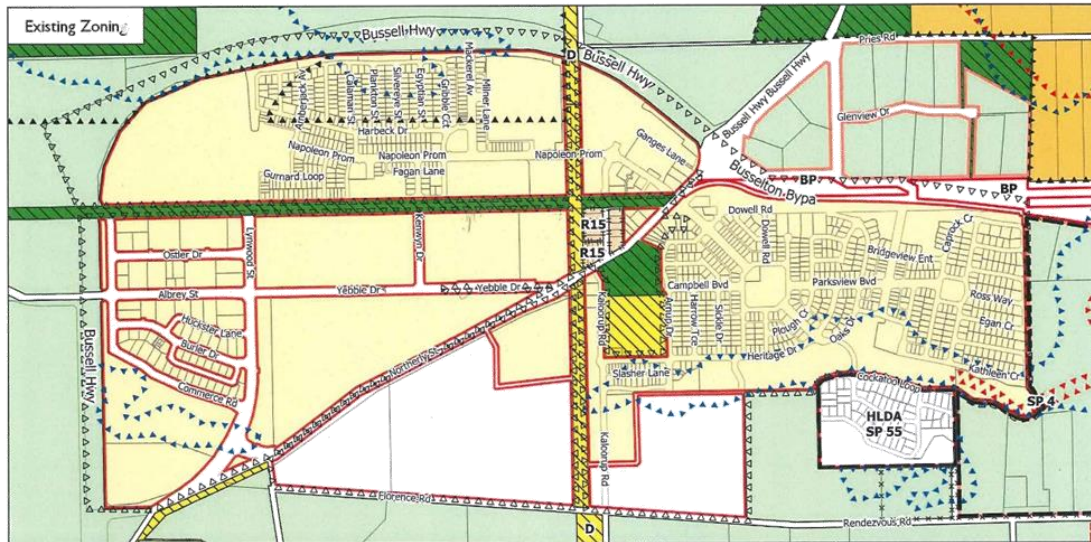


0 150 300 m



# SCHEME AMENDMENT MAP

City of Busselton  
Local Planning Scheme No.21 Amendment No.28  
Sheets 18 & 20:Vasse



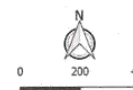
Zone	Reserve	Area
Agriculture	Public Purposes	Development Investigation
Conservation	Recreation	Environmental Conditions
Deferred Vasse Development		Floodway
Residential		Landscape Value
Rural Residential		Wetland
Special Purpose		Special Provision
Vasse Development		Additional Use
Urban Development		R Code
Industrial Development		
Industrial		

ID: 23

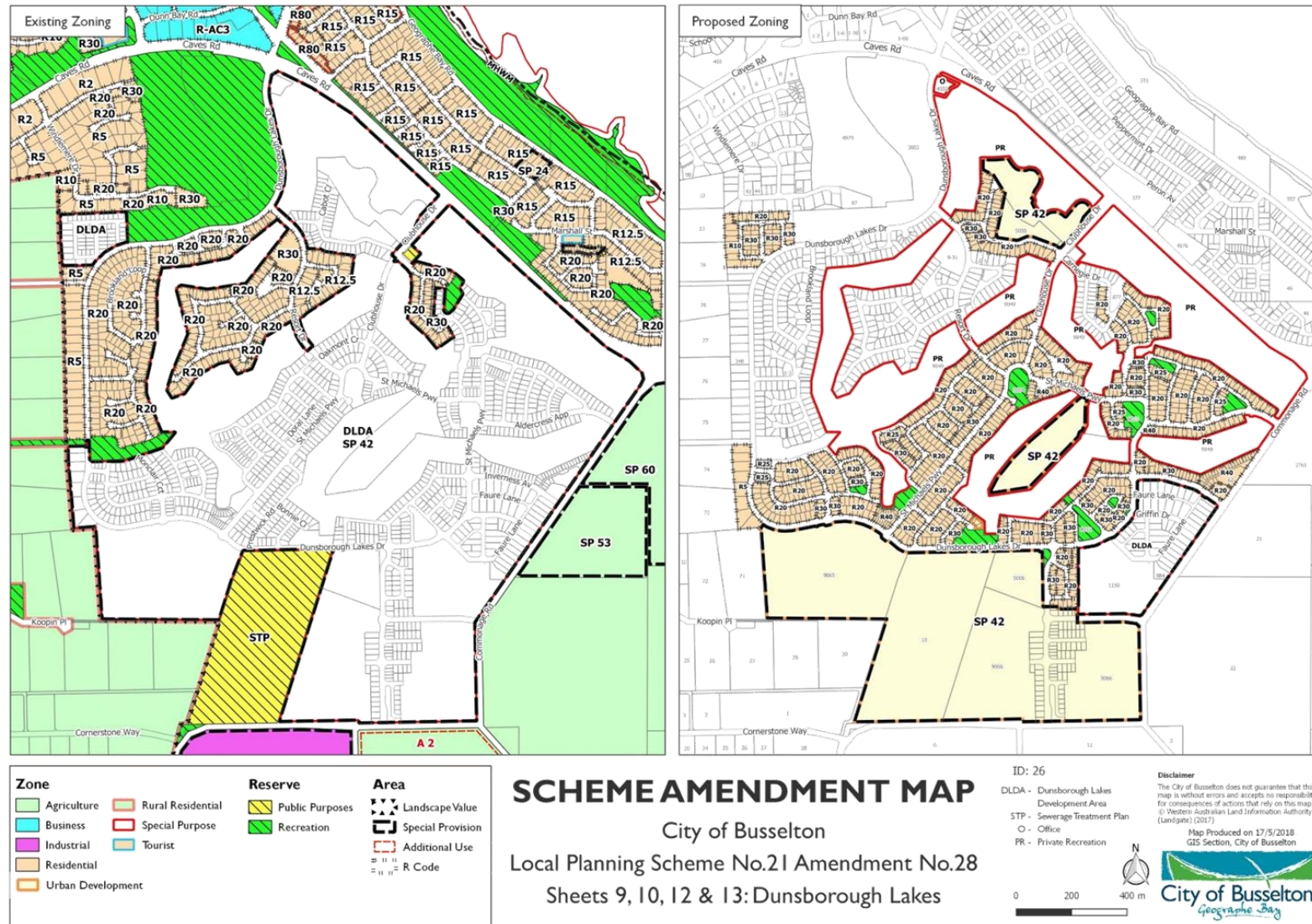
APA - Aged Person Accommodation  
BP - Bypass  
CI - Cottage Industry  
COM - Community Purposes  
CS - Convenience Store  
HLLA - Heron Lake Development Area  
PH - Park Home Park  
R - Restaurant  
SH - Single House

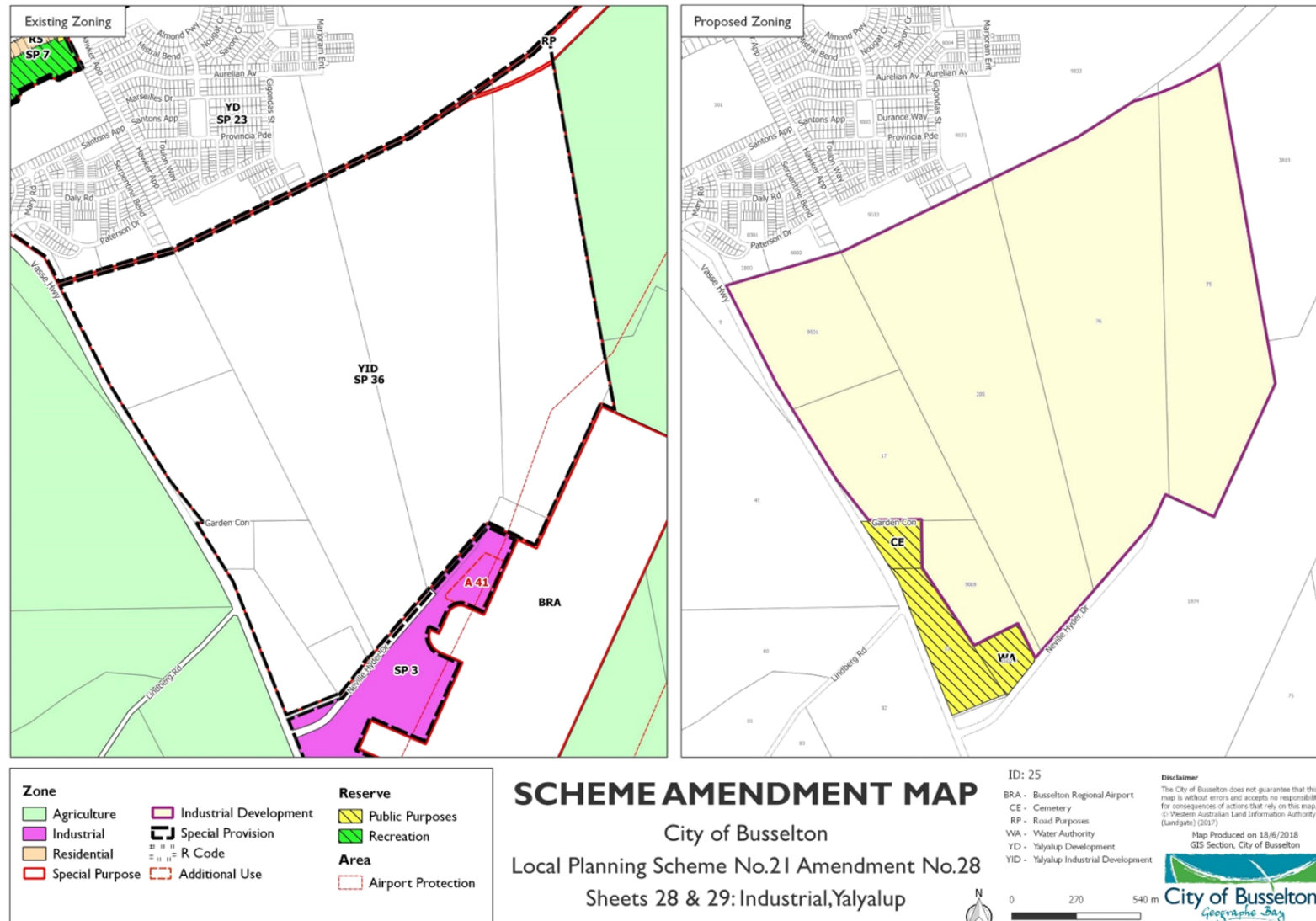
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**City of Busselton**  
*Geographic Bay*









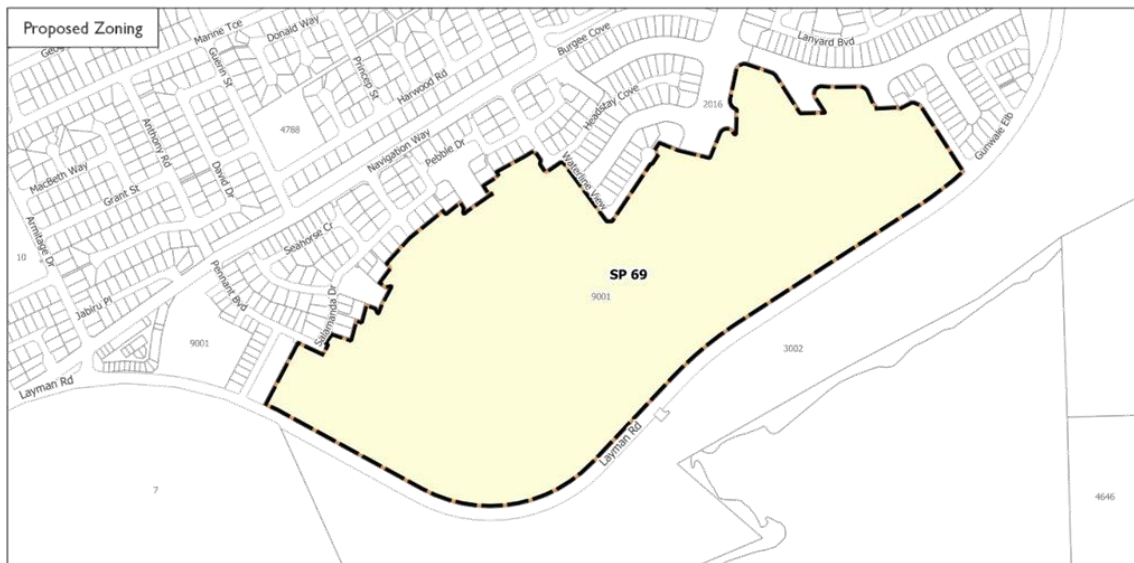


## SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheet 26 & 27: Lot 9001 Layman Rd, Geographe

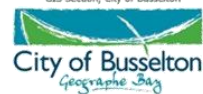


Zone	Reserve	Area
Agriculture	Public Purposes	Floodway
Residential	Recreation	Landscape Value
Special Purpose		Port Geographe Development
Tourist		Wetland
Urban Development		Special Provision

ID: 32  
SS - School Site  
WFS - Water Fowl Study

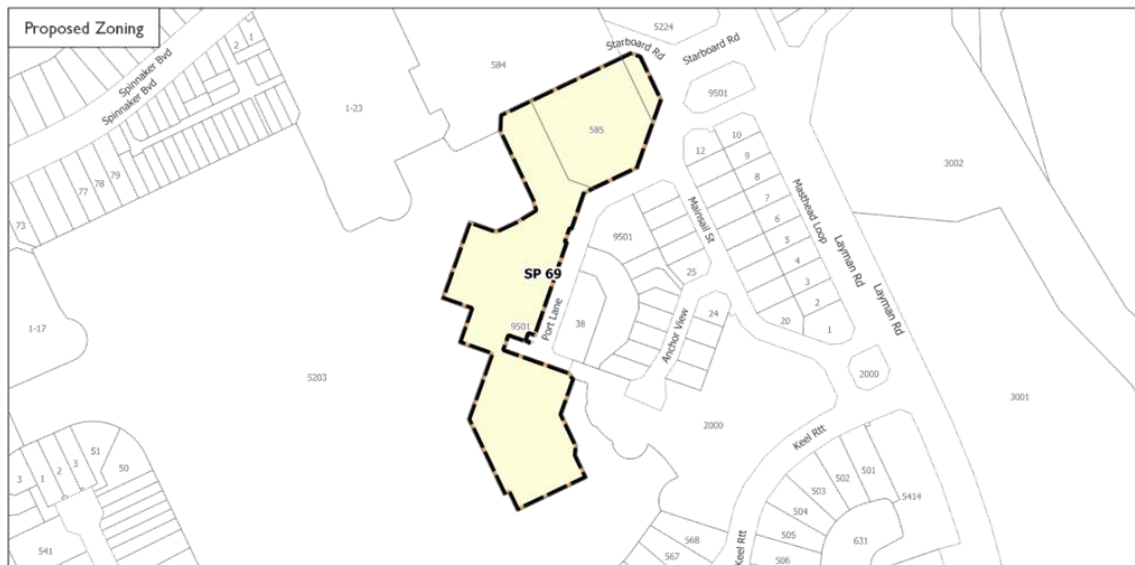
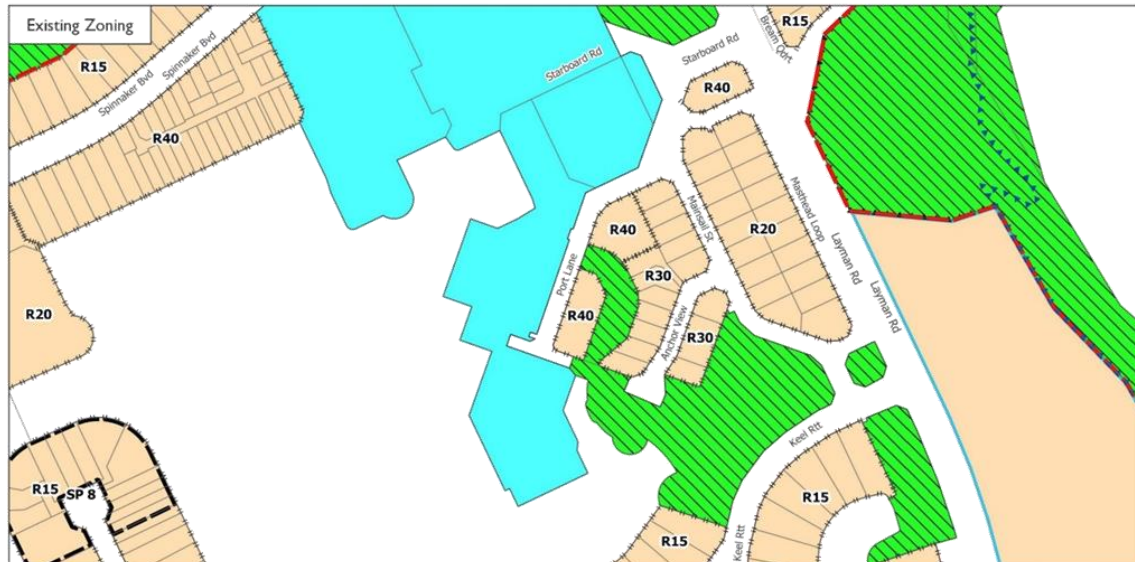
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## SCHEME AMENDMENT MAP

City of Busselton  
Local Planning Scheme No.21 Amendment No.28  
Sheets 26: Lots 9501 & 585 Port Ln, Geographe



Zone	Reserve	Area
Business	Recreation	Floodway
Residential		Landscape Value
Tourist		Port Geographe Development
Urban Development		Wetland
		Special Provision
		R Code

ID: 22



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**City of Busselton**  
*Geographe Bay*

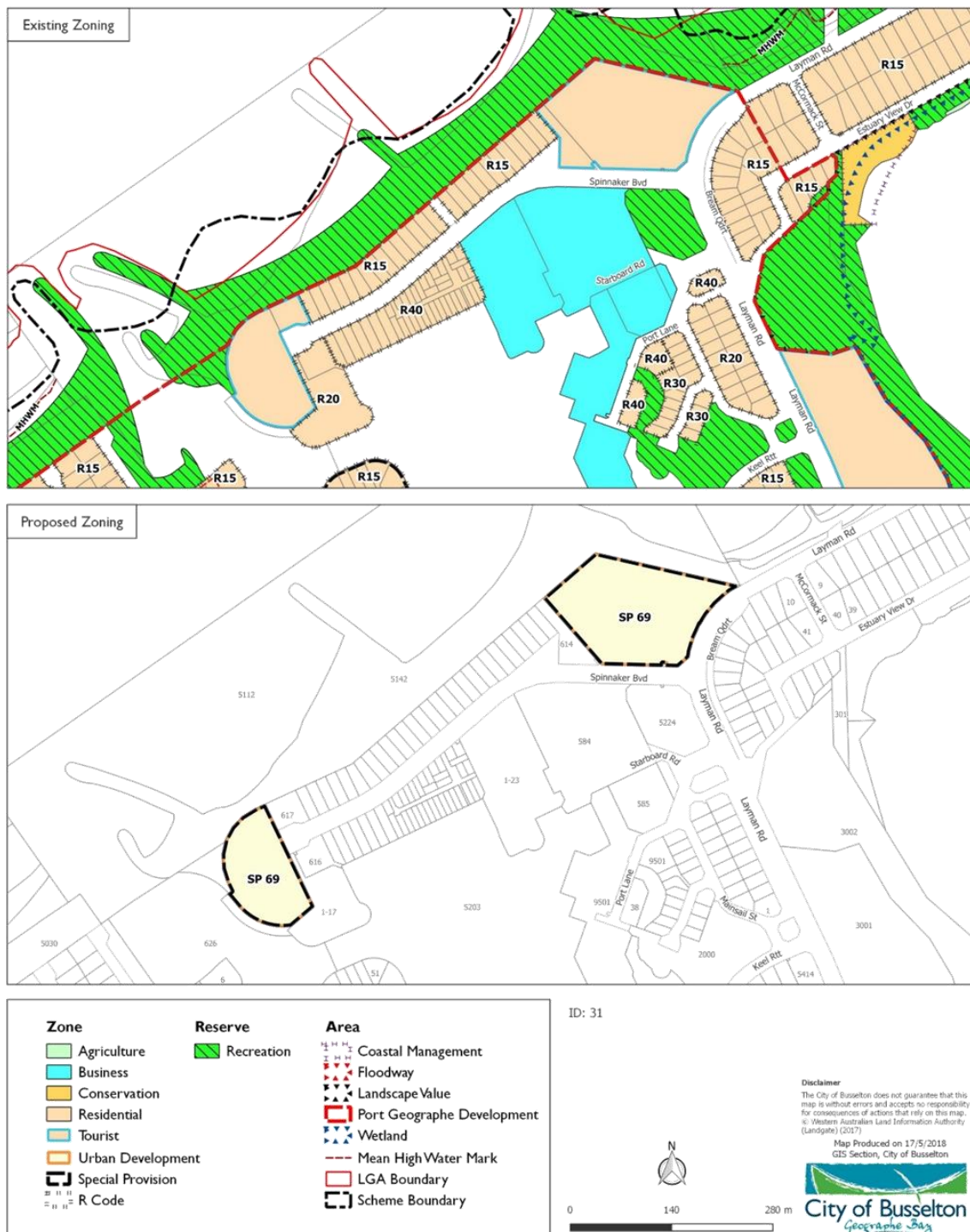


## SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.2 | Amendment No.28

Sheet 26 - Lots 590 &amp; 612 Spinnaker Bvd, Geographe

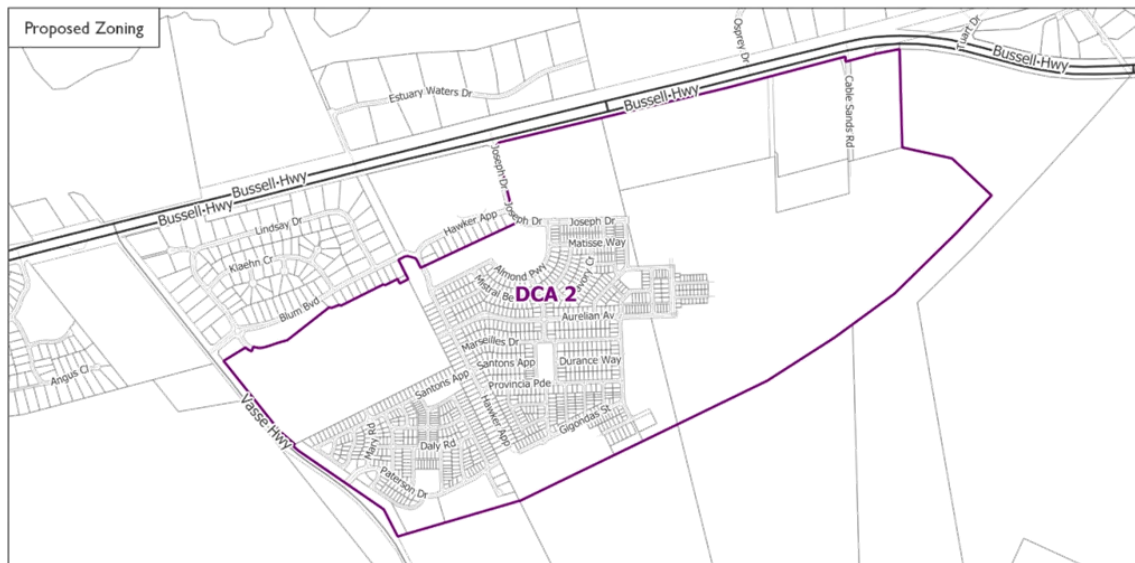
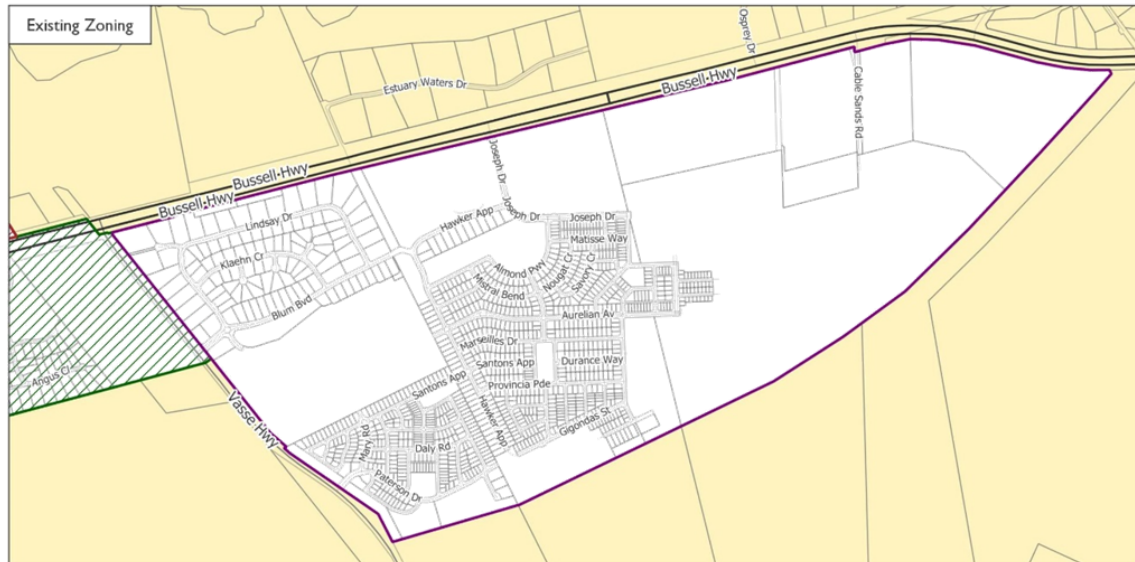


## SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheet 36: Development Contribution Area - Yalyalup



### Development Contribution Area

- DCA 1 Busselton Precinct
- DCA 1 Geographe Precinct
- DCA Rural Remainder
- DCA 2 Yalyalup

ID: DCA 02



0 400 800 m

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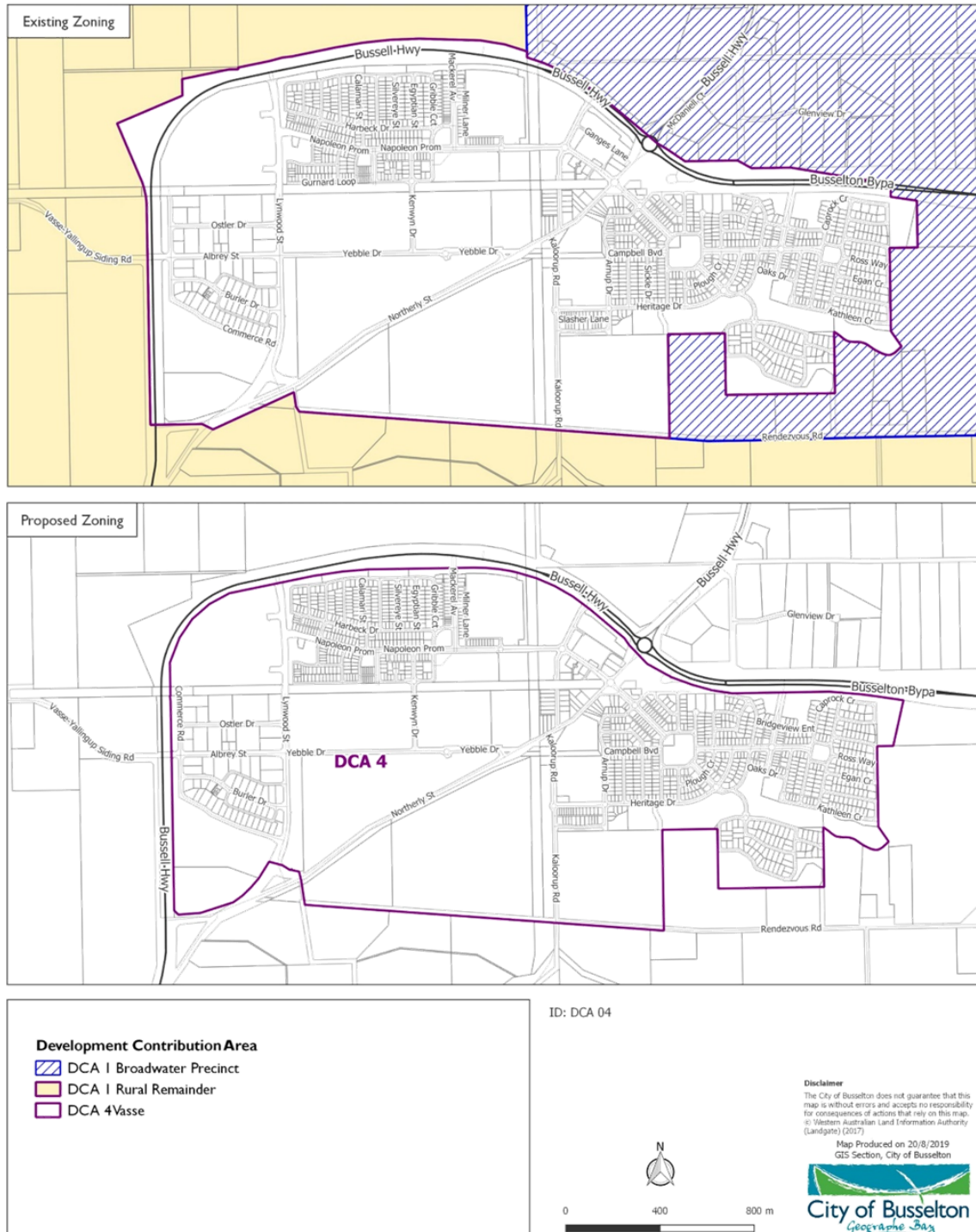


## SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheet 36: Development Contribution Area -Vasse



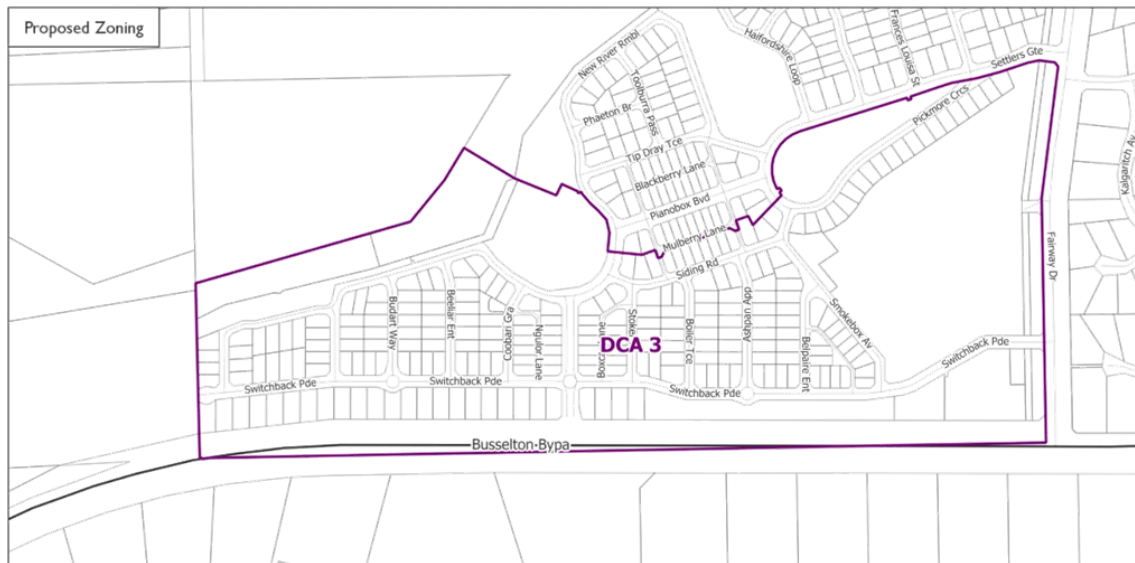
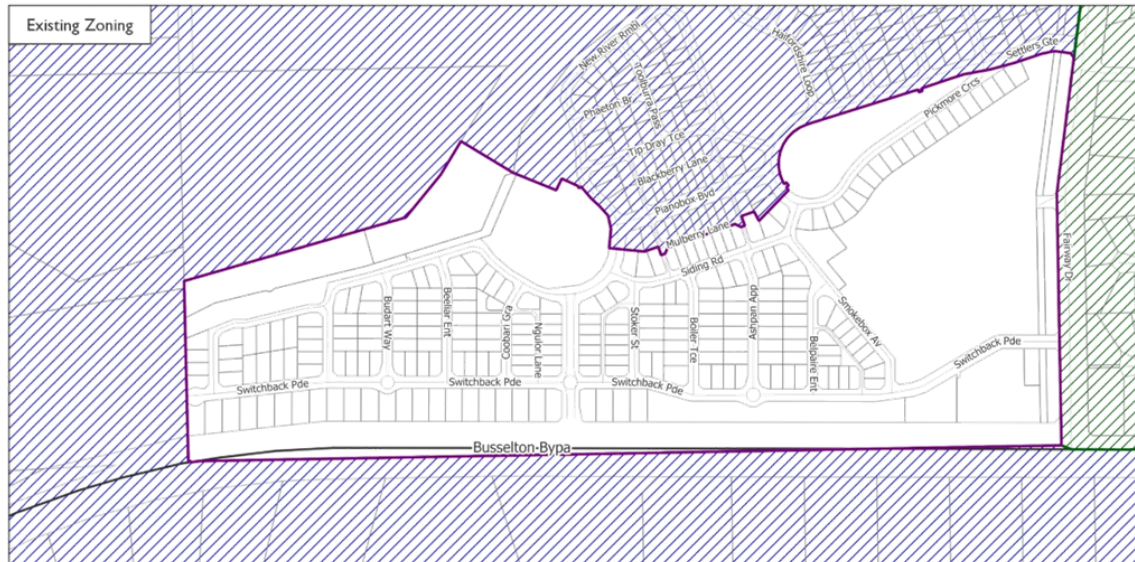


## SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheet 36: Development Contribution Area - Old Broadwater Farm



### Development Contribution Area

- DCA 1 Broadwater Precinct
- DCA 1 Busselton Precinct
- DCA 3 Old Broadwater Farm

