City of Busselton
Geographe Bay

Council Agenda

11 March 2020

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city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 11 MARCH 2020

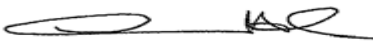
TO: **THE MAYOR AND COUNCILLORS**

NOTICE is given that a meeting of the Council will be held in the Council Chambers, Administration Building, Southern Drive, Busselton on Wednesday, 11 March 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.



MIKE ARCHER

CHIEF EXECUTIVE OFFICER

28 February 2020

CITY OF BUSSELTON

AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 11 MARCH 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 26 February 2020

RECOMMENDATION

That the Minutes of the Council Meeting held 26 February 2020 be confirmed as a true and correct record.

Committee Meetings

8.2 Minutes of the Policy and Legislation Committee Meeting held 26 February 2020

RECOMMENDATION

That the Minutes of the Policy and Legislation Committee Meeting held 26 February 2020 be noted.

8.3 Minutes of the Audit Committee Meeting held 26 February 2020

RECOMMENDATION

That the Minutes of the Audit Committee Meeting held 26 February 2020 be noted.

9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

Petitions

Presentations

Deputations

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

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

12. REPORTS OF COMMITTEE

12.1 Policy and Legislation Committee - 26/02/2020 - RESCISSION OF COUNCIL POLICY: 133 DRAINAGE IN RECREATION RESERVES

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Council Policies
BUSINESS UNIT	Engineering and Facilities Services
REPORTING OFFICER	Manager, Engineering and Technical Services - Daniell Abrahamse
AUTHORISING OFFICER	Director, Engineering and Works Services - Oliver Darby
NATURE OF DECISION	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
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Council Policy 133 Drainage in Recreation Reserves⇩

This item was considered by the Policy and Legislation Committee at its meeting on 26 February 2020, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

That the Council rescinds Council Policy 133 'Drainage in Recreation Reserves' (Attachment A) effective immediately.

EXECUTIVE SUMMARY

This report recommends the rescission of Council policy 133 'Drainage in Recreation Reserves' (the Policy) (Attachment A), with the Policy having been reviewed as part of the City's overall review of its Council policies, and having been found to be redundant.

BACKGROUND

The Policy applies to drainage in recreation reserves (as opposed to planned public open space) and was initially developed circa 1996, during a period of time when stormwater drainage guidelines were being developed by agencies such as the (then) Department of Planning and Infrastructure and Department of Water.

The Policy was last reviewed in 2016 and outlines the circumstances under which the City may agree to the use of a recreation reserve for drainage purposes.

The City has developed and implemented a policy framework, which sets out the intent of Council policies, as opposed to operational documents such as Operational Practices. The Policy has been reviewed by officers in this context, and its content is considered to be a duplication of legislation and guidelines provided by the Western Australian Planning Commission (WAPC).

OFFICER COMMENT

The City generally manages drainage matters and the use of recreation reserves through its planning and development processes. In doing so the City is guided by the State Planning Policy 2.9 'Water Resources' and the WAPC's 'Better Urban Water Management' (2008) guidelines, which seek to ensure drainage management is addressed through land use planning and that land is set aside for future drainage purposes. These guidelines are extensively used by Western Australian local governments for the approval and management of drainage in recreation reserves.

Additionally, provisions in the *Local Government Act 1995* (the Act) require the City to obtain approval from the Minister of Lands prior to allowing a reserve to be used for any purpose other than that for which the land is purposed, including drainage. In applying these provisions to requests for drainage in recreation reserves, the City consults with the Department of Planning, Lands and Heritage (the Department).

Statutory Environment

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

When a requirement to drain onto local government property arises, the City refers to and is guided by Part 3 Subdivision 6, 3.54 of the Act – *Reserves under Control of Local Government* - and consultation with the Minister for Lands at the Department.

In undertaking its role to comment on and assess the compliance with conditions applied to applications for structure plan or subdivision approval, the City's role is advisory only. Decision-making power and responsibility rests with the WAPC.

Relevant Plans and Policies

The WAPC policy framework covers the field with respect to this issue, in particular the 'Liveable Neighbourhood's Operational Guidelines' and 'Development Control (DC) Policy DC2.3: Public Open Spaces in Residential Areas'. Within those documents, there is extensive guidance related to the design and placement of drainage infrastructure in public open space and recreation reserves.

State Planning Policy 2.9 'Water Resources' provides additional guidance for the consideration of water resources in land use planning.

'Private Works on City Land' is applicable in that the City uses it to set out guidance relating to private works on City land, where existing laws or other policies do not already provide sufficient guidance, such that City land is appropriately managed.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation, the Council could choose to:

1. Retain the Policy in its current form; or
2. Retain and make amendments to the Policy.

CONCLUSION

The Policy has been reviewed and it is recommended that it be rescinded, as drainage management planning is addressed through the structure planning stages of development and through provisions within the Act as well as through use of the Western Australia Planning Commission's 'Better Urban Water Management' (2008) guidelines.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be rescinded immediately upon Council's endorsement.

Last updated 13/04/2016

133	Drainage in Recreation Reserves	V3 Current

1. PURPOSE

This policy is to provide the circumstances under which the City of Busselton may agree to the use of a recreation reserve for drainage purposes.

2. SCOPE

The policy applies to the proposed use of any recreation reserve in the City of Busselton for the purpose of drainage.

3. POLICY CONTENT

The City of Busselton may approve the use of portion of a recreation reserve for the use of a drainage compensation basin, subject to:

a) it being reasonably demonstrated that there is no other acceptable means of providing an outfall drainage area;
b) the proposal to use the recreation area for drainage being submitted with the subdivision application;
c) To reduce health risks from mosquitoes, retention and detention treatments should be designed to ensure that between the months of November and May, detained immobile stormwater is fully infiltrated in a time period not exceeding 96 hours; and
c) the subdivider undertaking in writing to "Develop" the reserve as required and specified by the City of Busselton. The term "Develop" may include earthworks, establishment of lawns, landscaping, provision of reticulation, provision of playground equipment, public seating, dual use paths, fencing and carparking etc.

4. APPLICATION OF THE POLICY

The policy shall be applied by Engineering and Works Services.

Policy Background

Policy Reference No. - 133
Owner Unit – Engineering and Facility Services
Originator – Historical
Policy approved by – Council
Date Approved – 13 April, 2016
Review Frequency – As required
Related Documents – N/A

History

Council Resolution	Date	Information
C1604/078	13 April, 2016	Inclusion of requirement to reduce health risks from mosquitoes. Version 3
C1206/155	27 June, 2012	Update to new policy format Version 2
		Version 1

12.2 Policy and Legislation Committee - 26/02/2020 - REVIEW OF COUCIL POLICY:019 SPONSORSHIP

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Council Policy
BUSINESS UNIT	Community Services
REPORTING OFFICER	Community Development Officer - Naomi Davey
AUTHORISING OFFICER	Director, Community and Commercial Services - Naomi Searle
NATURE OF DECISION	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
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Current Council Policy: 019 Sponsorship Attachment B Proposed Council Policy - Sponsorship Arrangements

This item was considered by the Policy and Legislation Committee at its meeting on 26 February 2020, the recommendations from which have been included in this report.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

That the Council adopts the revised Council policy 'Sponsorship Arrangements' as per Attachment B, to replace the current policy (Attachment A).

EXECUTIVE SUMMARY

This report presents a revised Sponsorship Arrangements policy (Attachment B) (the Policy) for Council consideration, with the current policy having been amended as part of the City's overall review of its Council policies, and its focus revised to address sponsorship arrangements provided by the City to community organisations and individuals that are compatible with, and complementary to the City's vision and objectives.

BACKGROUND

Council policy 019 Sponsorship was initially adopted in October 2015 to ensure accessible, open and transparent processes were applied to sponsorship proposals received by the City and provides definitions, guidelines and procedures through which the City can provide sponsorship. The policy applies to sponsorship arrangements when receiving financial benefit and/or in-kind support from a commercial or external organisation, in exchange for public recognition or association, but does not include the provisions of the City's financial assistance programs to community groups and organisations.

The City has developed and implemented a policy framework, which sets out the intent of Council policies, as opposed to operational documents such as Operational Practices and Guidelines. The policy has been reviewed by officers in this context and has been revised to ensure its ongoing relevance to the City's strategic objectives.

OFFICER COMMENT

Working with key stakeholders in the community to provide a range of community services and programs that support people of all ages and backgrounds is a key strategic objective of the City of Busselton.

The Policy now deals only with the City's provision of sponsorship arrangements under the programs of Event Sponsorship, Community Bids and Donations, Contributions and Subsidies. Sponsorship received by the City from a commercial or external organisations in return for public recognition rarely occurs and when it does, this is captured through various grant programs and generally managed through specific projects with individual acquittal programs.

Detail considered more operational in nature and already provided for in the existing guidelines and operational practices have also been removed from the Policy, ensuring it is strategic in nature and aligned to the City's policy framework. The Guidelines outlining the requirements for applying for Sponsorship Arrangements are available to both staff and members of the public.

Statutory Environment

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

Relevant Plans and Policies

The City has a policy framework which was developed and endorsed by Council in response to the recommendations of the 2017 Governance Service. The framework sets out the intent of Council policies, as opposed to operational documents such as Operational Practices.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council could:

1. require further amendments to the Policy; or
2. choose to rescind the Policy, noting all relevant Operational Practices and Guidelines would remain in place.

CONCLUSION

In accordance with the City's Policy Framework, Council Policy 019 Sponsorship has been reviewed and revised to focus on sponsorship arrangements between the City and community organisations and individuals via various financial assistance programs.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

Last updated 14/10/2015 (implementation)

019	Sponsorship	V1 Current

DEFINITIONS

Sponsorship is the contribution of financial and/or "in Kind" support that the City of Busselton (the City) receives for the purpose of providing; community infrastructure, events, services, programs or activities that may contribute to the economic, social, sporting, environmental or cultural development of the City.

PURPOSE

The aim of the Policy is to provide clear definitions, guidelines and procedures for sponsorships to ensure an accessible, open and transparent process in assessing sponsorship proposals for the City of Busselton.

SCOPE

This policy applies where sponsorship arrangements are to be negotiated. The Sponsorship policy outlines the receiving of financial and/or in-kind support from a commercial or external organisation, in exchange for public recognition or association.

POLICY

Principles
Sponsorship can provide significant benefits to the City and the community and consideration will be applied where the following principles are adhered:

1. The Council invites and seeks sponsorship for selected City projects, events, services or activities
2. The sponsorship is complementary to Council's vision, values, policies and strategies
3. Sponsorship arrangements above the value of $10,000 (including cash and in kind) are to be reported to Council for determination. Sponsorship arrangements for $10,000 (including cash and in kind) or less may be determined by the CEO
4. Sponsorship arrangements that may lead to anti-competitive behaviour or disadvantage a third party from dealing with the City will not be entered into
5. Sponsorship arrangements that impose or imply conditions that limit the City's ability to carry out its functions fully and impartially will not be agreed to
6. The City will not pursue sponsorship from or sponsor any party engaged in current or pending legal proceedings involving the City
7. A sponsorship agreement outlining the full terms and conditions of the agreement will be recorded in writing and signed by both parties
8. All sponsorship agreements are required to be reported to the Council through the City's Finance Committee.

GUIDELINES FOR SEEKING SPONSORSHIP

There may be three ways in which a corporate sponsorship is sought;

1. Sponsorship can be sought for Priority projects through the development and advertisement of a prospectus;
   or

2. A sponsorship proposal may be submitted by an individual or organisation that clearly outlines the nature of the project, the proposed sponsorship amount and the expected recognition and benefit to the sponsor and the City;
   or
3. Contributions made from an external organisation, community group, or individual(s) for a specific project.

PRIORITY PROJECT SPONSORSHIP

Priority projects for support are projects and programs endorsed by Council that have a strong identified link to the City of Busselton Strategic Community Plan 2013 (Reviewed 2015), or are programed for current or forward year budgets. Each project/program is carefully selected for its impact and community outcomes. Seeking funding and support from diverse sources strengthens the City's ability to provide a vibrant and cohesive community. Council priorities projects are identified annually.

SPONSORSHIP AGREEMENT

Any sponsorship agreement must be recorded in writing and signed by both parties. The agreement must specify;

- Funding Amount
- Application of Funding
- Rights/limitations
- Length of agreement
- Milestones/Objectives
- Responsibilities and expectations of each party.

EXAMPLES OF BENEFITS TO POTENTIAL SPONSORS

Acknowledgement of sponsor status in publicity materials associated with the project;

- Recognition in association with the event/project/program , i.e., display of company logo, naming rights
- Distribution of materials promoting sponsor's products or services in conjunction with an event
- Presence of the sponsors at an event and access to participants
- Signage
- Sponsor logo on flags and banners
- Acknowledgment in speeches
- Entry tickets to sponsored events , and/or;
- Social media promotion, web and other.

POLICY NON-COMPLIANCE

A sponsorship agreement may be refused and/or terminated if deemed by the CEO as a real or perceived conflict, or where a breach of the terms of an agreement has occurred. The City is under no obligation to pursue or accept any sponsorship proposal entirely at its own discretion.

Last updated 14/10/2015 (implementation)

Policy Background

Policy Reference No. - 019
Owner Unit – Community Services
Originator – Community Development Officer
Policy approved by – Council
Date Approved – 14 October, 2015
Review Frequency – As required
Related Documents – N/A

History

Council Resolution	Date	Information
C1510/284	14 October, 2015	Version 1

COUNCIL POLICY

City of Busselton
Geographe Bay

Council Policy Name:	Sponsorship Arrangements		
Responsible Directorate:	Community and Commercial Services	Version:	Proposed

1. PURPOSE

1.1. The purpose of this Policy is to outline the framework under which the City will enter into Sponsorship Arrangements for the purposes of facilitating the provision of a service, program, event, activity or endeavour that may contribute to the economic, social, environmental or cultural development of the City.

2. SCOPE

2.1. This Policy applies to applications for sponsorship from the City of Busselton.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council policy titled "Sponsorship Arrangements"
Recipient	An individual or organisation that receives a contribution in cash and/or in kind from the City
Sponsorship Arrangement	An arrangement under which the City provides a contribution in cash and/or in kind to a Recipient for the provision of a service, program, event, activity or endeavour that may contribute to the economic, social, environmental or cultural development of the City

4. STRATEGIC CONTEXT

4.1. This policy links to Key Goal Area 1 – Community and Key Goal Area 4 – Economy of the City's Strategic Community Plan 2017 and specifically the following Community Objectives
   a. 1.4: Work with key partners to provide a range of community services and programs that support people of all ages and backgrounds
   b. 4.3: Events and unique tourism experiences that attract visitors and investment.

5. POLICY STATEMENT

5.1. The City has a strategic objective to work with key partners in the provision of a range of services and programs that support people of all ages and backgrounds. One of the ways in which the City does this is in the provision of sponsorship.

5.2. Applications for Sponsorship Arrangements should demonstrate an alignment to the social, economic, environmental and/or civic objectives of the City as outlined in the City's Strategic Community Plan.

5.3. Sponsorship Arrangements may be provided through the following programs:
   a. Event Sponsorship – to assist in the funding and attraction of year-round events to the region. This is guided by the Council policy Events.

b. Community Bids – to provide financial assistance to organisations that provide services or activities to the community, of a value greater than that provided under the Donations, Contributions and Subsidies program; and
c. Donations, Contributions and Subsidies – to provide minor grants of financial assistance to eligible groups and individuals for the pursuit of personal endeavours which may have benefit to the broader community.

5.4. Sponsorship Arrangements will only be entered into where a budget allocation exists or, where there is no budget allocation, where it has been approved by Council.

5.5. Specific criteria outlined in the relevant Operational Practice and/or Guideline will be applied against each Sponsorship Arrangement proposal.

6. RELATED DOCUMENTATION / LEGISLATION

6.1. *Local Government Act 1995*
6.2. Council Policy: Events
6.3. Events Application Operational Practice
6.4. Community Bids Operational Guidelines 2019-20
6.5. Donations, Contributions and Subsidies Guidelines

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	**DATE**		**Resolution #**	
Previous Adoption	**DATE**	14 October 2015	**Resolution #**	C1510/284

12.3 Policy and Legislation Committee - 26/02/2020 - PROPOSED BUSHFIRE LOCAL PLANNING POLICY (AND RELATED REVIEW OF HOLIDAY HOMES LOCAL PLANNING POLICY) - CONSIDERATION FOR FINAL ADOPTION AFTER CONSULTATION / ADOPTION OF DRAFT REVISED BUSHFIRE NOTICE FOR CONSULTATION

STRATEGIC GOAL	3. ENVIRONMENT Valued, conserved and enjoyed
STRATEGIC OBJECTIVE	3.1 Development is managed sustainably and our environment valued.
SUBJECT INDEX	Development Control Policy
BUSINESS UNIT	Planning and Development Services
REPORTING OFFICER	Director, Planning and Development Services - Paul Needham
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	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
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Draft Bushfire Policy Attachment B Revised Bushfire Policy Attachment C Existing Holiday Homes Policy Attachment D Proposed Holiday Home Policy Attachment E Residential Built-Out Areas Map Showing Infrastructure and Zoning Attachment F Consultation Summary Attachment G Final Position Statement Attachment H Existing Notice Attachment I Proposed Notice Attachment J Bushfire Notice (Map) Attachment K Analysis of Provisions in Existing Notice Attachment L Revised Bushfire Policy With Committee Amendments Attachment M Proposed Holiday Homes Policy With Committee Amendments

This item was considered by the Policy and Legislation Committee at its meeting on 26 February 2020, the recommendations from which have been included in this report.

OFFICER RECOMMENDATION

That the Council –

1. **Pursuant to Clauses 4 and 5 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* –**
   - **(a) Adopts the Bushfire Local Planning Policy, as set out at Attachment B; and**
   - **(b) Amends the Holiday Homes Local Planning Policy, as set out at Attachment D;**
2. **Adopts the Bushfire Notice set out at Attachments I and J as a draft for consultation; and**
3. **Advises the Department of Planning, Lands & Heritage, and Department of Fire & Emergency Services of the above.**

COMMITTEE RECOMMENDATION

That the Council –

1. **Pursuant to Clauses 4 and 5 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* –**
   - **(a) Adopts the Bushfire Local Planning Policy, inclusive of the Committee amendments as per Attachment L; and**
   - **(b) Amends the Holiday Homes Local Planning Policy, inclusive of the Committee amendments as per Attachment M;**
2. **Adopts the Bushfire Notice set out at Attachments I and J as a draft for consultation; and**
3. **Advises the Department of Planning, Lands & Heritage, and Department of Fire & Emergency Services of the above.**

Reasons: The Committee and officers identified some erroneous references to previous 'Deemed to Comply' provisions within clause 4.4 of the Bushfire Local Planning Policy and 4.5 of the Holiday Homes Local Planning Policy.

EXECUTIVE SUMMARY

The Council is asked to consider final adoption of a proposed Bushfire Local Planning Policy, subject to a range of changes aimed at addressing issues raised during consultation. The Council is also asked to consider final adoption of related changes to the City's existing Holiday Homes Local Planning Policy.

In addition, the Council is asked to consider adoption, for consultation purposes, of a draft Bushfire Notice, intended to replace the existing notice and which has been developed in parallel with the proposed Bushfire Local Planning Policy.

BACKGROUND

Local Planning Policy and State Bushfire Planning Framework

At its ordinary meeting of 27 March 2019, the Council adopted a Draft Bushfire Local Planning Policy ('Draft Bushfire Policy' at Attachment A). The Council also adopted proposed changes to the existing Holiday Homes Local Planning Policy ('Existing Holiday Homes Policy' - at Attachment C, 'Proposed Holiday Homes Policy' at Attachment D). The changes to the Holiday Homes Policy were necessary to avoid conflict or duplication between the two policies, if and when the Draft Bushfire Policy is adopted in final form. The main purpose of the proposals was to clarify the requirements related to the development of (or change of use to) a holiday home, or other development, in a bushfire prone area, and to apply the same principles to other development as already apply to assessment of holiday home applications.

It is now recommended that the Council adopt the proposals for final approval, incorporating a range of changes addressing the feedback received through the consultation process, and reflected in a 'Revised Bushfire Policy' (Attachment B). The key changes proposed are outlined and discussed in 'Officer Comment' below.

In addition, the Council indicated support for the making of a submission to the WAPC regarding the *Draft Position Statement: Tourism land uses within bushfire prone areas* ('Draft Position Statement'). In the agenda report, officers also indicated that, given the relationship between the proposals and the Draft Position Statement, it may be prudent to await a 'Final Position Statement' before adopting the proposals in final form. The Final Position Statement (Attachment G) has now been released.

Bushfire Notice

In parallel with development of the Bushfire Policy, the City has also undertaken work to review its 'Bushfire Notice' (sometimes referred to as the 'firebreak notice'). A copy of the 'Existing Notice' is provided as Attachment H and the 'Proposed Notice' is provided as Attachment I (and the associated map at Attachment J). The key aims of the review have been to rationalise and clarify the requirements of the notice, as well as seeking to better align the notice with town planning and building control regulation.

Prior to Council formally adopting the Proposed Notice, it is recommended that consultation occur, including with the City's Bushfire Advisory Committee (BFAC), the Department of Fire & Emergency Services (DFES) and with bushfire consultants working in the District. It is also envisaged that there would be some targeted consultation with landowners where there may be more substantive change as a result of the Proposed Notice. The aim is for the new notice to be finalised and in place leading into the 2020/21 summer.

Whereas the Existing Notice is drafted to serve both formal/legal and community/landowner education purposes, the Proposed Notice has been drafted for formal/legal purposes only. The intention is that the Proposed Notice, once finalised, will be supplemented by more user-friendly guidance for the community (which it is envisaged will be developed only once the formal notice has been finalised).

OFFICER COMMENT

Local Planning Policy

No changes to the Proposed Holiday Homes Policy (Attachment D) are recommended. A range of changes to the Draft Bushfire Policy (Attachment A) are recommended, as set out in the Revised Bushfire Policy (Attachment B). The key changes relate to -

- Re-drafting to remove 'deemed-to-comply' and 'performance criteria' approach/structure
- Residential Built-Out Areas;
- Asset Protection Zones; and
- Partial building upgrades.

'Deemed-to-comply' and 'performance criteria' approach/structure

Many contemporary development control regulations or policies provide a 'two-track' approach to assessment. One track involves 'deemed' provisions, which are usually of a quantitative and objective (in their application) nature, and if they are met, the proposed development is deemed to be appropriate. If the deemed provisions are not met, however, it does not necessarily mean that the development is not appropriate. Rather, assessment against the 'performance' provisions is required. Performance provisions are often, but not always, of a less or non-quantitative nature; they are more subjective, requiring the exercise of professional judgement, and often being statements of the aims or objectives that need to achieved. This kind of approach is applied in the Residential Design Codes of Western Australia ('R-Codes'), *Building Code of Australia* (BCA) and the WAPC's *Guidelines for Planning in Bushfire Prone Areas* ('Guidelines').

In recent times, in developing and reviewing local planning policies, the City has attempted to apply this same approach. The rationale being that it is an increasingly well-used and established approach in development control regulation and policy, and it can also send a fairly clear message to applicants and the community about what kinds of proposals will definitely be supported, and ones where greater discretion and judgement will be required (but which may still be supported). The approach has been applied fairly successfully in the Holiday Homes Policy. Given that, there was an attempt to apply the same approach in the development of the Bushfire Policy.

Having been through the consultation process, however, it is considered that the approach did not work entirely successfully with the Draft Bushfire Policy, and cannot be made to work satisfactorily. There are considered to be two key reasons for that. Firstly, the interaction with State policy is too complex. Secondly, the 'performance' provisions are, in part, alternative quantitative standards. Given that, the Proposed Bushfire Policy moves away from the deemed/performance structure, setting out what were the deemed provisions as the policy statement, with what were the performance provisions as notes (in both cases suitably modified, as described below).

Residential Built-Out Areas

Clause 6.7 of *State Planning Policy 3.7: Planning in Bushfire Prone Areas* (SPP3.7) sets out that (emphasis added) –

> *Strategic planning proposals, subdivision or development applications which will result in the introduction or intensification of development or land use in an area that has or will, on completion, have an extreme BHL and/or* ***BAL-40 or BAL-FZ will not be supported*** *unless:*
>
> (a) the proposal is considered to be **minor development** to which policy measure 6.7.1 applies; or
>
> (b) *the proposal is considered to be* ***unavoidable development*** *to which policy measure 6.7.2 applies.*

Note: 'BHL' means Bushfire Hazard Level and 'BAL' means Bushfire Attack Level. BHL is a broad categorisation of land as 'low', 'medium' or 'high' hazard, and is generally used at the strategic planning level. BAL is a term which derives its meaning from Australian Standard 3959-2018: Construction of buildings in bushfire-prone areas – 'AS3959' - *and is usually more specific to individual development sites, and can be BAL-Low, BAL-12.5, BAL-19, BAL-29, BAL-40 or BAL-FZ (with the numbers representing kW/h per square metre of heat energy, and 'FZ' meaning 'Flame Zone').*

The definition of 'unavoidable development' in SPP3.7 is very narrow, and is essentially limited to things like railway lines, telecommunications infrastructure or fire stations. The definition of 'minor development' is, however, somewhat broader, and is as follows (emphasis added) --

> *Refers to applications in* ***residential built-out areas*** *at a scale which may not require full compliance with the relevant policy measures. Classes of development considered under this definition, with the exclusion of applications for unavoidable development, are:*
>
> • *a single house on an existing lot 1,100m² or greater;*
>
> • *an ancillary dwelling on a lot of 1,100m² or greater; and*
>
> • *change to a* ***vulnerable land use*** *in an* ***existing residential development****.*

'Vulnerable land-use' is then defined as -

> *A land use where persons may be less able to respond in a bushfire emergency. Examples of what constitutes a vulnerable land use are provided in the Guidelines.*

The Guidelines (i.e. the WAPC's *Guidelines for Planning in Bushfire Prone Areas*) provide the following additional advice (emphasis added) -

> *Typically, vulnerable land uses are those where persons may be less able to respond in a bushfire emergency. These can be categorised as one or more of the following:*
>
> - *land uses and associated infrastructure that are designed to accommodate groups of people with reduced physical or mental ability such as the elderly, children (under 18 years of age), and the sick or injured in dedicated facilities such as aged or assisted care, nursing homes, education centres, family day care centres, child care centres, hospitals and rehabilitation centres;*

- *facilities that, due to building or functional design, offer limited access or the number of people accommodated may present evacuation challenges, such as corrective institutions (prisons) and detention centres;*
- *short stay accommodation or visitation uses that involve people who are unaware of their surroundings and who may require assistance or direction in the event of a bushfire, such as bed and breakfast, caravan park and camping ground,* ***holiday house****, holiday accommodation, home business, serviced (short stay) apartment, tourist development and workers' accommodation.*

Given the above, a change of use of a dwelling to a holiday house can only be supported on a site of BAL-40 or greater where the site is within a residential built-out area (unless a 'risk assessment' has been provided and peer reviewed as per the Final Position Statement). Neither SPP3.7 nor the Guidelines, however, includes a definition or description of what that term means. A decision to approve or refuse an application for a holiday house/home, though, can turn substantially on whether a site is considered to be in a residential built-out area or not. The City has to make such decisions on a regular basis.

The City also has to provide pre-application advice to existing and prospective owners about whether a property is in a residential built-out area on an even more regular basis. In substantial part to address this apparent shortcoming in SPP3.7 and the Guidelines, the Final Position Statement contains a definition of 'residential built-out area', as follows (emphasis added) –

> *A lot that has access to reticulated water and is* ***within or contiguous with, an urban area*** *or town (or similar).*

A similar definition was contained in the Draft Position Statement, and also considered when the Council considered the Draft Bushfire Policy in March 2019. Because the decision as to whether a site is in a residential built-out area or not can be so consequential, both the Draft Bushfire Policy and the Revised Bushfire Policy include, as Appendix One, a map identifying 'Residential Built-Out Areas'. In the absence of a map, advice and decisions as to whether a site is in such an area would rest on the judgement of individual officers (or, potentially, the Council, if an application was determined by the Council itself) as to whether a site is 'within or contiguous with, an urban area or town (or similar)'. As such, it is seen as appropriate to include a map of Residential Built-Out Areas in the Bushfire Policy.

Both DFES and DPLH indicated in their submissions that they consider the Residential Built-Out Areas illustrated on the map in the Draft Bushfire Policy to be 'excessive'. In the main, City officers do not agree with that assessment, as the areas identified were considered to be generally consistent with the definition in the Draft and Final Position Statements. It is, however, worth identifying and discussing some of the areas identified, where the assessment is less 'clear cut'.

There are two areas of the City where reticulated water is available, but which have not been identified as Residential Built-Out Areas, because they are not considered to be within or contiguous with urban areas. The first of those is the 'Ambergate Heights' rural-residential area (note that the rural-residential lots, also in Ambergate, on St Andrews Lane do not have reticulated water). The second is a small portion in the north-western corner of 'The Commonage' (parts of Quedjinup Drive and some connecting roads).

There are several areas where reticulated water is not available, but which were identified as Residential Built-Out Areas in the Draft Bushfire Policy, because they were considered to be within or contiguous with urban areas. Those consist of rural-residential areas: on Glenview Drive, just to the north of Vasse; some properties on Red Gum Way, in the Vasse/Dunbarton area; in Reinscourt; and in Wonnerup. Especially given the DFES and DPLH concerns, it is recommended that these areas not be identified as Residential Built-Out Area – and that position is reflected in the Revised Bushfire Policy.

There are four areas where reticulated water is available, and which are considered to be urban or contiguous with urban areas, and which were identified as Residential Built-Out Areas in the Draft Bushfire Policy, but where there may be some question as to whether they qualify as 'urban' (noting that 'urban' is not a defined term in this context). Those areas are: Yallingup townsite; Eagle Bay townsite (other than small pockets around Gaia Close, Gypsy Street and Caladenia Close – which is proposed to be removed from the identified area); the Bunker Bay settlement; the 'Tourism' zoned properties on the northern side of Caves Road, to the west of and adjoining Dunsborough townsite; and the mainly residential properties either side of Caves Road, in the Marybrook/Siesta Park area, as well as some small contiguous areas. It is true that, because of the small size and relative isolation of the first three of those settlements, they are less 'urban' and at somewhat higher risk than other urban areas in the City, and it is therefore less clear that they should be considered Residential Built-Out Areas, when compared to Dunsborough or Busselton. Note there is currently no reticulated water available at Smiths Beach.

Both Yallingup and Eagle Bay, however, are well-established and reasonably sized settlements in a WA context, and there are volunteer fire brigades based in both. In that context it is seen as reasonable to consider them to both be 'urban areas'. The same cannot, however, be said of the Bunker Bay settlement. Given that, and given the DFES and DPLH concerns, it is recommended that Bunker Bay not be identified as a Residential Built-Out Area – and that position is reflected in the Revised Bushfire Policy. This change only reflects a small number of lots, and in most cases development sites in the affected areas should be able to achieve a BAL rating of less than BAL-40, meaning that the change may not have much or any practical impact.

The 'Tourism' zoned properties on the northern side of Caves Road, to the west of and adjoining Dunsborough townsite, are also recommended to be excluded from the Residential Built-Out Area, as they are not properly contiguous with Dunsborough –again, the practical impact of this is limited, though, as because of the zoning, proposals for Minor Development are unlikely to emerge. The mainly residential properties either side of Caves Road, in the Marybrook/Siesta Park area are, however, considered to be contiguous with either Busselton or Dunsborough.

Most of the rural-residential area in Vasse, including the area often referred to as 'Dunbarton', between the Busselton Bypass and Rendezvous Road has reticulated water and is considered to be contiguous with an urban area – i.e. Busselton north of the Busselton Bypass and, in time, with Vasse to the west. There is a small area, along part of Red Gum Way, which does not have reticulated water, and is proposed to be removed from the identified area (but, again, that probably has limited practical impact).

There are also areas like Meelup Regional Park or the Vasse-Wonnerup Wetlands, which were simply included in the identified Residential Built-Out Area in the Draft Bushfire Policy for the sake of making the map relatively simple, but which obviously do not contain any properties which would be subject of applications where the designation would have any practical impact – i.e. there will never be a valid application for approval or a holiday home in Meelup Regional Park. An effort has, though, been made to rationalise the identified boundary to avoid identifying such areas – although there is also no practical impact from those changes.

A further textual change has also been made to allow a site to be considered part of the Residential Built-Out Area if it is close or adjacent to areas identified on the map, but has either been excluded incorrectly (because of a gap in the City's understanding of the extent of the reticulated water network) or because extension of the reticulated water network has occurred, or is proposed by the applicant (and extension of the network would be a condition of approval, in such instances).

Maps illustrating the proposed Residential Built-Out Area set out in the Revised Policy, as well as showing town planning scheme designations and the reticulated water network, are included as Attachment E.

Asset Protection Zones

A number of the detailed changes to the Bushfire Policy relate to guidance around Asset Protection Zones ('APZs' – which are low fuel areas, to be established around dwellings or other habitable buildings, or non-habitable buildings in proximity of habitable buildings). The required width of an APZ is determined by the desired BAL, as well as the extent and nature of vegetation in the vicinity of the site (which is generally assumed at the outset to be in an unmanaged state), and the slope of the land (with higher risk attributed to downslope vegetation). There are different methodologies which can be applied to make that assessment, of varying degrees of sophistication, but fundamentally, the higher the BAL, the lower (or smaller) the APZ required, and vice versa. The framework requires that an APZ must be accommodated wholly within the subject property, overlap substantially with an APZ required on an adjoining property, or, if it extends beyond the property, its implementation secured via a 'perpetual agreement'.

On level ground, even with the highest risk vegetation adjacent to the development, construction to the BAL-Low standard would be possible with a 100 metre wide APZ. Allowing or requiring such a large APZ would, however, require management of very extensive areas of vegetation, having potentially significant landscape and environmental impact, and often be in conflict with the understanding and rationale when lots were first created – which would often have been that the landscape and environmental values of the land would be protected. Such a large APZ also significantly increases the risk of costs, complications and conflicts associated with State and Commonwealth environmental laws.

Other than on rural or larger rural-residential properties it is also unlikely that the space will be available to accommodate a 100 metre APZ. Management of such a large area is also a substantial burden on the landowner, and a substantial compliance burden for the City (a 100 metre APZ around a 20 metre by 20 metre square area, realistically towards the smaller end of what is likely with a dwelling and outbuilding on a typical rural-residential property, means that the APZ has a total area of nearly 3.5ha).

Again, on level ground, under AS3959 an APZ of as little as 10 metres width could be permitted where construction is to the BAL-FZ standard. Other than in very limited circumstances, and where it is unavoidable, however, the State Bushfire Framework does not generally support development which requires construction at the BAL-40 standard or above without a risk assessment that has been prepared and peer reviewed by a Level 3 bushfire consultants and is to the City's satisfaction.

The State Bushfire Planning Framework essentially allows proponents to make their own choices as to how to balance the BAL and APZ, allowing a BAL of BAL-Low, BAL-12.5, BAL-19 or BAL-29, and an APZ of as much as 100 metres or as little as 14 metres in the case of vegetation types common in the District (the latter on level ground, where the natural vegetation type is 'woodland' and construction is to the BAL-29 standard). On most land in the District, though, given the character of the vegetation and the slope of the land, an acceptable outcome can usually be achieved with construction at the BAL-19 or BAL-29 standard, and an APZ of 14-31 metres.

Where new construction is involved, the costs of building to the BAL-19 standard are reasonable (BAL-29 is typically a little higher – note that the price premium for building to a BAL standard has generally reduced over time, as industry has adapted), and the higher construction standard provides a level of protection against ember attack (which can occur at a substantial distance from a fire). An APZ of up to 25 metres can also usually be accommodated on the subject property or, on smaller properties, will overlap with an APZ required on an adjoining property; and is also of a size that the landscape and environmental impacts will usually be reasonable.

City officers are also conscious of the compliance burden and communication complexities associated with APZ requirements that vary substantially from site to site – which may occur in some cases where the character of those sites is otherwise similar. APZ requirements will ordinarily need to be set out in a 'Bushfire Management Plan' ('BMP') for the site, which will need to be read and understood by the landowner and/or their contractors, as well as the City officers responsible for enforcement of the notice (i.e. Rangers) – who need to inspect several thousand properties each and every year, and cannot reasonably be expected to manage that task if APZ requirements are unique for each site.

It is for the reasons set out above that the Draft Bushfire Policy sought to generally set APZs at a maximum of 25 metres width (and, as a result, BALs at BAL-19 or BAL-29), other than where circumstances require either a larger APZ to reduce the BAL down to BAL-29 (which may arise if there was downslope vegetation on a relatively steep slope). A similar requirement was set out in the City's local planning policy that was developed and in place prior to the State's current framework being introduced – and was generally well understood and accepted at that time.

As a result of feedback received through the consultation process, a range of APZ-related changes to the Bushfire Policy are proposed, and reflected in the Revised Bushfire Policy. Those changes include recognising that roadways and some other areas, notably lawns and other 'Low-Threat Vegetation' are consistent with the purpose of an APZ. It is also considered worth setting out the high-level planning law/policy rationale for the recommended approach more explicitly.

