



Policy and Legislation Committee Agenda

27 February 2018

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CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 27 FEBRUARY 2018

TO: THE MAYOR AND COUNCILLORS

NOTICE is given that a meeting of the Policy and Legislation Committee will be held in the Committee Room, Administration Building, Southern Drive, Busselton on Tuesday, 27 February 2018, commencing at 2.00pm.

The attendance of Committee Members is respectfully requested.

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

22 February 2018

CITY OF BUSSELTON

AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 27 FEBRUARY 2018

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1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

2. ATTENDANCE

Apologies

3. PUBLIC QUESTION TIME

4. DISCLOSURE OF INTERESTS

5. CONFIRMATION OF MINUTES

5.1 Minutes of the Policy and Legislation Committee Meeting held 1 February 2018

RECOMMENDATION

That the Minutes of the Policy and Legislation Committee Meeting held 1 February 2018 be confirmed as a true and correct record.

6. REPORTS

6.1 LOCAL PLANNING POLICY - HOLIDAY HOMES

SUBJECT INDEX:	Development Control Policy
STRATEGIC OBJECTIVE:	Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
BUSINESS UNIT:	Development Services and Policy
ACTIVITY UNIT:	Development Services
REPORTING OFFICER:	Senior Development Planner - Andrew Watts
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Existing Local Planning Policy 7C Holiday Home Provisions ↓ Attachment B Advertised Holiday Homes Local Planning Policy ↓ Attachment C Proposed 7C Holiday Home Provisions ↓ Attachment D Planning Bulletin 99 ↓ Attachment E Schedule of Submissions - Revised Holiday Homes LPP ↓

PRÉCIS

As a part of the review of the City's planning framework, it has previously been identified that a review of the current City of Busselton *Local Planning Policy 7C Holiday Homes Provisions* (LPP 7C) is appropriate.

A revised Policy was presented to the Policy and Lifestyle Committee at its meeting of 17 August 2017 and then to Council at its meeting held on 13 September 2017. Council's approval was granted; to advertise a revised *City of Busselton Local Planning Policy - Holiday Homes Provisions*. Council also foreshadowed further investigations are to be taken into the advertising thresholds for Holiday Homes, as provided in the Scheme. A copy of the advertised policy is included at Attachment B.

Following advertising, the revised policy is presented for Council's consideration, for its adoption including amendments made in response to the issues raised during consultation, or technical issues that have arisen since 13 September 2017. A copy of the revised amended policy is included at Attachment C.

The foreshadowed investigations for a future amendment to the Local Planning Scheme that would narrow the circumstances in which the Scheme would require compulsory consultation on applications for approval of holiday homes, is a separate process and subject to a separate report. It is not incorporated in the recommendations of this report.

BACKGROUND

In December 2012, the Council adopted LPP 7C; this was one of the final steps in the introduction of a regulatory regime for holiday homes in the City. Prior to that time, holiday homes had been essentially *de facto* unregulated. The regulatory regime was brought into effect in a practical sense during 2013.

The current policy, which is one aspect of that regulatory regime, includes restrictions on the locations of holiday homes within residential areas, where holiday homes are generally not supported in those residential areas more distant from the coast and other significant tourist facilities (e.g. Yalyalup, Vasse). Despite that, a number of applications have been received for

properties in those areas. Some of those applications have been referred to Council for determination with approval in some cases being granted.

It should also be noted that, during the introductory phase, during 2013, approvals were generally granted for 'established' holiday homes in those areas.

Holiday homes are an economically important component of the local tourist accommodation mix and play a significant role as part of a pathway to permanent residency in the City. Because of that, a significant proportion of the construction related employment in the City is related to holiday homes. That was, in fact, an important finding, including specifically in relation to the City of Busselton, of an extensive study into temporary population flows in coastal areas undertaken for the Australian Coastal Councils' Association.

The amended policy proposes a removal of location restrictions for holiday homes. The policy is also in a revised format identifying 'deemed-to-comply' and 'performance criteria' provisions.

At its meeting of 13 September 2017 Council granted approval to proceed to advertising of an amended City of Busselton *Local Planning Policy - Holiday Homes Provisions*.

The public comment period concluded on 29 November 2017. A total of eight submissions have been received. Issues raised in submissions are outlined and discussed in the 'Officer Comment' section of this report.

Following advertising, the revised policy is presented for further consideration by the Council, with recommended modifications in light of submissions received, as well as to address some of the detailed editing issues.

The advertised policy is included as Attachment B, and a document illustrating the further changes now proposed is Attachment C.

STATUTORY ENVIRONMENT

The key statutory environment relevant to this matter is set out in the *Planning and Development Act 2005*, the *Planning and Development (Local Planning Schemes) Regulations 2015*, the City's Local Planning Scheme and the City's Holiday Homes Local Law.

RELEVANT PLANS AND POLICIES

LPP 7C sets out guidance to determine an application for a holiday home; a copy of the current policy is provided as Attachment A.

Western Australian Planning Commission Planning Bulletin 99 (PB99) sets out the aims for local governments when drafting Local Planning Policy on Holiday Homes. The proposed Policy is generally consistent with the aims of PB99. A copy of PB99 is at Attachment D.

This report recommends the adoption of a revised local planning policy.

FINANCIAL IMPLICATIONS

The revised policy, if adopted by the Council after consultation, would marginally reduce the cost to the City of assessing applications for development approval for holiday homes, as it would provide officers and applicants with clearer guidance.

STRATEGIC COMMUNITY OBJECTIVES

The recommendation of this report reflects Community Objectives 2.1 and 4.1 of the Strategic Community Plan 2017, which are –

- 2.1 Planning strategies that foster the development of neighbourhoods that meet our needs as we grow.
- 4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.

RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City's risk assessment framework. The assessment identifies 'downside' risks only, rather than 'upside' risks as well. Risks are only identified where the individual risk, once controls are identified, is medium or greater. No such risks were identified.

CONSULTATION

In accordance with the requirements of the Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 (Deemed Provisions), cl 4(1) and 4(2) consultation regarding the proposed amendment of the local planning policy was undertaken by a notice and invitation for submissions to be received within 21 days, following which the amendments would be further considered by the Council, in light of any submissions received.

Further to the notice advising of the proposed local planning policy amendment, two public briefing sessions were held during the public consultation period; a Busselton session on 14 November 2017 and a Dunsborough session on 16 November 2017.

At the conclusion of the public comment period on 29 November 2017 a total of seven submissions had been received, consisting of two submissions from government agencies and five from members of the general public. One further late submission from a member of the public was received approximately two weeks after the submission closure date.

A Schedule of Submissions is provided as Attachment E.

OFFICER COMMENT

The most substantive change proposed with the draft policy is the removal of restrictions on the location of holiday homes in some residential areas. At present, the policy does not support holiday homes being established in some residential areas, mostly areas that are further from the coast and tourist amenities, including areas such as Vasse, Yalyalup (i.e. Provence, Via Vasse, Willow Grove, Country Road estates) and parts of Dunsborough (i.e. areas to the west of Naturaliste Terrace, including the Cape Rise and Naturaliste Heights estates). Notably, as a result of revisions made to the policy in 2015, the policy does currently support holiday homes in the area of the Dunsborough Lakes estate. Having considered the issues, officers are of the view that the restrictions do not have a clear purpose or rationale, and are not necessary.

Three submissions received specifically mentioned support for the removal from the policy of the area restrictions. There were no specific objections to removing the area designations, other than those concerned about competition issues. One submission raised objection to removal of area restrictions on the basis of negative impact on more traditional forms of short stay accommodation, such as hotels, motels, guesthouses etc. and the perception that it is "no longer a level playing field".

Almost exclusively the issues that are raised by members of the public in respect to proposed or existing holiday homes relate to impact on the amenity of neighbouring properties as a result of concerns regarding potential or perceived:

- Anti-social behavior;
- Noise;
- Lack of privacy;
- Traffic and parking;
- Inadequacy of property to accommodate the proposed number of occupants;
- Waste management; and
- Holiday home managers not fulfilling their responsibilities.

Three submissions received raised issues related to the impact of the operation of holiday homes on the amenity of neighbours.

If a holiday home is well managed it should be largely indistinguishable from any other house. Provided it is suitably serviced for the number of proposed occupants then the registration process is designed to address other amenity issues which arise from the use of a property as a holiday home. Anti-social behaviour and traffic issues should be reported to the Police. One submission suggested that the registration process should be tightened to require the use of a locally situated holiday home manager. Whilst there may be some merit in this suggestion, the registration process is addressed through the Holiday Homes Local Law rather than the Local Planning Policy. Changes to the Local Law would require separate consideration by Council and are not a part of the current proposal. Review of the Local Law has, however, been included in the City's local law review programme. One submission, which focused on neighbourhood amenity concerns, raised issue with high levels of holiday home concentration in some streets within the City and the impact this has on permanent residents in the area.

Officers do not consider it is possible or at least practicable to implement a cap on the number or concentration of holiday homes that can be approved in an area.

Two of the submissions received specifically focussed on a desire to be able to utilise ancillary dwellings for the purpose of holiday home use. The Local Planning Scheme interpretation of 'Holiday Home (Single House)' specifically excludes ancillary accommodation (i.e. a 'granny flat' or similar). This is not an issue that can be addressed through local planning policy, although it is an issue officers have given some consideration. Although officers can see that this may be appropriate in some instances, it is actually very complex to construct a set of controls that would allow this to occur.

Issues raised at Briefing Sessions

Two public briefing sessions were held during the consultation period; a Busselton session on 14 November 2017 and a Dunsborough session on 16 November 2017.

Aside from the issues addressed in the submissions, identified above, a concern was expressed that amongst short stay tourist accommodation types, commercially operated holiday homes were receiving a beneficial treatment by not being subject to the plus 10% differential rating which applies in the Tourist Zone.

The purpose of the differential rate is to fund marketing initiatives that in turn promote/create demand. Short stay providers have expressed an opinion that holiday homes are given a 'free ride' and should also contribute to the marketing that in turn creates the demand that they benefit from.

If a differential rate was equally applied to a holiday home as a land use class, the same as applies in the Tourist Zone, the minimum increase per holiday home would be \$122.70, the average increase is \$172.60, and the top 10% is an increase of \$304.40. Combined the City would receive around an additional \$120,000 in rates income.

It is anticipated that Council will consider this matter as part of its review of the Long Term Financial Plan and in its considerations for the 2018/19 budget.

Amendments to the State Bushfire Protection Criteria

The most significant changes proposed to the draft policy relate to the bush fire requirements.

In the period since Council approved public consultation of the Holiday Home Policy there have been two amendments to the State's *Guidelines for Planning in Bushfire Prone Areas*, and these have affected assessment of holiday home proposals.

It has been clarified that short stay accommodation, at a residential scale, if located in a designated bushfire prone area, is both a 'minor' development and a 'vulnerable' class of land use. This applies special requirements including mandating the provision of a Bushfire Management Plan (BMP) and a Bushfire Emergency Evacuation Plan.

Whilst evacuation, if safe to do so, should always be the preference, it is important the building itself is of a suitable construction to provide a place of refuge of last resort.

Converting a dwelling to a holiday home, unlike converting to a Bed and Breakfast, or to a Guest House, does not require a building approval and construction requirements. Holiday homes are unique in their exclusion from the effect of the Building Code of Australia (BCA), which otherwise applies the bushfire construction requirements in AS 3959-2009, (construction of buildings in bushfire prone areas).

The State planning framework has offset this. Schedule 2 Part 10A of the Planning Regulations calls in the construction requirements described in AS3959-2009, to be applied as a planning consideration. However, given that a holiday home will usually not be a new construction it will often not be practical to comply with the Deemed to Comply solutions identified in the Standards. It is therefore important to clarify Performance Solutions (normally applied through the BCA) will also apply at planning; to achieve a comparable outcome to the Deemed to Comply solutions.

Also since Council approved the local planning policy for consultation, the State's Guidelines has now identified that an Asset Protection Zone may extend beyond a site if supported by a perpetual agreement. Previously it was restricted to within the site.

Foreshadowed investigation into the thresholds for the compulsory advertising of holiday homes.

Council's resolution 13 September:

"Foreshadows a future amendment to the Local Planning Scheme that would narrow the circumstances in which the Scheme would require compulsory consultation on applications for approval of holiday homes."

The thresholds which determine whether a holiday home application is advertised is specified in Scheme 21.

The thresholds are presently set at:

- Holiday Home (Single House) – it is advertised if accommodating nine or more people, up to a maximum of 12.
- Holiday Home (Multiple/Group Dwelling) – it is advertised in all instances up to a maximum of 6 people.

The maximum number of guests is part of the land use definition in the Scheme. Proposals which exceed the maximum number, as identified in the definition, become a different class of land use. They become Tourist Accommodation and are 'prohibited' in the Residential Zone. Proposal of this scale are instead directed to the Tourist Zone, the Business Zone and the Viticulture and Tourism Zone.

No submissions were received that raised the issue of advertising as an associated issue with the revised policy. The revised policy is also not dependent upon reviewing the consultation thresholds.

The investigations and the initiation of an amendment to change the advertising thresholds is subject to a separate procedure, and therefore no recommendation about advertising thresholds is made in this report. The City's resolution 13 September 2017, with regard to the foreshadowed investigations, remains active.

CONCLUSION

It is recommended that the amended *Local Planning Policy - Holiday Homes Provisions* be adopted pursuant to the *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 (Deemed Provisions), cl 4(3) and notice of the policy be published in accordance with cl 4(4).

Further modifications as described above are recommended, as well as some minor editing changes, which should be self-explanatory.

OPTIONS

Fundamentally, there are three options, other than the officer recommendation-

- (1) proceed with adoption of the amended policy without modification; or
- (2) proceed with adoption of the amended policy with further modifications; or
- (3) not to proceed with the amended policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Public notice of the adoption of the policy and commencement of its effect will occur within 4 weeks.

OFFICER RECOMMENDATION

That the Council,

- A. In accordance with *Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 (Deemed Provisions)* -

1. Pursuant to cl.5(1), amends City of Busselton Local Planning Policy 7C *Holiday Homes Provisions*, by the following replacement provisions:

7C. HOLIDAY HOMES PROVISIONS**1.0 BACKGROUND**

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

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

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

2.0 OBJECTIVES

The objectives of these provisions are to –

1. Provide clear guidance regarding the assessment of applications for development approval for Holiday Homes;
2. Identify circumstances in which Holiday Homes will be supported, and circumstances in which holiday homes may be supported, given more detailed consideration; and
3. Balance the interests of residents, Holiday Home owners and the community as a whole.

3.0 APPLICATION

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

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

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

4.0 INTERPRETATION

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

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

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

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

The following additional interpretations are relevant to this policy:

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

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

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

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

5.0 POLICY STATEMENT

Note that the headings below do form part of the policy statement.

5.1 Location of Holiday Homes

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

- C1.1 The Holiday Home is located within an existing, lawful dwelling (other than a dwelling approved as a second dwelling or rural worker's dwelling pursuant to clause 4.5 (f) or (g) of the Local Planning Scheme, or equivalent clause in previous schemes) in the Agriculture or Viticulture and Tourism Zone; or
- C1.2 In all other Zones, the Holiday Home has direct frontage to a public road and/or public open space and has a minimum of 350m² exclusively for the use of the dwelling; or
- C1.3 For a Holiday Home (Grouped/Multiple Dwelling), written support has been received by the local government from the majority of owners of properties in the complex or development within which the Holiday Home is to be located (excluding the owner of the site subject of the application, unless the applicant owns all of the properties in the complex or development).

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

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

5.2 Utility Servicing

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

- C2.1 The Holiday Home is connected to reticulated water, or provided with a 135,000 litre rainwater tank for the exclusive use of the Holiday Home; and
- C2.2 The Holiday Home is located within the City's kerbside refuse collection area; and
- C2.3 The Holiday Home is connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of occupants.

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

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

- P2.1 The City is satisfied that the Holiday Home will have an adequate supply of potable water; and
- P2.2 The City is satisfied that the Holiday Home will be provided with an adequate refuse collection service; and

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

5.3 Car Parking

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

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

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

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

- P3.1 The City is satisfied that the Holiday Home has a minimum of two constructed on-site car parking bays and, where additional car parking bays would be required to comply with C3.1 above, at least the equivalent number of cars could park on the site without the need for cars to park on the verge, in adjacent or nearby public car parking, or in visitor car parking bays within a unit complex or similar; or
- P3.2 Where a Holiday Home is located in the 'Business' Zone, the City is satisfied that the Holiday Home will not have a noticeable effect on the availability of public car parking within the locality.