ID: DCA 03



0 170 340 m

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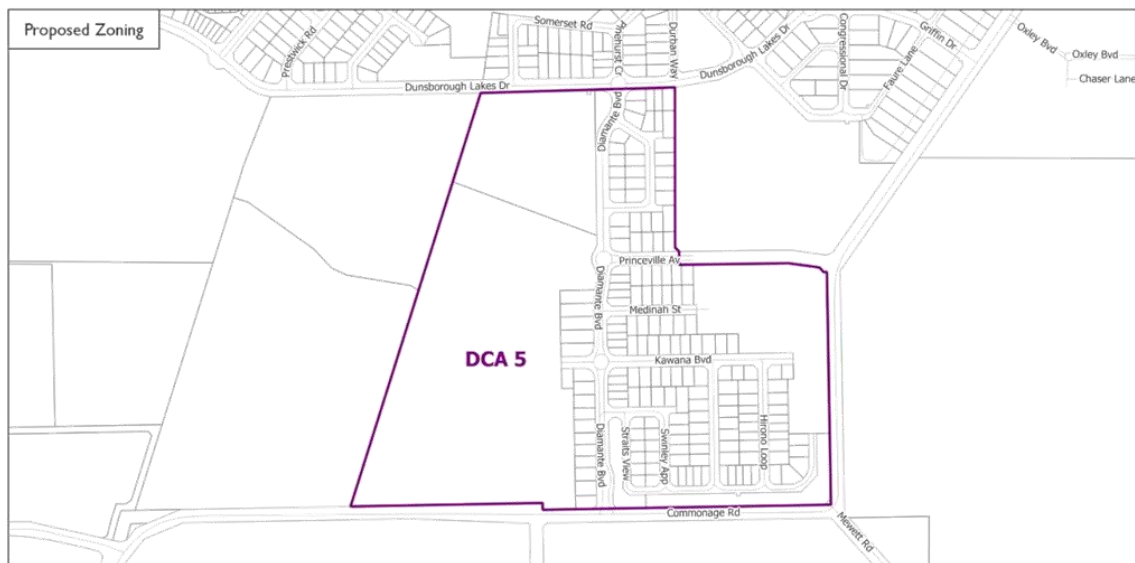


## SCHEME AMENDMENT MAP




City of Busselton

Local Planning Scheme No.2 | Amendment No.28

Sheet 36: Development Contribution Area - Dunsborough Lakes



## Development Contribution Area

-  DCA 1 Dunsborough and Quindalup Precinct  
 DCA 1 Rural Remainder  
 DCA 5 Dunsborough Lakes

ID: DCA 05



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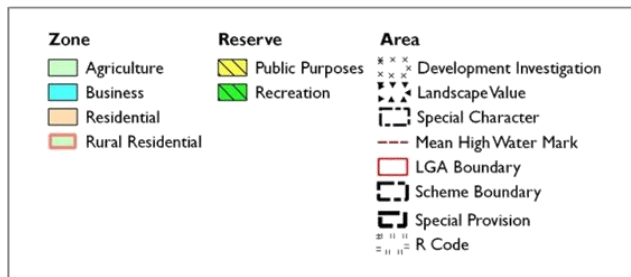
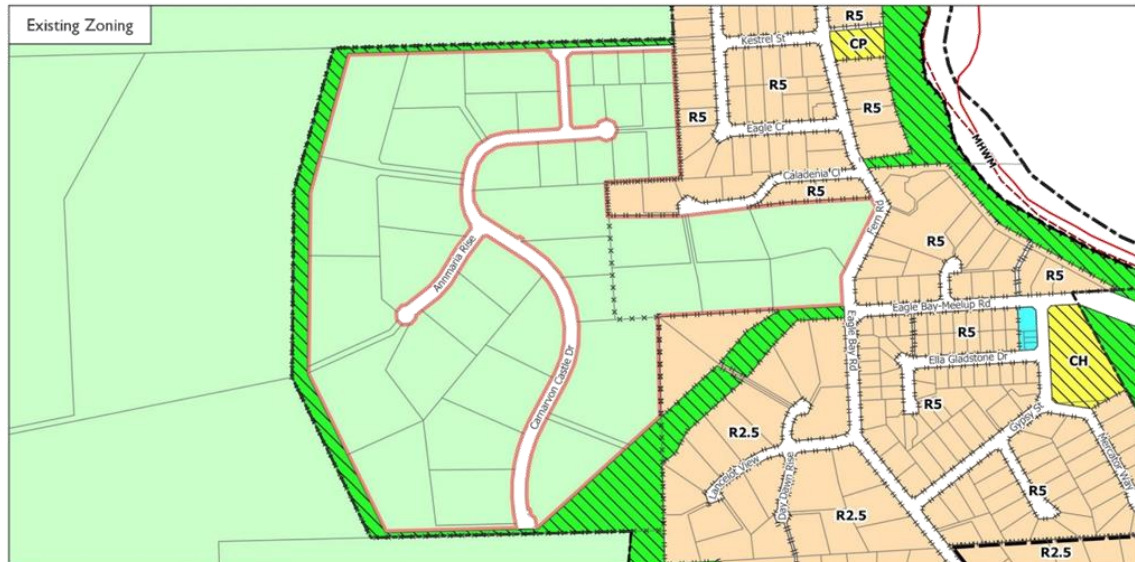
City of Busselton  
*Geographie Bay*

# SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheet 6 - Development Investigation Area - Carnarvon Castle Dr, Eagle Bay

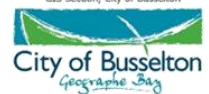


ID: 04

CH - Community Hall  
CP - Community Purpose

Note: The zoning of the land is not being changed by the Amendment

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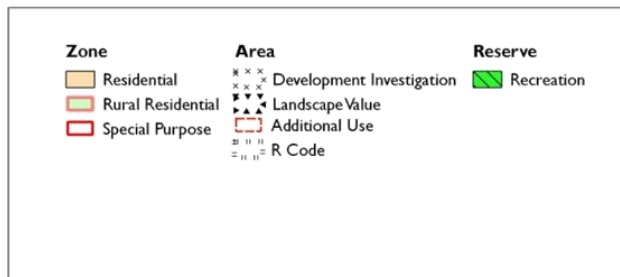
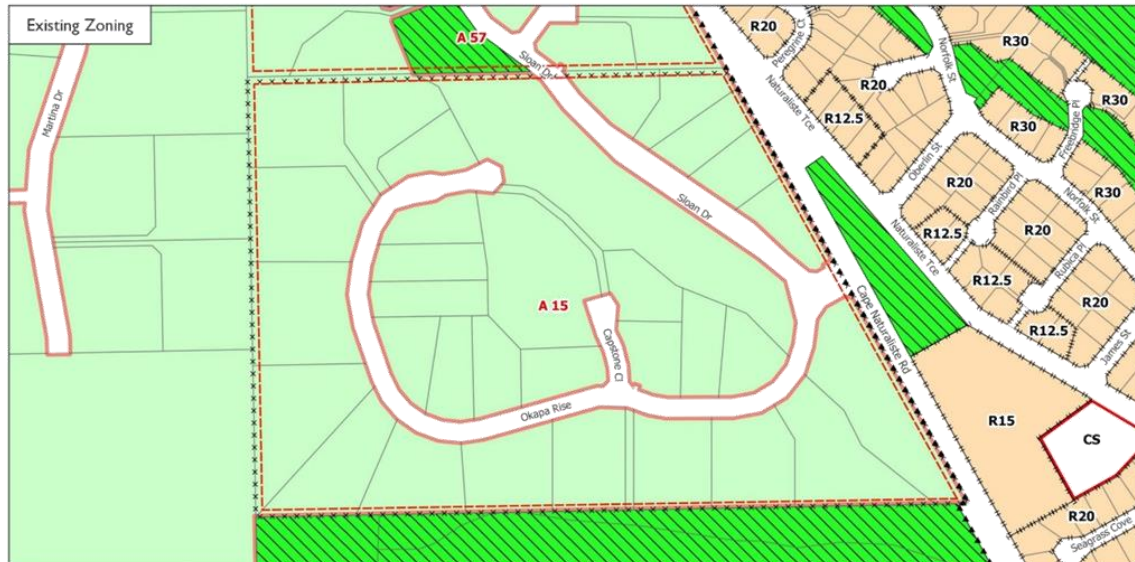


# SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheet 7 - Development Investigation Area - Sloan Dr, Dunsborough



ID: 05

CS - Church Site

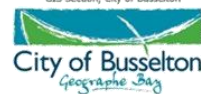
Note: The zoning of the land is not being changed by the Amendment



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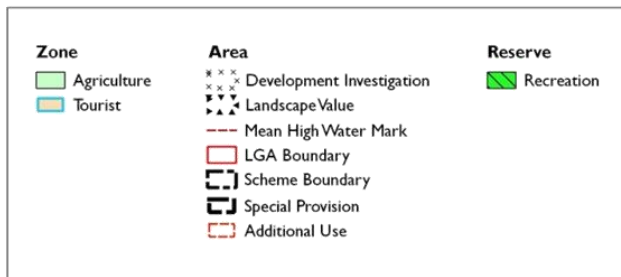
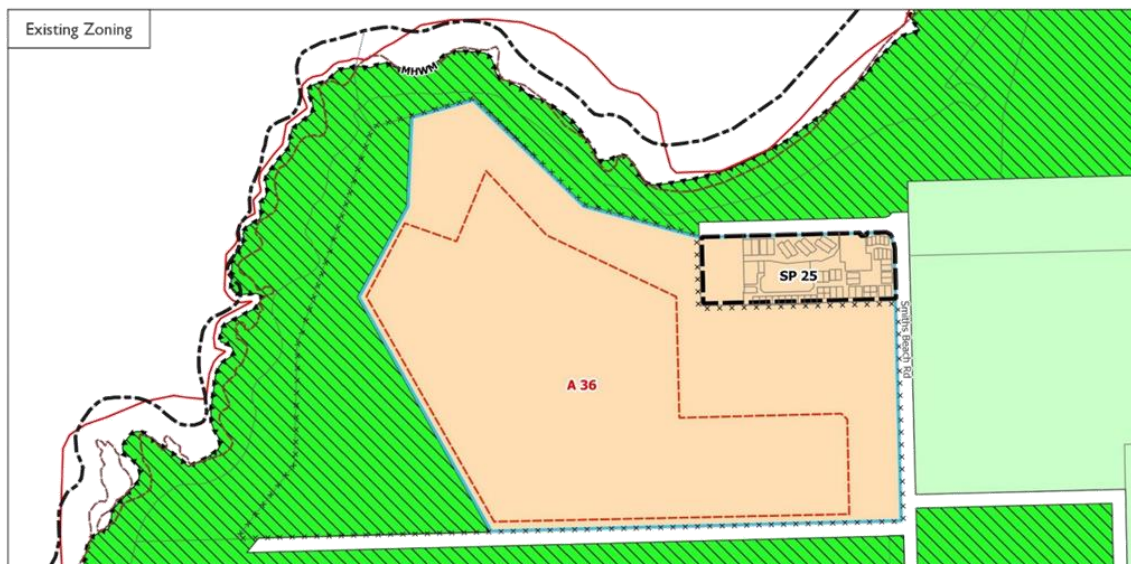
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## SCHEME AMENDMENT MAP

City of Busselton  
Local Planning Scheme No.21 Amendment No.28  
Sheet 16 - Lot 4131 Smiths Beach Rd, Yallingup



ID: 06

Note: The zoning of the land is not being changed by the Amendment



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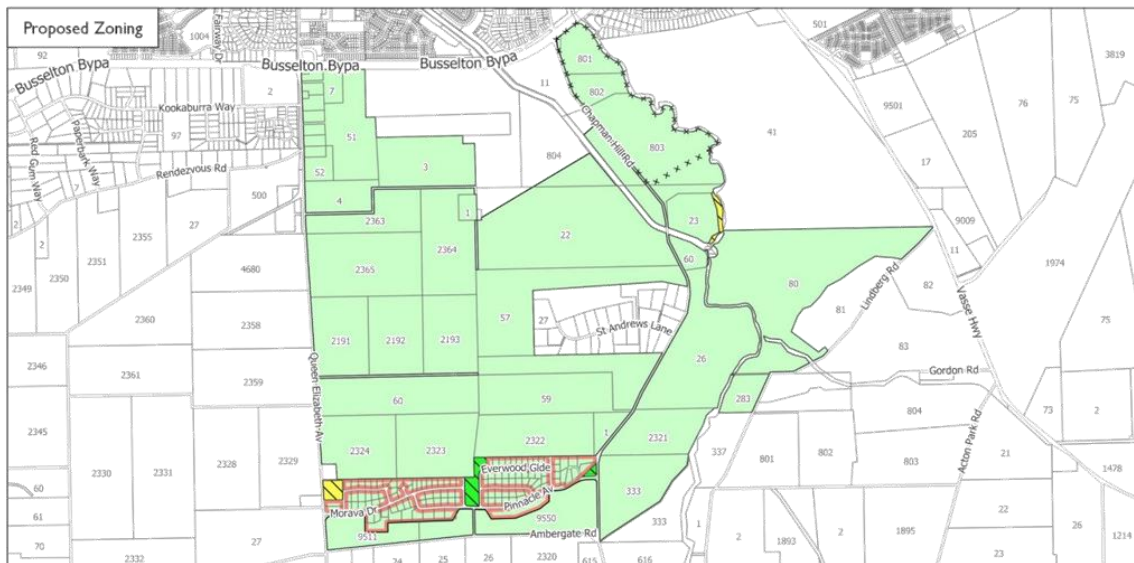
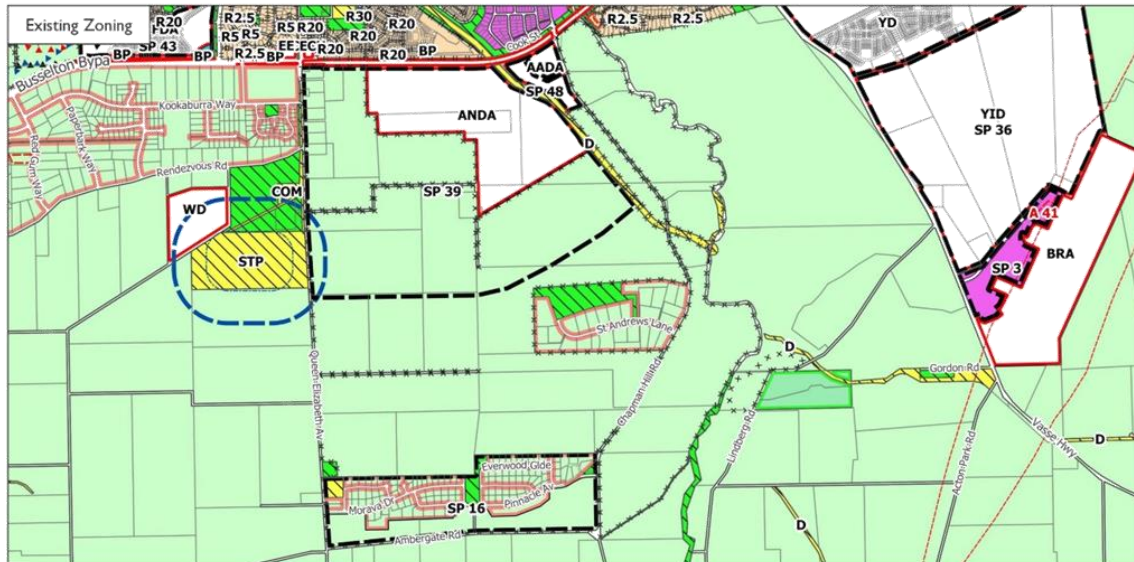






















## SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.2 | Amendment No.28

Sheets 1, 2, 24, 25 and 29 - Development Investigation Area, Ambergate, Bovell and Kalgup



Zone	Reserve	Area
 Agriculture	 Public Purposes	 Airport Protection
 Bushland Protection	 Recreation	 Development Investigation
 Business		 Floodway
 Industrial		 Landscape Value
 Residential		 Waste Water Buffer
 Restricted Business		 Waste Water Exclusion
 Rural Residential		 Wetland
 Special Purpose		 Special Provision
 R Code		 Additional Use

ID: 30

AADA - Ambergate Automotive Development Area  
 ANDA - Ambergate North Development Area  
 BRA - Busselton Regional Airport  
 COM - Community Purposes  
 D - Drain  
 EE - Educational Establishment  
 STP - Sewerage Treatment Plan  
 WD - Waste Disposal  
 YD - Yalyalup Development  
 YID - Yalyalup Industrial Development



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A horizontal scale bar with three segments. The first segment is labeled '0', the second '1000', and the third '2000 m'.

## SCHEME AMENDMENT MAP

City of Busselton  
Local Planning Scheme No.21 Amendment No.28  
Sheet 23 Beachgrove Pl, Geographe



**Zone**  
Residential

**Reserve**  
Recreation

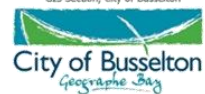
**Area**  
Development Investigation  
R Code

ID: 12

Note: The zoning of the land is not being changed by the Amendment

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# SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheet 20: Development Investigation Area, Rendezvous Rd, Vasse



Zone	Reserve	Area
Agriculture	Public Purposes	Development Investigation
Conservation		Environmental Conditions
Rural Residential		Floodway
Special Purpose		Landscape Value
Vasse Development		Wetland
		Special Provision

ID: 33

BP - Bypass

Note: The zoning of the land is not being changed by the Amendment



0 280 560 m

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 City of Busselton  
Geographic Bay



# SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheets 23 & 24: Lots 1-3, 228 and B5 Molloy St, Busselton



Zone	Reserve	Area
Agriculture	Public Purposes	Development Investigation
Industrial	Recreation	Floodway
Residential		Landscape Value
Special Purpose		Wetland
Tourist		Special Provision
		R Code

ID: 20

BP - Bypass  
SST - Service Station  
SSTPN - Service Station/Plant Nursery

Note: The zoning of the land is not being changed by the Amendment



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## SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheet 24 & 28 - Lot 40 Vasse Hwy and Lot 41 Drovers Rd, Bovell



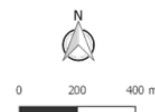
Zone	Area	Reserve
Agriculture	Development Investigation	Public Purposes
Industrial	Floodway	Recreation
Residential	Special Provision	
Special Purpose	Additional Use	
	R Code	

ID: 14

AADA - Ambergate Automotive Development Area  
 AND A - Ambergate North Development Area  
 BP - Bypass  
 D - Drain  
 YID - Yalyalup Industrial Development

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**ATTACHMENT V – SCHEDULE OF MODIFICATIONS  
AMENDMENT 28 (OMNIBUS 3) TO LOCAL PLANNING SCHEME 21  
AMD21/0028**

No.	MODIFICATION	REASONS
1.	<p>a) Delete resolution 1.1f (i), (ii) &amp; (iii) and renumber 1.1f (iv) as 1.1d.</p> <p>b) Amend the beginning of resolution 1.1d to read – “Inserting new zones and objectives in clause 3.2 as follows:” and removing references to clause numbers ‘3.2.13’ and ‘3.2.14’ from within the proposed text.</p> <p>c) Amend resolutions 4.1a, 4.1d, 8.1 to 8.3, 8.5 to 8.7 and 9.1 to 9.4 by changing reference to the ‘Special Purpose’ Zone to the ‘Special Use’ Zone with the correlating reference number as set out in Schedule 5.</p> <p>d) Amend resolution 4.1c by changing reference to the ‘Agriculture’ Zone to the ‘Rural’ Zone.</p> <p>e) Amend resolution 4.1f by deleting ‘Bulk Store’, ‘Chandlery’, ‘Public Utility’, ‘Recreation Area’ and ‘Service Industry’.</p> <p>f) Amend resolution 4.1f by modifying the following definitions -</p> <ul style="list-style-type: none"> <li>• ‘Liquid Fuel Depot’ to ‘Fuel Depot’</li> <li>• ‘Light Industry’ to ‘Industry - Light’</li> <li>• ‘Motor Vehicle and Marine Sales Premises’ to ‘Motor Vehicle, Boat or Caravan Sales’</li> <li>• ‘Plant Nursery’ to ‘Garden Centre’</li> <li>• ‘Recreation Facility’ to ‘Recreation – Private’</li> <li>• ‘Research and Development Facility’ to ‘Research Establishment’</li> <li>• ‘Showroom’ to ‘Bulky Goods Showroom’</li> <li>• ‘Veterinary Hospital’ to ‘Veterinary Centre’</li> <li>• ‘Warehouse’ to ‘Warehouse/Storage’</li> </ul> <p>g) Amend resolution 4.1f by deleting special provision 3 and renumbering subsequent provisions as the requirement for</p>	<p>To ensure alignment with the changes to Local Planning Scheme 21 introduced by Amendment 29 (gazetted 7 June 2019) and correct references to zones (including representation on the Scheme map), clause numbers, Schedules and land use titles (including those amended and deleted by the Amendment) throughout the Scheme Amendment document and resolution.</p> <p>1.1a Deletion of clause 3.6 is recommended as the ‘Vasse Development’ and Deferred Vasse Development zones are being removed from the Scheme. The Special Use zone is addressed at cl. 3.9 (introduced by Amendment 29) therefore cl. 3.6 is no longer unrequired.</p>

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a site specific definition of ‘Research and Development Facility’ is redundant.

h) Resolution 4.1j – change ‘Special Purpose’ to ‘Special Use No. 31’ and amend Schedule 5 by inserting the following:

No.	Description of Land	Special Use	Conditions
31.	Lot 1001 Oaks Drive, Vasse	Single House Restaurant/Café Industry – Cottage Convenience Store	The special use specified shall be deemed to be a ‘D’ use for the purposes of the Scheme.

i) Resolution 4.1k – change ‘Special Purpose’ to ‘Special Use No. 32’ and amend Schedule 5 by inserting the following:

No.	Description of Land	Special Use	Conditions
32.	Lot 1131 Data Way, Kealy	Aged Persons Home Park Home Park	The special use specified shall be deemed to be a ‘D’ use for the purposes

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			of the Scheme.	
	<p>j) Resolution 4.2 – change “Schedule 7” to “Schedule 8”.</p> <p>k) Resolution 4.3 – change “Schedule 8” to “Schedule 9”.</p> <p>l) Resolutions 4.4 &amp; 4.5 – change “Schedule 11” to “Schedule 12”.</p> <p>m) Resolution 8.8b – change “Business” to “Local Centre”.</p> <p>n) Resolution 8.8c – change “Tourist” to “Tourism”.</p> <p>o) Resolution 9.3c – change “Industrial” to “Light Industry”.</p> <p>p) Resolution 9.4 – amend Schedule 5 by inserting the following:</p>			
No.	Description of Land	Special Use	Conditions	
33.	Lot 5001 Clubhouse Drive, Dunsborough	Private Recreation	The special use specified shall be deemed to be a ‘P’ use for the purposes of the Scheme.	
34.	Lot 4002 Dunsborough Lakes Drive, Dunsborough	Office	The special use specified shall be deemed to be a ‘P’ use for the	



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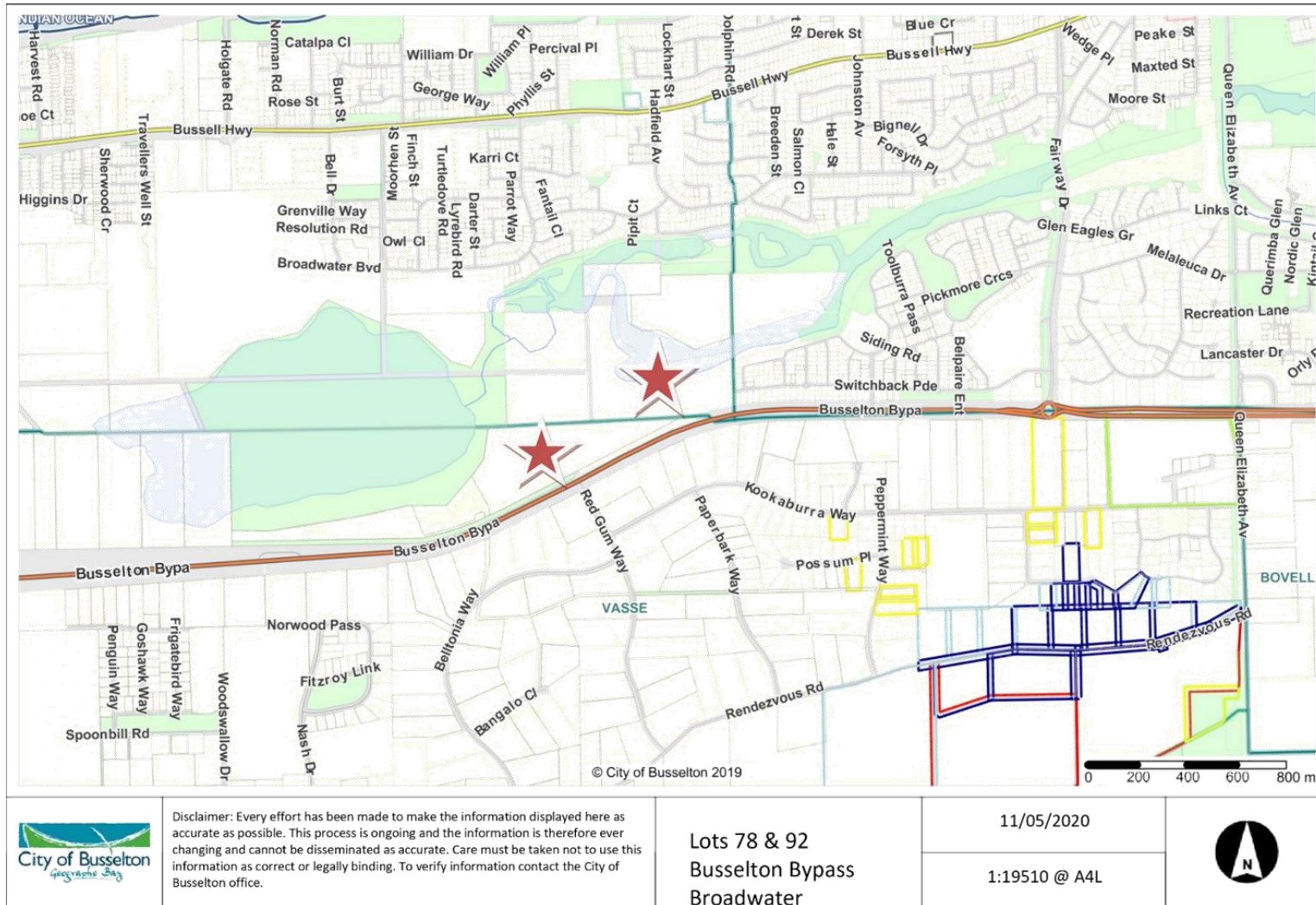
			purposes of the Scheme.	
2.	Resolution 7.1b Lot 2000 Okapa Rise, Dunsborough – advertised as Rural Residential (Attachment O). Amend the Scheme Map to designate these lots ‘Recreation Reserve’.			To reflect changes to the Scheme introduced by the Gazettal of Amendment 29.
3.	Resolution 7.1b: Lots 2001 & 2002 Okapa Rise, Dunsborough (Public Access Ways) – advertised as Rural Residential (Attachment O). Amend the Scheme Map to designate the lots ‘No Zone’.			To reflect changes to the Scheme introduced by the Gazettal of Amendment 29.
4.	Resolution 7.1a: Lots 301 – 310 Vixen Close & Lot 311 Carnarvon Castle Drive, Eagle Bay were advertised as ‘Rural Residential’ (Attachment N). Amend the Scheme Map to designate the lots ‘Residential R2.5’.			To reflect changes to the Scheme introduced by the Gazettal of Amendment 29.
5.	Amend resolution 1.1f iv to read –  “d Amending Table 1 – Zoning Table by replacing the ‘Vasse Development’ and ‘Deferred Vasse Development’ columns with ‘Urban Development’ and ‘Industrial Development’ and replacing the current text adjacent to the land uses with “in accordance with clause 3.2” for each Zone.”			To correct an omission from Table 1 – Zoning Table.
6.	Delete resolution 7.1i which proposes to include Lot 40 and portion of Lot 41 Vasse Highway, Bovell in a Development Investigation Area (Attachment U).			To address the issue of application of SPP3.7 Planning in Bushfire Prone Areas raised in the Department of Fire and Emergency Services submission.

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7.	<p>In relation to Lot 9052 Northerly Street, Vasse -</p> <ol style="list-style-type: none"> <li>1. Amend resolution 4.1l by inserting 'Industrial Development' under the Zone column of Special Provision Area 68.</li> <li>2. Amend resolution 8.4a to read as follows – "Rezoning Lot 9052 Northerly Street and portion of Lot 9554 Napoleon Promenade, Vasse from 'Vasse Development' to 'Industrial Development' as shown on the Scheme map, and amend the Scheme map accordingly."</li> <li>3. Amend resolution 8.4b by deleting "Lot 9052 and".</li> </ol>	Modifications proposed in support of the submission to change the zoning of Lot 9052 Northerly Street, Vasse from 'Urban Development' to 'Industrial Development'.
8.	<p>Amend resolution 8.1 by inserting a new clause to read as follows –</p> <p>"(c) Rezoning Lot 6 and portion of Lot 10 Bussell Highway from 'Residential R20' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly."</p>	Modifications proposed in support of the submission to change the zoning of Lot 6 and portion of Lot 10 Bussell Highway, Broadwater from 'Residential R20' to 'Urban Development'.
9.	<p>Amend resolution 4.1k by amending special provision (1) relating to read as follows –</p> <p>"With the exception of sub-clause 4.3.1(f), clause 4.3.1 does not apply to land within this Special Provision Area."</p>	The inclusion of this clause would remove the need for development applications for outbuildings that comply.
10.	Amend resolutions 9.1 Yalyalup, 9.2 Old Broadwater Farm, 9.3(a) Birchfields Village, 9.3(b) Dawson Village, 9.3(d) Heron Lake and 9.4 Dunsborough Lakes by adding 'No Zone' to the proposed zones.	Road reserves within areas to be normalised are shown as white on the propose zoning map, but are not described in the amendment resolutions.
12.	Amend Resolution 4.1(l) by adding 'Industrial Development' under the 'Zone' column of Special Provision Area 68.	Clarifies that SP68 applies to land proposed for both the 'Industrial Development' and 'Urban Development' zones.

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12.	Amend resolution 4.1I to include a new Special Provision as follows:  “3. For residential areas of SP68 a minimum front setback of 4 metres applies to dwellings and structures (excluding driveways) to facilitate provision of drainage.”	To introduce a development setback into LPS21 to facilitate the location of on lot drainage (soakwells) in the front of residential lots.
13.	Amend Schedule 5 - Special Uses by deleting the following:  SU22 Ambergate Industrial/Service Commercial Development Area SU23 Ambergate North SU25 Heron Lake SU26 Old Broadwater Farm SU29 Yalyalup Industrial Development	To reflect changes to the Scheme introduced by the Gazettal of Amendment 29.