When development approval is required, the City must consider the application against the relevant 'matters to be considered'. Those matters include safety, landscape and environmental values, as well as local planning policies. The proposed approach seeks to set out, in local planning policy, how the City intends to address those sometimes competing matters in its assessment of applications for development approval. Changes to reflect that involve the addition of an additional purpose statement, and more explicit statements about landscape/visual impact in the form of an explanatory note.

Partial building upgrades

Where new construction is proposed, it is usually practicable to build to the designated BAL. Where a change-of-use to an existing building is proposed, however, it can often be very difficult and/or expensive to do so. This situation applies most commonly where development approval for a change-of-use to a holiday home is being sought for an existing, older dwelling, built before current BAL construction requirements were in place. The State Bushfire Planning Framework ordinarily, however, requires upgrade to the determined BAL as a condition of development approval.

The State Bushfire Planning Framework does allow some discretion to not require building upgrades to the determined BAL for 'Minor Development' (which includes a holiday home proposed in a Residential Built-Out Area). That is through consideration against clause 6.7.1 of SPP7.3, which sets out that -

> *Minor development in areas where BAL-40 or BAL-FZ applies is to be assessed under the requirements of policy measure 6.5, with the addition of a statement against each of the following in the Bushfire Management Plan:*

(a) *where full compliance of 6.5(c) cannot be achieved within the boundary of the development site, evidence must be provided demonstrating to the fullest extent possible how the bushfire protection criteria have been addressed and provide justification for those criteria that have not been met;*

(b) *ensure that the bushfire hazard level is not increased and/or the ability to manage bushfire related hazards on adjoining lands is not otherwise adversely affected;*

(c) *ensure that the siting of the buildings within the boundary of the development site has been optimised to reduce the bushfire impact;*

(d) *give holistic consideration to existing emergency services in the area, existing road networks, water provision, existing places that could function as emergency evacuation centres in a bushfire event, the surrounding landscape, issues that may arise in the course of a bushfire both during and post event, and any other contextual issues relevant to the application of bushfire risk management measures.*

The 'risk assessment' process set out in the Final Position Statement also allows some discretion to be exercised.

Note that clause 6.7.1 appears to offer this discretion only where BAL-40 or BAL-FZ applies, and there is no clause which offers the same discretion for what would, all else being equal, be lower risk sites, to which BAL-29 or lower applies. It is not considered appropriate to interpret SPP3.7 in that fashion, and given the standing of State Planning Policies, it is considered that the City has the discretion and that it is a sound practice to interpret this clause as if it applied to sites at BAL-29 or lower, as well as BAL-40 and above.

The question that then arises, though, is that if it is not possible to fully upgrade to meet the determined BAL, is it possible to partially upgrade to get closer to meeting the determined BAL? In simple, practical terms it may be. To determine whether that is sensible, though, it is necessary to understand the relationship between town planning and building control regulation. It is also necessary to understand the role and professional capacity of bushfire practitioners and City officers.

Under the building legislation, one of the exceptions from compliance with the bushfire protection related applicable building standards is works to a 'relevant building', if the work is commenced prior to 1 May 2021. That arises through r31BA(4) of the *Building Regulations 2012* (Building Regulations) – see 'Statutory Environment' below. Relevant building in that context would include works to upgrade a dwelling built prior to contemporary standards for bushfire protection coming into effect. That could potentially allow a local government to grant a development approval for use of an existing dwelling as a holiday home conditional on partial upgrade of the dwelling, but not full upgrade to meet the determined BAL – but only if the works were commenced prior to 1 May 2021. A development is normally conditioned to require 'substantial commencement' within two years of the date of decision, meaning a development approval granted at the time of writing, or any time thereafter, could be commenced on or after 1 May 2021.

If those works were not commenced by that date, however, unless the responsible Minister amends the Building Regulations to extend that date, a proponent could find themselves with a development approval that cannot be implemented – as a building permit would still be required for the works, and the building permit could only be issued if it provided for full upgrade to the determined BAL.

The local government could also not reasonably amend the development approval to not require the partial upgrades to the building, as in making the original decision it has determined that those upgrades are necessary to achieve a satisfactory bushfire risk outcome (if the upgrades were not necessary to achieve that, they should not have been made a condition of approval in the first instance).

Further, it is not clear how bushfire practitioners or City officers would assess the effectiveness of partial building upgrades as a means or mitigating bushfire risk. The BAL standards reflected in AS3959 have been developed through a rigorous (albeit no doubt imperfect) technical and consultative process including recognised experts in the field – which includes both highly credentialed bushfire practitioners, but also fire engineers. Neither bushfire practitioners nor City officers, though, are able to properly understand and assess the bushfire risk mitigation impacts of partial building upgrades. As part of the consultation process, a number of bushfire practitioners involved expressed the concern set out above.

Given the above, the Revised Policy removes provisions that were present in the Draft Policy and which allowed for consideration of partial building upgrades as a means of obtaining approval for Minor Development, in a context where full upgrade to the determined BAL is not being proposed and/or is not practicable.

Bushfire Notice

The head of power for local government bushfire notices is the *Bush Fires Act 1954* (Bushfire Act); it is s33(1) which is the head of power for setting requirements to create and maintain firebreaks and low fuel areas (e.g. APZs). Whilst there have been minor amendments from time to time, the Bushfire Act in general, and s33(1) in particular, has not been amended substantively, including since the introduction of a range of changes to town planning and building controls, and other changes in the emergency services space implemented since the major Margaret River, Roleystone and Yarloop fires of the previous decade. There have been efforts to review the emergency services legislation more broadly which appear to have some momentum currently, but it is fair to say that in many ways the Bushfire Act is not 'fit-for-purpose' as a head-of-power for bushfire notices in the contemporary context, which is considerably more challenging and complex than would have been the case in 1954. For instance, there is no mention of BMPs in the Bushfire Act, and no clear power in the Bushfire Act or any other legislation relating to the adoption, amendment or revocation of a BMP.

The State Bushfire Planning Framework nevertheless assumes (and explicitly states) that local government bushfire notices will be the means by which local governments will ensure ongoing compliance with APZ and other bushfire risk mitigation measures on which town planning and building control decisions are made. In the absence of that, such compliance would need to be achieved via monitoring and enforcement of conditions of development approval (and the planning legislation is arguably even less 'fit-for-purpose' in terms of providing an efficient and effective means for local governments to ensure timely compliance). The building legislation does not provide a comparable mechanism, and in the absence of the bushfire notice, it is difficult to see how ongoing compliance could be achieved in situations where development approval is not required (noting that a significant proportion of the residential development which occurs is exempt from the need to obtain development approval).

Given the above, there is seen to be a need to align the bushfire notice with the town planning and building control decisions that the City makes – and that has been a major focus in developing the Proposed Notice. As already noted in 'Background', the intention is that the Proposed Notice, once finalised, will be supplemented by more user-friendly guidance for the community (which it is envisaged will be developed only once the formal notice has been finalised) – and that the Notice itself in a formal sense is limited in its scope to what actually has to be included in a Notice adopted under the Bushfire Act – whereas a substantial portion of the Existing Notice simply reiterates requirements that are set out in other controls/legislation.

As a result, the Proposed Notice is considerably shorter, in terms of the total amount of text. An analysis of the provisions in the Existing Notice (other than those relating to APZs and firebreaks or similar) is provided as Attachment K, and clearly illustrates that much of the content of the Existing Notice is redundant, as it is merely reiterating controls that already apply through other means (but is content that would be included in the more user-friendly guidance for the community it is envisaged will be developed to sit alongside the formal notice).

Other key issues considered in the development of the Proposed Notice are –

- *The relationship between the Notice and BMPs*:

  Many BMPs are quite dated and not considered entirely clear and/or adequate. The proposed Notice sets out that it prevails over a BMP, unless the BMP was endorsed after contemporary planning controls came into effect (i.e. December 2015), or compliance with the Notice would leave the landowner in breach of environmental laws.

- *The categories of land to which different requirements should apply, and those requirements*:

  The existing notice identifies eight different categories of land. Whilst they have been mapped, and in practice categorization depends on that map, it is not always clear what category a particular parcel of land is in. In developing the Proposed Notice, there was an effort to reduce the number of categories, and to only specify different categories if there is a substantive difference in the requirements that apply.

  The Proposed Notice identifies four categories: 'Urban', 'Urban – Bush Fire Prone', 'Rural-Residential' and 'Rural'. These categories do not necessarily align to their town planning scheme zone equivalents, but are considered the most intuitive terms to use.

  The Urban category applies to urban or townsite areas not identified by the State as 'Bush Fire Prone', and the Urban – Bush Fire Prone is urban or townsite areas that are identified as Bush Fire Prone. In the Urban category, the Proposed Notice requires management of dry grass or other vegetation across the whole of the lot, but there are no further requirements (for instance, not allowing branches of trees to overhang roofs, which is a requirement of the Existing Notice, is requirement that has been removed). In the Urban – Bush Fire Prone category, the requirement to manage dry grass applies, as well as a requirement for a 25 metre APZ (to the extent that can be accommodated within the subject lot).

  The Rural-Residential category applies to most Rural-Residential zoned lots, other than those over 20 hectares (which are in the Rural category), or smaller ones below around 4,000 square metres (in one of the Urban categories). The Rural category applies throughout the rest of the District. In the Rural-Residential category, the requirements are as per the Urban – Bush Fire Prone category, but in addition there is a requirement for boundary firebreaks. In the Rural category, the requirement is for a 25 metre APZ and boundary firebreaks.

- *How best to describe the categories of land to which different requirements may apply*:

  The decision is between using a map and a form of words to do this (e.g. lot sizes). Officers do not think that a form of words can be arrived at that is sensible, clear and enforceable, and so use of a map formally adopted by the Council is proposed. In practice, this information would be most easily accessible via the City's GIS system – versions of which are available both internally and to the public. It is envisaged that the map would be reviewed and re-Gazetted on an annual basis to identify anomalies, and also to reflect the fact that larger lots can be subdivided and the land affected should be moved to a different category.

There are, however, two exceptions to the use of mapping to describe the categories. Firstly, there are some large, un-subdivided and/or larger Rural-Residential lots. With these, it has been considered more practical to include wording in the Proposed Notice to the effect that such parcels will be considered to be in the 'Rural' category if they over 20 hectares in area. Secondly, the differentiator between the 'Urban' and 'Urban – Bush Fire Prone' categories is merely that the latter is identified by the State as 'Bush Fire Prone'. The State reviews that mapping on an annual basis, and those changes can be effected without a need to re-Gazette (at the City's cost) the City's map if the approach proposed is adopted.

- *Whether the APZ Standard is workable or reasonable*:

  It is considered that aspects of the APZ Standard, especially the requirement that there be no trees over 5.0 metres in height within 6.0 metres of a habitable building, are not workable or reasonable. There is, however, not currently considered to be a workable alternative. This is an issue which it is envisaged will be further explored during consultation.

- *APZs which cannot be accommodated entirely within the subject lot*:

  Consideration was given to requiring an APZ on any 'land' within a specified distance of a habitable building, rather than any 'lot'. The effect of that would be that landowners may be required to establish and maintain an APZ to assist in the protection of a habitable building on a neighbouring site. It was decided not to do so, principally because of the impact it would have on the neighbouring site and landowner, and the compliance complications it would create for the City. It may also create an expectation that the City take the same approach with its own land (with consequent impacts on resourcing and prioritisation).

- *Boundary firebreaks in areas where 'strategic firebreak' networks have been established through BMPs or similar*:

  Many of the strategic firebreak networks established in this way are not considered to be sufficiently effective. As a result, a decision has been made to require boundary firebreaks in the Rural-Residential category, even where there are strategic firebreak networks, unless the BMP is a more recent one (i.e. on or after 7 December 2015).

It should be noted that, if the provisions of the notice are not considered appropriate in a particular instance, other than considering and addressing the issue as part of periodic review, there are three means of establishing different requirements for particular sites –

- Issuing a site-specific notice (which does not require Gazettal or a Council resolution);
- Approving a variation (which would need to be done on annual basis); or
- The landowners having a BMP prepared, and then subsequently obtaining the City's endorsement of that BMP.

Statutory Environment

Planning framework

The key statutory environment from a planning framework perspective is set out in the *Planning and Development Act 2005* (Planning Act) and related subsidiary legislation, including the *City of Busselton Local Planning Scheme No. 21* (Scheme) and the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), especially Schedule 2 ('Deemed Provisions') of the Regulations, which form part of the Scheme.

The Planning Act sets out powers of the WAPC to prepare and adopt 'State Planning Policies' (SPPs) which may, *inter alia*, 'make provision for any matter which may be subject of a local planning scheme' (s26(3)).

Clauses 3-6 of the Deemed Provisions sets out that a local government may make, amend or revoke a 'local planning policy'. The Deemed Provisions also set out that local planning policies must be consistent with the Scheme. Essentially this means that a local planning policy in almost all instances may only guide an exercise of discretion already allowed under the Scheme, but cannot introduce or remove a discretion that the Scheme does not already provide. Other than a 'minor amendment' (pursuant to clause 5(2) of the Deemed Provisions), any decisions to adopt, amend or revoke a local planning policy involves an adoption of the proposal by the Council, followed by a period of consultation, and subsequent further consideration of the proposal by the Council, including consideration of any submissions received.

Clause 67 of the Deemed Provisions sets out 'matters to be considered' in the assessment of applications for development approval. Clause 67(c) of the Deemed Provisions identifies 'any approved State planning policy' and clause 67(g) identifies any 'local planning policy for the Scheme area' as matters that must be considered.

There are various other requirements to consider SPPs set out in the Act, Regulations and Scheme, and which relate to applications for development approval, as well as the preparation, review and amendment of town planning schemes, Structure Plans, Local Development Plans and Activity Centre Plans. The State Administrative Tribunal (SAT) gives considerable weight to SPPs in their consideration of planning matters; and original decision-makers (including local governments) are also required to give considerable weight to SPPs.

Part 10A of the Deemed Provisions identifies controls related to applications for development approval in 'Bushfire Prone Areas'. Bushfire prone areas for the purpose of planning decisions are identified through orders made under s18P of the *Fire and Emergency Services Act 1998* (FES Act). The Deemed Provisions also incorporate *Australian Standard AS3959-2009: Construction of buildings in bushfire-prone areas* (AS3959).

Building control framework

The building control framework is set out in the *Building Act 2012* (Building Act) and *Building Regulations 2012* (Building Regulations), which also provide a head-of-power for the BCA in WA.

Orders under s18P of the FES Act similarly identify areas where consideration of bushfire issues is required pursuant to the building legislation. The building legislation also incorporates AS3959 as a 'building standard'. Under the building legislation, all 'building work', with some limited exceptions, requires a 'building permit' and must be undertaken in accordance with the 'applicable building standards' – that includes determining and building to the determined BAL in an identified Bushfire Prone Area.

Bushfire notice framework

The statutory framework for the bushfire notice is set out in the *Bush Fires Act 1954* (Bushfire Act), specifically Section 33(1), which states that, *inter alia* -

> (1) *Subject to subsection (2) a local government…may,…as a measure for preventing the outbreak of a bush fire, or for preventing the spread…of a bush fire…give notice in writing…to all owners or occupiers of land in its district by publishing a notice in the Government Gazette and in a newspaper circulating in the area requiring…them…to do…all or any of the following things —*

(a) *to…clear upon the land fire-breaks in such manner… as are specified in the notice, and thereafter to maintain the fire-breaks…;*

(b) to act as…specified…with respect to anything which is upon the land, and which…is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire,

and the notice may require the owner or occupier to do so —

(c) *as a separate operation, or in co-ordination with any other person, carrying out a similar operation on adjoining or neighbouring land;…*

Sections 24G(2) and 25(1a) are also of particular relevance to the Proposed Notice, as they establish powers for local governments to make notices relating to burning of garden refuse and camp/cooking fires.

There is no further statutory environment directly relevant to bushfire notices, other than that set out in the Bushfire Act itself.

Relevant Plans and Policies

Key policy guidance is set out in *State Planning Policy 3.7: Planning in Bushfire Prone Areas* (SPP3.7) and the associated *Guidelines for Planning in Bushfire Prone Areas* (Guidelines). The Final Position Statement also forms part of the relevant planning framework, by virtue of clause 3.1 of *State Planning Policy 1.0: State Planning Framework* (SPP1), but the 'weight' to be attached to such statements in decision-making is less than what should be attached to the content of an SPP. Collectively, these documents, as well as the overarching statutory environment, and further documents incorporated by reference, constitute what is referred to in this report as the 'State Bushfire Planning Framework'.

Prior to the introduction of SPP3.7 and related changes to legislation, the City had a bushfire local planning policy. It was considered that the State Bushfire Planning Framework had made that local planning policy redundant and, as a result, that earlier policy was revoked. As set out in the March 2019 report, however, there is now seen to be a need for some local planning policy guidance, albeit more limited and different in scope to what was previously in place.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

Since adoption of the Local Planning Policy proposals, the City has undertaken consultation in accordance with the requirements of the Scheme, as well as having more intensive consultation and engagement with the Department of Planning, Lands & Heritage ('DPLH'), Department of Fire & Emergency Services ('DFES') and with a number of bushfire planning practitioners operating in the region. In particular, two workshop sessions were held with practitioners which City officers found very useful.

In preparing the Proposed Notice, officers have reviewed the bushfire notices of a range of other local governments, but have not found any examples which could readily be adapted to properly meet the City's purposes. The City has also sought advice from DFES, but had not received any substantive advice at the time of writing. A working draft of the Notice was also workshopped with bushfire practitioners.

As much of the consultation was interactive, it is not practicable to produce a 'schedule of submissions' as might ordinarily be done. A 'Consultation Summary' has, however, been prepared and is provided as Attachment F.

Further consultation on the Notice is also recommended. It is also envisaged that the Bushfire Policy may be reviewed and subject of further consultation within the next 12 months or so, because of the dynamic nature of the State Bushfire Planning Framework.

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 key risks associated with the Bushfire Policy are considered to be reputational, and there are both upside and downside risk dimensions associated with implementation of the officer recommendation. The upside risk is essentially that it should be clearer when, where and under what conditions the City will approve development in Bushfire Prone Areas. The downside risk is that some expectations of when and where development or change-of-use may be approved will not be able to be met and/or it will be more clear those expectations cannot be met. That is most likely to arise on BAL-40 sites in The Commonage, where changes of use of a dwelling to a holiday home could not be supported, as The Commonage is not identified as a Residential Built-Out Area (note that this is, however, consistent with current practice).

Additionally, some reputational downside risk may exist where a person wants to build to a BAL lower than BAL-19 through provision of a higher APZ than 25m. Overall, the downside reputational risk can be assessed as follows:

Risk Category	Risk Consequence	Likelihood of Consequence	Risk Level
Reputation	Minor	Possible	Medium

Because there is no change of substance associated with the Revised Holiday Homes Policy, there are not considered to be any significant risks associated with implementation of the officer recommendation.

Because the Proposed Notice is recommended to be adopted for consultation only at this stage, there are no significant risks associated with implementation of the officer recommendation. Ultimately, though, adoption of a new notice would be expected to be reduce both environmental reputational risks to the City.

Options

As an alternative to the proposed recommendation the Council could:

1. Undertake further consultation before adopting the Bushfire Policy;
2. Adopt the Proposed Notice without consultation; and/or
3. Make changes to the proposals.

CONCLUSION

The recommendation would allow the City to make significant strides forward in improving its approach to assessment of applications for development approval in bushfire prone areas and progress the review of the bushfire notice, as well as the City's capacity to provide useful advice to the community regarding both.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Within one month of the Council making a resolution consistent with the officer recommendation.

BUSHFIRE LOCAL PLANNING POLICY

1.0 HEAD OF POWER AND SCOPE

This Policy has been adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions), Clause 4 and applies to development in Bushfire Prone Areas across the whole of the City.

This Policy has also been adopted as guidance for assessment of Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where bushfire issues require consideration.

2.0 PURPOSE

The purpose of this Policy is to –

1. Provide clarity regarding the assessment of applications for development approval on sites located within a Bushfire Prone Area;

2. Assist in identifying circumstances in which development will be supported, and circumstances in which development may only be supported after more detailed consideration; and

3. Supplement State level guidance in the assessment of Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where bushfire issues require consideration.

3.0 INTERPRETATION

3.1 The two terms defined below are critical to interpretation of this Policy -

"Deemed-to-Comply" means a provision which, if satisfied, means that an application is deemed compliant with respect to the matters subject of that provision. The local government shall not refuse to grant approval to an application where the application satisfies all of the relevant Deemed-to-Comply provisions.

"Performance Criteria" means provisions to be used in the preparation, submission and assessment of development proposals for the purpose of determining their acceptability, where they do not meet the relevant Deemed-to-Comply provisions.

Note: applications that do not meet all of the 'deemed-to-comply' provisions would be assessed against the relevant 'performance criteria' (i.e. they would only be assessed against the latter in relation to those aspects to which they do not meet the former).

3.2 Other terms should be interpreted in the same way as they would be interpreted if they were contained within the *City of Busselton Local Planning Scheme No. 21*, other than those terms defined below -

"Appropriately Accredited Professional" means a person with a level of accreditation pursuant to the Western Australian Bushfire Accreditation Framework appropriate to the nature of the work being undertaken.

"APZ" means Asset Protection Zone as per the Guidelines.

"AS 3959" means *Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas.*

"BAL" means the bushfire attack level for the building site for the building or structure determined in accordance with AS 3959.

"BCA" means the *Building Code of Australia* which is volumes 1 and 2, as amended from time to time, of the *National Construction Code* series published by, or on behalf of, the Australian Building Codes Board.

"Bushfire Prone Area" means an area designated as being in a bushfire prone area by an order made under section 18P of the *Fire and Emergency Services Act 1998*, and that has been so designated for a period of at least four months.

"Guidelines" means the WAPC *Guidelines for Planning in Bushfire Prone Areas* associated with SPP3.7;

"Policy" means this Bushfire Local Planning Policy.

"Relevant Buildings" means a building that falls within Class 1, Class 2 or Class 3 of the BCA, or a Class 10a building or deck that is, or is proposed to be, located less than 6.0 metres from a Class 1, Class 2 or Class 3 building.

"Residential Built Out Area" means an area that meets the criteria for a Residential built-out area as per WAPC (whatever it is going to be), and is generally illustrated as such on the map provided as Appendix One to this Policy.

"Scheme" means the *City of Busselton Local Planning Scheme No. 21*, or any scheme which comes into operation on the revocation of that scheme.

"SPP3.7" means WAPC *State Planning Policy 3.7: Planning in Bushfire Prone Areas.*

"Vulnerable Land Use" means a land use where persons may be less able to respond in a bushfire emergency. Examples of what constitutes a vulnerable land use are provided in the Guidelines, and include holiday homes and other forms of short term accommodation.

4.0 POLICY STATEMENT

4.1 Applications for development approval

Note: headings in the table below do form part of the policy statement.

Deemed-to-Comply	Performance Criteria
4.1.1 ALL DEVELOPMENT IN BUSHFIRE PRONE AREAS	
An application for development approval satisfies the Deemed-to-Comply provisions if:	An application for development approval satisfies the Performance Criteria provisions if:
C1.1 All supporting plans and documents relevant to consideration of bushfire risk have been endorsed by an Appropriately Accredited Professional; and	P1.1 All supporting plans and documents relevant to consideration of bushfire risk have been endorsed by an Appropriately Accredited Professional; and
C1.2 It is consistent with SPP3.7 and the Acceptable Solutions set out in Appendix Four of the Guidelines; and	P1.2 It is consistent with SPP3.7 and either the Acceptable Solutions set out in Appendix Four of the Guidelines or, where that is not

Deemed-to-Comply	Performance Criteria
C1.3 The APZ required – (a) is no greater than 25 metres from the building to a determined hazard; and (b) can be accommodated entirely within the subject property; and (c) can be created and maintained without need to obtain a clearing permit under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and/or approval under the (*Commonwealth) Environmental Protection and Biodiversity Conservation Act 1999* and/or approval pursuant to a covenant affecting the land; and	practicable, there is a clear demonstration that the relevant Performance Principle set out in Appendix Four of the Guidelines has been met; and P1.3 (a) If C1.3 (a) has not been complied with, a larger APZ may be supported, but only to the extent necessary to allow the determined BAL requirement to be reduced to BAL29, and there are not considered to be unacceptable impacts on biodiversity or landscape values; and (b) If C1.3 (b) has not been complied with – (i) where the APZ extends outside the subject lot, it overlaps substantially with an APZ already in place and required on an adjoining lot; or (ii) a perpetual agreement is in place with the owner to allow and require the maintenance of the portion of the APZ that extends beyond the subject property; and (c) If C1.3 (c) has not been complied with – (i) the necessary permit or approval (including a conditional permit or approval, where the application is consistent with those conditions) has been obtained; or (ii) flora and fauna assessments have been prepared by appropriately qualified and experienced environmental professionals, and the City considers that the clearing is necessary and appropriate to accommodate the proposed development; or (iii) the applicant commits to seeking the necessary permit or approval prior to commencement of

Deemed-to-Comply	Performance Criteria
	development (including a change of use).
4.1.2 ALL VULNERABLE LAND USES IN BUSHFIRE PRONE AREAS	
In addition to meeting the requirements of 4.1.1, an application for development approval satisfies the Deemed-to-Comply provisions if: C2.1 Any relevant buildings have or will be constructed to the determined BAL, given the APZ permitted under 4.1.1; and C2.2 In cases where the determined BAL is 12.5 or greater, the application is supported by a Bushfire Management Plan and Bushfire Emergency Evacuation Plan consistent with the Guidelines; and C2.3 In cases where the determined BAL is 40 or greater, the development is in a Residential Built Out Area.	Applications must meet the Deemed-to-Comply provisions.
4.1.3 CHANGES OF USE OF EXISTING BUILDINGS TO A VULNERABLE LAND USE IN A BUSHFIRE PRONE AREA	
An application for development approval satisfies the Deemed-to-Comply provisions if it meets the Deemed-to-Comply provisions set out in 4.1.1 and 4.1.2.	An application for development approval that does not meet the requirements of 4.1.1 and 4.1.2, may be considered to satisfy the Performance Criteria provisions if: P3.1 (a) The Bushfire Management Plan sets out that, and the City considers that, it is not practicable to upgrade the building to the determined BAL, given an APZ consistent with 4.1.1, the City may consider an APZ larger than required to achieve a determined BAL of 29, having considered the application against the other requirements of 4.1.1; and (b) The Bushfire Management Plan sets out that, and the City considers that, it is not practicable to upgrade the building to the determined BAL, even given a larger APZ consistent with P3.1 (a), and the Bushfire Management Plan sets out recommendations as to the minimum works required to upgrade the building(s) to provide for an acceptable bushfire risk outcome, and which do not trigger a requirement to obtain a Building Permit.

Deemed-to-Comply	Performance Criteria
	Note: applications that will require a subsequent change of classification pursuant to the BCA, or involve other works that would require a building permit, must meet the requirements of the determined BAL as a requirement of the building legislation, and should not be considered against P1.2 (b).

4.2 Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval

4.2.1 Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval should ensure that all new lots are capable of meeting the Deemed-to-Comply provisions of this Policy, or clearly demonstrate practicable means by which the Performance Criteria can be met.

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4.2.2 With respect to Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where creation of an emergency access way or fire service access route as per the Guidelines is provided for, the land on which they are developed shall be ceded to the Crown, rather than being provided for within an easement over land which is to be retained in private ownership.

5.0 RELATED DOCUMENTATION / LEGISLATION

5.1 *City of Busselton Local Planning Scheme No. 21*

5.2 *State Planning Policy 3.7: Planning in Bushfire Prone Areas*

5.3 WAPC *Guidelines for Planning in Bushfire Prone Areas*

5.4 Orders made under section 18P of the *Fire and Emergency Services Act 1998*

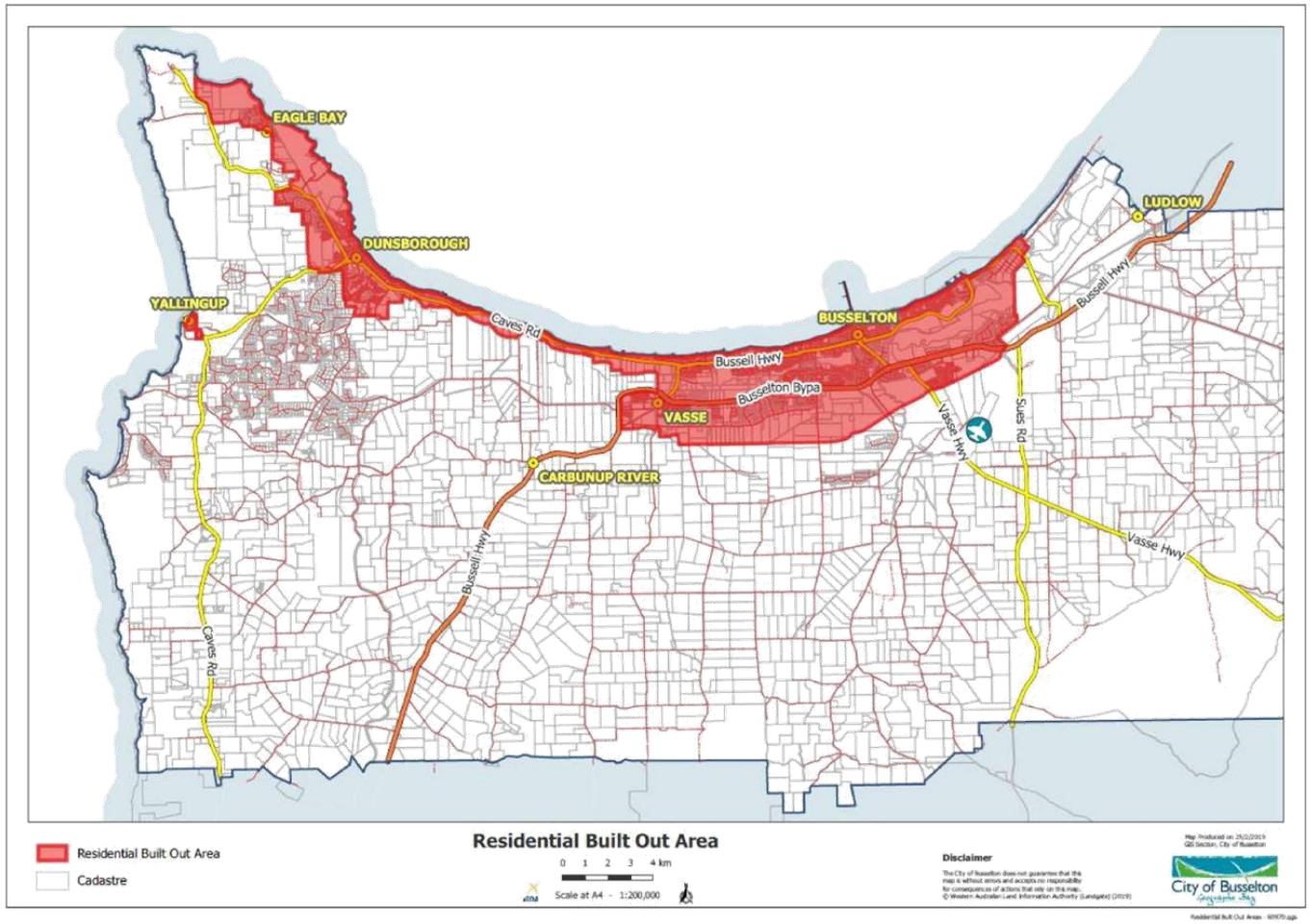
5.5 *Building Code of Australia*

5.6 *Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas*

6.0 REVIEW DETAILS

Date	Description

APPENDIX ONE – RESIDENTIAL BUILT OUT AREAS



BUSHFIRE LOCAL PLANNING POLICY

1.0 HEAD OF POWER AND SCOPE

This Policy has been adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions), Clause 4 and applies to development in Bushfire Prone Areas across the whole of the City.

This Policy has also been adopted as guidance for assessment of town planning schemes and amendments, Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where bushfire issues require consideration.

2.0 PURPOSE

The purpose of this Policy is to –

1. Provide clarity regarding the assessment of applications for development approval or other planning proposals on sites located within a Bushfire Prone Area, or which otherwise require consideration of bushfire risk;

2. Supplement State level guidance in the assessment of town planning schemes and amendments, Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where bushfire risk requires consideration; and

3. Ensure consideration of, and an appropriate balance between, bushfire risk, building and land management costs, and visual and environmental impact, in the assessment of applications for development approval or other planning proposals on sites located within a Bushfire Prone Area, or which otherwise require consideration of bushfire risk issues

3.0 INTERPRETATION

Terms should be interpreted in the same way as they would be interpreted if they were contained within the *City of Busselton Local Planning Scheme No. 21*, other than those terms defined below -

"Appropriately Accredited Professional" means a person with a level of accreditation pursuant to the Western Australian Bushfire Accreditation Framework appropriate to the nature of the work being undertaken.

"APZ" means Asset Protection Zone as per the Guidelines (which in general terms means that ground fuels and vegetation are managed, and tree canopy cover is kept away from buildings and does not exceed 15% of the area).

"AS 3959" means *Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas*.

"BAL" means the bushfire attack level for the building site for the building or structure determined in accordance with AS 3959.

"BCA" means the *Building Code of Australia* which is volumes 1 and 2, as amended from time to time, of the *National Construction Code* series published by, or on behalf of, the Australian Building Codes Board.

"Bushfire Prone Area" means an area designated as being in a bushfire prone area by an order made under section 18P of the *Fire and Emergency Services Act 1998*, and that has been so designated for a period of at least four months.

"Firebreak" means a trafficable mineral earth or constructed surface, a minimum of 3.0 metres wide and completely clear of all vegetation, living or dead, and over which any overhanging vegetation is no less than 5.0 metres above ground level (the primary purpose of which is to provide access for fire-fighting, not to prevent the transmission of fire).

"Guidelines" means the WAPC *Guidelines for Planning in Bushfire Prone Areas* associated with SPP3.7.

"Low-Threat Vegetation or Non-Vegetated Area" means vegetation consistent with the description in 2.2.3.2 of AS3959.

"Minor Development" means (as per SPP3.7) development in a Residential Built-Out Area at a scale which may not require full compliance with the relevant policy measures set out in SPP3.7. Classes of development considered under this definition, with the exclusion of applications for unavoidable development (as per SPP3.7), are:

- a single house on an existing lot 1,100m² or greater;
- an ancillary dwelling on a lot of 1,100m² or greater; and
- change to a vulnerable land use in an existing residential development.

"Perpetual Agreement" means either an easement over the title of the relevant adjoining property allowing the owner/occupier of the subject lot to develop and maintain an APZ on the adjoining property, or in the case of strata titled properties, suitable provisions in the strata management statement/by-laws, in both cases secured via an agreement that requires the City's consent to remove the easement or provisions (secured via a caveat in the case of green title property, or via a provision in the strata management statement/by-laws in the case of strata title property).

"Policy" means this Bushfire Local Planning Policy.

"Relevant Buildings" means a building that falls within Class 1, Class 2 or Class 3 of the BCA, or a Class 10a building or deck that is, or is proposed to be, located less than 6.0 metres from a Class 1, Class 2 or Class 3 building.

"Residential Built-Out Area" means an area that meets the criteria for a Residential built-out area as per the WAPC Position Statement and is generally illustrated as such on the map provided as Appendix One to this Policy, other than where the extent of the reticulated water network has not been properly understood in preparing the map, or the reticulated has or is proposed to be extended by the proponent (and its extension would be a condition of development approval).

"Scheme" means the *City of Busselton Local Planning Scheme No. 21*, or any scheme which comes into operation on the revocation of that scheme.

"SPP3.7" means WAPC *State Planning Policy 3.7: Planning in Bushfire Prone Areas.*

"Visual Landscape Planning Manual" means *Visual Landscape Planning in Western Australia: a manual for evaluation, assessment, siting and design* (November 2007).

"Vulnerable Land Use" means (as per SPP3.7) a land use where persons may be less able to respond in a bushfire emergency. Examples of what constitutes a vulnerable land use are provided in the Guidelines.

"WAPC Position Statement" means the Western Australian Planning Commission's *Position Statement: Tourism land uses in bushfire prone area (October 2019).*

4.0 POLICY STATEMENT

In addition to the requirement to satisfy the relevant provisions of SPP3.7, Guidelines and associated documents, the following provisions detail the City's expectations for applications for development in bushfire prone areas.

While there is a presumption that the policy provisions detailed below should be satisfied for all relevant applications, the notes listed below each policy provision provide guidance on how the City will assess alternative solutions, should they be required, and form part of the policy.

ALL APPLICATIONS FOR DEVELOPMENT IN BUSHFIRE PRONE AREAS

4.1. All supporting plans and documents relevant to consideration of bushfire risk have been endorsed by an Appropriately Accredited Professional.

4.2 The APZ proposed to be provided:

(a) Is no greater than 25 metres from Relevant Buildings.

Note: A larger APZ may be considered, but only to the extent necessary to allow the determined BAL requirement to be reduced to BAL29, and where there are considered to be no unacceptable impacts on biodiversity, landscape values or visual amenity impacts.

In respect of visual amenity, this shall generally require a demonstration that the larger APZ will not increase the visibility of the proposed development, when viewed from locations outside the subject lot (and, in cases where the potential impact is considered significant, a visual/landscape assessment may be required, prepared using the methodology set out in the Visual Landscape Planning Manual).

