



Council Agenda

13 February 2019

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city@busselton.wa.gov.au

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 13 FEBRUARY 2019


TO: THE MAYOR AND COUNCILLORS

NOTICE is given that a meeting of the Council will be held in the the Council Chambers, Administration Building, Southern Drive, Busselton on Wednesday, 13 February 2019, 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

1 February 2019

CITY OF BUSSELTON

AGENDA FOR THE COUNCIL MEETING TO BE HELD ON 13 FEBRUARY 2019

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

2. **ATTENDANCE**

Apologies

Approved Leave of Absence

Cr Rob Bennett

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 30 January 2019**

RECOMMENDATION

That the Minutes of the Council Meeting held 30 January 2019 be confirmed as a true and correct record.

Committee Meetings

8.2 **Minutes of the Policy and Legislation Committee meeting held on 22 January 2019**

RECOMMENDATION

That the minutes of the Policy and Legislation Committee Meeting held 22 January 2019 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 - 22/01/2019 - REVIEW OF COUNCIL POLICY 181 - CROSSOVERS AND COUNCIL POLICY 195 - REINSTATEMENT OF WORKS IN ROAD RESERVES

SUBJECT INDEX:	Council Policy
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Development Control
ACTIVITY UNIT:	Development Control
REPORTING OFFICER:	Development Control Coordinator - Ronald Wildschut Land and Infrastructure Officer - Andrew Scott
AUTHORISING OFFICER:	Director, Engineering and Works Services - Oliver Darby
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Current policy - Crossovers ↓ Attachment B Proposed Policy - Crossovers ↓ Attachment C Current Policy - Reinstatement of Works in Road Reserves ↓ Attachment D Proposed Policy - Reinstatement Works in Road Reserves ↓

This item was considered by the Policy and Legislation Committee at its meeting on 22 January 2019, the recommendations from which have been included in this report.

PRÉCIS

This report presents an updated version of two current Council Policies – Policy 181 ‘Crossovers’ (Attachment A) and Policy 195 ‘Reinstatement of works in road reserves’ (Attachment C). The proposed revised policies (Attachment B and D respectively) (the Policies) are considered to be of continuing relevance, have been moved into the new policy format and are recommended for Council approval.

BACKGROUND

Prompted by a requirement to periodically review Council policies and an initiative to make policy documents consistent with a new policy framework and format, the Policies, which relates to development control activities, have been reviewed by officers and, being considered of continuing relevance, are presented for the Council’s consideration.

In August 2017 the CEO commissioned a high level independent review of the City’s governance systems – the Governance Systems Review (GSR). The GSR made the following recommendations with respect to the City’s policy and procedure framework:

1. *There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. *Should deal with higher level objectives and strategies;*
 - b. *Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. *Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
2. *As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*

3. *Consideration should be given to developing a new Council Policy which sets out the 'framework' for Council Policies, OPPs and other procedures. The new Policy would explain the role to be played by each level of document. It could, for example, be called a Policy Framework Policy.*

Apart from transfer to the new policy format the Policies have only undergone reasonably minor changes.

City officers considered a more major and holistic review of development control policies as per the recommendations of the GSR but found that a major review would need to be undertaken within the broader context of development control and the system of Engineering Technical Standards and Specifications that is in place. This is not currently a scheduled work priority and instead it is the intent that a broader systems wide review of the City's development control policies and procedures, and the Engineering Technical Specifications and Standards be conducted by the business unit at a later stage, likely as part of the next round of organisational policy review.

STATUTORY ENVIRONMENT

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

Regulations 12 and 15 of the Local Government (Uniform Local Provisions) Regulations 1996 deals with crossovers in so far as providing provision for and guidance of, the construction of crossovers and the local government contribution towards the construction of crossovers.

RELEVANT PLANS AND POLICIES

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

The City's Engineering Technical Standards and Specifications apply to the Policies, particularly where the standards and specifications relate to Construction (section 3) and Vehicle Crossovers (section 4), Property Development (section 6) and Reinstatements (section 7).

FINANCIAL IMPLICATIONS

There are no financial implications associated with the officer recommendation.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There are no long term financial plan implications associated with the officer recommendation.

STRATEGIC COMMUNITY OBJECTIVES

The Policies link to the Key Goal Area 6 of the City's Strategic Community Plan 2017, in particular Community Objective 6.4: Assets are well maintained and responsibility managed.

RISK ASSESSMENT

A risk assessment of implementing the officer recommendation was undertaken using the City's risk assessment framework and no risks of a medium or greater level were identified.

CONSULTATION

No external consultation was undertaken in relation to the review of the Policies.

OFFICER COMMENT**Crossovers**

The purpose of this policy is to provide guidelines for the construction of crossovers and the provision of a crossover contribution towards this construction by the City of Busselton. The policy sets out Council's position in relation to crossover construction standards and the provision of a contribution.

No significant changes were made to the policy content other than formatting changes and changes associated with the new format.

Reinstatement of works of Road Reserves

This policy sets out Council's position in relation to construction activities undertaken by a private developer or public utility or their agent within a City of Busselton road reserve, and, that where those works impact on or cause damage to City of Busselton infrastructure, reinstatement works to the satisfaction and specifications of the City must be undertaken.

No significant changes were made to the policy content other than formatting changes and changes associated with the new format.

CONCLUSION

A review of the Policies was undertaken, with only minor changes proposed in accordance with the City's new policy framework and format. The Policies continue to be of relevance and are recommended for adoption.

OPTIONS

Council may decide to not adopt the Policies and instead choose to take a different position or approach.

Council might also require further amendments to the Policies.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policies will be effective as of adoption by Council.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

That the Council adopts the:

1. Policy 'Crossovers' as per Attachment B, to replace the current policy (Attachment A).
2. Policy 'Reinstatement Works in Road Reserves' as per Attachment D, to replace the current policy (Attachment C).

Last updated 13/04/2016

181	Crossovers	V3 Current
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1. PURPOSE

The City may set the position of the crossover access onto the road, require its construction and/or repair and maintain the crossover as provided for under Regulation 12 of the Local Government (Uniform Local Provisions) Regulations 1996.

The City is required to contribute 50% of the estimated cost of the first "Standard Crossover" to the land, under Regulation 15 Local Government (Uniform Local Provisions) Regulations 1996. This policy provides the standards to be met to establish eligibility for the City contribution and provide guidelines for the safe positioning of vehicle access from private property to the road.

2. SCOPE

All crossovers (a constructed traffic way connecting the paved street to the private property) shall be constructed to the approved Council standards and specifications.

3. POLICY CONTENT

Standard Crossover

General Requirements

A standard crossover does not include the value of culverts or alteration to services or tree removal. Applicants in rural and special rural areas are required to request the advice of City staff regarding the need for and the size of pipes for drainage purposes.

The width of a standard crossover at the property line is to be a minimum of 2.75 metres and splay to 4.5 metres wide at the road edge, with 1.0 metre radii or 1.0 metre truncation at the road edge. The total minimum width of opening at the road edge is 6.5 metres. This configuration represents the Standard Crossover, with the length being variable. Extra width is allowable, with approval of the Chief Executive Officer, but no additional subsidy applies.

Full requirements for meeting the standard crossover are detailed in Council's Standards and Specifications. Area specific requirements are as follows:

Urban Areas

The crossover shall be sealed utilising sprayed bitumen, bituminous concrete, in-situ concrete, paving bricks or blocks.

Rural and Special Rural Areas

All rural and special rural developments require a sealed crossover where a sealed road frontage exists. If the road is gravel Council will allow an unsealed crossover (gravel). The provision of culvert pipes, if required, shall be at cost to the landowner.

Special Character Areas

Within special character areas, such as Old Dunsborough and Eagle Bay, crossovers are to be constructed of materials consistent with an earthy tone such as pea gravel or red asphalt seals.

Last updated 13/04/2016

Crossover Subsidy

Council will contribute (or subsidise) half the estimated cost of a standard crossover (one crossover to a property) subject to the crossover being deemed by the Chief Executive Officer to conform with the City's "Standard Crossover".

The crossover subsidy will be determined by the material type and length of the crossover based on the dimensions of a standard crossover.

The subsidy applies to the first crossover to a lot for industrial, business, commercial and all residential buildings. In the case of strata titles, a subsidy will apply to each title for the crossover up to the number of titles.

Crossovers, eligible for subsidy, may be claimed for at the subsidy rate that applies in the financial year construction is completed. Crossovers in excess of one year old shall have a reduced subsidy based on straight line depreciation, for age and type, as per the following: (Crossovers in excess of this life are not eligible for a subsidy claim).

Crossover Type Maximum Crossover Life

2 Coat Seal	10 years
Asphalt	15 years
Brick/Block	20 years
Concrete	25 years

Construction

The Owner/Agent is to arrange for construction. Any alterations for the removal/relocation of the conflicting public utilities, such as drainage pits and structures, services inspection pits, power or light poles, traffic medians and street trees will be at the owner's cost and subject to the approval of the service authority concerned. Alternative alignments and/or position of crossovers will be considered by the Shire.

Where a footpath exists within the road verge the footpath is to take priority over a crossover. The footpath is not to be removed to make way for a crossover, rather the crossover is to butt up to the footpath on both sides.

Road safety and turning radii will be taken into account in deciding the position of a crossover. Owners are advised when designing building/s requiring vehicle access from the street to take into account services, public utility services and street trees.

Crossover Maintenance

Council will not be responsible for maintenance of crossovers. Council will not subsidise the maintenance or replacement of crossovers.

Policy Background

Policy Reference No. - 181

Owner Unit – Engineering and Facilities Services

Originator – Director, Engineering and Works Services

Policy approved by – Council

Date Approved – 13 April, 2016

Review Frequency – As required

Related Documents –


Local Government (Uniform Local Provisions) Regulations 1996

Last updated 13/04/2016

History

Council Resolution	Date	Information
C1604/079	13 April, 2016	Update to City Terminology and business unit and Directorate details. Inclusion of requirements for footpaths to take priority over crossovers and for landowners to be responsible for culvert pipes. Version 3
C1012/429	8 December, 2010	Updated to remove requirement for bonds Version 2
		Version 1

COUNCIL POLICY


City of Busselton
Geographic Bay

Council Policy Name: Crossovers

Responsible Directorate: Engineering and Works Services

Version: Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to ensure that the construction of Crossovers within the City of Busselton align to the *Local Government (Uniform Local Provisions) Regulations 1996* and meets the City's Engineering Technical Standards and Specifications. It provides guidance on the requirements for eligibility to receive a Crossover Contribution from the City.

2. SCOPE

- 2.1. This Policy is applicable to construction of all approved Crossovers.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council Policy entitled "Crossovers"
Crossovers	The section of a driveway between the road and the property boundary
Standard Crossover	A Crossover as defined within the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> , and that meets the requirements set out in this Policy and contained within the City's Engineering Technical Standards and Specifications.
Crossover Contribution	The City of Busselton's contribution towards the construction of a Standard Crossover, as per Regulation 15 of the <i>Local Government (Uniform Local Provisions) Regulations 1996</i>

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 6 of the City's Strategic Community Plan 2017 and specifically Community Objective 6.4: Assets are well maintained and responsibly managed.

5. POLICY STATEMENT

- 5.1. This Policy provides guidelines for the construction of Crossover such as they are constructed to appropriate standards and specifications and outlines what the City of Busselton's Crossover Contribution will be.

Standard Crossover

- 5.2. The width of a Standard Crossover at the property line is to be a minimum of 2.75 metres and splay to 4.5 metres wide at the road edge, with 1.0 metre radii or 1.0 metre truncation at the road edge. The total minimum width of opening at the road edge is 6.5 metres. The length is variable, with extra width being allowed on approval from the Chief Executive Officer, but with no additional Crossover Contribution being applicable.
- 5.3. A Standard Crossover does not include the value of the culverts or any required alteration to services/infrastructure or vegetation removal.
- 5.4. Applicants in rural and special rural areas are required to seek advice from the City regarding the need for and the size of pipes for drainage purposes.

- 5.5. Full requirements for meeting the Standard Crossover are detailed in the City's Engineering Technical Standards and Specifications. In general applicants should seek advice from the City to ensure proposed works comply with the requirements for a Standard Crossover.

Crossover Contribution

- 5.6. A Crossover Contribution will only be paid to the current owner of the property.
- 5.7. The City of Busselton will contribute half the estimated cost of construction of a Standard Crossover as is required by Regulation 15 of the *Local Government (Uniform Local Provisions) Regulations 1996*, at the rate set by Council.
- 5.8. The Crossover Contribution amount will be determined by the material type and length of the crossover, based on the dimensions of a Standard Crossover.
- 5.9. The Crossover Contribution value will not include the cost of drainage, alteration to services/infrastructure or the removal of vegetation.
- 5.10. Crossovers which do not meet the minimum requirements for a Standard Crossover are not eligible for a Crossover Contribution.
- 5.11. Crossovers which exceed the dimension requirements of a Standard Crossover will receive a Crossover Contribution based on the dimensions of a Standard Crossover.
- 5.12. The Crossover Contribution applies to the first crossover to a lot for industrial, commercial and all residential properties. In the case of strata titles, a Crossover Contribution will apply for each individual title which has a Standard Crossover.
- 5.13. Crossover Contributions should be applied for in the financial year when construction is completed to receive the full Crossover Contribution. Crossovers in excess of one year old will have a reduced Crossover Contribution based on a straight line depreciation for age and type, as per the following:

Crossover Type	Maximum Crossover Life
2 Coat Seal	10 years
Asphalt	15 years
Brick pavers/blocks	20 years
Concrete	25 years
Crossovers in excess of this life are not eligible for a Crossover Contribution	

Construction

- 5.14. All costs for the construction of a Crossover and related works will be borne by the owner or agent of the owner.
- 5.15. Consideration must be given to relevant vehicle turning movements for ingress/egress to/from the property.
- 5.16. Where construction works will impact on public roads, a traffic management plan must be submitted by the contractor to the City for review and approval prior to commencement of construction of the Crossover.

Maintenance

- 5.17. The City of Busselton is not responsible for and will not contribute towards the cost of maintenance or replacement of Crossovers.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. *Local Government Act 1995*, Schedule 9.1 (7)
- 6.2. *Local Government (Uniform Local Provisions) Regulations 1996*, Regulations 12 – 16.
- 6.3. City of Busselton Engineering Technical Standards and Specifications

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	13/04/2016	Resolution #	C1604/079

Last updated 13/04/2016

195	Reinstatement of Works in Road Reserves	V3 Current
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1. PURPOSE

This policy is to provide guidelines to ensure the City of Busselton's expectations are met where road or public utility works are carried out in a road reserve by contractors.