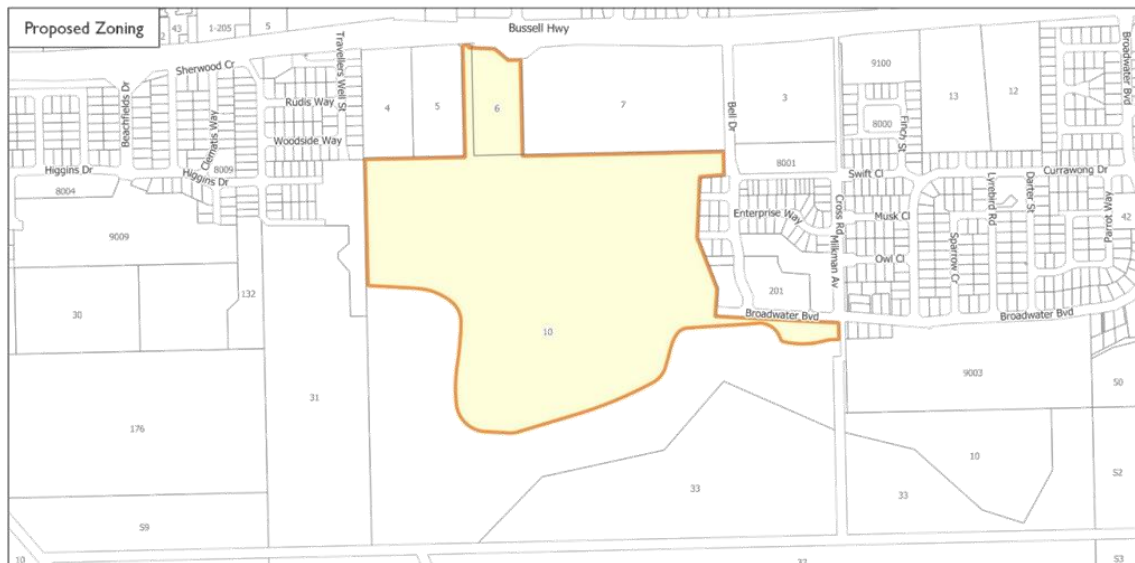


## SCHEME AMENDMENT MAP

City of Busselton

Local Planning Scheme No.21 Amendment No.28

Sheet 19 & 21: Lots 6 and 10 Bussell Highway Broadwater



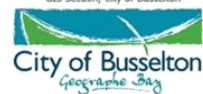
Zone	Reserve	Area
Local Centre	Public Purposes	Development Investigation
Conservation	Recreation	Floodway
Residential		Landscape Value
Rural		Special Provision
Special Use		
Tourism		
Urban Development		

ID: 34

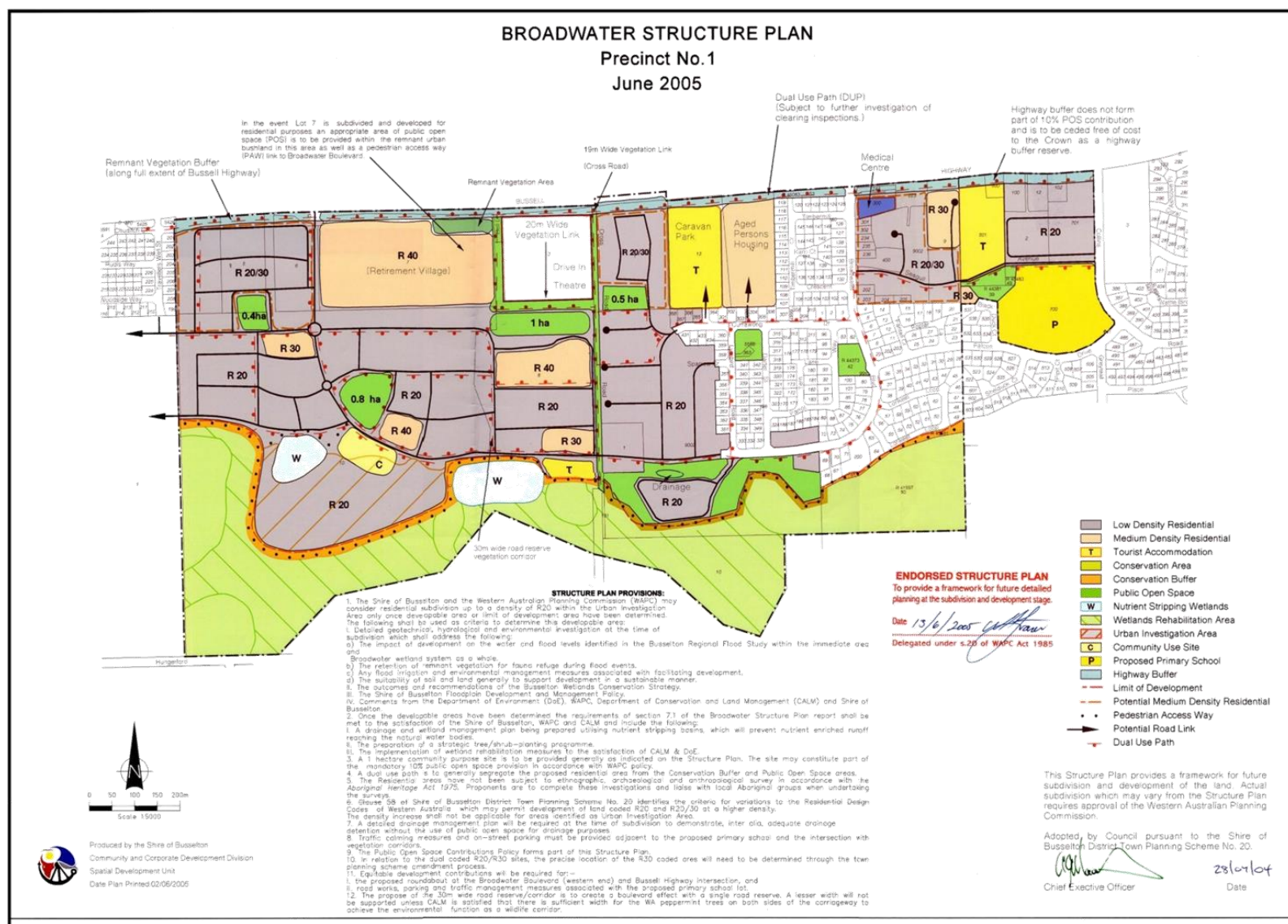
LC - Local Centre

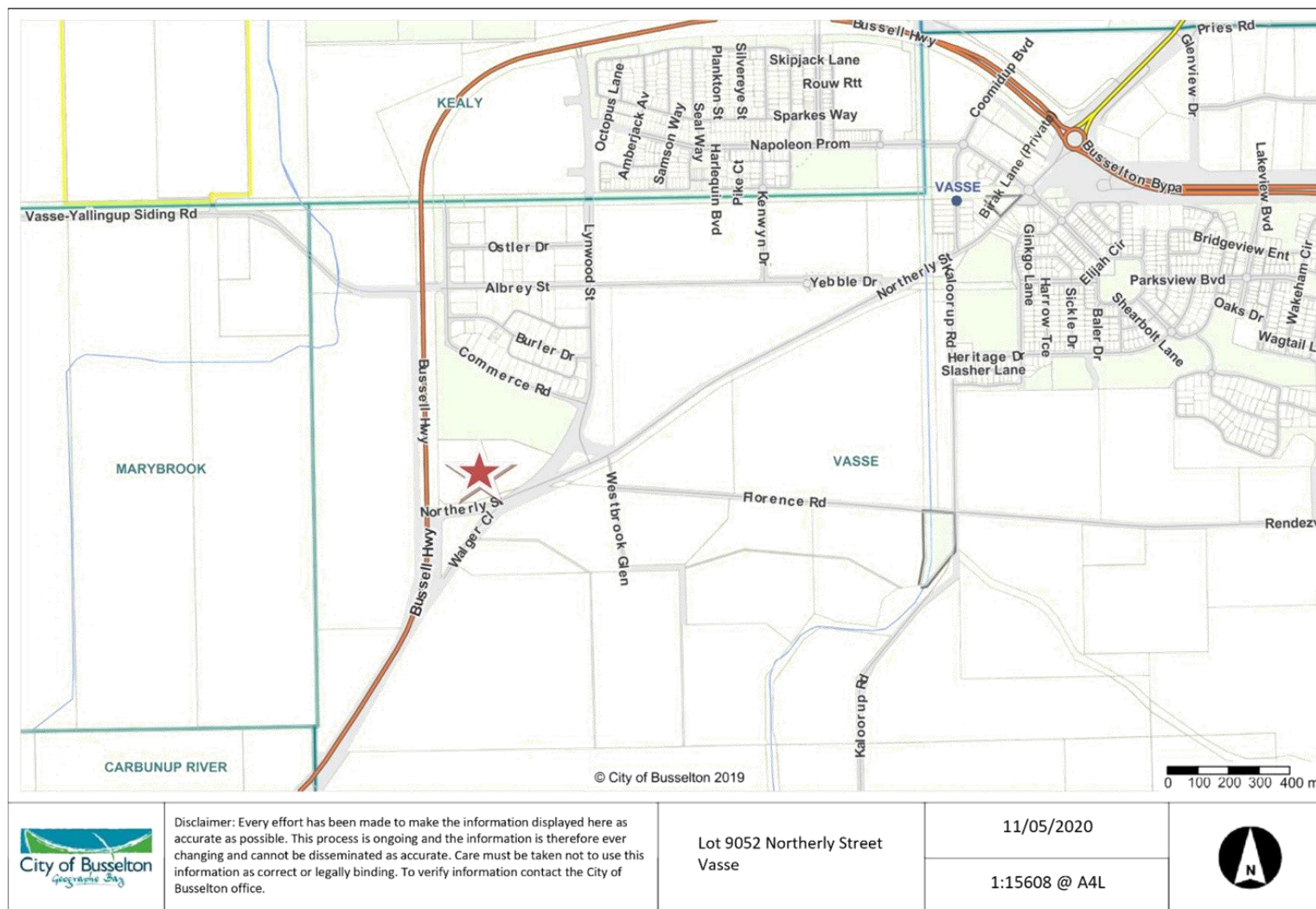
**Disclaimer**  
The City of Busselton does not guarantee that this map is without errors and accepts no responsibility for consequences of actions that rely on this map.  
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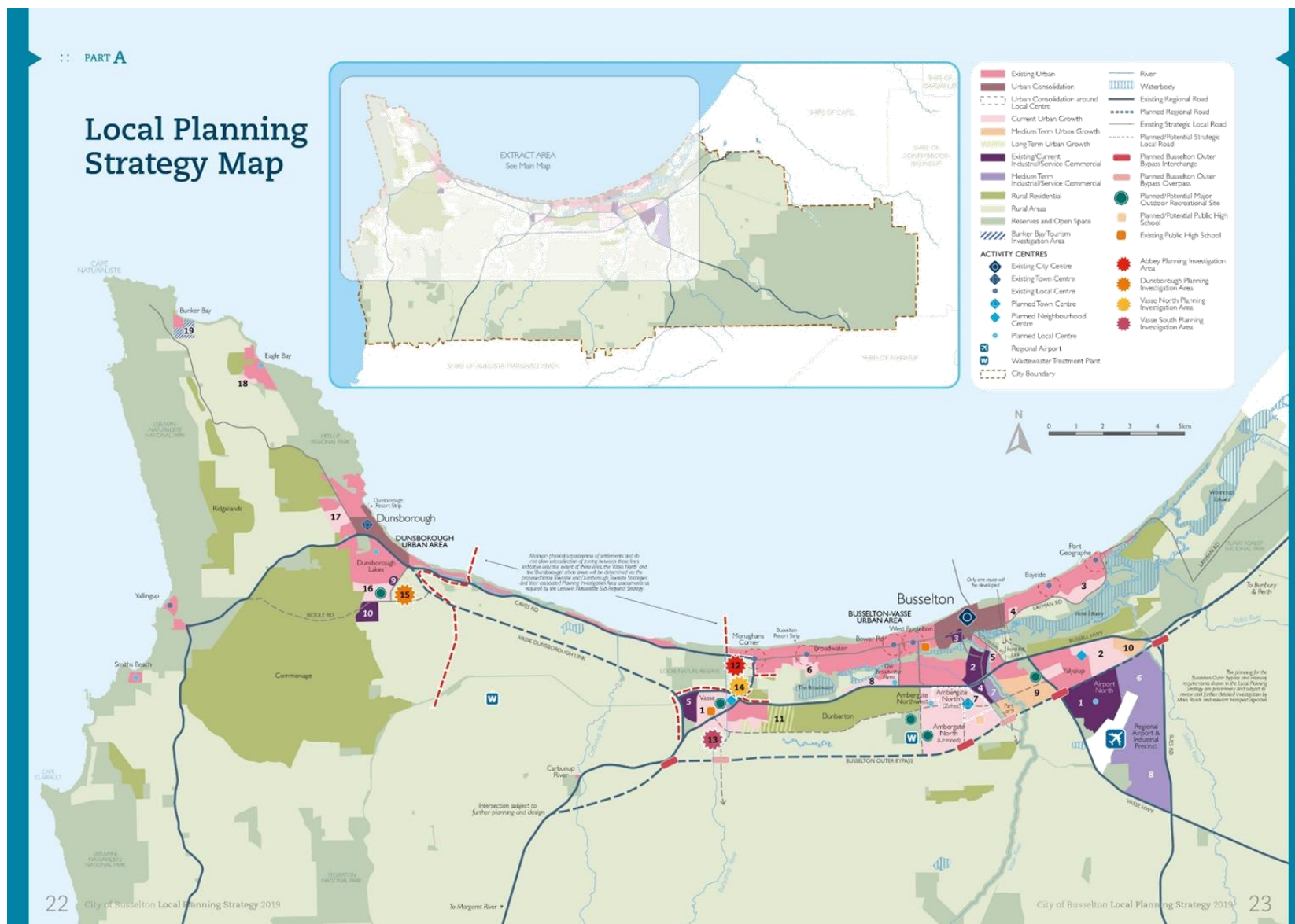
Map Produced on 8/4/2020  
GIS Section, City of Busselton













**SUMMARY OF SUBMISSIONS**  
**PROPOSAL:** AMD21/0028 Omnibus Amendment 3 (Amendment 28)  
**OFFICER:** Louise Koroveshi  
**SUBMISSIONS CLOSE:** 23<sup>rd</sup> December 2019

No.	Submittor	Nature of Submission	Comment	Recommendation
<b>External Agency Submissions</b>				
1	Telstra Locked Bag 3820 Brisbane QLD 4001	Advice provided on Telstra assets in the subject area and standard procedures to follow at subdivision stage.	Noted.	That the submission be noted.
2	Department of Fire and Emergency Services 469 Wellington Street Perth WA 6000	As the Amendment seeks to modify parts of the Scheme to align with the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> , it does not appear necessary to apply <i>SPP3.7 Planning in Bushfire Prone Areas</i> when no actual intensification or increased bushfire risk will occur.  The new Development Investigation Area proposed by the Amendment (Lot 40 Vasse Highway and portion of Lot 41 Drovers Road, Bovell) is intensification of land use and could result in an increased bushfire risk. Therefore, it appears that <i>SPP3.7</i> should be applied to this part of Amendment 28.	Strategic planning proposals (i.e. amendments) require a bushfire assessment (relevant to the nature and scale of the proposal) and assessment against <i>SPP3.7</i> and Appendix 4 of the Planning in Bushfire Prone Areas Guidelines. For local planning scheme amendments, the preparation of a Bushfire Hazard Level Assessment (BHL) across the whole of the land by a suitably accredited Bushfire Planning Practitioner is required where there is limited detail regarding the final lot layout. A BHL has not been prepared and assessed by DFES and, as such, this element of Amendment 28 does not currently meet planning requirements. Unless the City engages a suitably qualified bushfire planning practitioner to prepare a BHL to the satisfaction of DFES, Amendment 28 will most likely (and undesirably) stall over this matter.  Since Amendment 28 was initiated in	That the submission be noted and modifications to Amendment 28 are being recommended (refer to Attachment V - Schedule of Modifications).

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			April 2018, the strategic direction for Bovell (9) has been strengthened and confirmed through the final approval of the City's <i>Local Planning Strategy</i> and the <i>Leeuwin Naturaliste Sub-Regional Strategy</i> by the WAPC. Both documents identify Bovell (9) for urban land use. It is therefore considered that a DIA over the land would not serve any worthwhile strategic purpose, particularly as the strategic planning framework effectively provides the context for orderly and proper structure planning and rezoning processes to commence at an appropriate time. Officers are therefore recommending that this element of Amendment 28 is removed.	
3.	Busselton Water 1 Fairbairn Road Busselton WA 6280	Supports the water servicing aspects of Amendment 28.	Noted.	That the submission be noted.
4.	Water Corporation PO Box 100 Leederville WA 6902	No concerns raised.	Noted.	That the submission be noted.
5.	Department of Planning, Lands and Heritage Locked Bag 2506 Perth WA 6001	The proposed amendment has been considered for its potential impact on heritage places within the amendment area. There is no objection to the proposed	Noted.	That the submission be noted.

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		amendment.		
6.	Department of Primary Industry and Regional Development Verschuer Place Bunbury WA 6231	No objection.	Noted.	That the submission be noted.
7.	Department of Water & Environmental Regulation <a href="mailto:Brendan.kelly@dwer.wa.gov.au">Brendan.kelly@dwer.wa.gov.au</a>	No objection. The scope of changes proposed by the amendment are acceptable to DWER.	Noted.	That the submission be noted.
8.	Department of Planning, Lands and Heritage Locked Bag 2506 Perth WA 6001	A review of the Register of Places and Objects as well as the DPLH Aboriginal Heritage Database concludes that Aboriginal heritage sites exist within the amendment area. It is understood that the local planning scheme changes refer to amending the zoning of these areas and does not involve physical impacts, therefore no approvals under the <i>Aboriginal Heritage Act 1972</i> are required.	Noted.	That the submission be noted.
9.	ATCO Gas Princep Road Jandakot WA 6164	No objection.	Noted.	That the submission be noted.
<b>Public Submissions</b>				
10.	Roberts Day Level 2, 442 Murray Street Perth WA 6000 on behalf of Perron Developments Pty Ltd and Stawell Pty Ltd	Submission seeks modifications to Amendment 28 as follows –  <u><b>Scheme Provisions</b></u>	<u><b>Scheme Provisions</b></u>	That the submission be noted and modifications to Amendment 28 are being recommended (refer to Attachment V –

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		<p><b>1. Schedule 3 – proposed Special Provision Area 67 (Dawson Village) provision 2</b> states: “Clause 4.3.1 does not apply to land within this Special Provision Area.” Noting that the intent of clause 4.3.1 is to restrict re-subdivision and infill development within the residential zone, it is recommended that sub-clause 4.3.1(f) (which provides an exemption for the development of outbuildings) <i>should</i> apply to SP67. It is recommended that provision 2 of SP67 be amended to read –</p> <p>“With the exception of sub-clause 4.3.1(f), clause 4.3.1 does not apply to land within this Special Provision Area.”</p> <p><b>2. Schedule 3 – proposed Special Provision Area 68 (Vasse Urban Development zone)</b></p> <p>a) Vasse LIA Stage 2 – update the zone requirements to reference Industrial Development as well as Urban Development to reflect the designations on the proposed Scheme Map.</p>	<p>1. Clause 4.3.1(f) reads – <i>“Notwithstanding the deemed to comply provisions of the R-Codes, outbuildings that do not exceed a wall height of 2.7 metres and ridge height of 4.5 metres are deemed to meet the relevant performance criteria.”</i></p> <p>The inclusion of this clause would remove the need for development applications for outbuildings that comply.</p> <p>2a. Noted. Insert ‘Industrial Development’ under the ‘Zone’ column as SP68 applies to land proposed for both the ‘Industrial Development’ and ‘Urban Development’ zones.</p>	<p>Schedule of Modifications).</p>	<p>of</p>
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**SUMMARY OF SUBMISSIONS**

**PROPOSAL:** AMD21/0028 Omnibus Amendment 3 (Amendment 28)

**OFFICER:** Louise Koroveshi

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		<p>b) Amend special provision 2 environmental conditions as follows (underlined section) –</p> <p><i>“The northern part of Lot 221 Northerly Street, Vasse contains important environmental values, including, but not necessarily restricted to, poorly represented vegetation and habitat for Western Ringtail Possum (<i>Pseudocheirus occidentalis</i>) and Black Cockatoo species (<i>Calyptorhynchus latirostris</i>, <i>Calyptorhynchus baudinii</i> and <i>Calyptorhynchus banksii naso</i>). <u>Future structure planning should require that a representative portion of the northern part of Lot 221 Northerly Street’s environmental values be retained within public open space.</u>”</i></p> <p>The Vasse JV has referred a design proposal for Lot 221 Northerly Street to the Department of Environment and Energy pursuant to the Environmental Protection and Biodiversity Conservation Act 1999. The design provides for the</p>	<p>2b. After Amendment 28 was initiated in April 2018, it took many months for the City to satisfy the Environmental Protection Authority (EPA) that the amendment did not require formal environmental review. Critical to this process was agreement between the City and the EPA on the wording of the special provision relating to the environmental values of Lot 221 Northerly Street, Vasse. The request to amend the special provision is therefore not supported.</p> <p>The current wording of the special provision provides adequate flexibility for the structure planning process to determine the spatial extent of environmental values on Lot 221 that should be retained.</p>	
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		<p>retention of a representative portion of the relevant habitat within the subject land proposed to be retained in a manner that results in a better environmental outcome than that shown on the current approved Vasse Structure Plan. The current special provision should maintain flexibility relative to current and future approval processes.</p> <p>c) Include a new provision to relating to the location of on-lot drainage (soakwells) in the front setback of residential lots –</p> <p><i>“For the residential areas of SP68 a minimum front setback of 4 metres applies to dwellings and structures where required to facilitate provision of drainage.”</i></p>	<p>2c. The developer is implementing an alternative approach to the location of on-lot stormwater drainage (soakwells) in the front setback of residential lots. The approach would reduce the need for rear of yard subsoil drainage (and associated easements), with some saving on imported fill and improved soakwell discharge. The provision in the Scheme is needed to ensure that dwellings and structures are not built over the drainage infrastructure. There is no issue constructing a driveway over the soakwell as it must have a trafficable lid for this purpose (this would be ensured at building licence stage. It is recommended though that the exclusion of driveways is clarified in the special provision (refer to Schedule</p>	
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		<p><b>Scheme Map</b></p> <p><b>1. Zoning of road reserves</b> – certain road reserves within and adjacent to SP68 should be incorporated into the Urban and Industrial Development zones and SP68 to ensure flexibility as detailed design is progressed for these areas and to avoid the need for a scheme amendment if the reservations change. Specifically, Yebble Drive, Northerly Street (west of the Buayanup Drain), Lynwood Street and the intersection of Lynwood Street and Northerly Street.</p> <p><b>2. Wadandi Track</b> – the road crossing of Kenwyn Drive and Lynwood Street should be excluded from the Recreation reserve and shown as 'No Zone'.</p>	<p>V – Schedule of Modifications).</p> <p><b>Scheme Map</b></p> <p>1. Noted, however the existence of the road reserves is not an impediment to the progressive design review of the applicable Structure Plan and subsequent subdivision and development. The purpose of a Structure Plan is to guide zoning and ultimately a basic scheme amendment would be required anyway to consolidate applicable zonings where the land has been subdivided and developed.</p> <p>2. Noted and modification recommended.</p>	
11.	LB Planning PO Box 315 Dunsborough WA 6281	Submission requesting that Lot 6 & part of Lot 10 Bussell Highway, Broadwater be incorporated into Amendment 28 and included in the	The City has recently discussed with key landowners and their representatives, matters in respect to the review and rationalisation of the Broadwater	That the submission be supported and modifications to Amendment 28 are

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	On behalf of landowner - Lots 6 & 10 Bussell Highway, Broadwater	<p>'Urban Development' zone and a Special Provision Area. The following justification is provided –</p> <ol style="list-style-type: none"> <li>1. The land is subject to the Broadwater Structure Plan (Precinct 1 East) 2005 and at approximately 56 hectares represents the majority of the remaining undeveloped land within the Structure Plan area. The land is currently zoned 'Residential R20' and 'Conservation' zone under Local Planning Scheme 21. The residential component also falls within Development Contribution Area 1 (DCA1) and is partially located within the 'Wetland Area'.</li> <li>2. The Broadwater Structure Plan was endorsed in 2005 and is not aligned with key elements of the current local and State planning framework, which has changed and evolved since that time. Changes to the planning framework that have implications for the current Structure Plan design and land</li> </ol>	<p>Structure Plan (Precinct 1 East and Precinct 2 West), as well as how best to guide the zoning and subdivision of those potentially developable areas which remain in this structure planning area. Since the adoption of the Broadwater Structure plan, subdivision and development has been approved and subsequently carried out over most of Precinct 2 West.</p> <p>The potential urban development area most clearly affected by changes to the planning framework introduced since the adoption of the Broadwater Structure Plan (especially in terms of regulatory requirements in planning for bushfire, ecological linkages, water management and clearing of remnant native vegetation, as well as the current blanket 'Residential R20' zoning) are those remaining landholdings in Precinct 1 – East, and most significantly Lots 6 and 10.</p> <p>Whilst the landowner could proceed with the development of Lots 6 and 10 under the current zoning, there would need to be the standard requisite site investigations (hydrology, flora and</p>	being recommended (refer to Attachment V – Schedule of Modifications).
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		<p>use outcomes including bushfire risk and management, clearing of native vegetation (and potential impacts on listed fauna species), ecological linkages, wetlands, water management and subdivision design.</p>	<p>fauna, bushfire risk and so forth), as well as a modification to the Broadwater Structure Plan itself to guide integrated subdivision and development. A Scheme amendment would also be required to avoid discrepancies between land uses and residential densities proposed by a revised Structure Plan and the underlying zoning. The preparation and progression of a Scheme Amendment proposal and modified Broadwater Structure Plan would be a lengthy process (18 months +), especially given the need for specialist technical site investigations to inform subdivision/development outcomes.</p> <p>Unlike greenfield (undeveloped) land in the City's other development areas, Lot 6 and part of Lot 10 were not included in Amendment 28 for rezoning to 'Urban Development' because the current 'Residential R20' zoning is compliant with the Regulations. To assist with the timely review of the planning framework for this precinct and to streamline the process, officers are recommending that Amendment 28 be modified to include the current</p>	
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			<p>'Residential R20' zoned portion of Lots 6 and 10 in the 'Urban Development' zone along with a new Special Provision Area (consistent with the approach proposed by Amendment 28 for the City's other development areas). This would ensure that appropriate structure planning is undertaken to guide future zoning and subdivision.</p> <p>Of relevance to consideration of this submission, the City is currently undertaking traffic counts to assist in assessing and determining an optimum road network to connect the eastern and western precincts of the Broadwater Structure Plan area, together with identifying appropriate road intersections with Bussell Highway and Broadwater Boulevard. The City intends to commission a suitably qualified traffic management consultant to review those findings and further advise on traffic movement needs throughout the Broadwater area (modelled on assumed full subdivision and development). The outcome of this assessment would be an important consideration in any review of the planning framework applicable to the</p>	
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**SUMMARY OF SUBMISSIONS**  
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			Broadwater locality.	
12.	<p>LB Planning PO Box 315 Dunsborough WA 6281</p> <p>On behalf of landowner Lots 78 &amp; 92 Busselton Bypass, Broadwater</p>	<p>Submission requesting that Lots 78 and 92 Busselton Bypass, Broadwater be rezoned from 'Rural' and 'Development Investigation Area' to 'Urban Development'. The following justification is provided –</p> <ul style="list-style-type: none"> <li>• The land is contiguous with the Old Broadwater Farm residential estate to the east.</li> <li>• The land is identified as a Development Investigation Area under LPS21 which requires land to be appropriately zoned and structure planned prior to subdivision and development.</li> <li>• The southern portion of the land is identified as 'a current urban growth area' by the City's Local Planning Strategy.</li> <li>• The land could be included in a new Special Provision Area with conditions to provide additional guidance for planning.</li> <li>• Inclusion in the Urban Development zone would enable appropriate planning and environmental investigations to</li> </ul>	<p>The primary intent of Amendment 28 is to align the City's current development zones (Vasse, Provence, Dunsborough Lakes etc) and their associated Scheme provisions with the Regulations. Amendment 28 addresses land that is already zoned and structure planned for urban and industrial development purposes.</p> <p>The zoning request does not meet contemporary planning requirements. The land is currently zoned 'Rural' and within a 'Development Investigation Area'. The land is not within a zoned development area, nor is there an approved structure plan in place to guide future zoning and subdivision. The land has environmental constraints including, but not limited to, wetlands, wetland buffers, native vegetation and bushfire risk.</p> <p>The <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> require that there is sufficient analysis undertaken to demonstrate that land contained within an Urban</p>	<p>That the submission be noted and no modification is being recommended.</p>

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**SUBMISSIONS CLOSE:** 23<sup>rd</sup> December 2019

		determine areas for urban development, conservation and/or other uses.	Development zone is actually capable and suitable for development. The proximity of the land to existing residential subdivision to the east, its inclusion in a 'Development Investigation Area' under LPS21 and an urban growth area under the <i>Local Planning Strategy</i> do not preclude this requirement for strategic analysis. Assessment of bushfire risk and proximity to important wetlands are fundamental issues for investigation to determine the appropriateness of rezoning and a suitable developable area.  For these reasons, officers are recommending that the submission is not supported.	
13.	Able Planning & Project Management 29 New River Ramble West Busselton WA 6280  On behalf of Vasse Commercial Pty Ltd - Lot 9052 Northerly Street, Vasse	Submission regarding Lot 9052 Northerly Street, Vasse. The subject land is 5.8ha and is located on the northwest corner of the intersection of Bussell Highway and Northerly Street. The subject land is currently zoned 'Vasse Development' under LPS21, but is designated 'Reserve for Recreation' on the endorsed <i>Vasse Structure Plan</i> .	Lot 9052 is designated as a recreation reserve by the endorsed <i>Vasse Structure Plan</i> , which is an anomaly arising from the formulation of the structure plan around 20 years ago. The property is a freehold lot held in fee simple (i.e. not a reserve or other Crown land parcel) and is not required for recreational purposes as demonstrated by a recent the public open space audit undertaken	That the submission be supported and modifications to Amendment 28 are being recommended (refer to Attachment V – Schedule of Modifications).

**SUMMARY OF SUBMISSIONS**

**PROPOSAL:** AMD21/0028 Omnibus Amendment 3 (Amendment 28)

**OFFICER:** Louise Koroveshi

**SUBMISSIONS CLOSE:** 23<sup>rd</sup> December 2019

		<p>The submission states unconditional support for Amendment 28, subject to:</p> <ol style="list-style-type: none"><li>1. The Scheme Amendment map being modified to zone Lot 9052 'Industrial Development'.</li><li>2. The Scheme Amendment text being modified to list 'Industrial Development' under the 'Zone' column of SP68 in Schedule 3.</li></ol> <p>The main reasons in support of the request are -</p> <ol style="list-style-type: none"><li>1. The Vasse Structure Plan was originally prepared approximately 20 years ago, and Lot 9052 was surplus to land requirements for residential development, and simply designated as recreation reserve. It is not required to be ceded to the Crown for recreation reserve as public open space provision on the endorsed Vasse Structure Plan is in surplus, as evidenced through a recent audit. It is also not required for drainage purposes and has no conservation values.</li><li>2. Amendment 28 includes the subject land in the 'Urban</li></ol>	<p>for a current review of the <i>Vasse Structure Plan</i>.</p> <p>A number of land uses have been discussed and considered previously by City officers, senior representatives of the DPLH and the landowner/landowner's representative. Agricultural land uses were effectively ruled out, as were active recreation (sports ovals and the like) or conservation areas. The land is not required for residential purposes (nor is the location of Lot 9052 ideal for this) as recent changes to the strategic planning framework for Vasse through the City's <i>Local Planning Strategy</i> and the <i>Leeuwin Naturaliste Sub-Regional Strategy</i> identifies two planning investigation areas to guide the future expansion of Vasse.</p> <p>Given the above, Lot 9052 is now recognised as being a potential extension to the Vasse LIA or 'Business Park' north of the Franklin Wetland and west of Lynwood Street. In this regard the landowner and the landowner's representative have prepared a concept plan for the future subdivision and</p>	
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**SUMMARY OF SUBMISSIONS**  
**PROPOSAL:** AMD21/0028 Omnibus Amendment 3 (Amendment 28)  
**OFFICER:** Louise Koroveshi  
**SUBMISSIONS CLOSE:** 23<sup>rd</sup> December 2019

		<p>Development' zone and 'Special Provision Area 68' where it may be incorporated into plans and put to urban development purposes.</p> <p>3. The subject land is ideally located at the upgraded intersection of the completed Busselton Bypass around Vasse and Northerly Street (formerly Bussell Highway) which is the western gateway to Vasse and the light industrial area.</p> <p>4. Discussions have been held with the City of Busselton and the Department of Planning, Lands and Heritage regarding a concept plan for the future subdivision of the subject land to facilitate development for light industrial and industrial land uses including a potential service station.</p>	<p>development of Lot 9052 for light industrial and general industrial uses, including consideration of a service station. Inclusion of Lot 9052 in the 'Industrial Development' zone would provide the strategic planning framework within which the landowner could seek a future modification to the <i>Vasse Structure Plan</i> to change the designation of the land from recreation reserve to industrial uses.</p>	
<b>Late Submissions</b>				
14.	<p>Department of Biodiversity, Conservation and Attractions PO Box 1693 Bunbury WA 6231</p>	<p>Advice/comments provided.</p> <p>1. Development Investigation Area Resolution 7.1b excluding Sloan Drive/Okapa Rise, Dunsborough needs to be consistent with State Planning Policy 6.1 Leeuwin</p>	<p>1. This area is zoned, structure planned and subdivided therefore the DIA is redundant. There is no inconsistency with SPP6.1 in this regard.</p>	<p>That the submission be noted.</p>

**SUMMARY OF SUBMISSIONS**

**PROPOSAL:** AMD21/0028 Omnibus Amendment 3 (Amendment 28)

**OFFICER:** Louise Koroveshi

**SUBMISSIONS CLOSE:** 23<sup>rd</sup> December 2019

		<p>Naturaliste Ridge (SPP6.1).</p> <p>2. Landscape Value Area - Location 4131 Smiths Beach Road, Yallingup – the LVA should remain as development on this site could have a significant impact on important natural landscape features.</p> <p>3. Resolution 8.8 Port Geographe – current building height restrictions along Layman Road should not be altered to avoid potential impacts on wetland ecology from urban lighting.</p> <p>4. Review of the Landscape Value Area and Wetland Area – areas which have specific development and design requirements, such as Lot 4131 Smiths Beach Road, Yallingup should be excluded.</p> <p>5. Consolidate the 'Development' zones/proposals for Port Geographe – the Amendment must recognise the existing provisions on the Port Geographe Structure Plan relating to development impacts on the adjoining conservation reserve.</p> <p>6. Objectives of the Urban Development Zone – needs to comply with <i>State Planning Policy</i></p>	<p>2. Several points are raised in the DBCA submission concerning the perceived removal of the Landscape Value Area as it relates to Lot 4131 Smiths Beach Road, Yallingup. No change to the Landscape Value Area boundary is being proposed by Amendment 28 in this regard.</p> <p>3. Amendment 28 does not propose any changes to building heights.</p> <p>4. As per response for point 2 above. Amendment 28 only proposes changes to subdivided and developed areas of Vasse and Old Broadwater Farm.</p> <p>5. Amendment 28 does not affect the operation of the Port Geographe Structure Plan.</p> <p>6. The deemed provisions of the Planning and Development (Local Planning Schemes) Regulations require</p>	
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**SUMMARY OF SUBMISSIONS**

**PROPOSAL:** AMD21/0028 Omnibus Amendment 3 (Amendment 28)

**OFFICER:** Louise Koroveshi

**SUBMISSIONS CLOSE:** 23<sup>rd</sup> December 2019

		<p>6.1 <i>Leeuwin Naturaliste Ridge</i> including consideration of landscape protection elements. The following additional objective is recommended: "to consider the impact of development in the context of potential impacts on the surrounding natural landscape attributes."</p> <p>7. Amending Special Provision Area 23 Yalyalup – the structure plan needs to recognise Western Ringtail Possum habitat areas.</p> <p>8. Ambergate North and Ambergate Industrial – the Ambergate North Structure Plan identifies significant bushland areas containing declared rare flora and other important environmental values. These areas should be protected from development impacts.</p> <p>9. Dunsborough Lakes – the former</p>	<p>the preparation of a Structure Plan for land within a 'Development' zone and a Structure Plan must have due regard to relevant State Planning Policies. The deemed provisions also set out the information required to be set out in a Structure Plan, including the context (neighbourhood and region) within which the planning area is located (this would include consideration, where relevant, of surrounding natural landscape attributes).</p> <p>7. Proposed changes to Special Provision Area 23 do not affect the endorsed Structure Plan for Yalyalup (Providence residential estate). A draft Providence Structure Plan is pending endorsement by the Western Australian Planning Commission and addresses environmental matters such as Western Ringtail Possum habitat protection.</p> <p>8. The endorsed Ambergate North Structure Plan remains operational and Amendment 28 does not propose any zoning changes that would be inconsistent with the Structure Plan.</p> <p>9. The endorsed Dunsborough Lakes</p>	
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**SUMMARY OF SUBMISSIONS**

**PROPOSAL:** AMD21/0028 Omnibus Amendment 3 (Amendment 28)

**OFFICER:** Louise Koroveshi

**SUBMISSIONS CLOSE:** 23<sup>rd</sup> December 2019

		<p>wastewater treatment plant site contains Western Ringtail Possum habitat and is adjacent to an area that has a Threatened Ecological Community. These areas should be protected from development impacts.</p> <p>10. Yalyalup Industrial – a small pocket of bushland should be added to Lot 11 Vasse Highway (City freehold land), removed from the proposed Public Purposes Reserve and zoned for conservation purposes.</p> <p>11. Lot 9001 Layman Road, Geographe – the amendment should ensure that landscaping and fencing of the conservation reserve is undertaken along Layman Road.</p> <p>12. Sloan Drive, Dunsborough – the area contains Western Ringtail Possum habitat and remnant vegetation that should be protected.</p> <p>13. EPA conditions for Smiths Beach set out landscape impact controls for</p>	<p>Structure Plan remains operational and includes measures to protect these important environmental values. Amendment 28 does not propose any zoning changes that would be inconsistent with the Structure Plan.</p> <p>10. Amendment 28 does not propose to include this area of vegetation in a Reserve for Public Purposes. The endorsed Structure Plan for the Yalyalup industrial park includes this vegetation within a landscape buffer where it will be protected.</p> <p>11. The endorsed Port Geographe Structure Plan addresses these matters for implementation through the subdivision process.</p> <p>12. The area referred to is zoned, structure planned, subdivided and developed. The endorsed Structure Plan (dated 2002) identified building envelopes for each lot and land to be reserved to maximise protection of vegetation.</p> <p>13. Amendment 28 does not propose any changes to the Landscape Value</p>	
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**SUMMARY OF SUBMISSIONS**

**PROPOSAL:** AMD21/0028 Omnibus Amendment 3 (Amendment 28)

**OFFICER:** Louise Koroveshi

**SUBMISSIONS CLOSE:** 23<sup>rd</sup> December 2019

		building heights and siting. The Landscape Value Area boundary should be retained for this area as development type, siting and scale can have a significant impact on the surrounding natural landscape.	Area boundary at Smiths Beach.	
15.	Department of Mines, Industry Regulation and Safety 100 Plain Street, East Perth WA 6004	The proposal does not raise any significant issues relating to mineral and petroleum resources, geothermal energy and basic raw materials.	Noted.	That the submission be noted.