(b) Can be accommodated entirely within the subject lot or, where the APZ cannot be accommodated entirely within the subject lot, the land involved –

(i) is developed as a public road, path or is otherwise public land managed such that there is a reasonable expectation that fuel loads will be managed to the APZ standard on an ongoing basis; or

(ii) is part of an APZ or Firebreak already in place and/or required on an adjoining property; or

(iii) is otherwise Low-Threat Vegetation or Non-Vegetated Area.

Note: Where the APZ cannot be accommodated within the subject lot or in accordance with parts (i) – (iii) above, a Perpetual Agreement is required to be in place with the owner of the neighbouring property to allow and require the maintenance of the portion of the APZ that extends beyond the subject property.

(c) Can be created and maintained without need to obtain a clearing permit under the (State) *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*,

approval under the (State) *Biodiversity Conservation Act 2016*, and/or approval under the *(Commonwealth) Environmental Protection and Biodiversity Conservation Act 1999*.

Note: Where a clearing permit is necessary, consideration of the following is required:

- *Whether the necessary permit or approval (including a conditional permit or approval, where the application is consistent with those conditions) has been obtained; or*
- *Flora and fauna assessments have been prepared by appropriately qualified and experienced environmental professionals, and the City considers that the clearing is necessary and appropriate, from an environmental perspective, to accommodate the proposed development; or*
- *The applicant commits to seeking the necessary permit or approval prior to commencement of development (including a change of use), and the City considers that the environmental approval processes are unlikely to require significant changes to the proposal.*

CHANGE OF USE OF EXISTING BUILDINGS TO A VULNERABLE LAND USE IN A BUSHFIRE PRONE AREA

4.3 Where the Bushfire Management Plan prepared by an Appropriately Accredited Professional sets out, and the City agrees, that it is not practicable to upgrade the existing building to the determined BAL a larger APZ may be considered, having considered the application against the other requirements as listed in 4.1.2 above.

STRUCTURE PLANS, LOCAL DEVELOPMENT PLANS, ACTIVITY CENTRE PLANS AND APPLICATIONS FOR SUBDIVISION APPROVAL

4.4 Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval should ensure that all new lots are capable of meeting the Deemed-to-Comply provisions of this Policy, or clearly demonstrate practicable means by which the Performance Criteria can be met.

4.5 With respect to Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where creation of an emergency access way or fire service access route as per the Guidelines is provided for, the land on which they are developed shall be ceded to the Crown, rather than being provided for within an easement over land which is to be retained in private ownership.

5.0 RELATED DOCUMENTATION / LEGISLATION

5.1 *City of Busselton Local Planning Scheme No. 21*

5.2 *State Planning Policy 3.7: Planning in Bushfire Prone Areas*

5.3 WAPC *Guidelines for Planning in Bushfire Prone Areas*

5.4 Orders made under section 18P of the *Fire and Emergency Services Act 1998*

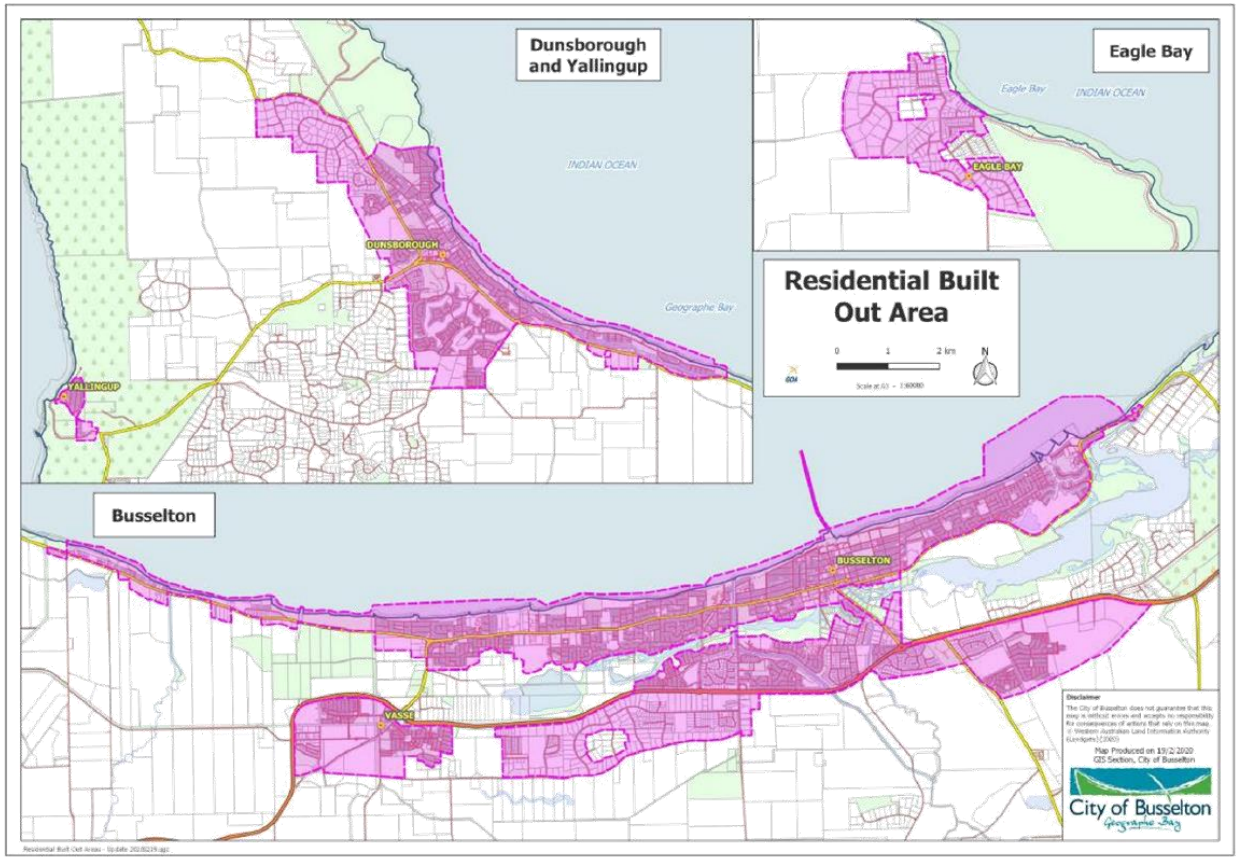
5.5 *Building Code of Australia*

5.6 *Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas*

6.0 REVIEW DETAILS

Council Adoption	**DATE**	*To be added*		

APPENDIX ONE – RESIDENTIAL BUILT OUT AREAS



7C. HOLIDAY HOMES PROVISIONS

1.0 BACKGROUND

The City of Busselton is a popular destination for tourists and holiday makers and has a large number of Holiday Homes, which are essentially residential houses and units which are utilised to accommodate these visitors. Holiday Home rentals are an important aspect of the tourism industry in the District, and have long been an important part of local and Western Australian lifestyle and culture.

Over time, however, there have been changes in the character of the communities in which Holiday Homes are located, as well as increased commercialisation of Holiday Homes and their use. Amongst other factors, that has led to the development by the City, cognisant of guidance provided at a State level, of a regulatory regime for Holiday Homes.

Holiday Homes which are utilised on a commercial basis (i.e. rented out to paying guests) require a development approval to be issued under the Local Planning Scheme and a registration to be issued under the *Holiday Homes Local Law 2012*. These policy provisions provide guidance to the City, as well as to applicants, landowners and the community, in relation to the City's exercising of discretion in making decisions on Holiday Home applications pursuant to the Local Planning Scheme.

2.0 OBJECTIVES

The objectives of these provisions are to –

1. Provide clear guidance regarding the assessment of applications for development approval for Holiday Homes;

2. Identify circumstances in which Holiday Homes will be supported, and circumstances in which holiday homes may be supported, given more detailed consideration; and

3. Balance the interests of residents, Holiday Home owners and the community as a whole.

3.0 APPLICATION

These policy provisions are adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 (Deemed Provisions) clause 4* and apply to the whole of the City.

This policy only applies to Holiday Homes that are being made available for short stay rental purposes for commercial gain. Holiday Homes utilised only for personal use are excluded from this policy.

These provisions should be read in conjunction with the Local Planning Scheme and the *Holiday Homes Local Law 2012*.

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4.0 INTERPRETATION

As per Schedule 1 of the Scheme the following interpretations are relevant:

"Holiday Home (Multiple/Grouped Dwelling)" means a grouped dwelling or multiple dwelling, which may also be used for short stay accommodation for hire or reward for no more than six people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

"Holiday Home (Single House)" means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for hire or reward for no more than 12 people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

Note: the terms 'multiple dwelling', 'grouped dwelling' and 'single house' are defined in the Residential Design Codes of Western Australia.

The following additional interpretations are relevant to this policy:

"Holiday Home" means both a Holiday Home (Multiple/Grouped Dwelling) and/or a Holiday Home (Single House).

"Deemed-to-comply" means a provision which, if satisfied, means that a Holiday Home is deemed compliant with respect to the matters subject of that provision. The local government shall not refuse to grant approval to an application where the application satisfies all of the relevant deemed-to-comply provisions.

"Performance criteria" means provisions to be used in the preparation, submission and assessment of development proposals for the purpose of determining their acceptability, where they do not meet the relevant deemed-to-comply provisions.

Note: applications that do not meet all of the 'deemed-to-comply' provisions would be assessed against the relevant 'performance criteria' (i.e. they would only be assessed against the latter in relation to those aspects to which they do not meet the former). So if the 'car parking' deemed-to-comply provisions are met, but the 'dwelling design' ones are not, dwelling design related issues would require assessment against the dwelling design performance criteria, but the car parking related issues would not require assessment against the car parking related performance criteria. Similarly, if the potable water elements of the 'utility servicing' deemed-to-comply provisions are met, but the refuse collection ones are not, it is only the refuse collection issues that need to be considered against the directly related performance criteria.

5.0 POLICY STATEMENT

5.1 Location of Holiday Homes

A Holiday Home satisfies the **deemed-to-comply** provisions if:

C1.1 The Holiday Home is located within an existing, lawful dwelling (other than a dwelling approved as a second dwelling or rural worker's dwelling pursuant to clause 4.5 (f) or (g) of the Local Planning

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Scheme, or equivalent clause in previous schemes) in the Agriculture or Viticulture and Tourism Zone; or

C1.2 In all other Zones, the Holiday Home has direct frontage to a public road and/or public open space and has a minimum of 350m^2 exclusively for the use of the dwelling; or

C1.3 For a Holiday Home (Grouped/Multiple Dwelling), written support has been received by the local government from the majority of owners of properties in the complex or development within which the Holiday Home is to be located (excluding the owner of the site subject of the application, unless the applicant owns all of the properties in the complex or development).

A Holiday Home satisfies the **performance criteria** provisions if:

P1.1 The City is satisfied that approval of the Holiday Home is not likely to have a significant impact on the amenity of adjoining and nearby residents and would not constitute the conversion of a second dwelling or rural worker's dwelling to a Holiday Home.

5.2 Utility Servicing

A Holiday Home satisfies the **deemed-to-comply** provisions if:

C2.1 The Holiday Home is connected to reticulated water, or provided with a 135,000 litre rainwater tank for the exclusive use of the Holiday Home; and

C2.2 The Holiday Home is located within the City's kerbside refuse collection area; and

C2.3 The Holiday Home is connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of occupants.

Note: in areas not serviced by reticulated sewerage, it should not be assumed that an existing on-site effluent disposal system approved for a single house will have sufficient capacity for the proposed number of occupants without the need for upgrading. Advice should be sought from the City's Environmental Health staff prior to lodging an application for development approval.

A Holiday Home satisfies the **performance criteria** provisions if:

P2.1 The City is satisfied that the Holiday Home will have an adequate supply of potable water; and

P2.2 The City is satisfied that the Holiday Home will be provided with an adequate refuse collection service; and

P2.3 The City is satisfied that the Holiday Homes will be provided with an adequate on-site effluent disposal system (and provision of such would be a condition of any approval, to be met prior to the commencement of the use if a suitable system is not already in place and approved).

5.3 Car Parking

A Holiday Home satisfies the **deemed-to-comply** provisions if:

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C3.1 The Holiday Home will have constructed on-site car parking bays, consistent with the size and manoeuvrability criteria set out in the *Residential Design Codes of Western Australia*, but with no more than any of two bays arranged one behind the other (i.e. tandem bays are permitted, with two bays one behind another, but not with a third bay behind another two), in accordance with the following rates:

Maximum number of occupants	Minimum number of car parking bays required
1-3	1
4-6	2
7-8	3
9-10	4
11-12	5

A Holiday Home satisfies **performance criteria** provisions if:

P3.1 The City is satisfied that the Holiday Home has a minimum of two constructed on-site car parking bays and, where additional car parking bays would be required to comply with C3.1 above, at least the equivalent number of cars could park on the site without the need for cars to park on the verge, in adjacent or nearby public car parking, or in visitor car parking bays within a unit complex or similar; or

P3.2 Where a Holiday Home is located in the 'Business' Zone, the City is satisfied that the Holiday Home will not have a noticeable effect on the availability of public car parking within the locality.

5.4 Dwelling Design

A Holiday Homes satisfies the **deemed-to-comply** provisions if:

C4.1 The Holiday Home is an existing, lawful dwelling; or

C4.2 If the Holiday Home is not an existing, lawful dwelling, the Holiday Home will meet all of the relevant design standards and requirements that would apply to a new dwelling on the land, including the requirements of the Local Planning Scheme (including the *Residential Design Codes of Western Australia*), all relevant Local Planning Policies, and all relevant Structure Plan, Activity Centre Plan and Local Development Plan provisions; and

C4.3 The maximum number of occupants within a Holiday Home complies with the following standards:

(a) There is 5.5 square metres per occupant in each bedroom utilising beds; and

(b) There is 3.5 square metres per occupant in each bedroom utilising bunks; and

(c) There is sufficient bedroom space to accommodate the maximum number of occupants consistent with (a) and (b) above; and

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C4.4 Bedrooms in a Holiday Home are provided in accordance with the following rates:

Maximum number of occupants	Minimum number of bedrooms required
1-2	1, or studio
3-4	2
5-8	3
9-12	4

C4.5 Bathrooms and toilets in a Holiday Home are provided in accordance with the following rates:

Maximum number of occupants	Minimum number of bathrooms/toilets required
1-6	1 bathroom and 1 toilet
7-12	1 or 2 bathrooms and 2 toilets

A Holiday Homes satisfies the **performance criteria** provisions if C4.1 or C4.2 is met, and C4.3 and C4.5 are met; and:

P4.1 The City is satisfied that the dwelling design is appropriate to accommodate the proposed maximum number of occupants. In general, if C4.4 is not met, this would only be the case if there are a smaller number of relatively large bedrooms.

Note: the Local Planning Scheme establishes that the maximum number of occupants in a Holiday Home (Single House), regardless of the number or size of bedrooms, is 12, and the maximum number of occupants in a Holiday Home (Grouped/Multiple Dwelling) is six. The City has no discretion to approve Holiday Homes with maximum occupant numbers higher than those limits.

5.5 Bush Fire Management

A Holiday Home satisfies the **deemed-to-comply** provisions if:

C5.1 The Holiday Home is not on land identified as being in a bushfire prone area by an order made under section 18P of the *Fire and Emergency Services Act 1998*; or

C5.2 The Holiday Home will meet all of the relevant design standards and requirements that would apply to a dwelling on land identified as being in a bushfire prone area by an order made under section 18P of the *Fire and Emergency Services Act 1998* and will meet all of the relevant design standards and requirements for a minor vulnerable development described in the WAPC *Guidelines for Planning in Bushfire Prone Areas,* including but not limited to the following -

C5.2.1 A Bushfire Management Plan and Bushfire Emergency Evacuation Plan developed consistent with the *Guidelines for Planning in Bushfire Prone Areas* ('vulnerable land use') has been submitted; and

C5.2.2 The building has been constructed to the determined BAL requirement and associated *Deemed to Satisfy* solution pursuant to *AS3959-2009 (Construction of building in bushfire-prone areas)*; and

C5.3 The Asset Protection Zone (APZ) required –

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(a) is no greater than 25 metres from the building to a determined hazard;

(b) can be accommodated entirely within the subject lot; and

(c) can be created and maintained without need to obtain a clearing permit under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and/or approval under the (*Commonwealth) Environmental Protection and Biodiversity Conservation Act 1999*.-

A Holiday Home satisfies the **performance criteria** provisions if:

P5.1 C5.2.1 has been complied with; and

P5.2 If C5.2.2 has not been complied with, the building has been constructed to the determined BAL requirement by Performance Solution as provided for by part 1.0 in *NCC 2016 Building Codes of Australia Volume 2*; and

P5.3 (a) If C5.3 (a) has not been complied with, a larger APZ may be supported, but only to the extent necessary to allow the construction standard to be reduced to BAL29; and

(b) If C5.3 (b) has not been complied with –

(i) where the APZ extends outside the subject lot, it overlaps substantially with an APZ already on an adjoining lot; or

(ii) a perpetual agreement is in place with the owner (in case of freehold land) or manager (in the case of Crown/reserve land) to allow and require the maintenance of the portion of the APZ that extends beyond the subject lot; and

(c) If C5.3 (c) has not been complied with, the necessary permit or approval has been obtained, or the applicant commits to seeking the necessary permit or approval prior to commencement of development (including change of use).

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ADOPTION NOTICE

ADOPTION OF PLANNING POLICY – Commercial and Industrial Development Policy

In accordance with Clause 103 of District Town Planning Scheme 20, and the City Resolution C1003/069 dated the 10th March 2010, notice is hereby given that the City resolution took effect on the 9th April 2010 to finally adopt the Local Planning Policy - Commercial and Industrial Development Policy.

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HOLIDAY HOMES LOCAL PLANNING POLICY

1.0 HEAD OF POWER AND SCOPE

This Policy has been adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions), Clause 4 and applies to the development of Holiday Homes across the whole of the City.

2.0 PURPOSE

The purpose of this Policy is to –

1. Provide clear guidance regarding the assessment of applications for development approval for Holiday Homes; and

2. Identify circumstances in which Holiday Homes will be supported, and circumstances in which Holiday Homes may be supported, given more detailed consideration.

3.0 INTERPRETATION

3.1 The two terms defined below are critical to interpretation of this Policy -

"Deemed-to-Comply" means a provision which, if satisfied, means that an application is deemed compliant with respect to the matters subject of that provision. The local government shall not refuse to grant approval to an application where the application satisfies all of the relevant Deemed-to-Comply provisions.

"Performance Criteria" means provisions to be used in the preparation, submission and assessment of development proposals for the purpose of determining their acceptability, where they do not meet the relevant Deemed-to-Comply provisions.

Note: applications that do not meet all of the 'deemed-to-comply' provisions would be assessed against the relevant 'performance criteria' (i.e. they would only be assessed against the latter in relation to those aspects to which they do not meet the former). So if the 'car parking' deemed-to-comply provisions are met, but the 'dwelling design' ones are not, dwelling design related issues would require assessment against the dwelling design performance criteria, but the car parking related issues would not require assessment against the car parking related performance criteria. Similarly, if the potable water elements of the 'utility servicing' deemed-to-comply provisions are met, but the refuse collection ones are not, it is only the refuse collection issues that need to be considered against the directly related performance criteria.

3.2 Other terms should be interpreted in the same way as they would be interpreted if they were contained within the *City of Busselton Local Planning Scheme No. 21*, other than those terms defined below -

"Bushfire Policy' means the Bushfire Local Planning Policy.

"Deemed-to-Comply" means a provision which, if satisfied, means that a Holiday Home is deemed compliant with respect to the matters subject of that provision. The local government shall not refuse to grant approval to an application where the application satisfies all of the relevant Deemed-to-Comply provisions.

"Holiday Home (Multiple/Grouped Dwelling)" means a grouped dwelling or multiple dwelling, which may also be used for short stay accommodation for hire or reward for no more than six people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

"Holiday Home (Single House)" means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for hire or reward for no more than 12 people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

"Holiday Home" means both a Holiday Home (Multiple/Grouped Dwelling) and/or a Holiday Home (Single House).

"Performance Criteria" means provisions to be used in the preparation, submission and assessment of development proposals for the purpose of determining their acceptability, where they do not meet the relevant Deemed-to-Comply provisions.

"Policy" means this Holiday Homes Local Planning Policy.

4.0 POLICY STATEMENT

Note: headings in the table below do form part of the policy statement.

Deemed-to-Comply	Performance Criteria
4.1 LOCATION	
A Holiday Home satisfies the Deemed-to-Comply provisions if: C1.1 The Holiday Home is located within an existing, lawful dwelling (other than a dwelling approved as a second dwelling or rural worker's dwelling pursuant to clause 4.5 (f) or (g) of the Local Planning Scheme, or equivalent clause in previous schemes) in the Agriculture or Viticulture and Tourism Zone; or C1.2 In all other Zones, the Holiday Home has direct frontage to a public road and/or public open space and has a minimum of 350m^2 exclusively for the use of the dwelling; or C1.3 For a Holiday Home (Grouped/Multiple Dwelling), written support has been received by the local government from the majority of owners of properties in the complex or development within which the Holiday Home is to be located (excluding the owner of the site subject of the application, unless the applicant owns all of the properties in the complex or development).	A Holiday Home satisfies the Performance Criteria provisions if: P1.1 The City is satisfied that approval of the Holiday Home is not likely to have a significant impact on the amenity of adjoining and nearby residents and would not constitute the conversion of a second dwelling or rural worker's dwelling to a Holiday Home.
4.2 UTILITY SERVICING	

A Holiday Home satisfies the Deemed-to-Comply provisions if:	A Holiday Home satisfies the Performance Criteria provisions if:
C2.1 The Holiday Home is connected to reticulated water, or provided with a 135,000 litre rainwater tank for the exclusive use of the Holiday Home; and C2.2 The Holiday Home is located within the City's kerbside refuse collection area; and C2.3 The Holiday Home is connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of occupants. *Note: in areas not serviced by reticulated sewerage, it should not be assumed that an existing on-site effluent disposal system approved for a single house will have sufficient capacity for the proposed number of occupants without the need for upgrading. Advice should be sought from the City's Environmental Health staff prior to lodging an application for development approval.*	P2.1 The City is satisfied that the Holiday Home will have an adequate supply of potable water; and P2.2 The City is satisfied that the Holiday Home will be provided with an adequate refuse collection service; and P2.3 The City is satisfied that the Holiday Homes will be provided with an adequate on-site effluent disposal system (and provision of such would be a condition of any approval, to be met prior to the commencement of the use if a suitable system is not already in place and approved).
4.3 CAR PARKING	
A Holiday Home satisfies the Deemed-to-Comply provisions if: C3.1 The Holiday Home will have constructed on-site car parking bays, consistent with the size and manoeuvrability criteria set out in the *Residential Design Codes of Western Australia*, but with no more than any of two bays arranged one behind the other (i.e. tandem bays are permitted, with two bays one behind another, but not with a third bay behind another two), in accordance with the following rates:	A Holiday Home satisfies Performance Criteria provisions if: P3.1 The City is satisfied that the Holiday Home has a minimum of two constructed on-site car parking bays and, where additional car parking bays would be required to comply with C3.1 above, at least the equivalent number of cars could park on the site without the need for cars to park on the verge, in adjacent or nearby public car parking, or in visitor car parking bays within a unit complex or similar; or P3.2 Where a Holiday Home is located in the 'Business' Zone, the City is satisfied that the Holiday Home will not have a noticeable effect on the availability of public car parking within the locality.
4.4 DWELLING DESIGN	
A Holiday Homes satisfies the Deemed-to-Comply provisions if: C4.1 The Holiday Home is an existing, lawful dwelling; or C4.2 If the Holiday Home is not an existing, lawful dwelling, the Holiday Home will meet all of	A Holiday Homes satisfies the Performance Criteria provisions if C4.1 or C4.2 is met, and C4.3 and C4.5 are met; and: P4.1 The City is satisfied that the dwelling design is appropriate to accommodate the proposed maximum number of occupants. In general, if C4.4 is not met, this would only

Maximum number of occupants	Minimum number of car parking bays required
1-3	1
4-6	2
7-8	3
9-10	4
11-12	5

the relevant design standards and requirements that would apply to a new dwelling on the land, including the requirements of the Local Planning Scheme (including the *Residential Design Codes of Western Australia*), all relevant Local Planning Policies, and all relevant Structure Plan, Activity Centre Plan and Local Development Plan provisions; and C4.3 The maximum number of occupants within a Holiday Home complies with the following standards: (a) There is 5.5 square metres per occupant in each bedroom utilising beds; and (b) There is 3.5 square metres per occupant in each bedroom utilising bunks; and (c) There is sufficient bedroom space to accommodate the maximum number of occupants consistent with (a) and (b) above; and C4.4 Bedrooms in a Holiday Home are provided in accordance with the following rates: Maximum number of occupants: 1-2 / 3-4 / 5-8 / 9-12 Minimum number of bedrooms required: 1, or studio / 2 / 3 / 4 C4.5 Bathrooms and toilets in a Holiday Home are provided in accordance with the following rates: Maximum number of occupants: 1-6 / 7-12 Minimum number of bathrooms/toilets required: 1 bathroom and 1 toilet / 1 or 2 bathrooms and 2 toilets	be the case if there are a smaller number of relatively large bedrooms. *Note: the Local Planning Scheme establishes that the maximum number of occupants in a Holiday Home (Single House), regardless of the number or size of bedrooms, is 12, and the maximum number of occupants in a Holiday Home (Grouped/Multiple Dwelling) is six. The City has no discretion to approve Holiday Homes with maximum occupant numbers higher than those limits.*
4.5 BUSHFIRE MANAGEMENT	
A Holiday Home satisfies the Deemed-to-Comply provisions if: C5.1 The Holiday Home satisfies the Deemed-to-Comply provisions of the Bushfire Policy.	A Holiday Home satisfies the Performance Criteria provisions if: P5.1 The Holiday Homes satisfies the Performance Criteria provisions of the Bushfire Policy.

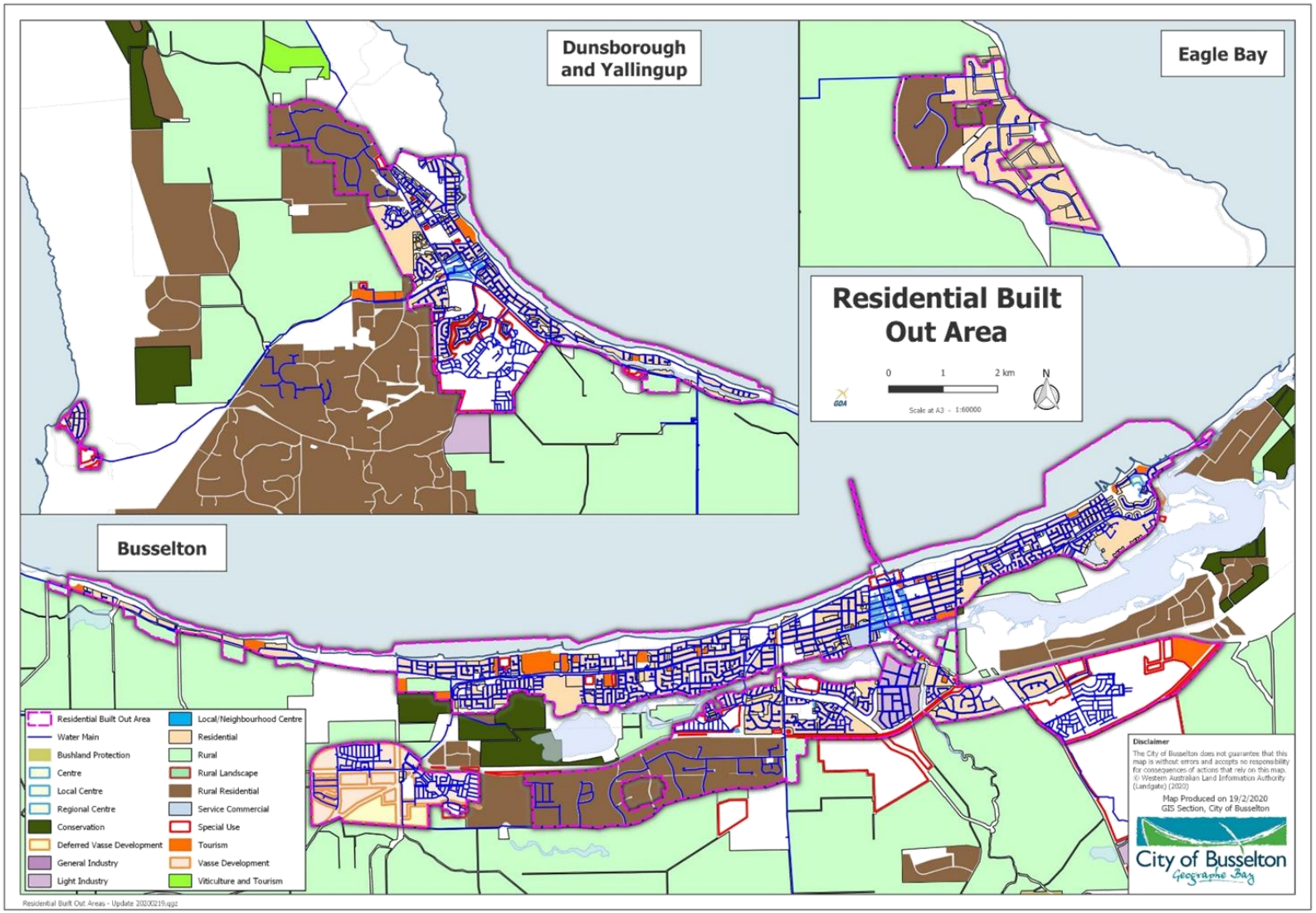
5.0 RELATED DOCUMENTATION / LEGISLATION

5.1 *City of Busselton Local Planning Scheme No. 21*

5.2 *City of Busselton Holiday Homes Local Law*

6.0 REVIEW DETAILS

Date	Description
12 December 2012	Initial adoption
26 August 2015	Removal of 'preferred area' designations
14 March 2018	Reformatting and inclusion of bushfire related guidance


Dunsborough and Yallingup
Eagle Bay
Busselton
Residential Built Out Area
0 1 2 km
Scale at A3 - 1:60000
Residential Built Out Area
Water Main
Bushland Protection
Centre
Local Centre
Regional Centre
Conservation
Deferred Vasse Development
General Industry
Light Industry
Local/Neighbourhood Centre
Residential
Rural
Rural Landscape
Rural Residential
Service Commercial
Special Use
Tourism
Vasse Development
Viticulture and Tourism
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 19/2/2020
GIS Section, City of Busselton
City of Busselton
Geographe Bay
Residential Built Out Areas - Update 20200219.qgz

Bushfire Policy Consultation Summary

PO19/01 – Draft Local Planning Policy – Bushfire and Amendments to Local Planning Policy – Holiday Homes

Your Say Engagement Survey responses

Visitors	23
Contributors	3

	Name and Address	Submission Notes	Comments
Agency			
1	Department of Planning, Lands and Heritage (DPLH) *Monica Nguyen, Jackie Holm*	Thank you for providing the Department of Planning, Lands and Heritage (DPLH) the opportunity to comment to comment on the Draft Local Planning Policy – Bushfire and Amendments to Local Planning Policy – Holiday Homes **(reference PO19/01)**. Our review of the documents has identified some concerns where the local planning policies are inconsistent with State policy and parts where further clarification is required. These have been highlighted below in dot points. <u>Draft Local Planning Policy – Bushfire (Bushfire LPP)</u> • The draft Position Statement (PS) for Tourism Land Uses in Bushfire Prone Areas is still in draft and is likely to be significantly re-drafted prior to being considered by the Western Australian Planning Commission (WAPC). The inclusion of the definition of 'residential built out area' contained within the draft Bushfire LPP is not supported prior to the finalisation of the draft PS. The PS should be finalised and then only if there's a policy problem, should a local planning policy be pursued. • If the definition of 'residential built-out area' in the draft PS is supported by the WAPC, then the mapping of these areas by local governments is supported. However, the inclusion of these maps within a Local Planning Policy is not supported, as there is no mechanism to require the WAPC to approve a local planning policy. It is considered more appropriate to identify these areas within a local planning strategy, for the consideration and endorsement by the WAPC. • The 'residential built-out areas' appears to be excessive and well beyond the intent of just covering existing 'built-out' urban areas, as the plan covers large undeveloped (non-urban) areas (e.g. between and adjacent to Eagle Bay and Dunsborough; and South of the Busselton Bypass). • Clarification under P1.3 (b) (ii) of what form of agreement may be appropriate (e.g. an easement, legal deed, etc.). Given the long-term need for access and potential modification of the vegetation within the neighbouring lot and with possible legal disputes arising in the future, consideration should be given to outlining that an easement (rather than a perpetual agreement) is required. To stop either landowner from being able to lift or modify the easement, consideration should be given to including the City as a party to the easement. Having an easement also has the added benefit of being shown on a deposited plan or certificate of title, which helps ensure that potential buyers of a property affected by the agreement are aware of the agreement prior to purchasing the property (unlike other arrangements which may remain hidden). • P1.3 (c) (ii) in effect means that the City of Busselton (the City) has the absolute power to ignore existing clearing restrictions imposed by a covenant or environmental agency and, as such, is inappropriate. • P1.3 (c) (iii) does not work as there is no way to bind the applicant to a 'commitment' to seek an agency's approval and there is no guarantees that the approval will even be given. Also, the City cannot seek to impose a condition on an approval (subdivision or DA) which requires, and assumes, the approval of a third party, as this is an ambulatory (illegal) condition. • Clarification under C1.1. Is endorsement a bushfire practitioner providing a bushfire management plan (BMP) or BAL assessment with the application or providing a statement that they endorse the BMP/BAL assessment? Is it intended for bushfire practitioners to endorse their own BMPS/BAL assessments? • Suggest removing P1.1 as it is the same as C1.1 and state that applications must meet C1.1, similar to the wording under vulnerable land uses. • 4.1.2 Refers to 'all' vulnerable development and therefore goes well beyond the scope of the PS, which is limited to tourism development. 'All vulnerable land uses' would include hospitals, schools etc. which we assume should still meet the guidelines and not be impacted by BAL-40 or greater. • P3.1. in general is extremely difficult to interpret and appears to go well beyond the purpose and intent of the PS.	Email from Paul Needham 18/07/19 in response: Jackie, There are three different pieces of work relevant to bushfire planning issues that the City has been invited to comment on or has been undertaking itself, and this email provides and/or seeks feedback on each of those as follows – A. The working draft position statement on tourism uses B. The City's draft Bushfire LPP and amended Holiday Homes LPP C. The City's working draft new bushfire notice The three pieces of work are interrelated, and I thought it may be useful to provide this information to you as a package, although I would also like to provide this information to DFES – and so would appreciate if you could advise whether there are any issues providing our comments on the first matter above to DFES too? Thanks very much for the opportunity to comment on the draft position statement and also for the DPLH comments on the City's draft LPPs. The City would be keen to discuss these issues with DPLH, DFES and/or the Building Commission. **A. WORKING DRAFT V2 POSITION STATEMENT ON TOURISM USES IN BUSHFIRE PRONE AREAS** 1. **Status of position statement:** There appears to be some uncertainty around the status of the position statement, draft or otherwise. It is certainly the City's view that the draft position statement does not form part of the planning framework and should not be relied on or referred to in any way as part of planning decisions currently (other than high-level strategic decisions, which relate to the setting, rather than implementation, of the planning framework). The working draft, however, appears to indicate that the statement does form part of the planning framework. Further, even if and when the position statement is finalised, it would not seem to form part of the planning framework – and would only do so once the direction set out in it has been reflected in one or more documents that

<table>
<tr><th></th><th>Name and Address</th><th>Submission Notes</th><th>Comments</th></tr>
<tr><td></td><td></td><td>
Amendments to Local Planning Policy – Holiday Homes (Holiday Homes LPP)

C5.1 and P5.1 outlines that a Holiday Home needs to satisfy the Deemed-to-Comply or Performance provisions of the 'Bushfire Policy'. The interpretation section states that 'Bushfire Policy' means the Bushfire Local Planning Policy. Given the term 'Bushfire Policy' is only used twice within the document, it may be of benefit for the reader to delete the term from the interpretation section and use the full term in C5.1 and P5.1.
It should be noted that there is currently a Parliamentary Inquiry being conducted by the Economics and Industry Standing Committee into short-stay accommodation in Western Australia, reporting to the House of Representatives at the end of June 2019. Therefore, the comments below are preliminary and subject to change.
DPLH has an Options Paper 'Options for regulating sharing economy short-term accommodation in WA' (Options Paper) which is proposed to be incorporated into a position statement and later implemented in the Planning and Development (Local Planning Schemes) Regulations 2015. The definitions proposed in the Holiday Homes LPP differ to those outlined in the Options Paper. Please see table below for comparison.