2. SCOPE

The policy applies to any occasion when reinstatement of a road reserve is required due to contractor activity.

3. POLICY CONTENT

Where road or public utility works carried out by contractors occurs in a road reserve it is to be ensured that there is full reinstatement and that all costs for reinstatement of drainage to roads, paths, street furniture, lawns, gardens, planting, trees, verge vegetation and drains are met by the contractor.

The contractor will use underground boring construction methods in order to avoid the removal of trees and vegetation.

In exceptional circumstances the City of Busselton may agree to tree removal/vegetation removal where it is not possible to underground bore for technical reasons and no alternative route for the service is available. In this instance the contractor will be required to replant with equivalent plant species and tree species in order to return the verge to pre work standards. Vegetation planting and tree planting/species will be in accordance with the City of Busselton's Technical specifications. If specialist arborist are required this will be at the cost of the contractor.

Works completed by contractors require the approval of specifications to Council adopted standards, endorsement of a Traffic Management Plan (TMP) and payment of a bond according to Council's Standard Fees and Charges prior to commencement and prior to excavations. Where works are carried out by a contractor under the management and supervision of a Public Utility no payment of bonds is applicable subject to there being a 12 months defects period.

Council requires payment in advance, where the reinstatement is undertaken by the City of Busselton, based on standard rates in the Schedule of Fees and Charges. Retention of contractor payments by a recognised public utility for the purpose of securing the reinstatement is acceptable in lieu of a bond.

The contractor shall leave and maintain the site in a safe condition and where excavation and trenching takes place, carry out the backfill and compaction using the appropriate materials, to Council's standards and specifications, until such time as the reinstatement is complete. Aftercare signage and delineation in accordance with a City of Busselton endorsed traffic management plan shall remain in place until the reinstatement is complete.

Pre-works and post-works inspections are to be carried out to determine any existing defects and to ensure any reinstatements are carried out to the City's standards and specifications.

Last updated 13/04/2016

The City of Busselton may carry out surface repairs, such as to paths, drains, road concrete crossovers and kerbing, not completed to its satisfaction and within 14 days of completion of backfill of excavations using the expenses to recover. Bonds shall be retained for a minimum of three months after completion of the reinstatement to ensure failure, subsidence or fault can be rectified.

4. APPLICATION OF THE POLICY

The policy shall be applied by Engineering and Works Services.

Policy Background

Policy Reference No. - 195

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
C1604/081	13 April, 2016	Inclusion of requirement for a Traffic Management Plan, retention of signage, expanded inspection requirements and expanded vegetation retention requirements. Version 3
C1206/155	27 June, 2012	Update to new policy format Version 2
		Version 1

COUNCIL POLICY



Council Policy Name: Reinstatement Works in Road Reserves

Responsible Directorate: Engineering and Works Services

Version: Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is to ensure that where works are carried out in a Road Reserve, any impact or damage caused to City of Busselton infrastructure is reinstated to the satisfaction and specifications of the City.

2. SCOPE

- 2.1. This Policy is applicable to construction activities undertaken by public utilities or private developers (and their agents) within a City of Busselton Road Reserve.

3. DEFINITIONS

Term	Meaning
Policy	this City of Busselton Council Policy entitled "Reinstatement Works in Road Reserves"
Reinstatement Works	Works undertaken which are necessary to repair, reinstate or replace assets to their original, or as close to their original, state.
Road Reserve	An area of land set aside for potential road construction, on which building is not allowed

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 3 of the City's Strategic Community Plan 2017 and specifically Community Objective 3.1: Development is managed sustainably and our environment valued.

5. POLICY STATEMENT

- 5.1. All Reinstatement Works within a Road Reserve are to be completed to the minimum requirements as set out in the City of Busselton's Engineering Technical Standards and Specifications, the IPWEA Specifications for "Restoration and Reinstatements for Local Governments" and the Utility Providers Code of Practice for Western Australia.
- 5.2. Prior to commencement of Reinstatement Works within a Road Reserve, a traffic management plan is to be submitted to the City for review and endorsement.
- 5.3. All costs of Reinstatement Works are to be borne by the public utility, private developer or their agent.
- 5.4. Reinstatement works are to be carried out as soon as is practicable. Temporary Reinstatement Works must be maintained to ensure serviceability and safety of infrastructure.
- 5.5. Wherever practical, underground boring construction methods are to be used to avoid damage to City infrastructure and the removal of vegetation.

- 5.6. Where underground boring is not possible and no alternative route for the service is available, the City will consider the removal of vegetation.
- 5.7. No removal of vegetation may be undertaken without the City's explicit approval and no removal of native species may occur without appropriate environmental or regulatory approvals.
- 5.8. Damaged or removed vegetation will generally be replaced with equivalent species and at the cost of the public utility, private developer or their agent.
- 5.9. A pre-work inspection of proposed service alignments is to be carried out by the contractor and the City to identify infrastructure damaged prior to commencement of works.
- 5.10. Maintenance bonds will apply for Reinstatement Works by a private developer, based on rates in the City's Schedule of Fees and Charges. Maintenance bonds will not apply for Reinstatement Works by a public utility.
- 5.11. After a 12 month post-work maintenance period, the City will inspect the Reinstatement Works. Where the works are to the satisfaction of the City, the City will process the return of applicable maintenance bonds.

6. RELATED DOCUMENTATION / LEGISLATION

- 6.1. City of Busselton Engineering Technical Standards and Specifications.
- 6.2. IPWEA (WA) "Restoration and Reinstatements Specification for Local Governments".
- 6.3. Utility Providers Services Committee "Utility Providers Code of Practice for Western Australia".

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	13/04/2016	Resolution #	C1604/081

12.2 Policy and Legislation Committee - 22/01/2019 - REVIEW AND CONSOLIDATION OF COUNCIL POLICY 134 (WORKS AND DEVELOPMENT ON FORESHORE AND LANDSCAPE PROTECTION RESERVES) AND COUNCIL POLICY 240 (RESERVES VEGETATION PROTECTION), AND PROPOSED NEW POLICY PRIVATE WORKS ON CITY LAND, INCLUDING COASTAL PROTECTION WORKS.

SUBJECT INDEX:	Council Policy
STRATEGIC OBJECTIVE:	Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations.
BUSINESS UNIT:	Planning and Development Services
ACTIVITY UNIT:	Planning and Development Support
REPORTING OFFICER:	Director, Planning and Development Services - Paul Needham
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Existing Policy 134 - Works and Development on Foreshore and Landscape Protection Reserves ↓ Attachment B Existing Policy 240 - Reserves Vegetation Protection ↓ Attachment C Private works on City Land, including coastal protection works ↓

This item was considered by the Policy and Legislation Committee at its meeting on 22 January 2019, the recommendations from which have been included in this report.

PRÉCIS

This report reflects the outcomes of a review of two existing Council policies; Policy 134 - Works and Development on Foreshore and Landscape Protection Reserves (Policy 134) and Policy 240 - Reserves Vegetation Protection (Policy 240). The review has regard to the Governance System Review (GSR) carried out by Mr John Woodhouse in 2017.

It is recommended that both of the existing policies be rescinded and that a new, much more targeted policy be adopted, identifying the only circumstance in which the City may contemplate private works or actions on City land (other than where those works or actions are specifically provided for in law or other policy, such as a vehicle crossover, or portable signage, or via a lease or licence to accommodate community or commercial activity), which is for private coastal protection works.

BACKGROUND

Existing Policy 134 is provided as Attachment A and existing Policy 240 is provided as Attachment B. Policy 134 was last reviewed in 2012, but a policy in broadly similar terms has been in place for around 20 years. Policy 240 was last reviewed in 2010, having been first introduced in broadly similar terms around 10 years ago.

In summary, Policy 134 seeks to do the following -

1. Set out that proposals to undertake private works on City land, including landscaping works (including lawns) will not be supported, unless they are consistent with maintenance of landscape, environmental and recreational values and be in the broad public interest; and
2. Set out a process of the approval or acknowledgement of such works.

In summary, Policy 240 seeks to do the following –

1. Set out procedures for addressing the unlawful removal of vegetation from the City land;
2. Provide support for prosecution where evidence exists to take that course of action;
3. Provide for the placement of signage identifying that vegetation has been unlawfully damaged where there is insufficient evidence to prosecute; and
4. Provide for revegetation of areas where vegetation has been unlawfully damaged.

STATUTORY ENVIRONMENT

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

Controls relating to the undertaking of private actions or works on City land are set out in a broad range of legislation, most particularly –

1. *Planning and Development Act 2005* and *City of Busselton Local Planning Scheme No. 21*;
2. *Building Act 2012*; and
3. *Local Government Act 1995*, *Local Government (Uniform Local Provisions) 1996* and *City of Busselton Property and Thoroughfares Local Laws*.

The above set out that, with some very limited exceptions, no works can occur on City land without at least one form of approval having first been granted by the City.

RELEVANT PLANS AND POLICIES

The City has reserve or foreshore management plans for extensive portions of City land, and those plans set out recommendations for the management of that land by the City.

The Council has also adopted relevant policy guidance, including the Compliance Policy and the Portable Advertising Signs in Public Places Policy.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the recommendations of this report.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There are no Long-Term Financial Plan implications associated with the recommendations of this report.

STRATEGIC COMMUNITY OBJECTIVES

The recommendations of this report reflect Key Goal Area 3 (Environment) of the City's *Strategic Community Plan 2017*, in particular Community Objective 3.2 - 'Natural areas and habitats are cared for and enhanced for the enjoyment of current and future generations'.

RISK ASSESSMENT

A risk assessment of implementing the officer recommendation has been undertaken against the City's risk assessment framework. No risks of 'medium' or higher have been identified.

CONSULTATION

Consultation was not considered necessary in preparing this report.

OFFICER COMMENT

There are existing frameworks, other than the two policies under review, which allow for certain private works or actions on City land. That includes frameworks that allow for construction of vehicle crossings, certain 'verge treatments', portable signage, certain trading activities, and also other things that are possible pursuant to either a licence or lease. There are not considered to be many 'gaps' in those frameworks, the filling of which could or should require Council policy guidance.

More specifically, it is considered that existing Policy 134 either sets out things which are already established in law (i.e. that works on City land should not occur without City approval), or creates some impression that works for private benefit, which should not be supported, may be (i.e. placing lawn or similar on City land, other than a road verge). It is also considered that existing Policy 240 either overlaps with another existing policy (i.e. the Compliance Policy, with respect to situations where formal enforcement action is possible), or sets out guidance that officers consider could more appropriately be provided at an operational level either through a Staff Management Practice or an operational procedure document (i.e. the placement of 'vegetation damaged' signage). As such, it is recommended that both existing policies are withdrawn from effect.

Officers have, however, identified a situation in which private works may be considered on City land, and where there is thought to be value in Council adopting a policy that guides consideration of such proposals. That situation is private coastal protection works where properties directly adjoin foreshore reserves, but other adjoining or nearby properties may be 'high water mark' titles, or be surveyed titles that extend beyond the high water mark, and from a physical processes perspective, it does not make sense to limit coastal protection works to private property only (in simple terms, private seawalls all need to 'line up with each other').

Reflecting practice over the last decade or so, it is proposed that such works only be supported where the works are properly designed, engineered and take the form of removable geotextile bag seawalls, and that approval be time limited, to a maximum of ten years, to avoid the incorrect assumption that such works can or should provide 'long-term' protection, and allow for a timely change of strategic direction, should that be necessary. It should be noted that this approach should be reviewed as part of and following the development of the City's Coastal Hazard Risk Management Adaptation Plan (CHRMAP), or more simply 'Coastal Adaptation Strategy'. That process is expected to be completed in the latter part of 2019.

There are two other kinds of situations where policy guidance was seriously considered by officers, but is not recommended.

The first kind is private works to vegetate or revegetate City land. This could be supported in some instances, especially where it involves locally endemic species and could provide useful habitat for endemic fauna, but it is considered that the City's Environment Policy and Environment Strategy and associated guidelines already provide an appropriate framework.

The second kind is works to manage vegetation on City land to achieve bushfire safety outcomes. The first reason this has not been supported by officers relates to a view that the management of City land should be done on the basis of what is in the long-term interests of the community as a whole, rather than the interests or needs of particular landowners at any given time, and that the best means of doing that is via the development of plans and programmes by the City itself, guided by community consultation as appropriate.

The processes through which the City does that are reserve management planning processes and, currently, through the development of an overall Bushfire Risk Management Plan (BRMP). The second reason this has not been supported is that, whilst such an approach could provide some relief to landowners who are significantly affected by the State's current bushfire risk related planning and building laws and policies, it would impose significant risks and costs on the City and other ratepayers.

Having said this the Policy does retain a broader scope / policy statement reflecting that private works on City land will not generally be supported except where provided for in certain circumstances such as being provided for in a plan, policy or legislation. The policy also identifies the broad circumstances where the removal of vegetation on City land for the purposes of private works may be supported, and highlights that any associated costs are to be met by the proponent.

CONCLUSION

It is considered that the existing Policy 134 and Policy 240 should be withdrawn, and that a new more targeted policy should be adopted. The proposed policy is provided as Attachment C.

OPTIONS

The Council could decide to maintain more of the current policies' substance in Council policy and/or propose alternative changes/inclusions to the proposed policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The recommendation would be undertaken through the publication of the new policy on the City's website, as well as the removal of the existing policies from the website. A new operational practice or procedure relating to the erection of 'vegetation damaged' signage would also be developed. It is expected these actions would be completed within four weeks of the Council making a resolution consistent with the officer recommendation.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

That the Council –

1. Withdraw from effect Policy 134 and 240; and
2. Adopt Council Policy 'Private Works on City Land, including Private Coastal Protection Works' (Attachment C).

Last updated 22 August 2012

134	Works and Development on Foreshore and Landscape Protection Reserves	V2 Current
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1. PURPOSE

This policy establishes a decision making process for consideration of proposals for private development / improvement / upgrading / vegetation removal or modification, including all forms of access and public facility development, but excludes ongoing maintenance, in coastal, other foreshore and landscape protection reserves whether these works are undertaken by the City or other individuals, groups or agencies. This is designed to achieve preservation of the landform and natural vegetation of coastal, other foreshore and landscape protection reserves while providing public and adjoining owners reasonable access to use and pass through such reserves.

2. SCOPE

This policy applies to all City reserves managed for the purpose of foreshore or landscape protection or recreation or other reserves that include areas of coastal or riparian foreshore.