**SUMMARY OF SUBMISSIONS**

**PROPOSAL:** AMD21/0028 Omnibus Amendment 3 (Amendment 28)

**OFFICER:** Louise Koroveshi

**SUBMISSIONS CLOSE:** 23<sup>rd</sup> December 2019

13.2 PROPOSED SCHEME AMENDMENT NO. 40 (MODIFICATIONS TO THE ZONING TABLE) & PROPOSED SCHEME AMENDMENT NO. 46 (HEAD OF POWER FOR DEVELOPMENT APPLICATIONS AND STRUCTURE PLANS) - CONSIDERATION FOR INITIATION FOR ADVERTISING

<b>STRATEGIC GOAL</b>	2. PLACE AND SPACES Vibrant, attractive, affordable
<b>STRATEGIC OBJECTIVE</b>	2.1 Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
<b>SUBJECT INDEX</b>	Local Planning Schemes and Amendments
<b>BUSINESS UNIT</b>	Strategic Planning
<b>REPORTING OFFICER</b>	Senior Strategic Planner - Helen Foulds
<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>	Attachment A Proposed Modifications to the Zoning Table  

**OFFICER RECOMMENDATION**

**PART A:**

That the Council:

- I. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, initiates Amendment No. 40 to the City of Busselton Local Planning Scheme No. 21 for community consultation, for the purposes of:
  1. Amending clause 3.5 “Exceptions to the Zoning Table” by:
    - a) Inserting a new sub-clause 3.5.3(e) as follows:
 

*(e) other than with respect to a Lunch Bar or Service Station, the sale of the following goods or products by retail or wholesale to the public from land in the Service Commercial, Light Industry or General Industry zone:*

      - (i) foodstuffs, liquor or beverages;*
      - (ii) items of clothing or apparel;*
      - (iii) magazines, newspapers, books or paper products;*
      - (iv) medicinal or pharmaceutical products;*
      - (v) china, glassware or domestic hardware other than building supplies; or*
      - (vi) items of personal adornment;*

*unless such goods are manufactured on the lot;*
    - b) Deleting sub-clause 3.5.4(d);
    - c) Deleting sub-clause 3.5.4(e); and
    - d) Renumbering sub-clause 3.5.4(f) to 3.5.4(d);
  2. Amending Table 1 “Zoning Table” by, in relation to the use class ‘Bulky Goods Showroom’, replace the symbol ‘P’ with the symbol ‘D’ in the ‘Regional Centre’, ‘Centre’, ‘Local Centre’ and ‘Service Commercial’ zones;
  3. Amending Division 2 of Schedule 1 “Interpretations” by modifying the definition of ‘Bulky Goods Showroom’ to replace “or” between parts (a) and (b) with “and”;
  4. Amending Table 1 “Zoning Table” by –
    - a) In relation to the use class ‘Aged Persons Home’, replace the symbol ‘A’ with the symbol ‘X’ in the ‘Rural’ zone;
    - b) In relation to the use class ‘Amusement Parlour’, replace the symbol ‘D’ with

the symbol 'X' in the 'Service Commercial', 'Light Industry' and 'General Industry' zones;

- c) Modifying the title 'Ancillary Accommodation' to read 'Ancillary Dwelling' and associated references throughout the Scheme accordingly;
- d) Inserting the use class 'Art Gallery' and allocating –
  - (i) the symbol 'D' to the 'Regional Centre', 'Centre', 'Local Centre', 'Tourism', 'Rural' and 'Viticulture and Tourism' zones;
  - (ii) the symbol 'A' to the 'Rural Residential' zone; and
  - (iii) the symbol 'X' to the 'Residential', 'Service Commercial', 'Light Industry', 'General Industry', 'Rural Landscape', 'Conservation' and 'Bushland Protection' zones;
- e) In relation to the use class 'Brewery', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' zone;
- f) In relation to the use class 'Bus Depot', replace the symbol 'D' with the symbol 'X' in the 'Rural' zone;
- g) In relation to the use class 'Cinema/Theatre', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial' zone;
- h) In relation to the use class 'Convenience Store', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial', 'Light Industry' and 'General Industry' zones;
- i) In relation to the use class 'Corner Shop' –
  - (i) replace the symbol 'P' with the symbol 'X' in the 'Service Commercial' zone; and
  - (ii) replace the symbol 'D' with the symbol 'X' in the 'Light Industry' and 'General Industry' zones;
- j) In relation to the use class 'Exhibition Centre', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' zone;
- k) In relation to the use class 'Fuel Depot', replace the symbol 'P' with the symbol 'D' in the 'Light Industry' and 'General Industry' zones;
- l) In relation to the use class 'Garden Centre', replace the symbol 'A' with the symbol 'X' in the 'Regional Centre', 'Centre', 'Local Centre' and 'Rural Residential' zones;
- m) In relation to the use class 'Hospital', replace the symbol 'A' with the symbol 'X' in the 'Rural Landscape' zone;
- n) In relation to the use class 'Hotel', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' zone;
- o) In relation to the use class 'Liquor Store – Large', replace the symbol 'P' with the symbol 'D' in the 'Regional Centre', 'Centre' and 'Local Centre' zones;
- p) In relation to the use class 'Liquor Store – Small', replace the symbol 'P' with the symbol 'D' in the 'Local Centre' zone;
- q) In relation to the use class 'Market' –
  - (i) replace the symbol 'D' with the symbol 'X' in the 'Service Commercial', 'Light Industry', 'General Industry', 'Rural' and 'Viticulture and Tourism' zones; and
  - (ii) replace the symbol 'A' with the symbol 'X' in the 'Rural Residential' zone;
- r) In relation to the use class 'Medical Centre', replace the symbol 'D' with the symbol 'X' in the 'Light Industry' and 'General Industry' zones;
- s) In relation to the use class 'Motel', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' zone;
- t) In relation to the use class 'Motor Vehicle, Boat or Caravan Sales' –
  - (i) replace the symbol 'D' with the symbol 'X' in the 'Regional Centre', 'Centre' and 'Local Centre' zones; and
  - (ii) replace the symbol 'P' with the symbol 'D' in the 'Service Commercial', 'Light Industry' and 'General Industry' zones;



- u) In relation to the use class 'Motor Vehicle Repair', replace the symbol 'P' with the symbol 'D' in the 'Light Industry' zone;
  - v) In relation to the use class 'Reception Centre', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial' zone;
  - w) In relation to the use class 'Residential Building', replace the symbol 'X' with the symbol 'D' in the 'Regional Centre' and 'Centre' zones;
  - x) In relation to the use class 'Restaurant/Café', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial' zone;
  - y) In relation to the use class 'Restricted Premises', replace the symbol 'D' with the symbol 'X' in the 'Service Commercial' zone;
  - z) In relation to the use class 'Service Station', replace the symbol 'A' with the symbol 'X' in the 'Rural' zone;
  - aa) In relation to the use class 'Small Bar', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' and 'Light Industry' zones;
  - bb) In relation to the use class 'Takeaway Food Outlet', replace the symbol 'A' with the symbol 'D' in the 'Regional Centre' and 'Centre' zones;
  - cc) In relation to the use class 'Tavern', replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' and 'Light Industry' zones;
  - dd) In relation to the use class 'Trade Supplies' –
    - (i) replace the symbol 'P' with the symbol 'D' in the 'Regional Centre', 'Centre', 'Local Centre' and 'Service Commercial' zones; and
    - (ii) replace the symbol 'X' with the symbol 'D' in the 'General Industry' zone;
  - ee) In relation to the use class 'Veterinary Centre', replace the symbol 'P' with the symbol 'D' in the 'Service Commercial' zone;
  - ff) In relation to the use class 'Winery' –
    - (i) replace the symbol 'D' with the symbol 'A' in the 'Regional Centre', 'Centre' and 'Local Centre' zones;
    - (ii) replace the symbol 'P' with the symbol 'D' in the 'Light Industry' zone;
    - (iii) replace the symbol 'X' with the symbol 'D' in the 'General Industry' zone; and
    - (iv) replace the symbol 'A' with the symbol 'X' in the 'Service Commercial' and 'Rural Landscape' zones;
5. Inserting new sub-clause 4.19 as follows, and renumbering subsequent clauses accordingly:

#### **4.19 BREWERIES AND WINERIES**

**4.19.1** *The development of a Brewery or a Winery within the Service Commercial, Light Industry and General Industry zones shall be primarily for the production, storage and/or distribution of the product. The following restrictions shall apply –*

- (a) consumption of the product at the site shall be limited to tastings only, being incidental to the production of the product on site, with maximum serving sizes of:*
  - (i) 50mls for wine;*
  - (ii) 100mls for beer/cider; and*
  - (iii) 15mls for spirits;*
- (b) no dining on the premises or the consumption or service of food shall take place;*
- (c) patronage at the site shall not exceed 30 people at any one time; and*

*(d) customers visiting the site for the purpose of tasting and/or sales are restricted to Monday to Sunday, including public holidays, between the hours of 12.00pm and 5.00pm."*

6. Amending Additional Use No. 74 within Schedule 2 by inserting 'Car Park' within the list of land uses permitted;
- II. Pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), determine that Amendment No. 40 is a 'standard amendment' in accordance with r.34(b) of the Regulations as it is:
1. an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve;
  2. an amendment that is consistent with a local planning strategy for the Scheme that has been endorsed by the Commission; and
  3. an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.
- III. That, as the Amendment is in the opinion of the Council consistent with Part V of the Act and Regulations made pursuant to the Act, that upon preparation of the 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 to not be subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. In the event that the EPA determines that the draft Amendment is to be subject to formal environmental assessment, this assessment is to be prepared prior to advertising of the draft Amendment.

#### PART B:

That the Council:

- I. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, initiates Amendment No. 46 to the City of Busselton Local Planning Scheme No. 21 for community consultation, for the purposes of:
  1. Amending Part 5 "Special Control Areas" by –
    - a) Amending clause 5.4 "Landscape Value Area" by inserting a new sub-clause 5.4.1 as follows, and renumbering subsequent clauses accordingly:

*5.4.1 Development within the Landscape Value Area requires the prior development approval of the local government.*
    - b) Amending clause 5.5 "Wetland Area" by replacing sub-clause 5.5.1 with the following:

*5.5.1 Development within the Wetland Area requires the prior development approval of the local government.*
    - c) Amending clause 5.6 "Coastal Management Area" by inserting a new sub-clause 5.6.1 as follows, and renumbering subsequent clauses accordingly:

*5.6.1 Development within the Coastal Management Area requires the prior development approval of the local government.*
    - d) Amending clause 5.7 "Special Character Area" by inserting a new sub-clause 5.7.1 as follows, and renumbering subsequent clauses accordingly:

*5.7.1 Development within the Special Character Area requires the prior development approval of the local government.*

- e) Amending clause 5.8 “Airport Protection Area” by inserting a new sub-clause 5.8.1 as follows, and renumbering subsequent clauses accordingly:  
*5.8.1 Development within the Airport Protection Area requires the prior development approval of the local government.*
- f) Amending clause 5.10 “Waste Water Exclusion Area and Waste Water Buffer Area” by inserting a new sub-clause 5.10.1 as follows, and renumbering subsequent clauses accordingly:  
*5.10.1 Development within the Waste Water Exclusion Area and Waste Water Buffer Area requires the prior development approval of the local government.*
- g) Amending clause 5.11 “Floodway Area and Other Flood Prone Land” by replacing it with the following:

**5.11 FLOODWAY AREA**

*5.11.1 This clause applies to all land identified within a Floodway area on the Scheme map.*

*5.11.2 Development within the Floodway Area requires the prior development approval of the local government.*

*5.11.3 Notwithstanding any other provision of this Scheme, prior to granting development approval for the carrying out of any development on land that is shown on the Scheme map as being within, or partly within, a Floodway area, the local government is to carry out an assessment –*

- (a) the effect of the proposed development on the efficiency and capacity of the floodway to carry and discharge floodwaters;*
- (b) the safety of the proposed development during flood events; and*
- (c) whether the proposed development involves any possible risk to life, human safety, or private property in time of flood.*

*5.11.4 For the purposes of clause 5.11.2, the local government shall consult with, and take into consideration, the advice of the responsible Government agency(s) in relation to the delineation of flood ways and flood prone land, the effect of the development on a floodway, and any other measures to offset the effects of flooding.*

*5.11.5 In clause 5.11 –*

*“habitable building” means a building designed primarily for housing and/or overnight accommodation for persons.*

**2. Amending Part 4 “General Development Requirements” by –**

- a) Amending clause 4.38 “Special provisions relating to the Rural Residential zone” by inserting new sub-clause 4.38.8 as follows –  
*“4.38.8 No subdivision of Rural Residential zoned land shall occur until a Structure Plan, prepared in accordance with Part 4 of the Deemed Provisions and approved by the Western Australian Planning Commission, is in place for the applicable land. Subdivision, which is inconsistent with an endorsed Structure Plan, will not be supported.”*
- b) Amending clause 4.39 “Special provisions relating to the Rural Landscape zone” by inserting a new sub-clause 4.39.1 as follows, and renumbering subsequent clauses accordingly:  
*4.39.1 No subdivision of Rural Landscape zoned land shall occur until a Structure Plan, prepared in accordance with Part 4 of the Deemed*

*Provisions and approved by the Western Australian Planning Commission, is in place for the applicable land. Subdivision, which is inconsistent with an endorsed Structure Plan, will not be supported.*

- c) Amending clause 4.37 “Special provisions relating to the Conservation zone” by inserting a new sub-clause 4.37.3 as follows, and renumbering subsequent clauses accordingly:

*4.37.3 No subdivision of Conservation zoned land shall occur until a Structure Plan, prepared in accordance with Part 4 of the Deemed Provisions and approved by the Western Australian Planning Commission, is in place for the applicable land. Subdivision, which is inconsistent with an endorsed Structure Plan, will not be supported.*

- d) Amending clause 4.40 “Special provisions relating to the Bushland Protection zone” by inserting a new sub-clause 4.40.1 as follows, and renumbering subsequent clauses accordingly:

*4.40.1 No subdivision of Bushland Protection zoned land shall occur until a Structure Plan, prepared in accordance with Part 4 of the Deemed Provisions and approved by the Western Australian Planning Commission, is in place for the applicable land. Subdivision, which is inconsistent with an endorsed Structure Plan, will not be supported.*

- II. Pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), determine that Amendment No. 46 is a ‘standard amendment’ in accordance with r.34(b) of the Regulations as it is:

1. an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve;
2. an amendment that is consistent with a local planning strategy for the Scheme that has been endorsed by the Commission; and
3. an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.

- III. That, as the Amendment is in the opinion of the Council consistent with Part V of the Act and Regulations made pursuant to the Act, that upon preparation of the 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 to not be subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. In the event that the EPA determines that the draft Amendment is to be subject to formal environmental assessment, this assessment is to be prepared prior to advertising of the draft Amendment.

## EXECUTIVE SUMMARY

The Council is requested to consider initiating two Scheme Amendments – Amendment No. 40 and Amendment No. 46 – to Local Planning Scheme No. 21 for the purpose of community consultation.

The purpose of Amendment 40 is primarily to review the Zoning Table with the foremost goal to protect the primacy of the Regional Centre and Centre zones and reduce ‘retail leakage’ from the core CBD areas of the Busselton City Centre and the Dunsborough Town Centre. In order to achieve this, Amendment 40 proposes changes to land use permissibilities within the Zoning Table and the introduction of a limited number of land use provisions.

Amendment 46 proposes to re-establish the 'head of power' for development applications in Special Control Areas and Structure Plans in the Rural Residential, Rural Landscape, Conservation and Bushland Protection zones.

It is recommended that Amendments 40 and 46 to the Scheme be initiated and adopted for the purposes of community consultation.

## BACKGROUND

On 15 October 2014, the *City of Busselton Local Planning Scheme No. 21* (the Scheme) was published in the Government Gazette. The Scheme, which incorporates the Scheme text and Scheme map, controls and guides development and growth within the City.

In October 2015, new *Planning and Development (Local Planning Schemes) Regulations* (the Regulations) came into effect. The Regulations affect arrangements for local planning schemes, strategies and amendments. In addition to a 'model scheme text' (the Model Provisions), the Regulations introduced a set of 'deemed provisions' that automatically form part of all local planning schemes.

The Deemed Provisions, located at Schedule 2 of the Regulations, includes administrative processes for:

- planning policy;
- heritage protection;
- structure planning; and
- development approval.

All provisions that were relevant or contradictory to the Deemed Provisions were removed from the City's Scheme through Amendment No. 25, published in the Government Gazette on 23 March 2018. Through this process a number of key triggers were inadvertently removed from the Scheme, such as the requirement for a structure plan to guide subdivision in the Rural Residential zone and the explicit requirement for a development approval in some Special Control Areas. Although these matters can be overcome on a case-by-case basis, it is more efficient and unambiguous to have clear requirements contained within the Scheme.

Whilst the Deemed Provisions have become a *compulsory* part of all Schemes throughout the State, it was initially required that these Schemes should also be *generally consistent* with the Model Provisions, where any variations to these could be considered, provided they were well justified. The Western Australian Planning Commission (WAPC), in more recent times, has changed this view and now requires Schemes to be fully consistent with the Model Provisions, particularly in the case of land use definitions.

Following the approval of Scheme Amendment No. 29 (Omnibus 4), and somewhat related Amendment No. 21 in June 2019, a small number of unintended outcomes as a result of directions from the Minister has occurred. Further, the WAPC has now endorsed the *City of Busselton Local Planning Strategy* (LPS), which contains several relevant objectives and strategies. These actions have triggered a review of the Zoning Table contained within the Scheme by City Officers to investigate current land use permissibilities and associated provisions.

Consideration was given to incorporating the proposed changes into the upcoming Scheme Review as both the City and the Department of Planning, Lands and Heritage (DPLH) are committed to the timely and effective preparation of, and smooth transition to, a new and replacement Local Planning Scheme. However, despite all best intentions to keep the process as succinct as possible, it will be some time (in the order of 2+ years) before the next Scheme is likely to be gazetted and operational.

As such, a number of key issues that have recently arisen are proposed to be brought forward as targeted Scheme Amendments. These are proposed as:

- **Amendment No. 40** – a review primarily of use class permissibilities within the Zoning Table to protect the primacy of the Regional Centre and Centre zones and avoid retail leakage from those zones, along with other necessary changes to permissibilities within the Scheme; and
- **Amendment No. 46** – re-introducing the requirement for structure plans in the Rural Residential, Rural Landscape, Conservation and Bushland Protection zones and development applications in specific Special Control Areas.

## OFFICER COMMENT

### **Proposed Scheme Amendment No. 40**

Amendment No. 29, gazetted on 7 July 2019, sought to generally align the Scheme with the Model Provisions through alignment of the zones within the Scheme with the standard suite of zones set out in the Model Provisions, and to review and align the land-use definitions to be more consistent with the Model Provisions. Also included within Amendment 29 was the incorporation of a number of standard provisions into the Scheme for the Busselton City and Dunsborough Town Centres, to provide guidance to development within the proposed new 'Regional Centre' (Busselton) and 'Centre' (Dunsborough) zones.

Amendment No. 21 was considered by the WAPC and the Minister concurrently with Amendment 29 as it also proposed changes to a number of definitions, including 'Shop' and 'Bulky Goods Showroom', in association with properties on West Street and Chapman Hill Road.

A small number of unintended and undesirable outcomes from Amendment 29 as a result of direction from the Minister has resulted in the need for further consideration of land use permissibilities within the Zoning Table. These matters are particularly due to definition changes required to align with the Model Provisions contained within the Regulations.

The LPS also provides a number of recommendations relating to walkable and active main centres, and preventing unnecessary retail activity in the 'Service Commercial' and industrial zones.

The purpose of Amendment 40 is to address the 'critical issues' by closing the gaps in the Scheme's Zoning Table, particularly looking at where land uses are currently permissible that should not be, causing pressure on the Busselton and Dunsborough CBDs via retail leakage in relation to uses within the 'Service Commercial' zone and in some cases, the 'Light Industry' zone. The Amendment will also consider quasi-industrial uses in rural areas, which can place unwelcome pressure on industry-zoned land and create ad-hoc commercial strips along major roads outside the urban centres.

Amendment 40 intends to deal with two primary issues:

1. 'Shop' / 'Bulky Goods Showroom' definitions; and
2. Land Use Permissibilities / Zoning Table.

These matters are discussed in detail below.

### **1. 'Shop' / 'Bulky Goods Showroom' definitions**

A review of all land use definitions was undertaken during the assessment process for Amendment No. 29. City Officers were satisfied that the then-current definition of 'Showroom' (being the previous land use title for 'Bulky Goods Showroom') sufficiently met the purpose and intent of the Scheme and the desirable objectives of the applicable zones.

The previous definition of 'Showroom' was as follows:

*'Showroom' means any building or part of a building used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive spare parts, carpets, large electrical appliances, furniture, hardware or bulky goods but does not include the sale by retail of foodstuffs, liquor or beverages, items of clothing or apparel, magazines, newspapers, books or paper products, china, glassware or domestic hardware, or items of personal adornment.*

A definition for 'Bulky Goods Showroom' which was compliant with the Regulations was introduced through Amendment 21 at the behest of the Minister, along with a revised definition of 'Shop', and these have altered the way in which these land uses would normally be considered.

Previously, the definition for 'Shop' was very broad, and that for 'Showroom' was very specific. In effect, a use was considered to be a 'Shop' unless it was more specifically defined elsewhere in the Scheme.

This position has now been switched, with a very broad definition for 'Bulky Goods Showroom':

*'Bulky Goods Showroom' means premises –*

*(a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes –*

- (i) automotive parts and accessories;*
- (ii) camping, outdoor and recreation goods;*
- (iii) electric light fittings;*
- (iv) animal supplies including equestrian and pet goods;*
- (v) floor and window coverings;*
- (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;*
- (vii) household appliances, electrical goods and home entertainment goods;*
- (viii) party supplies;*
- (ix) office equipment and supplies;*
- (x) babies' and childrens' goods, including play equipment and accessories;*
- (xi) sporting, cycling, leisure, fitness goods and accessories;*
- (xii) swimming pools;*

*or*

*(b) used to sell by retail goods and accessories by retail if –*

- (i) a large area is required for the handling, display or storage of the goods; or*
- (ii) vehicular access is required to the premises for the purpose of collection of purchased goods.*

Meanwhile, the definition for 'Shop' has been substantially narrowed:

*'Shop' means premises other than a bulky goods showroom, a liquor store – large or a liquor store – small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.*



City Officers consider there to be multiple issues associated with the current definition of Bulky Goods Showroom:

- Current wording provides for a broad definition, using ambiguous terms such as “recreation goods”, “home entertainment goods”, “office equipment and *supplies*”, “children’s goods” and “accessories”, and does not explicitly require goods to be of a necessarily bulky nature.
- The presence of the “or” instead of an “and” separates the definition into two parts creating, in the City’s opinion, confusion and uncertainty in interpretation. The sale of goods found in part (a) are no longer required to be housed in a large area as required by part (b). Conversely, a premises does not need to include any of the items listed in part (a) but may require a large area for display and sale; meaning a supermarket, or any other large shop, arguably fits this definition regardless of whether it sells bulky goods.
- Due to the words *‘Shop’ means premises other than a bulky goods showroom...* a retail use would first need to be determined as to whether it fits into the definition for ‘Bulky Goods Showroom’. Some examples of businesses that would previously have been considered as constituting a ‘Shop’ but now could arguably be considered as a ‘Bulky Goods Showroom’ include:
  - a newsagent (under part (a)(ix), “*office supplies*”);
  - a children’s clothing store (under part (a)(x), “*childrens’ goods*”); and
  - sports clothing and shoe store (under part (a)(xi), “*sporting, cycling, leisure, fitness goods and accessories*”).
- The land use permissibility for Bulky Goods Showroom was not modified through Amendment 21 and so was retained as a ‘P’ use (permitted) in the ‘Service Commercial’ zone and a ‘D’ use (discretionary) within the ‘Light Industry’ zone. This provides a gateway for inappropriate retail within the ‘Service Commercial’ and ‘Light Industry’ zones. The City has been experiencing mounting pressure to allow a broader range of uses within the ‘Service Commercial’ zone, namely the precinct near Aldi and Kmart and the nearby commercial strip along Bussell Highway.

The LPS places great emphasis on preventing retail activity, including bulky goods retail, from being located in industrial and service commercial areas. The alternative, and what has been experienced already to some degree, is the relocation of retail businesses out of the CBD, and new businesses outcompeting existing businesses in the CBD. This has the detrimental potential to create vacant shop spaces in the main centres.

The local and regional tourism industry is of great importance to Busselton and to the State. Many visitors to this region stay in Busselton, establishing the town as a base for exploring the wider region and surrounding attractions, making the City of Busselton an important tourism destination for regional, interstate and international visitors. Tourists do not visit the area to drive around a car-dominated service commercial area. Vibrant, walkable, authentic town centre/main street environments, though, are an important part of the visitor experience – as well as local community identity and cohesion. Furthermore, the tourism industry is a significant source of employment within both Busselton and the South West region. The complexities mentioned previously are considered likely to have a very real impact on the tourism experience by potentially depleting the activity and vibrancy of our main centres.

In relation to the 'Bulky Goods Showroom' land use, Amendment 40 proposes a three-pronged approach to correcting the anomalies currently present within the Scheme:

1. Amend the permissibilities for such land uses from 'P' to 'D' in the 'Service Commercial', 'Regional Centre' and 'Centre' zones, thereby requiring a Development Approval process.
2. Amend clause 3.5 "Exceptions to the Zoning Table" by deleting sub-clauses 3.5.4(d) and (e) and replacing them with a new sub-clause inserted into clause 3.5.3 specifying that the sale of the following goods or products will be deemed an 'X' use in the 'Service Commercial', 'Light Industry' or 'General Industry' zones:
  - (i) foodstuffs, liquor or beverages;
  - (ii) items of clothing or apparel;
  - (iii) magazines, newspapers, books or paper products;
  - (iv) medicinal or pharmaceutical products;
  - (v) china, glassware or domestic hardware other than building supplies; or
  - (vi) items of personal adornment;

unless such goods are manufactured on the lot.

3. Amend the definition for 'Bulky Goods Showroom' to change the "or" between parts (a) and (b) to "and", thereby creating a critical link between the two parts of the definition to avoid the issues mentioned above.

With regard to point 2 above, the existing sub-clauses currently contained within clause 3.5.4 are inconsistent with the general direction and strategies as set out in the LPS. Sub-clause 3.5.4(d), reproduced below, is proposed to be deleted, as it is problematic and often unworkable in terms of the development assessment process due to its non-specific nature and difficulty in quantifying the impact of such a use on either the "nearby business centre" or the "industrial nature of the zone".

The existing clause states:

*3.5.4 Notwithstanding the provisions of clause 3.3 and Table 1, the following development shall be deemed a "D" use -*

*...*

*(d) development for the purposes of commercial premises for the retailing of bulky goods in the Light Industry or General Industry zones, subject to the local government being satisfied that -*

*(i) suitable land for the development is not available in any nearby business centre;*

*(ii) the development would not, by reason of the number of retail outlets which exist or are proposed on land within the Light Industry or General Industry zone, defeat the predominantly industrial nature of the zone; and*

*(iii) the proposed development will not detrimentally affect the viability of any business centre;*

In order to resolve the concern that the Bulky Goods Showroom definition could draw critical retail away from the CBDs, and also so as not to conflict with the 'Trade Supplies' definition, sub-clause 3.5.4(e) (shown below) is proposed to be modified and moved into clause 3.5.3, which specifies uses that shall be deemed an 'X' use.

The existing clause states:

*3.5.4 Notwithstanding the provisions of clause 3.3 and Table 1, the following development shall be deemed a “D” use -*

*...*

*(e) excluding reference to a convenience store or lunch bar, the sale of goods or products by retail or wholesale to the public from land in the Light Industry or General Industry zone, provided that -*

*(i) the goods or produce are manufactured or stored in bulk on the lot;*

*(ii) not more than 50% of the gross floor area of building on the lot is used for the sale of such goods or produce; and*

*(iii) the goods or produce sold are not -*

*(I) foodstuffs, liquor or beverages;*

*(II) items of clothing or apparel;*

*(III) magazines, newspapers, books or paper products;*

*(IV) medicinal or pharmaceutical products;*

*(V) china, glassware or domestic hardware other than building supplies; or*

*(VI) items of personal adornment;*

*unless such goods are manufactured on the lot;*

The proposed modification to the clause seeks to ensure the sale of these undesirable goods (listed from ‘I’ to ‘VI’ above) will be excluded from the specific zones (‘Light Industry’ and ‘General Industry’). Sub-clauses (i) and (ii) are not proposed to be replicated as they could potentially cause conflict with the definition of ‘Trade Supplies’, which provides a reasonably specific definition for development that is acceptable to be located in the specified zones. Given that ‘Convenience Store’ is proposed to become an ‘X’ use in the ‘Service Commercial’ and industrial zones, it should therefore be removed from the clause. ‘Service Station’ remains as a ‘D’ use in these zones and so should be included with ‘Lunch Bar’.

The proposed modification, if supported by the Council, would read as follows:

*3.5.3 Notwithstanding the provisions of clause 3.3 and Table 1, the following development shall be deemed an “X” use –*

*...*

*(e) other than with respect to a Lunch Bar or Service Station, the sale of the following goods or products by retail or wholesale to the public from land in the Service Commercial, Light Industry or General Industry zone:*

*(i) foodstuffs, liquor or beverages;*

*(ii) items of clothing or apparel;*

*(iii) magazines, newspapers, books or paper products;*

*(iv) medicinal or pharmaceutical products;*

*(v) china, glassware or domestic hardware other than building supplies; or*

*(vi) items of personal adornment;*

*unless such goods are manufactured on the lot;*

This combination of modifying permissibilities, a slight modification to the definition, and varying the relevant provisions within Part 3 of the Scheme, as discussed above, would satisfactorily resolve the main concerns held by the City in relation to unnecessary retail leakage from the main centres. These proposals can be found within the Officer Recommendation at Part A, sections I.1, I.2 and I.3.

## **2. Land Use Permissibilities / Zoning Table**

The Zoning Table was reviewed by City Officers with a focus on aligning the land use permissibilities with the objectives for the zones and the strategic directions of the LPS, such as maintaining the primacy and activity of the CBDs. Some land use definitions were changed in order to be consistent with the Regulations as a directive from the Minister (for example, 'Bulky Goods Showroom', as described in the previous section), and are considered to carry potential risks to the primacy of the City and Town Centre without a timely review of the Zoning Table.

This review focussed on what was considered to be the most critical issues, such as modifications that should be introduced as soon as possible, rather than to wait for the full Scheme Review.

With the above matters in mind, the critical issues are considered to be:

- Consolidation of activity within the Busselton City and Dunsborough Town Centres, as well as avoiding retail leakage from the Centres, particularly into the 'Service Commercial' zone and, to a smaller extent, into the 'Light Industry' zone;
- Permissible uses where a development application should instead be required and assessed; and
- Quasi-industrial land uses in rural areas, causing leakage from the Industrial zones.

A table identifying a full list of the proposed changes for each land use, with justification provided, is shown at Attachment A, with the recommendations provided at Part A, sections I.4, I.5 and I.6 of the Officer Recommendation.

In relation to the symbols used within the Zoning Table:

- 'P' is a permitted use provided the use complies with the relevant development standards;
- 'D' means the use is permitted if the local government has exercised its discretion by granting planning approval;
- 'A' means the use is permitted if the local government has exercised its discretion by granting planning approval following public consultation; and
- 'X' means the use is not permitted within that zone.

Discussion on some of the key changes are provided in greater detail below.

***Aged Persons Home***

'Aged Persons Home' is recommended to become an 'X' use (from an 'A' use) in the 'Rural' zone given the generally poorer levels of accessibility to services, infrastructure (e.g. dual use paths) and public transport, thus increasing reliance on vehicles. Often the residents of this land use have an increased reliance on such services and facilities and yet may have less of an ability to drive themselves. The proposal aims to factor in the appropriate location of this use within reach of the associated services and facilities.