5.4 Dwelling Design

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

- C4.1 The Holiday Home is an existing, lawful dwelling; or
- C4.2 If the Holiday Home is not an existing, lawful dwelling, the Holiday Home will meet all of the relevant design standards and requirements that would apply to a new dwelling on the land, including the requirements of the Local Planning Scheme (including the *Residential Design Codes of Western Australia*), all relevant Local Planning Policies, and all relevant Structure Plan, Activity Centre Plan and Local Development Plan provisions; and

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

- (a) There is 5.5 square metres per occupant in each bedroom utilising beds; and
- (b) There is 3.5 square metres per occupant in each bedroom utilising bunks; and
- (c) There is sufficient bedroom space to accommodate the maximum number of occupants consistent with (a) and (b) above; and

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

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

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

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

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

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

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

5.5 Bush Fire Management

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

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

- C5.2 The Holiday Home is on land identified as being in a bushfire prone area by an order made under section 18P of the *Fire and Emergency Services Act 1998* and will meet all of the relevant design standards and requirements for a minor vulnerable development described in the *WAPC Guidelines for Planning in Bushfire Prone Areas*, including but not limited to the following -
- C5.2.1 A Bushfire Management Plan and Bushfire Emergency Evacuation Plan developed consistent with the *Guidelines for Planning in Bushfire Prone Areas* ('vulnerable land use') has been submitted; and
- C5.2.2 The building has been constructed to the determined BAL requirement and associated *Deemed to Satisfy* solution pursuant to *AS3959-2009 (Construction of buildings in bushfire-prone areas)*; and
- C5.3 The Asset Protection Zone (APZ) required -
- (a) is no greater than 25 metres from the building to a **determined hazard**; and
 - (b) can be accommodated entirely within the subject lot; and
 - (c) can be created and maintained without need to obtain a clearing permit under the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and/or approval under the (Commonwealth) *Environmental Protection and Biodiversity Conservation Act 1999*.-

A Holiday Homes satisfies the performance criteria provisions if:

- P5.1 C5.2.1 has been complied with; and
- P5.2 If C5.2.2 has not been complied with, the building has been constructed to the determined BAL requirement by Performance Solution as provided for by Part 1.0 in *NCC 2016 Building Codes of Australia Volume 2*; and
- P5.3
- (a) If C5.3 (a) has not been complied with, a larger APZ may be supported, but only to the extent necessary to allow the construction standard to be reduced to BAL29; and
 - (b) If C5.3 (b) has not been complied with –
 - (i) _____ where the APZ extends outside the subject lot, it overlaps substantially with an APZ already on an adjoining lot; or
 - (ii) _____ a perpetual arrangement is in place with the owner (in the case of freehold land) or manager (in the case of Crown / reserve land) to allow and require the maintenance of the portion of the APZ that extends beyond the subject lot; and
 - (c) If C5.3 (c) has not been complied with, the necessary permit or approval has been obtained, or the applicant commits to seeking the necessary permit or approval prior to commencement of development (including change of use).

2. Pursuant to cl.4(4), advertises adoption of the above amended City of Busselton Local Planning Policy *Holiday Homes Provisions*, by notice in a newspaper circulating in the Scheme.

7C. HOLIDAY HOMES PROVISIONS

1. BACKGROUND

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

Over time, however, there have been changes in the character of the communities in which holiday homes are located, as well as increased commercialisation of holiday homes and their use.

Holiday homes which are utilised on a commercial basis (i.e. rented out to paying guests) require a planning consent to be issued under the Local Planning Scheme and a registration to be issued under the *Holiday Homes Local Law 2012*.

2. OBJECTIVES

- Identify areas where holiday homes will be generally supported;
- Identify servicing requirements for holiday homes.

3. APPLICATION

These policy provisions are adopted as Part 7C of the Commercial and Industrial Development Policy provisions pursuant to Part 2.3 of the City of Busselton Local Planning Scheme 21 and apply to the whole of the City.

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

All terms have the same meaning as defined in the City's Local Planning Scheme.

4. PROVISIONS

4.1 Location of Holiday Homes

Holiday homes are preferred in areas of high tourism amenity and in close proximity to key tourist attractions, and are not generally preferred in other, suburban residential areas. In considering any application for a holiday home the Council will have regard to the following:

Holiday homes are generally not supported on residential or rural-residential zoned land south of Bussell Highway in Busselton in accordance with Figure 1 (i.e. Attachment A).

* In **Area 1**, subject to the requirements of the Scheme and Policy, the approval of holiday homes will be considered in both the Residential and Rural Residential Zones;

* In **Area 2**, subject to the requirements of the Scheme and Policy, the approval of holiday homes will be considered in the Rural Residential Zone but not the Residential Zone;

* Throughout the City, subject to the requirements of the Scheme and Policy, the approval of holiday homes will be considered where dwellings are located outside the Residential or Rural Residential Zones.



4.2 Servicing Requirements

4.2.1 Car Parking

Holiday homes accommodating more than six people require a minimum of 1 car parking bay per 2 bedrooms, and are generally not supported on sites with less than 3 on-site car parking bays.

Lesser provision may be considered where appropriate (such as where bedrooms are relatively small, or occasional higher levels of demand could be met on-street).

4.2.2 Dwelling Size

Holiday homes accommodating more than six people are generally not supported on sites with less than 4 bedrooms or less than 2 bathrooms, but may be considered on such sites where the site and building design are deemed suitable to accommodate such use.

4.2.3 Service Connections

If the site is not connected to scheme water, adequate water supply must be demonstrated for the proposed use.

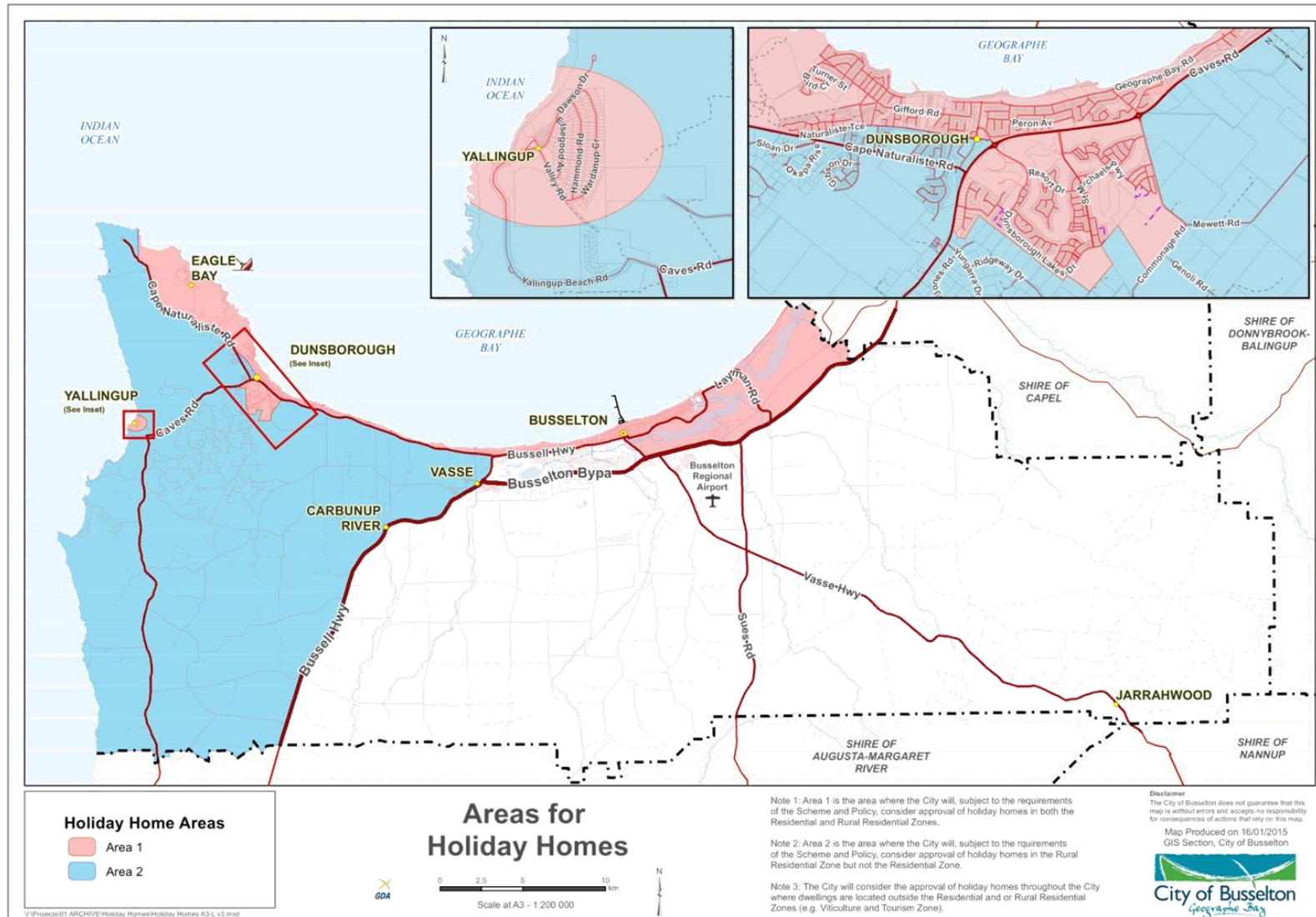
If the site is not within a City refuse collection area, suitable arrangements for private refuse collection must be demonstrated.

4.2.4 Site Maintenance

The appearance/quality of the dwelling and potential impacts on amenity (including cumulative impact of several holiday homes in a given area) will be considered in the assessment of applications for planning approval.

4.2.5 Fire Management

Where a fire management plan exists or is required for the area in which the dwelling is located, a detailed site specific fire management plan is to be submitted confirming compliance with contemporary requirements for fire management for the new development.





ADOPTION NOTICE

ADOPTION OF PLANNING POLICY – Commercial and Industrial Development Policy

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

7C. HOLIDAY HOMES PROVISIONS

1.0 BACKGROUND

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

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

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

2.0 OBJECTIVES

The objectives of these provisions are to –

1. Provide clear guidance regarding the assessment of applications for development approval for Holiday Homes;
2. Identify circumstances in which Holiday Homes will be supported, and circumstances in which holiday homes may be supported, given more detailed consideration; and
3. Balance the interests of residents, Holiday Home owners and the community as a whole.

3.0 APPLICATION

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

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

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

4.0 INTERPRETATION

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

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

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

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

The following additional interpretations are relevant to this policy:

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

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

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

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

5.0 POLICY STATEMENT

Note that the headings below do form part of the policy statement.

5.1 Location of Holiday Homes

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

- C1.1 The Holiday Home is located within an existing, lawful dwelling (other than a dwelling approved as a second dwelling or rural worker’s dwelling pursuant to clause 4.5 (f) or (g) of the Local Planning Scheme, or equivalent clause in previous schemes) in the Agriculture or Viticulture and Tourism Zone; or

- C1.2 In all other Zones, the Holiday Home has direct frontage to a public road and/or public open space and has a minimum of 350m² exclusively for the use of the dwelling; or
- C1.3 For a Holiday Home (Grouped/Multiple Dwelling), written support has been received by the local government from the majority of owners of properties in the complex or development within which the Holiday Home is to be located (excluding the owner of the site subject of the application, unless the applicant owns all of the properties in the complex or development).

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

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

5.2 Utility Servicing

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

- C2.1 The Holiday Home is connected to reticulated water, or provided with a 135,000 litre rainwater tank for the exclusive use of the Holiday Home; and
- C2.2 The Holiday Home is located with the City's kerbside refuse collection area; and
- C2.3 The Holiday Home is connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of occupants.

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

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

- P2.1 The City is satisfied that the Holiday Home will have an adequate supply of potable water; and
- P2.2 The City is satisfied that the Holiday Home will be provided with an adequate refuse collection service; and
- P2.3 The City is satisfied that the Holiday Homes will be provided with an adequate on-site effluent disposal system (and provision of such would be a condition of any approval, to be met prior to the commencement of the use).

5.3 Car Parking

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

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

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

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

- P3.1 The City is satisfied that the Holiday Home has a minimum of two constructed on-site car parking bays and, where additional car parking bays would be required to comply with C3.1 above, at least the equivalent number of cars could park on the site without the need for cars to park on the verge, in adjacent or nearby public car parking, or in visitor car parking bays within a unit complex or similar; or
- P3.2 Where a Holiday Home is located in the 'Business' Zone, the City is satisfied that the Holiday Home will not have a noticeable effect on the availability of public car parking within the locality.

5.4 Dwelling Design

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

- C4.1 The Holiday Home is an existing, lawful dwelling; or
- C4.2 If the Holiday Home is not an existing, lawful dwelling, the Holiday Home will meet all of the relevant design standards and requirements that would apply to a new dwelling on the land, including the requirements of the Local Planning Scheme (including the *Residential Design Codes of Western Australia*), all relevant Local Planning Policies, and all relevant Structure Plan, Activity Centre Plan and Local Development Plan provisions; and
- C4.3 The maximum number of occupants within a Holiday Home complies with the following standards:
- (a) There is 5.5 square metres per occupant in each bedroom utilising beds; and
 - (b) There is 3.5 square metres per occupant in each bedroom utilising bunks; and
 - (c) There is sufficient bedroom space to accommodate the maximum number of occupants consistent with (a) and (b) above; and

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

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

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

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

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

P4.2 The City is satisfied that the dwelling design is appropriate to accommodate the proposed maximum number of occupants. In general, if C4.4 is not met, this would only be the case if there are a smaller number of relatively large bedrooms.

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

5.5 Bush Fire Management

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

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

C5.2 The Holiday Home is on a lot with an area of less than 1,100m²; or

C5.3 The Holiday Home is on land identified as being in a bushfire prone area by an order made under section 18P of the *Fire and Emergency Services Act 1998* and is on a lot with an area of 1,100m² or greater –

C5.3.1 An Evacuation Plan consistent with the *Guidelines for Planning in Bushfire Prone Areas* has been submitted; and

C5.3.2 The Holiday Home is an existing, lawful dwelling; or

C5.3.3 If the Holiday Home is not an existing, lawful dwelling, the Holiday Home will meet all of the relevant design standards and requirements that would apply to a new dwelling on the land pursuant to Part 10A (Bushfire risk management) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Note: A dwelling on a lot of less than 1,100m² in area is exempt from the requirements of Part 10A (Bushfire risk management) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.

There are no **performance criteria** provisions in relation to bush fire management. The deemed-to-comply provisions must be met. Note that the deemed-to-comply provisions are, other than the requirement for an Evacuation Plan, the same as what would be required to either continue using an existing, lawful dwelling, or what would be required to develop a new, lawful dwelling.

7C. HOLIDAY HOMES PROVISIONS

1.0 BACKGROUND

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

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

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

2.0 OBJECTIVES

The objectives of these provisions are to –

1. Provide clear guidance regarding the assessment of applications for development approval for Holiday Homes;
2. Identify circumstances in which Holiday Homes will be supported, and circumstances in which holiday homes may be supported, given more detailed consideration; and
3. Balance the interests of residents, Holiday Home owners and the community as a whole.

3.0 APPLICATION

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

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

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

4.0 INTERPRETATION

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

"Holiday Home (Multiple/Grouped Dwelling)" means a grouped dwelling or multiple dwelling, which may also be used for short stay accommodation for hire or reward for no more than six people (but does not

6.1 Attachment C Proposed 7C Holiday Home Provisions

include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

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

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

The following additional interpretations are relevant to this policy:

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

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

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

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

5.0 POLICY STATEMENT

Note that the headings below do form part of the policy statement.

5.1 Location of Holiday Homes

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

- C1.1 The Holiday Home is located within an existing, lawful dwelling (other than a dwelling approved as a second dwelling or rural worker’s dwelling pursuant to clause 4.5 (f) or (g) of the Local Planning Scheme, or equivalent clause in previous schemes) in the Agriculture or Viticulture and Tourism Zone; or
- C1.2 In all other Zones, the Holiday Home has direct frontage to a public road and/or public open space and has a minimum of 350m² exclusively for the use of the dwelling; or
- C1.3 For a Holiday Home (Grouped/Multiple Dwelling), written support has been received by the local government from the majority of owners of properties in the complex or development within which the Holiday Home is to be located (excluding the owner of the site subject of the application, unless the applicant owns all of the properties in the complex or development).

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

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

5.2 Utility Servicing

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

- C2.1 The Holiday Home is connected to reticulated water, or provided with a 135,000 litre rainwater tank for the exclusive use of the Holiday Home; and
- C2.2 The Holiday Home is located ~~with~~within the City's kerbside refuse collection area; and
- C2.3 The Holiday Home is connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of occupants.

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

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

- P2.1 The City is satisfied that the Holiday Home will have an adequate supply of potable water; and
- P2.2 The City is satisfied that the Holiday Home will be provided with an adequate refuse collection service; and
- P2.3 The City is satisfied that the Holiday Homes will be provided with an adequate on-site effluent disposal system (and provision of such would be a condition of any approval, to be met prior to the commencement of the use if a suitable system is not already in place and approved).

5.3 Car Parking

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

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

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

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

- P3.1 The City is satisfied that the Holiday Home has a minimum of two constructed on-site car parking bays and, where additional car parking bays would be required to comply with C3.1 above, at least

6.1 Attachment C Proposed 7C Holiday Home Provisions

the equivalent number of cars could park on the site without the need for cars to park on the verge, in adjacent or nearby public car parking, or in visitor car parking bays within a unit complex or similar; or

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

5.4 Dwelling Design

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

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

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

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

- (a) There is 5.5 square metres per occupant in each bedroom utilising beds; and
- (b) There is 3.5 square metres per occupant in each bedroom utilising bunks; and
- (c) There is sufficient bedroom space to accommodate the maximum number of occupants consistent with (a) and (b) above; and

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

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

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

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

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

- P4.2¹ The City is satisfied that the dwelling design is appropriate to accommodate the proposed maximum number of occupants. In general, if C4.4 is not met, this would only be the case if there are a smaller number of relatively large bedrooms.