3. POLICY CONTENT

3.1 Definition

Development for the purpose of this policy includes any private works that change the current or natural state of the subject reserve and includes the construction or placement of any structure, planting of lawns and gardens, making of access paths, installation of reticulation and the removal of vegetation. (Procedures in relation to the illegal removal of vegetation or damage are included in Council Policy 240 – Reserves Vegetation Protection Policy.)

3.2 Principles

It is Council Policy to generally preserve the natural land form and vegetation of City managed land while providing public and adjoining occupiers reasonable access and providing facilities for improved public use of such reserves. Proposals for private use of City-managed land will only be supported where it can clearly be demonstrated that such use is consistent with maintenance of landscape, ecological, social and recreational values of the land, and is in the broad public interest.

Modification of vegetation and land form on foreshore reserves, including the planting of lawns and gardens, to extend the area of private occupation or enhance the private use of a reserve is not supported. Such works can contribute to the loss of native vegetation, interferes with natural processes and habitats and, potentially leads to higher maintenance requirements by the City and cost to ratepayers.

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Powers relating to development of City managed Land

Provisions exist for the potential prosecution and subsequent fining of persons developing City managed land without authorisation under:

- The Local Government Act - Regulation No.5 of Local Government (Uniform Local Provisions) Regulations (1996);
- The District Town Planning Scheme No. 20 (1999);
- Property Local Law 2010.
- Land Administration Act 1997

3.3 Implementation

Approval process

Proposals for any private development, construction, including provision of public facilities and all forms of new access shall be referred to the Council for consideration. Where such proposals are of a minor nature and considered consistent with the intent of the policy this requirement may be addressed by the referral of any such application to all Councillors, and for Councillors to be given a period of not less than 7 days to request the CEO to refer the matter to Council for determination. More significant proposals should be referred direct to Council.

Proposals shall be detailed and address the impact of the development and means by which preservation of the values of the reserve can be maximised. Proposals shall take into account current Local Laws, the Town Planning Scheme, State Coastal Planning Policy SPP2.6, any adopted Foreshore Management Plan, advice from the Department of Planning and the Department of Transport and any specific coastal management recommendations from the Department of Transport.

Proposals will be required to get all relevant statutory approvals, including planning consent. Where development is proposed on Crown land (as distinct from freehold land owned by the City), the planning application needs to be authorised by the Department of Regional Development and Lands as landowner. Where works require ongoing maintenance, a licence agreement will be entered into with the City and the Department. Where works may be of a temporary nature, a bond shall be lodged equivalent to the cost of removing the works and rehabilitating the land.

Works associated with firebreaks and fuel reduction will be determined at an officer level consistent with an adopted Fire Management Plan or Reserve Management plan.

Development without approval

Where lawns/grassing and other gardens or facilities have been extended into reserves prior to the adoption of Council Policy 134/3 (June 1994), and without the approval (of the then) Shire, a retrospective acknowledgement of the works may be issued. Such acknowledgement will only be issued where the works provide a net public benefit, taking into account long term maintenance

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requirements, and do not give rise to a public safety risk. Any retrospective acknowledgement of such works will be on the basis that any City maintenance will be determined by and at the sole discretion of the City and may be amended from time to time.

Where the criteria of public benefit and safety are not met the works should be removed or private maintenance and/or ongoing upgrading ceased. In such cases the City will liaise with the adjacent land owners to confirm who undertook the development. If the party responsible for the works cannot be identified the City may remove the development and reinstate the area consistent with the surrounding reserve.

If the responsible party can be identified they will be requested to remove the works and reinstate the area consistent with the surrounding reserve. Issues associated with unauthorised removal of vegetation will be dealt with under policy "240 – Reserves Vegetation Protection Policy".

It is acknowledged that there are locations where approval and/or inappropriate works have been undertaken and the City has not taken action for, in some cases, considerable periods of time. That should not, in any case, be interpreted as constituting de facto approval of those works. The City does not have the resources and nor would it necessarily be in the public interest to address all instances of non-compliance simultaneously. The City will prioritise action appropriately and may develop strategic approaches from time to time to facilitate compliance in particular areas.

Delineation of City Managed Reserves

The City has a standard reserve delineation marker. The standard marker is a 150 mm diameter post marked "R" and is to be located at the boundary corners or at a distance of not greater than 25 metres along the common reserve / private land boundary. Delineation of City reserves should be undertaken on a progressive basis to enable the public and adjoining landowners to more easily determine what is public and private land.

Policy Background

Policy Reference No. - 134
Owner Unit – Planning and Development Services
Originator – Coordinator, Environmental Planning
Policy approved by – Council
Date Approved - 22 August, 2012
Review Frequency – As required

History

Council Resolution	Date	Information
C1208/235	22 August, 2012	Version 2
		Version 1

Last updated 24/11/2010

240	Reserves Vegetation Protection	V2 Current
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1. PURPOSE

The intention of this policy is to provide a clear direction as to the appropriate response by the Shire in the event of illegal vegetation damage on Shire Reserves, and particularly in respect to riparian or coastal foreshore areas.

2. SCOPE

This policy applies to:

- a) All Shire Reserves and un-allocated Crown Land, including coastal and riparian foreshore reserves and other Shire managed property such as road reserves (whilst damage to vegetation on private land is often an issue there are alternative measures to address this);
- b) Damage to vegetation is defined as including burning, poisoning, pruning, lopping, felling and removal of vegetation that has not been approved by the Shire in writing; and
- c) Vegetation illegally removed from the date of adoption of this policy.

3. POLICY CONTENT

3.1 Objectives

This policy has been developed with the following objectives in mind:

- a) To provide options for responding to illegal vegetation damage on Shire Reserves;
- b) To send a strong message to the community that illegal damage to vegetation on Shire Reserves will not be tolerated;
- c) To provide a mechanism to encourage community members to report illegal damage to vegetation in Shire Reserves; and
- d) To provide a significant deterrent against future illegal damage to vegetation on Shire Reserves.

3.2 Background

3.2.1 Loss of vegetation

Illegal damage to vegetation on public land is a frequent problem within the Shire, particularly in foreshore areas along Geographe Bay. Vegetation is damaged for a number of reasons, ranging from random vandalism to deliberately planned acts, which may be re-occurring, carried out for private benefit such as the enhancement of views.

The problem is leading to a gradual decline in vegetation and a change in vegetation structure resulting in increased weed intrusion along many foreshore areas of Geographe Bay. Vegetation within Shire Reserves is of high importance and often is particularly significant in terms of:

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- * Conservation values including habitat values for endangered species such as the Western Ringtail Possum (*Pseudocheirus occidentalis*) and areas of poorly represented vegetation where protection is a priority;
- * Erosion prevention including beach and dune stabilisation;
- * Visual amenity (being a significant contributor to the character of the Shire);
- * Landscape protection;
- * Shade provision;
- * Wind buffer for residents, beach users and people using foreshore reserves and the DUP; and
- * Cultural and historical significance.

3.2.2 Existing powers to prosecute for damage to vegetation

Provisions exist for the potential prosecution and subsequent fining of persons illegally damaging vegetation within Shire Reserves under:

- * the Local Government Property Local Law 2010;
- * Regulation No.5 of Local Government (Uniform Local Provisions) Regulations (1996);
- * within Landscape Value Areas and reserves under the District Town Planning Scheme No. 20 (1999); and
- * Environmental Protection Act (1986).

While appearing comprehensive the requirements in terms of evidence to achieve a successful prosecution, given the nature of the offence, are such that it is inappropriate and ineffective as the sole means of responding to such incidents. Specific limitations are:

- * prosecution is rarely pursued due to the fact that it is very difficult and rare to gain sufficient evidence to identify the person responsible (i.e. catch the person in the act, or have an eye witness willing to testify as the illegal activity is often undertaken outside daylight hours);
- * the level of fines applicable under the Local Law and Regulation 5 of the Uniform Local Provisions do not provide significant disincentive;
- * even a successful prosecution, at the expense of the ratepayer does not necessarily address the problem, result in vegetation being reinstated on the site or reduce the benefit to a landowner that may have been achieved from the clearing; and
- * legislation such as the Environmental Protection Act focuses on broader scale clearing (generally greater than 1 ha) and prosecution for the type of vegetation damage that is prevalent on the Shire's foreshores has historically not been pursued.

In previous instances of investigations of illegal clearing, agreements have been reached between the Shire and the offender regarding reinstatement and restoration of the vegetation. However, this can also be problematic as insufficient staff resources have resulted in a lack of compliance checks and these agreements were often not legally binding resulting in a poor outcome.

A number of Local Governments throughout Australia having faced similar circumstances have developed policies or responses centred around signage and

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or systems encouraging community assistance in acquiring evidence in order to attempt prosecution. This policy has been prepared following a review of these responses and includes a number of elements and recommendations that have been trialled and successfully implemented elsewhere.

3.2.3 Approval processes

The Shire has powers to make decisions about what can and cannot occur on Shire managed land. Decisions can be made at a staff level if, for example, a tree poses a safety threat. Following a report of a dangerous tree, a Shire Officer will assess the risk and decide whether or not the tree, or part thereof, needs to be removed. This example is commonly the case for vegetation in a road reserve.

The Shire Technical Specifications Manual Section 9b – Road Verges states retention of native vegetation and use of native plants is encouraged. Existing vegetation, whether natural or introduced, may not be removed without Council approval.

In all cases no vegetation can be removed from Shire managed land without Shire approval.

3.3 Policy Statement

3.3.1 Principles

The following principles guide the policy statement:

- Damage to vegetation on Shire managed land, without the approval of the Shire, is illegal and clearly regarded as unacceptable behaviour by the community;
- Wherever vegetation damage has been done for the purpose of a direct benefit to an adjoining or nearby landowner and sufficient evidence has been obtained, prosecution shall be pursued with the cost of reinstatement and signage sought in addition to applicable penalties;
- Wherever possible and when insufficient evidence for prosecution has been obtained, revegetation/regeneration of damaged areas should be carried out by the Shire;
- At sites where illegal vegetation damage has occurred an assessment based on the amount of vegetation lost, the benefit derived from the damage and the exposure of the site will determine whether signage will be erected to inform the public of the Shire's response and to encourage witnesses to come forward to provide evidence for prosecution;
- In instances where vegetation damage has occurred that directly benefits adjoining landholders (eg view enhancement) and where there is high public exposure, large signs shall be installed within the sightlines to ensure that there is no benefit from illegal vegetation damage or removal, and to inform the community of the nature of the offences and that such activities are not acceptable;

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- The CEO, the Director of Lifestyle Development and the Director of Community Infrastructure should be delegated to instigate prosecution proceedings for vegetation removal under this policy; and
- Signage is to remain in place until the vegetation has regenerated or regrown to the condition it was in prior to when the damage occurred or until the benefit derived from the damage has disappeared.

3.3.2 Illegal damage where eyewitness or perpetrator identified

Where a landholder has admitted to vegetation damage, or an eyewitness is willing to testify against the alleged perpetrator, and prosecution under the Shire Property Local Law, the Local Government Act and/or the Town Planning Scheme is possible then the following response should occur:

- a. Contact the landholder who has admitted or is alleged to have undertaken the damage and provide an opportunity for them to explain their actions and any mitigating circumstances. Where the damage is significant and has been undertaken for the purpose of a personal benefit and there are no valid mitigating circumstances prosecution shall be commenced. The cost of revegetation and signage to the Shire's specification shall be sought in addition to the financial penalty as part of any successful conviction.
- b. Where prosecution is pursued but is unsuccessful or the cost of revegetation not achieved, signage and revegetation should be undertaken at the expense of the Shire.

The action taken here must also be consistent with the Shire's Prosecutions Policy. The Shire Officer must determine the significance of the damage and the personal benefit that has been derived from the action.

In circumstances where the offence is minor the Shire should infringe the offender and take action to seek remedy by replacement of the vegetation damaged and /or the costs to do so, whereas if the damage is significant prosecution is appropriate.

Significant damage shall include the use of poison (sprayed or injected) to kill vegetation, lopping or removal of any tree. Minor damage may include pruning of a tree or cutting of any vegetation where the vegetation would recover and would not be killed.

3.3.3 Illegal damage with no eyewitness or admission of guilt

Where the Shire's investigations fail to identify a suitable eyewitness or admission of guilt, the Shire should determine what action is required to remedy the damage which may include revegetation or allowing the vegetation to regenerate, and erect signage at the site.

3.3.4 Incentive for information leading to prosecution

In instances where the damage to vegetation is particularly significant, or cannot be replaced by revegetation within a realistic timeframe (eg removal of mature coastal vegetation) and a successful prosecution would lead to a significant fine,

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the CEO may offer a financial incentive up to a value of \$500 in order to encourage witnesses to come forward. Payment of the incentive would only occur following a successful prosecution.

3.3.5 Statement of legislation to be used for prosecutions

In instances where the damage has occurred on land shown as a Scheme Reserve on the District Town Planning Scheme No 20, the Scheme shall be applied when initiating prosecution. This policy will not apply to reserves vested in other agencies. In the case of Reserves jointly vested in the Shire and another agency, consultation will be undertaken prior to prosecution.

In instances where the subject land is not shown as a reserve on the Scheme maps, such as road reserves, the Local Government Act Uniform Local Provisions, Section 5 shall form the basis for prosecution.

3.4 Signage

Depending on the nature of the illegal damage to vegetation, two types of signs are considered appropriate.

Type 1 signage shall be installed at all sites where vegetation has been illegally damaged and there is no clear evidence of a direct benefit to adjoining properties. Type 1 signage shall consist of a relatively small sign approximately 900mm by 600mm with the following wording:

SHIRE OF BUSSELTON
VEGETATION IN THIS LOCATION HAS BEEN ILLEGALLY DAMAGED
REGENERATION OF THE PLANTS IN THIS AREA IS NOW BEING
MONITORED
IF YOU HAVE INFORMATION REGARDING THIS MATTER OR OTHER
ACTS OF VANDALISM PLEASE CONTACT
SHIRE OF BUSSELTON PH (08) 9781 0444

Type 2 signage shall be installed at all sites where vegetation has been illegally damaged and there is clear evidence of a direct benefit to adjoining properties, such as improved sightlines. The intent of Type 2 signage is to remove the benefit that may have been derived from illegal vegetation damage, and to inform the community that this behaviour is not acceptable. Type 2 signage shall consist of a large sign approximately 1800mm by 1200mm erected in any sightlines created by the illegal vegetation damage with the following wording:

SHIRE OF BUSSELTON
VEGETATION IN THIS LOCATION HAS BEEN ILLEGALLY DAMAGED
REGENERATION OF THE PLANTS IN THIS AREA IS NOW BEING
MONITORED AND THIS SIGN WILL REMAIN IN PLACE UNTIL SUCH TIME
AS THE VEGETATION HAS RE-ESTABLISHED TO THE EXTENT OF THE
ORIGINAL VEGETATION
IF YOU HAVE INFORMATION REGARDING THIS MATTER OR OTHER
ACTS OF VANDALISM PLEASE CONTACT
SHIRE OF BUSSELTON PH (08) 9781 0444

Last updated 24/11/2010

3.4.1 A budget allocation will be made in the Environmental Planning budget each year to cover signage costs. Additional funds may be required if there is a number of offences in one year, however, it is hoped these will reduce with the introduction of the policy.