***Breweries and Wineries in the Industrial zones***

The ideal location for a 'Brewery' and a 'Winery' is generally within the 'Light Industry' and 'General Industry' zones, provided they are predominately for the production, storage and distribution of the manufactured product. This is because these zones are located in areas, usually, with the ability to connect into services and dispose of wastewater in an appropriate manner, and where there are separation distances to sensitive land uses.

In more recent times, an increase in the production of craft beer and the construction of cellar door facilities has heightened the popularity of tasting facilities as tourist destinations and places of social interaction, resulting in a split of two predominant practices for both land uses – (1) production and (2) tourism/tastings/sales.

The latter has a tendency to place pressure on the scale of the development as business owners seek to cater for a growing number of customers by increasing floor areas, and often also seeking to provide commercial kitchens for the preparation and delivery of meals in association with these tastings.

The popularity of these businesses is great for the economic vitality of the region, providing attractive venues for both tourists and locals alike. However, conflict can arise where these are not appropriately located. Increasing pressure for the provision of meals with no restrictions to tasting sizes results in the perception of these facilities as a 'Tavern' and/or a 'Restaurant/Café', both of which are not appropriate to be located within the 'Service Commercial', 'Light Industry' and 'General Industry' zones.

Commercial activity should, of course, be focussed within the City and Town Centres where walkability and an ability to activate the Centres beyond business hours contributes to their success. Other tourist-related uses also tend to be located within the 'Rural' and 'Viticulture and Tourism' zones.

'Restaurant/Café', 'Tavern' and 'Reception Centre' are not uses that are typically contemplated as being the core purpose of the 'Service Commercial' and Industrial zones, the Scheme objective for which is given as providing for "industrial, service and storage activities". Industrial-zoned land is at a premium within the City and should be preserved primarily for that important purpose, whilst the introduction of more sensitive, amenity-based uses such as a 'Tavern' has the potential to compromise, or restrict, surrounding industrial land uses, contrary to the core purpose and intention of the zone.

The definition of 'Brewery' within the Scheme is for premises the subject of a Producer's Licence under the *Liquor Control Act 1988* and can include beer, cider and spirits. Beer must have been brewed on the premises and generally the licence authorises the sale/supply of take-away liquor for consumption off the premises. The *Liquor Control Act* allows for tastings, subject to the provision of toilet facilities, and the licensee is authorised to sell/supply liquor, other than that liquor produced by the licensee, if the liquor is consumed ancillary to a meal in a dedicated dining area in the same premises (delivered at a table, or a fixed structure used as a table, with cutlery provided for the purpose of eating a meal).

A Producer's Licence generally restricts the vessel size in which alcohol can be served, although the Department of Racing, Gaming and Liquor (DRGL) has been known to allow an increase in tasting sizes if supported by the local government.

In these instances, tastings should be incidental to the production of the beer or wine (etc.) and therefore the hours of operation (for tasting and sales) should be defined to ensure this occurs. Concern that the use could be developed into a 'pseudo-restaurant', tavern or reception centre, where none of these uses are either currently permissible within the 'Service Commercial', 'Light Industry' and 'General Industry' zones, or are proposed to be made not-permissible through this Amendment 40, and has led to that use being deemed inappropriate and contrary to the objectives of those zones.

To ensure the Brewery or Winery facility operates in accordance with its stated intent and predominant use (being production), a number of restrictions are also proposed to be included within the relevant provision to ensure the use of the said facilities meet the objectives of the zones. These restrictions are proposed to include:

- The size of the tastings – the measurements prescribed by the *Liquor Control Regulations 1988* for 'sample quantities' has been assumed, being 50ml for wine, 100ml for beer/cider, and 15ml for spirits.
- No consumption or service of food – the provision of a meal quickly overtakes the original intention of the tastings being incidental only to the production of the liquor. It is not the intention of a Producers Licence to facilitate a 'pseudo-restaurant', this in-house dining facility being considered inappropriate in the subject zones.
- The number of patrons – it is recommended that maximum patronage is limited to 30 people at any one time, being the equivalent of one coaster bus, plus one or two groups of "walk-ins".
- Hours of operation – to ensure the tasting facility operates as intended and not as a makeshift tavern, with a restriction on customers visiting the site for the purpose of tasting and/or sales limited to between the hours of 12.00pm and 5.00pm Monday to Sunday, including public holidays.

Modifications to the Zoning Table have been considered with the expectation that the proposed provision will be implemented into the Scheme, thereby enabling the production facilities to be appropriately located. The permissibilities for the 'Brewery' and 'Winery' land uses are being brought into line with each other given the similarity of the main issues. In summary, the changes proposed in relation to these uses are as follows:

Zone/Use Class	Res	Reg Ctr	Ctr	Loc Ctr	Serv Com	Tour	L/ Ind	G/ Ind	Rural	Vit/ Tour	Rural Res	Rural Lsp	Cons	Bush Prtn
<b>Brewery</b>	X	A	A	A	<b>AX</b>	A	D	D	A	A	X	X	X	X
<b>Winery</b>	X	<b>DA</b>	<b>DA</b>	<b>DA</b>	<b>DX</b>	A	<b>PD</b>	<b>XD</b>	D	D	X	<b>AX</b>	X	X

Both 'Brewery' and 'Winery' land uses are proposed to become prohibited within the 'Service Commercial' zone, given the recommended buffer distances identified by the Environmental Protection Authority in the 'Separation Distances between Industrial and Sensitive Land Uses' guidelines of 200 – 500 metres. This is due to the potential impacts caused particularly by odour, and also gases, noise and dust. This buffer distance would effectively rule out any 'Service Commercial' zoned site given the relatively small areas of land covered by this zone and their generally close proximity to residential areas.

The tourism component of these uses would be more appropriately located within the 'Centre' zones, with the proposal being to bring the permissibilities for the 'Winery' land use into line with 'Brewery'.

The proposed modification to 'Winery' permissibilities in the industrial zones, and the retention of the 'D' use for 'Brewery' within these zones, is based on the appropriate provision for the restriction of tastings and food service (etc.) being inserted into the Scheme.

Finally, 'Winery' is proposed to become an 'X' use within 'Rural Landscape' zone, along with 'Brewery', due to the sensitive nature of such locations.

These proposals specific to Breweries and Wineries are listed at Part A, section I.4e), I.4ff) and I.5 of the Officer Recommendation.

### ***Car Park***

A 'Car Park' is currently a 'D' use within the 'Regional Centre' and 'Centre' zones. The ideal locations for this land use are on the outer edges of the Centres, while encouraging within the core, pedestrian focused development that contributes to a vibrant City and Town Centre, aligning with the strategies of the LPS, while also providing more development options within the sites themselves. This is the case particularly within Dunsborough ('Centre' zone) where there is less available land. The Additional Use 'A74' was created through Amendment No. 1 (gazetted 4 August 2017), which allows for a small number of low impact commercial uses within a limited area of 'Residential' zoned land adjoining the Busselton City and Dunsborough Town Centre. The uses already included within 'A74' are 'Office', 'Guesthouse', 'Medical Centre', 'Consulting Rooms', 'Restaurant/Café', 'Shop' and 'Tourist Accommodation', all as discretionary uses. This Amendment proposes to include 'Car Park' into this list of uses, thereby requiring the consideration of a development application, to ensure consideration for appropriate design and amenity impacts on the surrounding properties.

### ***Hospital***

A 'Hospital' is considered to be a 'vulnerable' land use under the bushfire planning framework and, given that the small number of 'Rural Landscape' zoned lots are all located within 'Bushfire Prone Areas' and therefore unlikely to comply with the bushfire safety requirements, this is not considered to be an appropriate land use within this zone.

### ***Market***

The definition of 'Market', being a "premises used for the display and sale of goods from stalls by independent vendors", has been particularly problematic in recent times, with difficulty in distinguishing the end result from a 'Shop'. Being essentially a retail use, 'Market' is proposed to be removed from zones such as the 'Service Commercial' zone, and industrial and rural zones, which would not normally allow for retail uses in any event.

### ***Medical Centre***

'Medical Centre' is proposed to change from a 'D' use to an 'X' use within the 'Light Industry' and 'General Industry' zones as this land use is not consistent with the zone's objectives. This land use would be better located within or close to main centres, where better access to complementary uses (e.g. pharmacies) and public transport is available.

### ***Service Station***

The 'Service Station' land use is a typical contributor to 'ribbon development' along major travel routes and is generally contrary to the recommendations of the LPS and the provisions of the Scheme when located in rural areas. Should a 'Service Station' be deemed necessary in a strategic location, a targeted Scheme Amendment could be undertaken to enable a merits-based assessment for that land use on that particular site. City Officers would be prepared to consider submissions made on specific sites during the public consultation period for this Amendment, if appropriate, in which case the proposal for an 'Additional Use' ('Service Station') may be supported.



**Miscellaneous**

Other miscellaneous proposed changes worth highlighting are:

- A number of land uses typically have a social element and therefore should be focused within the main centres in order to encourage pedestrian visitation, associated spend and an active contribution to the overall viability and vitality of the CBDs. These uses are proposed to be removed from the 'Service Commercial' zone and, where relevant, industrial zones, as they are contrary to the aims and objectives of these zones and the recommendations of the LPS.

These uses include:

- 'Amusement Parlour';
  - 'Cinema/Theatre';
  - 'Exhibition Centre';
  - 'Hotel';
  - 'Reception Centre';
  - 'Restaurant/Café';
  - 'Small Bar'; and
  - 'Tavern'.
- Review of a number of land uses to ensure that appropriate levels of permissibility are in place, especially where their location may have the potential to cause nuisance to nearby residential dwellings and workplaces. These uses may typically be located within the 'Service Commercial' zone and/or industrial zones and, while there is no suggestion that the following uses should not be located within these zones, the proximity to existing dwellings must be taken into reasonable account. After all, the 'Service Commercial' zone and, in some limited cases, the 'Light Industry' zone can be located within close proximity to 'Residential' areas. Such uses include:
    - 'Garden Centre';
    - 'Motor Vehicle, Boat or Caravan Sales';
    - 'Motor Vehicle Repair'; and
    - 'Veterinary Centre'.

**Proposed Scheme Amendment No. 46**

As mentioned earlier, the proposed changes within Amendment 46 are associated with anomalies that arose through Amendment 25, which removed a number of clauses from the Scheme that duplicated, or were in conflict with, the Deemed Provisions. As part of this process, two matters were inadvertently removed that need now to be re-instated.

Amendment 46 will therefore focus on correcting the two matters concerned, namely:

1. The requirement for development approval within Special Control Areas; and
2. A trigger for a Structure Plan to be required prior to any application for subdivision over properties within the Rural Residential, Rural Landscape, Conservation and Bushland Protection zones.

These matters are discussed in detail below.

## 1. Development Approval within Special Control Areas

Through the introduction of the Deemed Provisions of the Regulations and subsequent modification to the Scheme, the trigger to require development approval where such development is proposed in Special Control Areas has been removed. This particularly affects the Coastal Management Area, Landscape Value Area and Special Character Areas. Whilst the Scheme provides guidance for the consideration of a development application, the specific requirement for a development application should be clearly stated.

Amendment 46 will therefore propose to include provisions for the following Special Control Areas into Part 5 of the Scheme, specifically stating that any development within the following Special Control Areas will require the prior development approval of the City:

- Landscape Value Area;
- Wetland Area;
- Coastal Management Area;
- Special Character Areas;
- Airport Protection Area;
- Waste Water Exclusion Area and Waste Water Buffer Area; and
- Floodway Area.

The Deemed Provisions allow for exemptions to this requirement for works (clause 61(1)(i)) or use of land (clause 61(2)(e)) through a local planning policy (LPP) or local development plan. That LPP has recently been adopted by the Council for public advertising.

The changes related to Special Control Areas can be found at Part B, section I.1 of the Officer Recommendation. Whilst the recommendation is for the inclusion of a new clause for the majority of these Special Control Areas, the Wetland Area and Floodway Area provisions required further consideration. This is discussed below.

### ***Wetland Area***

The existing clause 5.5.1 identifies that if development is proposed on land identified as being within the Wetland Area, any such development should be located, wherever possible, on land outside of the Special Control Area. This clause is provided below:

*5.5.1 If land the subject of an application for development approval includes land to which this clause applies the development shall, wherever possible, be carried out on that part of the land which is not land identified in a Wetland Area.*

This overly-complicated clause is misleading and does little to clarify the requirement for development approval or guide the assessment of an application. This clause is proposed to be simplified by replacing it with the following:

*5.5.1 Development within the Wetland Area requires the prior development approval of the local government.*

In the event that a proposal would be considered within a Wetland Area, alternative preferred locations that might be outside this Area would always be encouraged, but balanced with other factors that apply to the land, such as setbacks, amenity and bushfire risk.

***Flood Prone Land***

To provide further clarity on when a development approval would be necessary, further simplification of clause 5.11 “Floodway Area and other flood prone land” is recommended. The clause refers to ‘flood prone land’ as identified “on a map prepared or adopted by the local government” (clause 5.11.1(b)), as separate from the ‘Floodway’ Special Control Area that is designated on the Scheme Map.

The City has never adopted such a map separately and generally does not make determinations that land is otherwise flood prone. Flood modelling will be reviewed with the final determination being identified on the Scheme map through the upcoming Scheme Review. Reference to ‘other flood prone land’ is therefore recommended to be removed from clause 5.11 to give better certainty to members of the public, City Officers and other agencies in the expectations of the Scheme. This can be found at Part B, section I.1(g) of the Officer Recommendation (also incorporating the recommended reference to the requirement for a Development Application in the Floodway Area).

**2. Structure Plans in the Rural Residential, Rural Landscape, Conservation and Bushland Protection zones**

The Deemed Provisions at clause 15 of Part 4 of the Regulations states when a Structure Plan may be prepared. This includes:

- if the land is zoned as an area suitable for urban or industrial development (cl. 15(a)(i));
- otherwise identified as requiring a Structure Plan, by either the Scheme (cl. 15(a)(ii)) or a State Planning Policy (cl. 15(b)); or
- is considered by the WAPC as requiring a Structure Plan in the interests of orderly and proper planning (cl. 15(c)).

Currently there is no explicit ‘head of power’, in the Scheme or the Regulations, for the requirement of a Structure Plan to guide subdivision within the Rural Residential, Rural Landscape, Conservation and Bushland Protection zones.

***Rural Residential zone***

Within Rural Residential zoned land the removal of the explicit requirement for a Structure Plan to guide subdivision is due to an oversight as part of Amendment No. 25 (incorporating the Deemed Provisions into the Scheme), when that empowerment clause was inadvertently removed.

When an enquiry was recently received over specific ‘Rural Residential’ zoned land, the DPLH was requested by City Officers to advise if it might be willing to support the requirement of a Structure Plan over these lots pursuant to clause 15(c) of the Deemed Provisions. This is a time consuming and unsatisfactory situation to undertake every time a proposal comes forward on Rural Residential land, and the DPLH (on behalf of the WAPC) certainly cannot be expected to entertain such requests for ‘every proposal’; although, to date, the WAPC has been very accommodating.

The City has been asked by the DPLH to re-introduce the appropriate clause into the Scheme at the very earliest opportunity. This is proposed to be achieved through Amendment 46 by inserting a new sub-clause within clause 4.38 “Special provisions relating to the Rural Residential Zone”.

***Rural Landscape, Conservation and Bushland Protection zones***

These zones originated in District Town Planning Scheme No. 20, gazetted in 1999. In the past, it was common for the rezoning of a property to one of these zones to be accompanied by a Structure Plan (most often called a ‘Development Guide Plan’ or ‘Subdivision Guide Plan’, prior to the current Regulations).

Whilst the majority of properties within these zones have a Structure Plan in place, the Deemed Provisions, at Schedule 2 of the Regulations, provide an effective 'end date' to Structure Plans, being 10 years from the date of approval. For Structure Plans that pre-date the Regulations the duration for approval is to be 10 years from the 'commencement day' of the Regulations, being 19 October 2015. This would mean that the approval for a number of Structure Plans associated with these zones will lapse on 19 October 2025.

There has always been an expectation that a Structure Plan be submitted and approved prior to subdivision of lots within these zones, but, as with the Rural Residential zone, there is currently no clear requirement in the Scheme for this to occur. Given that many Structure Plans are due to expire in October 2025, it is considered critical that this requirement is in place. Therefore Amendment No. 46 proposes to introduce this requirement, provided at Part B, section 1.2 of the Officer Recommendation (including the recommendation for the Rural Residential zone).

### **Statutory Environment**

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

The key elements of the statutory environment in relation to the draft Amendments are set out in the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*. These Scheme Amendments have been prepared having regard to the Act, the Regulations, and the Model Provisions and Deemed Provisions contained within the latter.

The *Planning and Development (Local Planning Schemes) Regulations 2015* identifies three different levels of amendments – 'basic', 'standard' and 'complex'. The resolution of the local government is requested to specify the level of the amendment and provide a brief explanation justifying this specification.

Both Amendment 40 and Amendment 46 are considered to be 'standard' amendments, given they are consistent with the identified zone objectives provided for within the Scheme, consistent with the endorsed Local Planning Strategy and will not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.

### **Relevant Plans and Policies**

The key policy implications with respect to the Amendment proposals are set out below, and discussed under appropriate sub-headings:

- *State Planning Policy 4.2: Activity Centres for Perth and Peel;*
- *City of Busselton Local Planning Strategy;* and
- *City of Busselton Local Commercial Planning Strategy.*

#### **State Planning Policy 4.2: Activity Centres for Perth and Peel (SPP 4.2)**

The main purpose of SPP 4.2 is to specify broad planning requirements for the planning and development of new activity centres, and the redevelopment and renewal of existing centres in Perth and Peel. It is mainly concerned with the distribution, function, broad land use and urban design criteria of Activity Centres, and with coordinating their respective land use and infrastructure planning. Whilst it primarily contends with the Perth and Peel region, it can also be used as a guide regional centres.

Other purposes of the policy include the distribution of Activity Centres and ensuring the primacy of CBDs by avoiding the 'dilution' of centres through 'retail leakage' et al.

SPP 4.2 also provides direction for the provision of bulky goods retail, which is defined as (emphasis added):

*Large premises used to display, sell by wholesale or retail, or hire:*

- *automotive parts and accessories;*
- *home entertainment goods;*
- *camping and recreation equipment;*
- *household appliances;*
- *electrical light fittings;*
- *office equipment supplies;*
- *animal and pet supplies;*
- *party supplies;*
- *floor coverings;*
- *swimming pools and supplies;*
- *furnishings, bedding and manchester;*
- *hardware;*
- *furniture;*
- *garden supplies;*
- *goods of a bulky nature that require a large area for handling, display or storage; or direct vehicle access to the site of the premises by the public for the purpose of loading goods into a vehicle after purchase or hire.*

In relation to bulky goods, for example, clause 5.6.1(2) states:

*Bulky goods are displayed and sold from retail showrooms that typically comprise extensive display and storage areas with direct vehicle access and car parking. Bulky goods retailing does not include the sale of food, clothing or personal effects goods.*

### **Local Planning Strategy (LPS)**

The LPS sets the long-term strategic planning direction for the whole of the District of the City of Busselton and provides the strategic rationale for decisions related to the progressive review and amendment of the Scheme. The LPS was adopted for final approval by the Council in September 2016 and was endorsed by the WAPC on 10 December 2019, subject to certain agreed modifications prior to endorsement by the DPLH. The DPLH formally endorsed the LPS on 13 March 2020.

‘Theme 1’ of the LPS, ‘Settlement and community’, identifies the following relevant objectives and strategies:

- Objective (a) – *“The continued growth as the principal settlement in the District of the Busselton-Vasse Urban Area as a regional centre and the Dunsborough Urban Area as a major town through: the redevelopment and consolidation of the existing urban areas; and through the identification of suitable areas for planned, progressive expansion of those settlements.”*
- Objective (c) – *“The creation of compact, liveable and sustainable settlements that provide their residents with housing and lifestyle choice and affordability, a high quality of life, health and wellbeing and convenient access to high quality employment and services.”*
- Strategy (h) – *“Generally, but especially in urban growth areas, plan for housing choice, diversity, health, wellbeing and ageing in place, with a mix of housing types and lot sizes, with higher densities in proximity to activity centres and open space areas, and with identification of land for aged and dependent persons’ housing and care facilities in proximity to activity centres in all medium-term urban growth areas.”*

- Strategy (m) – *“Identify locations for the following particular significant community facilities –*  
...  
• *Aged care facilities”*
- Strategy (r) – *“Do not support the following –*  
i. *Unplanned new settlements or urban growth areas, including through creation of new settlements not identified in the established settlement framework or new urban growth areas not identified in the urban growth area framework;*  
...  
iii. *Planning proposals that would significantly compromise the capacity of urban growth areas to accommodate planned growth;”*

‘Theme 2’ of the LPS, ‘Activity centres and economy’, identifies the following relevant objectives and strategies:

- Objective (d) – *“The continued growth of the Busselton City Centre and Dunsborough Town Centre as the main centres of the economic, social and cultural life of the District”...*
- Strategy (c) – *“...activity centres shall... be developed along predominantly ‘main-street’ lines, with activated public streets and high levels of pedestrian amenity...”*
- Strategy (j) – *“Support and pro-actively plan for industrial/service commercial area development... via... Preventing retail activity which can be located in activity centres from being located in industrial/service commercial areas...”*
- Strategy (p) – *“Do not support:*  
i) *unplanned new, or expansion of, existing activity centres not identified in the established activity centre framework;*  
ii) *...*  
iii) *significant shop retail or office uses locating outside activity centres;*  
iv) *retail activity, including bulky goods retail, outside activity centres unless there is a clear and compelling argument to do so...”*

Table 4 ‘Industrial/Service Commercial Area Framework’ identifies the prevention of establishing retail activity that should be located in activity centres as a key issue within the following areas:

- Strelly Street/Busselton Light Industrial Area;
- Bussell Highway Service Commercial;
- Chapman Hill Road Service Commercial; and
- Vasse Light Industrial, Services Commercial.

#### **Local Commercial Planning Strategy (LCPS)**

The Local Commercial Planning Strategy (LCPS), adopted by Council on 10 November 2010, provides the long term strategic land use planning and strategic direction for the development of commercial land within the District.

The LCPS considered and made recommendations on a number of matters relevant to proposed Amendment 40:

- 9) *Further service commercial development along major roads, including the Busselton Bypass, Bussell Highway and Causeway Road, other than that accommodated by existing zonings and/or specifically supported by the Strategy is not supported.*

- 11) *Control retail intrusion into the industrial areas of the shire, particularly Strelly Street.*
- 38) *Council should consider the need for an Amendment to the TPS to restrict retail uses in the industrial zone to only that which is necessary as an ancillary component to the main industrial activity.*

### **Financial Implications**

There are no financial implications associated with the Officer Recommendation.

### **Stakeholder Consultation**

There is no requirement under the *Planning and Development Act 2005* to advertise a proposed Scheme amendment prior to it being initiated by the Council. Accordingly, no advertising has occurred to date. However, the recommendations outlined in this report reflect outcomes of earlier consultation with the Department of Planning, Lands and Heritage in relation to development proposals, as well as public consultation in association with the development of the City's Community Strategic Plan and Local Planning Strategy.

If the Council resolves to initiate the proposed Amendments (No. 40 and No. 46), the related documentation will be referred to the Environmental Protection Authority (EPA) to consider the need for formal review under Part 4 of the *Environmental Protection Act 1986*. If the EPA determines that formal review is unnecessary, it will be advertised for a period of 42 days in accordance with the Regulations and include referral to relevant state government agencies. In the event that the EPA determines that the proposal is to be formally reviewed, the City shall cause such review to be undertaken in accordance with s82 of the *Planning and Development Act 2005*.

### **Risk Assessment**

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

### **Options**

As an alternative to the proposed recommendation the Council could:

1. Resolve to decline to initiate the proposed Amendments in their entirety and provide a reason for such a decision.
2. Resolve to initiate the proposed Amendments subject to certain modification(s), to be explained.
3. Resolve to initiate either proposed Amendment 40 or proposed Amendment 46, with or without certain modifications, to be explained.

### **CONCLUSION**

The information contained within this report confirms that the Amendments proposed are an appropriate outcome consistent with the orderly and proper planning of the City of Busselton and, as such, it is recommended that both Amendments be initiated for public consultation.

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

The implementation of the Officer Recommendation will involve the provision of the Amendment documentation to the Environmental Protection Authority and this will occur within one month of the resolution.



**Review of Land Use Permissibilities in the Scheme**

Use class permissibilities:

P – Permitted

D – Discretionary (subject to Planning Consent)

A – Discretionary, subject to formal advertising

X – Not permitted

Zone / Use Class	Residential	Regional Centre	Centre	Local Centre	Service Commercial	Tourism	Light Industry	General Industry	Rural	Viticulture and Tourism	Rural Residential	Rural Landscape	Conservation	Bushland Protection	COMMENTS
Abattoir	X	X	X	X	X	X	A	D	A	X	X	X	X	X	No change proposed as part of this Amendment.
Aged Persons Home	D	A	A	X	X	X	X	X	AX	X	X	X	X	X	Lack of accessibility to services in the 'Rural' zone (eg. lack of pathways), resulting in reliance on vehicles. This land use should ideally be located in close proximity to town and neighbourhood centres, to be located close to public transport routes and health and community services for the benefit of the residents.
Agriculture – Extensive	X	X	X	X	X	X	X	X	P	P	A	D	D	D	No change proposed as part of this Amendment.
Agriculture – Intensive	X	X	X	X	X	X	X	X	P	P	X	X	X	X	No change proposed as part of this Amendment.
Amusement Parlour	X	P	P	P	DX	D	DX	DX	X	X	X	X	X	X	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' and industrial zones.
Ancillary Accommodation Ancillary Dwelling	P	D	D	D	X	X	X	X	P	P	P	D	D	D	Change title to 'Ancillary Dwelling' (throughout Scheme) for consistent terminology with the Residential Design Codes. Note that there is no definition for this land use within the Scheme as it is defined by the R-Codes.
Animal Establishment	X	X	X	X	X	X	X	X	D	D	A	A	X	X	No change proposed as part of this Amendment.
Animal Husbandry – Intensive	X	X	X	X	X	X	X	X	D	D	X	X	X	X	No change proposed as part of this Amendment.
Aquaculture	X	X	X	X	X	X	D	D	D	D	A	A	A	X	No change proposed as part of this Amendment.
Art Gallery	X	D	D	D	X	D	X	X	D	D	A	X	X	X	Existing land use requires inclusion into the Zoning table.
Bed and Breakfast	D	D	D	D	X	P	X	X	D	D	D	D	D	D	No change proposed as part of this Amendment.

Zone / Use Class	Res	Reg. Centre	Centre	Local Centre	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural Lscp	Cons.	Bushld Protn.	COMMENTS
<b>Brewery</b>	X	A	A	A	AX	A	D	D	A	A	X	X	X	X	Proposed to become prohibited within the 'Service Commercial' zone given the required buffer distances established by the Environmental Protection Authority and the proximity of this zone to residential areas. Full discussion on the proposal associated with this land use, including the introduction of a new provision, is provided within the Officer Report.
<b>Bulky Goods Showroom</b>	X	PD	PD	PD	PD	X	D	X	X	X	X	X	X	X	To align the intended operation of the land use with the Local Planning Strategy, so as to avoid retail leakage from the Busselton City Centre. In combination with other proposed modifications to the Scheme associated with this land use, full discussion of which is provided for within the Officer Report.
<b>Bus Depot</b>	X	X	X	X	D	X	D	D	DX	X	X	X	X	X	A land use, often including servicing of vehicles, that is better located in industrial zones and to protect the amenity of rural areas, particularly the entries into the urban areas.
<b>Caravan Park</b>	A	X	X	X	X	D	X	X	A	A	X	X	X	X	No change proposed as part of this Amendment.
<b>Caretaker's Dwelling</b>	X	X	X	X	X	D	X	X	X	X	X	X	X	X	No change proposed as part of this Amendment.
<b>Car Park</b>	X	D	D	D	D	X	D	D	X	X	X	X	X	X	Enabling car parks on the periphery of the Centres allows for more development options within the core of the Centres themselves. Amendment 40 proposes to include this land use within Additional Use 'A74' (Schedule 2). Further detail is provided within the Officer Report.
<b>Cinema/Theatre</b>	X	D	D	D	DX	X	X	X	X	X	X	X	X	X	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' and industrial zones.
<b>Chalet</b>	X	X	X	X	X	D	X	X	D	D	X	A	A	X	No change proposed as part of this Amendment.
<b>Child Care Premises</b>	A	D	D	D	D	A	X	X	D	A	A	X	X	X	No change proposed as part of this Amendment.
<b>Club Premises</b>	X	D	D	D	D	D	X	X	A	A	X	X	X	X	No change proposed as part of this Amendment.
<b>Community Purpose</b>	A	P	P	P	D	D	D	D	D	A	A	X	X	X	No change proposed as part of this Amendment.

Zone / Use Class	Res	Reg. Centre	Centre	Local Centre	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural Lscp	Cons.	Bushld Protn.	COMMENTS
Consulting Rooms	A	P	P	P	P	X	X	X	X	X	X	X	X	X	No change proposed as part of this Amendment.
Convenience Store	X	P	P	P	DX	D	DX	DX	X	X	X	X	X	X	This use essentially caters for a small supermarket, a retail use that would not be appropriate in the 'Service Commercial' and industrial zones. The 'Local Centre' zone, of which there are several small sites scattered within the urban areas would be the ideal location for a convenience store.
Corner Shop	A	P	P	P	PX	X	DX	DX	A	A	A	X	X	X	As with a 'Convenience Store', this use essentially caters for a retail use that would not be appropriate in the 'Service Commercial' and industrial zones. Furthermore, the definition requires this use to be attached to a dwelling, which is not permitted within these zones.
Educational Establishment	A	P	P	P	D	X	D	D	D	D	D	X	X	X	No change proposed as part of this Amendment.
Exhibition Centre	X	A	A	A	AX	A	X	X	A	A	X	X	X	X	Considered to be a land use typically with a social aspect that should be located within the main centres, to encourage pedestrian access, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' zone.
Factory Unit Building	X	X	X	X	D	X	P	P	X	X	X	X	X	X	No change proposed as part of this Amendment.
Fuel Depot	X	X	X	X	X	X	PD	PD	X	X	X	X	X	X	To enable the consideration of relevant issues through a Development Application, such as proximity to bushfire prone areas and appropriate separation distances.
Funeral Parlour	X	D	D	D	D	X	D	X	X	X	X	X	X	X	No change proposed as part of this Amendment.
Garden Centre	X	AX	AX	AX	A	X	D	X	D	D	AX	X	X	X	This use can have the potential to cause nuisance from dust, drift and noise (loaders, etc) associated with the storage of mulch and soils.
Grouped Dwelling	D	D	D	D	X	X	X	X	X	X	X	X	X	X	No change proposed as part of this Amendment.
Guesthouse	X	D	D	D	X	D	X	X	A	A	A	A	A	X	No change proposed as part of this Amendment.
Holiday Home (Multiple/Grouped Dwelling)	A	A	A	A	X	X	X	X	X	X	X	X	X	X	No change proposed as part of this Amendment.

Zone / Use Class	Res	Reg. Centre	Centre	Local Centre	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural Lsp.	Cons.	Bushld Protn.	COMMENTS
Holiday Home (Single House)	D	D	D	D	X	X	X	X	D	D	D	D	D	D	No change proposed as part of this Amendment.
Home Business	D	P	P	P	X	X	X	X	P	P	P	A	A	A	No change proposed as part of this Amendment.
Home Occupation	P	P	P	P	X	P	X	X	P	P	P	P	P	P	No change proposed as part of this Amendment.
Hospital	A	D	D	D	D	X	X	X	A	A	X	AX	X	X	The small number (18) of lots zoned 'Rural Landscape' are all located in Bushfire Prone Areas. A 'Hospital' is a vulnerable land use under the bushfire planning framework and given these lots have only one road access, they would unlikely achieve compliance with the requirements. A 'Hospital' would therefore not be an appropriate use for this location. This proposed permissibility would also align with the other similar zones, 'Conservation' and 'Bushland Protection'.
Hotel	X	A	A	A	AX	A	X	X	A	A	X	X	X	X	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' zone.
Industry	X	X	X	X	X	X	D	D	X	X	X	X	X	X	No change proposed as part of this Amendment.
Industry – Cottage	X	X	X	X	X	D	X	X	P	P	A	D	A	A	No change proposed as part of this Amendment.
Industry – Extractive	X	X	X	X	X	X	A	A	A	X	X	X	X	X	No change proposed as part of this Amendment.
Industry – Light	X	X	X	X	D	X	P	P	X	X	X	X	X	X	No change proposed as part of this Amendment.
Industry – Primary Production	X	X	X	X	X	X	D	D	D	D	X	X	X	X	No change proposed as part of this Amendment.
Liquor Store – Large	X	PD	PD	PD	X	X	X	X	X	X	X	X	X	X	To enable the consideration of relevant issues through a Development Application, such as operating hours and potential impact on neighbouring landowners.
Liquor Store – Small	X	P	P	PD	X	X	X	X	X	X	X	X	X	X	To enable the consideration of relevant issues through a Development Application, such as operating hours and potential impact on neighbouring landowners.
Lunch Bar	X	X	X	X	D	X	D	D	X	X	X	X	X	X	No change proposed as part of this Amendment.
Marina	X	D	D	D	D	D	D	D	X	X	X	X	X	X	No change proposed as part of this Amendment.
Marine Filling Station	X	D	D	D	D	D	D	D	X	X	X	X	X	X	No change proposed as part of this Amendment.