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

6.1 Attachment C Proposed 7C Holiday Home Provisions

5.5 Bush Fire Management

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

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

~~C5.2 The Holiday Home is on a lot with an area of less than 1,100m²; or~~

C5.3.2 The Holiday Home is on land identified as being in a bushfire prone area by an order made under section 18P of the Fire and Emergency Services Act 1998 and ~~is on a lot with an area of 1,100m² or greater~~ will meet all of the relevant design standards and requirements for a minor vulnerable development described in the *WAPC Guidelines for Planning in Bushfire Prone Areas*, including but not limited to the following -

C5.3.2.1 ~~An~~ A Bushfire Management Plan and Bushfire Emergency Evacuation Plan developed consistent with the *Guidelines for Planning in Bushfire Prone Areas* ('vulnerable land use') has been submitted; and

C5.3.2.2 ~~The Holiday Home is an existing, lawful dwelling; or The building has been constructed to the determined BAL requirement and associated Deemed to Satisfy solution pursuant to AS3959-2009 (Construction of buildings in bushfire-prone areas); and~~

~~C5.3.3 If the Holiday Home is not an existing, lawful dwelling, the Holiday Home will meet all of the relevant design standards and requirements that would apply to a new dwelling on the land Part 10A (Bushfire risk management) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015. 100m²~~

~~Note: A dwelling on a lot of less than 1, in area is exempt from the requirements of Part 10A (Bushfire risk management) of Schedule 2 of the Planning Development (Local Planning Schemes) Regulations 2015.~~

~~There are no performance criteria provisions in relation to bush fire management. The deemed-to-comply provisions must be met. Note that the deemed-to-comply provisions are, other than the requirement for an Evacuation Plan, the same as what would be required to either continue using an existing, lawful dwelling, or what would be required to develop a new, lawful dwelling.~~

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

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

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

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

A Holiday Homes satisfies the performance criteria provisions if:

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

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

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

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

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

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

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



Planning Bulletin 99 Holiday Homes Guidelines



September 2009

1 Introduction

Holiday homes are a component of the short stay accommodation sector in some parts of Western Australia and an important aspect of the overall mix of tourism accommodation, particularly in popular tourist destinations within the State. Over the past decade a growing number of holiday homes have been made commercially available, resulting in an increasing trend to purchase or build homes for holiday home use.

The informal development of this section of the tourist accommodation market has meant that holiday homes have so far operated with minimal regulation, resulting in an uncertain legal environment, issues of inequity with other service providers and land use conflict. The issue of impact on neighbouring residential amenity has caused particular concern in the community.

In response to these issues the Minister for Planning and Infrastructure formed the Holiday Homes Working Group in 2005. The role of the working group was to investigate issues surrounding the operation of holiday homes and matters raised by the group have been taken into consideration in the preparation of this bulletin.

2 Background

This bulletin sets out the interim position of the Western Australian Planning Commission (WAPC) in relation to the planning and regulation of holiday homes in Western Australia. The bulletin provides guidance to local governments when dealing with issues associated with holiday homes in the local government planning framework.

The bulletin proposes possible changes to local planning schemes and the preparation of local planning policies, tailored to address the specific issues encountered by local governments.

3 Objectives

The objectives of this planning bulletin are:

- To facilitate a consistent, equitable and efficient planning process for the regulation of holiday homes in Western Australia.
- To support the tourism industry by the promotion of voluntary accreditation of holiday homes.
- To encourage good quality, well managed holiday homes for use by short-term visitors generally in locations that will enhance the tourism experience while minimising potential impacts on adjoining residents.
- To support the role of holiday homes as part of the tourism industry.

4 Proposed guidelines

4.1 Overview

Given that holiday homes are a legitimate part of the tourist accommodation industry and a desirable use in areas of high tourism amenity, it is recommended that holiday homes be formalised as a land use and dealt with via the local planning framework in the following ways:

- Introduction of a Model Scheme Text definitions for holiday homes.
- Introduction of holiday homes as a use class in the zoning table of local planning schemes.
- Identification of preferred areas for holiday homes in local planning strategies based on sound planning principles.
- The preparation of local planning policies to deal with the potential issues associated with holiday homes.

These guidelines may be applied in different ways by different local governments depending on the

local planning scheme and policies already in effect.

4.2 Local planning schemes

4.2.1 Definitions

It is proposed that the following definitions for holiday homes should be used in local planning schemes and adopted in the Model Scheme Text:

Holiday home (standard) means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for no more than six people (but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit).

Holiday home (large) means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.

4.2.2 Holiday homes as a use class

It is recommended that holiday homes be introduced as a use class in the zoning table of local planning schemes, and be made a D or an SA use (discretionary or discretionary subject to advertising).

Initial approval should be granted for a limited period of one year, and renewed on a three year to five year period subject to compliance as determined by a local government, to ensure that there is minimal impact on the amenity of neighbouring properties. This is designed to provide a degree of certainty to operators, while also enabling the local government flexibility to terminate approvals of non compliant operators.

Existing holiday homes (where it can be demonstrated that there is a history of operation with minimal or no conflicts) should be considered for the identified longer approval subject to the requirements of the relevant local government.

In general, holiday homes should be residential dwellings on freehold lots.

4.3 Local planning policy

As well as including holiday homes as a controlled use in local planning schemes, local governments are encouraged to develop a local planning policy on holiday homes.

The content of a local planning policy may include:

- objectives
- definitions
- planning application and approval considerations
- conditions of approval
- establishment of a holiday homes register
- non compliance
- voluntary accreditation

The Department of Planning has prepared guidelines to assist local governments in the preparation of local planning policies.

4.4 Preferred locations for holiday homes

To reduce conflict between holiday homes and ordinary dwellings, particularly in residential zones, ideally they should be located in preferred areas identified either through the tourism component of the relevant local planning strategy, or in a local planning policy. As a guide, holiday homes are more appropriate in areas of high tourism amenity and close proximity to key tourism attractions such as the beach, town centre or rural areas, but may not be appropriate in suburban locations.

4.5 Holiday homes register

A register of approved holiday homes should be established and maintained by the local government. The register should record basic details of the property including the contact details of the owner and/or manager; property address; and configuration (bedroom number, number of beds, bathrooms, car parking spaces etc). These matters should be considered for inclusion in the approved management plans for the operation of the holiday home.

4.6 Voluntary accreditation

Local governments are encouraged to promote voluntary accreditation of holiday homes from the Tourism Council of Western Australia. Accreditation is a non regulatory, voluntary means of addressing identified customer service and consumer protection issues. The benefits of accreditation include improvements in the quality of accommodation product through the application of standards, capture of accommodation provider details.

4.7 Transitional arrangements

It is recommended that local governments allow owner operators up to 12 months, after a local planning policy has been adopted, to apply for and obtain approval for the operation of existing holiday homes and implement the recommended regulatory measures.

6 Comment

Any comment on this bulletin should quote the title: Holiday Homes Guidelines and reference number: 801/6/1/44 V2 and be directed to:

Western Australian Planning
Commission
469 Wellington Street
Perth WA 6000

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SUMMARY OF SUBMISSIONS – FILE No. PO17/02
PROPOSAL: Revised Holiday Home Policy Provisions - 2 Southern Drive BUSSELTON WA 6280
SUBMISSIONS CLOSE: 29th November 2017
OFFICER: Andrew Watts

No	NAME & ADDRESS	INWARDS DOC #	PHONE	Their Ref	Nature of Submission	Comment	Ack. Date
GOVT AUTHORITIES							
1.	Department of Planning Lands and Heritage (David Brash)	3124901	9791 0577	DP13/00 655	The policy has been prepared giving consideration to the WA Planning Commission's Planning Bulletin 99 – Holiday Home Guidelines and the <i>Planning and Development (local Planning Scheme) Regulations 2015</i> . The policy provisions appropriately address matters set out in the guidelines. Given the policy seeks to create deemed-to-comply provision for vulnerable land use in bushfire prone areas, this element of the policy should be referred to DFES for comment and detailed consideration prior to adopting the policy for approval.	It is recognised that the Guidelines for Planning in Bushfire Prone Areas have been updated on two occasions subsequent to the drafting of the Holiday Homes Policy. The updated guidelines now give greater guidance on how the matter of bushfire safety for vulnerable land uses such as holiday homes should be addressed. The section of the proposed Holiday Home Provisions Local Planning Policy will be revised to reflect the updated guidelines.	
2.	Tourism WA (Ross MacCulloch) Ross.MacCulloch@westernaustralia.com	3530870	9262 1833		Tourism Western Australia (Tourism WA) supports the proposed amendments, which in our view provide greater clarity to proponents wishing to derive commercial gain from their homes. Busselton is a tourism town and market demand largely dictates the preferred locations for successful holiday homes, we feel it is sensible to remove the holiday home provision relating to preferred locations.	Support noted.	

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COMMUNITY GROUPS							
PUBLIC SUBMISSIONS							
1.	Alan & Diane Alldis Dianne.alldis@bigpond.com	3128910			<p>Attended the Dunsborough information session for the Holiday Home policy and was disappointed by the low attendance.</p> <p>Owner of a Tourist zoned property used for short stay accommodation with an understanding of the rules and regulations which accompany property in the zone:</p> <ol style="list-style-type: none"> 1. We can only reside in our property for a maximum 3 months in any 1 year. 2. We pay the City COMMERCIAL rates. 3. Our complex is fully managed by a paid onsite Manager and any issues about Short Stay occupants are quickly, efficiently and courteously dealt with be it excessive noise, excessive guests, parking issues etc. 4. All of our income is through the onsite manager's website and is fully accounted for. <p>The policy proposal will have a dramatic effect on income and</p>	<p>Noted.</p> <p>It is noted that short stay accommodation in the tourist zone is generally provided with onsite management to quickly deal with issues.</p> <p>The issue of how different properties are rated is not one that can be addressed through the planning system and is outside of the scope of this Local Planning Policy. Concerns regarding this issue are a separate matter for Council consideration on advice from staff in Financial Services.</p>	22/11/2017

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					<p>local employment at legitimate tourist accommodation businesses in local hotels, motels, Caravan parks, resorts etc. and a negative impact on investment in new short stay accommodation.</p> <p>Holiday homes should be considered as 'Tourist Accommodation' and treated the same as tourist zoned properties, including paying commercial rates. Traditionally Holiday homes belonged to people who had second properties in the South West and were used for their own enjoyment and not rented out.</p> <p>The area available for holiday homes in the residential zone is being considerably widened for use as short term stay accommodation. Adjacent residents have no say in what happens to the house next door. Not acceptable for those that wished to live down south and have a relaxed and quiet lifestyle, now interrupted with constant change of people, noise, parking etc.</p> <p>Concerned about the ability of the</p>	<p>Holiday Homes and Tourist Accommodation are two distinct landuses under the Scheme. The 'traditional' holiday home described in the submission is simply single house that is not occupied by the owner as their usual place of permanent residence whereas the Scheme interpretation of a Holiday Home allows for use as short stay accommodation for hire or reward.</p> <p>If a holiday home is well managed it should be largely indistinguishable from any other house. The holiday home's location does not impact on this. Provided it is suitably serviced for the number of proposed occupants then</p>	

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					<p>City to effectively monitor and deal with impact on amenity of full time residents.</p> <p>Concerned by the inequity in rules and regulations for different zones. The structure of Short stay accommodation is no longer a level playing field.</p> <p>Residential Zoned Areas should remain as they were intended to be and not transformed into mini-motel areas.</p> <p>The South West is beautiful area of the State and tourism forms a major part of the economic viability of the area. Without the tourists the wineries, restaurants, cafes, gift shops, tour guides etc. would not survive.</p> <p>We applaud the Council for getting some form of regulations in place as they have done previously to protect existing Tourist Accommodation and residents, but please, let's get some sense of balance and equity and protect the already struggling Tourism Accommodation Industry.</p>	<p>the registration process is designed to address other amenity issues which arise from the use of a property as a holiday home.</p> <p>Agreed.</p> <p>Noted.</p>	

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2.	Michelle Kalka 20 Armstrong Road Busselton	3124120			Would like to be able to use the ancillary dwelling at property to rent out as holiday accommodation but is not consistent with the Scheme interpretation of Holiday Home, which excludes ancillary dwellings. Believe that it is more suitable to use ancillary accommodation as part of Holiday Home than a typical holiday home if the owner is onsite to be able to manage/address issues.	The Local Planning Scheme interpretation of Holiday Home (Single House) specifically excludes ancillary accommodation. This Scheme interpretation is consistent with that provided in WAPC Planning Bulletin 99 - Holiday Home Guidelines. To allow for use of ancillary dwelling for holiday home use may require either a Scheme amendment or where the owners are providing onsite management consideration may be able to be given to the use fitting under the 'Bed Breakfast' landuse.	15/11/2017
3.	Mark Stothard mark@truenorth.com.au	3122491			Busselton, Dunsborough and Margaret River region is based around the tourism and in peak times there is barely enough accommodation to cater for the influx of people. Holiday homes are an important part of the mix of accommodation and some areas within walking distance from Dunsborough townsite have previously not been	Support for the proposed removal of area restrictions is noted.	17/11/2017

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					<p>permitted to have houses used for holiday homes, therefore support the removal of Holiday Home area restrictions.</p> <p>Understand the concern of permanent residents but believe stricter controls can address this e.g. three strikes policy to ensure renters are better controlled by owners.</p> <p>Want to see the removal of the current division between those who can and can't rent out their property as a holiday home.</p>		
4.	Cherie Kemp Cheriekemp51@gmail.com	3136035			<p>Some "holiday homes" in residential Busselton are in garages and sheds - this should not be approved as they are not lawful dwellings.</p> <p>Concerned with instances where there are too great a concentration of holiday homes in an area e.g. four within 100m and the impact that this has on permanent residents who may not have had opportunity to comment on all</p>	<p>These are not approved Holiday Homes and if locations are identified and reported the City's compliance staff can investigate unlawful operations.</p> <p>It is not possible to implement a cap on the number or concentration of holiday homes that can be approved in an area. It is not reasonable to have a first come first served approach</p>	

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					<p>application prior to approval.</p> <p>Concerned about a number of issues related to management of holiday homes, dogs, anti-social behaviour and breaching of traffic rules.</p> <p>Concerned with parking on verges and neighbours front lawns.</p> <p>Believes that a greater number of bathrooms/toilets should be required than specified in the policy and less than six people allowed if only one bathroom and toilet is available.</p> <p>Believes that a maximum of 8 persons should be allowed rather</p>	<p>and how would the City quantify a limit on holiday home number or concentration.</p> <p>Management issues are addressed by Holiday Home registration process, dogs by Ranger (though difficult where dogs are registered outside of the City of Busselton), anti-social behaviour and traffic issues should be reported to the Police.</p> <p>The requirement for adequate onsite parking is addressed in the policy. Illegal parking issues can be reported to the City's rangers.</p> <p>This is a matter for Council consideration as part of this policy proposal.</p> <p>Dismiss. A maximum of 12 persons is included in the</p>	

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					<p>than 12.</p> <p>Residential properties used as Holiday Homes should be charged higher Council rates.</p> <p>Agree that holiday homes areas should be expanded to include outer areas rather than just all being focussed within residential townsite/central and coastal areas</p> <p>Consider that all applications for holiday homes should be advertised to neighbours.</p>	<p>interpretation of Holiday Home (Single House). The Scheme interpretation is consistent with that provided in WAPC Planning Bulletin 99 - Holiday Home Guidelines. It is clear that many homes in the City are sufficiently sized to cater for up to 12 persons.</p> <p>Concerns regarding this issue are a separate matter for Council consideration on advice from staff in Financial Services, however are outside of the scope of this policy or the planning system.</p> <p>Noted.</p> <p>Dismiss. If an application meets all of the deemed-to-comply provisions of the proposed policy there would be no basis for advertising.</p>	

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5.	David Moyes David@privateproperties.com.au	3144600			<p>Fully support the majority of the proposed changes and believe it provides a more transparent and efficient process which better balances the needs of all local interests. However there are two areas that need serious consideration. These are bushfire management and compliance or enforcement of the regulations. Concerns are as follows -</p> <p><u>Bush Fire Management</u> This relates to change made to the interpretation of the bush fire provisions which are included in the draft documents, however commenced in August this year and effects all properties in bush fire prone areas. We only became aware of these changes in mid-October and currently have two property registration submissions being effected. This is a complete game changer. With respect, I must say this major change was poorly implemented and for us to find out two months after the commencement was a real shock, not only to us but also our property owners who were following our guidance in regards to the process,</p>	<p>Noted.</p> <p>This matter has come about through changes made by the WA Planning Commission to the Guidelines for Planning in Bushfire Prone Areas, which the City is now required to implement in its development assessment and approval processes. The changes to the guidelines and how best to implement these have been a learning process for all levels of government and for applicants and the most practical approach to effectively address the matters in the guidelines</p>	30/11/2017

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					<p>usually eight week process and now that's looking like seven to eight months.</p> <p>I can understand the logic of the tightening of bush fire compliance standards however more planning needs to be done to make sure these extra requirements can be achieved cost effectively and in a timely manner. At this stage it's neither of these and it is very difficult to engage an appropriately qualified practitioner (or find anyone interested) and the cost is between \$2000 and \$4000. With DFES now involved in the process this potentially adds an additional five months to a two month process pre August 2017.</p> <p>At a time when we are wanting people to do the right thing I believe this could have the opposite affect and these changes could lead individual property owners to not register their properties.</p> <p><u>Monitoring Compliance or Control</u> This isn't part of the proposed changes however I think it needs to</p>	<p>with the least burden on applicants has been a topic of ongoing discussion between all stakeholders and has led to further updates to the guidelines and refinements to approvals processes.</p> <p>Comments noted. The registration process is addressed through the</p>	

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					<p>be mentioned. In my view there needs to be more effort and resources put into making sure people are not only registering their properties but that they are also doing the right thing by their neighbours and the community generally. This should start with a tightening of the registration process to include a <u>local</u> property manager i.e. someone who is aware, responsible and in control of the property and all bookings. This person, or business in our case, should be contactable and able to attend within an hour – not 24 hours as is currently the case. This technically means you could live in Port Hedland and still comply with the current requirements.</p> <p>Lastly I'd like to encourage the City to engage more with the professional property management/holiday home rental industry. Public forums aren't the venue for serious commercial operators to engage with the people involved in planning, producing and implementing these important laws.</p>	<p>Holiday Homes Local Law rather than the Local Planning Policy. Changes to the Local Law would require separate consideration by Council and are not a part of the current proposal.</p> <p>Noted.</p>	

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LATE SUBMISSIONS							
1.	E Donnachie & A Loudon edonnach@msn.com	3158214			Own a rural residential property and in addition to single house are looking to develop an ancillary dwelling, which they would like to be able to sometimes rent out as short stay accommodation. Believe that it is more suitable to use their proposed ancillary dwelling as part of Holiday Home than a typical holiday home as they will be permanently onsite to be able to manage/address issues. Therefore would like to see provisions changed to allow this to occur.	The Local Planning Scheme interpretation of Holiday Home (Single House) specifically excludes ancillary accommodation. This Scheme interpretation is consistent with that provided in WAPC Planning Bulletin 99 - Holiday Home Guidelines. To allow for use of ancillary dwelling for holiday home use may require either a Scheme amendment or where the owners are providing onsite management consideration may be able to be given to the use fitting under the 'Bed Breakfast' landuse.	13/12/2017

6.2 PUBLIC ARTWORK POLICY

SUBJECT INDEX:	Policies, Plans and Procedures
STRATEGIC OBJECTIVE:	A community with access to a range of cultural and art, social and recreational facilities and experiences.
BUSINESS UNIT:	Community Services
ACTIVITY UNIT:	Community Services
REPORTING OFFICER:	Cultural Development Officer - Jacquie Happ
AUTHORISING OFFICER:	Director, Community and Commercial Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Attachment A - Table of Submissions Public Artwork Policy ↓ Attachment B Attachment B - Public Art Policy showing changes ↓

PRÉCIS

The purpose of this report is to seek Council's approval for the Public Artwork Policy (PAP) which will facilitate the management of outdoor sculptures (Public Artwork Collection) in public places. The draft Policy was considered by the Policy and Legislation Committee at its Meeting on 30th November 2017 when it was adopted for the purposes of public comment.