3.5 Monitoring inspections

The Shire will inspect the sites where signage has been placed on an annual basis at the beginning of winter. Monitoring will be done by taking photographs of the site from the time it was damaged and comparing the height/density of regenerating vegetation to the surrounding vegetation that was not killed and or the remnants of trees that have been poisoned. If there is no surrounding vegetation to compare, a determination must be made and documented at the first inspection about the height and density that is to be achieved by the revegetation of the site.

3.6 Public Awareness

Upon adoption of this policy and at regular intervals thereafter and following each successful outcome, the policy will be the subject of a media release and coverage in Shire community information material to maximise community awareness and the deterrent value of the policy.

3.7 Monitoring and Evaluation

Monitoring, evaluation and review of the policy is critical in the continual improvement in the achievement of the policy objectives.

The policy shall be subject to formal Shire review periodically in accordance with the Shire's review of its policies. This will generally be every 5 years and will involve a review of the cases handled under this policy throughout the previous period and evaluate the effectiveness of the policy in addressing the individual cases that have arisen.

Public feedback received throughout the year and the number of cases of illegal foreshore clearing should form part of this review in order to monitor the policy's effectiveness in deterring illegal clearing and achieving effective reinstatement. This review should culminate in recommendations for improving the operational procedure or policy measures.

History

Council Resolution	Date	Information
C1011/398	24 November, 2010	Updated Version 2
C0703/074	28 March, 2007	Date of implementation. Version 1

COUNCIL POLICY


City of Busselton
Geographic Bay

Council Policy Name:

Private works on City Land, including private coastal protection works on City Land

Responsible Directorate:

Planning and Development Services

Version:

Proposed

1. PURPOSE

- 1.1. The purpose of this Policy is 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.

2. SCOPE

- 2.1. This Policy is applicable to any proposal for private works on City Land, including private coastal protection works on City Land, and has applicability to any other proposals for private works on City land where existing laws or other policies do not already provide sufficient guidance.

3. DEFINITIONS

Term	Meaning
Policy	This City of Busselton Council policy entitled "Private works on City Land, including private coastal protection works on City land"
City Land	Land that belongs to, or is vested in, or under the care, control or management of, the City (including land that may be seasonally or permanently inundated), or other Crown land on which the City has infrastructure.

4. STRATEGIC CONTEXT

- 4.1. This Policy links to Key Goal Area 2 – Places and Spaces, and Key Goal Area 3 – Environment of the City's Strategic Community Plan 2017, and specifically the following Community Objectives:
- 2.2: Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities and Community Objective
 - 2.3: Creative urban design that produces vibrant, mixed-use town centres and public spaces; and
 - 3.1: Development is managed sustainably and our environment valued and Community Objective
 - 3.2: Natural areas are cared for and enhanced for the enjoyment of current and future generations.

5. POLICY STATEMENT

- 5.1. City land shall be managed in a manner that is considered by the City to be in the best long-term interests of residents and ratepayers as a whole, and proposals to undertake works or other actions on City land for the benefit or at the initiative of particular private interests will generally not be supported, other than where specifically provided for in a plan or policy of the City, or provided for in legislation, or where it is clearly necessary for the provision of services to private property, with no significant impact on amenity or the environment.

- 5.2. The City may consider approval of private coastal protection works on City land where property directly adjoins City foreshore reserve and adjoining or nearby properties extend to or beyond the high water mark, if the following applies –
- there are, or it is considered likely that there will be, similar structures developed on other nearby land;
 - the protection is to consist of an engineered geotextile seawall, capable of being connected with similar structures on adjoining properties (or on City land, but associated with an adjoining property);
 - all costs of approvals, construction and maintenance are met by the proponents;
 - no other unauthorised works have or will be undertaken within the foreshore reserve, and if there are any existing unauthorised works, they are removed and the land rehabilitated by the proponents;
 - no actions or works are undertaken to limit public access to the beach or foreshore;
 - the proponents obtain and maintain the currency of insurance associated with the structure;
 - the works shall be subject of a time limited approval, of no more than ten years duration; and
 - a licence agreement has been entered into with the City or the State as required.
- 5.3. Removal of vegetation on City Land for the purposes of private works (which in law must always be approved the City) may be supported in the following circumstances:
- where the vegetation is identified as a cause or likely cause of damage to infrastructure and where there are no other ways of managing the damage or risk of damage; or
 - where the works are considered to be necessary and there are no other reasonable alternatives to removal of the vegetation in order for the works to proceed.
- 5.4. The costs of any required environmental or other regulatory approvals (including the cost of any environmental offsets) will be met by the proponent.

6. RELATED DOCUMENTATION / LEGISLATION

- Planning and Development Act 2005 and City of Busselton Local Planning Scheme No. 21;*
- Building Act 2012;*
- Local Government Act 1995, Local Government (Uniform Local Provisions) 1996 and City of Busselton Property and Thoroughfares Local Laws;*
- Environment Strategy;
- Adopted foreshore and reserve management plans;
- Compliance Policy; and
- Environment Policy.

7. REVIEW DETAILS

Review Frequency		3 yearly		
Council Adoption	DATE		Resolution #	
Previous Adoption	DATE	N/A	Resolution #	N/A

12.3 Policy and Legislation Committee - 22/01/2019 - WITHDRAWAL FROM EFFECT OF POLICY 039 - BUILDING PERMIT LISTS

SUBJECT INDEX:	Council Policy
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Building Services
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Council Policy 039 - Building Permit Lists ↓

This item was considered by the Policy and Legislation Committee at its meeting on 22 January 2019, the recommendations from which have been included in this report.

PRÉCIS

In August 2017 the CEO commissioned a high level independent review of the City's governance systems - the Governance Systems Review (GSR). Included in the scope of the review was the City's policy and procedure framework with recommendations made in relation to the nature and intent of Council policies; namely that Council policies should deal with higher level strategies and objectives.

In accordance with the recommendations of the GSR, the purpose of this report is to recommend that Council Policy 039 - Building Permit Lists (Attachment A) (the Policy), be withdrawn from effect.

BACKGROUND

The Policy, which was last reviewed in March 2017, states that a list of building permits issued will be made available on the City's website each month, with the information to be limited to:

- The applicants name
- The location
- The type of development
- The size / area of the building

The City is required to keep a register of building permits issued under Section 129 of the *Building Act 2011* and is obliged to supply a list of building approvals to public utility providers. Prior to the most recent review of the Policy, the City had a long standing practice (in excess of 20 years) of making its list of building permits issued available for commercial purposes, for which it charged an annual or monthly subscription fee. The City was earning approximately \$6,000 from the sale of the list. In addition to the information above, the value of the development was also included in the listing.

Officers recommended as part of the 2017 review of the Policy that the City continue to make the list available for purchase but that the policy be modified to remove the value of the development, so as to improve on privacy implications for the property owner. While none of the information contained in the register / building permit list is considered to give rise to any security concerns, it was felt that the "value of works" in particular, could conceivably give rise for embarrassment for the owner.

The value of the building work is not relevant to the utility providers that are provided with the List and the value of work is also not an essential requirement of the register, pursuant to s.129.

Generally speaking an explicit identification of building value was also not necessary with respect to the commercial sale / purpose of the list, as the building industry will have an expectation of the cost of a development from its application description, the building size and its location.

The Policy and Legislation Committee however recommended to Council that the list of building permits issued each month by the City was made available free of charge via the City's webpage. Council resolved (C1703/038):

That Council resolve to replace the Community Policy – 039 Building and development Lists, with: "Community policy 039 – Building Permit lists

A list of Building Permits issued by the City each month to be made available via the City's webpage. The information provided will be limited to only the following items

- *The applicant name*
- *The location*
- *The development floor area size*
- *The type of development"*

This aligned in part to an option presented as part of the Officer's report:

Delete Community Policy 039 and make the City's Building Permit register available to view at the City's website (in addition to maintaining the copy for inspection at the City Offices) and refund the proportion remaining on any current 12 month subscription.

The Policy however was not deleted or withdrawn from effect as part of the Council resolution. This report recommends that that now occur.

STATUTORY ENVIRONMENT

Section 129 of the *Building Act 2011* directs that the City must make the register of Building Permits available for public inspection during normal office hours. Section 129 also provides a discretion to local government, that it may, on payment of a prescribed fee provide a copy of a Register. There is presently no prescribed fee, so in its absence a council can determine the charge.

Section 129 however, only refers only to an individual's request, it does not address the provision of the register for commercial purposes. This City has previously consulted the Building Commission who advised there is no restriction upon any council from distributing lists and setting a fee for that service.

RELEVANT PLANS AND POLICIES

The GSR was undertaken over a 3 month period by Mr John Woodhouse LLB Juris and made the following recommendations, including, but not limited to, the City's policy and procedure framework:

1. *There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. *Should deal with higher level objectives and strategies;*
 - b. *Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. *Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*

2. *As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO.*

In response a Policy Framework has been developed and endorsed by Council, setting out the intent of Council policies, as opposed to operational documents such as Staff Management Practices and operational procedures.

There are no other plans or policies relevant to this matter.

FINANCIAL IMPLICATIONS

The City ceased charging a fee in for making its list of building permits issued available in March 2017 and as such there are no financial implications associated with the officer recommendation to withdraw the Policy from effect.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There are no long term financial plan implications associated with the officer recommendation.

STRATEGIC COMMUNITY OBJECTIVES

The officer recommendation will not impact adversely on the achievement of any of the community objectives contained within the Strategic Community Plan 2017 and will instead serve to meet the objectives of Key Goal Area 6, specifically community objective 6.1 – Governance systems, processes and practices are responsible, ethical and transparent, by streamlining the City's policy framework.

RISK ASSESSMENT

There are no identified risks of a medium or greater level associated with the Officer recommendation.

CONSULTATION

The Building Commission has previously advised that a council can make its list of building permits approved available for purchase at a fee set by the council. Equally there is no compulsion upon a council to supply lists, or to charge for the supply of the list. Further consultation, nor public consultation, was considered necessary as part of the review of this Policy.

OFFICER COMMENT

The City practice of making its building list available is a longstanding one, in the past for a fee and, since early 2017, available free of charge on the City's website. People likely to inspect the lists are neighbours and prospective purchasers checking that all structures are approved, and commercial operators, generally within the building industry, who are interested in selling their products.

The availability of / refreshing the list on a monthly basis is considered to be an adequate frequency and the process of providing the information on the City's website is now well established operationally. There is no longer a fee or charge determination associated with the provision on the information. The Policy therefore is not considered necessary and, noting the recommendations of the GSR, it is recommended that it be withdrawn from effect.

CONCLUSION

It is recommended that the Policy be withdrawn from effect, as the City has an established operating procedure in place which no longer involves a fee for subscription service or charge. Instead the information is provided as part of standard information provision protocols.

OPTIONS

Council could instead require that the Policy is maintained and updated to the new template and / or further reviewed.

Although not specifically discussed in this report Council could also, as an alternative decide to cease making the building permits list publicly available (outside of its statutory requirements to) or it could decide to set a fee for the commercial provision of the information, as per its previous position.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be withdrawn from effect immediately upon adoption of the Officer Recommendation.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

That the Council withdraws from effect Council Policy 039 – Building Permit Lists.

Last updated 08/03/2017

039	Building Permit Lists	V3 Current
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A list of Building Permits issued by the City each month to be made available via the City's webpage.

The information provided will be limited to only the following items

- The applicants name
- The location
- The development floor area size
- The type of development

Council Resolution	Date	Information
C1703/038	8 March, 2017	Policy renamed to Building Permit Lists Version 3
C1007/238	14 July, 2010	Policy renamed and redeveloped to Building and Development Lists to replace 039/1 Electoral Rolls Version 2
		039/1 Electoral Rolls Version 1

13. PLANNING AND DEVELOPMENT SERVICES REPORT**13.1 APPLICATION FOR DEVELOPMENT APPROVAL - DA18/0154 - PROPOSED DEVELOPMENT OF CLUB PREMISES (CLAY TARGET CLUB) - LOT 500 & 501 COOLILUP ROAD, LUDLOW**

SUBJECT INDEX:	Development Applications
STRATEGIC OBJECTIVE:	Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
BUSINESS UNIT:	Planning and Development Services
ACTIVITY UNIT:	Statutory Planning
REPORTING OFFICER:	Director, Planning and Development Services - Paul Needham
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

PRÉCIS

The City has received an application for development of Club Premises (Clay Target Club) at Lot 500 and 501 Coolilup Road, Ludlow. Due to the nature of the issues requiring consideration and the level of community interest the application is being presented to the Council for determination, rather than being determined by City officers acting under delegated authority.

Having considered the application, including submissions received in relation to the application, City officers consider that the application is consistent with the *City of Busselton Local Planning Scheme 21* (the 'Scheme') and broader, relevant planning framework, and it is recommended that the application is approved, subject to appropriate conditions.