Zone / Use Class	Res	Reg. Centre	Centre	Local Centre	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural Lscp	Cons.	Bushld Protn.	COMMENTS
<b>Market</b>	X	D	D	D	<b>DX</b>	A	<b>DX</b>	<b>DX</b>	<b>DX</b>	<b>DX</b>	<b>AX</b>	X	X	X	Being essentially a retail use, 'Market' is proposed to be removed from zones such as the 'Service Commercial' zone, and industrial and rural zones, which would not normally be considered appropriate for accommodating retail uses.
<b>Medical Centre</b>	A	P	P	P	D	X	<b>DX</b>	<b>DX</b>	X	X	X	X	X	X	Not consistent with zone objectives, this land use is more appropriately placed close to the main centres to enable better access to other complementary services as well as public transport.
<b>Mining Operations</b>	X	X	X	X	X	X	A	A	A	X	X	X	X	X	No change proposed as part of this Amendment.
<b>Motel</b>	X	A	A	A	<b>AX</b>	D	X	X	X	X	X	X	X	X	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' zone.
<b>Motor Vehicle, Boat or Caravan Sales</b>	X	<b>DX</b>	<b>DX</b>	<b>DX</b>	<b>PD</b>	X	<b>PD</b>	<b>PD</b>	X	X	X	X	X	X	Locating this land use within the main centres would be contrary to the continued strategic aims of the City, through the LPS and the Scheme, toward the creation of pedestrian friendly and vibrant Centres, including the activation and beautification of street frontages. This land use is usually associated with large areas of hard stand, fencing and associated servicing of vehicles. It is rarely an attractive or unintrusive land use. For this reason, it is also proposed that the use should become a 'D' use in the 'Service Commercial' and industrial zones to enable full consideration of the relevant issues and potential impacts ahead of any development approval.
<b>Motor Vehicle Repair</b>	X	X	X	X	D	X	<b>PD</b>	P	X	X	X	X	X	X	Strengthening requirements to enable the consideration of relevant issues (particularly noise) through a Development Application, given that this use has been known to impact on neighbouring properties, particularly when in close proximity to residential dwellings.
<b>Motor Vehicle Wash</b>	X	X	X	D	D	X	D	D	X	X	X	X	X	X	No change proposed as part of this Amendment.
<b>Multiple Dwelling</b>	D	D	D	D	X	X	X	X	X	X	X	X	X	X	No change proposed as part of this Amendment.

Zone / Use Class	Res	Reg. Centre	Centre	Local Centre	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural Lscp	Cons.	Bushld Protn.	COMMENTS
Nightclub	X	A	A	X	X	A	X	X	X	X	X	X	X	X	No change proposed as part of this Amendment.
Office	X	P	P	P	X	X	X	X	X	X	X	X	X	X	No change proposed as part of this Amendment.
Park Home Park	A	X	X	X	X	D	X	X	X	X	X	X	X	X	No change proposed as part of this Amendment.
Place of Worship	A	D	D	D	D	X	D	X	A	A	A	X	X	X	No change proposed as part of this Amendment.
Produce Sales	X	X	X	X	X	X	X	X	D	D	A	A	A	X	No change proposed as part of this Amendment.
Reception Centre	X	D	D	D	<b>DX</b>	D	X	X	A	A	X	X	X	X	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' zone.
Recreation Establishment	X	X	X	X	X	D	X	X	D	D	X	A	A	X	No change proposed as part of this Amendment.
Recreation – Private	X	D	D	D	D	D	D	X	D	A	A	A	A	X	No change proposed as part of this Amendment.
Repurposed Dwelling	D	D	D	D	X	X	X	X	D	D	D	D	D	D	No change proposed as part of this Amendment.
Research Establishment	X	D	D	D	D	X	D	D	D	X	X	X	X	X	No change proposed as part of this Amendment.
Residential Building	A	<b>XD</b>	<b>XD</b>	X	X	D	X	X	A	A	X	X	X	X	This proposed change is in line with the changes brought to the Scheme through Amendment No. 1 (gazetted 4 August 2017), which enabled mixed use development within the CBDs. The use class 'Residential Building' includes backpacker hostels, youth hostels and womens' refuge, all of which would be ideally located within these zones.
Resource Recovery Centre	X	X	X	X	X	X	X	A	X	X	X	X	X	X	No change proposed as part of this Amendment.
Restaurant/Cafe	X	P	P	P	<b>DX</b>	D	X	X	D	D	A	X	X	X	Considered to be a land use typically with a social aspect that should be located within the main centres, to encourage pedestrian access, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' zone.







Zone / Use Class	Res	Reg. Centre	Centre	Local Centre	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural Lscp	Cons.	Bushld Protn.	COMMENTS
<b>Restricted Premises</b>	X	D	D	D	<b>DX</b>	X	X	X	X	X	X	X	X	X	Being essentially a retail use, 'Restricted Premises' is proposed to be removed from the 'Service Commercial' zone, a zone that would not normally allow for retail uses.
<b>Rural Holiday Resort</b>	X	X	X	X	X	D	X	X	X	A	X	X	X	X	No change proposed as part of this Amendment.
<b>Rural Pursuit/Hobby Farm</b>	X	X	X	X	X	X	X	X	P	P	A	A	X	X	No change proposed as part of this Amendment.
<b>Second-hand Dwelling</b>	D	D	D	D	X	X	X	X	D	D	D	D	D	D	No change proposed as part of this Amendment.
<b>Service Station</b>	X	X	X	D	D	X	D	D	<b>AX</b>	X	X	X	X	X	A contributor to 'ribbon development' along highways and therefore generally contrary to the recommendations of the LPS and provisions of the Scheme, the use 'Service Station' is not considered to be appropriate within the 'Rural' zone. Should a 'Service Station' be deemed necessary in a strategic location, a targeted Scheme Amendment could be undertaken to enable a merits based assessment for that individual site.
<b>Shop</b>	X	P	P	P	X	X	X	X	X	X	X	X	X	X	No change proposed as part of this Amendment.
<b>Single House</b>	P	D	D	D	X	X	X	X	P	P	P	P	P	P	No change proposed as part of this Amendment.
<b>Small Bar</b>	X	D	D	A	<b>AX</b>	D	<b>AX</b>	X	A	A	X	X	X	X	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is considered to be contrary to the objectives of the 'Service Commercial' and 'Light Industry' zones.
<b>Takeaway Food Outlet</b>	X	<b>AD</b>	<b>AD</b>	A	A	A	X	X	X	X	X	X	X	X	The recent inclusion of the 'Drive Through Facility Control Area' into the Scheme would require any development application containing a drive-through facility to be advertised in accordance with clause 64 of the Deemed Provisions. Given that this use is considered an appropriate use for the Centres, a change to the permissibility from 'A' (discretionary, subject to advertising) to 'D' (discretionary) will help control the impost on smaller business owners (not utilising a drive-through facility) seeking to commence operation.



Zone / Use Class	Res	Reg. Centre	Centre	Local Centre	Service Comm.	Tourism	Light Ind.	General Ind.	Rural	Vit/Tour.	Rural Res.	Rural Lscp	Cons.	Bushld Protn.	COMMENTS
Tavern	X	A	A	A	AX	A	AX	X	A	A	X	X	X	X	Considered to be a land use typically with a social element that should be located closer to the main centres, to encourage pedestrian visitation, associated spend and therefore contribute to the overall viability and vitality of the CBDs. The use is contrary to the objectives of the 'Service Commercial' and 'Light Industry' zones.
Trade Supplies	X	PD	PD	PD	PD	X	D	XD	X	X	X	X	X	X	'Trade Supplies' was introduced into the Scheme through Amendment No. 29, at the behest of the Minister, with permissibilities to mirror those of 'Bulky Goods Showroom'. However, this use is considered to be distinctly different from a 'Shop' or 'Bulky Goods Showroom' and is more suited to the 'Service Commercial' and industrial zones. It is therefore considered necessary that a Development Application be submitted to enable consideration of relevant issues.
Telecommunications Infrastructure	A	A	A	A	D	A	D	D	A	A	A	A	X	X	No change proposed as part of this Amendment.
Tourist Accommodation	X	D	D	D	X	D	X	X	X	A	X	X	X	X	No change proposed as part of this Amendment.
Transport Depot	X	D	D	D	D	X	D	D	X	X	X	X	X	X	No change proposed as part of this Amendment.
Tree Farm	X	X	X	X	X	X	X	X	D	D	X	X	X	X	No change proposed as part of this Amendment.
Veterinary Centre	X	D	D	D	PD	X	D	X	A	A	X	X	X	X	To enable the consideration of relevant issues through a Development Application, such as potential noise impacts on neighbouring residential dwellings.
Warehouse/Storage	X	D	D	D	P	X	P	P	X	X	X	X	X	X	No change proposed as part of this Amendment.
Waste Disposal Facility	X	X	X	X	X	X	X	A	X	X	X	X	X	X	No change proposed as part of this Amendment.
Waste Storage Facility	X	X	X	X	X	X	X	A	X	X	X	X	X	X	No change proposed as part of this Amendment.
Wind Farm	X	X	X	X	X	X	X	X	A	A	X	X	X	X	No change proposed as part of this Amendment.
Winery	X	DA	DA	DA	DX	A	PD	XD	D	D	X	AX	X	X	Proposed to become prohibited within the 'Service Commercial' zone given the required buffer distances established by the EPA and the proximity of this zone to residential areas. Full discussion on the proposal associated with this land use, including the introduction of a new provision, is provided within the Officer Report.

### 13.3 SCHEME AMENDMENT NO. 44 (BUSSELTON RSL WA) - CONSIDERATION FOR FINAL ADOPTION

<b>STRATEGIC GOAL</b>	2. PLACE AND SPACES Vibrant, attractive, affordable
<b>STRATEGIC OBJECTIVE</b>	2.1 Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
<b>SUBJECT INDEX</b>	Local Planning Schemes and Amendments
<b>BUSINESS UNIT</b>	Strategic Planning
<b>REPORTING OFFICER</b>	Senior Strategic Planner - Helen Foulds
<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>	Attachment A Subject Land Parcels   Attachment B Proposed Scheme Amendment Map   Attachment C Bushfire Hazard Level Assessment Map   Attachment D Summary of Submissions  

#### OFFICER RECOMMENDATION

That the Council:

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts Amendment No. 44 to the City of Busselton Local Planning Scheme No. 21 for final approval, for the purposes of:
  - (a) Rezoning Lot 69 (No. 10) Rosemary Drive and Lot 100 (No. 15) Southern Drive, Busselton from “Residential” to “Special Use No. 30” and to recode the Lots from “R30” to “R-AC3”;
  - (b) Rezoning Lot 48 (No. 26) and Lot 49 (No. 28) Causeway Road from “Tourism” to “Special Use No. 30” and include a residential density code of “R-AC3”;
  - (c) Inserting the following particulars in ‘Schedule 5 – Special Uses’ of the Scheme:

No.	Description of Land	Special Use	Conditions
30	Lot 48 (No. 26) Causeway Road, Busselton; Lot 49 (No. 28) Causeway Road, Busselton; Lot 69 (No. 10) Rosemary Drive, Busselton; and Lot 100 (No. 15) Southern Drive, Busselton.	The following land uses are ‘P’ Permitted: a. Aged Persons Home; b. Club Premises; c. Community Purpose; d. Grouped & Multiple Dwellings; e. Consulting Rooms; f. Residential Building.  The following land uses are “D” Discretionary: a. Medical Centre; b. Reception Centre; and c. Office.	1. Development is limited to a total plot ratio of 2.0. 2. Notwithstanding Clause 4.8 of the Scheme and the ‘R-AC3’ density code, a maximum building height of 4 storeys (to maximum height of 15m above natural ground level) is applicable to development on the site. 3. Development within 10m of a lot boundary, which abuts land that is zoned Residential, is limited to 2 storeys (to maximum height of 9m above natural ground level). 4. All other development controls are to be as per ‘R-AC3’ under

			<b><i>State Planning Policy 7.3: Residential Design Codes Volume 2 - Apartments.</i></b>
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(d) Amending the Scheme Map accordingly.

2. Advises the Western Australian Planning Commission that Amendment No. 44 is considered a 'standard' amendment pursuant to the *Planning and Development (Local Planning Scheme) Regulations 2015* for the following reasons:
  - (a) an amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve;
  - (b) an amendment that is consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Commission; and
  - (c) the amendment would not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.
3. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, endorses the Summary of Submissions at Attachment D, which has been prepared in response to the public consultation process undertaken in relation to Amendment No. 44.
4. Upon preparation of the necessary documentation, refers the adopted Amendment No. 44 to the Western Australian Planning Commission for consideration and determination in accordance with the *Planning and Development Act 2005*.
5. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should directions be given that modifications to Amendment No. 44 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.

## EXECUTIVE SUMMARY

The Council is requested to consider adopting for final approval draft Amendment No. 44 to *Local Planning Scheme No. 21* (the Scheme). The Amendment would facilitate the rezoning of Lot 69 Rosemary Drive, Lots 48 and 49 Causeway Road and Lot 100 Southern Drive, Busselton (in total, the subject land) to 'Special Use' zone and applying conditions to guide future development.

The Amendment is intended to essentially support the redevelopment of the Returned and Services League (RSL) across these sites by allowing for a specific combination of complementary community, business and residential uses that align with the RSL's service charter.

The purpose of this report is to recommend to the Council that the subject proposal be adopted for final approval and forwarded to the Western Australian Planning Commission (WAPC).

## BACKGROUND

The applicant has advised that the current Returned and Services League of Australia WA (RSL) building is not equipped for the current needs of the RSL and requires significant upgrades. This Amendment will facilitate redevelopment of the site for a multipurpose centre by co-locating services between the RSL and other organisations that provide services to ex-service personnel and families.

Whilst the core purpose of the RSL will remain unchanged, the organisation is evolving as the needs of each generation of service personnel change. In response, this amendment seeks to allow uses that provide complementary services that support the operations of the RSL to ensure its ongoing capacity to meet the needs of the community.

The RSL has expressed interest in redeveloping the subject sites to cater for:

- Club facilities (including bar facilities);
- Administration (offices);
- Consulting rooms for ex-service personnel organisations and affiliates (Legacy, defence force recruiting etc.);
- Café;
- Apartments (mix of short stay and permanent accommodation);
- Aged care; and
- Ancillary uses which complement the day to day operations of the RSL and affiliated organisations.

Proposed Scheme Amendment No. 44 seeks to rezone four parcels of land to 'Special Use' zone to facilitate redevelopment for the RSL. The land subject to the Amendment covers a total area of 5,436m<sup>2</sup> and involves the rezoning of the following land parcels:

- Lot 69 (No. 10) Rosemary Drive, Busselton, currently zoned "Residential – R30" and contains the current Busselton RSL WA sub-branch;
- Lot 48 (No. 26) and Lot 49 (No. 28) Causeway Road, Busselton, both being vacant and zoned "Tourism"; and
- Lot 100 (No. 15) Southern Drive, Busselton, owned by the City of Busselton, zoned "Residential – R30" and originally developed with a dwelling that has since been converted into offices (referred to as 'Finance House').

The land parcels are identified at Attachment A, with the proposed Scheme Amendment Map at Attachment B.

The RSL has approached the owner(s) of the adjoining Lots 48 and 49, being the vacant lots at the corner of Causeway Road and Southern Drive, with a view to entering into a joint venture or lease arrangement to facilitate the overall development. These owners are supportive of the proposed Amendment.

Lot 100 Southern Drive was considered to be 'surplus to the needs' of the City, now that the Administration Building has been completed. The City subsequently issued an Expression of Interest for the sale or lease of Finance House on Lot 100 in mid-2018, the process resulting in a month by month lease being issued (for a minimal figure) to CinefestOZ for use of the building. The RSL expressed interest in incorporating Lot 100 into its overall re-development proposal and, although no final arrangement has been entered into, opportunity remains for the City to either sell Lot 100 or to enter into a joint venture arrangement with the RSL and owner(s) of Lots 48 and 49.

At the time of writing the initiation report for this Amendment that went to Council in January 2020, interest had been expressed from the Bunbury Regional Community College (BRCC) for a lease to use the building on Lot 100 for educational purposes. The BRCC is now to be located within the old Tennis Club building and CinefestOZ remains at Finance House. The proposal to rezone the subject land does not diminish the ability for Finance House to be leased to CinefestOZ for office space for the time being. CinefestOZ can be relocated to alternative accommodation if and when necessary.

The proposal has been accompanied by a Transport Impact Statement (TIS), which has identified projected traffic volumes on an assumed development outcome of 50 residential apartments, 200m<sup>2</sup> office space and 150m<sup>2</sup> function room (although it should be noted that the final development outcome may comprise these land uses or a combination of other land uses). The net increase in traffic is estimated to be 220-270 vehicles per day, an increase from approximately 100-150 trips per day currently generated by the existing RSL.

The TIS acknowledges that access to the site could be provided from Southern Drive and Rosemary Drive, as well as the service road that runs alongside Causeway Road. Access to the site via Southern Drive might offer the most logical access, given the location of the City's Administration Building, although the works associated with the 'Eastern Link' will include the provision of a roundabout at the Rosemary Drive intersection, improving both traffic flow and safety performance.

The TIS, in taking into account the proposed Eastern Link works, has concluded that the proposal will not significantly affect the surrounding road network, which has been designed to accommodate this scale of traffic.

Conclusions made by the TIS include:

- A waste management plan should be prepared at the time of a formal development application being lodged; and
- There is expected to be no adverse effects from the land use development proposal on road safety.

#### OFFICER COMMENT

Scheme Amendment No. 44 proposes to rezone the subject lots to 'Special Use', allowing for a specific combination of complementary community, business and residential uses that align with the RSL's service charter.

The current proposal does not invoke a design for the redevelopment of the site, but to provide instead the means to facilitate redevelopment of the RSL, with other community organisations, to offer improved services to the area. A future development application can adequately address management, operations, scale and design of any formal proposal. What the amendment controls provide is a guide for the design of the future development, in addition to the standard requirements of the Residential Design Codes (the R-Codes) and Scheme.

The following information has been proposed to be inserted into 'Schedule 5 – Special Uses' of the Scheme:

No.	Description of Land	Special Use	Conditions
30	Lot 48 (No. 26) Causeway Road, Busselton; Lot 49 (No. 28) Causeway Road, Busselton; Lot 69 (No. 10) Rosemary Drive, Busselton; and	The following land uses are 'P' Permitted: a. Aged Persons Home; b. Club Premises; c. Community Purpose; d. Grouped & Multiple Dwellings; e. Consulting Rooms; f. Residential Building.	1. Development is limited to a total plot ratio area of 2.0. 2. Notwithstanding Clause 4.8 of the Scheme and the 'R-AC3' density code, a maximum building height of 4 storeys (to maximum height of 15m above natural ground level) is applicable to development on the site.

	Lot 100 (No. 15) Southern Drive, Busselton.	The following land uses are "D" Discretionary: a. Medical Centre; b. Reception Centre; and c. Office.	<p>3. Development within 10m of a lot boundary, which abuts land that is zoned Residential, is limited to 2 storeys (to maximum height of 9m above natural ground level).</p> <p>4. All other development controls are to be as per 'R-AC3' under <i>State Planning Policy 7.3: Residential Design Codes Volume 2 - Apartments</i>.</p>
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The mix of uses and proposed permissibilities suggested allows for a combination of complementary community, business and residential uses that align with the RSL's service charter, whilst avoiding retail and commercial uses considered inappropriate outside the City's core CBD area. There is no intent to promote or to encourage the development of retail or business offerings that are more suitably located within the City Centre. The sites are set back from Causeway Road, having the benefit of the service road, and the list of uses proposed will not encourage a 'shop-front' appearance, thus reducing the likelihood of any potential commercial strip along Causeway Road.

In the case of 'commercial-only development', proposed conditions 1, 2 and 3 would apply during any formal assessment process. If there is no residential component proposed at the time of assessment (for instance, in the case of a staged construction, should the Club Premises be applied for in isolation to any residential use), condition 4 would not specifically apply, although, the R-Codes would be referenced as a guide for any development application, together with the "Matters to be considered" clause of the Deemed Provisions (Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*).

The following comments are provided in response to a preliminary assessment of the proposed conditions for Special Use Zone No. 30:

### 1. Plot ratio

In mixed use developments building bulk and scale is controlled by setting a maximum plot ratio, which is the ratio of the gross 'plot ratio area' of buildings on a development site to the area of land in the site boundaries. For instance and in simple terms, a plot ratio of 1.0 on a 1,000 square metre lot could equate to a two-storey building with 500 square metres on each floor, so a total floor area of 1,000 square metres.

A plot ratio of 2.0 is proposed to apply for all development within the site, both residential and non-residential, ensuring an appropriate scale of all built form, complementing, not dominating, surrounding development.

By means of comparison, development within the Busselton City Centre and Dunsborough Town Centre can achieve a plot ratio of 2.0 to 3.0.

### 2. Building height

With respect to building height, the Scheme currently allows for 3 storey development across the site. Given the existing Scheme entitlements, the applicant proposes controls to allow redevelopment up to four storeys fronting Causeway Road to complement the nearby City Administration Building and to allow for a consistent and complementary scale of built form along this section of Causeway Road leading into the City Centre.

Note that the proposed condition of Special Use 30 includes a clarification that the height controls relate to height above natural ground level, including any fill or similar required. This reflects the normal basis on which building height is determined in the WA planning system.

The City's Administration Building, at its highest point, is around 15.5 metres from ground floor to building apex (being the plant room and lift). The three storey portion of the building, as can be viewed from Causeway Road, is around 15 metres (when including the maximum level of fill, relative to the site prior to development of the current building, being around one metre).

**3. Development adjacent to boundaries**

Development at the interface with adjoining residential development (within 10 metres of a neighbouring residential lot) would be restricted to two (2) storeys, with a maximum height of 9 metres. The R-Codes require that development is to satisfy the relevant 'Acceptable Outcomes' for solar access, which may well preclude development, even at this height, unless carefully designed.

Some concern is held by officers in respect to proposed condition 5 given the potential for a 9m high wall within 10m of a boundary and the potentially adverse effects this might have on neighbouring residential properties.

In comparison, a R30 dwelling may be constructed up to one side boundary with a maximum height of 3.5m and an average of 3.0m for two-thirds the length of boundary. The Amendment, if initiated by the Council for public consultation, will be sent directly to neighbouring landowners as part of the consultation process, and all comments received will be addressed and referred back to the Council with recommendations at the time of considering final adoption.

**4. R-AC3 density code**

The 'R-AC3' density code has been chosen to be consistent with the mixed use development in the City Centre. The application of this density code will require any mixed use development (i.e. containing commercial and residential uses) to be designed in a way that is responsive to the site constraints and surrounding development.

The possibility of an arrangement (either by way of a joint-venture agreement or amalgamation of lots) not going ahead between the respective landowners should be considered in the event that the Amendment is successful. Should this be the case, the list of uses, being predominately residential in nature or community/consulting-type services, would be considered appropriate in this location given the proximity to the City Centre and position along a major traffic route.

**Comments raised during advertising**

Two substantive issues were raised during the formal advertising process. These were:

1. Bushfire Hazard Level assessment; and
2. Building height.

These matters are discussed below.

***Bushfire Hazard Level Assessment***

Portions of the subject land have been identified as 'bushfire prone' on the 'Map of Bush Fire Prone Areas' as developed by the Office of Bushfire Risk Management (OBRM). This map acts as a trigger to determine whether bushfire protection planning and building requirements apply. A large portion of Lot 100 and Lot 48 are included within a bushfire prone area, along with the very easterly corner of Lot 10.

In accordance with State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP 3.7), all strategic planning proposals within a designated bushfire prone area must be accompanied by either a Bushfire Hazard Level (BHL) assessment, a BAL Contour Map, and/or a BAL assessment.

The response from the Department of Fire and Emergency Services (DFES) during the advertising period confirmed the requirement for a BHL assessment to be provided. A BHL assessment was undertaken and identified the majority of the site with a 'low' bushfire hazard level and a very small portion of the site with a 'moderate' bushfire hazard level. A copy of the BHL map is provided at Attachment C.

The risk for the site is increased due to the site being within 100 metres from the vegetation along the Lower Vasse River. The City of Busselton Administration Building and associated car park are located on this area of land between 'the risk' and the subject site, thereby reducing the overall risk.

The BHL assessment, along with the supporting information, sufficiently demonstrates compliance with clause 6.3 of SPP 3.7, in that:

- a) The BHL assessment has been completed in accordance with the methodology set out in the Guidelines and prepared by an accredited Bushfire Planning Practitioner;
- b) Bushfire hazard issues arising from the assessment have been identified; and
- c) The BHL assessment clearly demonstrates that compliance with the bushfire protection criteria in the Guidelines can be achieved for the site.

DFES have provided feedback on the BHL to advise that the information provided satisfies the criteria mentioned above and that the reduced risk due to the presence of the City's Administration Building and associated car park would ensure that any future development on the site will achieve a minimum bushfire attack level of BAL 25.

### ***Building Height***

The one public submission received during the advertising period raised concern over the proposed building height control of 4 storeys (up to 15 metres). The concern raised the potential for a large, bulky brick wall facing the residential properties on the opposite side of Rosemary Drive.

The Scheme currently allows for three-storey development throughout the majority of the urban area, including the subject land. The proposal seeks an increase to this height control to four-storeys, concentrating the bulk of development along Causeway Road, to offset a proposed reduction in height to two storeys within 10m of the boundaries shared with residential lots.

The reduction/restriction in building height to the south-eastern boundary will ensure the development steps down within the lot, providing intermediate scale of development interfacing with the neighbouring single storey residential development to the south-east. Whilst the existing site controls would allow development to three-storeys across the site, there is no requirement to step the building bulk within the lot in this way. The proposal therefore provides controls beyond the existing planning framework to address the neighbouring residential interface. Given the need to provide natural light into any future building on the site, it is unlikely there would be extensive blank walls facing Southern Drive.

Any future development proposal would be required to address the provisions of SPP 7.0 (Design of the Built Environment) and SPP 7.3 (Residential Design Codes Volume 2 – Apartments), with the ability to address any potential impacts from the additional building height through a number of design solutions. This process is intended to ensure that 'good design' prevails, which in short, should mean that the development shouldn't consist of a "50ft brick wall", but something that is architecturally designed to have minimal impact on the streetscape and surrounding properties.

It is likely that any future development proposals for the site may require further consultation with nearby landowners.



## **Statutory Environment**

The key statutory environment is set out in the *Planning and Development Act 2005* (Act), the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) and the City of Busselton Local Planning Scheme No. 21 (LPS21). Each is discussed below under appropriate subheadings.

### ***Planning and Development Act 2005***

The Act 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 subject amendment and provide an explanation justifying this choice. The Amendment is considered to be a ‘standard amendment’ for reasons outlined in part 2 of the ‘Officer Recommendation’.

### **Local Planning Scheme No. 21**

The proposal is consistent with the provisions of the ‘Special Use’ zone as defined by the Scheme, the objectives of which are to facilitate special categories of land uses that do not sit comfortably within any other zone and enable specific conditions to be imposed associated with that special use.

## **Relevant Plans and Policies**

The key policies relevant to the proposal are:

1. *State Planning Policy 3.0: Urban Growth and Settlement.*
2. *State Planning Policy 3.7: Planning for Bush Fire Prone Areas/Guidelines for Planning in Bushfire Prone Areas 2015.*
3. *State Planning Policy 7.0: Design of the Built Environment.*
4. *State Planning Policy 7.3: Residential Design Codes Volume 2 – Apartments.*
5. *City of Busselton Local Planning Strategy.*
6. *City of Busselton Local Tourism Planning Strategy.*

### **State Planning Policy 3.0: Urban Growth and Settlement**

State Planning Policy 3.0: Urban Growth and Settlement (SPP 3.0) sets out the principles and considerations which apply to planning for urban growth and settlements in Western Australia. The objectives of this policy include to:

- build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure, and enhance the quality of life in those communities; and
- manage the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community values and constraints.

Key requirements for sustainable communities identified by SPP 3.0 as they relate to this Scheme Amendment are:

- variety and choice in the size, type and affordability of housing to support a range of household sizes, ages and incomes, and which is responsive to housing demand and preferences; and
- access for all to employment, health, education, shops, leisure and community facilities by locating new development so as to be accessible by foot, bicycle or public transport, rather than having to depend on access by car (whilst recognising the convenience of car travel for some trips and the limited potential to provide alternatives in rural and remote locations).

Principles for planning of 'Liveable Neighbourhoods' require the safe and convenient access to services and facilities designed for all users, including users with disabilities.

### **State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP 3.7) and Guidelines for Planning in Bushfire Prone Areas**

SPP 3.7 directs how land use 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 accompanying *Guidelines for Planning in Bushfire Prone Areas* provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP 3.7, providing advice on how bushfire risk is to be addressed when planning, designing or assessing a planning proposal within a designated bushfire prone area.

### **State Planning Policy 7.0: Design of the Built Environment (SPP 7.0)**

Lead policy that elevates the importance of design quality across the whole built environment. It includes 10 principles for good design and establishes the framework for integrating design review as a part of the evaluation process. A Development Application will be considered against the following principles:

- |                                    |  |
|------------------------------------|--|
| 1. Context and Character           | Good design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place.  |
| 2. Landscape Quality               | Good design recognises that together landscape and buildings operate as an integrated and sustainable system, within a broader ecological context.   |
| 3. Built Form and Scale            | Good design ensures that the massing and height of development is appropriate to its setting and successfully negotiates between existing built form and the intended future character of the local area.                                      |
| 4. Functionality and Built Quality | Good design meets the needs of users efficiently and effectively, balancing functional requirements to perform well and deliver optimum benefit over the full life-cycle.  |
| 5. Sustainability                  | Good design optimises the sustainability of the built environment, delivering positive environmental, social and economic outcomes.  |
| 6. Amenity                         | Good design provides successful places that offer a variety of uses and activities while optimising internal and external amenity for occupants, visitors and neighbours, providing environments that are comfortable, productive and healthy. |
| 7. Legibility                      | Good design results in buildings and places that are legible, with clear connections and easily identifiable elements to help people find their way around.  |

- |                |   |
|----------------|---|
| 8. Safety      | Good design optimises safety and security, minimising the risk of personal harm and supporting safe behaviour and use.  |
| 9. Community   | Good design responds to local community needs as well as the wider social context, providing environments that support a diverse range of people and facilitate social interaction. |
| 10. Aesthetics | Good design is the product of a skilled, judicious design process that results in attractive and inviting buildings and places that engage the senses.                              |

**State Planning Policy 7.3: Residential Design Codes Volume 2 – Apartments (SPP 7.3)**

Provides planning and design standards for residential apartments (multiple dwellings) in areas coded R40 and above, within mixed use development and activity centres. SPP 7.3 builds upon the principles established in SPP 7.0 providing design parameters for apartment development. These policies represent a significant shift in the way in which development is assessed, with applications to be reviewed under performance criteria, as opposed to prescriptive development controls. The intention is to provide a flexible framework which incentivises excellence in building design.

The City will assess any future Development Application for the residential component of the site against the objectives and requirements of SPP 7.3.

**Local Planning Strategy (LPS)**

The LPS sets the long term broad planning direction for the whole of the District of the City of Busselton and provides the strategic rationale for decisions related to the progressive review and amendment of LPS21. The LPS was adopted for final approval by the Council in September 2016 and was endorsed by the WAPC on 10 December 2019, subject to certain agreed modifications prior to endorsement by the DPLH. The DPLH formally endorsed the LPS on 13 March 2020.

An objective of Theme 1 (Settlement and Community) is for expansion and improvement of community facilities to meet the needs of a growing and increasingly diverse population. Strategies associated with this theme are to support and pro-actively plan for urban consolidation and redevelopment in areas close to the Busselton City Centre and the development of new and improved community facilities to meet the needs of a growing and increasingly diverse population.

The LPS actively supports this proposed form of development close to the Busselton City Centre. A desirable diversification in the types of housing choice and availability for those affiliated with the RSL service charter could also result from this Amendment.

**Local Tourism Planning Strategy (LTPS)**

The LTPS was adopted by Council on 8 December 2010 and was noted by the WAPC in 2013. It provides a planning policy framework for decisions that affect the tourism industry in the City and recognises the importance of preserving, protecting and growing strategic tourism opportunities.

The LTPS identifies Lots 48 and 49 Causeway Road as tourist zoned land where alternative zonings may be considered, given it is a small site offering limited potential (to a future tourism venture).

**Financial Implications**

There are no direct financial implications associated with the officer recommendation.

**Stakeholder Consultation**

The Amendment was advertised for 42 days ending 22 April 2020. One public submission was received along with six government agency submissions. A Summary of Submissions is provided at Attachment D.

The most substantive matters were raised by DFES, seeking a Bushfire Hazard Level assessment, and a concern for the proposed height controls over the subject site. These matters have been discussed within the 'Officer Comment' section, above.

**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.

The implementation of the Officer Recommendation will involve adopting the Amendment for final approval and referral to the Western Australian Planning Commission and Minister for Planning for final approval.