BACKGROUND

The importance of public artwork is widely acknowledged to reflect the cultures and lifestyles of a community, create a sense of place, add vibrancy to a public area and allow people to engage on many different levels. Public Artwork is defined as outdoor artwork located in public places and includes sculptures, bespoke street furniture, and monuments or memorials as distinct from the Art Collection which refers specifically to artwork that is on display or in storage and owned by the City.

The principles of the City's Public Artwork Policy are to:

- promote civic, community and cultural identity by introducing public artworks which makes streets, open spaces and buildings more locally distinctive;
- enhance the sense of place by encouraging public art forms which reinforce and highlight early settlement and Aboriginal history, cultural heritage and contemporary life;
- encourage community reflection, inspiration, celebration and well-being;
- improve visual amenity and the appearance of places by using public art to screen unattractive views and add interest;
- support regional art production where possible by contracting locally-based artists to create artworks;
- encourage the use of a diverse range of traditional and contemporary media and technologies; and
- recognise the importance of the role of art in public places.

The draft Policy was considered by the Policy and Legislation Committee at its Meeting on 30th November 2017 when the Committee adopted the following:

That the Council:

1. approves the advertising of the Public Art Policy for a period of 21 days for public comment and adopts the Policy subject to no adverse comments being received;
2. reviews the Public Art Policy in 12 months time.

This report outlines the public comment process and identifies minor changes to the policy considered in November 2017.

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.

Local Government (Financial Management) Regulations amended 1 July 2012 mandates the valuation of non-current assets at Fair Value.

RELEVANT PLANS AND POLICIES

Public Artwork plays a key role in delivering the City's Social Plan 2015 – 2025 in providing a welcoming community with vibrant and attractive places and spaces where local heritage and culture is valued. In particular the Social Plan 2015-2025 identifies the need to facilitate the development of arts and culture by the continued implementation of the Cultural Plan and Local Cultural Planning Strategy (LCPS).

The City of Busselton adopted the LCPS in August 2011. The aim of the strategy is to conserve the key cultural elements of the City's towns and rural areas and to maintain these elements over time.

The City's Cultural Plan was adopted in 2005 and provides recommendations on the future directions of arts and culture in the City of Busselton and encourages the development of a collective community cultural vision and plan.

Developer Contribution Policy: 6B Percent for Art Provisions require eligible development proposals to provide public artworks on the site of development or on crown land immediately adjacent to the site, in a location approved by the City.

FINANCIAL IMPLICATIONS

Acquisitions

Currently the City commissions public artworks on a case by case basis. Others are funded through external funding and community or corporate contributions.

Maintenance

The current annual maintenance cost of public artworks is difficult to ascertain as it is not separately costed. It is estimated that costs range from \$4,000 to \$15,000 per annum, or an average of \$7,000 per annum is spent each year on what is largely reactive maintenance. It is therefore recommended a separate, annual Public Artwork Maintenance budget of \$10,000, is established from the 2018/19 financial year budget. This asset maintenance budget is regarded as small in comparison to other maintenance programs within the City.

Valuation and Condition Assessment

A Valuation and Condition Assessment Report of the City's Art Collection is undertaken every three years by a professional consultant. The report ascertains maintenance requirements including if the art needs priority attention, conservation or remedial works or needs to be removed and provide a more accurate valuation. To date the City's Public Artwork Collection has not been valued.

The most recent Art Collection valuation was completed in 2016 at a cost of \$3,950 and the next is scheduled for 2019. A Valuation and Condition Assessment Report for the Public Artwork Collection has been quoted at \$3,900. A discounted rate is available if both the Art Collection and the Public Artwork Collection are undertaken at the same time with the combined cost estimated to be \$7,215.

As such, it is recommended that an arts specialist/consultant be engaged to undertake a Valuation and Condition Assessment Report for both Public Artwork and Art Collection in 2018/19 financial year and every three (3) years thereafter.

Long-term Financial Plan Implications

It is recommended that an annual budget of \$10,000 per annum is implemented for maintenance of the Public Artwork Collection.

It is recommended that the next Valuation and Condition Assessment Report commissioned includes both the Public Artwork Collection and the Art Collection, and that it is undertaken in 2018/19 financial year with an additional budget allocation for the Public Artwork Collection component of an estimated \$3,265, and every three (3) years thereafter at an estimated combined cost of \$7,215.

STRATEGIC COMMUNITY OBJECTIVES

This policy is consistent with fostering the following strategic objective:

Key Goal Area 1 Community

- 1.3 A community with access to a range of cultural and art, social and recreational facilities and experiences.

RISK ASSESSMENT

An assessment of the potential implications of implementing the officer recommendation have been undertaken using the City's risk assessment framework, and no risks were identified where the residual risk, once controls are considered, is medium or greater.

CONSULTATION

The PAP was open to public comment for a period of 21 days from 20 December 2017 to 12 January 2018. It was advertised in the Busselton Dunsborough Mail on the 20 and 27 December 2017 and 3 January 2018 and emailed to artists and relevant community groups so that they were fully informed of the draft policy.

OFFICER COMMENT

The PAP was developed as the City has seen an increasing growth in the sculptures in the Public Artwork Collection it has acquired in numerous ways including: commissions, developer contributions, donations, loans, prizes and community art projects. The City is required to manage and control public artworks which are located on City owned or managed properties and public spaces. The PAP provides guidance on the lifecycle of artwork across the following areas:

- Acquisition
- Consultation
- Maintenance
- Deaccessioning
- Responsibilities

Five submissions were received from the Public Consultation period see Attachment A: Table of Submissions Public Artwork Policy. All submissions were generally supportive of the PAP, and offered recommendations that led to the following changes in the Policy:

- i) Definition of Artist to allow emerging artists works to be acquired;
- ii) Definition of street furniture altered so commissioned works are considered to be Public Art; and
- iii) Inclusion of signage on artworks.

In addition, a slight change has been made to the name and contents of the policy where reference to the word “Art” has changed to “Artwork”.

These suggestions have now been incorporated in the revised draft policy which is shown at Attachment B.

CONCLUSION

Officers recommend that the updated Public Artwork Policy is adopted by Council and an annual allocation of \$10,000 and a 3 yearly allocation of \$7,200 (exclusive of GST) are included from the 2018/19 budget to implement an asset maintenance program and Public Artwork Collection and Art Collection Valuation and Condition Assessment.

OPTIONS

The City can continue to accept artworks on a case by case basis without a recognised process or policy and continue to provide a more reactive approach to the maintenance of its public artwork infrastructure.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Following Council approval, the PAP can be adopted immediately and finances included in the 2018/19 budget development process.

OFFICER RECOMMENDATION

That the Council:

1. Approves the Public Artwork Policy as shown in Attachment B;
2. Allocates \$10,000 in the draft 2018/19 for an annual maintenance program;
3. Allocates \$7,200 for a Public Artwork Collection and Art Collection Valuation and Condition Assessment Report in the draft 2018/19; and
4. Allocate a CPI Indexed budget every three years in the Long Term Financial Plan review.

SCHEDULE OF SUBMISSIONS
PUBLIC ART POLICY CONSULTATION
Responses to Public Art Policy and Guidelines

NO.	NAME/ ADDRESS	NATURE OF SUBMISSION	COMMENT/S	RECOMMENDATION
1	Sculpture by the Bay Sub-Committee, Dunsborough & Districts Progress Association	No objection	<p>Policy</p> <ul style="list-style-type: none"> 4.1 Prizes: be more specific about longevity 3.0 Definitions change definition of Artist so that acquisitions may include emerging artists if work complies to guidelines Draft Policy needs to include a section on installation. <p>Guidelines</p> <ul style="list-style-type: none"> Longevity & Material: comment on steel coatings being too specific Water Base artworks: too much about Busselton Jetty Glass used is to be laminated Comments around installation wording 	<p>Noted</p> <p>Noted and amended</p> <p>Noted</p> <p>Noted and amended</p> <p>Noted and amended</p> <p>Noted and amended</p>
2	Sharon Rowell Past resident of City no longer registered	No objection	<ul style="list-style-type: none"> Comment on placement of artwork in Dunsborough 3.2 Public Artworks: public artwork does not include street furniture or memorials, but there are examples of these in the Public Art Register. 5.0 Consultation: 'themes of artwork that reflect the City's values' Signage about the artwork should be included 	<p>Not applicable</p> <p>Noted and amended</p> <p>Noted</p> <p>Noted and amended</p>
3	Karen Johnson	No objection	It looks very thorough and comprehensive.	Noted
4	Murray Swain	No objection	I think the draft Public Art Policy looks efficient and comprehensive!	Noted
5	Nita Pratt	No objection	<ul style="list-style-type: none"> Possible additions to Register Comment on maintenance of current works 	<p>Noted</p> <p>Noted</p>

CITY OF BUSSELTON PUBLIC ARTWORK POLICY

1.0 POLICY STATEMENT

Public artworks within the City of Busselton district are intended to reflect the cultures and lifestyles of the local community, to create vibrant spaces and invigorate places, and/or celebrate cultural or heritage aspects of the region.

The principles of Public Artwork are to:

- promote civic, community and cultural identity by introducing public artwork which makes streets, open spaces and buildings more locally distinctive;
- enhance the sense of place by encouraging public art forms which reinforce and highlight early settlement and Aboriginal history, cultural heritage and contemporary life;
- encourage community reflection, inspiration, celebration and well-being;
- improve visual amenity and the appearance of places by using public art to screen unattractive views and add interest;
- support regional art production where possible by contracting locally-based artists to create artworks;
- encourage the use of a diverse range of traditional and contemporary media and technologies; and
- recognise the importance of the role of art in public places.

Public artworks are acquired in numerous ways including commissions, developer contributions, donations, prizes and community art projects. Under certain circumstances artwork may be on loan to the City as in an outdoor exhibition in a public space.

Generally the City of Busselton manages and controls public artworks which are located on City-owned or managed properties as public spaces.

2.0 SCOPE

The City of Busselton is presented with public artwork opportunities from time to time as community projects, donations from organisations or individuals, the City's own public artwork initiatives or artwork on loan.

This Policy proposes to address public artworks in terms of the City's responsibility in:

- Acquisition
- Consultation
- Maintenance
- Deaccessioning
- Responsibilities

3.0 DEFINITIONS

3.1 Artist

It is acknowledged that the term 'artist' is self-referencing. For the purposes of this Policy, artists are expected to be able to meet at least two of the following criteria:

- a person who evidences their experience in implementing successful public artwork projects;
- a person who has completed a university degree or a diploma in a relevant arts field (ie visual arts, multi-media, fine arts) as appropriate to the public artwork commission brief;
- a person who earns the majority of their income from arts-related activities, including: teaching, selling artwork or undertaking public art commissions;
- a person who exhibits their artwork through one or more reputable art galleries whose primary business is dealing in the works of professional artists; and
- a person who has had works of art acquired by major public or private collections; and
- emerging artists/s whose Artwork complies with Public Art Guidelines.

3.2 Public Artworks

A public artwork is a permanent, temporary or ephemeral work of art created by an artist or developed under the guidance of a professional artist; that has been commissioned, acquired, donated or on loan to suit a public space either outdoors or indoors, or facility that is accessible to the community.

Public artwork does not include:

- ~~monuments or memorials;~~
- busking, art markets, pop-up galleries;
- playground equipment;
- commercial promotions in any form including business logos or brands;
- directional/way-finding elements such as super-graphics, signage or colour coding;
- objects that are mass-produced or reproduced;
- most art reproductions;
- services or utilities necessary to operate or maintain artworks; and
- commercially designed and manufactured street furniture.

4.0 ACQUISITIONS

Acquisitions are public artworks purchased, commissioned, donated or on loan to the City of Busselton. These artworks become part of the City's *Public Art Register* at the City's discretion. Public artwork acquisition processes for example include but are not limited to:

- *Sculpture by the Bay* annual acquisitive prize;
- the City's Development Contributions Policy;
- artworks commissioned by the City, such as the Settlement Art Project;
- exterior urban art or mural commissions;
- donations; and
- artwork on loan to the City for public exhibition (temporary acquisitions)

Public Artworks acquired by and more specifically, commissioned by the City, are required to have an Installation Plan and Maintenance Plan as outlined in the *Public Artwork Guidelines*. The City is responsible for the installation of artworks unless otherwise agreed by contract. Artworks will include signage that includes the name of the work, artist and year of completion or installation.

4.1 Prizes

The City may acquire public artworks through a competitive process with a monetary reward. The competition will outline its terms and conditions for the prize and include a copy of the *Public Artwork Guidelines*. The artworks acquired through a prize process may not be as robust as an artwork commissioned by a professional artist with a much higher budget. Artworks acquired through prizes might occasionally be expected to have a shorter life span of up to five (5) to ten (10) years. ~~if the prize is not a significant amount.~~

4.2 Development Contributions Policy

The City of Busselton has a *Development Contributions Policy* that includes *6B Percent for Art Provisions*. In general these artworks are commissioned for private property however some artworks are installed on City owned or managed land. In the case of an artwork located on public property, the developer will be responsible for the maintenance of the artwork for the span of its life and this is managed by a Maintenance Agreement .

A cash in lieu payment will be spent in accordance with the Policy. The *Public Art Guidelines* should be read in conjunction with the *Percent for Art Step by Step Guidelines*.

4.3 Commissioned Public Artworks

Commissioned works may require involvement and consultation with the community. Depending on the subject or theme; the scale and size; and the location of the proposed artwork, a reference group or panel maybe formed to support the decision making process which would include key stakeholders. Public Artworks commissioned by the City will be guided by the *Public Artwork Guidelines*.

4.4 Public Urban Artworks

City commissioned or approved outdoor urban art or mural artworks are guided by the *Urban Art Policy* and *Urban Art Guidelines*.

4.5 Donations

Periodically community groups, private individuals and/or the corporate sector gift artwork for permanent display within the City. Donated artworks are accepted through a *Public Artwork Donation Agreement* between the donor and the City of Busselton.

4.6 Artwork on Loan (temporary acquisitions)

Periodically Artists, individuals or organisations will loan artworks to the City where the City curates, manages and controls an outdoor exhibition as part of a community celebration, festival or event. In this case, artwork on loan will be accepted through a *Public Artwork Loan Agreement* between the identity who is lending the artwork and the City of Busselton, unless already covered by a separate or existing loan agreement with the lender.

Artworks that are acquired by any means are entered to the Public Art Register.

5.0 CONSULTATION

Artworks commissioned and/or donated to the City of Busselton are site specific and will include consultation with key stakeholders. These stakeholders may include:

- residents or businesses located within viewing distance of the location;
- sponsors or donors;

- Councillors, project partners, community groups and organisers; and
- precinct stakeholders.

Consultation would consider the following selection criteria:

- themes of artwork that reflect the City's **principles outlined in this policy**;
- materials used and cost of maintenance plan;
- public safety;
- suitability in terms of
 - environment
 - culture
 - accessibility
 - point of interest and meeting place;
- location
 - integration with existing artworks that are nearby;
 - minimise impact on visual amenity of residential and business premises;
 - sculpture trails;
 - proximity to infrastructure such as pathways, parks and parking;
 - accessibility for maintenance works;
- passive surveillance.

Locations where public artworks may be sited include City-owned or managed properties in Busselton, Dunsborough, Yallingup, Vasse and other Locality precincts such as town centres and foreshores, in and adjacent to public buildings, parks, gardens and reserves, and Busselton Jetty.

6.0 MAINTENANCE

Unless an agreement exists between the City and an Artist, owner of an artwork, or a third party stipulates otherwise, any public artworks acquired by the City or located on City-controlled land will be the responsibility of the City. Accordingly, the City will informally inspect the condition of the artwork to carry out maintenance as required. A Maintenance Plan will be supplied by the Artist/s as part of the acquisition process and this will be submitted for inclusion as part of the City's Public Art Register.

The maintenance period for acquired artworks will be ten (10) years from the date of installation unless agreed otherwise. The maintenance plan will be implemented by the City's Engineering Works and Services Directorate.

A Condition Assessment and Valuation Report for insurance and maintenance purposes will be conducted by an Arts Valuation Consultant every three years to establish the historical, cultural and artistic significance of a public artwork. The Condition Assessment will recommend whether an artwork needs priority attention, conservation or remedial works or needs to be removed.