BACKGROUND

The Council is asked to consider an application for development of a Club Premises (Clay Target Club) at Lot 500 and 501 Coolilup Road, Ludlow. Key information regarding the application is set out below:

Landowner:

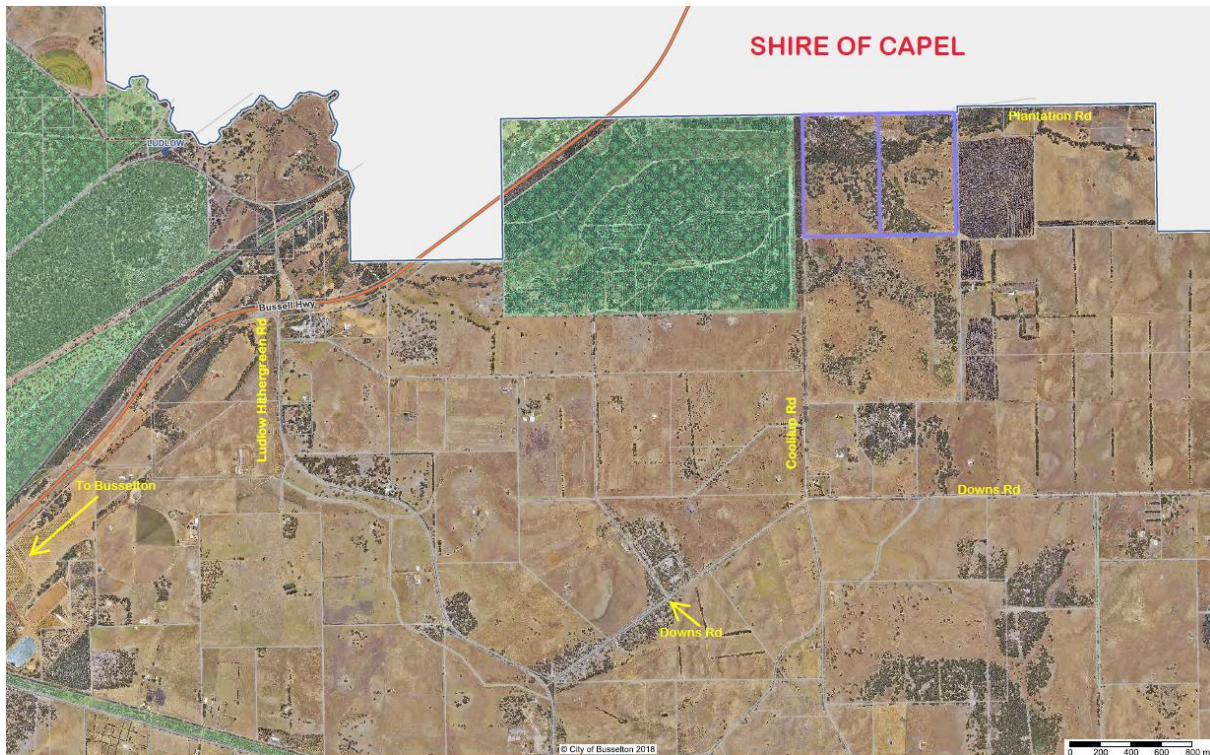
Iluka Resources Limited

Applicant:

Busselton and Bunbury Clay Target Clubs Inc.

Site area:

80.93 ha

Location Plan (Attachment A):**General description of site:**

Lot 500 and 501 are situated on the eastern side of Coolilup Road, Ludlow. The northern property boundary is the local government boundary between the City of Busselton and the Shire of Capel. The lot is bound by agricultural land to the north, south and east. On the western side of Coolilup Road is a portion of State Forest. Located within the Coolilup State Forest, at its northern end (corner of Bussell Highway and Hutton Road in the Shire of Capel) is the existing Commonwealth Rifle Range, utilised by the Australian Defence Force as well as the Busselton and Bunbury Rifle Clubs. The Commonwealth Range is approximately 1.5-2km north-north west of the proposed development site.

The Ludlow River runs in an east-west direction through the site ranging from 110m – 280m from the northern property boundary. The site has significant areas of native vegetation concentrated along the river, with additional areas of vegetation in the north-west and north-east corners of the land and within the central southern part of the site. The remaining area is largely clear of vegetation, with the land having been used for cattle grazing in recent years.

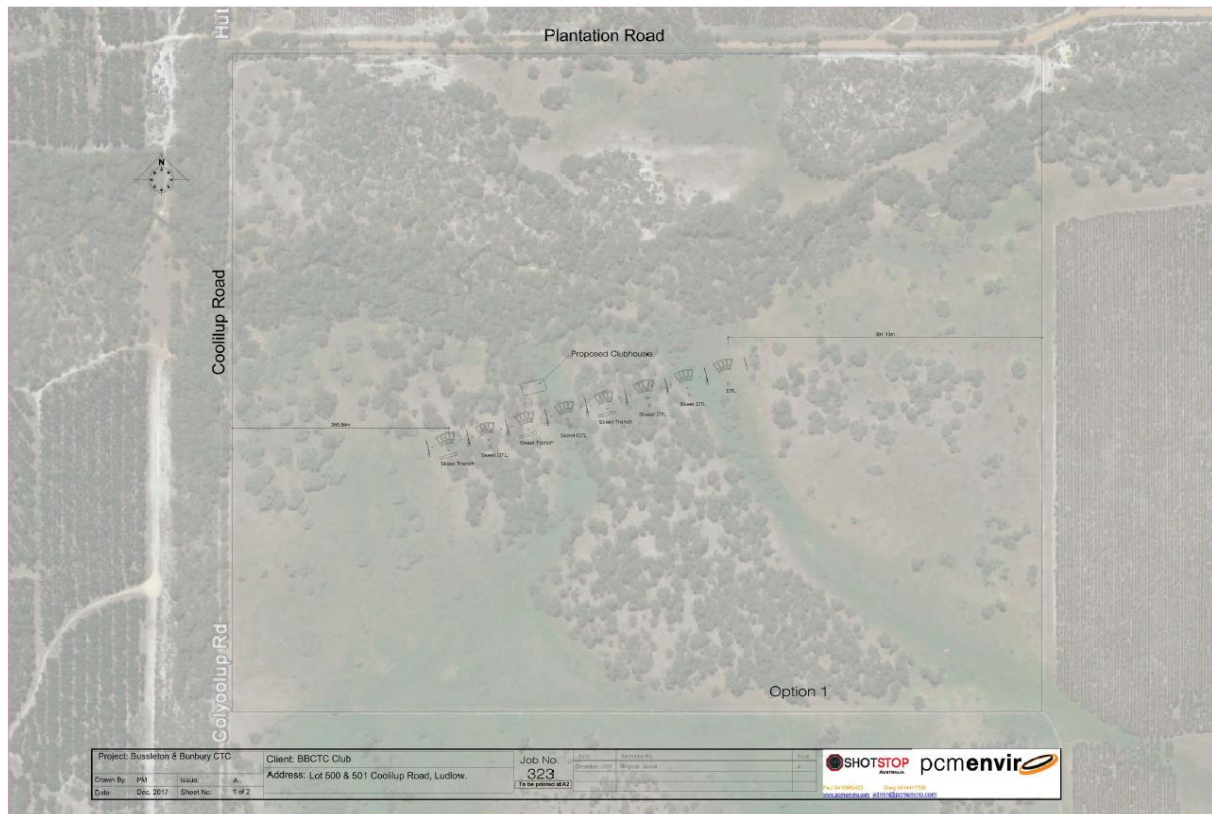
There is a restrictive covenant created in October 2000 over both lots to the benefit of the City. The covenant was created to satisfy a condition of subdivision approval granted by the Western Australian Planning Commission in 1996. The condition required satisfactory arrangements to ensure the protection of native vegetation, particularly along the Ludlow River. The covenant prevents the clearing of native vegetation on the land unless there has been prior written approval of the City obtained. The Clay Target Clubs are aware of the covenant.

Current development/use:

The proposed development site is subject of a mining lease held by Iluka Resources, though to date no mining has occurred on the site. The property has in recent times been utilised for grazing of cattle.

Brief description of proposed development:

The proposal involves a currently vegetated area slightly west of the centre of the overall site and on the southern side of the Ludlow River being used to develop an eight station competition standard clay target range. Based on a two-stage development of the site spread over three to five years, four firing stations would be established in Stage 1 with a further four constructed in Stage 2.



The applicants advise that the proposed layout (see above and Attachment B) is designed to comply with current WA Police (WAPOL) safety requirements of a 300 metre shot fallout safety zone from the firing stations to the property boundary. The applicants advise that the shot fallout would be contained within 200 metres of the firing point, which leaves a buffer zone of approximately 100 metres to the southern boundary of the site.

The proposal also includes development of a small clubroom with a toilet, shower and secure storage facilities.

All season access to the site is proposed along Downs Road and Coolilup Road. An alternative access to the site to satisfy emergency access requirements may be available from the north along Hutton Road or Plantation Road. The Ludlow River crossing on Coolilup Road restricts the northern access to the site to during dry weather only and may not be suitable for two wheel drive vehicles. A portion of Downs Road, and all of Coolilup, Hutton and Plantation Roads, are unsealed.

The applicants propose that 1.76 hectares of vegetation is to be cleared, approximately 0.9 hectares for each stage. Permission to clear vegetation is dependent on the City of Busselton approving the Development Application and also Department of Water and Environmental Regulation (DWER) approval.

The applicants propose that riparian vegetation along the Ludlow River will be preserved and protected from further degradation by fencing off the area. It is also proposed to plant endemic

species along the southern boundary to partially offset vegetation removed to facilitate the shooting range.

STATUTORY ENVIRONMENT

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

Zoning

The site is zoned 'Agriculture'. The objectives of the 'Agriculture' zone are as follows -

- (a) To conserve the productive potential of rural land.*
- (b) To provide for new forms of agricultural development (including agro-forestry), and changing patterns of existing agricultural development.*
- (c) To regulate the subdivision of agricultural lands within this zone to ensure that land is not withdrawn from production or that the potential for land to be productive is not diminished.*
- (d) To enable the development of land for other purposes where it can be demonstrated by the applicant that suitable land or buildings for the proposed purposes are not available elsewhere and that such purposes will not detrimentally affect the amenity of any existing or proposed nearby development.*
- (e) To encourage low-key rural tourism associated with traditional forms of agriculture or rural retreat as a contributor to the overall rural economy of the City.*
- (f) To exclude urban development. Any such land adjacent to existing urban areas and identified as generally suitable for urban expansion may be used for urban development after it has been suitably rezoned.*
- (g) To make provision for the subdivision of land and encourage the amalgamation of land so as to create lots for commercial farming.*
- (h) To discourage ribbon development along Caves Road and other tourist roads and maintain the rural and natural ambience of transport corridors generally.*
- (i) To encourage the development of cluster or communal farming.*
- (j) To encourage sustainable farming practices.*
- (k) To control the clearing of trees and encourage generally the retention of vegetation and vegetation corridors concomitant with the agricultural use of the land.*

Policies of the 'Agriculture' zone are -

- (a) To permit land included within the zone and shown by close investigation in consultation with the Department of Agriculture and Food not to be prime agricultural land to be utilised for other purposes not incompatible with adjacent uses.*
- (b) To ensure that development maintains the rural character of the locality and minimises disturbance to the landscape amenity through construction of buildings and structures, clearing, earthworks, firebreaks and access roads.*
- (c) To provide incentives for landowners to implement rural landscape improvements such as rehabilitation/revegetation and soil stabilisation in areas of significant landscape or scenic value.*
- (d) To enable a range of activities and land uses appropriate to the rural retreat/residential occupation of the land.*

- (e) *To discourage or prohibit development not compatible with the predominantly rural nature or high landscape value or visual quality of the zone.*
- (f) *To implement and adhere to the adopted recommendations and outcomes of the Local Rural Planning Strategy adopted by the local government and endorsed by the Commission.*

It is to be noted that when Scheme Amendment No. 29 (Omnibus 4) is gazetted the name of the 'Agriculture' zone will change to 'Rural' zone to align with the 'Model Provisions', which are contained within Schedule 1 of the Regulations. The amendment also reviews the objectives of the zone and removes all of the policies of the zone/s from the Scheme. The fundamental intent of the current Scheme provisions, however, is retained.

Special Control Area designation/s

The site is not affected by a Special Control Area designation.

Land-use and permissibility

The proposed development fits the 'Club Premises' definition, which is as follows -

"Club Premises" means premises used by a legally constituted club or association or other body of persons united by a common interest.

Club Premises is identified in the zoning table of the Scheme for the 'Agriculture' zone as an 'A' use, meaning that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions.

Matters to be considered

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

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*

- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site;*
and
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66;*
- (zb) *any other planning consideration the local government considers appropriate.*

Bushfire risk management

The site is located in a 'bushfire prone area' as designated by an order made under s18P of the *Fire and Emergency Services Act 1998*. As such, the provisions of Part 10A (Bushfire risk management) of the deemed provisions apply. Those provisions require a bushfire attack level assessment (BAL) for the site in support of the application. In addition to a BAL assessment, a Bush Fire Management Plan (BMP) and Bushfire Emergency Evacuation Plan (BEEP) prepared by a Level 3 Bushfire Planning Practitioner was provided in support of the development proposal.

Development standards

There are no development standards set out in the Scheme that the application is not consistent with.

RELEVANT PLANS AND POLICIES

Relevant plans and policies must be given due regard in assessing the application, but cannot and do not bind the local government in determining an application for development approval. Plans and policies considered in the assessment of the application are set out below under appropriate subheadings.

State Planning Policy 3.7: Planning in Bushfire Prone Areas and Guidelines for Planning in Bushfire Prone Areas 2017

State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP3.7) and Guidelines for Planning in Bushfire Prone Areas 2017 directs how development should address bushfire risk management in Western Australia. SPP3.7 applies to all land that has been designated as 'bushfire prone' by the Fire and Emergency Services Commissioner, as highlighted on the Map of Bush Fire Prone Areas.

Local Rural Planning Strategy

The subject land is located within Precinct 1 'Primary Rural' of the *Local Rural Planning Strategy* (Rural Strategy).

The Rural Strategy identifies the following 'Sustainability factors' –

- *"Contains areas of significant remnant vegetation that need to be conserved wherever possible.*
- *High water table and generally poorly drained soils.*
- *Mineral sand deposits and mining with potential for conflict with other uses."*

Specifically relating to development, the Rural Strategy identifies undesirable development as:

- *"Rural residential and rural small-holding uses other than in existing zoned areas pursuant to the Scheme.*
- *Tourist development except for guest-house/rural lodge and bed & breakfast on land unsuitable for agriculture.*
- *All other urban, tourist, rural holiday resort, chalet development or industrial uses".*

The Rural Strategy was finalised in 2007 and has been largely superseded by *State Planning Policy 2.5: Rural Planning* and the City's draft *Local Planning Strategy*. The draft Local Planning Strategy identifies that the Rural Strategy is in need of review.

Local Planning Policy 8A – Car Parking Provisions

Local Planning Policy 8 (LPP8) provides car parking criteria for proposed development and is intended to provide a practical guide to aid in assessment of an application.

There is no minimum car parking requirement listed in LPP8 for a Club Premises land use. Internal practice has been for the City to assess such uses against the nearest analogous use, typically 'Place of Assembly', which has a minimum car parking requirement of one car parking bay per four patrons.

FINANCIAL IMPLICATIONS

The recommendation of this report is the determination of an application for development approval. There are no financial implications relevant to assessment of the application.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

The recommendation of this report is the determination of an application for development approval. There are no Long Term Financial Plan implications relevant to assessment of the application.