<table>
<tr><th>Holiday Homes Local Planning Policy</th><th>Options Paper</th></tr>
<tr><td rowspan="2">Holiday Home (Multiple/Grouped Dwelling) -means a grouped dwelling or multiple dwelling, which may also be used for short stay accommodation for hire or reward for no more than six people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).</td><td>Holiday accommodation (to be utilised for grouped dwellings) - means 1 or more grouped dwellings on one lot used to provide short-term accommodation for persons other than the owner of the lot, but does not include hosted accommodation.</td></tr>
<tr><td>Holiday apartment (to be utilised for multiple dwellings) - means a multiple dwelling that is used to provide short-term accommodation.</td></tr>
<tr><td>Holiday Home (Single House) - means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for hire or reward for no more than 12 people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).</td><td>Holiday house (to be utilised for single dwellings) - means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.</td></tr>
<tr><td></td><td>Hosted accommodation - a portion of a dwelling or entire ancillary dwelling used to provide short term accommodation with a permanent live in host (owner/occupier/manager) but does not include a bed and breakfast or caravan park or serviced apartment.</td></tr>
</table>

We believe the Holiday Homes LPP is premature until the Parliamentary Inquiry, DPLH position statement and the Planning and Development (Local Planning Schemes) Regulations 2015 updates have been finalised. Therefore, the City should not progress with its review until the State's findings and directions are known.

In summary, we are concerned that the release of both local planning policies are premature and would be happy for the City to be in touch to discuss our concerns, prior to the documents progressing further. Should you have any questions regarding our submission, please do not hesitate to contact me directly.
</td><td>
do form part of the planning framework – i.e. legislation, State Planning Policy, associated Guidelines, WAPC Development Control Policy (with respect to WAPC decision-making, or where local government is acting on behalf of WAPC – e.g. subdivision clearance), regional and local planning strategies, regional and local planning schemes or local planning policy. It would be useful for the State to be clear on the status of the position statement and, if the State's view is contrary to that expressed here, explain why. Further, even if there is a basis by which the position statement could be part of the planning framework, having yet another document, added to content in the Regulations, plus the SPP and Guidelines, as well as given complexities around interaction with building and bush fire legislation, is not seen as sensible.

2. Confine commentary to Planning issues:

The draft position statement should confine itself to commentary on matters which can be appropriately influenced through Planning controls. The statement in Part 2 (paragraph 3) that "Local Governments should improve the education of tourists by way of signage and/or pamphlets available within prominent locations including the visitors centre and the local government offices" is not relevant to the consideration of strategic planning documents, development applications or subdivision and is considered an inappropriate inclusion. If this is going to be added, then the question of 'where to stop' arises in relation to what matters can/should be addressed in such documents.

3. Introduction of a new typology for Table 1:

Proposed Table 1 in the draft position statement introduces an alteration to the typology/formatting of the existing tables provided in Appendix 4 of the Guidelines. The City considers that the existing formatting for the tables at Appendix 4 works well and that they are reasonably easy to read and use. The City would encourage the formatting of any new tables proposed to be introduced to be as closely aligned as possible with the typology of the existing tables in the Guidelines; or even better amend the existing tables in the Guidelines to encapsulate the new direction (that would also help in highlighting and addressing any potential inconsistencies or ambiguities between existing and new material). This will provide consistency, readability and generally assist in ensuring that the complexity of the application process is not impacted in any substantial way given the existing requirement for applicants, bushfire consultants and planners to read, understand and use a significant number of separate documents associated with the bushfire planning framework.

4. Introduction of new terms and language:
</td></tr>
</table>

	Name and Address	Submission Notes	Comments
			It is noted the draft position statement references the new term 'Bushfire Emergency Plan' which is not currently in common usage and is not defined with the SPP and/or Guidelines. It is also noted that a section of the Guidelines "5.5.3 – Bushfire Emergency Plans" that does not currently exist is referenced in the document. It is the City's position that it is not appropriate for new terms and/or controls to be introduced through a position statement or to expect comment on matters that relate to a section of the Guidelines that is yet to be drafted and/or circulated. Further, if the intent is to update the Guidelines to introduce a new section relating to "Bushfire Emergency Plans" then the City suggests that it would be appropriate to address the matters in the draft position statement in that same review of the Guidelines rather than adding an additional reference document to the already complex Planning framework. It is also not clear how the more generic material on risk assessment fits into the decision-making process (and ISO 31000 is probably more applicable to the policy drafting process, not in the policy itself – the policy itself is, in effect, a more sophisticated and focused risk management tool, and so reference to a more generic risk management tool, other than as part of the background to the policy and its development, is not considered appropriate). 5. **Commentary on the proposed text of the draft position statement:** While the City's position is that it would be more appropriate to seek to make changes to the Regulations, SPP and/or the Guidelines (and, potentially, the building and/or bush fires legislation/regulation) to address the existing shortcomings in relation to direction for appropriate tourism use and development in bushfire prone areas, given the existing complexity of the framework, should the DPLH determine that the adoption of a position statement is the most appropriate outcome at this point in time, please see attached a copy of the City's comments on the proposed text of the document for reference. We look forward to further engagement on this issue. **B. CITY'S DRAFT BUSHFIRE LPP AND DRAFT AMENDMENTS TO HOLIDAY HOMES LPP** Thanks very much for the submission (below) from DPLH with respect to the City's draft local planning policies. The City has also received a submission from DFES (attached). The City has, as recommended in both submissions, been awaiting the finalisation/resolution of the draft Tourism Position Statement before considering final adoption of the draft local planning policies. I envisage we will continue to do so, provided that process is brought to some conclusion in the foreseeable future. The City also held a session attended by around 10 bush fire practitioners where there was some interesting discussion and feedback – and a number of those practitioners also made written submissions which made a number of interesting points that the City would like to further consider before final adoption.

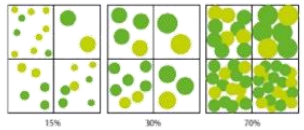
	Name and Address	Submission Notes	Comments
			In the interim, however, there are a number of comments and queries where the agencies' further advice and consideration may be helpful, as set out below. I anticipate that the City will seek further feedback from DPLH, DFES and bush fire practitioners before we finalise the LPPs. ***BUSHFIRE LPP*** 1. **Residential built-out areas:** Both versions of the draft position statement propose a definition of 'residential built-out area' as follows; "refers to a lot that is within close proximity to emergency services, access to reticulated water and is within, or contiguous with, an urban area or town (or similar)" (note: some consideration of whether 'lot' is the right term in this definition may be appropriate, 'land' may be better). The City has sought to apply that definition to a plan that forms part of the draft Bushfire policy. Both DPLH and DFES have indicated that the area identified may be larger than envisaged. With very limited exceptions, however, the areas identified do have access to reticulated water and are within or contiguous with an urban area and, arguably, are in close proximity to emergency services. If the intent of the position statement was for smaller areas to be identified, it is suggested that a review of the proposed definition is in order. The City will nevertheless further consider this particular issue before finalising the draft policy. The City is strongly of the view that, given the profound impact that location in a residential built-out area can have on approval of some development, and the apparent (and likely insurmountable) difficulties in defining their extent in written terms only, some form of mapping is appropriate. The City has identified that local planning policy is the appropriate place to do that. The DPLH submission, however, suggests that would be more appropriately done in a local planning strategy (which, unlike a local planning policy, would require consideration by the WAPC). It is the City's view that, especially given the dynamic and uncertain nature of State policy in this area, this is not something which should be set out in local planning strategies. Local planning strategies are reviewed too infrequently and the review process too cumbersome for that to be appropriate and it is a level of detail that in the City's view would in any case be inappropriate in a local planning strategy (which is supposed to set out the long-term vision for development of the local government area, not set detailed controls to be applied to assessment of applications for development approval). Furthermore, local planning strategies are not, since the Planning Schemes Regulations were introduced in late 2015, directly relevant to consideration of applications for development (see the 'matters to be considered' in the deemed provisions, where no direct mention is made of planning strategies). Alternative means of mapping residential built-out areas would be in local planning schemes, through an amendment to the deemed provisions or as an appendice or similar to SPP3.7 – all of which would require WAPC or Parliamentary approval. Unless and until the State has implemented one of those options, though, I expect that the City will seek to provide the necessary guidance through local planning policy.

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			The DFES submission suggests the wording of 4.1.2 (and C2.3 2 which forms part of 4.1.2) of the draft Bushfire policy extends the application of the residential built out area beyond 'minor development' to also include all 'vulnerable land uses' (noting that these are overlapping categories, but one is not just a subset of the other), and that somehow introduces some additional flexibility – which is not considered correct. The DPLH submission makes a somewhat similar point, although it references consistency with the position statement, and it is not clear why. Nevertheless, on reflection, it may be worthwhile amending the scope of 4.1.2 to include 'All Vulnerable Land Uses and/or Minor Development', modifying C2.3 such that it only applies to minor development, and also introducing a definition of minor development into the policy (which would be as per SPP3.7). 2. **Agreements for perpetual management of vegetation on adjoining land/property:** Both the DPLH and DFES submissions recommend further guidance regarding what form of 'perpetual agreement' may be appropriate. Quite right – the City awaits the State's advice as to what mechanism may be appropriate...as there does not seem to be any such mechanism in current WA law, other than a legal agreement binding both parties and secured via caveats in favour of the counter-party landowner and the local government (which would be very cumbersome). The DPLH submissions suggests an easement, but it is not clear how a local government could be party to an easement of which it was not a beneficiary. The City's draft policy merely reflects existing State policy. 3. **Assessment of environmental impact of vegetation clearing/management required to meet bushfire risk management outcome:** The DPLH submission makes some comment on P1.3 (c) (ii) and (iii) of the draft Bushfire policy. P1.3 (c) (ii) does not mean that the City has the 'absolute power' to ignore existing clearing restrictions. It can't, because of, amongst other things, the status of local planning policies. P1.3 (c) (ii) does, however, reflect SAT decisions which support the view that, especially where necessary environmental approvals have not already been obtained, a local government is in fact required to consider environmental (including clearing) impacts when assessing an application for development approval – and as noted we cannot defer consideration pending environmental approval or approve subject to receipt of environmental approval (that would be an ambulatory condition).

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			Further, in some cases the granting of development approval will affect the operation of the clearing regulations – i.e. where clearing is below certain area thresholds, is to accommodate approved development and/or necessary for management purposes and located outside an Environmentally Sensitive Area. Notwithstanding that, an advisory in the policy advising of the fact that development approval may not affect the need to obtain environmental approvals (specifically, under the clearing regulations) may be useful, as would a reference to conservation covenants. P1.3 (c) (iii) does not require a condition of development approval (ambulatory or otherwise). Rather, it is designed to allow an applicant, if they wish, to have all of the non-environmental issues considered before committing to flora and fauna assessments or similar. Environmental approval requirements that would otherwise apply would continue to do so. P 1.3 (c) (iii) is intended as a practical means of allowing that, but managing the reputational risk to the local government of a situation arising where a development approval is granted, but necessary environmental approvals cannot be or are not obtained. 4. **Endorsement of BMPs/BEEPs by accredited professionals:** This is raised in the DPLH submission. Yes, it is intended that appropriately accredited professionals endorse BMPs and BEEPs before they are lodged with the local government for assessment – and those documents would then be subject of appropriate of appropriate critical review by the local government and, in some cases, DFES. That is what occurs now and should be expected – not sure what the issue is here, unless it is something to do with the word 'endorse'? 5. **Wording of P1.1:** This is raised in the DPLH submission. It is agreed that the approach taken for 4.1.2 would be simpler. 6. **Wording of P3.1:** This is raised in the DPLH submission. It is agreed that this is difficult to interpret, and we will certainly look at that before finalising the policy. There is, however, a more fundamental issue that needs to be resolved with P3.1 (b). The City has also received submission from bush fire practitioners indicating they are not comfortable (or qualified) to make recommendations around building upgrades. The City has also allocated some time to consider the interaction of P3.1 (b) with the building legislation. We have sought some

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			advice from the Building Commission, which has not been entirely helpful (they have basically suggested we should get legal advice), although we are now seeking some further advice from them. I have attached a document which sets out a flow chart and then sets out and makes comment on the various provisions in the building legislation which need to be understood to determine if a development approval can require building modifications, but which are less than what would be required to achieve full compliance with the determined BAL (upgrading to which may not be practicable), without then falling foul of the building legislation – because as soon as the works require a building permit, then in most circumstances full compliance with the determined BAL would be required. The City is going to allocate a little more time to resolving our position on this issue, but if you are able to provide some advice, perhaps with the assistance of the Building Commission, that would certainly be appreciated. The reason this question is important is because SPP3.7 provides some discretion to approve a change of use that is minor development (i.e. a change of use of an existing dwelling to a holiday home) pursuant to cl. 6.7.1, but there is a great deal of uncertainty in both a policy and a practical sense as to the extent that emergency evacuation, on-site refuge areas and/or building upgrades (but not to the applicable BAL, where it is not practicable to do so) may play in the exercise of that discretion – and the interaction with the building legislation is critical if building upgrades are recommended and required as part of planning assessment. ***HOLIDAY HOMES LPP*** The land-use definitions set out in the LPP reflect the definitions currently in the City's town planning scheme, and the City already has a holiday homes LPP – which is a critical element of our approach to regulation of holiday homes. Unlike almost all other local governments in WA, the City has a new well established regime for regulating holiday homes, which consists of both town planning scheme provisions and a local law. There are currently over 800 registered holiday homes in the City. The proposed changes to the Holiday Homes LPP are essentially only required to reflect the fact that we are proposing to adopt a Bushfire LPP, and we want to avoid confusion and repetition (our current Holiday Homes LPP contains guidance related to assessment of bushfire risk). The City is aware of the Parliamentary Inquiry and the Options Paper prepared by DPLH. The City made a submission to the Inquiry and attended a hearing as a witness. We are certainly keen to see the outcome of the Inquiry, but note that it may be quite some time before the outcomes of the Inquiry are considered by Government, and perhaps substantially longer before we know if and when the Inquiry will results in a change to Government policy and, subsequently, legislation or regulation. Dependent on the timeframes and nature of the recommendations, the City may defer aspects of the policy work we have been doing pending State

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			direction and decision, but we do have practical issues we are seeking to address, and may need to do so before State direction is clear. **C. WORKING DRAFT CITY BUSHFIRE NOTICE** The SPP3.7 Guidelines (at 4.6.3, p23) address the implementation of BMPs, and note the need for that to occur via notices made under s33 of the Bush Fires Act ('firebreak notices'). The quality and consistency of firebreak notices around the State is, however, highly variable – and the City's current notice is not that great. Whilst the quality and consistency of BMPs has improved over recent years, there are also often not documents that are easily understood or implemented by landowners or by local government staff involved in the enforcement of firebreak notices (i.e. usually local government rangers). The City has begun a review of its firebreak notice, with the intent to better align it with the requirements of planning and building regulation. Attached is a working draft version of a new notice for the City. There is, however, a concern that doing so would conflict with community values on amenity and environmental issues, as well as conflicting with other, legitimate planning and public policy aims, including those aimed at encouraging 'urban forests' or similar (see https://www.dplh.wa.gov.au/projects-and-initiatives/metropolitan-planning/better-urban-forest-planning-of-perth-and-peel and Item 13.1 at https://busselton.infocouncil.biz/Open/2019/04/OC_10042019_AGN_740_AT_WEB.htm). This is considered to be a fairly fundamental issue, without resolution of which it will not be possible to develop a resolved and integrated approach to planning for bush fire in WA. The most difficult issue is the vegetation management requirements for APZs, which as per SPP3.7 are –

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			SCHEDULE 1: STANDARDS FOR ASSET PROTECTION ZONES • **Fences:** within the APZ are constructed from non-combustible materials (e.g. iron, brick, limestone, metal post and wire). It is recommended that solid or slatted non-combustible perimeter fences are used. • **Objects:** within 10 metres of a building, combustible objects must not be located close to the vulnerable parts of the building i.e. windows and doors. • **Fine Fuel load:** combustible dead vegetation matter less than 6 millimetres in thickness reduced to and maintained at an average of two tonnes per hectare. • **Trees (> 5 metres in height):** trunks at maturity should be a minimum distance of 6 metres from all elevations of the building, branches at maturity should not touch or overhang the building, lower branches should be removed to a height of 2 metres above the ground and or surface vegetation, canopy cover should be less than 15% with tree canopies at maturity well spread to at least 5 metres apart as to not form a continuous canopy. **Figure 18:** Tree canopy cover – ranging from 15 to 70 per cent at maturity  • **Shrubs (0.5 metres to 5 metres in height):** should not be located under trees or within 3 metres of buildings, should not be planted in clumps greater than 5m² in area, clumps of shrubs should be separated from each other and any exposed window or door by at least 10 metres. Shrubs greater than 5 metres in height are to be treated as trees. • **Ground covers (<0.5 metres in height):** can be planted under trees but must be properly maintained to remove dead plant material and any parts within 2 metres of a structure, but 3 metres from windows or doors if greater than 100 millimetres in height. Ground covers greater than 0.5 metres in height are to be treated as shrubs. • **Grass:** should be managed to maintain a height of 100 millimetres or less. Whilst there are alternative, more complex ways, of meeting the requirements of AS3959 than those set out above, firebreak notices and local government rangers need to work to relatively simple standards. The effect of the above, then, would be that trees are not allowed within 6.0 metres of a habitable building. I have provided some images below, which are of land in bush fire prone areas, which seek to illustrate the really significant amenity and environmental impact that would have, if consistently applied and enforced. The pink shading is the OBRM Bush Fire Prone Area mapping layer. ***West Busselton*** 

	Name and Address	Submission Notes	Comments
			Broadwater  *Old Dunsborough*  *Eagle Bay* 

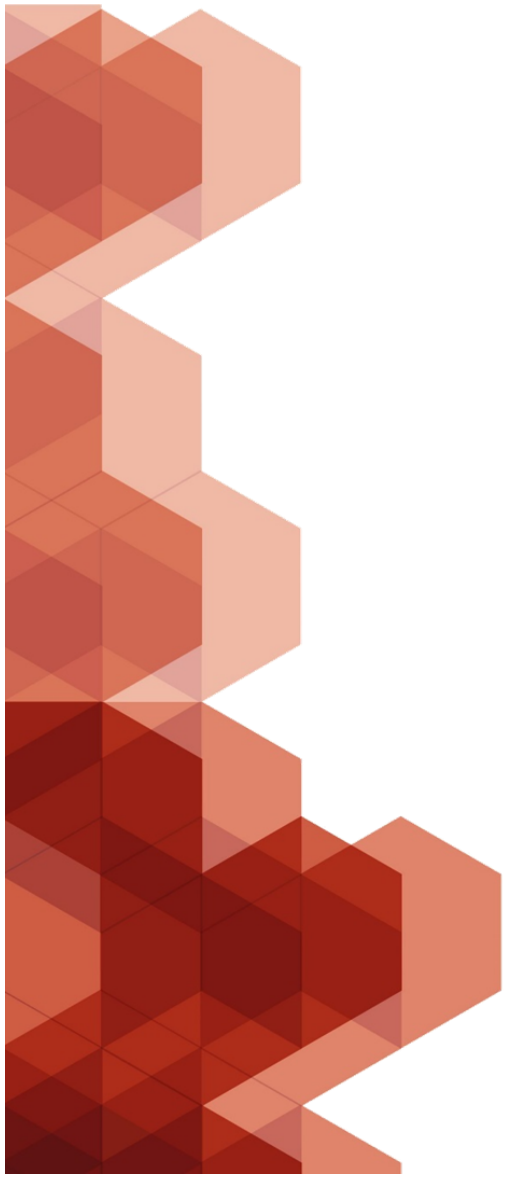
	Name and Address	Submission Notes	Comments
2	Department of Fire & Emergency Services, Rural Fire Division (DFES) *Sandeep Shankar*	I refer to your email dated 15 April 2019 regarding the referral of the City of Busselton's (City) Draft Local Planning Policy - Bushfire (Bushfire LPP) and amendment to Local Planning Policy – Holiday Homes (Holiday Home LPP). Thank you for taking the time to discuss these proposals with me and for providing DFES an opportunity to comment. We have also discussed these drafts with the Department of Planning, Lands and Heritage's (DPLH) bushfire policy team and have received a copy of their response. **Assessment** We are encouraged by the City's initiative to resolve gaps in guidance in relation to bushfire policy. Notwithstanding the above, we support DPLH's submission that some aspects of the LPPs are premature and should be deferred until the formal release of DPLH's *Position Statement: Tourism land uses within bushfire prone areas* (position statement) and updates to the *Planning and Development (Local Planning Schemes) Regulations 2015*. The following advice is provided for the City to consider in refining the LPPs. • DFES is generally supportive of the provisions and guidance relating to APZs, especially in relation to perpetual agreements and APZs overlapping into adjoining properties. We recommend further guidance is provided to ensure perpetual agreements are secured through a legally binding mechanism, to restrict modification and ensure they aren't hidden from prospective purchasers. Further guidance may also be required for Crown land. • The term 'residential built-out area' is currently referred to in SPP 3.7 under the definition of 'minor development'. There is currently no definition for 'residential built-out area', however DFES understands that DPLH are seeking to provide more guidance on this term through the release of the position statement. • DFES does not support the 'residential built-out areas' identified in Appendix 1 of the LPP, as they appear excessive and go beyond the boundaries of "urban areas". • Further, DFES is concerned by C2.3 as it appears to advocate support for all vulnerable land uses in BAL-40 or greater provided the development is located in 'residential built-out areas'. Extending 'residential built-out areas' from applying solely to minor development, to all vulnerable land uses, would be contrary to SPP 3.7 and is not supported by DFES. DFES recommends moving the provision to 4.1.3 'Change of Use of Existing Buildings to a Vulnerable Land Use in a bushfire prone area' to ensure consistency with SPP 3.7. **Advice – modifications required** It is critical that anomalies regarding inconsistencies with SPP 3.7 are resolved prior to adoption of the above LPPs. We encourage caution as some aspects of the LPPs are premature and should be deferred until the formal release of DPLH's *Position Statement: Tourism land uses within bushfire prone areas* (position statement) and updates to the *Planning and Development (Local Planning Schemes) Regulations 2015*.	
Community			
1	Kelly Paterson Ecosystem Solutions 4/13 Faure Lane, Dunsborough	Ecosystem Solutions has concerns regarding 4.1.2 – C2.1 'Any relevant buildings have or will be constructed to the determined BAL, given the APZ permitted under 4.1.1'. Our concerns are in relation to the retrospective modification of buildings to comply with AS3959-2018 or AS3959-2009. This is due to issues with sign-off and enforcement. As Bushfire Consultants, it is outside of our Code of Conduct (BPAD), training and expertise to provide advice on how to achieve retrospective compliance, or sign-off on the retrospective compliance, of a building to AS3959 standards. In relation to 4.1.3 – P3.1 (b), it is also outside of our accreditation as Bushfire Consultants to set out recommendations as to the minimum works required to upgrade a building to provide for an acceptable bushfire risk outcome. The approval of development in residential built out areas within BAL-40 and BAL-FZ is also a concern, as each proposal should be considered based on the risk described within the BMP, whether located within a residential built out area or not. This includes areas where access is adequate and allows for two points of egress and/or a safe place to refuge. A safe place to refuge is considered a Refuge	Provisions relating to partial building upgrades are recommended to be removed from the policy. The policy does not propose anything inconsistent with SPP3.7 and the state framework, in relation to the other issues raised.

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		Open Space within a BAL-2 area and a Refuge Building within a BAL-10 area, calculated based on a modified flame temperature of 1200 k as per the *Design and Construction of Community Bushfire Refuges*, 2014. This consideration is being captured by the Draft Position Statement on Tourism Land Uses in Bushfire Prone Areas, by the Department of Planning, Lands and Heritage. Areas included in the residential built out map, provided by the City, can present a high risk area, such as Eagle Bay where there has been no determined 'safe place to refuge' and the only egress to a welfare centre as designated by the City of Busselton in the Local Emergency Management Arrangements (Sept 2017) travels through an extreme bushfire risk area. This increased risk should be considered by the City when assessing the suitability of tourism within these areas. In relation to the welfare centres listed within the Local Emergency Management Arrangements, information on trigger points as to when these centres would likely be opened would assist in providing the most relevant information within Bushfire Management Plans and Emergency Evacuation Plans. Also, it is considered pertinent to assess the suitability of each of these City of Busselton designated welfare centres by completing a site specific BAL Contour Assessment or Bushfire Management Plan which would provide important information, including the potential radiant heat these buildings may be exposed to in a bushfire event and the maximum capacity of each welfare centre. This would then provide guidance around the suitability of these welfare centres to be used given they have not been built to BAL standards or to the standards described in the *Design and Construction of Community Bushfire Refuges.* We acknowledge the City's work to facilitate development in bushfire prone areas of our State, whilst minimizing the vulnerability of these areas and maximizing the aesthetic and ecological values of our natural environment.	LEMA are subject of ongoing review.
2	Gary McMahon - Ecosystem Solutions 4/13 Faure Lane, Dunsborough	We support and encourage the City's work to facilitate development in bushfire prone areas of our State, whilst minimizing the vulnerability of these areas and maximizing the aesthetic and ecological values of our natural environment. We also acknowledge the work the City is undertaking to help clarify this part of the planning process. Please find some comments regarding our reading of the proposed policy. • With respect to C1.3 – it would be good to align the APZ requirement with the fire break notice. There is a discrepancy between an APZ as per SPP 3.7 and a Building Protection Zone as stated in the Building code and the City's Bushfire Notice. The distance of 25m currently refers to the BPZ, however if an APZ is required to be rated a BAL-29 it can be less than 25 m, e.g. Woodland Flat separation distance for BAL-29 is 14m, Shrubland Flat separation distance is 9m. This currently causes compliance issues as to which one is required, if the two can be aligned somehow it will greatly enhance both safety and compliance and understanding. • Ecosystem Solutions has concerns regarding 4.1.2 – C2.1 'Any relevant buildings have or will be constructed to the determined BAL, given the APZ permitted under 4.1.1'. Our concerns are in relation to the retrospective modification of buildings to comply with AS3959-2018. This is due to issues with sign-off and enforcement. As Bushfire Consultants, it is outside of our Code of Conduct (BPAD), training and expertise to provide determination on how to achieve retrospective compliance, or sign-off on the retrospective compliance, of a building to AS39592018 standards. Similarly we are unable to assess a building to determine whether it has been constructed to the required standard as we do not have building experience or qualification. The reliance on this would the initial BAL report and/or a report from a building surveyor or registered builder. • In relation to 4.1.3 – P3.1 (b), it is also outside of our accreditation as Bushfire Consultants to set out recommendations as to the minimum works required to upgrade a building to provide for an acceptable bushfire risk outcome. As with the previous comment, we, under our accreditation documentation and subsequent insurances, cannot provide building advice as it is outside the scope of technical expertise and training. The FPAA explicitly states that unless we are registered builders or building surveyors we cannot provide advice or guidance on building requirements, we are only permitted to refer clients to the relevant sections of AS 3959 based on the potential radiant heat flux/exposure that structure is likely to be exposed to. Anything more is a breach of our accreditation. • The change of use to a vulnerable land use for residential built out areas within BAL-40 and BAL-FZ is also a concern as each lot should be considered based on the risk described within the BMP or the actual Radiant Heat Flux and likely fire behaviour of the landscape surrounding that site. This is independent on whether the site is located within a residential built out area or not. This includes areas where access is adequate and allows for two points of egress and/or a safe place to refuge. A safe place to refuge is considered as a Refuge Open Space within a BAL-2 area and a Refuge Building within a BAL-10 area calculated based on a modified flame temperature of 1200 k as per the Design and Construction of Community Bushfire Refuges, 2014. This consideration is being captured by the Draft Position Statement on Tourism Land Uses in Bushfire Prone Areas, by the Department of Planning, Lands and Heritage. Areas included in the residential built out map, provided by the City, can present a high risk area, such as Eagle Bay where	This issue is outlined in some detail in the report. Removal of these provisions has been recommended. As above. The policy is consistent with SPP3.7.

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		there has been no determined 'safe place to refuge' and the only egress travels through an extreme bushfire risk area. This increased risk should be considered by the City when assessing the suitability of vulnerable developments and as such it should be not just areas within the coloured map zone. • Section P 3.1 (b) requests a BMP to set our recommendations for minimum works to upgrade, this cannot be done by bushfire consultants and is addressed above. However the second part of that clause states "required to provide for an acceptable bushfire risk outcome (and with will not trigger a Building permit). In my opinion and experience in firefighting and bushfire behaviour, I would state that I do not believe it possible to retrospectively upgrade any built structure not constructed to the appropriate bushfire risk standard, to an acceptable level of risk , where that structure is exposed to radiant heat in excess of 40kW/m2 (i.e. BAL -40). This radiant heat level is approximately 10 x the lethal human dose of Radiant heat for an unprotected human, can cause the non-piloted ignition of cotton fabrics or clothing, can cause many timbers (cedars and softwoods) to ignite without any flame contact or pilot flame. The resultant surface temperatures from such radiant heat exposures (which is prior to any flame contact) is in the vicinity of 350-400 degrees Celsius. I would advocate that an acceptable risk from bushfire to those built structure not initially constructed to the appropriate standard, is not achievable. That is there, is no acceptable level of risk when exposed to those heat fluxes. In this situation, I believe it is critical to ensure that the site is inspected and the elements outlined in the point above are acceptable and achievable and that a blanket statement or policy in this instance could induce false senses of security and ultimately have catastrophic consequences for vulnerable residents. • The reliance of an evacuation plan also needs to be considered in the totality of the potential landscape bushfire risk and the understanding that evacuation are when most fatalities from bushfire events occur in Australia. These potential vulnerable proposal may have people from overseas with difficulties in English, lack of understanding of the Australian bushfire season and warning system, inability to communicate properly with property managers, emergency service staff and not fully understand the risk that a bushfire may place them in. Again the need for each of these extreme risk vulnerable proposals (i.e. >BAL 40) needs to be ascertained in the context of the overall landscape, rather than a reliance on evacuation. In summary I believe that some of the properties should not be able to achieve a change of use to a vulnerable land use. Overall we are happy to support a local bushfire planning policy and to work with the City to increase the communities understand of the risks and consequences of bushfire and to facilitate prudent and ultimately safe planning for this within the city.	Recommended to remove these provisions. Agreed. Both the state and proposed local policies do not support these uses on sites at BAL-40 or above outside Residential Built-Out Area.
3	Brendan Marsh 25 Wheatley Street, GOSNELLS WA	Holiday Home In my view, these should be as per any home and they shouldn't be considered a vulnerable use as all who use will have their own transport no different to a normal home. Bushfire Policy S4.1.1 C1.1 / P1.1: It is in the interests of the City of Busselton to have more bushfire assessors. Achieving L2 and L3 qualification is presently rather difficult, particularly for people from Busselton. Further, it is very easy for a matter to get beyond a practitioner's skill set according to BPAD, when in fact many practitioners contain other qualifications. For example, a traffic engineer will usually much better placed and qualified to advise on access – egress performance criteria compared to even a Level 3 Bushfire practitioner. For example, a Water Corporation registered design engineer may well be far better placed and qualified to advise on water supply. Implementing separations from buildings to hazardous vegetation is not actually very complicated. **Therefore, the City of Busselton should be very willing to consider work from people beyond the BPAD accreditation scheme, particularly if the person holds a professional tertiary qualification and professional body license/accreditation.** C1.2 / P1.2 I would encourage the City of Busselton to record as many additional solutions they are comfortable with as possible and migrate them to an acceptable solution list. Further, the City of Busselton should be very flexible in considering performance solutions particularly where the variation is minor or the variation is recommended by licenced/registered professional of a more relevant field, more so if that professional has a BPAD L1 qualification – such a person will often be more capable and better cover the City's risk. C1.3a The only limitation to an APZ dimension should be caused by one's ability to neutralise the bushfire hazard. The 25m APZ restriction should be deleted as it increases the likelihood of inferior bushfire risk reduction measures being implemented which will cause risk to the City. I am known, from time to time, to impose a larger APZ than 25m because it is viable and delivers a much safer outcome for all. Significant	That is inconsistent with the current state policy that the City is required to implement. Disagree – that would result in considerable professional indemnity risk being borne by the City. The policy framework is already very complex, and at this stage no further 'deemed to comply' approaches have been identified. This issue is outlined in the report.

	Name and Address	Submission Notes	Comments
		environmental values are a different issue and should be addressed in environmental policy and handled by an environmental expert. **Therefore policy 1.3a should be deleted.** C1.3b There is an error in the bushfire policy of the State. Accommodating an APZ within a property is really only relevant to larger rural properties for which it is reasonable to expect the adjoining land might one day be hazardous from a bushfire perspective. Also, adjacent road reserves/managed crown land should be able to form part of the APZ, particularly the verge nearside to the proposed habitable structure. Residential subdivisions/lots do not require APZ to be entirely contained within the land because it is reasonable to expect the adjoining land to be in APZ equivalent condition. **Therefore, the City should update its Hazard Reduction Notice to require residential lots to be kept consistent with APZ at all times of the year, and the proposed policy statement deleted.** C1.3c This should be deleted as it is irrelevant to the bushfire provisions. Rather, detailed environmental considerations should be the domain of the environmental consultant, and, if a clearing permit is obtained, the development should proceed. The matter should only enter the performance management space in the case of a sufficient clearing permit not being available and performance bushfire solutions being required to adequately mitigate the risk. **Therefore, delete this policy statement.** P1.3a This is dangerous and places the City at risk. If a larger APZ is viable and proposed, it should be supported by the City. **Therefore delete this policy statement.** P1.3b The solutions of b(i) and b(ii) are not complicated in the sense of bushfire management and are rather the domain of a Solicitor. Further, these do not consider residential lots. The City should use its Hazard Reduction Notice to ensure residential land is kept at all times as per APZ. **Therefore, I recommend the deletion of this policy statement.** P1.3c As per comments on C1.3c, the environmental assessments are not the domain of the bushfire assessor. It only should become a performance solution if suitable environmental clearing is not able to be achieved from a deemed to comply bushfire perspective. This is as per the State legislation. **Therefore, I recommend the deletion of this policy statement.** S 4.1.2 BAL 40 or greater is not deemed to comply – it is a performance solution space. We do need a suitable emergency refuge option to enter bushfire management alternatives. Does a suitable one exist? I am not convinced yet. But, when it does, it should accompany BAL 40 and BAL FZ construction, which probably should be available as a conforming solution option at some stage in the future. I recommend the City consider defining "extremely vulnerable land uses", such as a hospital or child care centre, and prohibit these from being located within 50m of grassland and 100m of other classifiable vegetation. If a proponent is removing such vegetation, then the use should be fine (with the meeting of the other deemed to comply matters). A condition of development application should be bringing buildings to the requisite BAL standard as per AS3959 generally, which is for the Building Surveyor to certify. A Bushfire Assessor certificate post construction certifying construction of all bushfire related items to the bushfire plan should become standard practice. Maybe the certificate should be rechecked and reissued every 5 years to ensure ongoing maintenance. Consider these suggestions and lobby State government if you agree – I think these should be across the board. Holiday accommodation in the City is overly restricted by the State legislation in my opinion. **Therefore delete most of this and consider the extremely vulnerable use suggestion.** S4.1.3 P3.1a	State policy already provide for overlapping APZs. Requiring year-round compliance with the bush fire notice is not supported, although an extension from 12 May to 31 May has been recommended. Environmental considerations are relevant to planning assessment. Disagree - bushfire risk needs to be considered in the context of landscape and environmental value. Overlapping APZs on residential lots are already recognised. Use of the bushfire notice to achieve this outcome elsewhere is not supported, as set out in the report. Environmental considerations are relevant to planning assessment. Outside the scope of policy. As above. Where building upgrade is required, it would be to a condition of D.A. Ongoing building maintenance is outside the scope of policy.