7.0 DEACCESSIONING

Deaccessioning is the process of decommissioning a public artwork that is deemed to be a risk to public safety and is considered to be beyond repair within a reasonable and acceptable budget.

Generally, an assessment of a public artwork on City owned/managed land will be undertaken through regular inspections and a valuation and condition assessment conducted every three (3) years, with recommendations informing the deaccessioning timeframe.

Regular informal inspections and recommendations occur by the City's Parks and Garden staff.

In the case of public artworks located on City-owned or managed property, the City may decide to remove an artwork at any time should it be deemed to be in an advanced state of disrepair or damage, the artwork is no longer considered suitable for the location, for relocation, or for other reasons such as safety.

In such cases, the City will consult with the Artist, where possible, prior to making a decision to remove and prepare a documented archival record of the artwork prior to its removal. The decommissioned artwork will be offered to the Artist for removal at their cost. In the case that an artist cannot be contacted, evidence of a reasonable attempt to find the artist will be recorded. The City will remove the public artwork at its cost if the Artist does not want it.

8.0 RESPONSIBILITIES

Community and Commercial Services Directorate

Acquisition, consultation, location, installation, valuation, condition assessments,
artist liaison

Engineering Works and Services Directorate

Location, installation, maintenance

Finance & Corporate Services Directorate

Asset Register, insurance

Planning Directorate

Development Contribution Policy : 6B Percent for Art Provisions

POLICY BACKGROUND

Policy Reference No:

Owner Unit: Community Services

Policy Adopted:

Review Frequency: As Required

HISTORY

Council Resolution	Date	Information

6.3 STANDING ORDERS LOCAL LAW

SUBJECT INDEX:	Local Laws
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Legal Officer - Briony McGinty
AUTHORISING OFFICER:	Director, Community and Commercial Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Local Law marked-up version ↓ Attachment B Local Law for gazettal ↓

PRÉCIS

Council previously resolved to authorise the preparation and advertising of the proposed *City of Busselton Standing Orders Local Law 2018 (Proposed Local Law)*. The purpose of this report is for Council to consider submissions received in relation to the Proposed Local Law and to consider whether to make the Proposed Local Law pursuant to Section 3.12 of the *Local Government Act 1995 (the Act)*.

It is recommended that Council resolve to make the Proposed Local Law.

BACKGROUND

Council resolved at its meeting on 11 October 2017:

That the Council:

- (1) *That the Council commences the law-making process, for the City of Busselton Standing Orders Local Law 2017, the purpose and effect of the local law being as follows:*

Purpose: The purpose of the proposed local law is to provide for the orderly conduct of the proceedings and business of the Council.

Effect: The effect of the proposed local law is that all Council meetings, committee meetings, and other meetings as described in the Act, shall be governed by the proposed local law unless otherwise provided in the Act, regulations or other written law.

- (2) *That the Council authorises the CEO to carry out the law-making procedure under section 3.12(3) of the Local Government Act, by –*
 - (i) *giving Statewide public notice and local public notice of the proposed local law; and*
 - (ii) *giving a copy of the proposed local law and public notice to the Minister for Local Government.*
- (3) *That the CEO, after the close of the public consultation period, submits a report to the Council on any submissions received on the proposed local law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.*

Pursuant to abovementioned Council Resolution the Proposed Local Law was published for public comment and a copy given to the Minister for Local Government. No public submissions, other than from the Western Australian Local Government Association (**WALGA**), have been received. The response from the Department of Local Government (**DLG**) and WALGA are discussed under the OFFICER COMMENT section of this report.

The advice and comments received from DLG and WALGA resulted in minor changes being made to the original version of the local law which was presented to Council at its 11 October 2017 meeting. These changes, which are discussed in more detail under the OFFICER COMMENT section of this report, do not cause the Proposed Local Law to be significantly different from what was originally proposed. Therefore, the Proposed Local Law is now referred back to Council to consider these minor changes and to resolve whether or not to make the Proposed Local Law.

STATUTORY ENVIRONMENT

Section 3.5 of the Act provides Council with the head of power for making a standing orders local law.

The procedure for making local laws is set out in section 3.12 of the Act and Regulation 3 of the *Local Government (Functions and General) Regulations 1996*. Under section 3.12(4) of the Act, Council is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was originally proposed. A decision to make a local law has to be supported by an absolute majority of Council.

If Council resolves to make the Proposed Local Law then the process required under section 3.12(5) and (6) of the Act needs to be carried out. Section 3.12(5) requires that the local law be published in the *Government Gazette* and a copy be provided to the Minister for Local Government. Section 3.12(6) requires that after the local law has been published in the *Government Gazette*, the City must give local public notice stating the title of the local law, summarising the purpose and effect of the local law and advising that copies of the local law may be inspected or obtained from the City offices.

In accordance with section 3.14 of the Act the local law will come into operation 14 days after publication in the *Government Gazette*.

RELEVANT PLANS AND POLICIES

The City has adopted a Code of Conduct to be observed by Council members in accordance with Section 5.103(1) of the Act.

The policy '005 - Meetings, Information Sessions and Decision-making Processes' sets out the guidelines for provision of information to Councillors and the Council and other matters relating to the various forums utilised.

FINANCIAL IMPLICATIONS

Costs associated with the advertising and gazettal of the Proposed Local Law will come from the Legal budget. These costs are unlikely to exceed \$2,000 and there are sufficient funds in the legal budget for this purpose. Making and implementing the Proposed Local Law should not have any other financial implications for the City.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

The proposal aligns with Key Goal Area 6 of the *City of Busselton Strategic Community Plan 2017* as follows:

6.1 Governance systems, processes and practices are responsible, ethical and transparent.

RISK ASSESSMENT

The proposed local law does not involve major departures from current practices and is therefore considered low risk.

CONSULTATION

The Proposed Local Law was advertised publicly in both local and state-wide newspapers for a minimum of 6 weeks in accordance with the requirements under section 3.12(3)(a) of the Act. No public submissions have been received, other than from WALGA, to be discussed under OFFICER COMMENT below.

In accordance with section 3.12(3)(b) of the Act a copy of the proposed local law was forwarded for consideration and comment to the Minister for Local Government. The DLG responded on behalf of its Minister and suggested various minor changes to the Proposed Local Law. Most of these changes, which are dealt with in more detail in the OFFICER COMMENT section of this report, have been implemented.

OFFICER COMMENT

Various minor changes have been made to the Proposed Local Law which can be seen in the marked-up version in Attachment 1. More substantive changes are discussed below.

Department of Local Government

The DLGC recommended changing the wording of certain clauses of the Proposed Local Law. These changes, which are aimed at avoiding potential ambiguity of certain terms and expressions used in the local law and ensuring consistency with current parliamentary requirements, have subsequently been made to the original version of the proposed local law. They include the following:

1. Clause 5.3 – Announcements without discussion

The Joint Standing Committee on Delegated Legislation (JSC) has occasionally raised issues with these kinds of clauses. As a general rule, the JSC is concerned with clauses which state that announcements are not to be the subject of any debate or discussion. If an important announcement is made, this restriction might hinder the Council's ability to deal with an important matter. Paragraph (c) has been amended as follows:

"not to be the subject of any discussion, unless the Council resolves otherwise".

2. "Objectionable"

The term 'objectionable' is used in clauses 8.16(3), 8.17(b) and 9.2(2)(b). The DLG considered the term potentially vague and suggested replacing 'objectionable' with 'insulting' to ensure it is precise as well as consistent with clause 8.9(2)(a)(i).

WALGA

WALGA provided comment to the City for consideration based on their experience in preparing the WALGA model local law.

1. **Clause 5.9 - Urgent Business**

WALGA considered the provisions relating to urgent business to be quite onerous compared to the WALGA model. However, it is considered the provisions are appropriate. If necessary, an appropriate resolution to suspend the standing orders can be made. Accordingly, the recommendation is to retain the clause in the Proposed Local Law.

2. **Clause 5.10 - Adoption by Exception Resolution**

WALGA also queried the effect of clause 5.10(5) which requires a member who wishes to move a motion different to a recommendation that would otherwise be within an adoption by exception resolution to comply with certain criteria. Whilst acknowledging the importance of having time to consider matters thoroughly, this clause was considered to potentially limit opportunities for elected members to participate in decision-making. Accordingly, the clause has been amended to a requirement that members “*should, as far as practicable*” rather than “*must*” comply with those criteria. In considering the amendment, a further provision has been included which ensures the CEO has the ability to comply with his requirements under section 5.41(b) of the Act regarding provision of information and advice to members.

Officer Changes

1. **Clause 5.8 – Motions of which previous notice has been given**

The current standing orders provide NOMs must be given with 21 days’ notice. The model requires only 7 days. The local law that originally went to Council recommended the City move to 7 days. However, there was concern amongst Councillors that the limited timeframe could be used by Councillors to issue NOMs when they were aware other Councillors with contrary views would be on leave. The version which was adopted for advertising provided for 21 days.

Further consideration has been given to the matter and, in line with the model, it is considered that those concerns need to be weighed against the ability for Councillors to be readily responsive to constituent needs. It is recommended that 10 clear days will allow a matter to be raised after a Council meeting and dealt with at the following meeting.

In terms of Section 3.13 of the Act if, during the procedure for making a proposed local law, Council decides to make a local law that would be significantly different to what it first proposed, the law making process has to be recommenced. It is considered that the abovementioned modifications to the original version of the Proposed Local Law will add clarity to the text of the proposed local law, ensure consistency with relevant legislation and avoid any concerns which parliament may have had with the wording of the original version. These modifications do not change the purpose, intent and effect of the original version of the Proposed Local Law. Therefore the Proposed Local Law is not considered to be significantly different from what was first proposed.

CONCLUSION

The Proposed Local Law incorporates improvements to the current local law based on the new WALGA model, other local governments which have recently updated their standing orders, and includes other changes deemed suitable specifically for the City of Busselton.

For these reasons it is recommended that the Council make the Proposed Local Law, as found in Attachment 2.

OPTIONS

In addition to the Officer's recommendations (as per Officer Recommendations 1, 2 and 3 below), the Council has the following alternative options regarding standing orders:

Option 1

Not to proceed with the local law-making process and rely on the current local law to regulate meeting procedures. However, certain provisions have been identified as in need of change, for example in relation to "En Bloc" resolutions, and it is recommended to update and improve the current local law for the reasons stated in the report.

Option 2

Council could choose to vary the provisions of the Proposed Local Law in any number of ways. If any changes are of a significant nature the amended proposed local law would need to be re-advertised.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Should Council resolve to make the Proposed Local Law it will need to be gazetted and will come into operation 14 days after publication. The timeframe for completion of the gazettal process is approximately thirty days from the date of the Council resolution.

OFFICER RECOMMENDATION**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council:

1. Resolves to make the *City of Busselton Standing Orders Local Law 2018* in accordance with section 3.12(4) of the *Local Government Act 1995*.
2. Authorises the Chief Executive Officer to carry out the processes required to make the *City of Busselton Standing Orders Local Law 2018* in accordance with section 3.12(5) and section 3.12(6) of the *Local Government Act 1995*.

City of Busselton

STANDING ORDERS LOCAL LAW 2017

Local Government Act 1995

City of Busselton

Standing Orders Local Law 2017

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Local Government Act 1995

City of Busselton

STANDING ORDERS LOCAL LAW 2017

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

Part 1 - Preliminary

1.1 Short title

This local law is the *City of Busselton Standing Orders Local Law 2017*.

1.2 Commencement

This local law will come into operation ~~on the 14th~~ **days** after the day on which it is published in the *Government Gazette*.

1.3 Application and intent

- (1) This local law provides rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.
- (2) All meetings are to be conducted in accordance with the Act, the Administration Regulations and this local law.
- (3) This local law is intended to result in—
 - (a) better decision-making by the Council and committees;
 - (b) the orderly conduct of meetings dealing with Council business;
 - (c) better understanding of the process of conducting meetings; and
 - (d) the more efficient and effective use of time at meetings.

1.4 Terms used

In this local law unless the context otherwise requires—

75% majority has the meaning given to it in the Act;

absolute majority has the meaning given to it in the Act;

Administration Regulations means the *Local Government (Administration) Regulations 1996*;

Act means the *Local Government Act 1995*;

CEO means the **C**hief **E**xecutive **O**fficer of the City;

City means the City of Busselton;

Code of Conduct means the City's code of conduct, applying to members and employees, as in force from time to time;

committee means a committee of the Council established under section 5.8 of the Act;

Council means the council of the City;

Deputy Mayor means the deputy mayor of the City;

employee means an employee of the City;

Mayor means the mayor of the City;

meeting means a meeting of the Council or a committee, as the context requires;

member means—

- (a) in relation to the Council, an elected member of the City;
- (b) in relation to a committee, a member of that committee;

Minister means the Minister responsible for administering the Act;

presiding member means—

- (a) in respect of the Council, the person presiding under section 5.6 of the Act; and
- (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

Rules of Conduct Regulations means the *Local Government (Rules of Conduct) Regulations 2007*;

simple majority means more than 50% of the members present and voting;

special majority has the meaning given to it in the Act;

substantive motion means an original motion or an original motion as amended, but does not include an amendment or a procedural motion; and

these standing orders means the provisions of this local law.

Note: unless otherwise defined in this local law, the terms used in this local law have the meaning given to them in the Act, the Administration Regulations and the Rules of Conduct Regulations (see section 44 of the Interpretation Act 1984).

1.5 Repeal

The *Shire of Busselton Standing Orders Local Law 2010*, published in the *Government Gazette* on 9 May 2011, is repealed.

Part 2 - Establishment and membership of committees

2.1 Establishment of committees

- (1) The establishment of committees is dealt with in the Act.

- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include—
- (a) the terms of reference of the committee;
 - (b) either—
 - (i) the names or titles of the members, employees and any other persons to be appointed to the committee; or
 - (ii) the number of members, officers and any other persons to be appointed to the committee and a provision that they be appointed under a separate resolution; and
 - (c) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

2.2 Types of committees

The types of committees are dealt with in the Act.

2.3 Delegation of some powers and duties to certain committees

The delegation of some powers and duties to certain committees is dealt with in the Act.

2.4 Limits on delegation of powers and duties to certain committees

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

2.5 Appointment of committee members

The appointment of committee members is dealt with in the Act.

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

2.7 Appointment of deputies

The appointment of a person to be a deputy of a member of a committee is dealt with in the Act.

2.8 Resignation of committee members

The resignation of committee members is dealt with in the Administration Regulations.

2.9 Register of delegations to committees

The register of delegations to committees is dealt with in the Act.

2.10 Committees to report

A committee—

- (a) is answerable to the Council;
- (b) is to report on its activities when, and to the extent, required by the Council; and
- (c) is to prepare and submit to the Council reports containing recommendations.

Part 3 - Calling and convening meetings

3.1 Ordinary and special Council meetings

- (1) Ordinary and special Council meetings are dealt with in the Act.
- (2) An ordinary meeting of the Council is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council may be held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

3.2 Calling Council meetings

The calling of Council meetings is dealt with in the Act.

3.3 Convening Council meetings

- (1) The convening of a Council meeting is dealt with in the Act.
- (2) Subject to subclause (3), the CEO is to give at least 72 hours notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council.
- (3) Where, in the opinion of the Mayor or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

3.4 Calling committee meetings

A meeting of a committee is to be held—

- (a) if called for in a verbal or written request to the CEO by the Mayor or the presiding member of the committee, advising the date and purpose of the proposed meeting;
- (b) if called for by at least one-third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) in accordance with a decision of the Council or the committee.

3.5 Public notice of meetings

Public notice of meetings is dealt with in the Administration Regulations.

Part 4 - Presiding member and quorum

Division 1 - Presiding member

4.1 Who presides

Who presides at a Council meeting is dealt with in the Act.

4.2 When the Deputy Mayor can act

When the Deputy Mayor can act is dealt with in the Act.

4.3 Who acts if no Mayor or Deputy Mayor

Who acts if there is no Mayor or Deputy Mayor is dealt with in the Act.

4.4 Election of presiding members of committees

The election of presiding members of committees is dealt with in the Act.

4.5 Election of deputy presiding members of committees

The election of deputy presiding members of committees is dealt with in the Act.

4.6 Functions of deputy presiding members

The functions of deputy presiding members are dealt with in the Act.

4.7 Who acts if no presiding member

Who acts if no presiding member is dealt with in the Act.

Division 2 - Quorum

4.8 Quorum for meetings

The quorum for meetings is dealt with in the Act.

4.9 Reduction of quorum for Council meetings

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

4.10 Reduction of quorum for committee meetings

The reduction of a quorum for committee meetings is dealt with in the Act.

4.11 Procedure where no quorum to begin a meeting

The procedure where there is no quorum to begin a meeting is dealt with in the Administration Regulations.

4.12 Procedure where quorum not present during a meeting

If, at any time during a meeting, a quorum is not present—

- (a) the presiding member is immediately to suspend the proceedings of the meeting for a period of up to 15 minutes;
- (b) if a quorum is not present at the expiry of the suspension period under paragraph (a), the presiding member may either adjourn the meeting to some future time or date or may extend the extension period for a further period of up to 30 minutes; and
- (c) if a quorum is not present at the expiry of the extended period of suspension under paragraph (b), the presiding member is to adjourn the meeting to a later time on the same day or to another day.

4.13 Names to be recorded

At any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum,

the names of the members then present are to be recorded in the minutes.

4.14 Adjourned meeting procedures

Where a meeting is adjourned for want of a quorum—

- (a) the names of members who have spoken on a matter that was interrupted by the adjournment are to be recorded in the minutes and clause 8.10 applies when the debate on the matter is resumed; and
- (b) the resumed meeting is to continue from the point at which it was adjourned, unless the presiding member or the meeting determines otherwise.