STRATEGIC COMMUNITY OBJECTIVES

The recommendation of this report is consistent with Objective 2.1 of the City of Busselton's Strategic Community Plan 2017, which is; 'Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow'.

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City's risk assessment framework. Risks are only identified where the residual risk, once controls are identified, is medium or greater.

Should inappropriate clearing, inadequate revegetation, use of lead shot or inappropriate siting of effluent disposal be allowed there may be an environmental risk resulting in a risk rating of medium.

It is considered that all of these potential risks can be adequately addressed or controlled through the use of development conditions and compliance monitoring.

The proposal may result in a reputational risk with a risk rating of medium should the proposed development be refused and the community is unable to find an alternative site for this use. If the application is approved however and has an impact on nearby properties a similar reputational risk may result.

CONSULTATION

Clause 64 of the deemed provisions sets out circumstances in which an application for development approval must be advertised, and also sets out the means by which applications may be advertised. This application was required to be advertised pursuant to clause 64.

The application was open for submissions from 19 September 2018 to 10 October 2018 and advertised in the following manner –

1. Information regarding the application was posted on the City's website;
2. A portal was created using the City's *YourSay* platform for the online lodgement of submissions;
3. Letters or, where the City has a registered email address for the property, emails were sent to adjoining owners and to landowners within 2.5km of the development site (including properties within the Shire of Capel); and
4. A notice was placed in a local newspaper on 19 September 2018.

The proposal was also referred to the Environmental Regulation Section and Noise Branch of DWER, Department of Biodiversity Conservation and Attractions (DBCA), Department of Health (DoH), Department of Mines, Industry Regulation and Safety (DMIRS) and WAPOL for comment.

Submissions were received from a total of 27 people. Nine submissions are broadly supportive of the application, with 18 submissions objecting to the proposal.

A schedule of submissions is provided as Attachment N . The schedule identifies who submissions were received from, summarises the submissions, and provides a brief comment on the issues raised.

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

Key issues/considerations raised in support of the application are as follows –

1. Suitability of the location;
2. Need for a venue for this type of club;
3. Future mining of the site;
4. Environmental benefit to Ludlow River through fencing and revegetation; and
5. Economic benefit from additional visitors to the region.

Key concerns related to the application are as follows –

1. Noise impacts;
2. Loss of amenity;
3. Impact on flora and fauna;
4. Impact on Ludlow River;
5. Contamination;
6. Access to site when flooded;
7. Traffic; and
8. Fire risk.

Agency comment has been received from DWER Environmental Regulation Section and Noise Branch, DBCA, DMIRS and DoH with summaries of significant issues provided below. Full copies of the submissions can be found at Attachments I - M.

DWER Noise Branch

The *Environmental Protection (Noise) Regulations 1997* (Noise Regulations) provide for specific management provisions for shooting venues. Division 4 includes an approvals process that allows noise emissions to exceed the assigned noise levels provided shooting activities at shooting venues are carried out in accordance with an approved noise management plan (NMP) for that venue. The DWER Noise Branch have advised that this was introduced to the Noise Regulations as an acknowledgement that some existing venues could not reasonably and practicably meet the assigned levels but nonetheless had a degree of community acceptance.

In relation to proposals for new shooting venues, Division 4 is not intended to supplant appropriate consideration of environmental noise impacts at the development application stage. In siting a new shooting venue the first preference is to locate the venue sufficiently far from noise sensitive premises so that the noise emissions fully comply with the normal assigned levels in the Noise Regulations. Recognising that it is not always practicable to find such a site, preference might be given to sites that have a significant buffer between the venue and neighbouring noise sensitive premises.

Where, in spite of significant buffers, noise emissions are still predicted to exceed the assigned levels consideration should be given to the likely noise impact, within the context of the numbers and times of shooting activities proposed to be held, perceived community benefits and the future vision for strategic development within the area. Where the impacts are considered to be acceptable within the overall context, then Division 4 provides an avenue for the proposal to comply with the Noise Regulations and a means of achieving an acceptable outcome for all parties.

Herring Storer Acoustics (HSA) have prepared a Noise Impact Assessment Report (NIA) (Attachment D) to consider the environmental noise implications of the proposed Clay Target Range using pre-existing nearfield 12 gauge shotgun measurement data held on file to model the emissions and predict levels at various receivers in the vicinity of the proposed shoot venue.

HSA have assessed the proposal's noise emissions against the NSW noise criteria for shooting ranges. Given Division 4 provides for the assigned levels to be set aside if activities at a shooting venue are conducted in accordance with an approved NMP, there is value in considering alternative acceptability criteria such as those from NSW. However, this should not be to the exclusion of consideration of the assigned noise levels since they are the principal instrument for the protection of human health and amenity in Western Australia in relation to environmental noise.

Without mitigation, receiver R1 is predicted to be the most impacted with an LAsmax level of 63 dB(A) and Lzpeak level of 98 dB(A). HSA observe the shooting noise emissions are impulsive and "therefore an adjustment of +10 dB(A) should be applied to the shooting noise emission." The contour plot labelled "Ref: 20" includes the notation: "blue dotted contour - 45 dB(A), Weekday LA1 compliance level with impulsive characteristic", suggesting that the levels presented may be adjusted.

The predicted LAsmax level is an important consideration in the siting of a new shooting venue. An LAsmax level which is predicted to comply with the assigned level after the necessary adjustments might suggest there is an adequate separation between noise sensitive receivers and the venue, such that the impact of the noise from the venue can be appropriately managed.

It is noted that unmitigated, the emission would be considered unacceptable for two receivers and acceptable for one day per week at three other receivers under the NSW criteria. The results of the mitigated scenarios show there is little benefit to a bund behind the firing line, but a bund downrange has significant benefits for receivers R1 and R2, the two most affected, where the levels are reduced by 8 and 9 dB(Z) respectively. For the downrange bund scenario the emissions are found to be acceptable for some level of use at all receivers, although for only one day a week at three receivers under the NSW criteria.

There is cause to believe HSA may have over predicted the Lzpeak levels. HSA predict a difference of greater than 30 dB between the Lzpeak level and the LAsmax level for all receivers, with a range of 32 to 37 dB or 42 to 47. This is much greater than would be expected when receivers are up to 2.8 kilometres from the source. Some shotgun noise measurements by DWER suggest that Lpeak levels have been found to decrease more rapidly with distance from the source than the LAsmax levels and so an unexpectedly large difference between the Lzpeak and LAsmax level suggests the Lzpeak level may be over predicted.

Assuming the predicted LAsmax level of 63 dB(A) at the most affected receiver (R1) has been adjusted for impulsive characteristics, then the predicted emissions comply with the day time LAmass assigned level. The modelling indicates the inclusion of the forward bund can improve this by further reducing the LAsmax level received at R1 by a further 5 dB (approx.) and a similar benefit would be expected for the LAs1 and LAs10 levels, although these have not been modelled. These reductions represent a significant improvement and the downrange bund should be considered a mitigation measure worth pursuing.

Compliance with the day time LAmass assigned level suggests the venue may be appropriately located and sufficiently separated from noise sensitive receivers for day time operations.

Should the development proceed the City may wish to consider strategies to minimise the encroachment of noise sensitive development on the venue.

DWER Environmental Regulation Section

Water Resources

DWER have identified the following potential risks associated with this proposal from a water resources perspective -

- The proposed location of the clubhouse is in an area that may be subject to localised flooding, particularly during winter and large storm events.
- The likelihood of groundwater and surface water contamination from the disposal of toilet wastewater is high, given the potentially high water table.

- Potential contamination of groundwater with lead, as this occurs over an area with a high water table.
- Difficulty in recovering lead shot, particularly when the selected area is likely to be seasonally wet. The Clay Target EMP stresses the importance of dry soil for clean-up.
- Risk of lead bearing material being swept away to waterways during large storm events. Lack of detail as to how stormwater would be managed in the Clay Target EMP.
- The use of lime may increase stormwater pH altering the Ludlow River water quality.
- Mobilisation of plastic and other parts associated with firearm operation into the waterways.
- Mobilisation of hydrocarbons from the carpark into the waterway and potentially diesel generator use and fuel storage
- Sufficient water to meet the needs of the development.

To mitigate the above risks, the DWER has provided the following advice from a water resources perspective -

- The extent of localised flooding should be investigated to ensure appropriate siting of proposed buildings and infrastructure.
- Greater detail should be provided as to how stormwater will be managed, particularly hydrocarbons from the carpark and potentially lead contaminated stormwater.
- The proponent should manage stormwater in accordance with the Decision process for stormwater management in WA (DWER 2017) and the Stormwater Management Manual for Western Australia (DoW 2004–2007).
- The Department's preference for wastewater management is Aerobic Treatment Units (ATU's) in lieu of septic systems.
- The proponent should ensure that sufficient separation to groundwater (in accordance with the draft Government Sewerage Policy (WAPC 2016) can be achieved and outside of flood prone areas.
- It is recommended that areas of lead shot deposition be identified and be outside of the zones that are seasonally wet.
- A schedule should be in place as to how often and who would be appropriately removing the lead shot; and the application regime for lime.
- Details should be provided if fuel/chemicals are to be stored on-site, and how the risks of spills into the environment would be managed.

Native Vegetation Clearing

The Busselton and Bunbury Clay Target Club's submitted a clearing permit application proposing clearing of 4.36ha, which was refused in July 2016 due to the following reasons -

- significant habitat for indigenous fauna,
- significant remnant within a highly cleared landscape,
- wetland dependent vegetation
- impacts to the environmental values of nearby conservation areas.

A new application will need to be submitted for the clearing associated with this project, noting that the current proposal has a revised clearing proposal for an area of 1.76ha

DWER recommend that the Ludlow Clay Target EMP be revised to the satisfaction of the City, on advice of the DWER that includes revised and additional detail to prove that the identified risks can be mitigated.

DBCA

Parks and Wildlife Service's South West Region has no objection to this application subject to the following advice:

- The development area forms part of a South West Regional Ecological Linkage.
- Noise is likely to impact upon fauna behaviour and use of adjacent habitat.
- The application area is in very close proximity to the Ludlow River and tributaries, with vegetation proposed to be cleared consisting of Marri, Jarrah and Peppermint in the upland areas and Flooded Gum and Melaleuca species.
- Lot 500 and 501 are adjoining the Coolilup Road Reserve which has been recognised as an occurrence of a listed Threatened Ecological Community. The Coolilup Road crossing over the Ludlow River is not bridged and not passable in the winter months, an access and river crossing would need to be identified.

DBCA have recommended as follows:

1. This proposal be referred to Department of Water and Environmental Regulation, Native Vegetation Clearing Section for an assessment of a clearing application which shows all vegetation affected by development, access, bushfire protection and for firing range and berm construction.
2. This proposal be referred to Department of Water and Environmental Regulation, Water Quality Section for an assessment of impacts on the Ludlow River and related tributaries.
3. This proposal be referred to Department of Water and Environmental Regulation, Contamination Section with regard to lead contamination impacts on the site and on the Ludlow River and tributaries.
4. This proposal be referred to Department of Water and Environmental Regulation, Noise Impact Section with regard to noise impact assessment.

All of the above recommended referrals have been undertaken.

DMIRS

The proposal is situated over Strategic Mineral Protection Area for Titanium Zircon mineralisation that is under a granted Mining Lease held by Iluka Midwest Limited; therefore the potential to sterilise access for future mining is of concern. The Department of Mines, Industry Regulation and Safety (DMIRS) prefers that the proposed club premises are not located on strategic resources.

However, noting that Iluka Resources Limited is the landholder and must be a party to this proposal, DMIRS have advised they will not in this instance oppose the development on the condition that the clubrooms and storage can be relocated if future mining operations are proposed and that no sensitive land uses such as accommodation or dwellings are allowed.

DoHWater Supply and Wastewater Disposal

DoH have advised that the development is to comply with the draft Country Sewerage Policy and have access to a sufficient supply of potable water that is of the quality specified under the Australian Drinking Water Quality Guidelines 2004.

Health Requirements

DoH have also advised that consideration should be given to adding a condition of approval that the facility only uses or permits lead-free shots.

OFFICER COMMENT

The main issues considered to be relevant in the assessment of this application are the suitability of the location, Noise Regulations and the impact on the amenity of surrounding properties, impact on flora and fauna, contamination risk, and site access. Each of these issues are addressed below.

Noise Regulations and amenity

The critical issue is considered to be whether the proposal will have an unacceptable impact on the amenity of the locality. The Regulations provide a definition of amenity, as follows -

“amenity means all those factors which combine to form the character of an area and include the present and likely future amenity”.

The main potential amenity impact in this case is considered to be noise associated with the use of shotguns on the proposed range.

The Noise Regulations recognise that certain activities cannot meet the normal requirements. It acknowledges that sometimes exceptions should be made that enable certain uses to exceed the normal maxima, and that a NMP can be endorsed through a process under the Noise Regulations, providing protection for the continued operation from prosecutions that may otherwise be pursued under the Noise Regulations. Division 4 recognises shooting venues as a class that typically cannot meet the normal quantified standards for noise levels and enables the occupier of a shooting venue to apply to the respective local government CEO for approval of a NMP. Regulation 7 exempts noise emitted from a shooting venue during the conduct of a shooting activity at the venue if the shooting activity is conducted in accordance with an endorsed NMP prepared in accordance with the Noise Regulations.

DWER have advised that assuming the predicted LAsmax level of 63 dB(A) at the most affected receiver (R1) has been adjusted for impulsive characteristics, then the predicted emissions comply with the day time LAsmax assigned level and modelling indicates the inclusion of the forward bund can improve this by further reducing the LAsmax level received at R1 by a further 5 dB (approx.). This is a significant improvement and should be considered a mitigation measure worth pursuing should an approval be issued. DWER further advise that compliance with the day time assigned level suggests the venue may be appropriately located and sufficiently separated from noise sensitive receivers for day time operations.

The NIA prepared for the application recommends that the NSW application criteria for shooting ranges be considered as a reasonable guide for assessment of potential impact. The NIA concludes that the noise contour plots show that residential receptor R1 is the most significantly affected premises, with potential noise level of around 98 dB_{LZPeak}. Under the NSW application criteria three shoots per week would be permitted for an existing range, however this would not be considered acceptable for a new range.

The NIA advises that determination as to whether the proposed range should be considered as 'existing' or as 'future' facility depends on the current expectation of the residents most affected, and whether shooting noise from the existing Commonwealth rifle range to the north-west (in the Shire of Capel) is considered. Given the proximity of the existing Commonwealth Rifle Range to the subject site, it is considered reasonable to apply the standards for an existing range in this case. This would allow the range to operate for up to three days per week under an NMP approved under Division 4 of the Noise Regulations by the local government CEO.