	Name and Address	Submission Notes	Comments
		In my view, anything can be upgraded with enough dollars. So, this is a Building designer and surveyor issue. The City should flag the Officer's concern at the DA stage. **Consider a condition of DA that requires post upgrade certification by both building surveyor and bushfire consultant. Policy statement is unnecessary – delete.** P3.1b Similar to P3.1a. **Consider a condition of DA that requires post upgrade certification by both building surveyor and bushfire consultant. Policy statement is unnecessary – delete.** S4.2.1 Is vague and unnecessary. Either the Bushfire Plan accompanying the planning works and the planning can be approved or it doesn't. **Therefore, delete.** S4.2.2 Should emergency access way be ceded to the crown? No, I envisage this will create problems for the City. I believe the concerns causing this idea can be solved in other better ways. Whatever the solution is, it should be State wide and consistent. **Therefore, delete.** General: In my view, the bushfire policy of any local government policy should be centred on making it easier. The State legislation is difficult enough to negotiate and still changing. Any policy in this area is highly susceptible to adding risk to the City, so "less is more" in my view. The hazard reduction notice is a great opportunity for the City to mitigate its risk. Otherwise, I recommend the City lobby the State government to have the existing Bushfire legislation and guidelines further improved.	Disagree, this is a situation where a large APZ may be appropriate. This is recommended to be deleted, although for a different reason – see report. Disagree, this is important to ensure proper consideration at structure planning stage. The City has taken the view, in recent years and on the basis of past experience that maintaining access networks is more effective when they are in private ownership. Noted.
5	Mick Whitelaw Margaret River WA	General Comments/ Observations/ Questions If the Draft position statement (tourism) is endorsed by the SG – will this affect the Proposed planning policies? No mention of the DFES in the Bushfire Policy and their role (Advisory) in the planning process (Vulnerable Land uses - SPP3.7) Will the Local Firebreak Notice (25m BPZ) be updated as part of this review? Is there an opportunity for the City to clarify the interaction between the Firebreak Notice and the planning process/ development applications (P1.3 (b) i)? Is there any more detail (justification) on the how the 'residential built out area' was defined? Will the 'residential built area layer' be available of the intramaps?	Issues are addressed in the report, other than that there is no need to mention the DFES role, as that is already set out in state policy.
6	Duncan Gardiner 144 Glover Road, Yallingup Siding WA	Holiday Home Local Planning Policy: The cost of a Fire Management Plan is about $3,000. This is a huge impost on rental properties - in addition to other fees. The CoB should look at ways of reducing this cost, or rebating it from other fees charged. There must be no requirement to ever re-submit the FMP The rules are too rigid. It does not appear possible to have a holiday home without a Fire Management Plan, and the rules on the FMP have no flexibility. Yet a key tourism objective is to be close to nature - not have a 25m APZ. Tourists can camp on the Cape to Cape with no APZ whatsoever, in a tent. But can't stay in a BAL-40 rated building with a 5-20m clearance? There need to be exceptions for high value vegetation, biodiversity, landscape values. AS3959 and planning guidelines recognises these as issues. So the CoB rules should have some flexibility in these areas. Find a way to allow buildings with an acceptable level of risk. For example the level could be set to the level of risk someone would have swimming or fishing. These are much more risky activities than sleeping in the bush. Some possibilities: - Build to a higher BAL level, and reduce APZ (would result in identical risk, and less APZ to maintain) Focus on evacuation Permit usage in winter when there is no fire danger Mandatory evacuation when Fire Danger is Extreme. Bushfire Local Planning Policy The rules are too rigid. The CoB rules should have some flexibility. Find a way to allow buildings with an acceptable level of risk. For example the level could be set to the level of risk someone would have swimming or fishing. These are much more risky activities than living close to nature. There need to be exceptions for high value vegetation, biodiversity, landscape values. AS3959 and planning guidelines recognises these as issues. No reason not to allow building to a higher BAL level, and reduce APZ (would result in theoretical identical risk, in practice lower as there is a smaller APZ to maintain). Planning Guidelines are guidelines, The CoB is able to, and should, choose to allow an avenue for people to live with a minuscule higher level of risk if they want to. Count the number of deaths in Busselton from bushfire over the last 100 years and compare it to other risks. Freedom is important, and we should not be a slave to the fear of liability.	The policy seeks to provide clearer guidance and balance sometimes competing considerations (E.g. bushfire risk and environmental values) but cannot be inconsistent with state policy.



Department of **Planning, Lands and Heritage**

GOVERNMENT OF WESTERN AUSTRALIA

Western Australian Planning Commission

We're working for Western Australia.

Position Statement:

Tourism land uses in bushfire prone areas

October 2019

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Position Statement:
Tourism land uses in bushfire prone areas
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1. Policy Intent

The intent of this position statement is to provide guidance for tourism land uses within bushfire prone areas. The position statement maintains primacy for the protection of life but also recognises that the protection of property or infrastructure may be secondary to the social and economic development of a region. If human safety can be satisfied, the asset may be considered 'replaceable' and its bushfire construction level determined to the degree necessary.

2. Tourism land uses in bushfire prone areas in Western Australia

The social and economic importance of tourism is recognised in the State Planning Strategy and many regional and local planning strategies. This position statement recognises the need to provide a framework to facilitate appropriate tourism opportunities across Western Australia where they are supported by a regional strategy, local planning strategy or local planning scheme.

Many tourism land uses are intrinsically linked to the natural landscape values of an area and often, to the remoteness of the location. This link to natural amenity and remote locations makes it difficult for many tourism land uses to meet the current provisions of *State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP 3.7)*, the supporting *Guidelines for Planning in Bushfire Prone Areas (Guidelines)* and the deemed to satisfy provisions of the *National Construction Code*.

Developing tourism land uses within remote and/or heavily vegetated areas comes with an inherent risk of bushfire, which can be reduced but never fully eliminated. Such risks must be understood in order to anticipate and manage them and foster a culture of resilience at all levels. Local governments should improve the education of tourists by way of prominent signage and/or pamphlets at locations including the visitors' centre and local government offices; land owners and operators should accept responsibility for tourists and visitors using their facilities; and importantly, tourists and visitors alike should be aware of the risks, particularly in remote areas where there is unlikely to be a caretaker on site.

3. Application of this policy

For the purpose of the position statement, tourism land uses refer to short-term accommodation, which means temporary accommodation provided either continuously or from time-to-time, with no guest accommodated for more than three months in any 12-month period. The position statement is also relevant for tourism day uses including art gallery, brewery, exhibition centre, hotel, reception centre, restaurant/café, small bar, tavern and wineries (as defined in the *Planning and Development [Local Planning Schemes] Regulations 2015*).

Tourism land uses are considered vulnerable land uses under SPP 3.7 and the preparation of a Bushfire Management Plan (BMP) and an Emergency Evacuation Plan (EEP) should be undertaken in accordance with the Guidelines for a vulnerable land use.

The position statement provides acceptable solutions (policy measures) to guide the development of a variety of tourism land uses and a framework for the development of performance principle-based solutions. Any application supported by a risk assessment will be treated as a performance principle-based solution.

In accordance with the Guidelines, vulnerable land uses, with the exception of minor development, should be referred to the Department of Fire and Emergency Services (DFES) for advice.

4. Policy objectives

This position statement seeks to achieve the following objectives:

- maintain primacy for the protection of life, but also recognise preservation of property or infrastructure may be secondary to the social and economic development of a region
- provide bushfire protection relevant to the characteristics of the tourism land use
- provide bushfire risk management measures that mitigate the identified risks
- achieve a balance between bushfire risk management measures, environmental protection, biodiversity management and landscape amenity.

5. Policy measures

Applications for tourism land uses should be assessed against the acceptable solutions (policy measures) included in Table 1 of this position statement.

5.1 Tourism land uses

Different tourism land uses demonstrate different characteristics and may require different levels of protection. Reasons for setting bushfire protection measures specific to the type of tourism land use include, but are not limited to:

- the presence of a resident/manager on site, thereby improving the potential for informed emergency evacuation decisions
- construction under Australian Standard (AS) 3959 may be impractical (that is, tents and caravans) or the dwelling may already exist and not constructed in accordance with AS 3959 remoteness of the site, including proximity to emergency services
- whether the land use involves overnight stay.

The following are 'use classes' as defined in the *Planning and Development [Local Planning Schemes] Regulations 2015*.

5.1.1 Bed and breakfast and holiday house:

A bed and breakfast means a dwelling used by a resident of the dwelling to provide short-term accommodation, including breakfast, on a commercial basis for not more than four adults or one family and containing not more than two guest bedrooms.

Holiday house means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.

The decision-maker may determine that a bed and breakfast or holiday house that is within a residential built-out area, satisfies the definition of 'minor development'. A simplified EEP should be provided, or alternatively compliance with the *Homeowner's Bushfire Survival Manual* (DFES, 2014) should be demonstrated, to reflect the residential scale of the vulnerable land use. In addition, a map should be included that identifies the subject property, the access routes available and destinations. The Simple Development Application BMP template should be used.

5.1.2 Caravan park:

As defined in the *Caravan Parks and Camping Grounds Act 1995* section 5.1, means an area of land on which caravans, or caravans and camps, are situated for habitation.

Standard type caravans, motor homes, holiday cabins and tents, including eco tents used for short-term accommodation generally cannot achieve any level of construction under AS 3959.

Consideration should be given to whether, in the event of a bushfire, the loss of these structures is a tolerable risk. If not, then an Asset Protection Zone (APZ) should be provided to minimise risk of loss of these structures during a bushfire event. This should be clearly detailed within the BMP. The emphasis should also be on early evacuation or closure on days of an elevated fire danger rating (FDR) or days of a total fire ban. These triggers should be identified through the BMP and EEP. However, in some scenarios, the EEP may determine that containing people on site is the safest option.

Remote camping grounds

Western Australia contains many camping grounds that are remote from townsites and emergency services, and require special consideration. Some of these provide limited facilities and may or may not include an on-site caretaker. Bushfire is an inherent risk in these areas and it is the responsibility of the owner/operator to inform visitors of the risk and the options available in the event of a bushfire. It is also the responsibility of those visiting these areas to understand and prepare for the risk. Vehicular access may be limited to a four-wheel drive and potable water and water for firefighting may also not be available.

The use of remote camping grounds in high-risk bushfire prone areas during periods of elevated bushfire danger is discouraged. The BMP should identify the risks and propose bushfire management measures to reduce this risk. This could include improvements to vehicular access, signage and identification of areas of 'least risk' for the camp sites (Section 5.2).

The importance of identifying potential risks and options for seeking on-site shelter should be considered through the preparation of the EEP.

5.1.3 Tourism day uses:

This refers to tourism land uses that involve no overnight stay and include, but is not limited to, art gallery, brewery, exhibition centre, hotel, reception centre, restaurant/café, small bar, tavern, and wineries. It should be noted that not all tourism day uses are considered vulnerable land uses. Vulnerability should be determined on a case by case basis, in accordance with section 5.5 of the Guidelines. Generally, when located in residential built-out area, visitors will be familiar with the environment, and as such, should not be considered vulnerable.

Day uses present similar challenges to short-term accommodation in that many of these land uses rely on the natural environment and as such, are often located outside residential built-out areas.

However, many of these land uses can rely on closure in response to a pre-determined fire danger rating and/or on the issue of a total fire ban on any given day. Most of these uses would have a manager and/or staff member on site at all times, who is able to activate these emergency procedures. In most cases visitors to the site would have travelled in their own or shared vehicle or tourist bus and would be able to evacuate the premises in the manner they came. Details on emergency management should be detailed in an EEP.

5.2 Bushfire risk assessment

Developing tourism land uses within remote and/or heavily vegetated areas comes with an inherent risk of bushfire, which can be reduced but can never fully eliminated. Such risks must be understood to anticipate and manage them and foster a culture of resilience at all levels.

This position statement provides for a risk-based assessment and if necessary, the use of contingencies to reduce the risk to acceptable levels. Evacuation in response to a bushfire alert or warning, and/or the provision of an on-site bushfire shelter as a

place of last resort are contingency options that may be suitable for some tourism land uses.

The *National Emergency Risk Assessment Guidelines* (NERAG) handbook provides an emergency-related risk assessment method consistent with the *Australian/ New Zealand Standard Risk Management – Principles and Guidelines* (ISO31000:2009). These principles should be applied to assist with demonstration of compliance with this position statement (Table 2).

A key component of the risk assessment will be consideration of the broader landscape and the risk of a landscape scale fire. A heavily timbered area, such as a national park will present increasing challenges with landscape scale bushfires and safe evacuation.

The risk assessment should be included within the BMP and decision-makers will need to be satisfied that the assessment:

- determines the likelihood or probability of a landscape scale bushfire event (based on a quantitative analysis of historical data)
- determines the consequences of a bushfire event, such as loss of life and/ or loss of infrastructure (based on historic data and/or modelling)
- evaluates the risk
- proposes risk treatment measures to reduce the risk to an acceptable level (such as provision of access routes, on-site shelter, early evacuation and APZs), and
- identifies an appropriate process for ongoing monitoring and review of risk management for the life of the development.

5.3 Contingency measures

This position statement recognises that for different landscape risk scenarios, a range of strategies including sheltering on-site, sheltering off-site (evacuation) and closure of facilities will need to be developed. The declaration of a total fire ban by the emergency services is an appropriate trigger for the activation of the EEP arrangements. This is discussed below.

5.3.1 Sheltering on-site

The early evacuation of visitors and staff based on an imminent bushfire threat should always be the first consideration and will form the basis of a successful EEP. Care must be taken to avoid creating a perception that sheltering on-site within a designated building or open space area, will provide a degree of protection that aligns with it being considered a first resort option.

Generally, sheltering on-site must be accepted as being a last resort option when it is no longer safe to evacuate to an area not prone to bushfire risk or when DFES has issued advice that it is no longer safe to evacuate. It should be emphasised that sheltering on-site is not a standalone contingency to managing risk to life safety. The EEP should identify the significant risks involved in planning to shelter on-site, due to the uncertainty, variability and indeterminacy of exposure to bushfire. The on-site shelter should be provided with sufficient space for the maximum number of employees and visitors that could be on-site at any given time. The shelter should be within easy walking distance from the tourism land use, with designated and sign-posted footpaths.

Shelter on-site in a nominated building

The building nominated to be used as an on-site shelter, should be designed to withstand a bushfire attack in the form of wind, smoke, embers, radiant heat and flame contact. A building proposed for this purpose needs to have a sufficient separation distance from the predominant bushfire prone vegetation to avoid exposure to a radiant heat flux exceeding 10kW/m2 (with an assumed flame temperature of 1200K). This separation reduces potential fire spread between primary vegetation and the building and enables firefighters wearing protective clothing to approach the building for a short period of time. Any proposed on-site shelter in a nominated building will be assessed against the *National Construction Code* and the *ABCB Design and Construction of Community Bushfire Refuges Handbook* (Australian Building Codes Board, 2014). The building will need to be designed and certified by a suitably qualified fire engineer.

The ongoing maintenance of the building and the surrounding separation distances from the bushfire prone vegetation will be the responsibility of the owner/operator. A 'maintenance plan' should detail the maintenance requirements and annual testing requirements. It is recommended that the annual testing be undertaken by a fire engineer.

It is recommended that the following conditions are imposed on a development approval.

1. The on-site bushfire shelter must be designed and constructed by a suitably qualified fire engineer in accordance with the National Construction Code and the *ABCB Design and Construction of Community Bushfire Refuges Handbook (2014).*
2. Prior to occupation of the development, a final inspection of the on-site bushfire shelter must be undertaken by a suitably qualified fire engineer with fire risk assessment expertise, accredited with Engineers Australia. The fire engineer shall

provide certification, to the satisfaction of the local government, that the works have been completed in accordance with the requirements of the *National Construction Code and the ABCB Design and Construction of Community Bushfire Refuges Handbook (2014).*

3. Prior to occupation of the development, an on-site bushfire shelter maintenance plan must be prepared by a suitably qualified fire engineer with fire risk assessment expertise, accredited with Engineers Australia, and must include:
   a) details of maintenance requirements, and
   b) details of annual testing requirements for operational compliance.
4. Annual testing shall include the lodgement of a compliance certification by a suitably qualified fire engineer, to the local government at least one month prior to the start of the bushfire season.

Shelter on-site in a nominated open space area

Where a tourism land use, such as a camping ground that provides no facilities or built structures that could be utilised for on-site shelter, a risk assessment may determine that an open space area is acceptable for on-site shelter as a last resort.

Where an open space area is being proposed, the site and surrounding site vegetation modification and management should seek to achieve a radiant heat flux of 2kW/m2 or less (with an assumed flame temperature of 1200K). A person is able to withstand a radiant heat flux of 2kW/m2 without protection, however it is important to recognise an open space area will provide limited, if any protection and therefore those sheltering are likely to be impacted by smoke, sand, sun and wind.

While the separation distances from bushfire prone vegetation to achieve 2kW/m² are likely to be considerable, some remote coastal camping sites may be able to utilise the beach as an open space area to shelter. Consideration will need to be given to the anticipated duration of the bushfire event, including the recovery period. Any ability to provide some shelter, such as a roofed area or shielding, would be beneficial.

The ongoing maintenance of the separation distances from the bushfire prone vegetation will be the responsibility of the owner/operator. It is recommended that the following conditions be imposed on a development approval.

1. A bushfire on-site shelter maintenance plan must be prepared by a Level 3 bushfire planning practitioner to the satisfaction of the local government, to detail the maintenance requirements prior to commencement of operation.
2. Lodgement of a compliance certification by a Level 3 bushfire planning practitioner to the local government, at least one month prior to the commencement of the bushfire season.

5.3.2 Early evacuation or closure of a tourism land use

Consideration should be given to the closure of a tourism land use in response to a pre-determined fire danger rating and/or the issue of a total fire ban on any given day. This option would be reliant on a caretaker or staff member residing on-site and able to activate the approved EEP.

Closure requires adoption of a trigger point. For a residential property, DFES generally recommends leaving an area when the fire danger rating is 'catastrophic' or 'extreme'.

In some situations, such as remote tourism land uses, it may be a safer option to require all staff and guests to remain on-site for the day as opposed to undertaking day visits where communication could be more difficult. It is also acknowledged that closure may not be realistic for overnight facilities, however could apply where there are incidental day uses.

Early evacuation in response to the DFES alerts during a bushfire event should be reinforced through an EEP.

- **Advice –** there is a bushfire in the area, but there is no known risk
- **Watch and act:** there is a possible risk to lives or homes; you need to leave or get ready to defend
- **Emergency warning:** you are in danger and need to take immediate action to survive; there is a threat to lives or homes.

An appropriate 'safer place' should be identified within the EEP in the event of a bushfire or trigger point. A 'safer place' is a place that is not prone to bushfire risk, is generally not on the subject site, is accessible and in reasonable proximity to the tourism land use. Local governments are encouraged to identify suitable buildings or areas for use by the community in the event of a bushfire emergency through their Local Emergency Management Framework.

5.4 Emergency Evacuation Plan (EEP)

It is a requirement under SPP 3.7 for all vulnerable land uses to be accompanied by an EEP, which details implementation mechanisms to support the BMP. Further guidance can be found in section 5.5.2 of the Guidelines, online at dplh.wa.gov.au in

A Guide to Developing a Bushfire Emergency Evacuation Plan and the Bushfire Emergency Evacuation Plan template.

The purpose of the EEP is to improve the preparedness of vulnerable land uses by identifying steps to be followed before, during and after a bushfire event.

The EEP should be prepared in consultation with the owner/operator, local government and local fire brigade as the differences in responses by emergency services, including time taken to respond, should be understood and included in the plan.

The success of an EEP will be dependent on the transfer of knowledge from the bushfire planning practitioner, to the landowner/operator and staff through regular training and then to those visiting the site through appropriate signage and/or information dissemination.

The local government is encouraged to require as a condition of development approval, regular review of the EEP by an accredited bushfire planning practitioner, to ensure it remains valid and relevant.

5.5 Peer review

A risk management approach to bushfire is an emerging field in Western Australia. The need to identify appropriate quantitative tolerable standards for risk and acceptable risk mitigation measures will be subject to continual review and improvement. A peer review should be undertaken by a suitably qualified practitioner to support the recommendations of a BMP where a risk assessment has been prepared.

Definitions

Acceptable risk: The level of risk that is sufficiently low that society is comfortable with it.

Consequence: An impact on the natural, economic, built or social environments because of the hazard. The consequences are influenced by the vulnerability of elements at risk, by the exposure of elements at risk to the hazard, and by the characteristics of the hazard.

Hazard: Any source of potential harm or a situation with a potential to cause loss. A hazard is therefore the source of risk.

Likelihood: The chance of an event occurring. Likelihood may be represented qualitatively using measures such as 'likely', 'possible' and 'rare'.

Minor development: As per SPP 3.7.

On-site shelter: A designated building or open space area that can provide shelter before, during and after a bushfire event.

Safer place: A public building or land (such as an oval) registered by the local government for use by the community in the event of a bushfire (or other) emergency. It provides for improved protection of human life during the onset and passage of a bushfire. It is in a central location where people facing an immediate threat to their personal safety or property can gather and seek shelter from the impact of bushfire.

Short-term accommodation: Temporary accommodation provided either continuously or from time to time with no guest accommodated for more than three months in any 12-month period.

Residential built-out area: A lot that has access to reticulated water and is within or contiguous with, an urban area or town (or similar).

Risk treatment: The partial or complete removal of a risk source or some improvement in the controls to reduce the level of risk.

Unacceptable risk: A level of risk that is so high that only avoidance enables the elimination of the risk. Loss of life represents unacceptable risk.

References

Australian Institute for Disaster Resilience 2015, *National Emergency Risk Assessment (NERAG) Handbook*, Australia

COAG 2011, *The National Disaster Resilience Strategy*, Australia

Emergency Management Victoria 2015, *Construction and Project Management Guidelines for Community Fire Refuge*, Victoria

Emergency Management Victoria 2015, *Community Fire Refuges*, Victoria

Australian Building Codes Board 2014, *Design and Construction of Community Bushfire Refuges – Handbook*. Australian Building Codes Board

NSW Rural Fire Service 2018, *Planning for Bushfire Protection*, NSW

NSW Rural Fire Service 2017, *Neighbourhood Safer Places*, NSW

NSW Rural Fire Service 2014, *Ecotourism factsheet 1/14*, NSW

Table 1: Tourism land uses

Intent: To provide bushfire protection for tourism land uses relevant to the characteristics of the occupants and/or surrounding community to preserve life and reduce the impact of bushfire on property and infrastructure.

PERFORMANCE PRINCIPLE	ACCEPTABLE SOLUTION (POLICY MEASURE)	RISK ASSESSMENT
Bed and Breakfast and Holiday House – not minor development (where the dwelling is existing and is outside a residential built-out area)		
1. Siting and design To provide suitable building design, construction and sufficient space to ensure radiant heat levels do not exceed critical limits for emergency services personnel undertaking operations, including supporting or evacuating occupants	1.1 Siting and design to reduce levels of radiant heat, smoke and ember attack through the provision of an APZ to improve the vulnerability of the existing dwelling. 1.2 Existing dwellings in BAL-40 or BAL-FZ should only be considered where two-way access is provided; or it is demonstrated through a risk assessment, that the risk can be mitigated. Where there is a permanent resident or caretaker on-site, this can form part of a risk mitigation package. 1.3 Where the existing dwelling is located in an area above BAL-LOW, modifications should be undertaken to improve the building's resistance to ember attack commensurate to its determined BAL level, except where that existing building was required to comply with a higher level of bushfire resistant construction under any other written law.	Where dwelling is in BAL-40 or BAL–FZ and/or where the acceptable solutions for vehicular access cannot be achieved.
2. Vehicular access To provide a safe operational access for emergency services personnel in suppressing a bushfire, while residents and visitors are accessing or egressing the site	2.1 Where an existing dwelling is in BAL-40 or BAL-FZ, two-way access should be provided; or it should be demonstrated through a risk assessment that the risk can be mitigated. 2.2 Where an existing dwelling achieves BAL-29 or below, the provision of one access route can be considered where it abuts moderate or low threat vegetation, and where it is demonstrated that secondary access (including an emergency access way) cannot be achieved. 2.3 All roads should be through roads. Dead end roads are not recommended but if unavoidable, or they are existing, they should be no more than 200 metres. 2.4 Access routes should achieve the requirements of Table 6 in the *Guidelines for Planning in Bushfire Prone Areas*. 2.5 Private driveways longer than 50 metres require: • passing bays every 200 metres with a minimum length of 20 metres and a minimum width of two metres (i.e. the combined width of the passing bay and constructed private driveway to be a minimum six metres); • Turn-around areas designed to accommodate type 3.4 fire appliances and to enable them to turn around safely every 500 metres (i.e. kerb to kerb 17.5 metres) and within 50 metres of a house; and • An all-weather surface (i.e. compacted gravel, limestone or sealed).	
3. Provision of water The provision of a permanent and secure water supply that is sufficient for firefighting purposes	3.1 The development or land use is provided with a reticulated water supply in accordance with the specifications of the relevant water supply authority and/or the local government; or 3.2 Provision of a static water supply on the lot for firefighting purposes, that has an effective capacity of at least 10,000 litres in addition to any requirements for potable water. 3.3 Dedicated water supplies shall be non-combustible (or suitably shielded) and located such that fire services can readily gain access to appropriate fittings and connect fire fighting vehicles to dedicated water supplies in a safe manner.	

PERFORMANCE PRINCIPLE	ACCEPTABLE SOLUTION (POLICY MEASURE)	RISK ASSESSMENT
Bed and Breakfast and Holiday House – minor development where the dwelling is existing or the dwelling is not yet constructed) (in residential built-out area)		
1. Siting and design To provide suitable building design, construction and sufficient space to ensure radiant heat levels do not exceed critical limits for emergency services personnel undertaking operations, including supporting or evacuating occupants	**Where the dwelling is existing** 1.1 Siting and design to reduce levels of radiant heat, smoke and ember attack through the provision of an APZ to improve the vulnerability of the existing dwelling. 1.2 Any dwelling determined to be BAL-40 or BAL-FZ is subject to justification under cl 6.7.1. of SPP 3.7 **Where the dwelling is not yet constructed** 1.3 In accordance with Element 2: Siting and Design of Development A2.1 Asset Projection Zone, contained within the *Guidelines for Planning in Bushfire Prone Areas*.	N/A
2. Vehicular access To provide a safe operational access for emergency services personnel in suppressing a bushfire, while residents and visitors are accessing or egressing the site	2.1 The provision of one access route which connects to the public road network, and provides safe access and egress.	
3. Provision of water The provision of a permanent and secure water supply that is sufficient for firefighting purposes	3.1 The development or land use is provided with a reticulated water supply in accordance with the specifications of the relevant water supply authority and/or the local government.	

PERFORMANCE PRINCIPLE	ACCEPTABLE SOLUTION (POLICY MEASURE)	RISK ASSESSMENT
Bed and Breakfast and Holiday House – not minor development (where the dwelling is not yet constructed and is outside a residential built-out area)		
1. Siting and design To provide suitable building design, construction and sufficient space to ensure radiant heat levels do not exceed critical limits for emergency services personnel undertaking operations, including supporting or evacuating occupants	1.1 In accordance with Element 2: Siting and Design of Development A2.1 Asset Projection Zone, contained within the *Guidelines for Planning in Bushfire Prone Areas*.	Where dwelling is in BAL-40 or BAL–FZ and/or where the acceptable solutions for vehicular access cannot be achieved.
2. Vehicular access To provide a safe operational access for emergency services personnel in suppressing a bushfire, while residents and visitors are accessing or egressing the site	2.1 Provision of one access route can be considered where it abuts moderate or low threat vegetation, and where it is demonstrated that secondary access (including an emergency access way) cannot be achieved. 2.2 All public roads should be through roads. Dead end roads are not recommended but if unavoidable, or they are existing, they should be no more than 200 metres. 2.3 Access routes should achieve the requirements of Table 6 in the *Guidelines for Planning in Bushfire Prone Areas*. 2.4 Private driveways longer than 50 metres require: • passing bays every 200 metres with a minimum length of 20 metres and a minimum width of two metres (i.e. the combined width of the passing bay and constructed private driveway to be a minimum 6 metres); • Turn-around areas designed to accommodate type 3.4 fire appliances and to enable them to turn around safely every 500 metres (i.e. kerb to kerb 17.5 metres) and within 50 metres of a house; and • An all-weather surface (i.e. compacted gravel, limestone or sealed).	
3. Provision of water The provision of a permanent and secure water supply that is sufficient for firefighting purposes	3.1 The development or land use is provided with a reticulated water supply in accordance with the specifications of the relevant water supply authority and/or the local government; or 3.2 Provision of a static water supply on the lot for firefighting purposes, that has an effective capacity of at least 10, 000 litres in addition to any requirements for potable water. 3.3 Dedicated water supplies shall be non-combustible (or suitably shielded) and located such that fire services can readily gain access to appropriate fittings and connect fire fighting vehicles to dedicated water supplies in a safe manner.	

PERFORMANCE PRINCIPLE	ACCEPTABLE SOLUTION (POLICY MEASURE)	RISK ASSESSMENT
Caravan Park (includes camping ground)		
1. Siting and design To provide sufficient space to ensure radiant heat levels do not exceed critical limits for emergency services personnel undertaking operations, including supporting or evacuating occupants	1.1 Siting and design to reduce levels of radiant heat, smoke and ember attack. • Consideration should be given to the provision of an APZ to achieve 29kW/m² around the camp ground facilities, which may include the office, manager's residence, camp kitchen and shower/laundry. • Consideration should be given to clustering of camp sites and securing an APZ around the entire development or providing an APZ to separate the site from the potential adjoining hazard. • Where there is no bushfire construction standard (i.e. tents and caravans and some eco tents) and the loss of these structures is identified in a risk assessment as a 'tolerable' risk, then no APZ is required and subject to a risk assessment, these structures may be located in areas of BAL-40 or BAL-FZ. 1.2 Where a building is to function as an on-site shelter, there must be sufficient separation distance from the predominant bushfire prone vegetation to avoid exposure to a radiant heat flux exceeding 10kW/m² (with an assumed flame temperature of 1200K); or where an open space area is to function as an on-site shelter, there must be sufficient separation distance from the predominant bushfire prone vegetation to avoid exposure to a radiant heat flux exceeding 2kW/m² (with an assumed flame temperature of 1200K). 1.3 Buildings identified as suitable on-site shelter shall be designed and constructed in accordance with National Construction Code and the ABCB Community Shelter Handbook.	Where buildings or structures are located in BAL-40 or BAL-FZ and/or where the acceptable solutions for vehicular access cannot be achieved.
2. Vehicular access To provide a safe operational access for emergency services personnel in suppressing a bushfire, while residents and visits are accessing or egressing the site	2.1 Caravan parks located in residential built-out areas should provide one access route which connects to the public road network, and provides safe access and egress. 2.2 Caravan parks located outside of residential built-out areas -where vehicular access in two different directions to two different destinations cannot be provided, the BMP should identify the risks and propose bushfire management measures to reduce this risk, which may include on-site shelter and or closure. 2.3 All roads should be through roads. Dead end roads are not recommended but if unavoidable, or they are existing, they should be no more than 200 metres. 2.4 Access routes should achieve the requirements of Table 6 in the *Guidelines for Planning in Bushfire Prone Areas*.	
3. Provision of water To provide an adequate supply of water for firefighting purposes to reflect the intended response to a bushfire event, by emergency services and/or the owner/ occupier	3.1 The development or land use is provided with a reticulated water supply in accordance with the specifications of the relevant water supply authority and/or the local government; or 3.2 Where the intention is to actively defend property and infrastructure, provision of a minimum 10,000 litre static water supply for firefighting purposes per building/structure, in addition to any requirements for potable water; or 3.3 Where the intention is to actively defend property and infrastructure, provision of a minimum 50,000 litre static water supply for firefighting purposes per 25 buildngs/structures, to the satisfaction of the local government; and 3.4 Dedicated water supplies shall be non-combustible (or suitably shielded) and located such that fire services can readily gain access to appropriate fittings and connect fire fighting vehicles to dedicated water supplies in a safe manner.	

Position Statement:
Tourism land uses in bushfire prone areas
October 2019

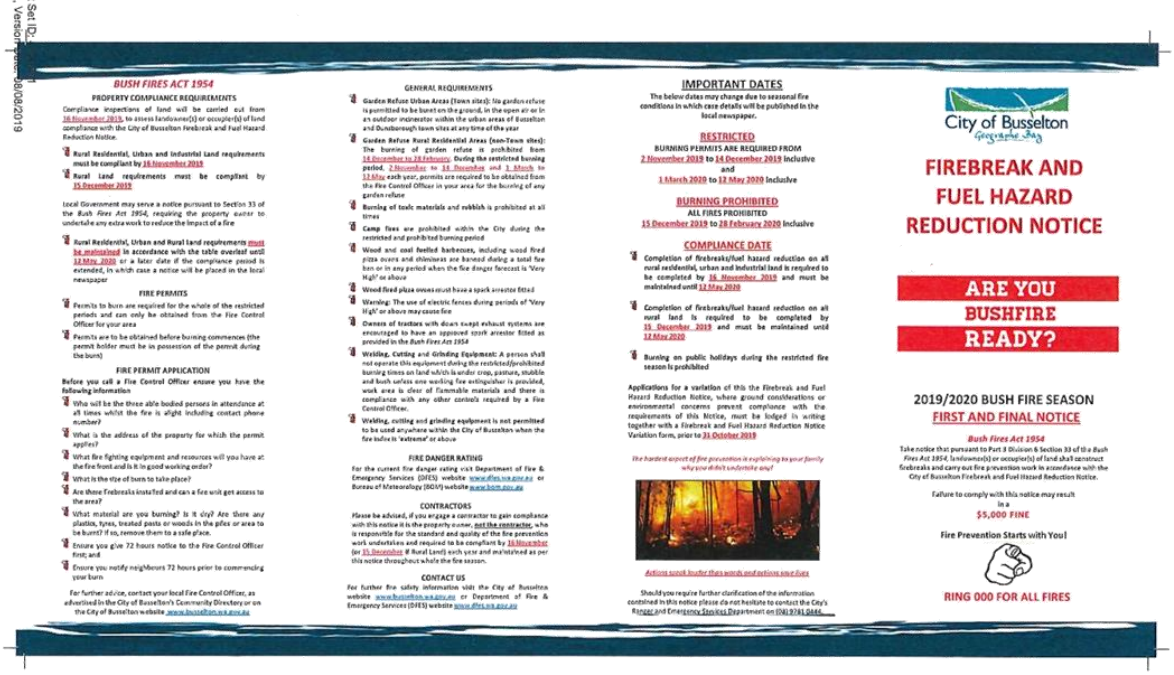
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PERFORMANCE PRINCIPLE	ACCEPTABLE SOLUTION (POLICY MEASURE)	RISK ASSESSMENT
Other (vulnerable) short-term accommodation – including motel, serviced apartments, tourist development, holiday accommodation and **Vulnerable Day uses –** including art gallery, brewery, exhibition centre, hotel, reception centre, restaurant/cafe, small bar, tavern, winery		
1. Siting and design To provide suitable building design, construction and sufficient space to ensure radiant heat levels do not exceed critical limits for emergency services personnel undertaking operations, including supporting or evacuating occupants	1.1 In accordance with Element 2: Siting and Design of Development A2.1 Asset Projection Zone, contained within the *Guidelines for Planning in Bushfire Prone Areas*. 1.2 Where a building is to function as an on-site shelter, there must be sufficient separation distance from the predominant bushfire prone vegetation to avoid exposure to a radiant heat flux exceeding 10kW/m^2 (with an assumed flame temperature of 1200K); or where an open space area is to function as an on-site shelter, there must be sufficient separation distance from the predominant bushfire prone vegetation to avoid exposure to a radiant heat flux exceeding 2kW/m^2 (with an assumed flame temperature of 1200K). 1.3 Buildings identified as suitable for on-site shelter shall be designed and constructed in accordance with *National Construction Code* and the *ABCB Community Shelter Handbook*.	Where buildings or structures are located in BAL-40 or BAL-FZ and/or where the acceptable solutions for vehicular access cannot be achieved.
2. Vehicular access To provide a safe operational access for emergency services personnel in suppressing a bushfire, while residents and visits are accessing or egressing the site	2.1 The provision of one access route can be considered where: • the proposal is within a residential built-out area; or • the access route abuts moderate or low threat vegetation, and • where it is demonstrated that secondary access (including an emergency access way) cannot be achieved, and • the access route is not travelling back towards or through the hazard. 2.2 Access routes should achieve the requirements of Table 6 in the *Guidelines for Planning in Bushfire Prone Areas*. 2.3 Private driveways longer than 50 metres require: • passing bays every 200 metres with a minimum length of 20 metres and a minimum width of two metres (i.e. the combined width of the passing bay and constructed private driveway to be a minimum six metres); • Turn-around areas designed to accommodate type 3.4 fire appliances and to enable them to turn around safely every 500 metres (i.e. kerb to kerb 17.5 metres) and within 50 metres of a house; and • An all-weather surface (i.e. compacted gravel, limestone or sealed).	
3. Provision of water The provision of a permanent and secure water supply that is sufficient for firefighting purposes	3.1 The development or land use is provided with a reticulated water supply in accordance with the specifications of the relevant water supply authority and the local government; or 3.2 Provision of a static water supply for firefighting purposes on the lot that has an effective capacity of 10,000 litres per building/structure in addition to any requirements for potable water; or 3.3 Provision of a minimum 50,000 litre static water supply for firefighting purposes per 25 buildings/structures, to the satisfaction of the local government; and 3.4 Dedicated water supplies shall be non-combustible (or suitably shielded) and located such that fire services can readily gain access to appropriate fittings and connect fire fighting vehicles to dedicated water supplies in a safe manner.	

Table 2: Risk assessment framework adapted for planning in bushfire prone areas

STAKEHOLDER CONSULTATION	**Establish the context** Confirm the purpose, objectives, scope and stakeholder consultation of the risk assessment. Identify the planning proposal, site and locality context.	MONITORING AND REVIEW
	RISK IDENTIFICATION **Bushfire hazard identification** Undertake a vegetation assessment including consideration of the broader landscape. Identify fire weather, vegetation types and topography. Investigate fire history, key fire runs, emergency service response and options for evacuation.	
	VULNERABILTY ANAYLSIS **Determine consequence** Develop consequence scale and determine consequence. **Determine likelihood** Develop likelihood scale and determine likelihood of loss of life and assets.	
	RISK EVALUATION **Evaluate identified risks** Based on the bushfire hazard identification, likelihood of a bushfire event occurring and the possible level of consequence, evaluate the risk to people and property.	
	RISK TREATMENT **Identify risk treatment options** Identify potential risk treatment options, including contingency measures and management, to ensure preservation of life, minimise risk to assets to an acceptable level and reduce the level of risk identified from the risk matrix/vulnerability analysis. **Evaluate risk treatment options** Demonstrate the suitability and effectiveness of these risk treatments options.	
	IMPLEMENTATION **Prepare Emergency Evacuation Plan (EEP)** Prepare an EEP that ensures effective implementation of these risk management measures for the duration of the tourism land use.	