Part 5 - Business of a meeting

5.1 Business to be specified

- (1) With the exception of urgent business under clause 5.9, no business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) No business is to be transacted at a committee meeting other than that specified in the agenda, or in the notice of the meeting as the purpose of the meeting, without the approval of the presiding member or a decision of the committee.
- (4) Where a Council meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports at that ordinary meeting.

- (5) Where a committee meeting is adjourned to the next ordinary committee meeting, the business unresolved at the meeting that is adjourned is to be given precedence at that ordinary meeting.
- (6) Where a Council or committee meeting is adjourned to a meeting not described in subclause (4) or (5), no business is to be transacted at that later meeting other than that—
 - (a) specified in the notice of the meeting that is adjourned; and
 - (b) which remains unresolved.

5.2 Order of business

- (1) Unless otherwise decided by the presiding member or the Council, the order of business at any ordinary meeting of the Council is to be as follows—
 - 1. Declaration of opening/Acknowledgement of Country/Acknowledgement of visitors/Disclaimer
 - 2. Attendance
 - 2.1 Apologies
 - 2.2 Approved leave of absence
 - 3. Prayer
 - 4. ~~Applications for leave of absence~~
 - 5. Disclosure of interests
 - 6. Announcements by the presiding member (without discussion)
 - 7. Question time for public
 - 6.1 Response to previous questions taken on notice
 - 6.2 Question time for public
 - 8. Confirmation of minutes
 - 9. Receiving of petitions, presentations and deputations
 - 8.1 Petitions
 - 8.2 Presentations
 - 8.3 Deputations
 - 10. ~~Applications for leave of absence~~
 - 11. Questions by members of which due notice has been given (without discussion)
 - 12. Items brought forward for the convenience of those in the public gallery
 - 13. Reports of committee meetings
 - 14. Reports
 - 15. Motions of which previous notice has been given
 - 16. Urgent business
 - 17. Confidential matters
 - 18. Closure
- (2) Unless otherwise decided by the presiding member or the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the notice of, or agenda for, the meeting.

Note: in exercising its discretion relating to the order of business under subclause (1) and (2), a meeting must comply with the requirements of the Act and Administration Regulations relating to public question time (see clauses 6.3-6.6 below).
- (3) Despite subclauses (1) and (2), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriate to be decided, by that meeting.

~~5.3~~ Grant of leave of absence

~~The grant of leave of absence is dealt with in the Act.~~

~~5.45.3~~ Announcements without discussion

Announcements made by the presiding member at a Council meeting are—

- (a) to inform the Council of matters of importance to the Council;
- (b) to be brief and concise; and
- (c) not to be the subject of any discussion, unless the Council resolves otherwise.

5.4 Grant of leave of absence

The grant of leave of absence is dealt with in the Act.

5.5 Leave of absence

- (1) A member seeking the Council's approval to take leave of absence must give written notice to the CEO prior to the commencement of the meeting.
- (2) The notice referred to in subclause (1) must include the period of leave of absence required and the reasons for seeking the leave.

5.6 Questions on notice

- (1) A member who wishes to ask a question at a meeting of the Council on a matter that is not included in the agenda for that meeting is to give written notice of the specific question to the CEO at least ~~3~~three clear working days before the meeting of the Council.
- (2) The CEO may, after consultation with the member where this is practicable, and with the concurrence of the Mayor, make such amendments to the question so as to clarify the intent of the question and bring the question into due form.
- (3) If the question referred to in subclause (1) relates to a matter within the responsibility of the Council, and is respectful and temperate in its language, it must be tabled at the meeting at item 10 of the order of business as outlined in clause 5.2(1) and the answer is, as far as practicable, to be provided at that meeting of the Council.
- (4) Every question and answer is to be submitted as briefly and concisely as possible, and no discussion on the question or answer is permitted.

5.7 Items brought forward for the convenience of those in the public gallery

Any items on the agenda which are either the subject of a question by members of the public, or where requested by others in attendance, may, with the consent of the presiding member, be brought forward to item 11 of the order of business.

5.8 Motions of which previous notice has been given

- (1) Unless the Act, Administration Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a

motion, of which notice has been given in writing to the CEO and which has been included on the agenda.

- (2) A notice of motion under subclause (1) is to be given at least ~~24~~¹⁰ clear days before the meeting at which the motion is moved.
- (3) A notice of motion is to be accompanied by supporting reasons, must relate to the good government of the district and must be within the lawful responsibilities of the Council.
- (4) The CEO—
 - (a) with the concurrence of the Mayor, may exclude from the agenda any notice of motion deemed to be, or likely to involve, a breach of any of these standing orders or any other written law;
 - (b) is to inform members on each occasion that a notice has been excluded and the reasons for that exclusion; and
 - (c) may, after consultation with the member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form.

Note: under section 5.41(b) of the Act, the CEO may provide to members any information that he or she considers relevant to the notice of motion.

- (5) A motion of which notice has been given is to lapse unless—
 - (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on and the motion is seconded; or
 - (b) the Council or the committee on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lost, notice of a motion in the same terms or to the same effect must not be given again for at least 3 months from the date of such loss, unless supported by an absolute majority of members in writing.

5.9 Urgent business

- (1) A member may move a motion to consider an item of urgent business that is not included in the agenda for that meeting provided that—
 - (a) the presiding member has first consented to the business being raised;
 - (b) the presiding member considers that either—
 - (i) the urgency of the business is such that the business cannot await inclusion in the agenda for the next meeting of the Council; or
 - (ii) the delay in referring the business to the next meeting of the Council could have adverse legal, reputational or financial implications for the local government; and

- (c) other than a motion to revoke a decision, the item of urgent business is presented in the form of a report generated by an employee, a copy of which is to be provided to members prior to the commencement of the meeting.

- (2) Where the Council agrees to consider such item of urgent business, then it is to be dealt with at item 15 of the order of business as outlined in clause 5.2(1).

5.10 Adoption by exception resolution

- (1) In this clause **adoption by exception resolution** means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the committee or employee recommendation as the Council resolution.

- (2) The Council may pass an adoption by exception resolution.

- (3) An adoption by exception resolution may not be used for a matter—

- (a) that requires a 75% majority or a special majority;
- (b) in which an interest has been disclosed;
- (c) that is a matter on which a member wishes to ask a question;
- (d) that is a matter on which a member wishes to make a statement; or
- (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.

- (4) A member who wishes to ask a question or make a statement in relation to a matter that would otherwise be within an adoption by exception motion should, as far as practicable, notify the CEO by 3pm on the day before the meeting.

- (5) A member who wishes to move a motion that is different to the recommendation in a matter that would otherwise be within an adoption by exception resolution should, as far as practicable, must give notice of the motion that –

- (a) is in writing;
- (b) identifies the matter and gives the reason or reasons for the motion; and

(c) is given to the CEO by 3pm on the day before the meeting.

- (e) (6) Where a member intends to move a motion referred to in sub-clause (5), the CEO must be given an opportunity to provide advice to the Council prior to consideration of the motion, accordance with section 5.41 (b) of the Local Government Act.

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Part 6 - Public participation

6.1 Meetings generally open to the public

Meetings being generally open to the public is dealt with in the Act.

6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close to members of the public a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
 - (a) the presiding member is to direct everyone to leave the meeting except -
 - (i) the members;
 - (ii) any employee of the City unless specified in a resolution; and
 - (iii) any other person specified in a resolution; and
 - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.10 is to be suspended unless the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice of the relevant motion.
- (7) Once the meeting is reopened to members of the public, the presiding member is to ensure that, if any member of the public returns to the meeting, any resolution made while the meeting was closed is to be read out or summarised, including the details of any voting recorded.

6.3 Question time for the public

Question time for the public is dealt with in the Act.

6.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in the Administration Regulations.

6.5 Minimum question time for the public

Minimum question time for the public is dealt with in the Administration Regulations.

6.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in the Administration Regulations.

6.7 Other procedures for question time for the public

- (1) A member of the public who wishes to ask a question during question time must first state his or her name and address.
- (2) A question may be taken on notice for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
 - (a) a response is given to the member of the public in writing prior to the next meeting; and
 - (b) a summary of the response is presented to, and recorded in the minutes of, the next meeting.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person may -
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.
- (5) Each member of the public with one or more questions is to be given an equal and fair opportunity, to be determined by the presiding member, to ask the question or questions.
- (6) The presiding member may decide that a question is not to be responded to where—
 - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
 - (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the statement as a question;
 - (c) the member of the public asks a question that is offensive or defamatory in nature or is one which, if asked by a member, would be in breach of these standing orders or any other law; and
 - (d) the presiding member is of the view that the question or questions have already been answered or the matter adequately dealt with.

6.8 Distinguished visitors

If a distinguished visitor is present at a meeting of the Council or a committee, the presiding member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor is to be recorded in the minutes.

6.9 Petitions

- (1) A petition, in order to be considered by the Council, is to—
 - (a) be addressed to the Mayor;
 - (b) be made by electors of the district;

- (c) state the request on each page of the petition;
 - (d) contain the name, address and signature of each elector making the request;
 - (e) contain a summary of the reasons for the request;
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given; and
 - (g) be respectful and temperate in its language.
- (2) Despite subclause (1), the presiding member may allow a petition to be considered in circumstances where the petition complies with the majority of the requirements in subclause (1).
- (3) In response to a petition presented to it, the Council may determine—
 - (a) that the petition be received;
 - (b) that the petition be rejected;
 - (c) that the petition be received and referred to the CEO to prepare a report to the Council or a committee; or
 - (d) that the petition be received and referred to the CEO for action.
- (4) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless—
 - (a) the matter is the subject of a report included in the agenda; and
 - (b) the Council has considered the issues raised in the petition.

6.10 Presentations by parties with an interest

- (1) Once an agenda of a meeting of the Council has been issued, parties with a demonstrable interest in any item listed on the agenda for discussion may seek to present to the Council at the time during the meeting allocated for this purpose.
- (2) A person must demonstrate that they are a party with an interest in an item on the agenda by stating their name, the item to which they wish to speak, whether or not they are in agreement with the recommendation in the agenda and they are—
 - (a) the applicant or one duly authorised representative of the applicant;
 - (b) an adjoining neighbour sharing a common length of boundary or directly opposite neighbour of the affected property;
 - (c) one person duly representing a community-based organisation where an item on the agenda has broad community impact and is associated with the objectives of the organisation; or
 - (d) such other person as in the opinion of the presiding member has a significant direct interest or is duly representing those that have a significant direct interest in the item.

- (3) A person addressing the Council on an agenda item will be limited to a period of 5 minutes unless the person is granted an extension by the presiding member.
- (4) Where multiple parties wish to present on an item, the applicant (or their duly authorised representative) is to be given the opportunity to give the final presentation on the item.
- (5) Members may, through the presiding member, question a person addressing the Council on the item but no debate or general discussion will be permitted.

6.11 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council is to either—
 - (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the presiding member, at the meeting, address the Council.
- (2) The CEO may either—
 - (a) approve the request and invite the deputation to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the Council resolves otherwise, a deputation invited to attend a Council meeting—
 - (a) is not to exceed 5 people, only 2 of whom may address the Council although others may respond to specific questions from members;
 - (b) is not to address the Council for a period exceeding 10 minutes without the agreement of the Council; and
 - (c) may seek leave of the presiding member for additional members of the deputation to be allowed to speak.
- (4) Any matter which relates to an item on the agenda and which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

6.12 Participation at committee meetings

- (1) In this clause a reference to a *person* is to a person who—
 - (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.
- (2) A member may attend, as an observer, any meeting of a committee of which he or she is not a member or the deputy of a member, but is to sit in an area set aside by the CEO for observers separated from the committee members.
- (3) Without the consent of the presiding member, a person must not address a committee meeting.

- (4) The presiding member of a committee may allow a person to make an oral address to the committee for up to 5 minutes.
- (5) A person addressing the committee with the consent of the presiding member must cease that address immediately after being directed to do so by the presiding member.
- (6) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the committee meeting.

6.13 Confidentiality of information withheld

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Administration Regulations is to be -
 - (a) identified in the agenda of a Council or committee meeting under the item "Confidential matters", along with the reason for the confidentiality as dealt with in the Act; and
 - (b) kept confidential by employees and members until, in the opinion of the CEO, or the Council or the committee (as the case may be), the reason for confidentiality ceases to exist.
- (2) A member or an employee in receipt of confidential information under subclause (1), or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public, must not disclose any of that information to any person other than another member or an employee to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not apply where a member or employee discloses the information to a legal practitioner or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities, or where disclosure is required or permitted by law.

6.14 Recording of proceedings

- (1) A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of a meeting without the permission of the presiding member.
- (2) If the presiding member gives permission under subclause (1), the presiding member must advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.
- (3) Subclause (1) does not apply if the recording is taken by or at the direction of the CEO for the purpose of taking minutes.
- (4) In the case of a recording taken under subclause (3), the CEO must advise the meeting, immediately before the recording is commenced, that the meeting is being recorded for the purpose of taking minutes.

6.15 Prevention of disturbance

- (1) A reference in this clause to a *person* is to a person other than a member.

- (2) A person addressing a meeting must extend due courtesy and respect to the Council or the committee and the processes under which it operates and must comply with any direction by the presiding member.
- (3) A person present at or observing a meeting must not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person must ensure that his or her mobile telephone, pager or other audible device is not switched on or used during any meeting.
- (5) The presiding member may warn a person who fails to comply with this clause.
- (6) If—
 - (a) after being warned, the person again acts contrary to this clause, or to any of these standing orders; or
 - (b) a person refuses or fails to comply with a direction by the presiding member,the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.
- (7) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding member, be removed from the meeting room and, if the presiding member orders, from the premises.

Part 7 - Questions during debate

7.1 Questions during debate

- (1) At any time during debate on a motion prior to the mover of the motion commencing the right of reply, a member may ask a question in relation to the motion and, with the consent of the presiding member, may ask one or more further questions.
- (2) Where possible the CEO or the CEO's nominee is to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the respondent may ask that—
 - (a) the question is taken on notice; and
 - (b) the answer to the question is given to the members as soon as practicable.
- (3) Every question and answer—
 - (a) is to be brief and concise; and
 - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (4) In answering any question, a respondent may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting, correct, add to or otherwise amend the original answer.

Part 8 - Conduct of members

8.1 Members to be in their proper places at Council meetings

- (1) At the first meeting held after each election day, each member is to be allocated a position at the Council table by a ballot conducted by the CEO after considering requests for a specific allocation for special circumstances.
- (2) Each member is to occupy his or her allotted position at each Council meeting.

8.2 Respect to the presiding member

After the business of a meeting has commenced, a member must not enter or leave the meeting without first paying due respect to the presiding member.

8.3 Titles to be used

A speaker, when referring to the Mayor, Deputy Mayor or presiding member, or a member or employee, must use the title of that person's office.

8.4 Entering or leaving a meeting

During the course of a meeting, a member must not enter or leave the meeting without first giving an appropriate indication, in order to facilitate the recording in the minutes of the time of entry or departure.

8.5 Members to indicate their intention to speak

A member who wishes to speak at a meeting must indicate his or her intention to speak by raising his or her hand or by another method agreed by the presiding member.

8.6 Members to rise

A member, other than the presiding member, asking a question or taking part in discussion or a debate at a meeting must stand, except when prevented from doing so by sickness or infirmity.

8.7 Priority of speaking

- (1) Where ~~two~~ or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.
- (2) A decision of the presiding member under subclause (1) is not open to discussion or dissent.
- (3) A member must cease speaking immediately after being asked to do so by the presiding member.

8.8 Presiding member may take part in debates

The presiding member may take part in a discussion of any matter before the meeting, subject to compliance with this local law.

8.9 Relevance

- (1) A member must restrict his or her remarks to the motion under discussion, or to a personal explanation or point of order.

- (2) The presiding member, at any time, may—
 - (a) call the attention of the meeting to—
 - (i) any irrelevant, repetitious, offensive or insulting language by a member;
or
 - (ii) any breach of order by a member; and
 - (b) direct that member, if speaking, to discontinue his or her speech.
- (3) A member must comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

8.10 Speaking twice

- (1) A member must not address the meeting more than once on any motion or amendment except—
 - (a) as the mover of a substantive motion or an amendment, to exercise a right of reply;
 - (b) to raise a point of order; or
 - (c) to make a personal explanation.
- (2) A member who asks a question, or who makes a request or responds to a request under clause 10.7, has not addressed the meeting for the purpose of this clause.
- (3) This clause does not apply to a committee meeting unless the committee by resolution decides that it is to apply to the meeting or a part of the meeting.

8.11 Duration of speeches

- (1) A member must not speak on any matter for more than ~~5~~five minutes without the consent of the members which, if given, is to be given without debate.
- (2) An extension under this clause cannot be given to allow a member's total speaking time to exceed ~~ten~~10 minutes.

8.12 No speaking after conclusion of debate

A member must not speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the motion or amendment has been put.

8.13 No interruption

A member must not interrupt another member who is speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.14; or

- (d) to move a procedural motion that the member be no longer heard.

8.14 Personal explanations

- (1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.
- (2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.
- (3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

8.15 No reopening of discussion

A member must not reopen discussion on any decision, except to move that the decision be revoked or changed (see Part 16~~5~~).

8.16 Adverse reflection

- (1) A member must not reflect adversely on a decision of the Council or committee except on a motion that the decision be revoked or changed (see Part 16).
- (2) A member must not—
 - (a) reflect adversely on the character or actions of another member or employee; or
 - (b) impute any motive to a member or employee,unless the meeting resolves, without debate, that the matter then before the meeting cannot otherwise be adequately considered.
- (3) A member must not use offensive or ~~objectionable-insulting~~ expressions in reference to any member, employee or other person.
- (4) If a member or CEO specifically requests, immediately after their use, that any particular words used by a member that are in breach of this clause be recorded in the minutes, the member making the request is to provide the words to the meeting for verification and the presiding member is to cause the words used to be taken down and recorded in the minutes.