**Options**

As an alternative to the proposed recommendation the Council could decide:

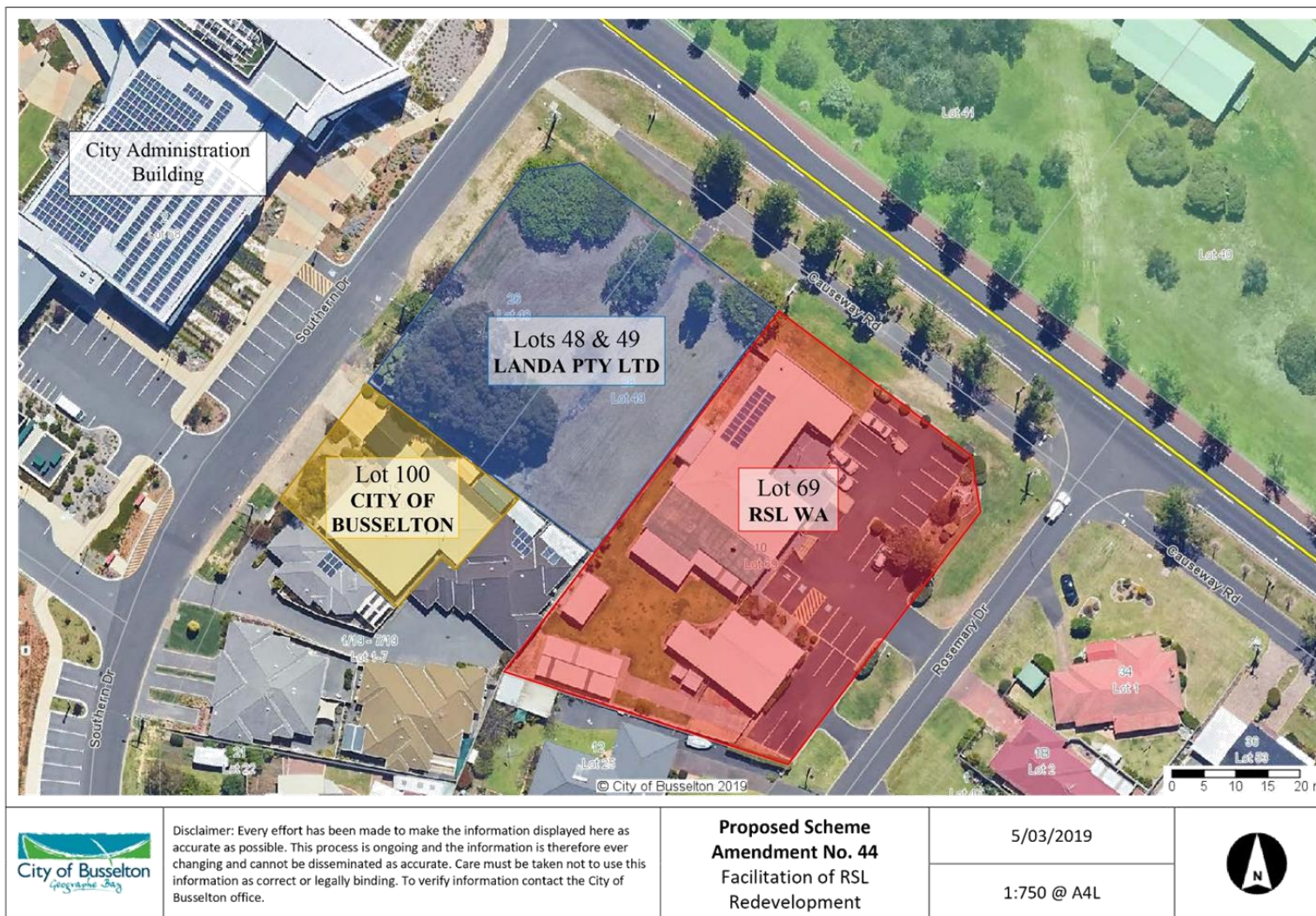
1. To not adopt the Amendment and Structure Plan for final approval (and provide a reason for such a decision). It should be noted that under the relevant legislation there is no right of appeal against a Council decision not to adopt an amendment for final approval.
2. To seek further information before making a decision.

**CONCLUSION**

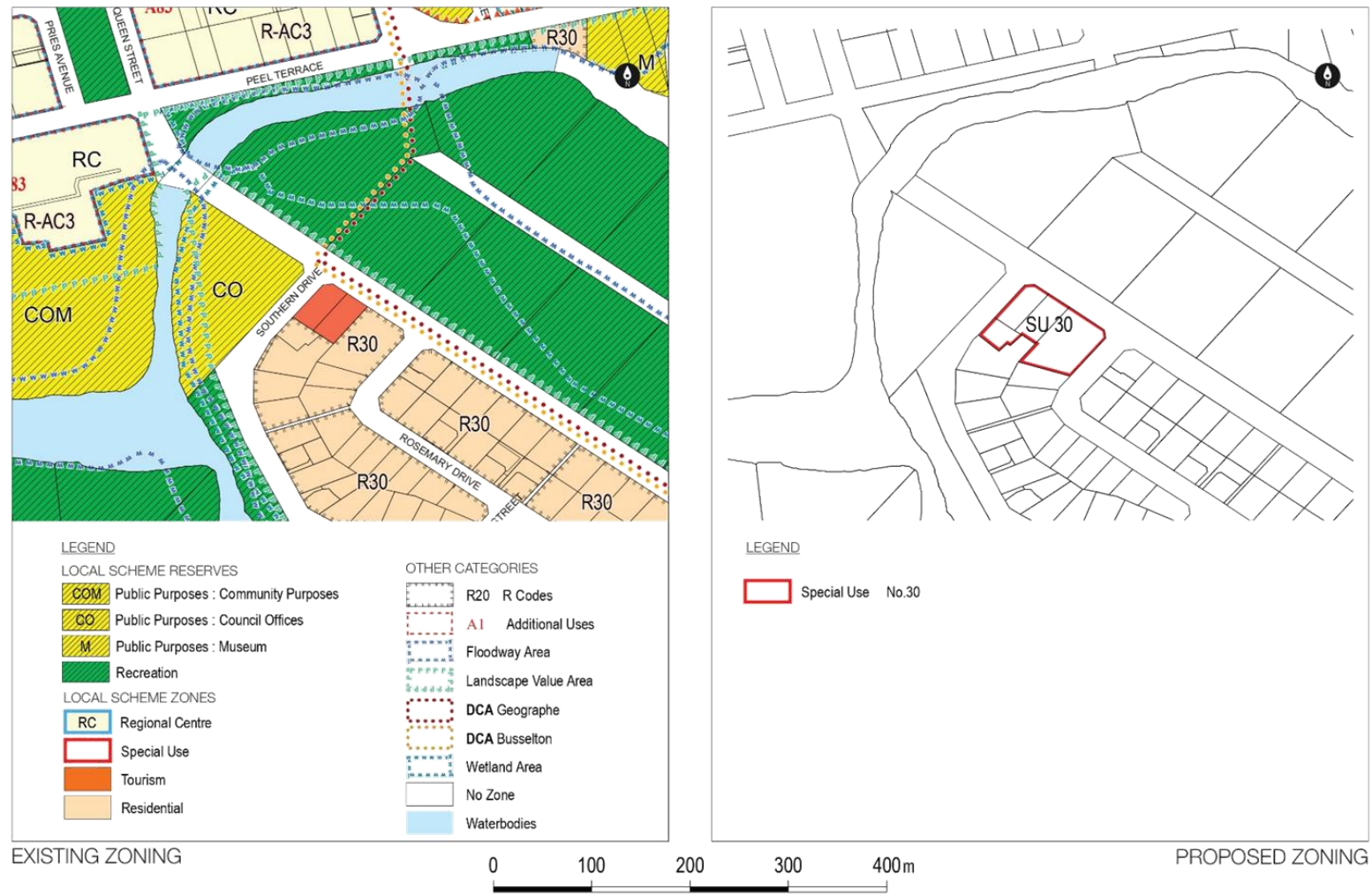
As a result of the assessment detailed above, Officers are of the view that the proposal is generally consistent with the aims and objectives of the State and local planning policy framework. It is recommended that the Council provides a recommendation to the Western Australian Planning Commission to support the proposed Amendment.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the Officer Recommendation will involve the referral of Amendment 44 to the Western Australian Planning Commission for final approval and this will occur within one month of the resolution.







PROPOSED SCHEME ADMENDMENT:  
CITY OF BUSSELTON LOCAL PLANNING SCHEME NO. 21

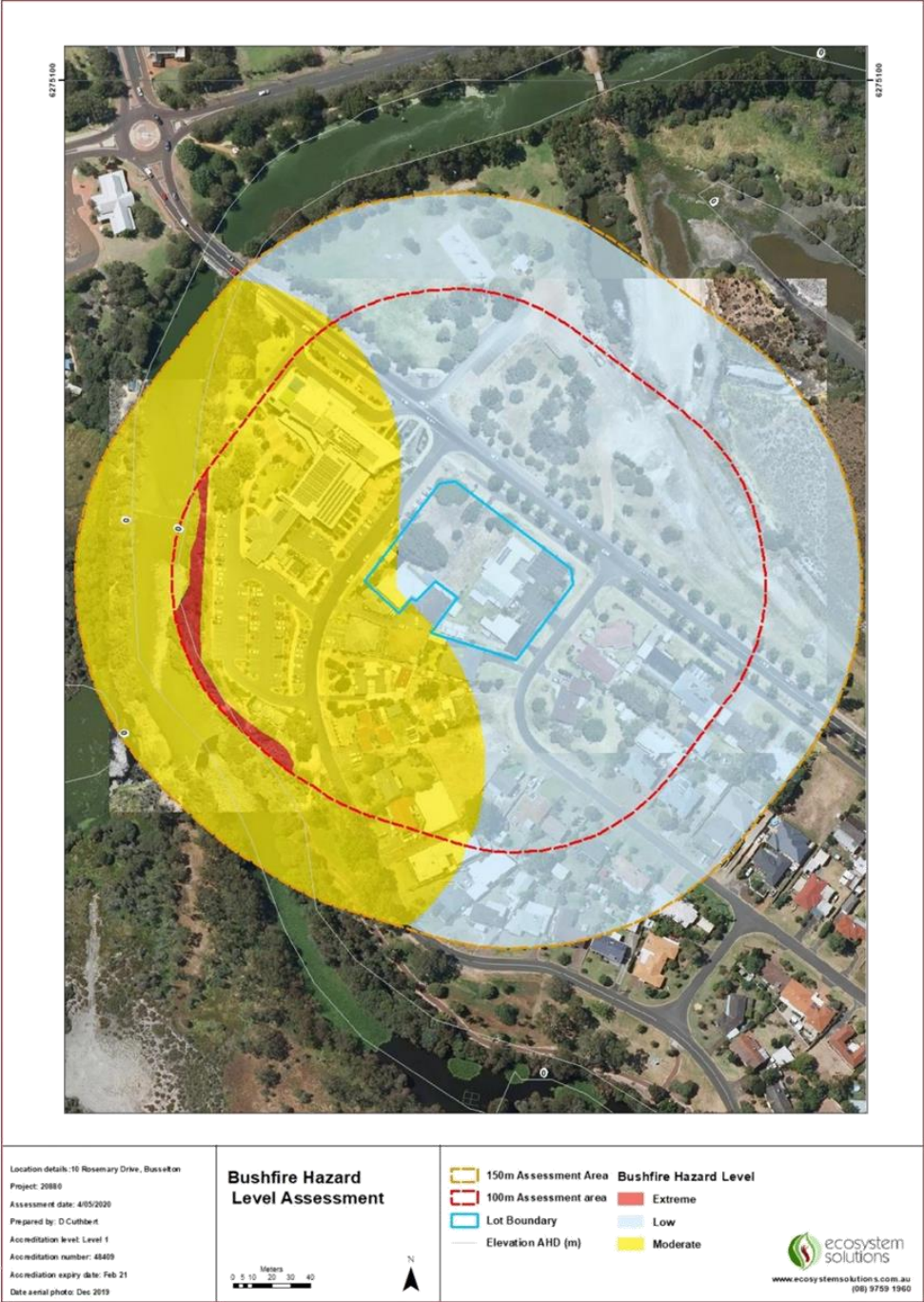


Figure 4 Bushfire Hazard Level Map

**SUMMARY OF SUBMISSIONS**

**PROPOSAL:** Amendment No. 44 ('RSLWA Hub')

Rezoning Lot 69 Rosemary Drive, Lots 48 and 49 Causeway Road and Lot 100 Southern Drive, Busselton to 'Special Use' Zone

No	Name & Address	Nature of Submission	Comment	Recommendation
1.	Department of Primary Industries and Regional Development (DPIRD) PO Box 1231 Bunbury WA 6230	No objection.	Noted.	That the submission be noted.
2.	Water Corporation PO Box 100 Leederville WA 6902	No objection.	Noted.	That the submission be noted.
3.	Department of Biodiversity, Conservation and Attractions (DBCA) Parks and Wildlife Service PO Box 1693 Bunbury WA 6230	No comments on the proposal.  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.
4.	Department of Planning, Lands and Heritage (Aboriginal Heritage) Locked Bag 2506 Perth WA 6001	A review of the Aboriginal Heritage Register of Places and Objects as well as the DPLH Aboriginal Heritage Database concludes that the proposal does not affect any reported Aboriginal Heritage sites or places. Based on the information held by DPLH, no approvals under the <i>Aboriginal Heritage Act 1972</i> are required.  DPLH encourages proponents to refer to the State's Due Diligence Guidelines which can be found on the DPLH website	Noted.	That the submission be noted.
5.	ATCO Gas Prinsep Road Jandakot WA	No objection.	Noted.	That the submission be noted.
6.	Department of Fire and Emergency Services Rural Fire Division Level 1, Albert Facey House 469 Wellington Street Perth WA 6000	A Bushfire Hazard Level (BHL) assessment is required, as Section 5.2.4.1 of the Guidelines for Planning in Bushfire Prone Areas state that all rezoning amendments in bushfire prone areas should be accompanied by a BHL assessment. Given the amendment seeks to rezone Residential and Tourist to Special Use No. 30, the amendment provides an opportune mechanism for the coordination of bushfire risk to ensure that it does not result in the introduction or intensification of	The applicant was advised of the requirement to provide a BHL assessment. This BHL assessment was then completed by a Level 1 Bushfire Planning Practitioner, under the guidance of a Level 3 Bushfire Planning Practitioner (the highest level) and found the majority of the site to be at a hazard level of 'low', with a small portion of the site with a 'moderate' bushfire hazard level.	That the submission be noted and the subsequent BHL Assessment and associated information provided in support of the proposal is accepted as meeting the requirements of State Planning Policy 3.7 and the associated Guidelines.



**SUMMARY OF SUBMISSIONS**

**PROPOSAL:** Amendment No. 44 ('RSLWA Hub')

Rezoning Lot 69 Rosemary Drive, Lots 48 and 49 Causeway Road and Lot 100 Southern Drive, Busselton to 'Special Use' Zone

No	Name & Address	Nature of Submission	Comment	Recommendation
		<p>development or land use in an area that has or will, on completion, have an extreme BHL and/or BAL-40 or BAL-FZ.</p> <p>A Bushfire Management Plan (BMP) is required to accompany strategic planning proposals, subdivision and development applications in areas above BAL-LOW or areas with a BHL above low (refer to clause 6.2b).</p> <p>Follow-up advice received from the Department of Fire and Emergency Services advised that the BHL assessment adequately identified issues arising from the bushfire risk assessment and considered how compliance with the bushfire protection criteria can be achieved.</p>	<p>The information contained within the BHL assessment satisfies the requirements of SPP 3.7 as it sufficiently demonstrates compliance with the bushfire protection criteria of the Guidelines.</p> <p>DFES has provided feedback on the BAL Assessment and have confirmed that the information contained therein satisfactorily meets the requirements of SPP 3.7 and the Guidelines for Planning in Bushfire Prone Areas.</p>	
<b>PUBLIC SUBMISSIONS</b>				
7.	R & P Davies 1 Rosemary Drive Busselton WA 6280	<p>No serious objection with the development but concerned with the proposed height of the buildings and the alteration to our outlook. A maximum building height of 4 storeys/15 metres will mean a brick wall 50 feet tall. Condition 3 limits the height of the development on land that abuts residential to 2 storeys, which appears to rule out condition 2 except on the corner of Causeway Road and Southern Drive.</p> <p>Concern for the population and number of units for the aged persons' home.</p> <p>Adequate parking should be mandatory.</p>	<p>Three areas of concern have been raised within this submission:</p> <ol style="list-style-type: none"> <li>1. Height – The Scheme currently allows for three-storey development throughout the majority of the urban area. The proposal seeks an increase to this height control to four-storeys, concentrating the bulk of development along Causeway Road, to offset a proposed reduction in height to two-storeys within 10m of the boundaries shared with residential lots. Any future development proposal would be required to address the provisions of SPP 7.0 (Design of the Built Environment) and SPP 7.3 (Residential Design Codes Volume 2 – Apartments), with the ability to address any potential impacts from the additional building height through a number of design solutions.</li> <li>2. Number of units proposed – The precise concern relating to the "population" and "number of units" is unclear. At this stage a</li> </ol>	That the submission be noted.

**SUMMARY OF SUBMISSIONS**

**PROPOSAL:** Amendment No. 44 ('RSLWA Hub')



Rezoning Lot 69 Rosemary Drive, Lots 48 and 49 Causeway Road and Lot 100 Southern Drive, Busseton to 'Special Use' Zone

No	Name & Address	Nature of Submission	Comment	Recommendation
			<p>development concept has not been produced and the future number of units has not been established.</p> <p>The RSL's intention is to provide, first and foremost, redevelopment of the RSL club premises, whilst incorporating other associated uses on the same site (consulting offices and potentially medical-based consultancies), while the provision of some accommodation facilities would also be provided for.</p> <p>3. Car parking – The development will need to demonstrate adequate provision for car parking, in line with the City's Local Planning Policy 8A "Car Parking". This will be dependent on the specific mix of uses proposed at the time of development application.</p>	

**14. ENGINEERING AND WORK SERVICES REPORT**

Nil

**15. COMMUNITY AND COMMERCIAL SERVICES REPORT****15.1 PARTICIPATION IN THE NATIONAL REDRESS SCHEME**

<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>	National Redress Scheme
<b>BUSINESS UNIT</b>	Community and Commercial Services
<b>REPORTING OFFICER</b>	Director, Community and Commercial Services - Naomi Searle Director Finance and Corporate Services - Tony Nottle
<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 National Redress Scheme - DLGSC final paper  

**OFFICER RECOMMENDATION**

That Council:

1. Notes the consultation undertaken and information provided by the Department of Local Government, Sport and Cultural Industries in regarding the National Redress Scheme and the participation of Western Australian (WA) local governments;
2. Notes that the City of Busselton will not be included in the State Government's amended participation declaration (and afforded the associated financial and administrative coverage) unless the Council makes a specific and formal decision to be included;
3. Endorses the participation of the City of Busselton in the National Redress Scheme as a State Government institution and included as part of the State Government's declaration;
4. Delegates the Chief Executive Officer to execute a service agreement with the State Government, if a Redress application is received; and
5. Notes that a confidential report will be provided if a Redress application is received by the City of Busselton.

**EXECUTIVE SUMMARY**

This report provides Council with background information and the State Government's decision in relation to the National Redress Scheme (the Scheme). Further, it outlines the key considerations and administrative arrangements for local government participation in the Scheme and requests Council to endorse the City's participation in the Scheme and delegate authority for the Chief Executive Officer to enter into a service agreement with the State Government should a Redress application be received.

## BACKGROUND

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) was established in 2013 to investigate failures of public and private institutions to protect children from sexual abuse. The Royal Commission released three reports throughout the inquiry:

- Working with Children Checks (August 2015);
- Redress and Civil Litigation (September 2015); and
- Criminal Justice (August 2017).

The Royal Commission's Final Report (15 December 2017) incorporated findings and recommendations of the three (3) previous reports and contained a total of 409 recommendations, of which 310 are applicable to the WA State Government and the broader community.

The implications of the Royal Commission's recommendations are twofold; the first is accountability for historical breaches in the duty of care that occurred before 1 July 2018 within any institution; the second is future-facing, ensuring better child-safe approaches are implemented holistically moving forward.

The scope of this report addresses only the historical element of institutional child sexual abuse through the National Redress Scheme.

All levels of Australian society (including the local government sector and the City of Busselton) will be required in the future to consider leading practice approaches to safeguarding children.

### National Redress Scheme

The Royal Commission's *Redress and Civil Litigation (September 2015)* report recommended the establishment of a single National Redress Scheme to recognise the harm suffered by survivors of institutional child sexual abuse.

The Scheme acknowledges that children were sexually abused, recognises the suffering endured, holds institutions accountable and helps those who have been abused access counselling, psychological services, an apology and a redress payment.

The Scheme commenced on 1 July 2018, will run for 10 years and offers eligible applicants three (3) elements of Redress:

- A direct personal response (apology) from the responsible institution, if requested;
- Funds to access counselling and psychological care; and
- A monetary payment of up to \$150,000.

All State and Territory Governments and many major non-government organisations and church groups have joined the Scheme. The WA Parliament has passed the legislation for the Government and WA based non-government organisations to participate in the Scheme. The State Government started participating in the Scheme from 1 January 2019.

Under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), local governments may be considered a State Government institution.

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government's participation declaration. This was to allow consultation to occur with the sector about the Scheme, and for fuller consideration of how the WA local government sector could best participate.

#### OFFICER COMMENT

Following extensive consultation in December 2019, the State Government:

- noted the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
- noted the options for WA local government participation in the Scheme;
- agreed to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and
- agreed to the Department of Local Government, Sport and Cultural Industries (DLGSC) leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.

As part of this the State Government agreed to cover the following for local governments participating in the Scheme as a State Government institution and part of the State's declaration:

- Redress monetary payment provided to the survivor;
- costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping in accordance with the *State Records Act 2000*); and
- trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below for further explanation).

State Government financial support for local government participation in the Scheme, as set out, will ensure that Redress is available to as many WA survivors of institutional child sexual abuse as possible.

Individual local governments participating in the Scheme as a State Government institution, with the State, will be responsible for:

- providing the State with the necessary (facilities and services) information to participate in the Scheme;
- resources and costs associated with gathering their own (internal) information and providing that information (Request for Information) to the State (if they receive a Redress application); and
- costs associated with the delivery of a DPR (apology), if requested (based on a standard service fee, plus travel and accommodation depending on the survivor's circumstance). The State's decision includes that all requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice, on every occasion.

On 4 March 2020, the WA Local Government Association (WALGA) State Council:

1. acknowledged the State Government's decision to include the participation of Local Governments in the National Redress Scheme as part of the State's declaration;
2. endorsed the negotiation of a Memorandum of Understanding and Template Service Agreement with the State Government; and
3. endorsed by Flying Minute the Memorandum of Understanding prior to execution, in order to uphold requirements to respond within legislative timeframes.

The State Government has now signed a Memorandum of Understanding with WALGA that sets out the key principles of the local government sector participating in the Scheme with the State.

State Government agencies (led by DLGSC), WALGA and Local Government Professionals WA are supporting local governments to prepare to participate in the Scheme from 1 July 2020 (or earlier, subject to completing the necessary arrangements).

Officers have assessed the situation and determined that it is possible that claims could be made from services operated or contracted by the City that have given staff, volunteers or contractors exposure to children, such as (but not limited to):

- swimming lessons
- crèche
- youth services contracted to Southern Rip at the time under a funding arrangement
- library services

While the decision to participate in the Scheme is risk and legal based, WALGA have already undertaken an assessment that indicates involvement in the Scheme serves to mitigate any potential risk exposure to local governments. On this basis it is recommended that Council endorses the City of Busselton participating in the Scheme.

As an independent entity and for absolute clarity, it is essential that the City formally indicates, via a decision of Council, the intention to be considered a State Government institution (for the purposes on the National Redress Scheme) and be included in the State Government's amended participation declaration. The City will not be included in the State's amended declaration, unless it formally decides to be included.

The financial and administrative coverage offered by the State Government will only be afforded to local governments that join the Scheme as a State Government institution, as part of the State's amended declaration.

Detailed below is a list of considerations as part of participating in the Scheme:

#### 1. Executing a Service Agreement

All Royal Commission information is confidential, and it is not known if the City will receive a Redress application. A Service Agreement will only be executed if the City receives a Redress application.

The City needs to give authority to an appropriate position / officer to execute a service agreement with the State Government should a Redress application be received. Timeframes for responding to a Request for Information are three (3) weeks for priority applications and seven (7) weeks for non-priority applications. A priority application timeframe (3 weeks) will be outside Council meeting cycles and therefore it is necessary to provide the authorisation to execute an agreement in advance.

## 2. Reporting to Council if / when an application is received

Council will receive a confidential report, notifying when a Redress application has been received. All information in the report will be de-identified but will make Council aware that an application has been received.

## 3. Application Processing / Staffing and Confidentiality

Administratively the following needs to be determined:

- Which position(s) will be responsible for receiving applications and responding to Requests for Information;
- Support mechanisms for staff members processing Requests for Information.

The appointed person(s) will have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest and confidentiality requirements

## 4. Record Keeping

The State Records Office advised (April 2019) all relevant agencies, including Local Governments, of a 'disposal freeze' initiated under the *State Records Act 2000* (the Act) to protect past and current records that may be relevant to actual and alleged incidents of child sexual abuse. The City's record keeping practices, as a result, have been modified to ensure the secure protection and retention of relevant records. These records (or part thereof) may be required to be provided to the State's Redress Coordination Unit in relation to a Redress application.

The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements in the Act.

## 5. Redress Decisions

The City should note that decisions regarding Redress applicant eligibility and the responsible institution(s), are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State Government and the City do not have any influence on the decision made and there is no right of appeal.

## **Statutory Environment**

In agreeing to join the Scheme, the City of Busselton is required to adhere to legislative requirements set out in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth).

Authorisation of an appropriately appointed person to execute a service agreement with the State, if a Redress application is received, will be in accordance with s.9.49A(4) of the *Local Government Act 1995* (WA).



**Relevant Plans and Policies**

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

**Financial Implications**

The State Government's decision will cover the following financial costs for local governments:

- Redress monetary payment provided to the survivor;
- costs in relation to counselling, legal and administration (including the coordination or requests for information and record keeping); and
- trained staff to coordinate and facilitate a Direct Personal Response (DPR – Apology) to the survivor if requested (on a fee for service basis with costs to be covered by the individual local government – see below).

The only financial cost the local government may incur will be the payment of the DPR's, which is on an 'as requested' basis by the survivor. This will be based on the standard service fee of \$3,000 plus travel and accommodation depending on the survivor's circumstances. All requested DPR's will be coordinated and facilitated by the Redress Coordination Unit – Department of Justice.

The State Government's decision also mitigates a significant financial risk to the local government in terms of waiving rights to future claims. Accepting an offer of redress has the effect of releasing the responsible participating organisation and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person who receives redress through the Scheme, agrees to not bring or continue any civil claims against the responsible participating organisation in relation to any abuse within the scope of the Scheme.

**Stakeholder Consultation**

No external stakeholder consultation was required or undertaken in relation to this matter. The State Government, through the Department of Local Government, Sport and Cultural Industries (DLGSC), consulted with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019). (See attachment A DLGSC position paper).

The consultation throughout 2019 has focused on the National Redress Scheme with the aim of:

- raising awareness about the Scheme;
- identifying whether WA local governments are considering participating in the Scheme;
- identifying how participation may be facilitated; and
- enabling advice to be provided to Government on the longer-term participation of WA local governments.

Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments via:

- webinars to local governments, predominately in regional and remote areas;
- presentations at 12 WALGA Zone and Local Government Professional WA meetings; and
- responses to email and telephone enquiries from individual local governments.

It was apparent from the consultations local governments were most commonly concerned about the:

- potential cost of Redress payments;
- availability of historical information;
- capacity of local governments to provide a Direct Personal Response (apology) if requested by Redress recipients;
- process and obligations relating to maintaining confidentiality if Redress applications are received, particularly in small local governments; and
- lack of insurance coverage of Redress payments by LGIS, meaning local governments would need to self-fund participation and Redress payments.

LGIS published and distributed an update (April 2019) regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.

The WALGA State Council meeting on 3 July 2019 recommended that:

1. *WA local government participation in the State's National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.*
2. *WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.*

DLGSC representatives presented at a WALGA hosted webinar on 18 February 2020 and presented at all WALGA Zone meetings in late February 2020. The matter was discussed at the South West WALGA Zone meeting and it was determined that it was up to individual local governments to formally consider participating in the Scheme.

### **Risk Assessment**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. The following risks have been identified:

Claims are made against the City of Busselton			
Risk Category	Risk Consequence	Likelihood of Consequence	Risk Level
Financial	Insignificant	Rare	Low
Reputation	Major	Rare	Medium

**Options**

As an alternative to the proposed recommendation, the Council could formally decide not to participate in the Scheme (either individually or as part of the State's declaration). Should this be the case, considerations for the Council include:

- divergence from the Commonwealth, State, WALGA and the broader local government sector's position on the Scheme (noting the Commonwealth's preparedness to name-and-shame non-participating organisations);
- potential reputational damage at a state, sector and community level;
- complete removal of the State Government's coverage of costs and administrative support, with the City having full responsibility and liability for any potential claim; and
- acknowledgement that the only remaining method of redress for a victim and survivor would be through civil litigation, with no upper limit, posing a significant financial risk to the City.

**CONCLUSION**

The State Government's decision to allow local governments to participate in the Scheme as a State Government institution and as part of the State's declaration will provide the City with financial coverage for Redress monetary payments, costs associated with counselling, legal and administration, and trained staff to coordinate and facilitate a Direct Personal Response (Apology) to the survivor if requested (on a fee-for-service basis). While the likelihood of a claim being made to the City is limited, the associated financial risks could be significant. Additionally, the City does not have the in-house personnel to coordinate a response should a claim be made.

Following significant consultation by WALGA and resulting feedback, it is recommended that Council endorses the City's participation in the Scheme as a State Government institution and included as part of the State Government's declaration.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Local governments are required to inform the State Government (DLGSC) of their Council's decision to participate in the Scheme by 31 May 2020.



Department of  
**Local Government, Sport  
and Cultural Industries**

# **National Redress Scheme for Institutional Child Sexual Abuse**

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**Department of Local Government, Sport  
and Cultural Industries**

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Information Paper

3 February 2020

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## 1. SUMMARY - WA LOCAL GOVERNMENT: ROYAL COMMISSION AND REDRESS

The Western Australian Government (the State), through the Department of Local Government, Sport and Cultural Industries (DLGSC), has been consulting with the WA local government sector and other key stakeholders on the Royal Commission into Institutional Responses to Child Sexual Abuse (in 2018) and the National Redress Scheme (in 2019).

The consultation throughout 2019 has focused on the National Redress Scheme (the Scheme) with the aim of:

- raising awareness about the Scheme;
- identifying whether WA local governments are considering participating in the Scheme;
- identifying how participation may be facilitated; and
- enabling advice to be provided to Government on the longer-term participation of WA local governments.

Following this initial consultation and feedback gathered, the State Government considered a range of options regarding WA local government participation in the Scheme and reached a final position in December 2019.

DLGSC, supported by the Departments of Justice and Premier and Cabinet, will again engage with WA local governments in early 2020, to inform of the:

- State's decision and the implications for the sector (see [Section 4](#));
- Support (financial and administrative) to be provided by the State; and
- Considerations and actions needed to prepare for participation in the Scheme from 1 July 2020 (see [Section 5](#)).

DLGSC's second phase of engagement with WA local governments is summarised in the table below:

Description and Action	Agency	Timeline
Distribution of Information Paper to WA Local Governments	DLGSC	3 February 2020
WALGA hosted webinar	DLGSC / DPC	18 February 2020
Metro and Country Zone meetings	WA LG's / DLGSC	19 to 24 February 2020
State Council meeting – Finalisation of Participation arrangements	WALGA	4 March 2020
WALGA hosted webinar – Participation arrangements	DLGSC/ DPC	Mid-March 2020

Further information about the Royal Commission is available at [Appendix A](#) and the National Redress Scheme at [Appendix B](#) of this Information Paper.

The information in this Paper may contain material that is confronting and distressing. If you require support, please [click on this link](#) to a list of available support services.

## 2. CURRENT SITUATION - WA LOCAL GOVERNMENT PARTICIPATION IN THE NATIONAL REDRESS SCHEME

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The WA Parliament passed the legislation required to allow for the Government and WA based non-government institutions to participate in the National Redress Scheme. The *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* (WA) took effect on 21 November 2018.

The WA Government commenced participating in the Scheme from 1 January 2019.

The State Government's Redress Coordination Unit within the Office of the Commissioner for Victims of Crime, Department of Justice:

- Acts as the State Government's single point of contact with the Scheme;
- Coordinates information from State Government agencies to the Scheme; and
- Coordinates the delivery of Direct Personal Responses (DPR) to redress recipients (at their request) by responsible State Government agencies to redress recipients.

### CURRENT TREATMENT OF WA LOCAL GOVERNMENTS IN THE SCHEME

Under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth), Local Governments may be considered a State Government institution.<sup>1</sup>

There are several considerations for the State Government and Local Governments (both individually and collectively) about joining the Scheme.

The State Government considers a range of factors relating to organisations or bodies participation in the Scheme, before their inclusion in the declaration as a State Government institution. These factors include the capability and capacity of the agencies or organisations to:

- Respond to requests for information from the State Government's Redress Coordination Unit within prescribed timeframes;
- Financially contribute to the redress payment made by the Scheme on behalf of the agency or body; and
- Comply with the obligations of participating in the Scheme and the Commonwealth legislation.

A decision was made at the time of joining the Scheme to exclude WA local governments from the State Government's declaration. This was to allow consultation to occur with the local government sector about the Scheme, and for fuller consideration to be given to the mechanisms by which the sector could best participate in the Scheme.

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<sup>1</sup> Section 111(1)(b).



### 3. CONSULTATION TO DATE WITH WA LOCAL GOVERNMENT SECTOR

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The Department of Local Government, Sport and Cultural Industries (DLGSC) has been leading an information and consultation process with the WA local government sector about the Scheme. The Departments of Justice and Premier and Cabinet (DPC) have been supporting DLGSC in the process, which aimed to:

- Raise awareness about the Scheme;
- Identify whether local governments are considering participating in the Scheme;
- Identify how participation may be facilitated; and
- Enable advice to be provided to Government on the longer-term participation of WA local governments.

DLGSC distributed an initial *Information and Discussion Paper* in early January 2019 to WA local governments, the WA Local Government Association (WALGA), Local Government Professionals WA (LG Pro) and the Local Government Insurance Scheme (LGIS). Between March and May 2019, DLGSC completed consultations that reached 115 out of 137 WA local governments and involved:

- an online webinar to 35 local governments, predominantly from regional and remote areas;
- presentations at 12 WALGA Zone and LG Pro meetings; and
- responses to email and telephone enquiries from individual local governments.

It was apparent from the consultations that the local government sector had, at the time, a very low level of awareness of the Scheme prior to the consultations occurring, and that little to no discussion had occurred within the sector or individual local governments about the Scheme. Local governments were most commonly concerned about the:

- Potential cost of redress payments;
- Availability of historical information;
- Capacity of local governments to provide a Direct Personal Response (apology) if requested by redress recipients;
- Process and obligations relating to maintaining confidentiality if redress applications are received, particularly in small local governments;
- Lack of insurance coverage of redress payments by LGIS, meaning local governments would need to self-fund participation and redress payments.

#### LGIS Update (April 2019) – National Redress Scheme

LGIS published and distributed an update regarding the considerations and (potential) liability position of the WA local government sector in relation to the National Redress Scheme.