Issues which might be considered within the NMP could include -

- Limitations on range operation in accordance with nominated operating times.
- Provision for two (or three) major matches per year extending over two-three days, with prior written notification to residential landholders within 1 km of the Clay Target range 14 days prior to the competition, and earlier if practical.
- Limit on range operation in terms of types and sizes of firearms used – for Clay Target limit to shotguns and bore no larger than 12 Gauge and powder charge no greater than commonly used for Clay Target competition.
- Signage or other means to ensure that potential buyers of nearby properties are aware of the range and typical operating times.

HSA also recommends that in developing an NMP it may be necessary to consider existing adjacent premises which currently do not contain a dwelling but may have entitlement to construct one in the future. Further, should the development proceed the City may wish to consider strategies to minimise the encroachment of noise sensitive development on the venue.

Should a development approval be granted by the City, separate consultation under *Environmental Protection (Noise) Regulations 1997* is required with all people in a 1km radius to be notified and invited to respond to any NMP that is developed. Should development approval be granted, it would be strongly recommended that the applicant do not undertake any on-ground works unless and until the NMP process has been completed.

Impact on flora and fauna

A previous application made by the applicant for a clearing permit from DWER for an area of 4.36ha was refused. The applicant has now identified that the area of vegetation clearing could be reduced to 1.76 ha, proposed in two stages of approximately 0.9ha each. DWER have advised that as the clearing is within an identified Environmentally Sensitive Area a new application for clearing will need to be submitted, even if broken into stages of less than one hectare.

The City holds a Restrictive Covenant (Attachment H) as a legal protection for the vegetation on both lots, which the applicant is aware of. The City, in considering support for clearing a portion of the sites vegetation to facilitate establishment of the Clay Target Range, may seek for a conservation benefit to be derived from a conditional approval of the proposal. The types of benefits may include, but are not limited to:

- Fencing of the remnant vegetation
- Management of the vegetation to promote the regeneration of the vegetation (management plan to be prepared and implemented)
- Revegetation of identified areas to screen the development and/or link remnant vegetation patches

DBCA advise that noise is likely to impact upon fauna behaviour and use of adjacent habitat but have not suggested that the proposal should be modified or refused on this basis.

Contamination risk

In submissions from members of the public, DWER and DoH, concern has been raised in regards to the proposed use of lead shot during shooting activities and the risk of contaminating groundwater and polluting the Ludlow River which runs through Lots 500 and 501.

Officers, when considering comment received from DWER, are not convinced of the effectiveness of the proposed methods of preventing lead contamination of the site and river, particularly during periods when the site is particularly wet.

Discussion within the Environmental Management Plan (Attachment E) submitted in support of the application has been made in regard to how the applicant would manage spent lead and prevent environmental contamination of the site and surrounds. Within the plan and during discussion between City officers and the applicant, the prospect of using steel shot as an alternative to lead shot has been raised. The applicant has agreed that if necessary the clubs could restrict activities on this site to the use of steel shot in lieu of standard lead shot. This is recommended as a condition should an approval be issued.

Concern was also raised in respect to potential water contamination if onsite effluent disposal is not adequately managed. Details of onsite effluent disposal, with a preference for the use of an Aerobic Treatment Unit (ATU) will be required as a condition of any approval.

Traffic, parking and access

It is first worth setting out the nature of the decision that the Council is required to make in relation to traffic safety. Clause 67 of Schedule 2 of the Regulations sets out that in determining an application for development approval, a decision maker must consider –

(s) the adequacy of...the proposed means of access to and egress from the site...;

(t) the amount of traffic likely to be generated by the development, particularly in relation to...the probable effect on traffic flow and safety;

Planning consideration of the potential impacts of traffic, other than where linked to amenity, is related to assessing whether the traffic impacts would result in the safe and efficient capacity of the road network being exceeded, when measured against accepted traffic engineering/planning standards.

The main access to the site is via Downs Road and Coolilup Road and is available throughout the year. An alternative dry weather only access may be available from the north via Hutton Road or Plantation Road, as identified in the Bushfire Management Plan (Attachment G). The Ludlow River crossing in Coolilup Road restricts the northern access to the site to use only during dry weather and currently is not suitable for two wheel drive vehicles. A portion of Downs Road, all of Coolilup, Hutton and Plantation Roads are unsealed. Some minor works will be required on Coolilup Road to ensure the road remains passable in prolonged wet weather for conventional vehicles. Although the proposed development will increase traffic numbers, the proposal is not expected to exceed the capacity of the road network.

The application material identified that all car parking can be contained within the site for up to 70 vehicles. Although it could be argued that, given the overall size of the site, there is adequate space on-site to accommodate car parking, the plan does not indicate the exact location or layout of proposed parking. Should approval be granted, it is recommended that as a minimum, constructed but unsealed car parking area/s are to be formalised to ensure that sufficient spaces are provided (inclusive of the provision for disabled access) and that informal parking does not damage vegetation.

Fire management

A BMP and BEEP prepared by a Level 3 Bushfire Planning Practitioner was provided with the development application.

The elements of the *Guidelines for Planning in Bushfire Prone Areas* relevant to the proposal and required to be addressed by a BMP are:

- Element 1: Location of Development; and
- Element 2: Siting of Development.
- Element 3: Vehicular Access
- Element 4: Water Sources and Storage

The BMP and BEEP are considered to have acceptably addressed the above criteria in accordance with the guidelines.

Suitability of the location

It is the view of City officers as a result of extensive research over the last ten years that it is unlikely that a better site, from a noise perspective, can currently be found for this type of development without locating the facility on land that is within State Forest or a National Park. The neighbouring State Forest, low density of settlement in the area and proximity to the adjacent Commonwealth Rifle Range make this site the most suitable of any currently available land in the City for this purpose. Should this application be refused, it should be noted that it is unlikely that any other suitable site will be found to accommodate this type of community use within the City in the near future.

Future mining activity

Iluka consented to the application but it is understood that there is some risk to the applicant that development would have to be removed from the range should Iluka choose to mine the site at some point in the future. To that end, and in line with the agency comments from DMIRS, it is recommended that should an approval be issued, a condition be included requiring that any structures be either temporary/transportable in nature or able to be removed from the site if required to allow future mining activity.

CONCLUSION

With the inclusion of conditions of approval requiring specific management plans to address issues such as that of noise, it is considered that the proposal is appropriate and it is accordingly recommended for approval.

OPTIONS

The Council could:

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

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

OFFICER RECOMMENDATION

That the Council resolve:

- (A) That application DA18/0154 submitted for development of Club Premises (Clay Target Club) at Lot 500 and 501 Coolilup Road, Ludlow is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.
- (B) That Development Approval is issued for the proposal referred to (A) above subject to the following conditions -

General conditions

1. All development is to be in accordance with the approved Development Plans, including any amendments placed thereon by the City and except as may be modified by the following conditions.
2. The development hereby approved shall be substantially commenced within two years from the date of this decision letter.

Prior to commencement of any works conditions

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

- 3.1 A Noise Management Plan prepared in accordance with the *Environmental Protection (Noise) Regulations 1997* which will meet the following requirements -

- Limitations on range operation times to between 7am – 7pm and a maximum of three shooting days per week;
- Provision for a maximum of three major competitions per year extending over a maximum of three days each, with prior written notification to residential landholders within 1 km of the Clay Target range, not less than 14 days prior to the competition, and earlier if practical;
- Limit on range operation in terms of types and sizes of firearms used – for Clay Target limit to shotguns and bore no larger than 12 Gauge and powder charge no greater than commonly used for Clay Target competition;
- Inclusion of downrange/forward bund noise mitigation measures; and
- Signage or other means to ensure that occupiers of nearby properties are aware of the range and typical operating times.

- 3.2 A revised Environmental Management Plan to address the following -

- Management of existing vegetation in order to improve biodiversity and habitat values;
- Requirements for clearing to minimize impact to native fauna;
- Revegetation requirements including vegetation offsets and vegetation buffers;
- Fencing to restrict movement within bushland areas of the site;
- Implementation schedule;

- Costings for implementation;
 - Monitoring of revegetation;
 - Fuel management;
 - Waste removal; and
 - Shot management/contamination risk management (specifying that only lead free shot may be used).
- 3.3 Landscape/revegetation plan that provides for offset planting to address vegetation loss from proposed clearing for the approved development;
- 3.4 Details of proposed buildings which shall be of a temporary/transportable nature;
- 3.5 A detailed plan which shows natural ground levels, finished ground levels and finished floor levels;
- 3.6 Details of onsite effluent disposal works including details of separation from the groundwater table;
- 3.7 Details of stormwater management configurations and a Drainage Management Plan;
- 3.8 A minimum number of 70 car parking bays (including 2 disabled bays) shall be provided on site and the parking area(s), driveway(s) and point(s) of ingress and egress shall be designed, constructed, drained and marked;
- 3.9 Details of the vehicular crossover to Coolilup Road; and
- 3.10 Details of the means and method of providing a potable water supply;

Prior to Occupation/Use of the Development Conditions

4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition(s) 1 and 5 have been implemented; and, the following conditions have been complied with –
- 4.1 Agreement to the satisfaction of the City in respect to the upgrading of Coolilup Road as required as a direct consequence of the proposed development.

Ongoing conditions

5. The works undertaken to satisfy Condition(s) 1, 3 and 4 shall be subsequently maintained for the life of the development; and, the following conditions have been complied with –
- 5.1 The approved Environmental Management Plan shall be implemented and carried out in accordance with the approved details;
- 5.2 The approved Noise Management Plan shall be implemented and carried out in accordance with the approval details;
- 5.3 The approved Landscape/revegetation plan shall be implemented and carried out in accordance with the approved details;

- 5.4 The approved Drainage Management Plan shall be implemented and carried out in accordance with the approved details;
- 5.5 The applicant must implement all of the recommendations contained in the Bushfire Management Plan prepared by Gary McMahon, Ecosystems Solutions, dated 3 October 2017 and approved by the City for the duration of the development; and
- 5.6 The removal of native vegetation outside of the approved clearing permit boundary is prohibited.

14. ENGINEERING AND WORK SERVICES REPORT

Nil

15. COMMUNITY AND COMMERCIAL SERVICES REPORT

Nil

16. FINANCE AND CORPORATE SERVICES REPORT

16.1 APPOINTMENT OF DEPUTY MEMBERS

SUBJECT INDEX:	Committee Membership
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Administration Officer - Governance - Kate Dudley
AUTHORISING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

PRÉCIS

This report recommends the appointment of a deputy member to the Busselton Senior Citizens' Centre Board, the Busselton Historical Society Committee/Group and the Geographe Bay Regional RoadWise Road Safety Working Group (formally known as Cape Naturaliste Roadwise Committee).

BACKGROUND

On 23 October 2017 the Council appointed members to its Standing Committees, Working Groups and external organisations (C1710/262). A deputy member however wasn't appointed to the Busselton Senior Citizens' Centre Board, the Busselton Historical Society Committee/Group or the Geographe Bay Regional RoadWise Road Safety Working Group. These groups only have one member representing the council and therefore the need for a deputy has been identified.

STATUTORY ENVIRONMENT

The groups for which deputies are sought are not formal committees of council and therefore the provisions of the *Local Government Act 1995* governing committee appointments do not apply. Notwithstanding some detail in relation to these provisions is provided below for broader context.

Section 5.10(1) of the Act provides that a committee established by a local government is to have as its members persons appointed by the local government and persons who are appointed under subsection (4) and (5).

Section 5.10(4) provides that the Council must appoint the Mayor to each Committee if the Mayor informs the local government of their wish to be a member of a particular Committee.

Section 5.10(5) provides that the CEO must be appointed to a Committee that has or will have an employee as a member if the CEO informs the local government of their wish to be a member.

Section 5.11A provides for the appointment of deputy committee members.

The Busselton Senior Citizens' Centre Board constitution outlines that one City Councillor is to be appointed to the Association's Board of Management (the Board) by the City of Busselton. As a board member the Councillor has a deliberate vote in relation to the Board affairs.

RELEVANT PLANS AND POLICIES

In accordance with Council Policy - Fees, Allowances and Expenses for Elected Members, Councillors are entitled to be paid a travelling allowance for attending meetings of community groups or other external organisations of which the elected member has been appointed the Council's representative by Council resolution.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the officer recommendation as the costs associated with attendance at meetings of community groups or other external organisations are included in the current budget.

LONG-TERM FINANCIAL PLAN IMPLICATIONS

There are no Long-Term Financial Plan Implications associated with the officer recommendation.

STRATEGIC COMMUNITY OBJECTIVES

This policy aligns with and supports the Key Goal Area 6 – 'Leadership' of the Strategic Community Plan 2017 and more specifically Community Objective 6.1 – 'Governance systems, process and practices are responsible, ethical and transparent'.

RISK ASSESSMENT

There are no identified risks associated with the appointment of a deputy member to the specified groups, with the appointment of a deputy minimising the risk of no Councillor attendance in the event that the appointed member is unable to attend meetings.

CONSULTATION

No external consultation is required in relation to this matter.

OFFICER COMMENT

Officers recommend that nominations be received by members for the appointment of a deputy member to the Busselton Senior Citizens' Centre Board, the Busselton Historical Society Committee and the Geopraphe Bay Regional RoadWise Road Safety Working Group.

CONCLUSION

Membership of all the Committees/Working groups are normally made at the Special Council Meeting immediately following the Council Election Day, however a deputy member wasn't appointed to the groups identified.

In order to ensure Council representation and continue to make a valuable contribution to these groups, it is considered that a deputy member should be appointed.

OPTIONS

The Council may choose not to have a deputy member for to the Busselton Senior Citizens' Centre Board, the Busselton Historical Society Committee and the Geopraphe Bay Regional RoadWise Road Safety Working Group.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Membership will become effective upon council resolution.

OFFICER RECOMMENDATION

That the Council decides who to appoint as deputy member to the Busselton Historical Society Committee, the Busselton Senior Citizens' Centre Board and the Geographe Bay Regional RoadWise Road Safety Working Group.

- Cr as the deputy member to the Busselton Historical Society Committee
- Cr as the deputy member to the Busselton Senior Citizens' Centre Board
- Cr as the deputy member to the Geographe Bay Regional RoadWise Road Safety Working Group.