8.17 Withdrawal of offensive language

A member who, in the opinion of the presiding member, uses an expression which—

- (a) in the absence of a resolution under clause 8.16(2)—
 - (i) reflects adversely on the character or actions of another member or an employee; or
 - (ii) imputes any motive to another member or an employee; or
- (b) is offensive or ~~insulting~~~~objectionable~~,

must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.

Part 9 - Preserving order

9.1 Presiding member to preserve order

- (1) The presiding member is to preserve order, and, whenever he or she considers necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, must immediately sit down and every member present must preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.8, but to preserve order.

9.2 Point of order

- (1) A member may at any time, draw the attention of the presiding member (including as an objection, by way of a point of order), to a breach of—
 - (a) any of these standing orders; or
 - (b) any other written law.
- (2) Examples of valid points of order are –
 - (a) a speaker's remarks not being relevant to the motion being debated (see clause 8.9); and
 - (b) a speaker's use of offensive or ~~insulting~~objectionable expressions (see clause 8.16(3)).
- (3) Despite anything in this local law to the contrary, a point of order—
 - (a) takes precedence over any discussion; and
 - (b) until determined, suspends the consideration or discussion of any other matter.

9.3 Procedures on a point of order

- (1) A member who is addressing the presiding member must not be interrupted except on a point of order.
- (2) A member interrupted on a point of order must cease speaking and resume his or her seat until—
 - (a) the member raising the point of order has been heard; and
 - (b) the presiding member has ruled on the point of order,and, if permitted, the member who has been interrupted may then proceed.

9.4 Ruling by the presiding member

- (1) The presiding member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the presiding member on a point of order—
 - (a) is not to be the subject of debate or comment; and
 - (b) is to be final unless the majority of members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the presiding member rules that—
 - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
 - (b) a statement made or act done by a member is out of order, the presiding member may direct the member to make an explanation, retraction or apology.

9.5 Continued breach of order

If a member—

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to comply with a direction from the presiding member (such as a direction under clause 8.9(2)(b) or 9.4(3)(b)),

the presiding member may direct the member to refrain from taking any further part in the debate on the matter then before the meeting, other than by voting, and the member must comply with that direction.

9.6 Right of presiding member to adjourn

- (1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

Part 10 - Debate of substantive motions

10.1 Motions to be stated and in writing

A member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it; and
- (b) is to put the motion or amendment in writing if he or she is required to do so by the presiding member.

10.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council or committee meeting is not open to debate unless the motion has the support required under regulation 10 of the Administration Regulations.

10.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting if any member opposes it.
- (2) If no member opposes the motion, the presiding member may immediately proceed to put the matter to the vote.

10.4 Only one substantive motion at a time

The presiding member is not to accept a substantive motion while another substantive motion is being debated.

10.5 Complex motions

The presiding member may require that a complex substantive motion, or a complex amendment to a substantive motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

10.6 Order of call in debate

- (1) The presiding member is to call speakers to a substantive motion in the following order—
 - (a) the mover to state the motion;
 - (b) a seconder to the motion;
 - (c) the mover to speak to the motion;
 - (d) the seconder to speak to the motion;
 - (e) a speaker against the motion;
 - (f) a speaker for the motion;
 - (g) other speakers against and for the motion, alternating where possible; and
 - (h) mover takes right of reply which closes debate.
- (2) When called on to speak, the seconder to a motion may elect to reserve that right and speak to the motion at a later time when a speaker for the motion is called.

10.7 Member may require motion or amendment to be read

A member may require the motion or amendment or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

10.8 Consent of seconder required for alteration

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

10.9 Number and order of amendments

- (1) No more than three amendments may be proposed to a substantive motion unless the presiding member determines that further amendments are to be permitted.
- (2) Where an amendment is moved to a substantive motion, a second or subsequent amendment is not to be moved or considered until the first amendment has been withdrawn, carried or lost.
- (3) An amendment may be proposed to a substantive motion either in its original terms or as subsequently amended.

10.10 When amendment may be moved

A member may move an amendment to a motion during the debate on the motion, except—

- (a) when the mover has been called by the presiding member to exercise the right of reply; or
- (b) during debate on a procedural motion.

10.11 Form of an amendment

An amendment must add, delete, or substitute words to the substantive motion.

10.12 Amendment must not negate original motion

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

10.13 Relevance of amendments

Each amendment must be relevant to the motion in respect of which it is moved.

10.14 Mover of motion may speak on amendment

Any member, including the mover of a motion, may speak during debate on an amendment.

10.15 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and a further amendment may be moved, subject to the limitation on the number of amendments in clause 10.9.

10.16 Withdrawal of motion or amendment

- (1) Subject to subclause (2), the Council or a committee may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.

- (2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

10.17 Right of reply

- (1) The mover of a substantive motion has the right of reply.
- (2) The right of reply under subclause (1) may be exercised only—
 - (a) where no amendment is moved to the substantive motion—at the conclusion of the discussion on the motion; or
 - (b) where one or more amendments have been moved to the substantive motion—at the conclusion of the discussion on the substantive motion and any amendments.
- (3) The mover of an amendment to a substantive motion has the right of reply in relation to that amendment.
- (4) The right of reply under subclause (3) may be exercised only at the conclusion of the discussion on that amendment.
- (5) After the mover of the substantive motion has commenced the reply—
 - (a) no other member is to speak on the motion;
 - (b) there is to be no further discussion on, question about or any further amendment to, the motion.
- (6) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (7) At the conclusion of the right of reply under subclause (2), the substantive motion, or the substantive motion as amended, is immediately to be put to the vote, subject to any requirement to read the motion under clause 10.7 before the vote.

10.18 Foreshadowing alternative motions

- (1) In this clause, *Alternative Motion* means an alternative substantive motion that negates the terms and intent of a substantive motion that is being considered, or is to be considered, by the Council.
- (2) A member who wishes the Council to consider an Alternative Motion, the member must foreshadow the Alternative Motion before the right of reply in respect of the substantive motion has commenced.
- (3) If the substantive motion is lost, the presiding member must call on the member who foreshadowed the Alternative Motion to move the Alternative Motion.
- (4) Once moved and seconded, the foreshadowed Alternative Motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other substantive motion.
- (5) If more than one foreshadowed Alternative Motion is proposed for any item before the Council, the presiding member must deal with them in the order in which they were foreshadowed.

- (6) Where a member has identified an item for exclusion from the adoption by exception resolution under clause 5.10(5), and includes a motion that is different to the employee recommendation, that motion is taken to be a foreshadowed Alternative Motion and is to be the substantive motion that is first considered by the Council.
- (7) Where a member has identified an item for exclusion from the adoption by exception resolution under clause 5.10(5), and includes a motion that is different to the committee recommendation, that motion is taken to be a foreshadowed Alternative Motion and members are first to be given the option to debate the committee recommendation.

Part 11 - Procedural motions

11.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion (under Part 10), a member may move the following procedural motions—

- (a) that the item be referred or adjourned to a Council or a committee meeting;
- (b) that the meeting now adjourn;
- (c) that the motion be now put;
- (d) that the ruling of the presiding member be disagreed with;
- (e) that the member be no longer heard;
- (f) that the meeting be closed to the public (see clause 6.2).

11.2 No debate

- (1) A procedural motion is not open to debate until it has been seconded.
- (2) The mover of a motion specified in paragraph (a), (b), (d) or (f) of clause 11.1 may speak to the motion for not more than 5 minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (3) The mover of a motion specified in paragraph (c) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

11.3 Who may move

A member who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, cannot move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

11.4 Procedural motions—right of reply on substantive motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

11.5 Item to be referred or adjourned

- (1) A motion “that the item be referred or adjourned”—

- (a) is, in the case of a referral, to state the Council or committee meeting to which the item is to be referred and the time of that meeting (and the reasons for the motion);
 - (b) is, in the case of an adjournment, to state the time to which the debate on the item is to be adjourned (and the reasons for the motion); and
 - (c) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but is to continue at the meeting, and at the time, stated in the motion.
- (2) If a motion “that the item be adjourned” is carried at a meeting—
 - (a) the name of each member who has spoken on the item before the adjournment is to be recorded in the minutes; and
 - (b) clause 8.10 is to apply when the debate on the item is resumed.

11.6 Meeting now adjourn

- (1) A member is not to move or second more than one motion of adjournment during the same meeting.
- (2) Before putting the motion for the adjournment, the presiding member may seek leave of the meeting to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.6).
- (3) A motion “that the meeting now adjourn”—
 - (a) is to state the time and date to which the meeting is to be adjourned; and
 - (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.
- (4) The Council or a committee may adjourn any meeting—
 - (a) to a later time on the same day; or
 - (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.
- (5) A meeting adjourned under subclause (3) —
 - (a) is to continue from the point at which it was adjourned, unless the presiding member or the meeting determines otherwise; and
 - (b) in case of a Council meeting —
 - (i) the name of each member who has spoken on any item that is adjourned is to be recorded in the minutes; and
 - (ii) clause 8.10 is to apply when the debate on that item is resumed.

11.7 Motion to be put

- (1) If the motion “that the motion be now put”, is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion “that the motion be now put” is carried during discussion of an amendment, the presiding member is to offer the right of reply in relation to the amendment and then put the amendment to the vote without further debate.
- (3) If the motion “that the motion be now put” is lost, the debate is to continue.

11.8 Member to be no longer heard

If the motion “that the member be no longer heard” is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion or amendment.

11.9 Ruling of the presiding member to be disagreed with

If the motion “that the ruling of the presiding member be disagreed with” is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

Part 12 - Disclosure of interests

12.1 Disclosure of interests

The requirements for members and employees to disclose financial and other interests, the nature of the interests that must be disclosed, and related matters are dealt with in the Act, the Administration Regulations, the Rules of Conduct Regulations and the Code of Conduct.

12.2 Separation of committee recommendations

Where, at a committee meeting -

- (a) a member discloses a financial interest in a matter; and
- (b) the matter is included in the recommendations (or part of the recommendations) of the committee to a Council or committee meeting that will or may be attended by the member,

the agenda of that Council or committee meeting is to separate the relevant recommendation (or the relevant part of the recommendation) from other recommendations of the committee.

Note: the purpose of this clause is to enable the member to declare the interest and leave the room before the consideration of the matter in which he or she has the interest.

Part 13 - Voting

13.1 Motion—when put

- (1) Immediately after the debate on any motion is concluded and the right of reply has been exercised, the presiding member—
 - (a) is to put the motion to the meeting; and

(b) if requested by any member, is to again state the terms of the motion.

(2) A member is not to leave the meeting when the presiding member is putting any motion.

13.2 Voting

Voting is dealt with in the Act and the Administration Regulations.

13.3 Majorities required for decisions

The majorities required for decisions of the Council and committees are dealt with in the Act.

13.4 Method of taking vote

(1) In taking the vote on any motion the presiding member—

(a) is to put the motion, first in the affirmative, and then in the negative;

(b) may put the motion in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;

(c) is to count and determine the votes of members in any way (such as electronically or by a show of hands) that enables a record to be taken of each member's vote; and

(d) subject to this clause, is to declare the result.

(2) The CEO is ensure that the minutes record whether or not the motion is carried unanimously, and if the motion is not carried unanimously—

(a) the name of each member who voted; and

(b) whether he or she voted in the affirmative or negative.

Part 14 - Minutes of meetings

14.1 Keeping of minutes

The keeping and confirmation of minutes are dealt with in the Act.

14.2 Content of minutes

The content of minutes is dealt with in the Administration Regulations.

14.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in the Administration Regulations.

14.4 Confirmation of minutes

(1) If a member is dissatisfied with the accuracy of the draft minutes, he or she is to provide to the CEO a written copy of the alternative wording to amend the draft minutes no later than 3 clear business days before the meeting where the minutes are to be confirmed.

- (2) At that meeting, during the item dealing with the confirmation of minutes, the member who provided the alternative wording—
- (a) is to state the item or items with which he or she is dissatisfied; and
 - (b) is to propose a motion clearly outlining the alternative wording to amend the minutes.

Part 15 - Revoking or changing decisions

15.1 Requirements to revoke or change decisions

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Administration Regulations.

Part 16 - Suspension of standing orders

16.1 Suspension of standing orders

- (1) A member may at any time move that the operation of one or more of these standing orders be suspended.
- (2) A motion under subclause (1) which is seconded and carried is to suspend the operation of the standing order or orders to which the motion relates for the duration of the meeting or such other part of the meeting specified in the motion, unless the meeting earlier resolves otherwise.

16.2 Where standing orders do not apply

- (1) In situations where—
 - (a) one or more of these standing orders have been suspended; or
 - (b) a matter is not regulated by the Act, the Administration Regulations or this local law, the presiding member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause ~~11.74-79~~.

Part 17 - Meetings of electors

17.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

17.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in the Administration Regulations.

17.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

17.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Administration Regulations.

17.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

17.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

17.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in the Act and the Administration Regulations.
- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.

17.8 Participation of non-electors

A person who is not an elector of the City must not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

Note: A person who is not an elector of the City cannot vote at an electors' meeting (see clause 18.9).

17.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in the Administration Regulations.

17.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in the Act.

17.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in the Act.

Part 18 - Enforcement

18.1 Penalty for breach

A person who breaches a provision of this local law commits an offence. Penalty—\$5,000.00 and a daily penalty of \$500.00.

18.2 Who can prosecute

Who can prosecute is dealt with in the Act.

Dated: **[add date]** 2017.

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

GRANT DOUGLAS
HENLEY , Mayor.

MICHAEL S. L. ARCHER,
Chief Executive Officer.

City of Busselton

STANDING ORDERS LOCAL LAW 2017

Local Government Act 1995

City of Busselton

Standing Orders Local Law 2017

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Local Government Act 1995

City of Busselton

STANDING ORDERS LOCAL LAW 2017

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

Part 1 - Preliminary

1.1 Short title

This local law is the *City of Busselton Standing Orders Local Law 2017*.

1.2 Commencement

This local law will come into operation 14 days after the day on which it is published in the *Government Gazette*.

1.3 Application and intent

- (1) This local law provides rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.
- (2) All meetings are to be conducted in accordance with the Act, the Administration Regulations and this local law.
- (3) This local law is intended to result in—
 - (a) better decision-making by the Council and committees;
 - (b) the orderly conduct of meetings dealing with Council business;
 - (c) better understanding of the process of conducting meetings; and
 - (d) the more efficient and effective use of time at meetings.

1.4 Terms used

In this local law unless the context otherwise requires—

75% majority has the meaning given to it in the Act;

absolute majority has the meaning given to it in the Act;

Administration Regulations means the *Local Government (Administration) Regulations 1996*;

Act means the *Local Government Act 1995*;

CEO means the Chief Executive Officer of the City;

City means the City of Busselton;

Code of Conduct means the City's code of conduct, applying to members and employees, as in force from time to time;

committee means a committee of the Council established under section 5.8 of the Act;

Council means the council of the City;

Deputy Mayor means the deputy mayor of the City;

employee means an employee of the City;

Mayor means the mayor of the City;

meeting means a meeting of the Council or a committee, as the context requires;

member means—

(a) in relation to the Council, an elected member of the City;

(b) in relation to a committee, a member of that committee;

Minister means the Minister responsible for administering the Act;

presiding member means—

(a) in respect of the Council, the person presiding under section 5.6 of the Act; and

(b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

Rules of Conduct Regulations means the *Local Government (Rules of Conduct) Regulations 2007*;

simple majority means more than 50% of the members present and voting;

special majority has the meaning given to it in the Act;

substantive motion means an original motion or an original motion as amended, but does not include an amendment or a procedural motion; and

these standing orders means the provisions of this local law.

1.5 Repeal

The *Shire of Busselton Standing Orders Local Law 2010*, published in the *Government Gazette* on 9 May 2011, is repealed.

Part 2 - Establishment and membership of committees

2.1 Establishment of committees

(1) The establishment of committees is dealt with in the Act.

(2) A Council resolution to establish a committee under section 5.8 of the Act is to include—

- (a) the terms of reference of the committee;
- (b) either—
 - (i) the names or titles of the members, employees and any other persons to be appointed to the committee; or
 - (ii) the number of members, officers and any other persons to be appointed to the committee and a provision that they be appointed under a separate resolution; and
- (c) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

2.2 Types of committees

The types of committees are dealt with in the Act.

2.3 Delegation of some powers and duties to certain committees

The delegation of some powers and duties to certain committees is dealt with in the Act.

2.4 Limits on delegation of powers and duties to certain committees

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

2.5 Appointment of committee members

The appointment of committee members is dealt with in the Act.

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

2.7 Appointment of deputies

The appointment of a person to be a deputy of a member of a committee is dealt with in the Act.

2.8 Resignation of committee members

The resignation of committee members is dealt with in the Administration Regulations.

2.9 Register of delegations to committees

The register of delegations to committees is dealt with in the Act.

2.10 Committees to report

A committee—

- (a) is answerable to the Council;
- (b) is to report on its activities when, and to the extent, required by the Council; and

- (c) is to prepare and submit to the Council reports containing recommendations.

Part 3 - Calling and convening meetings

3.1 Ordinary and special Council meetings

- (1) Ordinary and special Council meetings are dealt with in the Act.
- (2) An ordinary meeting of the Council is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council may be held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

3.2 Calling Council meetings

The calling of Council meetings is dealt with in the Act.

3.3 Convening Council meetings

- (1) The convening of a Council meeting is dealt with in the Act.
- (2) Subject to subclause (3), the CEO is to give at least 72 hours notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council.
- (3) Where, in the opinion of the Mayor or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

3.4 Calling committee meetings

A meeting of a committee is to be held—

- (a) if called for in a verbal or written request to the CEO by the Mayor or the presiding member of the committee, advising the date and purpose of the proposed meeting;
- (b) if called for by at least one-third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) in accordance with a decision of the Council or the committee.