Document Set ID:
Version: 1, Version Date: 08/08/2019



BUSH FIRES ACT 1954

PROPERTY COMPLIANCE REQUIREMENTS

Compliance inspections of land will be carried out from 16 November 2019, to ensure landowner(s) or occupier(s) of land compliance with the City of Busselton Firebreak and Fuel Hazard Reduction Notice.

- **Rural Residential, Urban and Industrial Land requirements must be compliant by 16 November 2019**
- **Rural Land requirements must be compliant by 15 December 2019**

Local Government may serve a notice pursuant to Section 33 of the *Bush Fires Act 1954*, requiring the property owner to undertake any extra work to reduce the impact of a fire

- **Rural Residential, Urban and Rural land requirements must be maintained in accordance with the table overleaf until 12 May 2020** or a later date if the compliance period is extended, in which case a notice will be placed in the local newspaper

FIRE PERMITS

- Permits to burn are required for the whole of the restricted periods and can only be obtained from the Fire Control Officer for your area
- Permits are to be obtained before burning commences (the permit holder must be in possession of the permit during the burn)

FIRE PERMIT APPLICATION

Before you call a Fire Control Officer ensure you have the following information

- Who will be the three able bodied persons in attendance at all times whilst the fire is alight including contact phone number?
- What is the address of the property for which the permit applies?
- What fire fighting equipment and resources will you have at the fire front and is it in good working order?
- What is the size of burn to take place?
- Are there Firebreaks installed and can a fire unit get access to the area?
- What material are you burning? Is it *clay*? Are there any plastics, tyres, treated posts or woods in the piles or area to be burnt? If so, remove them to a safe place.
- Ensure you give 72 hours notice to the Fire Control Officer first; and
- Ensure you notify neighbours 72 hours prior to commencing your burn

For further advice, contact your local Fire Control Officer, as advertised in the City of Busselton's Community Directory or on the City of Busselton website www.busselton.wa.gov.au

GENERAL REQUIREMENTS

- **Garden Refuse Urban Areas (Town sites):** No garden refuse is permitted to be burnt on the ground, in the open air or in an outdoor incinerator within the urban areas of Busselton and Dunsborough town sites at any time of the year
- **Garden Refuse Rural Residential Areas (non-Town sites):** The burning of garden refuse is prohibited from 14 December to 28 February. **During the restricted burning period**, 2 November to 14 December and 1 March to 12 May each year, permits are required to be obtained from the Fire Control Officer in your area for the burning of any garden refuse
- **Burning of toxic materials and rubbish** is prohibited at all times
- **Camp fires** are prohibited within the City during the restricted and prohibited burning period
- **Wood and coal fuelled barbecues**, including wood fired pizza ovens and chimineas are banned during a total fire ban or in any period when the fire danger forecast is 'Very High' or above
- **Wood fired pizza ovens** must have a spark arrester fitted
- **Warning:** The use of electric fences during periods of 'Very High' or above may cause fire
- **Owners of tractors** with down swept exhaust systems are encouraged to have an approved spark arrester fitted as provided in the *Bush Fires Act 1954*
- **Welding, Cutting and Grinding Equipment:** A person shall not operate this equipment during the restricted/prohibited burning times on land which is under crop, pasture, stubble and bush unless one working fire extinguisher is provided, work area is clear of flammable materials and there is compliance with any other controls required by a Fire Control Officer.
- **Welding, cutting and grinding equipment** is not permitted to be used anywhere within the City of Busselton when the fire index is 'extreme' or above

FIRE DANGER RATING

For the current fire danger rating visit Department of Fire & Emergency Services (DFES) website www.dfes.wa.gov.au or Bureau of Meteorology (BOM) website www.bom.gov.au

CONTRACTORS

Please be advised, if you engage a contractor to gain compliance with this notice it is the property owner, not the contractor, who is responsible for the standard and quality of the fire prevention work undertaken and required to be compliant by 16 November (or 15 December if Rural Land) each year and maintained as per this notice throughout whole the fire season.

CONTACT US

For further fire safety information visit the City of Busselton website www.busselton.wa.gov.au or Department of Fire & Emergency Services (DFES) website www.dfes.wa.gov.au

IMPORTANT DATES

The below dates may change due to seasonal fire conditions in which case details will be published in the local newspaper.

RESTRICTED

BURNING PERMITS ARE REQUIRED FROM
2 November 2019 to 14 December 2019 inclusive
and
1 March 2020 to 12 May 2020 inclusive

BURNING PROHIBITED

ALL FIRES PROHIBITED
15 December 2019 to 28 February 2020 inclusive

COMPLIANCE DATE

- **Completion of firebreaks/fuel hazard reduction on all rural residential, urban and industrial land is required to be completed by 16 November 2019 and must be maintained until 12 May 2020**
- **Completion of firebreaks/fuel hazard reduction on all rural land is required to be completed by 15 December 2019 and must be maintained until 12 May 2020**
- **Burning on public holidays during the restricted fire season is prohibited**

Applications for a variation of this the Firebreak and Fuel Hazard Reduction Notice, where ground considerations or environmental concerns prevent compliance with the requirements of this Notice, must be lodged in writing together with a Firebreak and Fuel Hazard Reduction Notice Variation form, prior to 31 October 2019

The hardest aspect of fire prevention is explaining to your family why you didn't undertake any!

Actions speak louder than words and actions save lives

Should you require further clarification of the information contained in this notice please do not hesitate to contact the City's Ranger and Emergency Services Department on (08) 9781 0444.

City of Busselton
Geographe Bay

FIREBREAK AND FUEL HAZARD REDUCTION NOTICE

ARE YOU BUSHFIRE READY?

2019/2020 BUSH FIRE SEASON
FIRST AND FINAL NOTICE

Bush Fires Act 1954

Take notice that pursuant to Part 3 Division 6 Section 33 of the *Bush Fires Act 1954*, landowner(s) or occupier(s) of land shall construct firebreaks and carry out fire prevention work in accordance with the City of Busselton Firebreak and Fuel Hazard Reduction Notice.

Failure to comply with this notice may result in a
$5,000 FINE

Fire Prevention Starts with You!

RING 000 FOR ALL FIRES

Document Set ID: 4164091
Version: 1, Version date: 08/08/2019

FIREBREAK CATEGORY CODE AND SUMMARY OF REQUIREMENTS

CATEGORY

It is the land owner's responsibility to identify the category that relates to their property and to ensure the necessary fire prevention works are completed on time. Please contact the City if you are unsure of your category.

ALL REQUIREMENTS IN THIS NOTICE ARE TO BE MAINTAINED THROUGHOUT THE ENTIRE DURATION OF THE FIRE SEASON (1 DECEMBER TO 12 MAY EACH YEAR).
FAILURE TO COMPLY MAY RESULT IN A $5,000 FINE

PLEASE BE ADVISED THAT YOUR PROPERTY MUST COMPLY WITH CATEGORY REQUIREMENTS AS NOTED BY A TICK IN COLUMN A, B, C OR D





CATEGORY	A	B	C	D
CATEGORY 1 RURAL (on all properties not mentioned in the boxes to the right, unless a Strata Fuel Management Plan or Individual Fire Management Plan applies. Contact the City if you are unsure of your category.)	✓		✓	✓
CATEGORY 2 URBAN RESIDENTIAL & INDUSTRIAL - COMMERCIAL Sections A, B, D and E1 Trees, Apply to this category. Refer to section F – Interpretation and Additional Requirements (E1 Trees)	✓	✓		✓
CATEGORY 3 & 4 PLANTATIONS Fire Management Plan applies	N/A	N/A	N/A	N/A
CATEGORY 5 PROTEA PLANTATIONS / VINEYARDS (Fire Management Plan, Strata Fuel Management Plan or Individual Fire Management Plan). Sections A, B, C and D apply to this category.	✓	✓	✓	✓
CATEGORY 6 RURAL RESIDENTIAL – LOTS WITH INDIVIDUAL (NATURAL EARTH) BOUNDARY BREAKS Sections A, B, C and D apply to this category unless the property is subject to Estate Fire Management Plan or Individual Fire Management Plan	✓	✓	✓	✓
CATEGORY 7 RURAL RESIDENTIAL – LOTS WITH A STRATEGIC FIREBREAK ON ONE OR MORE BOUNDARIES Sections A, B, C and D apply to this category unless the property is subject to Estate Fire Management Plan or Individual Fire Management Plan	✓	✓	✓	✓
CATEGORY 8 RURAL RESIDENTIAL – LOTS WITH NO STRATEGIC FIREBREAK AREA WITHIN STRATEGIC FIREBREAKS ON THE NOTIFIED BOUNDARIES Sections B, C and D apply to this category unless the property is subject to Estate Fire Management Plan or Individual Fire Management Plan		✓	✓	✓

A – Firebreak

– the term firebreak includes a mineral earth firebreak. A mineral earth firebreak means a 3 metre wide area of the owner(s)/occupiers(s) land, cleared and maintained totally clear of all vegetation material (living or dead) so there is only mineral earth left. Any overhanging trees and other vegetation must be pruned to a height of 5 metres above the ground level of a mineral earth firebreak.

Category 1 – Rural: A mineral earth **FIREBREAK** shall be constructed 3 metres wide, except to pasture or crop areas where a **FIREBREAK** shall be 2 metres wide. **FIREBREAKS** shall be located adjacent to all external boundaries of the land. Where the land area exceeds 120 hectares, an additional **FIREBREAK** must divide the land into areas of not more than 120 hectares with each part completely surrounded by a **FIREBREAK.**

Category 2 – Urban Residential and Industrial-Commercial: Where the area of land exceeds 2024m² (½ acre) a mineral earth **FIREBREAK** shall be constructed and maintained at least 3 metres wide and within 6 metres of the inside of all external boundaries of the land. Where the area of land is 2024m² (½ acre) or less, hazardous material must be removed in accordance with section **B - Fuel Reduction** (refer to **B1**).

Category 5 – Protea Plantations/Vineyards: A mineral earth **FIREBREAK** shall be 3 metres wide. A low fuel area is to be maintained in accordance with section **B - Fuel Reduction** (refer to **B2**).

Category 6 and 7 – Rural Residential: A mineral earth **FIREBREAK** shall be constructed 3 metres wide. On Category 6 Rural Residential land with pasture or crop, a **FIREBREAK** shall be 2 metres wide and located within 6 metres of all external boundaries of the land. For Category 7 Rural Residential land, free access along a Strategic **FIREBREAK** is to be maintained at all times and including across the boundary of a lot, by means of a 3.5 metres wide field gate in the adjoining lot boundary fence.

B – Fuel Reduction

1) **Category 2 – Urban Residential and Industrial-Commercial:** Where the area of land is 2024m² (½ acre) or less, **ALL HAZARDOUS MATERIAL** must be removed from the whole of the land except living trees. In the area remaining, vegetation is to be maintained to a height of no greater than **10 centimetres**; this includes piles of timber, branches and other vegetation. Trees shall be pruned in accordance with section **E – Interpretation and Additional Requirements** (refer to **E1**).
2) **Category 5 – Protea Plantations/Vineyards:** A 3 metre low fuel area is to be maintained between the 3 metre **FIREBREAK** and the plantation/vineyard area. In this area, vegetation is to be maintained to a height of no greater than **10 centimetres**; this includes piles of timber, branches and other vegetation.
3) **Category 6, 7 and 8 – Rural Residential:** Parkland clearing must be carried out in all open paddocks and along the boundary of the property. Clearing means that all dead vegetation and dry grasses (excluding approved crops, pasture areas and living trees/shrubs) including piles of timber and disused materials must be maintained to a height of no greater than **10 centimetres**.

C – Building Protection Zones (BPZ) –

This is a modified area of reduced fuel immediately surrounding a building

BPZ's stance the fire by reducing the fuel levels around your house. These requirements are designed to reduce the fire's intensity and minimize the likelihood of flame contact with buildings. The BPZ gives more protection to families should a fire threaten suddenly and they cannot leave. It also provides extra protection for fire fighters and property owners who may decide to stay with their property.

A BPZ shall be provided for buildings in bush fire prone areas. The surroundings of buildings must comply with the following requirements:

1) The BPZ for existing buildings must be at least 20 metres from any external wall of the building unless varied under an approved Fire Management Plan (FMP) in accordance with section **E - Interpretation and Additional Requirements** (refer to **E4**).
2) The minimum BPZ for buildings constructed after 1 November 2011, in all cases shall be 25 metres.
3) The BPZ must be located within the boundary of the lot that the building is situated on.
4) Hazardous/flammable materials must not exceed the maximum fuel load specified in Point 5 below with grass areas not exceeding a height greater than 10 cm.
5) Fuel loads must be reduced and maintained at 2 tonne per hectare.
6) Isolated trees and shrubs may be retained, however, the first 5 metres around all buildings is to be clear of all hazardous/flammable materials.
7) Reticulated gardens in the BPZ shall be maintained to a height of no greater than 500 millimetres.
8) Wood piles must be at least 10 metres away from habitable dwellings.
9) Trees in the BPZ must comply with section **E - Interpretation and Additional Requirements** (refer to **E1**).
10) Where the land has an approved FMP, compliance must be achieved in accordance with the FMP. The FMP may vary the above BPZ requirements.
11) A Hazard Separation Zone (HSZ) is also recommended in the absence of a Fire Management Plan. Section **E - Interpretation and Additional Requirements** (refer to **E3**).



D – Fuel Storage & Haystack Protection Zones

A 3 metre mineral earth FIREBREAK shall be located within 6 metres of fuel storage tanks, sheds, gas cylinders and haystacks. The mineral earth firebreak shall be maintained so that it is totally clear of all material (living or dead).

E – Interpretation and Additional Requirements

1) **Trees** On Urban, Industrial, Rural, and Rural Residential land, all tree branches must be removed or pruned to ensure a clear separation of at least 3 metres back from the eaves of all buildings and 5 metres above the top of the roof. Branches that may fall on the house must also be removed. In the BPZ the following is 'recommended'; the spacing of individual or groups of trees should be 15 metres apart to provide for a 5 metres separation between tree crowns. There is also a requirement of 2.5 metres between trees and power lines so they do not come into contact and start a fire or bring down a power line.
2) **Hazardous and Flammable Materials** means the accumulation of fuel including bum piles (living or dead) such as leaf litter, twigs, trash, bush, dead trees and scrub capable of carrying a running fire, but excludes standing living trees and isolated shrubs. **NOTE:** All remaining vegetation, piles of timber, branches and other living vegetation must be maintained to a height of no greater than 10 centimetres. To measure and determine fuel loads use DFES's *Visual Fuel Load Guide* at http://www.dfes.wa.gov.au/safetyinformation/firethatburns/Pages/publications.aspx and select *Visual Fuel Load Guide Swan Coastal (Part 1 & 2)*. Surface bush Fire fuels should be kept low to the ground.
3) **Hazard Separation Zones (HSZ)** A HSZ is a modified area of reduced fuel load outside of the BPZ and is recommended to assist in reducing the fires intensity when flames are approaching buildings. Both the BPZ and the HSZ are essential strategies for the protection of buildings. A HSZ covers the area 75 metres outside the BPZ.
The HSZ should be modified to have a maximum fuel load of 6 tonne per hectare. This can be implemented by fuel reduction methods such as burning, mowing and slashing to remove the hazard. This should not require the removal of living trees or shrubs. **REMEMBER:** reduce the fuel level of the fire to lower the intensity of the blaze. Further information on fuel loading can be found in the *Visual Fuel Load Guide* available by calling DFES or via their website at www.dfes.wa.gov.au
4) **Fire Management Plan (FMP)** A FMP is a comprehensive plan for the prevention and control of bushfires which may apply to individual land holdings. A notification, pursuant to the *Transfer of Land Act 1893* (as amended) may be placed on the Certificate(s) of Title of the land for modifions to long term fire management to reduce the occurrence and minimise the impact of uncontrolled bush fires, thereby reducing the threat to life, property and the environment. The land owner must comply with the FMP. Building in bush fire prone areas, new dwellings and other forms of accommodation, as well as additions to existing buildings are to be constructed in accordance with *Australian Standard 3959-2009*. In designated bush fire prone areas, the minimum BPZ in all cases shall be 25 metres. Further information on this and other information relating to fire safety issues can be found on the City's website www.bunbury.wa.gov.au

NOTICE UNDER THE *BUSH FIRES ACT 1954*

The City of Busselton –

A. Pursuant to Section 24G(2) of the *Bush Fires Act 1954*, gives notice that the burning of garden refuse is –

1. Prohibited throughout the District during prohibited burning times;
2. Prohibited in any area in the Urban category or Urban – Bush Fire Prone category during restricted and prohibited burning times;
3. Prohibited without a permit to burn in any area in the Rural-Residential category or Rural category during restricted burning times; and
4. Prohibited throughout the District on public holidays during restricted and prohibited burning times.

B. Pursuant to Section 25(1a) of the *Bush Fires Act 1954*, gives notice that the lighting of fires in the open air for the purpose of camping or cooking is prohibited throughout the District during prohibited burning times.

C. Pursuant to Section 33(1) of the *Bush Fires Act 1954*, gives notice to owners and occupiers of Land that they -

1. On Land in the Urban category, must ensure that actions are undertaken to ensure, for the whole of the period 15 November to 31 May inclusive in any calendar year –
   (a) Any grass or ground cover on the Land, or dead vegetation (excluding vegetation where individual stems or similar are greater than 6mm in diameter), other than Low-Threat Vegetation, is kept to a height of no more than 10cm above ground level.
2. Subject to the requirements of clause C5, on Land in the Urban – Bush Fire Prone category, must ensure that actions are undertaken to ensure, for the whole of the period 15 November to 31 May inclusive in any calendar year –
   (a) Any grass or ground cover on the Land, or dead vegetation (excluding vegetation where individual stems or similar are greater than 6mm in diameter), other than Low-Threat Vegetation, is kept to a height of no more than 10cm above ground level; and
   (b) All vegetation on the Lot within 25m of the wall of any Habitable Building or any other building, where the wall of that building is within 6m of the wall of any habitable building, meets the APZ Standard.
3. Subject to the requirements of clause C5, on Land in the Rural-Residential category, must ensure that actions are undertaken to ensure, for –
   (a) The whole of the period 1 December to 31 May inclusive in any calendar year –
      (i) Any grass or ground cover on the Land, or dead vegetation (excluding vegetation where individual stems or similar are greater than 6mm in diameter), other than Low-Threat Vegetation, is kept to a height of no more than 10cm above ground level;
   (b) The whole of the period 15 November to 31 May inclusive in any calendar year –
      (i) All vegetation on the Land within 25m of the wall of any Habitable Building or any other building, where the wall of that building is within 6m of the wall of any habitable building, meets the APZ Standard; and

(ii) A Firebreak around the perimeter of the Lot, or within 10m of the Lot boundary.

4. Subject to the requirements of clause C5, on Land in the Rural category, must ensure that actions are undertaken to ensure, for the whole of the period 1 December to 31 May inclusive in any calendar year –

a) All vegetation on the Land within 25m of the wall of any Habitable Building or any other building, where the wall of that building is within 6m of the wall of any habitable building, meets the APZ Standard; and

b) A Firebreak around the perimeter of the Lot, or within 10 metres of the Lot boundary.

5. The requirements of clauses C1-4 are modified by a BMP, in the following circumstances –

a) Where the BMP was endorsed by the City of Busselton on or after 7 December 2015; or

b) Where the BMP relates to Land in the Rural-Residential or Rural Category, and the BMP provides for a network of access ways that is in addition to those required by clauses C3 or C4; or

c) Where the BMP relates to Land with an approved Tree Farm; or

d) Where compliance with the requirements of C1-4 would be in conflict with –

(i) A nature conservation covenant to the benefit of the Conservation and Land Management Executive Body or the National Trust of Australia (WA), or made under the (WA) *Conservation and Land Management Act 1984 or Soil and Land Conservation Act 1945*; or

(ii) The (Commonwealth) *Environmental Protection Biodiversity and Conservation Act 1999*; or

(iii) The (WA) *Environmental Protection Act 1986;* or

(iv) The (WA) *Aboriginal Heritage Act 1972*; or

(v) The (WA) *Biodiversity Conservation Act 2016*; and

(vi) The BMP sets out alternative approaches to achieving an adequate fire safety outcome, as set out in the BMP.

D. Categories, for the purpose of this notice, are set out on a map endorsed by the Council on XXXXX, other than –

1. If the subject Lot is greater than 10 hectares in area, and is Zoned 'Rural-Residential' in the *City of Busselton Local Planning Scheme No. 21*, it shall be considered to be in the Rural category; and

2. If the subject Lot is identified on the map as being in the Urban category and is subject of an order made under Section 18P of the *Fire and Emergency Services Act 1998*, it shall be considered to be in the Urban – Bush Fire Prone category.

E. Terms, for the purpose of this notice, shall have their meaning as if they were in the *Bush Fires Act 1954*, except the following (none of which are terms defined in the *Bush Fires Act 1954*) –

1. 'APZ Standard' means the 'Standards for Asset Protection Zones' as per Schedule 1 of the Guidelines to WAPC *State Planning Policy 3.7: Planning in Bushfire Prone Areas*;

2. 'BMP' means a Bushfire Management Plan, Bush Fire Management Plan or Fire Management Plan prepared to meet the requirements of Part 10A of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, *State Planning Policy 3.7: Planning in Bushfire Prone Areas* and/or *Australian Standard AS3959 – 2009: Construction of Buildings in Bushfire-Prone Areas*, or preceding or succeeding equivalents, and which has been endorsed by the City of Busselton;

3. 'Firebreak' means a trafficable (by an all-wheel-drive fire appliance) mineral earth or constructed surface, a minimum of 3m wide and completely clear of all vegetation, living or dead, and over which any overhanging vegetation is no less than 5m above ground level (the primary purpose of which is to provide access for fire-fighting, not to prevent the transmission of fire);

4. 'Habitable Building' means a permanent or temporary structure on Land that —

   (a) is fully or partially enclosed; and

   (b) has at least one wall of solid material and a roof of solid material; and

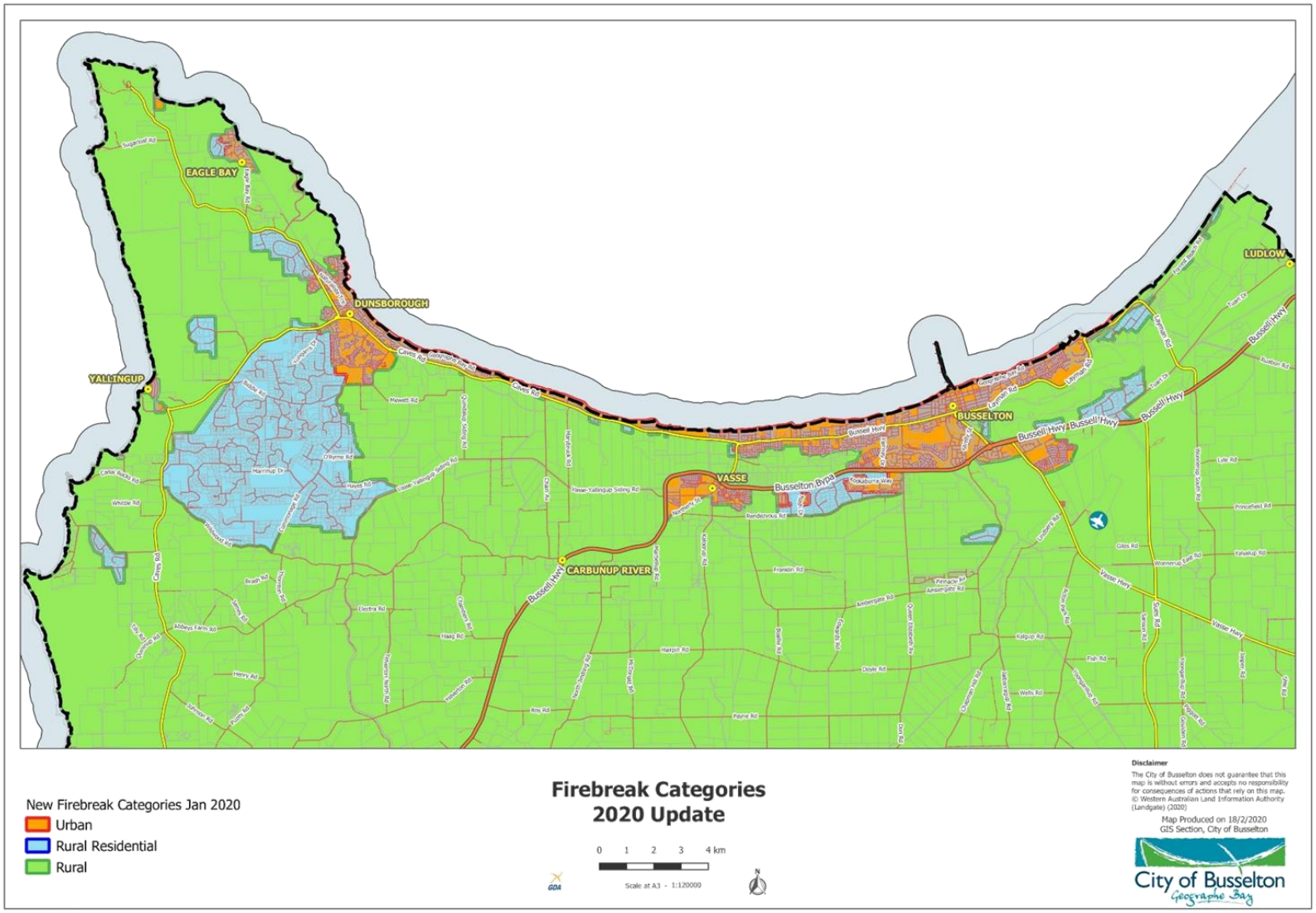
   (c) is used for a purpose that involves the use of the interior of the structure by people for living, working, studying or being entertained;

5. 'Land' means freehold land or leasehold Crown Land;

6. 'Lot' means an allotment of freehold land or leasehold Crown Land;

7. 'Low-Threat Vegetation' means vegetation consistent with the description in 2.2.3.2 of *Australian Standard AS 3959 -2018: Construction of buildings in bushfire-prone areas.*

8. 'Tree Farm' means land used commercially for tree production where trees are planted in blocks of more than one hectare, including land in respect of which a carbon right is registered under the *Carbon Rights Act 2003* section 5.


EAGLE BAY
DUNSBOROUGH
YALLINGUP
BUSSELTON
VASSE
CARBUNUP RIVER
LUDLOW
Busselton Bypass
Bussell Hwy
New Firebreak Categories Jan 2020
Urban
Rural Residential
Rural
Firebreak Categories
2020 Update
0 1 2 3 4 km
Scale at A3 - 1:120000
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.
© Western Australian Land Information Authority (Landgate) (2020)
Map Produced on 18/2/2020
GIS Section, City of Busselton
City of Busselton
Geographe Bay
New Firebreak Categories - 65468.qgz

Current Notice	Comments

Clear Firebreak
• Construct firebreak
• Carry out fire prevention works
	s.33 of the *Bush Fires Act 1954* (the Act)
	• LG to give written Notice (Annual Firebreak and Fuel Hazard Reduction Notice)
	  ○ Plough, cultivate, scarify or otherwise clear on the land firebreaks
	  ○ To act as and when specified anything on the land which is or likely to be conducive to the outbreak or spread of a fire
	  ○ Compliance dates

Prohibited Burning Times • 15 December to 28 February	s.17 of the Act Declared by the Minister , no need to include in annual notice
Restricted Burning Times • 2 November to 14 December • 1 March to 12 May	s.18 of the Act Declared by the FES Commissioner, no need to include in annual notice
Camp and Cooking Fires • Camp fires are prohibited during restricted and prohibited burning periods	• s.25(1a) a local government may, by Notice published in the Gazette and in a newspaper circulating in its district, prohibit the lighting of fires in the open air in its district for the purpose of camping or cooking for such period during the prohibited burning times as specified in the notice (this needs to be included in the annual notice) • S.25(1)(a) a fire for the purpose of camping or cooking shall not be lit on a day where the FDR is very high or above without the written approval of the local government • What about low/moderate and high FDR? • Lighting of fires on local government property prohibited under the provisions of the local law • S.25(1c) during any period where the lighting of fires for the purpose of camping or cooking is prohibited a person shall not light a fire without the approval in writing of the local government (special circumstances e.g. Undalup)

Garden Refuse
• No garden refuse is permitted to be burnt on the ground, in the open air or in an outdoor incinerator within the urban areas of Busselton and Dunsborough town sites at any time of the year
• Rural-residential areas: prohibited during the prohibited burning period, permit required during restricted burning period
	• S.24G(2) a local government may, by notice published in the Gazette and a local paper circulating in its district, prohibit or impose restrictions on the burning of garden refuse within its district that is otherwise permitted under s.24F
	• We need to include the following in the notice:
	  ○ The burning of garden refuse if prohibited throughout the district during prohibited burning times
	  ○ The burning of garden refuse is prohibited throughout the district during restricted burning times when the FDR is very high or above unless a fire permit has been obtained from an FCO Prohibited under s.24D – permit to burn during periods of low/moderate or high FDR

	○ The burning of garden refuse is prohibited in the urban areas of Busselton and Dunsborough town sites (can this be better described) during restricted burning periods ○ No burning on public holidays
Burning of toxic materials and rubbish • Prohibited at all times	• Burning toxic materials covered by the Environmental Protection Act – no need to include this in the notice • Rubbish?
Wood and coal fuelled BBQs • Including wood fired pizza ovens and Chimineas • Banned during total fire bans or when FDR is very high or above • Wood fired pizza ovens must have a spark arrestor fitted	• r.24ZP any chimney on an appliance involved in a catering activity must be fitted with a suitable spark arrestor – this only applies during a TFB
Electric fences • Warning – use of electric fences during FDR of very high or above may cause fire	• Not required, may include in information sheet
Tractors • Tractors with a down swept exhaust system are encouraged to have a spark arrestor fitted as per the Act	• S.27 of the Act and s.37 of the BF Regulations requires a tractor's exhaust to be fitted with an arrestor – no need to include in the notice
Welding, cutting and grinding equipment • A person shall not operate this equipment during restricted/prohibited burning times on land which is under crop, pasture, stubble and bush unless one working fire extinguisher is provided, where the work area is clear of flammable materials and there is compliance with any other controls required by an FCO • Not permitted to be used when the FDR is extreme or above	• S.24E of the BF regulations covers Hot Works (welding and grinding equipment) – no need to include in the notice • Is permitted when the FDR is extreme however, there are conditions contained in the Regs
Chimineas, braziers and firepits • These are not defined in the Act, however, from a risk management perspective the City will treat these as fires in the open and will cover their use in the "user friendly" guidelines that accompany the Annual Notice	• S.25(1) of the Act subject to subsection (1aa) and section 25A, during the restricted burning times or during the prohibited burning times a person shall not light or use a fire in the open *for a purpose not specifically mentioned in this Act*, save and except in accordance with and subject to the following conditions: ○ Camping or cooking ○ Conversion of bush into charcoal ○ Disposing of an animal carcass ○ Sawmill ○ Brick kiln

BUSHFIRE LOCAL PLANNING POLICY

1.0 HEAD OF POWER AND SCOPE

This Policy has been adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions), Clause 4 and applies to development in Bushfire Prone Areas across the whole of the City.

This Policy has also been adopted as guidance for assessment of town planning schemes and amendments, Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where bushfire issues require consideration.

2.0 PURPOSE

The purpose of this Policy is to –

1. Provide clarity regarding the assessment of applications for development approval or other planning proposals on sites located within a Bushfire Prone Area, or which otherwise require consideration of bushfire risk;

2. Supplement State level guidance in the assessment of town planning schemes and amendments, Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where bushfire risk requires consideration; and

3. Ensure consideration of, and an appropriate balance between, bushfire risk, building and land management costs, and visual and environmental impact, in the assessment of applications for development approval or other planning proposals on sites located within a Bushfire Prone Area, or which otherwise require consideration of bushfire risk issues

3.0 INTERPRETATION

Terms should be interpreted in the same way as they would be interpreted if they were contained within the *City of Busselton Local Planning Scheme No. 21*, other than those terms defined below -

"Appropriately Accredited Professional" means a person with a level of accreditation pursuant to the Western Australian Bushfire Accreditation Framework appropriate to the nature of the work being undertaken.

"APZ" means Asset Protection Zone as per the Guidelines (which in general terms means that ground fuels and vegetation are managed, and tree canopy cover is kept away from buildings and does not exceed 15% of the area).

"AS 3959" means *Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas*.

"BAL" means the bushfire attack level for the building site for the building or structure determined in accordance with AS 3959.

"BCA" means the *Building Code of Australia* which is volumes 1 and 2, as amended from time to time, of the *National Construction Code* series published by, or on behalf of, the Australian Building Codes Board.

"Bushfire Prone Area" means an area designated as being in a bushfire prone area by an order made under section 18P of the *Fire and Emergency Services Act 1998*, and that has been so designated for a period of at least four months.

"Firebreak" means a trafficable mineral earth or constructed surface, a minimum of 3.0 metres wide and completely clear of all vegetation, living or dead, and over which any overhanging vegetation is no less than 5.0 metres above ground level (the primary purpose of which is to provide access for fire-fighting, not to prevent the transmission of fire).

"Guidelines" means the WAPC *Guidelines for Planning in Bushfire Prone Areas* associated with SPP3.7.

"Low-Threat Vegetation or Non-Vegetated Area" means vegetation consistent with the description in 2.2.3.2 of AS3959.

"Minor Development" means (as per SPP3.7) development in a Residential Built-Out Area at a scale which may not require full compliance with the relevant policy measures set out in SPP3.7. Classes of development considered under this definition, with the exclusion of applications for unavoidable development (as per SPP3.7), are:

- a single house on an existing lot 1,100m² or greater;
- an ancillary dwelling on a lot of 1,100m² or greater; and
- change to a vulnerable land use in an existing residential development.

"Perpetual Agreement" means either an easement over the title of the relevant adjoining property allowing the owner/occupier of the subject lot to develop and maintain an APZ on the adjoining property, or in the case of strata titled properties, suitable provisions in the strata management statement/by-laws, in both cases secured via an agreement that requires the City's consent to remove the easement or provisions (secured via a caveat in the case of green title property, or via a provision in the strata management statement/by-laws in the case of strata title property).

"Policy" means this Bushfire Local Planning Policy.

"Relevant Buildings" means a building that falls within Class 1, Class 2 or Class 3 of the BCA, or a Class 10a building or deck that is, or is proposed to be, located less than 6.0 metres from a Class 1, Class 2 or Class 3 building.

"Residential Built-Out Area" means an area that meets the criteria for a Residential built-out area as per the WAPC Position Statement and is generally illustrated as such on the map provided as Appendix One to this Policy, other than where the extent of the reticulated water network has not been properly understood in preparing the map, or the reticulated has or is proposed to be extended by the proponent (and its extension would be a condition of development approval).

"Scheme" means the *City of Busselton Local Planning Scheme No. 21*, or any scheme which comes into operation on the revocation of that scheme.

"SPP3.7" means WAPC *State Planning Policy 3.7: Planning in Bushfire Prone Areas.*

"Visual Landscape Planning Manual" means *Visual Landscape Planning in Western Australia: a manual for evaluation, assessment, siting and design* (November 2007).

"Vulnerable Land Use" means (as per SPP3.7) a land use where persons may be less able to respond in a bushfire emergency. Examples of what constitutes a vulnerable land use are provided in the Guidelines.

"WAPC Position Statement" means the Western Australian Planning Commission's *Position Statement: Tourism land uses in bushfire prone area (October 2019)*.

4.0 POLICY STATEMENT

In addition to the requirement to satisfy the relevant provisions of SPP3.7, Guidelines and associated documents, the following provisions detail the City's expectations for applications for development in bushfire prone areas.

While there is a presumption that the policy provisions detailed below should be satisfied for all relevant applications, the notes listed below each policy provision provide guidance on how the City will assess alternative solutions, should they be required, and form part of the policy.

ALL APPLICATIONS FOR DEVELOPMENT IN BUSHFIRE PRONE AREAS

4.1. All supporting plans and documents relevant to consideration of bushfire risk have been endorsed by an Appropriately Accredited Professional.

4.2 The APZ proposed to be provided:

(a) Is no greater than 25 metres from Relevant Buildings.

Note: A larger APZ may be considered, but only to the extent necessary to allow the determined BAL requirement to be reduced to BAL29, and where there are considered to be no unacceptable impacts on biodiversity, landscape values or visual amenity impacts.

In respect of visual amenity, this shall generally require a demonstration that the larger APZ will not increase the visibility of the proposed development, when viewed from locations outside the subject lot (and, in cases where the potential impact is considered significant, a visual/landscape assessment may be required, prepared using the methodology set out in the Visual Landscape Planning Manual).

(b) Can be accommodated entirely within the subject lot or, where the APZ cannot be accommodated entirely within the subject lot, the land involved –

(i) is developed as a public road, path or is otherwise public land managed such that there is a reasonable expectation that fuel loads will be managed to the APZ standard on an ongoing basis; or

(ii) is part of an APZ or Firebreak already in place and/or required on an adjoining property; or

(iii) is otherwise Low-Threat Vegetation or Non-Vegetated Area.