WALGA State Council Resolution

The WALGA State Council meeting of 3 July 2019 recommended that:

1. *WA local government participation in the State's National Redress Scheme declaration with full financial coverage by the State Government, be endorsed in principle, noting that further engagement with the sector will occur in the second half of 2019.*
2. *WALGA continue to promote awareness of the National Redress Scheme and note that local governments may wish to join the Scheme in the future to demonstrate a commitment to the victims of institutional child sexual abuse.*

It is understood that this recommendation was made with knowledge that it is ultimately a State Government decision as to whether:

- Local governments can participate in the Scheme as part of the State's Government's declaration; and
- The State Government will fund local government redress liability.

## 4. WA GOVERNMENT DECISION - FUTURE PARTICIPATION OF WA LOCAL GOVERNMENTS IN THE NATIONAL REDRESS SCHEME

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Following the initial consultation process, a range of options for local government participation in the Scheme were identified by the State Government including:

1. WA Local governments be excluded from the State Government's declaration of participating institutions.

This means that: local governments may choose not to join the Scheme; or join the Scheme individually or as group(s), making the necessary arrangements with the Commonwealth and self-managing / self-funding all aspects of participation in the Scheme.

2. WA Local governments be included in the State Government's declaration of participating institutions.

There were three sub-options for ways local government participation as a State Government institution could be accommodated:

- a. Local governments cover all requirements and costs associated with their participation;
- b. The State Government covers payments to the survivor arising from local governments' participation, with costs other than payments to the survivor (including counselling, legal and administrative costs) being funded by local governments; or
- c. An arrangement is entered into whereby the State Government and local governments share the requirements and costs associated with redress – for example, on a capacity to pay and deliver basis.

The State Government considered the above options and resolved via the Community Safety and Family Support Cabinet Sub-Committee (December 2019) to:

- Note the consultations undertaken to date with the WA local government sector about the National Redress Scheme;
- Note the options for WA local government participation in the Scheme;
- Agree to local governments participating in the Scheme as State Government institutions, with the State Government covering payments to the survivor; and
- Agree to the DLGSC leading further negotiations with the WA local government sector regarding local government funding costs, other than payments to the survivor including counselling, legal and administrative costs.

## KEY ASPECTS OF THE STATE'S DECISION

For clarity, the State's decision that means the following financial responsibilities are to be divided between the State Government and the individual local government that has a Redress application submitted, and then subsequently accepted by the Scheme Operator as a Redress claim.

### State Government

The State Government will cover the following:

- Redress monetary payment provided to the survivor;
- Costs in relation to counselling, legal and administration (including the coordination of requests for information and record keeping); and
- Trained staff to coordinate and facilitate a Direct Personal Response or DPR (Apology) to the survivor if requested (on a fee for service basis with costs covered by the individual local government – see below).

### Individual Local Government

The individual local government will be responsible for:

- Costs associated with gathering their own (internal) information if requested in a Redress application;
- Providing the State with the necessary information to participate in the Scheme; and
- Costs associated the delivery of a DPR (based on a standard service fee, plus travel and accommodation depending on the survivor's circumstance). \*

\* note – The State's decision includes that all DPR's will be coordinated and facilitated by the Redress Coordination Unit (Department of Justice) on every occasion, if a DPR is requested by the survivor.

This decision was made on the basis that:

- State Government financial support for local government participation in the Scheme, as set out, will ensure that redress is available to as many WA survivors of institutional child sexual abuse as possible.
- The demonstration of leadership by the State Government, as it will be supporting the local government sector to participate in the Scheme and recognising the WALGA State Council resolution of 3 July 2019, is consistent with the local government sector's preferred approach.
- Contributes to a nationally consistent approach to the participation of local governments in the Scheme, and particularly aligns with the New South Wales, Victorian and Tasmanian Governments' arrangements. This provides opportunity for the State Government to draw on lessons learned through other jurisdictions' processes.
- Ensures a consistent and quality facilitation of a DPR (by the State) if requested by the survivor.
- State Government financial support for any local government redress claims does not imply State Government responsibility for any civil litigation against local governments.

Noting the State's decision, a range of matters need to be considered and arrangements put in place to facilitate local governments participating with the State Government's declaration and meeting the requirements of the Scheme. Those arrangements will:

- provide for a consistent response to the Scheme by WA Government institutions, and for WA survivors accessing the Scheme; and
- mitigate concerns raised by local governments during consultations about complying with the processes and requirements of the Scheme.

## 5. CONSIDERATIONS FOR WA LOCAL GOVERNMENTS

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Following the State's decision, a range of matters need to be considered by each local government and in some cases, actions taken in preparation for participating in the Scheme, these include:

### CONFIDENTIALITY

- Information about applicants and alleged abusers included in RFIs (Requests for Information) is sensitive and confidential and is considered protected information under *The National Redress Act*, with severe penalties for disclosing protected information.
- Individual local governments will need to consider and determine appropriate processes to be put in place and staff members designated to ensure information remains confidential.

### APPLICATION PROCESSING / STAFFING

- The timeframes for responding to an RFI are set in *The Act* and are 3 weeks for priority application and 7 weeks for non-priority applications. This RFI process will be supported by the State (DLGSC and the Redress Coordination Unit).
- Careful consideration should be given to determining which position will be responsible for receiving applications and responding to RFIs, due to the potentially confronting content of people's statement of abuse.
- Support mechanisms should be in place for these staff members, including access to EAP (Employee Assistance Program) or other appropriate support.
- The need for the appointed position and person(s) to have a level of seniority in order to understand the magnitude of the undertaking and to manage the potential conflicts of interest.
- The responsible position(s) or function(s) would benefit from being kept confidential in addition to the identity of the person appointed to it.

### RECORD KEEPING

- The Redress Coordination Unit (Department of Justice) is the state record holder for Redress and will keep copies of all documentation and RFI responses. Local Governments will be required to keep their own records regarding a Redress application in a confidential and secure manner, and in line with all requirements of the *State Records Act 2000*.
- Consider secure storage of information whilst the RFI is being responded to.

## REDRESS DECISIONS

- Decisions regarding redress applicant eligibility and responsible institution(s) are made by Independent Decision Makers, based on the information received by the applicant and any RFI responses. The State government does not have any influence on the decision made.
- There is no right of appeal.

## MEMORIALS

- Survivors (individuals and / or groups) from within individual communities may ask about the installation of memorials. The State Government's view is to only consider memorialising groups, however locally, this is a decision of an individual local government.

## 6. NEXT STEPS – PREPARATION FOR WA LOCAL GOVERNMENT PARTICIPATION IN THE SCHEME

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In addition to the second-phase information process outlined in section 1, the State will develop:

1. A Memorandum of Understanding (MOU) - to be executed between the State and WALGA following the (WALGA) State Council meeting on 4 March 2020.

The MOU will capture the overall principles of WA local governments participating in the Scheme as State Government institutions and being part of the State's declaration; and

2. Template Service Agreement – that will be executed on an 'as needed' basis between the State and an individual local government, if a redress application is received.

DLGSC and the Department of Justice will work with WALGA / LGPro and all local governments to prepare for participation in the Scheme including:

- Identifying appropriate positions, staff and processes to fulfil requests for information;
- Ensuring local governments have delegated authority to an officer to execute a service agreement with the State if needed;

The State will prepare a template Council report, where all WA local governments will be asked to delegate authority to an appropriate officer in advance, able to execute a service agreement if required. This is necessary as priority requests for information under the Scheme, are in a shorter turnaround time than Council meeting cycles and therefore, cannot be undertaken at the time.

- Ensuring local government have established appropriate processes and can fulfil Scheme obligations (particularly in terms of confidentiality, record keeping etc); and
- Gathering the necessary facility and service information from all individual local governments to commence participation in the Scheme. This information will be provided to the Commonwealth, loaded into the Scheme database and used to facilitate an individual local government's participation in the National Redress Scheme.



## ACKNOWLEDGEMENTS

The contents of this Information and Discussion Paper includes extracts from the following identified sources. Information has been extracted and summarised to focus on key aspects applicable to the Department of Local Government, Sport and Cultural Industries' key stakeholders and funded bodies:

- The Royal Commission into Institutional Responses to Child Sexual Abuse – Final Report.

To access a full version of the Royal Commission's Findings and the Final Report, please follow the link at <https://www.childabuseroyalcommission.gov.au/>

- Western Australian State Government response to the Royal Commission (27 June 2018).

To access a full version of the State Government's detailed response and full report, please follow the link at [https://www.dpc.wa.gov.au/ProjectsandSpecialEvents/Royal-Commission/Pages/The-WA-Government-Response-to-Recommendations-\(June-2018\).aspx](https://www.dpc.wa.gov.au/ProjectsandSpecialEvents/Royal-Commission/Pages/The-WA-Government-Response-to-Recommendations-(June-2018).aspx)

- More information on the National Redress Scheme can be found at [www.nationalredress.gov.au](http://www.nationalredress.gov.au).
- The full National Redress Scheme - Participant and Cost Estimate (July 2015) Report at <https://www.dlgsc.wa.gov.au/resources/publications/Pages/Child-Abuse-Royal-Commission.aspx>

## FOR MORE INFORMATION

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## APPENDIX A

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### ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE – FURTHER INFORMATION

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) was established in January 2013, to investigate systemic failures of public and private institutions<sup>2</sup> to protect children from child sexual abuse, report abuse, and respond to child sexual abuse. The Royal Commission's Terms of Reference required it to identify what institutions should do better to protect children in the future, as well as what should be done to:

- achieve best practice in reporting and responding to reports of child sexual abuse;
- eliminate impediments in responding to sexual abuse; and
- address the impact of past and future institutional child sexual abuse.

The Western Australian Government (State Government) strongly supported the work of the Royal Commission through the five years of inquiry, presenting detailed evidence and submissions and participating in public hearings, case studies and roundtables.

The Royal Commission released three reports throughout the inquiry: *Working with Children Checks* (August 2015); *Redress and Civil Litigation* (September 2015) and *Criminal Justice* (August 2017). The Final Report (Final Report) of the Royal Commission into Institutional Responses to Child Sexual Abuse incorporated the findings and recommendations of the previously released reports and was handed down on 15 December 2017. To access a full version of the Royal Commission's Findings and the Final Report, follow the link at <https://www.childabuseroyalcommission.gov.au/>

The Royal Commission made 409 recommendations to prevent and respond to institutional child sexual abuse through reform to policy, legislation, administration, and institutional structures. These recommendations are directed to Australian governments and institutions, and non-government institutions. One specific recommendation was directed at Local Government, while many others will directly or indirectly impact on the organisations that Local Government works with and supports within the community.

Of the 409 recommendations, 310 are applicable to the Western Australian State Government and the broader WA community.

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<sup>2</sup> \* For clarity in this Paper, the term 'Institution' means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), however described, and:

- Includes for example, an entity or group of entities (including an entity or group of entities that no longer exist) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families
- Does not include the family.

## THE WESTERN AUSTRALIAN GOVERNMENT RESPONSE TO THE ROYAL COMMISSION

The State Government examined the 310 applicable recommendations and provided a comprehensive and considered response, taking into account the systems and protections the State Government has already implemented. The State Government has accepted or accepted in principle over 90 per cent of the 310 applicable recommendations.

The State Government's response was released on 27 June 2018 fulfilling the Royal Commission recommendation 17.1, that all governments should issue a formal response within six months of the Final Report's release, indicating whether recommendations are accepted; accepted in principle; not accepted; or will require further consideration. The WA Government's response to the Royal Commission recommendations can be accessed at:

<http://www.dpc.wa.gov.au/childabuseroyalcommission>

The State Government has committed to working on the recommendations with the Commonwealth Government, other states and territories, local government, non-government institutions (including religious institutions) and community organisations.

The State Government's overall approach to implementation of reforms is focused on:

- Stronger Prevention (including Safer Institutions and Supportive Legislation)
  - Create an environment where children's safety and wellbeing are the centre of thought, values and actions;
  - Places emphasis on genuine engagement with and valuing of children;
  - Creates conditions that reduce the likelihood of harm to children and young people.
- Reliable Responses (including Effective Reporting)
  - Creates conditions that increase the likelihood of identifying any harm;
  - Responds to any concerns, disclosures, allegations or suspicions of harm.
- Supported Survivors (including Redress).

Many of the recommendations of the Royal Commission have already been addressed through past work of the State Government, and others working in the Western Australian community to create safe environments for children. This work is acknowledged and where appropriate, will be built upon when implementing reforms and initiatives that respond to the Royal Commission's recommendations.

## APPENDIX B

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### NATIONAL REDRESS SCHEME - FURTHER INFORMATION

The Royal Commission's *Redress and Civil Litigation (September 2015)* Report recommended the establishment of a single national redress scheme to recognise the harm suffered by survivors of institutional child sexual abuse.

The National Redress Scheme (the Scheme):

- Acknowledges that many children were sexually abused in Australian institutions;
- Recognises the suffering they endured because of this abuse;
- Holds institutions accountable for this abuse; and
- Helps people who have experienced institutional child sexual abuse gain access to counselling and psychological services, a direct personal response, and a redress-payment.

The National Redress Scheme involves:

- People who have experienced institutional child sexual abuse who can apply for redress;
- The National Redress Scheme team — Commonwealth Government staff who help promote the Scheme and process applications;
- Redress Support Services — free, confidential emotional support and legal and financial counselling for people thinking about or applying to the Scheme;
- Participating Institutions that have agreed to provide redress to people who experienced institutional child sexual abuse; and
- Independent Decision Makers who will consider applications and make recommendations and conduct reviews.

The National Redress Scheme formally commenced operation on 1 July 2018 and offers eligible applicants three elements of redress:

- A direct personal response from the responsible institution, if requested;
- Funds to access counselling and psychological care; and
- A monetary payment of up to \$150,000.

Importantly, the Scheme also provides survivors with community based supports, including application assistance; financial support services; and independent legal advice. The Scheme is administered by the Commonwealth Government on behalf of all participating governments, and government and non-government institutions, who contribute on a 'responsible entity pays' basis.

Institutions that agree to join the Scheme are required to adhere to the legislative requirements set out in the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* (Cth).

More information on the Scheme can be found at [www.nationalredress.gov.au](http://www.nationalredress.gov.au) or the [National Redress Guide](#).

## SURVIVORS IN THE COMMUNITY

Throughout the five years of its inquiry, the Royal Commission heard detailed evidence and submissions, and held many public and private hearings, case studies and roundtables. Most notably, the Royal Commission heard directly from survivors of historical abuse.

The Royal Commission reported that survivors came from diverse backgrounds and had many different experiences. Factors such as gender, age, education, culture, sexuality or disability had affected their vulnerability and the institutions response to abuse.

The Royal Commission, however, did not report on the specific circumstances of individuals with the details of survivors protected; the circumstances of where and within which institutions their abuse occurred is also protected and therefore unknown. Further, survivors within the WA community may have chosen to not disclose their abuse to the Royal Commission.

Accordingly, it is not known exactly how many survivors were abused within Western Australian institutions, including within Local Government contexts. Within this context of survivors in the community, who may or may not be known, consideration needs to be given to how all institutions, including local governments, can fulfil the Royal Commission's recommendation in relation to redress.

The Royal Commission's *Redress and Civil Litigation (September 2015)* Report recommended the establishment of a single national redress scheme to recognise the harm suffered by survivors of institutional child sexual abuse. This report also recommended that Governments around Australia remove the limitation periods that applied to civil claims based on child sexual abuse, and consequently prevented survivors – in most cases – pursuing compensation through the courts.

As a result of reforms made in response to these recommendations, WA survivors now have the following options to receive recognition of their abuse:

1. Pursuing civil court action(s) against the perpetrator and/or the responsible institution. The *Civil Liability Legislation Amendment (Child Sexual Abuse Actions) Act 2018* (WA) took effect on 1 July 2018, removing the limitation periods that previously prevented persons who had experienced historical child sexual abuse from commencing civil action.
2. Applying to the National Redress Scheme, which provides eligible applicants with a monetary payment, funds to access counselling and an apology. Note, to receive redress the responsible institution(s) will need to have joined the Scheme.



## TREATMENT OF LOCAL GOVERNMENTS BY OTHER JURISDICTIONS

At the time of the State Government joining the Scheme, only two jurisdictions had made a decision about the treatment of local governments. All jurisdictions have since agreed to include local governments within their respective declarations, with the exception of South Australia (SA). The SA Government is still considering their approach.

It is understood that all jurisdictions, with the exception of SA, are either covering the redress liability associated with local government participation in the Scheme or entering into a cost sharing arrangement. The table below provides a summary of other jurisdictions' positions.

Jurisdiction	Position
Commonwealth	<ul style="list-style-type: none"> <li>No responsibility for local governments.</li> <li>The Commonwealth Government has indicated preference for a jurisdiction to take a consistent approach to the participation of local governments in the Scheme.</li> </ul>
Australian Capital Territory (ACT)	<ul style="list-style-type: none"> <li>ACT has no municipalities, and the ACT Government is responsible for local government functions.</li> <li>ACT has therefore not been required to explore the issue of local government participation in the Scheme.</li> </ul>
New South Wales (NSW)	<ul style="list-style-type: none"> <li>In December 2018, the NSW Government decided to include local councils as NSW Government institutions and to cover their redress liability.</li> <li>The NSW Office for Local Government is leading communications with local councils about this decision.</li> <li>NSW's declaration of participating institutions will be amended once preparation for local council participation is complete.</li> </ul>
Northern Territory (NT)	<ul style="list-style-type: none"> <li>The NT Government has consulted all of the Territory's local governments, including individually visiting each local government.</li> <li>NT is in the process of amending Territory's declaration of participating institutions to include local governments.</li> </ul>
Queensland	<ul style="list-style-type: none"> <li>Queensland is finalising a memorandum of understanding (MOU) with the Local Government Association of Queensland to enable councils to participate in the Scheme as State institutions.</li> <li>The MOU includes financial arrangements that give regard to individual councils' financial capacity to pay for redress.</li> </ul>
South Australia (SA)	<ul style="list-style-type: none"> <li>Local governments are not currently included in the SA Government's declaration</li> <li>The SA Government is still considering its approach to local governments.</li> </ul>
Tasmania	<ul style="list-style-type: none"> <li>Local Governments have agreed to participate in the Scheme and will be included as a state institution in the Tasmanian Government's declaration.</li> <li>A MOU with local governments is being finalised, ahead of amending Tasmania's declaration.</li> </ul>
Victoria	<ul style="list-style-type: none"> <li>The Victorian Government's declaration includes local governments.</li> <li>The Victorian Government is covering local governments' redress liability.</li> </ul>
Western Australia (WA)	<ul style="list-style-type: none"> <li>The WA Government has excluded local governments from its declaration, pending consultation with the local government sector.</li> </ul>

## TIMEFRAME TO JOIN THE SCHEME

Institutions can join the Scheme within the first two years of its commencement. This means that institutions can join the Scheme up to and including 30 June 2020 (the second anniversary date of the Scheme). The Commonwealth Minister for Social Services may also provide an extension to this period to allow an institution to join the Scheme after this time. However, it is preferred that as many institutions as possible join the Scheme within the first two years to give certainty to survivors applying to the Scheme about whether the institution/s in which they experienced abuse will be participating.

If an institution has not joined the Scheme, they are not a participating institution. However, this will not prevent a person from applying for redress. In this circumstance, a person's application cannot be assessed until the relevant institution/s has joined the Scheme. The Scheme will contact the person to inform them of their options to either withdraw or hold their application. The Scheme will also contact the responsible institution/s to provide information to aid the institution/s to consider joining the Scheme.

## THE SCHEME'S STANDARD OF PROOF

The Royal Commission recommended that 'reasonable likelihood' should be the standard of proof for determining eligibility for redress. For the purposes of the Scheme, 'reasonable likelihood' means the chance of the person being eligible is real and is not fanciful or remote and is more than merely plausible.

When considering a redress application, the Scheme Operator must consider whether it is reasonably likely that a person experienced sexual abuse as a child, and that a participating institution is responsible for an alleged abuser/s having contact with them as a child. In considering whether there was reasonable likelihood, all the information available must be taken into account.

Where a participating institution does not hold a record (i.e. historical information), the Scheme Operator will not be precluded from determining a person's entitlement to redress. The information to be considered by the Scheme Operator includes:

- The information contained in the application form (or any supplementary information provided by a person by way of statutory declaration);
- Any documentation a person provided in support of their application;
- The information provided by the relevant participating institution/s in response to a Request for Information from the Operator, including any supporting documentation provided; and
- Any other information available including from Scheme holdings (for example where the Scheme has built up a picture of relevant information about the same institution during the relevant period, or the same abuser).

It should be noted that the 'reasonable likelihood' standard of proof applied by the Scheme is of a lower threshold (or a lower standard of proof) than the common law standard of proof applied in civil litigation – the 'balance of probabilities'. Please see 11.7 of the Royal Commission's *Redress and Civil Litigation Report (2015)* for additional information on the difference between the two.

## MAXIMUM PAYMENT AND SHARED RESPONSIBILITY

The amount of redress payment a person can receive depends on a person's individual circumstances, specifically the type of abuse the person experienced.

A person may only make one application for redress. The maximum redress payment payable under the scheme to an applicant is \$150,000 in total.

The payment of redress is made by the institution(s) found responsible for exposing the individual to the circumstances that led to the abuse.

There may be instances where one or more institutions are found to be jointly responsible for the redress payment to a person, and instances where a person may have experienced abuse in one or more different institutions. In such situations, the redress payable by an institution will be apportioned in accordance with the Scheme's assessment framework - see <https://www.legislation.gov.au/Details/F2018L00969> and method statement - see <http://guides.dss.gov.au/national-redress-guide/4/1/1>

Prior payments made by the responsible institution for the abuse to the applicant (e.g. ex-gratia payments) will be taken into account and deducted from the institutions' redress responsibility.

## EFFECT OF AN APPLICANT ACCEPTING AN OFFER OF REDRESS

Accepting an offer of redress has the effect of releasing the responsible participating institution/s and their officials (other than the abuser/s) from civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme. This means that the person agrees to not bring or continue any civil claims against the responsible participating institution/s in relation to any abuse within the scope of the Scheme.

If a responsible participating institution/s is a member of a participating group, the person will be releasing the other associated institutions and officials within that group from any civil liability for instances of sexual abuse and related non-sexual abuse of the person that is within the scope of the Scheme.

Accepting an offer of redress also has the effect of preventing a responsible participating institution from being liable to contribute to damages that are payable to the person in civil proceedings (where the contribution is to another institution or person).

In accepting the offer of redress, a person will also be consenting to allow the participating institution/s or official/s to disclose the person's acceptance of redress offer in the event that a civil claim is made. The Scheme must provide a copy of the person's acceptance of offer to each responsible institution for their records once received.

Note – the acceptance of an offer of redress does not exclude the pursuance or continuance of criminal proceedings against the abuser(s).



**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 Letter from CEO to Hon. Bill Johnston MLA  Attachment B Letter from Hon. Bill Johnston MLA to CEO 

### OFFICER RECOMMENDATION

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

#### **17.1.1 Current Active Tenders**

#### **17.1.2 Correspondence with Hon. Bill Johnston MLA**

### **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 Current Active Tenders**

Note: Information in *italics* has previously been provided to Council, and is provided for completeness.

### **RFT14/19 DESIGN AND TECHNICAL SERVICES – BUSSELTON ENTERTAINMENT ARTS AND CULTURAL HUB**

- *Requirement – to provide design and technical services for the Busselton Entertainment Arts and Creative Hub.*
- *Following the Expression of Interest (EOI01/19) process for making a preliminary selection among prospective tenderers, the City of Busselton invited tenders from Box Architects, Kerry Hill Architects, Peter Hunt Architects, Willow and With Architecture.*
- *At the Council meeting on 29 January 2020 Council accepted the tender from Kerry Hill Architects Pty Ltd as the most advantageous tenderer (Successful Tenderer), subject to minor variations to be negotiated in accordance with Regulation 20 of the Local Government (Functions and General) Regulations 1996 (C2001/016).*
- A contract was awarded by the CEO under delegation to Kerry Hill Architects in April 2020.

**RFT21/19 SUPPLY OF CLEANING CHEMICALS AND PAPER CONSUMABLES**

- *Requirement – the supply of cleaning chemicals and paper consumables to City of Busselton owned and managed facilities.*
- *A Request for Tender was advertised on 26 October 2019 with a closing date of 21 November 2019.*
- *Five submissions were received.*
- *The contract value does not exceed the CEO's delegated authority under Delegation DA 1-07.*
- *A contract was awarded by the CEO under delegated authority to Torak Pty Ltd ATF The Poleykett Family Trust T/A Prestige Products Busselton in April 2020.*

**PQS02/20 SUPPLY AND MAINTENANCE OF PRINTERS AND SCANNERS – REQUEST FOR APPLICATIONS TO JOIN A PANEL OF PRE-QUALIFIED SUPPLIERS**

- *Requirement – supply and maintenance of printers and scanners.*
- *The PQS was advertised on 1 February 2020 with a closing date of 20 February 2020.*
- *Four applications were received.*
- *In accordance with delegation DA 1-10 the CEO has authority to establish the panel and to accept applications to join the panel.*
- *A panel was established by the CEO under delegation in April 2020. The pre-qualified suppliers were appointed to the panel are Futuretech Business Systems Pty Ltd ATF The Whitcher Family Trust T/A SOS Office Equipment, Dodima Pty Ltd, CSG Pty Ltd, Laserfax Pty Ltd ATF B&T Unit Trust T/A Scope Business Imaging.*

**PQS03/20 SUPPLY OF CONSTRUCTION SERVICES - REQUEST FOR APPLICATIONS TO JOIN A PANEL OF PRE-QUALIFIED SUPPLIERS**

- *Requirement – construction works.*
- *The City's intent is to establish 3 categories or sub-panels for supply of building/construction works with a value of up to \$1,250,000. These categories or sub-panels are:*
  - Sub-Panel A*  
*Contract value \$1 - \$250,000;*
  - Sub-Panel B*  
*Contract Value \$251,000 - \$750,000;*
  - Sub-Panel C*  
*Contract value \$750,001 - \$1,250,000;*  
*(Sub-Panels).*
- *Only Pre-Qualified Suppliers appointed to a Sub-Panel will be invited to quote for building/construction work within that Sub-Panel range. In other words, if 5 Pre-Qualified Suppliers are accepted onto Sub-Panel A, the City intends to invite quotations for a specific building/construction project within that category (i.e. contract value \$1 - \$250,000) from only those 5 Pre-Qualified Suppliers.*
- *Applicants may apply to be accepted onto any one or more of the Sub-panels.*
- *The PQS was advertised on 26 February 2020 with a closing date of 12 March 2020.*
- *Ten submissions were received.*
- *In accordance with delegation DA 1-10 the CEO has authority to establish the panel and to accept applications to join the panel.*
- *The panel was established by the CEO under delegation in April 2020.*  
*The following pre-qualified suppliers were appointed to each respective Sub-Panel:*

Sub-Panel A \$1 - \$250,000	Sub-Panel B \$250,001 - \$750,000	Sub-Panel C \$750,001 - \$1,250,000
I.C. Developments Pty Ltd T/A Innovest Construction	I.C. Developments Pty Ltd T/A Innovest Construction	I.C. Developments Pty Ltd T/A Innovest Construction
Devlyn Australia Pty Ltd	Pindan Projects Pty Ltd	Devlyn Australia Pty Ltd
Tarvia Pty Ltd	Devlyn Australia Pty Ltd	Pindan Projects Pty Ltd
Devco Holdings Pty Ltd	Devco Holdings Pty Ltd	B & F Ryan (WA) Pty Ltd T/A Ben Ryan Building
Rantam Pty Ltd	B & F Ryan (WA) Pty Ltd T/A Ben Ryan Building	Geared Construction Pty Ltd

#### **RFT02/20 BUSSELTON LIBRARY UPGRADE**

- *Requirement – upgrade of the Busselton Library (the tender sought prices for 2 stages of the project).*
- *A Request for Tender was advertised on 29 February 2020 with a closing date of 24 March 2020.*
- *Three submissions were received, all of which exceeded the City's budget for this project.*
- *The power to decline to accept any tender has been delegated to the CEO pursuant to Delegation DA 1-07.*
- *To ensure the most advantageous outcome for the City pre-qualified suppliers on the City's newly established Construction Services Panel were invited to submit quotations for this project (RFQ22/20).*
- *Only three of the five pre-qualified suppliers on Sub Panel B submitted quotations.*
- *It is anticipated that the evaluation process will be completed and a report submitted with Council no later than June 2020.*

#### **RFT04/20 LIVING STREAMS DESIGNS FOR THE LOWER VASSE RIVER**

- *Requirement – the preparation of detailed environmental designs for the restoration and re-design of an 800m section of the Lower Vasse River.*
- *A Request for Tender was advertised on 28 March 2020 with a closing date of 16 April 2020.*
- *The value of the contract is not expected to exceed the CEO's current delegated authority under Delegation DA 1-07.*
- *Eight submissions were received and are currently under evaluation.*
- *The value of the contract is not expected to exceed the CEO's delegated authority under Delegation DA 1-07 and it is expected that a contract will be entered into during May 2020.*

**RFT05/20 UPGRADE OF MECHANICAL SERVICES TO THE GEOGRAPHE LEISURE CENTRE**

- Requirement – to supply and install a modification to the existing mechanical system at the Geographe Leisure Centre. The Specification provided by external consultants Norman Disney & Young details the following specifics works:
  1. Install new Air to Air Heat Exchanger with supplementary heating coil (AHU-02) in the location currently occupied by the existing air conditioning condenser units;
  2. Modify ductwork within Pool Hall to connect existing supply air ductwork to new air-to-air heat exchanger;
  3. Fit a mixed air and filter plenum to the outside air intake to AHU-02 with motorised dampers;
  4. Modify pipework to heat pump to connect to new air to air heat exchanger; and
- Modification of existing MSSB adjacent the existing Air Handling units to add power supply power to supply and exhaust fans of Pool Hall Heat Exchange Unit and to remove power supply to the existing air conditioning condensers serving the sports hall.
- A Request for Tender was advertised on 9 May 2020 with a closing date of 26 May 2020.
- The value of the contract is not expected to exceed the CEO's current delegated authority under Delegation DA 1-07 and it is expected that a contract will be entered into during June 2020.

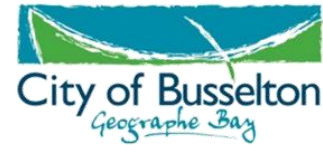
**RFT06/20 BUSSELTON FORESHORE EXERCISE EQUIPMENT – DESIGN, FABRICATION AND INSTALLATION**

- Requirement – the design, fabrication and installation of six (6) exercise equipment stations at the Busselton Foreshore.
- A Request for Tender was advertised on 9 May 2020 with a closing date of 26 May 2020.
- The value of the contract is not expected to exceed the CEO's current delegated authority under Delegation DA 1-07 and it is expected that a contract will be entered into during June 2020.

**17.1.2 Correspondence with Hon. Bill Johnston MLA**

Correspondence to and from the Hon. Bill Johnston MLA, Minister for Mines and Petroleum; Energy Industrial Relations, is attached at Attachments A and B respectively.

Our Ref:  
Your Ref: -  
Contact: Mike Archer  
(08) 9781 0445



25 February, 2020

Hon. Bill Johnston MLA  
Minister for Mines and Petroleum; Energy; Industrial Relations  
Level 9 Dumas House  
2 Havelock Street  
WEST PERTH WA 6005

Only via email: [Minister.Johnston@dpc.wa.gov.au](mailto:Minister.Johnston@dpc.wa.gov.au)

Dear Minister,

**NEW FUNDING OPTIONS – UNDERGROUNDING POWER**

I refer to your recent announcement in relation to new funding options for undergrounding power in the metropolitan area.

The City of Busselton seeks your support to extend the program to ageing infrastructure in the regions. Within the City the areas of East and West Busselton, Dunsborough and Yallingup would benefit greatly from such an investment, which unfortunately is beyond the financial capabilities of the City to fund alone.

To improve reliability and aesthetic benefits that underground power brings along with the increased capacity for improved technology is essential to the ongoing prosperity of the area.

We would appreciate your favourable consideration towards extending such a program to our District into the future.

I look forward to your reply.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Mike Archer".

Mike Archer  
CHIEF EXECUTIVE OFFICER



**Hon Bill Johnston MLA**  
**Minister for Mines and Petroleum; Energy; Industrial Relations**

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Our ref: 71-13837

Mr Mike Archer  
Chief Executive Officer  
City of Busselton

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

Dear Mr Archer

Thank you for your correspondence dated 25 February 2020 regarding underground power.

Western Power has three types of programs for undergrounding power. The State Underground Power Program (SUPP), the Retrospective Undergrounding Projects (RUP) and the Network Renewal Undergrounding Pilot Program (NRUPP).

The State Underground Power Program (SUPP) is undertaken in areas selected by State Government based on application from local government. SUPP costs are shared between the State Government, Western Power, Local Government Authorities (LGAs) and property owners.

Retrospective Undergrounding Projects (RUP) are undertaken areas driven by LGAs or land developers and are often unsuccessful SUPP candidate projects that have missed out as part of the selection process. These projects are funded directly by LGAs or land developers.

Network Renewal Undergrounding Pilot Program (NRUPP) is the new funding model. The NRUPP is driven by Western Power and targets areas with a high density of aging overhead assets, and is being funded by Western Power and LGAs.

The basis of the NRUPP is that in some locations replacement of the overhead network with an underground system is more cost effective for Western Power than continuing with like-for-like replacement of overhead assets.

Western Power can only pursue this funding option where it is more economically efficient than the traditional network investment, being like-for-like asset renewal.

In the meantime, any customer can engage directly with Western Power under the Customer Connections process for undergrounding. Western Power will seek to contribute avoided cost wherever applicable.

If you would like to investigate what options are currently available to the City of Busselton, Western Power's Underground Power Projects Manager, Graham Downe can be contacted on 9326 4037 to discuss further.

Thank you for bringing this matter to my attention and I trust that this information is of assistance.

Yours sincerely



**Hon Bill Johnston MLA**  
**Minister for Mines and Petroleum; Energy; Industrial Relations**

11 MAY 2020

**18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**19. URGENT BUSINESS**

**20. CONFIDENTIAL MATTERS**

Nil

**21. CLOSURE**