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

SUBJECT INDEX:	Councillors' Information Bulletin
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Administration Officer - Governance - Kate Dudley
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Current Status of State Administrative Tribunal Reviews ↓
	Attachment B Meelup Regional Park Management Committee ↓

PRÉCIS

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**

Attachment A is a list showing the current status of State Administrative Tribunal Reviews involving the City of Busselton.

17.1.2 Meelup Regional Park Management Committee

Attachment B shows the Meelup Regional Park Management Committee informal minutes.

OFFICER RECOMMENDATION

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

- [17.1.1 State Administrative Tribunal Reviews](#)
- [17.1.2 Meelup Regional Park Management Committee](#)

As at 29 January 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
CITY OF BUSSELTON							
Threadgold vs City of Busselton	Lot 75 No 157 Haag Road, Yelverton	4 May, 2018	Review of a decision under a local planning scheme as to the classification of a use or the permissibility of a non listed use	Jo Wilson	<ul style="list-style-type: none"> Directions hearing on the 25 May, 2018 against the City of Busselton decision to refuse the application, the following orders were made: <ul style="list-style-type: none"> - Respondent is to provide additional information by 6 July, 2018; - Applicant to provide supporting documentation by 6 July, 2018 - Mediation to commence 20 July, 2018. Mediation on the 23 July, 2018, the following orders were made: <ul style="list-style-type: none"> - Applicant to provide additional information in respect of traffic and workforce - Respondent is to review the documentation submitted and provide a comprehensive outline of the additional information that is required to be submitted, in particular in relation to the hydrology and ecological information; - Based on the traffic and workforce information, the proponent is to advise if a BMP is required to be submitted; - Applicant to consider whether a clearing permit/federal approval is submitted concurrently with the appeal or submit a flora/fauna report to the City for assessment. - Mediation on 23 Oct, 2018. Mediation on the 23 October, 2018, the following orders were made: <ul style="list-style-type: none"> - Applicant to provide additional information in respect of: <ul style="list-style-type: none"> - Hydrology - Traffic and workforce information - Submit clearing permit to DWER and obtain Federal Approvals if required - Respondent is to review the documentation submitted, seeking advice from DWER as 	Mediation 25 February, 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
					required; - Based on the traffic and workforce information submitted and a clearing permit being obtained the respondent is to advise if a BMP is required to be submitted; - Mediation on 25 February, 2019.		
JOINT DEVELOPMENT ASSESSMENT PANEL							
Nil							
WESTERN AUSTRALIAN PLANNING COMMISSION							
Nil							



Meelup Regional Park Management Committee

CO Locked Bag 1 · Busselton · Western Australia · 6280

Email: kay.lehman@busselton.wa.gov.au

Web: www.meeluppark.com

Informal Meeting- Notes

DATE: Monday 1 October 2018, commencing 10.00 am
VENUE: Dunsborough District Country Club

1. ATTENDANCE AND APOLOGIES

Attendance Members: Dr Bob Jarvis (Presiding Member), Mr Peter Randerson (Deputy Presiding Member), Councillor John McCallum, Councillor Kelly Hick, Mr Tony Smurthwaite and Mrs Shirley Fisher

Officers: Mr Greg Simpson (Environmental Management Coordinator), Ms Kay Lehman (Meelup Environment Officer- EO)

Apologies: Mr Albert Haak, Mr. Damien Jones, Ms Tanya Gillet (Manager, Environmental Services)

2. FINANCIAL SUMMARY - Attachment A

Proposed Direction:

1. That the Committee notes the September 2018 Financial Summary (Attachment A).

3. MEELUP VOLUNTEER UPDATE

This report covers the period 28th August to 25th September 2018. For the period, there were a total of 62.25 man-hours of volunteer involvement, including a day which was abandoned due to wet weather. Average attendance was 11 volunteers.

Highlight for the period included an introduction by Natasha Moore from the Department of Biodiversity, Conservation and Attractions on the 11th September, outlining the method and timing for Meelup volunteers doing the *Caladenia viridescens* orchid survey. Volunteer teams were allocated various locations to identify and record (GPS) orchid locations and this exercise was undertaken on the 25th September.

Further activities during the period included:

- Cleaning and disinfection of tree guards and stakes. Bundling and staking at Vidler Road Council depot.
- Pruning of trail Eagle Bay coastal trail and lookout trail

Upcoming Training

A Safety and Skill Sharing Workshop is scheduled for Friends of Reserve Groups on Tuesday 9 October 9am-2.30pm in the Koorup Room of the City Administration Building.

Mr Tony Smurthwaite discussed and offered to develop a pamphlet on the geology of Meelup Regional Park and will liaise with Department of Biodiversity, Conservation and Attractions (DBCA) staff on this matter.

Proposed Direction:

1. Mr Tony Smurthwaite to discuss the development of a pamphlet on the geology of the Park with DBCA.

4. ACTION SUMMARY PROGRESS UPDATE

The action summary is appended as Attachment B.

The action summary is updated to include the following additional actions from the Meelup Regional Park Management Committee meeting held on the 1 October 2018.

Proposed Direction:

1. The Meelup Regional Park Management Plan review working group is scheduled to meet on Monday 15th October at 9.30am at Bob Jarvis's house.
2. EO to arrange a meeting with adjoining landholder, Wise Winery to discuss weed, water and feral animal management.
3. Health of peppermint trees at Point Piquet carpark area- EO to check if City staff can water trees over summer. The City will be seeking advice from Murdoch University staff in November 2018, on remediation measures to improve the health of trees in this area.
4. Replace brushes on the dieback station near Hurford Street.

5. REPORTS

5.1 Update of the Meelup Regional Park Website

The Meelup Regional Park website has been updated and will be viewed at the Committee meeting for discussion and Committee feedback. Refer to **Attachment C** for the Meelup Regional Park Trail Map.

Proposed Direction:

1. The website link to be sent to Committee members and any comments or feedback to be emailed to the EO.

5.2 2018/19 Recreation and Maintenance Schedule

The proposed 2018/19 Recreation and Maintenance priority work schedule is currently being developed. The work schedule will be sent, in a separate email to Committee Members prior to the meeting.

Proposed Direction:

1. Include the Recreation and Maintenance priority work Schedule on the agenda for the next Informal Meeting of the Committee.

5.3 Meelup Regional Park 25th Anniversary and Launch of the Friends of Meelup

The event is scheduled for Sunday 7th October 2018 at 9.30am and has been widely publicised through the local media. Invitations have been sent to Meelup volunteers, Friends of Meelup group, relevant City staff, past and present Meelup Regional Park Management Committee members.

Proposed Direction:

1. Information noted by the Committee.

5.4 Mountain Bike Trail Zone

Cape Mountain Bikers have completed the construction of the Brown Street trail network which consists of several downhill trails as well as a cross country network. Trails 11 and 12 have also been constructed linking the Brown Street network to the Dunsborough District Country Club (DDCC).

Cape Mountain Bikers have secured further funding and have submitted a proposal to construct three (3) additional link trails from the Brown Street trail network to the DDCC. A plan indicating the proposed trail alignment is appended to this agenda as **Attachment D**.

Proposed Direction:

1. Information noted by the Committee.

6.0 Late Items

6.1 Graffiti in the Park from bike event

The EO discussed that there had been community complaints of spray paint and flagging tape used in Zone 6, the Whale lookout trail and coastal trail near Hurford Street. A bike event was held in the Park on Saturday 29th September. The EO has spoken to one of the organisers who is removing the graffiti markings and the City is currently investigating the matter.

Proposed Direction:

1. This matter is currently being investigated.

6.2 Point Picquet Disabled Parking

There was a query on the disabled carpark marking in the Point Picquet carpark. The markings of the disabled carpark will be checked to ensure it complies with the relevant standards.

Proposed Direction:

1. The markings for the disabled carpark at Point Picquet to be checked to ensure it complies with the required standard.

6.3 Gourmet Escape 2018

The Committee require the details of the operator for this year's Gourmet Escape.

Proposed Direction:

1. Operator details will be checked for this year's Gourmet Escape.

7.0 NEXT MEETING

The next informal meeting of the Committee will be held on the 29 October 2018, commencing 10.00am at the Dunsborough District Country Club.

ATTACHMENT B - ACTION TABLE (1 October 2018 Meeting)

Subject	Action	Date of Committee Decision	Progress/Comments	Completed
Geology Pamphlet	Mr Tony Smurthwaite to discuss the development of a pamphlet on the geology of the Park with DBCA.	1/10/2018		
Dieback station maintenance	Replace brushes on the dieback station near Hurford Street.	1/10/2018		
Health of Peppermint trees- Point Picquet	Health of peppermint trees at Point Piquet carpark area- EO to check if City staff can water trees over summer. The City will be seeking advice from Murdoch University staff in November 2018, on remediation measures to improve the health of trees in this area	1/10/2018		
Gourmet Escape 2018	Operator details will be checked for this year's Gourmet Escape.	1/10/2018		
Point Picquet Disabled Parking	The markings for the disabled carpark at Point Picquet to be checked to ensure it complies with the required standard.	1/10/2018		
Graffiti in the Park from bike event	This matter is currently being investigated.	1/10/2018		
2018/19 Recreation and Maintenance Schedule	Include the Recreation and Maintenance priority work Schedule on the agenda for the next Informal Meeting of the Committee.	1/10/2018		
Update of the Meelup Regional Park Website	The website link to be sent to Committee members and any comments or feedback to be emailed to the EO.	1/10/2018		
Signage	That future signage reviews incorporate a similar message to the signage used by the DBCA in the Kalbarri National Park.			
MRBTA and Park/Trail Brochure	That the MRBTA be contacted to discuss the updating and inclusion of information on Meelup Regional Park in the MRBTA South West tourism map. 2. That a general Park and trails brochure be prepared for the Meelup Regional Park.	27/08/2018		
Meelup Regional Park Management Plan Review	That Committee Members Bob Jarvis, Peter Randerson and Albert Haak meet during October 2018 to finalise the review of the Meelup Regional Park Management Plan.	27/08/2018	The Meelup Regional Park Management Plan review working group is scheduled to meet on Monday 15th October at 9.30am at Bob Jarvis's house.	
Meelup Regional Park 25th Year Celebration	1. Presiding Member Bob Jarvis to meet with Mr John Slee to discuss the history of the Meelup Regional Park for use in the promotion of the planned 25th year celebration. 2. That the Friends of Meelup Regional Park launch be incorporated into the MRP 25th Year celebrations.	27/08/2018	Article developed for media. The Friends of MRP launch has been incorporated into the MRP 25th Year Anniversary event.	Done
Weed Map	1. That the data from the recent weed identification survey be incorporated onto a weed map, to guide future weed control programs. 2. Weed control date to be provided to weed control contractor when finalised.	27/08/2018	Weed map has been developed by City GIS staff and sent through to the weed contractor	Done
Recreation Reserves Maintenance	That a 2018/19 recreation and maintenance priority work schedule be prepared for the Park at the next scheduled Informal Meeting of the Committee.	27/08/2018	Maintenance areas identified by Committee members for inclusion on the priority work schedule are trail maintenance, dieback treatment, seats, tables and signage for trails.	
Point Picquet Carpark	1. That the Peppermint trees at Point Piquet be included as part of any future investigations into the causes of tree decline. 2. Investigate options for maximising rain runoff into the vegetation areas around the Point Picquet carpark.	27/08/2018	Quote obtained from ArborGuy on possible remediation treatments to improve tree health.	

Meelup Beach moon viewing platform	There was a concern about using crushed pea gravel which may not be a suitable substrate for bare feet in a beach environment. Other potential alternatives including compressed sawdust, quartzitic sand "no fines" and tennis court /bowling green matting or sand colour - cover with sand.will be discussed with Emerge Associates. Assessment on the effects of the Moon Viewing platform on the existing Peppermeint Trees to be undertaken.	20/07/2018		
Rare Flora Survey	EO will coordinate with Natasha Moore (DBCA) and the Meelup volunteer coordinator to plan for the flora survey. EO may also liaise with the Capes Branch of the Wildflower Society if we require additional volunteers.	20/07/2018	Meeting held with volunteers, EO and DBCA 18 Sept, volunteer surveys week of 24th Sept. Meeting at the DDCC on Tuesday 2 Oct to discuss results.	Done
Weed and Feral Animal Issues- Proposed Meeting of Neighbours	1. To engage with adjoining rural landholders on weed and feral animal management in the area delineated in the attached map. 2. That the land owner engagement include a question to determine if there are any landowners that regularly monitor and record rainfall data. 3. EO to arrange a meeting with adjoining landholder, Wise Winery to discuss weed, water and feral animal management.	25/06/2018	Meeting held with Nature Conservation Margaret River (NCMR) for a coordinated approach to arum lily weed control in the Capes region. The City of Busselton are proposing to partner with NCMR in a NRM Stewardship Grant application to deliver this project. Liaison with adjoining landholders will be undertaken on other priority weeds to be controlled. Funding for a 50% contribution for feral animal control on adjoining land has been included in the proposed NRM Stewardship Grant. There have been discussions with a feral animal control contractor on this work. Ongoing works.	
Car Rally Trail- Gravel Pit Rehabilitation	For the contractor that installed the coir logs in the former gravel pit on the Car Rally Trail to be engaged to complete the task.	25/06/2018		
Training and Employment of Indigenous Rangers	1. Potential partnership projects to be investigated. 2. Invite a representative from the South West Indigenous Ranger Program to outline the benefits of the South West Indigenous Ranger Program at a future Committee meeting.	28/05/2018	Scheduled for next Committee meeting on 29th October	Done
Trail Maintenance	1. EO to further investigate the use of chemical treatments for the hardening of trails surfaces. 2. That the use of 3G network for the remote monitoring of proposed rain gauge stations in the Park be investigated. 3. That future signage reviews incorporate a similar message to the signage used by the DBCA in the Kalbarri National Park. 4. That quotes be sought for the supply of drone aerial photograph to assist mapping of dieback boundaries, track maintenance and erosion along Meelup Regional Park beaches	26/03/2018	Have checked what is available through Davis instruments. Needs further discussion and investigation. https://www.davisinstruments.com/	
Training and Events				
Training/Events	Environmental training opportunities, workshop, events. EO to arrange speakers on relevant topics.		1.City of Busselton Friends of Reserve- Safety and Skill Sharing Workshop- Tuesday 9 October 2018- Kaloorup Room, City Administration Building 9am-2.30pm RSVP to Kay.2. Cultural Awareness Session/Walk Thursday 8th November 1-3pm Broadwater foreshore- Alan St.-with Bibbulmun/Wardandi Cultural Custodian Iszac 'Waalit'	Ongoing

18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
19. URGENT BUSINESS
20. CONFIDENTIAL MATTERS
21. CLOSURE