Note: Where the APZ cannot be accommodated within the subject lot or in accordance with parts (i) – (iii) above, a Perpetual Agreement is required to be in place with the owner of the neighbouring property to allow and require the maintenance of the portion of the APZ that extends beyond the subject property.

(c) Can be created and maintained without need to obtain a clearing permit under the (State) *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*,

approval under the (State) *Biodiversity Conservation Act 2016*, and/or approval under the *(Commonwealth) Environmental Protection and Biodiversity Conservation Act 1999*.

Note: Where a clearing permit is necessary, consideration of the following is required:

- *Whether the necessary permit or approval (including a conditional permit or approval, where the application is consistent with those conditions) has been obtained; or*
- *Flora and fauna assessments have been prepared by appropriately qualified and experienced environmental professionals, and the City considers that the clearing is necessary and appropriate, from an environmental perspective, to accommodate the proposed development; or*
- *The applicant commits to seeking the necessary permit or approval prior to commencement of development (including a change of use), and the City considers that the environmental approval processes are unlikely to require significant changes to the proposal.*

CHANGE OF USE OF EXISTING BUILDINGS TO A VULNERABLE LAND USE IN A BUSHFIRE PRONE AREA

4.3 Where the Bushfire Management Plan prepared by an Appropriately Accredited Professional sets out, and the City agrees, that it is not practicable to upgrade the existing building to the determined BAL a larger APZ may be considered, having considered the application against the other requirements as listed in 4.1.2 above.

STRUCTURE PLANS, LOCAL DEVELOPMENT PLANS, ACTIVITY CENTRE PLANS AND APPLICATIONS FOR SUBDIVISION APPROVAL

4.4 Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval should ensure that all new lots are capable of meeting the ~~Deemed-to-Comply~~ provisions of this Policy~~, or clearly demonstrate practicable means by which the Performance Criteria can be met.~~, generally without need to consider the alternative approaches set out in the notes.

4.5 With respect to Structure Plans, Local Development Plans, Activity Centre Plans and applications for subdivision approval where creation of an emergency access way or fire service access route as per the Guidelines is provided for, the land on which they are developed shall be ceded to the Crown, rather than being provided for within an easement over land which is to be retained in private ownership.

5.0 RELATED DOCUMENTATION / LEGISLATION

5.1 *City of Busselton Local Planning Scheme No. 21*

5.2 *State Planning Policy 3.7: Planning in Bushfire Prone Areas*

5.3 WAPC *Guidelines for Planning in Bushfire Prone Areas*

5.4 Orders made under section 18P of the *Fire and Emergency Services Act 1998*

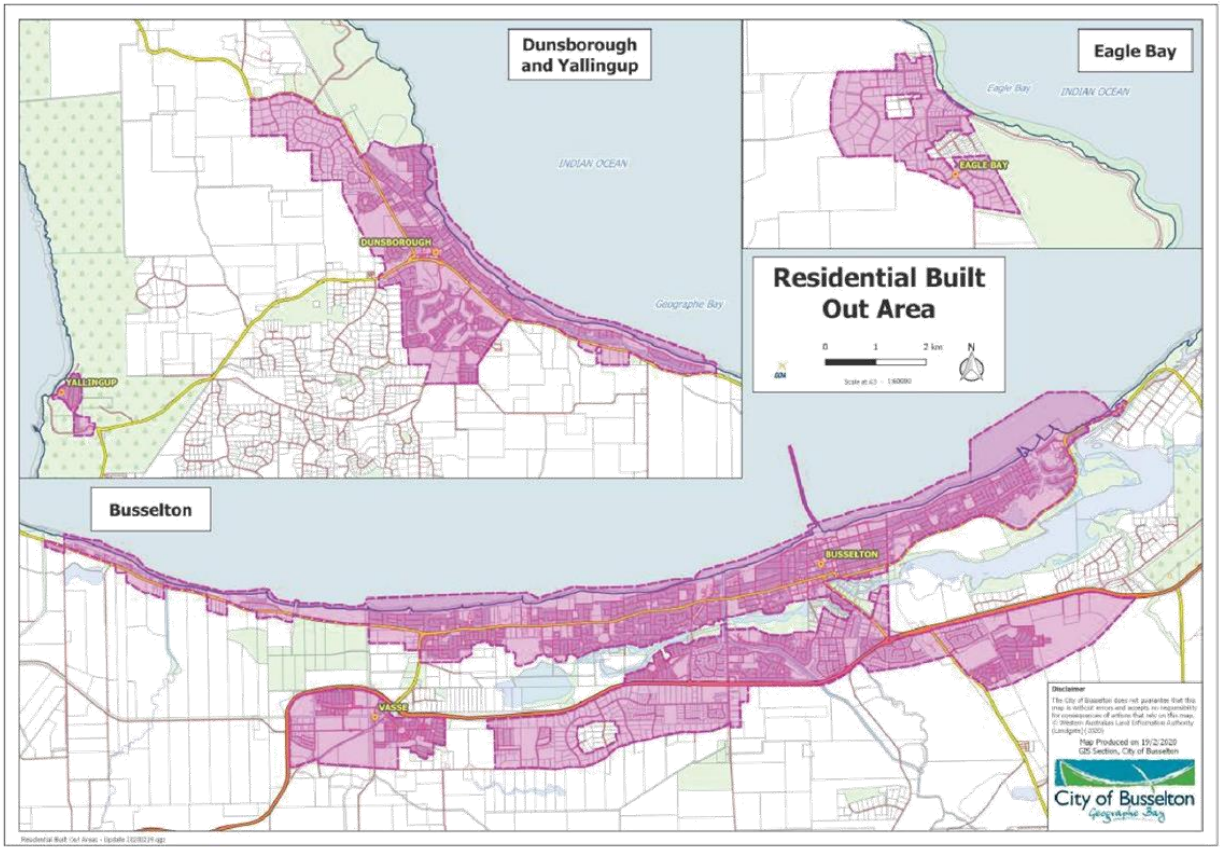
5.5 *Building Code of Australia*

5.6 *Australian Standard AS 3959 — Construction of buildings in bushfire-prone areas*

6.0 REVIEW DETAILS

Council Adoption	**DATE**	*To be added*		

APPENDIX ONE – RESIDENTIAL BUILT OUT AREAS



HOLIDAY HOMES LOCAL PLANNING POLICY

1.0 HEAD OF POWER AND SCOPE

This Policy has been adopted pursuant to *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions), Clause 4 and applies to the development of Holiday Homes across the whole of the City.

2.0 PURPOSE

The purpose of this Policy is to –

1. Provide clear guidance regarding the assessment of applications for development approval for Holiday Homes; and

2. Identify circumstances in which Holiday Homes will be supported, and circumstances in which Holiday Homes may be supported, given more detailed consideration.

3.0 INTERPRETATION

3.1 The two terms defined below are critical to interpretation of this Policy -

"Deemed-to-Comply" means a provision which, if satisfied, means that an application is deemed compliant with respect to the matters subject of that provision. The local government shall not refuse to grant approval to an application where the application satisfies all of the relevant Deemed-to-Comply provisions.

"Performance Criteria" means provisions to be used in the preparation, submission and assessment of development proposals for the purpose of determining their acceptability, where they do not meet the relevant Deemed-to-Comply provisions.

Note: applications that do not meet all of the 'deemed-to-comply' provisions would be assessed against the relevant 'performance criteria' (i.e. they would only be assessed against the latter in relation to those aspects to which they do not meet the former). So if the 'car parking' deemed-to-comply provisions are met, but the 'dwelling design' ones are not, dwelling design related issues would require assessment against the dwelling design performance criteria, but the car parking related issues would not require assessment against the car parking related performance criteria. Similarly, if the potable water elements of the 'utility servicing' deemed-to-comply provisions are met, but the refuse collection ones are not, it is only the refuse collection issues that need to be considered against the directly related performance criteria.

3.2 Other terms should be interpreted in the same way as they would be interpreted if they were contained within the *City of Busselton Local Planning Scheme No. 21*, other than those terms defined below -

"Bushfire Policy' means the Bushfire Local Planning Policy.

"Deemed-to-Comply" means a provision which, if satisfied, means that a Holiday Home is deemed compliant with respect to the matters subject of that provision. The local government shall not refuse to grant approval to an application where the application satisfies all of the relevant Deemed-to-Comply provisions.

"Holiday Home (Multiple/Grouped Dwelling)" means a grouped dwelling or multiple dwelling, which may also be used for short stay accommodation for hire or reward for no more than six people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

"Holiday Home (Single House)" means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for hire or reward for no more than 12 people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

"Holiday Home" means both a Holiday Home (Multiple/Grouped Dwelling) and/or a Holiday Home (Single House).

"Performance Criteria" means provisions to be used in the preparation, submission and assessment of development proposals for the purpose of determining their acceptability, where they do not meet the relevant Deemed-to-Comply provisions.

"Policy" means this Holiday Homes Local Planning Policy.

4.0 POLICY STATEMENT

Note: headings in the table below do form part of the policy statement.

Deemed-to-Comply	Performance Criteria
4.1 LOCATION	
A Holiday Home satisfies the Deemed-to-Comply provisions if: C1.1 The Holiday Home is located within an existing, lawful dwelling (other than a dwelling approved as a second dwelling or rural worker's dwelling pursuant to clause 4.5 (f) or (g) of the Local Planning Scheme, or equivalent clause in previous schemes) in the Agriculture or Viticulture and Tourism Zone; or C1.2 In all other Zones, the Holiday Home has direct frontage to a public road and/or public open space and has a minimum of 350m^2 exclusively for the use of the dwelling; or C1.3 For a Holiday Home (Grouped/Multiple Dwelling), written support has been received by the local government from the majority of owners of properties in the complex or development within which the Holiday Home is to be located (excluding the owner of the site subject of the application, unless the applicant owns all of the properties in the complex or development).	A Holiday Home satisfies the Performance Criteria provisions if: P1.1 The City is satisfied that approval of the Holiday Home is not likely to have a significant impact on the amenity of adjoining and nearby residents and would not constitute the conversion of a second dwelling or rural worker's dwelling to a Holiday Home.
4.2 UTILITY SERVICING	

A Holiday Home satisfies the Deemed-to-Comply provisions if: C2.1 The Holiday Home is connected to reticulated water, or provided with a 135,000 litre rainwater tank for the exclusive use of the Holiday Home; and C2.2 The Holiday Home is located within the City's kerbside refuse collection area; and C2.3 The Holiday Home is connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of occupants. *Note: in areas not serviced by reticulated sewerage, it should not be assumed that an existing on-site effluent disposal system approved for a single house will have sufficient capacity for the proposed number of occupants without the need for upgrading. Advice should be sought from the City's Environmental Health staff prior to lodging an application for development approval.*	A Holiday Home satisfies the Performance Criteria provisions if: P2.1 The City is satisfied that the Holiday Home will have an adequate supply of potable water; and P2.2 The City is satisfied that the Holiday Home will be provided with an adequate refuse collection service; and P2.3 The City is satisfied that the Holiday Homes will be provided with an adequate on-site effluent disposal system (and provision of such would be a condition of any approval, to be met prior to the commencement of the use if a suitable system is not already in place and approved).
4.3 CAR PARKING	
A Holiday Home satisfies the Deemed-to-Comply provisions if: C3.1 The Holiday Home will have constructed on-site car parking bays, consistent with the size and manoeuvrability criteria set out in the *Residential Design Codes of Western Australia*, but with no more than any of two bays arranged one behind the other (i.e. tandem bays are permitted, with two bays one behind another, but not with a third bay behind another two), in accordance with the following rates:	A Holiday Home satisfies Performance Criteria provisions if: P3.1 The City is satisfied that the Holiday Home has a minimum of two constructed on-site car parking bays and, where additional car parking bays would be required to comply with C3.1 above, at least the equivalent number of cars could park on the site without the need for cars to park on the verge, in adjacent or nearby public car parking, or in visitor car parking bays within a unit complex or similar; or P3.2 Where a Holiday Home is located in the 'Business' Zone, the City is satisfied that the Holiday Home will not have a noticeable effect on the availability of public car parking within the locality.
4.4 DWELLING DESIGN	
A Holiday Homes satisfies the Deemed-to-Comply provisions if: C4.1 The Holiday Home is an existing, lawful dwelling; or C4.2 If the Holiday Home is not an existing, lawful dwelling, the Holiday Home will meet all of	A Holiday Homes satisfies the Performance Criteria provisions if C4.1 or C4.2 is met, and C4.3 and C4.5 are met; and: P4.1 The City is satisfied that the dwelling design is appropriate to accommodate the proposed maximum number of occupants. In general, if C4.4 is not met, this would only

Maximum number of occupants	Minimum number of car parking bays required
1-3	1
4-6	2
7-8	3
9-10	4
11-12	5

the relevant design standards and requirements that would apply to a new dwelling on the land, including the requirements of the Local Planning Scheme (including the *Residential Design Codes of Western Australia*), all relevant Local Planning Policies, and all relevant Structure Plan, Activity Centre Plan and Local Development Plan provisions; and C4.3 The maximum number of occupants within a Holiday Home complies with the following standards: (a) There is 5.5 square metres per occupant in each bedroom utilising beds; and (b) There is 3.5 square metres per occupant in each bedroom utilising bunks; and (c) There is sufficient bedroom space to accommodate the maximum number of occupants consistent with (a) and (b) above; and C4.4 Bedrooms in a Holiday Home are provided in accordance with the following rates: Maximum number of occupants: 1-2 / 3-4 / 5-8 / 9-12 Minimum number of bedrooms required: 1, or studio / 2 / 3 / 4 C4.5 Bathrooms and toilets in a Holiday Home are provided in accordance with the following rates: Maximum number of occupants: 1-6 / 7-12 Minimum number of bathrooms/toilets required: 1 bathroom and 1 toilet / 1 or 2 bathrooms and 2 toilets	be the case if there are a smaller number of relatively large bedrooms. *Note: the Local Planning Scheme establishes that the maximum number of occupants in a Holiday Home (Single House), regardless of the number or size of bedrooms, is 12, and the maximum number of occupants in a Holiday Home (Grouped/Multiple Dwelling) is six. The City has no discretion to approve Holiday Homes with maximum occupant numbers higher than those limits.*
4.5 BUSHFIRE MANAGEMENT	
A Holiday Home satisfies the Deemed-to-Comply provisions if: C5.1 The Holiday Home satisfies the ~~Deemed-to-Comply~~ provisions of the Bushfire Policy.	There are no performance criteria for this provision as development is required to satisfy the provisions of the Bushfire Policy. ~~A Holiday Home satisfies the Performance Criteria provisions if:~~ ~~P5.1 The Holiday Homes satisfies the Performance Criteria provisions of the Bushfire Policy.~~

5.0 RELATED DOCUMENTATION / LEGISLATION

5.1 *City of Busselton Local Planning Scheme No. 21*

5.2 *City of Busselton Holiday Homes Local Law*

6.0 REVIEW DETAILS

Date	Description
12 December 2012	Initial adoption
26 August 2015	Removal of 'preferred area' designations
14 March 2018	Reformatting and inclusion of bushfire related guidance

12.4 Audit Committee - 26/02/2020 - COMPLIANCE AUDIT REPORT - 2019

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Statutory Compliance
BUSINESS UNIT	Governance Services
REPORTING OFFICER	Governance Coordinator - Emma Heys
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Legislative: to adopt legislative documents e.g. local laws, local planning schemes, local planning policies
VOTING REQUIREMENT	Absolute Majority
ATTACHMENTS	Attachment A 2019 Compliance Audit Return

This item was considered by the Audit Committee at its meeting on 26 February 2020, the recommendations from which have been included in this report.

OFFICER RECOMMENDATION

That the Council, having received the 2019 Compliance Audit Return (Attachment A), adopt the 2019 Compliance Audit Return and authorises the Mayor and Chief Executive Office to sign in joint the Certificate.

COMMITTEE RECOMMENDATION

That the Council, having received the 2019 Compliance Audit Return (Attachment A), adopt the 2019 Compliance Audit Return and authorises the Mayor and Chief Executive Office to sign in joint the Certificate, inclusive of the following Committee amendments:

1. **'Official Conduct' – amend the response to Questions 2 through to 6 with a 'Yes' response;**
2. **'Integrated Planning and Reporting' – include a date of endorsement for the Workforce Plan in response to Question 7;**
3. **'Delegation of Power/Duty - in response to Questions 5 and 12, amend the date of review to 8 August 2018; and**
4. **'Optional Questions' – amend Question 2 to a 'Yes' response.**

Reasons: Amendments were made to ensure the City's responses more accurately aligned to the questions and reflected the City's 100% compliance with the 2019 Compliance Audit Report.

EXECUTIVE SUMMARY

The Compliance Audit Return (CAR) is a statutory reporting tool that seeks to evaluate the City's compliance with targeted sections of the Local Government Act 1995 during the period 1 January 2019 to 31 December 2019.

The City has completed the 2019 CAR and it is included in this report at Attachment A for the Audit Committee's consideration. The complete 2019 CAR is recommended for adoption, after which it will be lodged with the Department of Local Government, Sport and Cultural Industries (the Department) as required by 31 March 2020.

BACKGROUND

Between 1 January 2020 and 31 March 2020 the City is required to carry out an Audit of Compliance, covering the period 1 January 2019 to 31 December 2019. The resulting CAR is to be reviewed by the Audit Committee and then adopted by Council. The Certified CAR together with an extract of the Council Minutes where the CAR was adopted, is to be lodged to the Department via the online Smart Hub portal by 31 March 2020.

OFFICER COMMENT

In completing the 2019 CAR, relevant offices designated by the Chief Executive Officer have undertaken an audit of the City's activities, practices and procedures in line with the Act and its associated Regulations.

The Audit is summarised in Table 1 below:

Compliance Area	Number of Questions	Compliant
Commercial Enterprises by Local Government	**5**	YES - 100%
Delegation of Power/Duty	**13**	YES - 100%
Disclosures of Interest	**19**	YES - 100%
Disposal of Property	**2**	YES - 100%
Elections	**2**	YES - 100%
Finance	**14**	YES - 100%
Integrated Planning and Reporting	**7**	YES - 100%
Local Government Employees	**5**	YES - 100%
Official Conduct	**6**	YES - 100%
Tenders for Providing Goods and Services	**27**	YES - 100%
Optional Questions	**4**	COMPLETED – 100%

As a result of the 2018 CAR, specifically in relation to a minor delay in compliance of 'Disclosures of Interest', the City has implemented administrative processes to ensure any further delays in the lodgement of Annual or Primary Returns do not occur and this has resulted in full compliance for 'Disclosures of Interest' in the 2019 calendar year.

Overall and on review, the 2019 CAR represents full compliance by the City.

CAR's are used to provide an internal audit of our statutory obligations and also assist in the reminding of administration of specific requirements that may be due in the near future. For example the City is currently undertaking a review of its systems and procedures in accordance with Regulation 17 of the Local Government (Audit) Regulations 1996, as well as a Financial Systems Management Review in accordance with Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996.

Statutory Environment

Section 7.13 of the *Local Government Act 1995* provides for the making of Regulations in regards to Audits.

Regulation 13 of the *Local Government (Audit) Regulations 1996* prescribes the statutory requirements for which compliance audit needed.

Regulations 14 and 15 of the *Local Government (Audit) Regulations 1996* state the following:

14. Compliance audits by local governments

(1) A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.

(2) After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.

(3A) The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.

(3) After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be –

(a) presented to council at a meeting of the council; and

(b) adopted by council; and

(c) recorded in the minutes of the meeting at which it is adopted.

15. Certified copy of compliance audit return and other documents to be given to Departmental CEO

(1) After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with-

(a) a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and
(b) any additional information explaining or qualifying the compliance audit,

Is to be submitted to the Departmental CEO by 31 March next following the period to which the return relates.

*(2) In this regulation – **certified** in relation to a compliance audit return means signed by –*

(a) the mayor or president; and

(b) the CEO.

Relevant Plans and Policies

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

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

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

Risk Assessment

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

Options

As an alternative to the proposed recommendation the Council may choose to request further information from officers prior to adopting the 2019 CAR, however it is a statutory requirement that the 2019 CAR is endorsed by Council and submitted to the Department prior to 31 March 2020.

CONCLUSION

It is recommended that the Council adopts the 2019 CAR for submission to the Department prior to 31 March 2020.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The 2019 CAR will be lodged with the Department prior to the 31 March 2020.

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Commercial Enterprises by Local Governments

No	Reference	Question	Response	Comments	Respondent
1	s3.59(2)(a)(b)(c) F&G Reg 7,9	Has the local government prepared a business plan for each major trading undertaking in 2019?	N/A	The City of Busselton has not undertaken such activities in 2019	Director, Finance and Corporate Services
2	s3.59(2)(a)(b)(c) F&G Reg 7,10	Has the local government prepared a business plan for each major land transaction that was not exempt in 2019?	Yes	A business plan has been prepared for the proposed hotel development on Hotel Site 2, Foreshore Parade at the Busselton foreshore	Director, Finance and Corporate Services
3	s3.59(2)(a)(b)(c) F&G Reg 7,10	Has the local government prepared a business plan before entering into each land transaction that was preparatory to entry into a major land transaction in 2019?	N/A	The City of Busselton has not undertaken such activities in 2019	Director, Finance and Corporate Services
4	s3.59(4)	Has the local government complied with public notice and publishing requirements of each proposal to commence a major trading undertaking or enter into a major land transaction for 2019?	Yes	Statewide and local public notices were published in December 2019 in accordance with Section 3.59(4)	Director, Finance and Corporate Services
5	s3.59(5)	Did the Council, during 2019, resolve to proceed with each major land transaction or trading undertaking by absolute majority?	No	The closing date for submissions is in January 2020. It is expected that Council will in February 2020 consider submissions received and resolve whether to proceed	Director, Finance and Corporate Services

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Delegation of Power / Duty

No	Reference	Question	Response	Comments	Respondent
1	s5.16, 5.17, 5.18	Were all delegations to committees resolved by absolute majority?	YES		Manager Governance and Corporate Services
2	s5.16, 5.17, 5.18	Were all delegations to committees in writing?	YES		Manager Governance and Corporate Services
3	s5.16, 5.17, 5.18	Were all delegations to committees within the limits specified in section 5.17?	YES		Manager Governance and Corporate Services
4	s5.16, 5.17, 5.18	Were all delegations to committees recorded in a register of delegations?	YES		Manager Governance and Corporate Services
5	s5.18	Has Council reviewed delegations to its committees in the 2018/2019 financial year?	YES	Ordinary Council Meeting 27 August 2019	Manager Governance and Corporate Services
6	s5.42(1),5.43 Admin Reg 18G	Did the powers and duties of the Council delegated to the CEO exclude those as listed in section 5.43 of the Act?	YES		Manager Governance and Corporate Services
7	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO resolved by an absolute majority?	YES		Manager Governance and Corporate Services
8	s5.42(1)(2) Admin Reg 18G	Were all delegations to the CEO in writing?	YES		Manager Governance and Corporate Services
9	s5.44(2)	Were all delegations by the CEO to any employee in writing?	YES		Manager Governance and Corporate Services
10	s5.45(1)(b)	Were all decisions by the Council to amend or revoke a delegation made by absolute majority?	YES		Manager Governance and Corporate Services
11	s5.46(1)	Has the CEO kept a register of all delegations made under the Act to him and to other employees?	YES		Manager Governance and Corporate Services

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12	s5.46(2)	Were all delegations made under Division 4 of Part 5 of the Act reviewed by the delegator at least once during the 2018/2019 financial year?	YES	Ordinary Council Meeting 27 August 2019	Manager Governance and Corporate Services
13	s5.46(3) Admin Reg 19	Did all persons exercising a delegated power or duty under the Act keep, on all occasions, a written record as required?		YES	Manager Governance and Corporate Services

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Disclosure of Interest

No	Reference	Question	Response	Comments	Respondent
1	s5.67	If a member disclosed an interest, did he/she ensure that they did not remain present to participate in any discussion or decision-making procedure relating to the matter in which the interest was disclosed (not including participation approvals granted under s5.68)?	YES		Manager Governance and Corporate Services
2	s5.68(2)	Were all decisions made under section 5.68(1), and the extent of participation allowed, recorded in the minutes of Council and Committee meetings?	YES		Manager Governance and Corporate Services
3	s5.73	Were disclosures under section 5.65 or 5.70 recorded in the minutes of the meeting at which the disclosure was made?	YES		Manager Governance and Corporate Services
4	s5.73	Where the CEO had an interest relating to a gift under section 5.71A(1), was written notice given to the Council?	N/A	No such interest was disclosed	Manager Governance and Corporate Services
5	s5.73	Where the CEO had an interest relating to a gift in a matter in respect of a report another employee is providing advice on under section 5.71A (3), was the nature of interest disclosed when the advice or report was provided?	N/A	No such interest was disclosed	Manager Governance and Corporate Services
6	s5.75(1) Admin Reg 22 Form 2	Was a primary return lodged by all newly elected members within three months of their start day?	YES		Manager Governance and Corporate Services
7	s5.75(1) Admin Reg 22 Form 2	Was a primary return lodged by all newly designated employees within three months of their start day?	YES		Manager Governance and Corporate Services
8	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all continuing elected members by 31 August 2019?	YES		Manager Governance and Corporate Services
9	s5.76(1) Admin Reg 23 Form 3	Was an annual return lodged by all designated employees by 31 August 2019?	YES		Manager Governance and Corporate Services

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10	s5.77	On receipt of a primary or annual return, did the CEO, (or the Mayor/ President in the case of the CEO's return) on all occasions, give written acknowledgment of having received the return?	YES	Manager Governance and Corporate Services
11	s5.88(1)(2) Admin Reg 28	Did the CEO keep a register of financial interests which contained the returns lodged under section 5.75 and 5.76?	YES	Manager Governance and Corporate Services
12	s5.88(1)(2) Admin Reg 28	Did the CEO keep a register of financial interests which contained a record of disclosures made under sections 5.65, 5.70 and 5.71, in the form prescribed in Administration Regulation 28?	YES	Manager Governance and Corporate Services
13	s5.89A Admin Reg 28A	Did the CEO keep a register of gifts which contained a record of disclosures made under section 5.71A, in the form prescribed in Administration Regulation 28A?	YES	Manager Governance and Corporate Services
14	s5.88 (3)	Has the CEO removed all returns from the register when a person ceased to be a person required to lodge a return under section 5.75 or 5.76?	YES	Manager Governance and Corporate Services
15	s5.88(4)	Have all returns lodged under section 5.75 or 5.76 and removed from the register, been kept for a period of at least five years, after the person who lodged the return ceased to be a council member or designated employee?	YES	Manager Governance and Corporate Services
16	s5.103 Admin Reg 34C & Rules of Conduct Reg 11	Where an elected member or an employee disclosed an interest in a matter discussed at a Council or committee meeting where there was a reasonable belief that the impartiality of the person having the interest would be adversely affected, was it recorded in the minutes?	YES	Manager Governance and Corporate Services
17	s5.70(2)	Where an employee had an interest in any matter in respect of which the employee provided advice or a report directly to the Council or a Committee, did that person disclose the nature of that interest when giving the advice or report?	YES	Manager Governance and Corporate Services
18	s5.70(3)	Where an employee disclosed an interest under s5.70(2), did that person also disclose the extent of	YES	Manager Governance and

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		that interest when required to do so by the Council or a Committee?		Corporate Services
19	s5.103(3) Admin Reg 34B	Has the CEO kept a register of all notifiable gifts received by Council members and employees?	YES	Manager Governance and Corporate Services

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Disposal of Property

No	Reference	Question	Response	Comments	Respondent
1	s3.58(3)	Was local public notice given prior to disposal for any property not disposed of by public auction or tender (except where excluded by Section 3.58(5))?	Yes	Local public notice was given in accordance with s.3.58	Director, Finance and Corporate Services
2	s3.58(4)	Where the local government disposed of property under section 3.58(3), did it provide details, as prescribed by section 3.58(4), in the required local public notice for each disposal of property?	Yes	Local public notice was given with the required details in accordance with s.3.58	Director, Finance and Corporate Services

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Elections

No	Reference	Question	Response	Comments	Respondent
1	Elect Reg 30G (1)(2)	Did the CEO establish and maintain an electoral gift register and ensure that all 'disclosure of gifts' forms completed by candidates and received by the CEO were placed on the electoral gift register at the time of receipt by the CEO and in a manner that clearly identifies and distinguishes the candidates?	YES	1x Disclosure of Gifts (Form 9A) was received by a Candidate in the 2019 Local Government Elections	Manager Governance and Corporate Services
2	Elect Reg 30G(3) &(4)	Did the CEO remove any 'disclosure of gifts' forms relating to an unsuccessful candidate or a successful candidate that completed the term of office from the electoral gift register, and retain those forms separately for a period of at least 2 years?	N/A	No Form9A were received by the unsuccessful Candidates in the 2019 Local Government Elections	Manager Governance and Corporate Services

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Finance

No	Reference	Question	Response	Comments	Respondent
1	s7.1A	Has the local government established an audit committee and appointed members by absolute majority in accordance with section 7.1A of the Act?	Yes		Manager Financial Services
2	s7.1B	Where a local government determined to delegate to its audit committee any powers or duties under Part 7 of the Act, did it do so by absolute majority?	Yes		Manager Governance and Corporate Services
3	s7.3(1)	Was the person(s) appointed by the local government under s7.3(1) to be its auditor, a registered company auditor?	Yes		Manager Financial Services
4	s7.3(1), 7.6(3)	Was the person or persons appointed by the local government to be its auditor, appointed by an absolute majority decision of Council?	Yes		Manager Financial Services
5	Audit Reg 10	Was the Auditor's report(s) for the financial year(s) ended 30 June received by the local government within 30 days of completion of the audit?	Yes		Manager Financial Services
6	s7.9(1)	Was the Auditor's report for the financial year ended 30 June 2019 received by the local government by 31 December 2019?	Yes		Manager Financial Services
7	S7.12A(3)	Where the local government determined that matters raised in the auditor's report prepared under s7.9(1) of the Act required action to be taken, did the local government, ensure that appropriate action was undertaken in respect of those matters?	Yes		Manager Financial Services
8	S7.12A (4)	Where the auditor identified matters as significant in the auditor's report (prepared under s7.9(1) of the Act), did the local government prepare a report stating what action had been taken or it intended to take with respect to each of the matters and give a copy to the Minister within 3 months after receipt of the audit report?	N/A	No such matters were identified	Manager Financial Services

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9	S7.12A (4)	Within 14 days after the local government gave a report to the Minister under s7.12A(4) (b), did the CEO publish a copy of the report on the local government's official website?	Yes	Manager Financial Services
10	Audit Reg 7	Did the agreement between the local government and its auditor include the objectives of the audit?	Yes	Manager Financial Services
11	Audit Reg 7	Did the agreement between the local government and its auditor include the scope of the audit?	Yes	Manager Financial Services
12	Audit Reg 7	Did the agreement between the local government and its auditor include a plan for the audit?	Yes	Manager Financial Services
13	Audit Reg 7	Did the agreement between the local government and its auditor include details of the remuneration and expenses to be paid to the auditor?	Yes	Manager Financial Services
14	Audit Reg 7	Did the agreement between the local government and its auditor include the method to be used by the local government to communicate with, and supply information to, the auditor?	Yes	Manager Financial Services

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Integrated Planning and Reporting

No	Reference	Question	Response	Comments	Respondent
1	s5.56 Admin Reg 19DA (6)	Has the local government adopted a Corporate Business Plan. If Yes, please provide adoption date of the most recent Plan in Comments?	Yes	The City's CBP for the period 2019/2020 to 2022/2023 was adopted 31 July 2019 C1907/127	Manager Governance and Corporate Services
2	s5.56 Admin Reg 19DA (4)	Has the local government reviewed the Corporate Business Plan in the 2018-2019 Financial Year. If Yes, please provide date of Council meeting the review was adopted at?	Yes	The City's CBP Corporate Business Plan for the period 2018/2019 to 2021/2022 was adopted 25 July 2018 C1807/143. Note this was the annual adoption of the CBP and was not a review of an already adopted plan.	Manager Governance and Corporate Services
3	s5.56 Admin Reg 19C	Has the local government adopted a Strategic Community Plan. If Yes, please provide adoption date of the most recent Plan in Comments?	Yes	The City's Strategic Community Plan 2017 was adopted on 12 April 2017 C1704/076	Manager Governance and Corporate Services
4	s5.56 Admin Reg 19C (4)	Has the local government reviewed the current Strategic Community Plan. If Yes, please provide date of most recent review by Council in Comments. Note: If the current Strategic Community Plan was adopted after 1/1/2016, please respond N/A and provide adoption date in Comments?	Yes	The City's Strategic Community Plan 2017 was reviewed (minor review) and amended on 10 April 2019 C1904/070	Manager Governance and Corporate Services
5	S5.56 Admin Reg 19DA (3)	Has the local government developed an Asset Management Plan(s) that covers all asset classes. If Yes, please provide the date of the most recent Plan adopted by Council in Comments?	Yes	26 June 2013 There have been asset plans adopted since this date, however these have covered individual asset classes and not all assets together	Manager Governance and Corporate Services
6	S5.56 Admin Reg 19DA (3)	Has the local government developed a Long Term Financial Plan. If Yes, please provide the adoption date of the most recent Plan in Comments?	Yes	Adopted 28 March 2018 C1803/052. The City is currently finalising a new LTFP.	Manager Governance and Corporate Services

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7	S5.56 Admin Reg 19DA (3)	Has the local government developed a Workforce Plan. If Yes, please provide adoption date of the most recent Plan in comments?	Yes	The City's current workforce plan 2019/20 to 2022/23 was endorsed by CEO.	Manager Governance and Corporate Services

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Local Government Employees

No	Reference	Question	Response	Comments	Respondent
1	Admin Reg 18C	Did the local government approve the process to be used for the selection and appointment of the CEO before the position of CEO was advertised?	N/A	Position of CEO was not advertised during this period	Manager Governance and Corporate Services
2	s5.36(4) s5.37(3), Admin Reg 18A	Were all vacancies for the position of CEO and other designated senior employees advertised and did the advertising comply with s.5.36(4), 5.37(3) and Admin Reg 18A?	N/A	No such positions were advertised during the period	Manager Governance and Corporate Services
3	Admin Reg 18F	Was the remuneration and other benefits paid to a CEO on appointment the same remuneration and benefits advertised for the position of CEO under section 5.36(4)?	N/A	Position of CEO was not advertised during this period	Manager Governance and Corporate Services
4	Admin Regs 18E	Did the local government ensure checks were carried out to confirm that the information in an application for employment was true (applicable to CEO only)?	N/A	Position of CEO was not advertised or recruited for during this period	Manager Governance and Corporate Services
5	s5.37(2)	Did the CEO inform Council of each proposal to employ or dismiss a designated senior employee?	N/A	No senior employees were employed or dismissed during the period	Manager Governance and Corporate Services

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Official Conduct

No	Reference	Question	Response	Comments	Respondent
1	s5.120	Where the CEO is not the complaints officer, has the local government designated a senior employee, as defined under s5.37, to be its complaints officer?	Yes	Director, Finance and Corporate Services is the Designated Complaints Officer	Director, Finance and Corporate Services
2	s5.121(1)	Has the complaints officer for the local government maintained a register of complaints which records all complaints that result in action under s5.110(6)(b) or (c)?	No	There have been no complaints received in 2019 that have resulted in action under s5.110(6)(b) or (c).	Director, Finance and Corporate Services
3	s5.121(2)(a)	Does the complaints register maintained by the complaints officer include provision for recording of the name of the council member about whom the complaint is made?	No	As per above comments.	Director, Finance and Corporate Services
4	s5.121(2)(b)	Does the complaints register maintained by the complaints officer include provision for recording the name of the person who makes the complaint?	No	As per above comments.	Director, Finance and Corporate Services
5	s5.121(2)(c)	Does the complaints register maintained by the complaints officer include provision for recording a description of the minor breach that the standards panel finds has occurred?	No	As per above comments.	Director, Finance and Corporate Services
6	s5.121(2)(d)	Does the complaints register maintained by the complaints officer include the provision to record details of the action taken under s5.110(6)(b) or (c)?	No	As per above comments.	Director, Finance and Corporate Services

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Tenders for Providing Goods and Services

No	Reference	Question	Response	Comments	Respondent
1	s3.57 F&G Reg 11	Did the local government invite tenders on all occasions (before entering into contracts for the supply of goods or services) where the consideration under the contract was, or was expected to be, worth more than the consideration stated in Regulation 11(1) of the Local Government (Functions & General) Regulations (Subject to Functions and General Regulation 11(2))?	Yes	The City has during the relevant reporting period (2019) procured goods/services with a contract price worth more than $150,000 through the WALGA Preferred Supplier Program (Cleanaway, Herbert Smith Freehills and Synergy) and from a sole supplier (Busselton Water). In those instances tenders were not invited as the exemptions under Regulation 11(2) applied. In all other instances the City invited tenders where the consideration under the contract was, or expected to be, worth more than the amount stated in Regulation 11(1).	Director, Finance and Corporate Services
2	F&G Reg 12	Did the local government comply with F&G Reg 12 when deciding to enter into multiple contracts rather than inviting tenders for a single contract?	Yes	In instances where the City entered into two or more contracts with the same supplier or for similar goods/services, the desire to avoid the requirements of Regulation 11(1) was not a consideration.	Director, Finance and Corporate Services
3	F&G Reg 14(1) & (3)	Did the local government invite tenders via Statewide public notice?	Yes	Details of the Statewide public notice for each invitation to tender is included in the City's Tender Register.	Director, Finance and Corporate Services
4	F&G Reg 14 & 15	Did the local government's advertising and tender documentation comply with F&G Regs 14, 15 & 16?	Yes	See copies of the Statewide public notices for each invitation to tender in the City's Tender Register and the City's records in respect to use of the TenderLink platform for the City's tender processes.	Director, Finance and Corporate Services
5	F&G Reg 14(5)	If the local government sought to vary the information supplied to tenderers, was every reasonable step taken to give	Yes	The City's tender documents and tender processes are managed through the TenderLink	Director, Finance and Corporate Services

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		each person who sought copies of the tender documents or each acceptable tenderer, notice of the variation?		platform. This enables the City to conduct an online forum for each tender which, among other things, ensures all variations, updates and other relevant information/communication are provided to each person who sought copies of the tender documents. The City's internal tender evaluation process also requires from the tender evaluation panel chairperson to give each acceptable tenderer notice of varied information.	
6	F&G Reg 16	Did the local government's procedure for receiving and opening tenders comply with the requirements of F&G Reg 16?	Yes	The City's tender documents and tender processes are managed through the TenderLink platform, including receiving and opening of tenders. The TenderLink portal is set up so that tenders remain inaccessible until the closing of the tender. Members of the public are at all times permitted to attend tender openings. At all relevant times at least two City employees attended the opening of tenders. The names of tenderers were immediately recorded in the City's Tender Register.	Director, Finance and Corporate Services
7	F&G Reg 18(1)	Did the local government reject the tenders that were not submitted at the place, and within the time specified in the invitation to tender?	Yes	Any tenders not submitted at the place and within the time specified in the invitation for tenders will not appear on the TenderLink portal and as such were not received by the City. Any tenders submitted outside the TenderLink portal were rejected by the City.	Director, Finance and Corporate Services
8	F&G Reg 18 (4)	In relation to the tenders that were not rejected, did the local government assess which tender to accept and which tender was most advantageous to the local government to accept, by means of written evaluation criteria?	Yes	All tenders not rejected were assessed by an evaluation panel by means of a written evaluation of the extent to which it satisfied the criteria for deciding which tender	Director, Finance and Corporate Services

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				would be most advantageous to accept.	
9	F&G Reg 17	Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17 and did the CEO make the tenders register available for public inspection?	Yes	See the City's online Tender Register.	Director, Finance and Corporate Services
10	F&G Reg 19	Did the CEO give each tenderer written notice advising particulars of the successful tender or advising that no tender was accepted?	Yes	Notices advising particulars of the successful tenders or advising that no tender was accepted were sent to each tenderer.	Director, Finance and Corporate Services
11	F&G Reg 21 & 22	Did the local governments advertising and expression of interest documentation comply with the requirements of F&G Regs 21 and 22?	Yes	The only preliminary selection process under Reg 21 and 22 for this year was EOI 01/19 Design and Technical Services – Busselton Entertainment Arts and Cultural Hub. The process for EOI 01/19 complied with Regulations 21 and 22.	Director, Finance and Corporate Services
12	F&G Reg 23(1)	Did the local government reject the expressions of interest that were not submitted at the place and within the time specified in the notice?	Yes	See the comment under paragraph 7 above.	Director, Finance and Corporate Services
13	F&G Reg 23(4)	After the local government considered expressions of interest, did the CEO list each person considered capable of satisfactorily supplying goods or services?	Yes	Following the evaluation process as described in the Expression of Interest document the CEO listed each person considered capable of satisfactorily supplying the relevant goods or services.	Director, Finance and Corporate Services
14	F&G Reg 24	Did the CEO give each person who submitted an expression of interest, a notice in writing in accordance with Functions & General Regulation 24?	Yes	Notice was duly given in accordance with Regulation 24.	Director, Finance and Corporate Services
15	F&G Reg 24AC (1) & (2)	Has the local government established a policy on procurement of goods and services from pre-qualified suppliers in accordance with the regulations?	Yes	The City's policy on procurement of goods and services from pre-qualified suppliers in accordance with the regulations is incorporated into the City's "Purchasing Policy".	Director, Finance and Corporate Services
16	F&G Reg 24AD(2)	Did the local government invite applicants for a panel of pre-	Yes	A copy of the Statewide public notice of each invitation to apply to join a	Director, Finance and

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		qualified suppliers via Statewide public notice?		panel is included in the City's online Tender register.	Corporate Services
17	F&G Reg 24AD(4) & 24AE	Did the local government's advertising and panel documentation comply with F&G Regs 24AD(4) & 24AE?	Yes	See details of the Statewide public notices for each invitation to apply to join a panel in the City's online Tenders Register.	Director, Finance and Corporate Services
18	F&G Reg 24AF	Did the local government's procedure for receiving and opening applications to join a panel of pre-qualified suppliers comply with the requirements of F&G Reg 16 as if the reference in that regulation to a tender were a reference to a panel application?	Yes	See the comment under paragraph 6 above.	Director, Finance and Corporate Services
19	F&G Reg 24AD(6)	If the local government sought to vary the information supplied to the panel, was every reasonable step taken to give each person who sought detailed information about the proposed panel or each person who submitted an application, given notice of the variation?	Yes	See the comment under paragraph 5 above.	Director, Finance and Corporate Services
20	F&G Reg 24AH(1)	Did the local government reject the applications to join a panel of pre-qualified suppliers that were not submitted at the place, and within the time specified in the invitation for applications?	Yes	See the comment under paragraph 7 above.	Director, Finance and Corporate Services
21	F&G Reg 24AH(3)	In relation to the applications that were not rejected, did the local government assess which application(s) to accept and which application(s) were most advantageous to the local government to accept, by means of written evaluation criteria?	Yes	All applications were assessed by means of pre-determined written evaluation criteria.	Director, Finance and Corporate Services
22	F&G Reg 24AG	Did the information recorded in the local government's tender register about panels of pre-qualified suppliers, comply with the requirements of F&G Reg 24AG?	Yes	See the City's online Tender Register.	Director, Finance and Corporate Services
23	F&G Reg 24AI	Did the CEO send each person who submitted an application, written notice advising if the person's application was accepted and they are to be part of a panel of pre-qualified	Yes	Record of these notices are recorded in the City's records management system.	Director, Finance and Corporate Services

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		suppliers, or, that the application was not accepted?			
24	F&G Reg 24E	Where the local government gave a regional price preference, did the local government comply with the requirements of F&G Reg 24E including the preparation of a regional price preference policy?	Yes	The City developed a Regional Price Preference Policy and applied that policy in accordance with Regulations 24E & 24F.	Director, Finance and Corporate Services
25	F&G Reg 24F	Did the local government comply with the requirements of F&G Reg 24F in relation to an adopted regional price preference policy?	Yes	The City adopted its Regional Price Preference Policy in accordance with Regulation 24F.	Director, Finance and Corporate Services
26	F&G Reg 11A	Does the local government have a current purchasing policy that comply with F&G Reg 11A(3) in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, $150,000 or less?	Yes	The City developed and adopted a Purchasing Policy in accordance with Regulation 11A (3).	Director, Finance and Corporate Services
27	F&G Reg 11A	Did the local government comply with it's current purchasing policy in relation to the supply of goods or services where the consideration under the contract is, or is expected to be $150,000 or less or worth $150,000 or less?	Yes	The City's processes for procurement of goods/services with a value of less than $150,000 ensures compliance with the Purchasing Policy.	Director, Finance and Corporate Services

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Busselton - Compliance Audit Return 2019

Optional Questions

No	Reference	Question	Response	Comments	Respondent
1	Financial Management Reg 5(2)(c)	Did the CEO review the appropriateness and effectiveness of the local government's financial management systems and procedures in accordance with Local Government (Financial Management) Regulation 5(2)(c) within the 3 years prior to 31 December 2019? If yes, please provide date of Council resolution in comments?	Yes	Endorsed - C1611/126 Next review 2020.	Manager Financial Services
2	Audit Reg 17	Did the CEO review the appropriateness and effectiveness of the local government's systems and procedures in relation to risk management, internal control and legislative compliance in accordance with Local Government (Audit) Regulation 17 within the 3 years prior to 31 December 2019? If yes, please provide date of Council resolution in comments?	No	Reg 17 review last completed 9 November 2016 – C1611/125. As per requirement to complete every 3 financial years next review will be complete by 30 June 2020.	Manager Governance and Corporate Services
3	Financial Management Reg 5A.	Did the local government provide AASB 124 related party information in its annual report(s) tabled at an electors meeting(s) during calendar year 2019?	Yes	Electors Meeting was held 2 December 2019	Manager Financial Services
4	S6.4(3)	Did the local government submit to its auditor by 30 September 2019 the balanced accounts and annual financial report for the year ending 30 June 2019?	Yes	The Financial Reports were submitted to the Auditor 27th August 2019	Manager Financial Services

13. PLANNING AND DEVELOPMENT SERVICES REPORT

13.1 ESTABLISHMENT OF A MANAGEMENT ADVISORY GROUP FOR THE LOWER VASSE RIVER

STRATEGIC GOAL	3. ENVIRONMENT Valued, conserved and enjoyed
STRATEGIC OBJECTIVE	3.3 The health and attractiveness of our waterways and wetlands is improved to enhance community amenity.
SUBJECT INDEX	Environmental Management Plans, Impact Studies and Reports
BUSINESS UNIT	Environmental Services
REPORTING OFFICER	Senior Sustainability/Environment Officer - Mathilde Breton
AUTHORISING OFFICER	Director, Planning and Development Services - Paul Needham
NATURE OF DECISION	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
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A Proposed MAG ToR for the Lower Vasse River

OFFICER RECOMMENDATION

That the Council:

1. **Supports the establishment of a Management Advisory Group for the Lower Vasse River, to meet the following objectives -**
   - **(a) identifying practical and implementable actions to sustainably improve the health and amenity of the River;**
   - **(b) identifying means of funding those actions;**
   - **(c) assisting the City with implementation of the *Lower Vasse River Waterway Management Plan*;**
   - **(d) facilitating information exchange on waterway management, restoration and enhancement;**
   - **(e) promoting and encouraging collaboration between stakeholders; and**
   - **(f) having input into the approach and priorities for, and reviewing the outcomes of, trials, research and monitoring;**
2. **Endorses the terms of reference for the Group, as per Attachment A of the agenda report;**
3. **Nominates Cr _____, Cr _____ and Cr _____ to be the Councillor representatives on the Group;**
4. **Nominates Cr _____, and Cr _____ as Deputies;**
5. **Requests that the CEO seek expressions-of-interest for the community positions on the Group, and fills those positions, following consultation with Councillors;**
6. **Requests that the CEO invite agencies to nominate appropriately qualified persons to fill the agency positions on the Group; and**
7. **Identifies that the terms of reference and the membership of the Group will be reviewed by the Council in the lead-up to the 2021 ordinary elections, in parallel with the similar review of other City committees, working groups and similar usually undertaken prior to an ordinary election.**

EXECUTIVE SUMMARY

The purpose of this report is to seek Council support for the establishment of a Management Advisory Group (MAG) for the Lower Vasse River (LVR), as per a recommendation of the *Lower Vasse River Waterway Management Plan* (WMP). The MAG is expected to play an important role in guiding and communicating about the implementation of the WMP, and with respect to improving the health and amenity of the River more generally.

BACKGROUND

In May 2019, the Council resolved to adopt the LVR WMP. At that time, the Council also resolved to adopt a similar WMP for Toby Inlet. As resources and priorities have allowed, the City has subsequently been working, often in partnership with other stakeholders, to implement the WMPs.

The preparation of the WMPs was part of the Revitalising Geographe Waterways (RGW) Programme, coordinated by the Vasse Ministerial Taskforce (VMT), currently chaired by Sally Talbot MLA, and which is a partnership between the State (represented by various agencies, perhaps most significantly the Department of Water & Environmental Regulation – DWER), the respective local governments (the City and the Shire of Capel) and some other key stakeholders. Extensive background on the events that led to the VMT and RGW can be provided if necessary.

As part of RGW, the City committed to be the 'interim asset manager' for the LVR and Toby Inlet, and as part of that commitment agreed to lead preparation of the WMPs. Prior to the RGW Programme, there was no 'asset manager' as such for either waterway.

Whilst the City has agreed to be the interim asset manager for the two waterways, it needs to be recognised that there are many factors affecting both waterways, many of which are or will be outside the control of the asset manager, and a need for a continued partnership approach. The City's agreement to be the 'interim asset manager' has also been on the understanding of continued support and partnership from and with the State; especially with respect to the State (specifically, through the Department of Biodiversity, Conservation & Attractions – DBCA) being the asset manager for the Vasse-Wonnerup Wetlands.

The LVR and Toby Inlet WMPs both recommend the formation of MAGs to guide and assist with implementation. The purpose of this report is to seek Council support for the formation of the LVR Management Advisory Group; in pursuance of Action G1.5 of the LVR WMP, which is as follows -

> *G1.5: Establish a Management Advisory Group comprised of representatives from the City, Department of Water and Environmental Regulation, Department of Biodiversity, Conservation and Attractions, Water Corporation of WA, GeoCatch, Wadandi representatives, and other community representatives.*

OFFICER COMMENT

Officers had envisaged forming a single MAG for both the LVR and Toby Inlet. The principal reason for that was that the membership of the two groups, certainly from a City and agency perspective, would be expected to be largely the same.

Following informal feedback from Councillors, however, it is instead proposed that only the LVR Management Advisory Group be formed at this time. There are several key reasons for that -

1. There is clearly very significant community interest in the LVR, especially recently;
2. It is fairly clear that there are divergent views and levels of understanding on the issues with respect to the LVR; and

3. Views and understandings with respect to Toby Inlet are less divergent – and in fact informal communication and liaison does seem to be reasonably effective with respect to Toby Inlet, at least at present.

At some future time, though, the Council may wish to consider forming a separate group for Toby Inlet, or expanding the role of the LVR Group to encompass Toby Inlet (and perhaps expand the membership if and when that occurs).

Attachment A is a draft terms of reference (TOR) for the MAG. The TOR sets out the following proposed objectives for the Group –

(a) identifying practical and implementable actions to sustainably improve the health and amenity of the River;

(b) identifying means of funding those actions;

(c) assisting the City with implementation of the *Lower Vasse River Waterway Management Plan*;

(d) facilitating information exchange on waterway management, restoration and enhancement;

(e) promoting and encouraging collaboration between stakeholders; and

(f) having input into the approach and priorities for, and reviewing the outcomes of, trials, research and monitoring.

Unlike membership, the WMP does not offer explicit guidance with respect to the objectives of the MAG – although the objectives set out above reflect the intent at the time of developing the WMP, and are broadly reflective of the WMP itself.

The recommended membership of the MAG is as follows –

1. Three Councillors (to be nominated by the Council), with two additional Deputy positions;
2. Two City staff (likely to be the Directors of Planning and Engineering – the latter in particular reflecting the fact that implementation of the WMP will require physical works and engineering design, and that the skills and input of the City's EWS Directorate will become increasingly important and valuable);
3. A representative of DWER (which is the lead State agency on waterways management and regulation);
4. A representative of GeoCatch (Geographe Catchment Council – which is a separate statutory body with a range of responsibilities, including the lead community engagement role as part of RGW – but GeoCatch is not an asset manager or regulator);
5. A representative of DBCA (which is the lead State agency for managing conservation assets, including, in time, the Vasse-Wonnerup Wetlands);
6. A representative of the Water Corporation (which is the urban flood management authority for Busselton, and manages, amongst other things, the Vasse Diversion Drain – VDD - and the culvert/valve which connects the VDD and LVR);
7. Up to two Aboriginal community representatives (recognising the importance of the LVR and other waterways in the City to local Aboriginal culture and heritage, as well as the Native Title and Aboriginal Heritage considerations related to future management of the LVR); and
8. Three to four broader community representatives.

Identifying City and State agency representatives should be a relatively straightforward process. The agencies listed are all members of the VMT, and have all been involved in the preparation of the WMP.

It is envisaged that the City would undertake a fairly informal process, working with partners in the local Aboriginal community, to identify Aboriginal community representatives.

A slightly more formal process is envisaged to seek expressions-of-interest for the 3-4 broader community representatives. It is envisaged that the seeking of expressions-of-interest would be advertised through the City's website, and local and social media, with interested parties being asked to provide a brief (500 word maximum) summary of why they are interested and what they think they would be able to contribute.

It is then envisaged that expressions-of-interest would be considered using three key criteria: (1) level of engagement in the issues, especially through the development of the WMP; (2) connection to others in the community interested in the issues, and ability to support two-way communication with others in the community; and (3) ability to think openly and creatively about the issues. It is envisaged that the CEO would informally consult with Councillors before determining community representation. Formal Council consideration is not envisaged.

It is envisaged that support for the MAG would be provided by City staff, principally from the Environmental Services Business Unit. It is also envisaged that other people and/or groups may be invited to present to the MAG as and when necessary – and especially for the first few meetings after formation it is envisaged that the MAG will be provided with a series of briefings on: the history of the LVR; the past work to address concerns with the LVR; and work currently underway, most notably work underway to further develop the 'Living Streams Scenario' set out in the WMP.

It is proposed that the terms of reference and the membership of the MAG are reviewed by the Council in the lead-up to the 2021 ordinary elections, in parallel with the similar review of other committees and working groups usually undertaken prior to an ordinary election.

Statutory Environment

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

The MAG is not proposed to be a formal Committee of Council as defined in section 5.8 of the Act and would have no delegated (decision-making) authority.

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plans and policies:

The Environment Strategy endorsed by Council in 2016 provides direction on how the City will meet the environmental aspirations of the community as set out in the Strategic Community Plan and guides the City's future activities in environmental management and sustainability. The Environment Strategy included the following action for Water Resources "Continue to work with all partners of the Vasse Taskforce to develop strategic and integrated approaches to management of water quality in the wetlands and waterways of Geographe Catchment".

The City's Community Engagement and Consultation Policy (Policy 023) guide the Council and City Officers on meeting their community engagement and consultation obligations. The policy takes into account key factors impacting community consultation and engagement activities such as statutory obligations, stakeholder expectations, risk management issues, budget and time constraints and appropriate consultation and engagement mechanisms.

The Lower Vasse River Waterway Management Plan (2019) and Toby Inlet Waterway Management Plan (2019) recommends the creation of a Management Advisory Group/Committee to oversee their implementation.

Financial Implications

There are no financial implications associated with the officer recommendation.

Stakeholder Consultation

Extensive consultation was undertaken when developing the WMPS, which recommends the establishment of the Management Advisory Group.

Risk Assessment

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

Options

As an alternative to the proposed recommendation, the Council could -

1. Resolve not to support the officer recommendation to establish a Management Advisory Group for the Lower Vasse River and Toby Inlet; and/or
2. Amend the proposed terms of reference prior to adoption.

CONCLUSION

The establishment of a Management Advisory Group is a recommendation of the LVR WMP endorsed by the Council, and it is seen as timely and important that the MAG be formed. It will provide an essential avenue to facilitate two-way communication and collaboration when planning for the management of the LVR.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The first meeting of the Management Advisory Group will be held within 3 months of Council supporting its establishment.

TERMS OF REFERENCE

City of Busselton
Geographe Bay

Committee:	Management Advisory Group for the Lower Vasse River		
Responsible Directorate:	Planning and Development	Version:	Draft

1. INTRODUCTION

1.1. The Council of the City of Busselton has established a Management Advisory Group for the Lower Vasse River as per a recommendation from the *Lower Vasse River Waterway Management Plan* (Council resolution C1905/095).

2. OBJECTIVES

2.1 The objectives of the Management Advisory Group are to:

a. identify practical and implementable actions to sustainably improve the health and amenity of the River;
b. identify means of funding those actions;
c. assist the City with implementation of the *Lower Vasse River Waterway Management Plan*;
d. facilitate information exchange on waterway management, restoration and enhancement;
e. promote and encourage collaboration between stakeholders; and
f. have input into the approach and priorities for, and reviewing the outcomes of, trials, research and monitoring.

3. MEMBERSHIP

3.1 Membership shall be as follows:

a. three Elected Members;
b. two Deputy Elected Members;
c. two City staff (as nominated by the CEO);
d. a representative of each of the following agencies:
    i. Department of Water and Environmental Regulation;
    ii. GeoCatch;
    iii. Department of Biodiversity, Conservation and Attractions; and
    iv. Water Corporation
e. up to two Aboriginal community representatives; and
f. three to four broader community representatives.

3.2. Other City officers as identified by the CEO shall provide administrative and technical support as required.

3.3. In the event of being unable to attend a meeting, an agency representative may send a proxy representative.

3.4. If any member (other than a deputy member) is absent for more than three consecutive meetings without appropriate notice, the Chief Executive Officer may seek to identify a replacement member or representative of.

3.5. The Chair, the Chief Executive Officer or the Chief Executive Officer's nominees may invite other persons on an ad hoc basis to address the Management Advisory Group on particular agenda items.

4. CHAIR

4.1. The Management Advisory Group shall appoint an Elected Member as the Chair and as the Deputy Chair to conduct its business.

4.2. The Chair shall be responsible for the running of meetings.

5. MEETINGS

5.1. The Management Advisory Group shall meet at least two times per year. Additional meetings may be organised when the need for such a meeting is identified by either the Chair, the Chief Executive Officer or the Chief Executive Officer's nominees.

5.2. Meeting agendas shall be developed by the Chief Executive Officer or the Chief Executive Officer's nominee, and shall be distributed to members no less than three days prior to the meeting; and the minutes of the meeting will be included in the Councillor Information Bulletin of the following Council Agenda.

5.3. The Chief Executive Officer or the Chief Executive Officer's nominees shall ensure that notes of the Management Advisory Group meetings are prepared and distributed to all members and the City officers present at the meeting for their review within fourteen days of the meeting. Notes shall record the outcomes of discussions, but not the content of those discussions.

5.4. If the members present at any particular meeting have any concerns with the notes prepared, they should advise the Chair and Chief Executive Officer or the Chief Executive Officer's nominees as soon as possible and in any case prior to the next meeting; and where that occurs the Chair shall ensure that the matter is resolved to the extent necessary and practicable at the next meeting, with the outcome to be reflected in the notes of that meeting.

6. DELEGATED POWERS

6.1. The Management Advisory Group has been established by a decision of Council but does not have any delegated powers. Any recommendations forthcoming shall not be binding on Council and must be endorsed by Council to take effect.

7. TERMINATION

7.1. Termination of the Management Advisory Group shall be by a decision of Council.

8. APPROVAL

Council Adoption	**DATE**	**TBA**	**Resolution #**	**TBA**
Previous Adoption	**DATE**	N/A	**Resolution #**	N/A

14. ENGINEERING AND WORK SERVICES REPORT

Nil

15. COMMUNITY AND COMMERCIAL SERVICES REPORT

Nil

16. FINANCE AND CORPORATE SERVICES REPORT

Nil

17. CHIEF EXECUTIVE OFFICERS REPORT

17.1 COUNCILLORS' INFORMATION BULLETIN

STRATEGIC GOAL	6. LEADERSHIP Visionary, collaborative, accountable
STRATEGIC OBJECTIVE	6.1 Governance systems, process and practices are responsible, ethical and transparent.
SUBJECT INDEX	Councillors' Information Bulletin
BUSINESS UNIT	Executive Services
REPORTING OFFICER	Reporting Officers - Various
AUTHORISING OFFICER	Director Finance and Corporate Services - Tony Nottle
NATURE OF DECISION	Noting: the item does not require a decision of Council and is simply for information purposes and noting
VOTING REQUIREMENT	Simple Majority
ATTACHMENTS	Attachment A State Administrative Tribunal Reviews Attachment B Australian Radiations Protection and Nuclear Safety Agency Attachment C Thank you Letter - Beelerup Fire Attachment D Letter from Dept. of Planning - Dunsborough Townsite Strategy

OFFICER RECOMMENDATION

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

17.1.1 State Administrative Tribunal Reviews

17.1.2 Busselton Choral Society Correspondence

17.1.3 Public concern around 5G mobile networks and impact on people and the environment

17.1.4 Thank you – Beelerup Fire

EXECUTIVE SUMMARY

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

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

INFORMATION BULLETIN

17.1.1 State Administrative Tribunal Reviews

A summary of the current State Administrative tribunal reviews is attached (Attachment A).

17.1.2 Busselton Choral Society Correspondence

The Busselton Choral Society thanks the City of Busselton for the cheque of $100 for the Choir's participation in the pre-Christmas Carol's afternoon in Fig Tree Lane on Thursday 19 December 2019. Members of the Choral Society enjoyed themselves and were happy to take part.

17.1.3 Public concern around 5G mobile networks and impact on people and the environment

Correspondence has been received from the Australian Government's Australian Radiation Protection and Nuclear Safety Agency in relation to the impact of the 5g mobile networks on people and the environment. (Attachment B)

17.1.4 Thank you – Beelerup Fire

Correspondence has been received from the Shire of Donnybrook-Balingup thanking the City for the resources used in fighting the Beelerup Fire on 29 January 2020. (Attachment C)

17.1.5 Dunsborough Townsite Strategy Investigation Areas

Correspondence has been received from the Department of Planning, Lands and Heritage in relation to the Townsite Strategy for Dunsborough. (Attachment D).

As at 27 February 2020

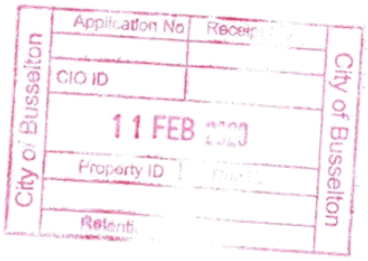
APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	RESPONSIBLE OFFICER	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
CITY OF BUSSELTON							
Lindberg v City of Busselton	4822 Bussell Highway, Busselton	October 2019	Review of a decision to give a direction under s.214.	Martyn Cavanagh / Lee Reddell	• Directions hearing on the 8 November 2019 against the decision of the City to give a direction under s.214. • The matter was adjourned to a further directions hearing on 29 November 2019 in order to determine whether the application is misconceived or lacking in substance pursuant to s.47 of the *State Administrative Tribunal Act 2004* • Directions hearing on the 29 November 2019 where it was resolved: - The application is amended by substituting Mr Doug Hugh Lindberg as applicant in place of Mr Johnson. - The matter is listed for an on-site mediation on 6 January 2020. - Mr Michael Johnson is invited to attend and participate in the mediation. • Mediation on 6 January 2020 where it was resolved that : - the applicant is to provide additional information to the respondent by 3 February 2020; - The matter is listed for mediation on 13 February 2020. • Mediation on 13 February where, following further discussion with the landowners and Mr Johnson, it was resolved to adjourn the proceeding back to a further directions hearing on 17 April 2020.	Directions Hearing on 17 April 2020	
Bishop v City of Busselton	545 Gale Road, Kaloorup	November 2019	Review of a decision to give a direction under s.214.	Martyn Cavanagh / Joanna Wilson	• Directions hearing on the 29 November 2019 against the decision of the City to give a direction under s.214 • The matter was adjourned to a further directions hearing on 13 December 2019 in order for the applicant to seek legal advice • Directions hearing listed for 13 December 2019 was vacated • S 214 direction issued by the City is stayed until further orders are made. • The matter is listed for a directions hearing on 7 February 2020. • Directions hearing on 7 February 2020 where it was resolved that : - adjourned to a further direction hearing on 4 March 2020; - By 6 March 2020, the respondent must file a statement of issues, facts and contentions and bundle of documents required under s 24 of the State Administrative Tribunal Act 2004.	Directions Hearing 4 March 2019	

APPLICATION (Name, No. and City File Reference)	PROPERTY	DATE COMMENCED	DECISION BEING REVIEWED	RESPONSIBLE OFFICER	STAGE COMPLETED	NEXT ACTION AND DATE OF ACTION AS PER SAT ORDERS	DATE COMPLETED / CLOSED
Hotait v City of Busselton	9 Prospect Close, Quindalup	November 2019 and January 2020	Review of a decision to give directions under s.214.	Martyn Cavanagh / Lee Reddell	• City issued 3 s 214 directions (Planning and Development Act 2005) October 2019; review applications lodged with SAT • Due to administrative issues, review applications were dismissed. Re-commenced in January 2020 (DR 16/2020). • Directions hearing held on 31 January 2020, adjourned to 28 February 2020 to enable the parties to confer, with a view to then being directed to mediation.	Directions hearing on 28 February 2020	
Fitcock v City of Busselton	51/12 Dunn Bay Road, Dunsborough	February 2020	Review of conditions on development application	Lee Reddell / Andrew Watts	• Directions hearing on 21 February 2020 against the conditions imposed by the City of a development application. • Directions hearing on 21 February 2020 vacated with adjournment of 4 weeks to allow the City and applicant time to meet prior to directions. • Matter re-listed for directions hearing on 27 March 2020.	Directions hearing on 27 March 2020	
JOINT DEVELOPMENT ASSESSMENT PANEL							
NIL							
WESTERN AUSTRALIAN PLANNING COMMISSION							
NIL							

Australian Government
Australian Radiation Protection and Nuclear Safety Agency

arpansa

3 February 2020



Ref: 2020/00283

Cr Grant Henley, Mr Mike Archer
City of Busselton
Locked Bag 1
BUSSELTON WA 6280

Re: Public concern around 5G mobile networks and impact on people and the environment

Dear Cr Henley and Mr Archer

I am writing to you with information about the new generation of mobile phone technology - 5G. In recent months, the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) has received a growing number of enquiries from local governments around Australia with respect to 5G mobile networks and concerns about the impact on the health of individuals or the environment. As such, I wanted to take the opportunity to provide you with some technical information that may assist should you receive similar enquiries.

ARPANSA is the Australian Government's primary authority on radiation protection and nuclear safety. This includes electromagnetic radiation, including from radio waves like those used in wireless communications, such as 5G mobile networks. In order to provide the best advice on the protection of the Australian public from the effects of radiation, ARPANSA undertakes its own research and reviews relevant scientific research. This includes research and reviews of exposure to radio waves from telecommunications sources such as mobile phone base stations – sometimes called 'towers'.

ARPANSA has no role in promoting the deployment of the 5G network, and no decision-making role regarding the regulatory arrangements. The Australian Communications and Media Authority (ACMA) regulates radio waves from mobile phone base stations and other communications installations. The ACMA's regulatory arrangements require base stations to comply with the exposure limits in ARPANSA's *Radiation Protection Standard for Maximum Exposure Levels to Radiofrequency Fields - 3 kHz to 300 GHz* ('ARPANSA RF Standard'). The ARPANSA RF Standard is designed to protect people of all ages and health status against all known adverse health effects from exposure to radio waves.

Exposure to sufficiently high levels of radio waves can heat biological tissue and potentially cause tissue damage. However, the amount of environmental radio waves routinely encountered by the general public from telecommunications sources is far too low to produce significant heating or increased body temperature. At low levels of exposure to radio waves (that is, intensities lower than those that would produce measurable heating) the evidence for harmful health effects is ambiguous and unproven. Although there have been studies reporting a range of biological effects at low levels, there has been no indication that such effects might constitute a hazard to human health or the environment.

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In a 2016 measurement survey that ARPANSA conducted on radio wave levels in the environment, we found that exposure to traditional radio broadcasts, particularly AM radio, continues to be the most dominant source of background exposure for radio waves, with exposure 50,000 times below the safety limit in the ARPANSA RF Standard. Deployment of technologies to support 5G mobile networks including small cells in close proximity to people's homes is unlikely to change this situation, with the radio wave exposure from current mobile networks currently being on average 500,000 times below the safety limit.

The 5G mobile networks in Australia will initially use frequencies in the current mobile phone network, then move to higher frequencies in the future. It is important to note that higher frequencies do not mean higher exposure. It's not expected that the higher frequencies from 5G technologies, where they are still below the limits of the ARPANSA RF Standard, will cause any health effects or impact to the environment.

Authorities around the world including ARPANSA and the World Health Organization have examined the scientific evidence regarding possible health effects from base stations and mobile phones. Current research indicates that there are no established health effects, including cancer, from the low exposure to radio waves from mobile phone base station antennas.

ARPANSA continues to review the research into the potential health effects of radio wave emissions from base stations and other sources in order to provide accurate and up-to-date advice to the Government and the Australian people. Further information or fact sheets on this and other topics can be obtained from the ARPANSA website (https://www.arpansa.gov.au). We also operate a Talk to a Scientist program that provides a unique opportunity for the public and community to talk directly with our scientists on issues about radiation exposure and protection in Australia. You are welcome to refer any individuals seeking information on 5G technologies to this program via the details on the ARPANSA website (https://www.arpansa.gov.au/talk-to-a-scientist).

You may also be aware that the Commonwealth Government recently announced a $9 million program over four years[1] to provide additional funding for research and to deliver accessible information to communities about the safety of regulated radio waves from telecommunications facilities. Relevant departments and agencies including ARPANSA are working on the detail and deployment of this program, and I expect further information will be provided in future.

I hope this information provides some assurance around the state of the science, and assists you with managing any concerns raised in your local government area.

Yours sincerely

Dr Gillian Hirth
Chief Radiation Health Scientist
Australian Radiation Protection and Nuclear Safety Agency

[1] https://www.minister.communications.gov.au/minister/paul-fletcher/news/building-community-confidence-5g-safety

Your Ref:
Our Ref:
Enquiries:

Shire of Donnybrook Balingup

19 February 2020

Mike Archer
Chief Executive Officer
City of Busselton
Mike.archer@busselton.wa.gov.au

Dear Mike

BEELERUP FIRE – 29 JANUARY 2020

We would like to take the opportunity to acknowledge your contribution in providing resources from within your local government to attend the Beelerup fire incident on 29 January 2020.

We appreciate the regional support received and the fast response time in arranging representatives to attend the fire and assist in bringing it under control quickly. The Shire is grateful for the efforts of volunteers and their contribution in achieving a positive outcome.

Please pass on our thanks to all involved.

Yours sincerely

Benjamin (Ben) Rose
CHIEF EXECUTIVE OFFICER

Cr Brian Piesse
SHIRE PRESIDENT

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Donnybrook WA 6239
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Department of **Planning, Lands and Heritage**

GOVERNMENT OF WESTERN AUSTRALIA

Your ref:
Our ref: PLH2019P0195
Enquiries: Tim Richings (9791 0584)

City of Busselton
Locked Bag 1
BUSSELTON WA 6280

City of Busselton
Application No | Receipt No
CIO ID
21 FEB 2020
Property ID | Doc ID
Retention
City of Busselton

Dear Landowner

DUNSBOROUGH TOWNSITE STRATEGY INVESTIGATION AREAS:

RESERVE 36986, LOT 4721 KOOPIN PLACE, QUEDJINUP WA 6281 AND RESERVE 12493, LOT 4842 YUNGARRA DRIVE, QUEDJINUP WA 6281

Between 2016 and 2018 the Department of Planning, Lands and Heritage (DPLH) carried out Sub-regional Planning Strategy for the Leeuwin-Naturaliste sub-region (https://www.dplh.wa.gov.au/getmedia/32e4c912-58b4-49f3-9f59-3f64fb2a4a47/SWT-Leeuwin-Naturalist-Sub-regional-Strategy), that is the spatial extent of the City of Busselton and Shire of Augusta-Margaret River.

The *Leeuwin Naturaliste Sub-regional Planning Strategy* identified that a Townsite Strategy should be carried out for Dunsborough led by the City of Busselton in collaboration with the Department. The Sub-regional Strategy set out that the Townsite Strategy should include analysis of the development potential and constraints of land east of Ridgeway Drive and land adjacent to Butterworth Springs Avenue and Gibson Drive (Cape Rise). As part of this analysis the Department has commissioned bushfire consultants Strategen to carry out a strategic bushfire hazard level assessment and the consultants may be contacting you shortly to arrange to access the above properties to help undertake a strategic bushfire hazard level assessment.

The objective of the Townsite Strategy is to set out a vision for the future of Dunsborough, supported by consideration of relevant social, economic and environmental matters. The consideration of the development potential of the areas referred to above should not be construed as support by the Department or the Western Australian Planning Commission (WAPC) for a change from the existing zoning as this will depend on the outcome of the Department and City of Busselton's investigations.

Postal address: Locked Bag 2506 Perth WA 6001 Street address: 140 William Street Perth WA 6000
Tel: (08) 6551 8002 info@dplh.wa.gov.au www.dplh.wa.gov.au
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Should you wish to discuss the Dunsborough Townsite Strategy project please contact Tim Richings at DPLH (Bunbury office) on either 9791 0584 or tim.richings@dplh.wa.gov.au or Matt Riordan, Strategic Planning Manager at the City of Busselton, on 0897811735 or mathew.riordan@busselton.wa.gov.au.

Yours sincerely



Mike Schramm

DPLH Planning Director, Regional South West

14 FEBRUARY 2020

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

19. URGENT BUSINESS

20. CONFIDENTIAL MATTERS

Nil

21. CLOSURE