3.5 Public notice of meetings

Public notice of meetings is dealt with in the Administration Regulations.

Part 4 - Presiding member and quorum

Division 1 - Presiding member

4.1 Who presides

Who presides at a Council meeting is dealt with in the Act.

4.2 When the Deputy Mayor can act

When the Deputy Mayor can act is dealt with in the Act.

4.3 Who acts if no Mayor or Deputy Mayor

Who acts if there is no Mayor or Deputy Mayor is dealt with in the Act.

4.4 Election of presiding members of committees

The election of presiding members of committees is dealt with in the Act.

4.5 Election of deputy presiding members of committees

The election of deputy presiding members of committees is dealt with in the Act.

4.6 Functions of deputy presiding members

The functions of deputy presiding members are dealt with in the Act.

4.7 Who acts if no presiding member

Who acts if no presiding member is dealt with in the Act.

Division 2 - Quorum

4.8 Quorum for meetings

The quorum for meetings is dealt with in the Act.

4.9 Reduction of quorum for Council meetings

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

4.10 Reduction of quorum for committee meetings

The reduction of a quorum for committee meetings is dealt with in the Act.

4.11 Procedure where no quorum to begin a meeting

The procedure where there is no quorum to begin a meeting is dealt with in the Administration Regulations.

4.12 Procedure where quorum not present during a meeting

If, at any time during a meeting, a quorum is not present—

- (a) the presiding member is immediately to suspend the proceedings of the meeting for a period of up to 15 minutes;
- (b) if a quorum is not present at the expiry of the suspension period under paragraph (a), the presiding member may either adjourn the meeting to some future time or

date or may extend the extension period for a further period of up to 30 minutes;
and

- (c) if a quorum is not present at the expiry of the extended period of suspension under paragraph (b), the presiding member is to adjourn the meeting to a later time on the same day or to another day.

4.13 Names to be recorded

At any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum,

the names of the members then present are to be recorded in the minutes.

4.14 Adjourned meeting procedures

Where a meeting is adjourned for want of a quorum—

- (a) the names of members who have spoken on a matter that was interrupted by the adjournment are to be recorded in the minutes and clause 8.10 applies when the debate on the matter is resumed; and
- (b) the resumed meeting is to continue from the point at which it was adjourned, unless the presiding member or the meeting determines otherwise.

Part 5 - Business of a meeting

5.1 Business to be specified

- (1) With the exception of urgent business under clause 5.9, no business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) No business is to be transacted at a committee meeting other than that specified in the agenda, or in the notice of the meeting as the purpose of the meeting, without the approval of the presiding member or a decision of the committee.
- (4) Where a Council meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports at that ordinary meeting.
- (5) Where a committee meeting is adjourned to the next ordinary committee meeting, the business unresolved at the meeting that is adjourned is to be given precedence at that ordinary meeting.
- (6) Where a Council or committee meeting is adjourned to a meeting not described in subclause (4) or (5), no business is to be transacted at that later meeting other than that—
 - (a) specified in the notice of the meeting that is adjourned; and
 - (b) which remains unresolved.

5.2 Order of business

- (1) Unless otherwise decided by the presiding member or the Council, the order of business at any ordinary meeting of the Council is to be as follows—
1. Declaration of opening/Acknowledgement of Country/Acknowledgement of visitors/Disclaimer
 2. Attendance
 - 2.1 Apologies
 - 2.2 Approved leave of absence
 3. Prayer
 4. Applications for leave of absence
 5. Disclosure of interests
 6. Announcements by the presiding member (without discussion)
 7. Question time for public
 - 6.1 Response to previous questions taken on notice
 - 6.2 Question time for public
 8. Confirmation of minutes
 9. Receiving of petitions, presentations and deputations
 - 8.1 Petitions
 - 8.2 Presentations
 - 8.3 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 meetings
 13. Reports
 14. Motions of which previous notice has been given
 15. Urgent business
 16. Confidential matters
 17. Closure
- (2) Unless otherwise decided by the presiding member or the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the notice of, or agenda for, the meeting.
- (3) Despite subclauses (1) and (2), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriate to be decided, by that meeting.

5.3 Announcements without discussion

Announcements made by the presiding member at a Council meeting are—

- (a) to inform the Council of matters of importance to the Council;
- (b) to be brief and concise; and
- (c) not to be the subject of any discussion, unless the Council resolves otherwise.

5.4 Grant of leave of absence

The grant of leave of absence is dealt with in the Act.

5.5 Leave of absence

- (1) A member seeking the Council's approval to take leave of absence must give written notice to the CEO prior to the commencement of the meeting.
- (2) The notice referred to in subclause (1) must include the period of leave of absence required and the reasons for seeking the leave.

5.6 Questions on notice

- (1) A member who wishes to ask a question at a meeting of the Council on a matter that is not included in the agenda for that meeting is to give written notice of the specific question to the CEO at least three clear working days before the meeting of the Council.
- (2) The CEO may, after consultation with the member where this is practicable, and with the concurrence of the Mayor, make such amendments to the question so as to clarify the intent of the question and bring the question into due form.
- (3) If the question referred to in subclause (1) relates to a matter within the responsibility of the Council, and is respectful and temperate in its language, it must be tabled at the meeting at item 10 of the order of business as outlined in clause 5.2(1) and the answer is, as far as practicable, to be provided at that meeting of the Council.
- (4) Every question and answer is to be submitted as briefly and concisely as possible, and no discussion on the question or answer is permitted.

5.7 Items brought forward for the convenience of those in the public gallery

Any items on the agenda which are either the subject of a question by members of the public, or where requested by others in attendance, may, with the consent of the presiding member, be brought forward to item 11 of the order of business.

5.8 Motions of which previous notice has been given

- (1) Unless the Act, Administration Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least 10 clear days before the meeting at which the motion is moved.
- (3) A notice of motion is to be accompanied by supporting reasons, must relate to the good government of the district and must be within the lawful responsibilities of the Council.
- (4) The CEO—
 - (a) with the concurrence of the Mayor, may exclude from the agenda any notice of motion deemed to be, or likely to involve, a breach of any of these standing orders or any other written law;
 - (b) is to inform members on each occasion that a notice has been excluded and the reasons for that exclusion; and

- (c) may, after consultation with the member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form.
- (5) A motion of which notice has been given is to lapse unless—
 - (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on and the motion is seconded; or
 - (b) the Council or the committee on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lost, notice of a motion in the same terms or to the same effect must not be given again for at least 3 months from the date of such loss, unless supported by an absolute majority of members in writing.

5.9 Urgent business

- (1) A member may move a motion to consider an item of urgent business that is not included in the agenda for that meeting provided that—
 - (a) the presiding member has first consented to the business being raised;
 - (b) the presiding member considers that either—
 - (i) the urgency of the business is such that the business cannot await inclusion in the agenda for the next meeting of the Council; or
 - (ii) the delay in referring the business to the next meeting of the Council could have adverse legal, reputational or financial implications for the local government; and
 - (c) other than a motion to revoke a decision, the item of urgent business is presented in the form of a report generated by an employee, a copy of which is to be provided to members prior to the commencement of the meeting.
- (2) Where the Council agrees to consider such item of urgent business, then it is to be dealt with at item 15 of the order of business as outlined in clause 5.2(1).

5.10 Adoption by exception resolution

- (1) In this clause ***adoption by exception resolution*** means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the committee or employee recommendation as the Council resolution.
- (2) The Council may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter—
 - (a) that requires a 75% majority or a special majority;
 - (b) in which an interest has been disclosed;
 - (c) that is a matter on which a member wishes to ask a question;

- (d) that is a matter on which a member wishes to make a statement; or
 - (e) that is a matter on which a member wishes to move a motion that is different to the recommendation.
- (4) A member who wishes to ask a question or make a statement in relation to a matter that would otherwise be within an adoption by exception motion should, as far as practicable, notify the CEO by 3pm on the day before the meeting.
- (5) A member who wishes to move a motion that is different to the recommendation in a matter that would otherwise be within an adoption by exception resolution should, as far as practicable, give notice of the motion that –
 - (a) is in writing;
 - (b) identifies the matter and gives the reason or reasons for the motion; and
 - (c) is given to the CEO by 3pm on the day before the meeting.
- (6) Where a member intends to move a motion referred to in sub-clause (5), the CEO must be given an opportunity to provide advice to the Council prior to consideration of the motion, accordance with section 5.41 (b) of the Local Government Act.

Part 6 - Public participation

6.1 Meetings generally open to the public

Meetings being generally open to the public is dealt with in the Act.

6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close to members of the public a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
 - (a) the presiding member is to direct everyone to leave the meeting except -
 - (i) the members;
 - (ii) any employee of the City unless specified in a resolution; and
 - (iii) any other person specified in a resolution; and
 - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.

- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.10 is to be suspended unless the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice of the relevant motion.
- (7) Once the meeting is reopened to members of the public, the presiding member is to ensure that, if any member of the public returns to the meeting, any resolution made while the meeting was closed is to be read out or summarised, including the details of any voting recorded.

6.3 Question time for the public

Question time for the public is dealt with in the Act.

6.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in the Administration Regulations.

6.5 Minimum question time for the public

Minimum question time for the public is dealt with in the Administration Regulations.

6.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in the Administration Regulations.

6.7 Other procedures for question time for the public

- (1) A member of the public who wishes to ask a question during question time must first state his or her name and address.
- (2) A question may be taken on notice for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
 - (a) a response is given to the member of the public in writing prior to the next meeting; and
 - (b) a summary of the response is presented to, and recorded in the minutes of, the next meeting.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person may -
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.
- (5) Each member of the public with one or more questions is to be given an equal and fair opportunity, to be determined by the presiding member, to ask the question or questions.
- (6) The presiding member may decide that a question is not to be responded to where—

- (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
- (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken reasonable steps to assist the member of the public to phrase the statement as a question;
- (c) the member of the public asks a question that is offensive or defamatory in nature or is one which, if asked by a member, would be in breach of these standing orders or any other law; and
- (d) the presiding member is of the view that the question or questions have already been answered or the matter adequately dealt with.

6.8 Distinguished visitors

If a distinguished visitor is present at a meeting of the Council or a committee, the presiding member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor is to be recorded in the minutes.

6.9 Petitions

- (1) A petition, in order to be considered by the Council, is to—
 - (a) be addressed to the Mayor;
 - (b) be made by electors of the district;
 - (c) state the request on each page of the petition;
 - (d) contain the name, address and signature of each elector making the request;
 - (e) contain a summary of the reasons for the request;
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given; and
 - (g) be respectful and temperate in its language.
- (2) Despite subclause (1), the presiding member may allow a petition to be considered in circumstances where the petition complies with the majority of the requirements in subclause (1).
- (3) In response to a petition presented to it, the Council may determine—
 - (a) that the petition be received;
 - (b) that the petition be rejected;
 - (c) that the petition be received and referred to the CEO to prepare a report to the Council or a committee; or
 - (d) that the petition be received and referred to the CEO for action.

- (4) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless—
 - (a) the matter is the subject of a report included in the agenda; and
 - (b) the Council has considered the issues raised in the petition.

6.10 Presentations by parties with an interest

- (1) Once an agenda of a meeting of the Council has been issued, parties with a demonstrable interest in any item listed on the agenda for discussion may seek to present to the Council at the time during the meeting allocated for this purpose.
- (2) A person must demonstrate that they are a party with an interest in an item on the agenda by stating their name, the item to which they wish to speak, whether or not they are in agreement with the recommendation in the agenda and they are—
 - (a) the applicant or one duly authorised representative of the applicant;
 - (b) an adjoining neighbour sharing a common length of boundary or directly opposite neighbour of the affected property;
 - (c) one person duly representing a community-based organisation where an item on the agenda has broad community impact and is associated with the objectives of the organisation; or
 - (d) such other person as in the opinion of the presiding member has a significant direct interest or is duly representing those that have a significant direct interest in the item.
- (3) A person addressing the Council on an agenda item will be limited to a period of 5 minutes unless the person is granted an extension by the presiding member.
- (4) Where multiple parties wish to present on an item, the applicant (or their duly authorised representative) is to be given the opportunity to give the final presentation on the item.
- (5) Members may, through the presiding member, question a person addressing the Council on the item but no debate or general discussion will be permitted.

6.11 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council is to either—
 - (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the presiding member, at the meeting, address the Council.
- (2) The CEO may either—
 - (a) approve the request and invite the deputation to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the Council resolves otherwise, a deputation invited to attend a Council meeting—

- (a) is not to exceed 5 people, only 2 of whom may address the Council although others may respond to specific questions from members;
 - (b) is not to address the Council for a period exceeding 10 minutes without the agreement of the Council; and
 - (c) may seek leave of the presiding member for additional members of the deputation to be allowed to speak.
- (4) Any matter which relates to an item on the agenda and which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

6.12 Participation at committee meetings

- (1) In this clause a reference to a *person* is to a person who—
- (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.
- (2) A member may attend, as an observer, any meeting of a committee of which he or she is not a member or the deputy of a member, but is to sit in an area set aside by the CEO for observers separated from the committee members.
- (3) Without the consent of the presiding member, a person must not address a committee meeting.
- (4) The presiding member of a committee may allow a person to make an oral address to the committee for up to 5 minutes.
- (5) A person addressing the committee with the consent of the presiding member must cease that address immediately after being directed to do so by the presiding member.
- (6) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the committee meeting.

6.13 Confidentiality of information withheld

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Administration Regulations is to be -
- (a) identified in the agenda of a Council or committee meeting under the item “Confidential matters”, along with the reason for the confidentiality as dealt with in the Act; and
 - (b) kept confidential by employees and members until, in the opinion of the CEO, or the Council or the committee (as the case may be), the reason for confidentiality ceases to exist.
- (2) A member or an employee in receipt of confidential information under subclause (1), or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public, must not disclose any of that information to any person other than another

member or an employee to the extent necessary for the purpose of carrying out his or her duties.

- (3) Subclause (2) does not apply where a member or employee discloses the information to a legal practitioner or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities, or where disclosure is required or permitted by law.

6.14 Recording of proceedings

- (1) A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of a meeting without the permission of the presiding member.
- (2) If the presiding member gives permission under subclause (1), the presiding member must advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.
- (3) Subclause (1) does not apply if the recording is taken by or at the direction of the CEO for the purpose of taking minutes.
- (4) In the case of a recording taken under subclause (3), the CEO must advise the meeting, immediately before the recording is commenced, that the meeting is being recorded for the purpose of taking minutes.

6.15 Prevention of disturbance

- (1) A reference in this clause to a *person* is to a person other than a member.
- (2) A person addressing a meeting must extend due courtesy and respect to the Council or the committee and the processes under which it operates and must comply with any direction by the presiding member.
- (3) A person present at or observing a meeting must not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person must ensure that his or her mobile telephone, pager or other audible device is not switched on or used during any meeting.
- (5) The presiding member may warn a person who fails to comply with this clause.
- (6) If—
 - (a) after being warned, the person again acts contrary to this clause, or to any of these standing orders; or
 - (b) a person refuses or fails to comply with a direction by the presiding member,the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.
- (7) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding member, be removed from the meeting room and, if the presiding member orders, from the premises.

Part 7 - Questions during debate

7.1 Questions during debate

- (1) At any time during debate on a motion prior to the mover of the motion commencing the right of reply, a member may ask a question in relation to the motion and, with the consent of the presiding member, may ask one or more further questions.
- (2) Where possible the CEO or the CEO's nominee is to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the respondent may ask that—
 - (a) the question is taken on notice; and
 - (b) the answer to the question is given to the members as soon as practicable.
- (3) Every question and answer—
 - (a) is to be brief and concise; and
 - (b) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (4) In answering any question, a respondent may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting, correct, add to or otherwise amend the original answer.

Part 8 - Conduct of members

8.1 Members to be in their proper places at Council meetings

- (1) At the first meeting held after each election day, each member is to be allocated a position at the Council table by a ballot conducted by the CEO after considering requests for a specific allocation for special circumstances.
- (2) Each member is to occupy his or her allotted position at each Council meeting.

8.2 Respect to the presiding member

After the business of a meeting has commenced, a member must not enter or leave the meeting without first paying due respect to the presiding member.

8.3 Titles to be used

A speaker, when referring to the Mayor, Deputy Mayor or presiding member, or a member or employee, must use the title of that person's office.

8.4 Entering or leaving a meeting

During the course of a meeting, a member must not enter or leave the meeting without first giving an appropriate indication, in order to facilitate the recording in the minutes of the time of entry or departure.

8.5 Members to indicate their intention to speak

A member who wishes to speak at a meeting must indicate his or her intention to speak by raising his or her hand or by another method agreed by the presiding member.

8.6 Members to rise

A member, other than the presiding member, asking a question or taking part in discussion or a debate at a meeting must stand, except when prevented from doing so by sickness or infirmity.

8.7 Priority of speaking

- (1) Where two or more members indicate, at the same time, their intention to speak, the presiding member is to decide which member is entitled to be heard first.
- (2) A decision of the presiding member under subclause (1) is not open to discussion or dissent.
- (3) A member must cease speaking immediately after being asked to do so by the presiding member.

8.8 Presiding member may take part in debates

The presiding member may take part in a discussion of any matter before the meeting, subject to compliance with this local law.

8.9 Relevance

- (1) A member must restrict his or her remarks to the motion under discussion, or to a personal explanation or point of order.
- (2) The presiding member, at any time, may—
 - (a) call the attention of the meeting to—
 - (i) any irrelevant, repetitious, offensive or insulting language by a member; or
 - (ii) any breach of order by a member; and
 - (b) direct that member, if speaking, to discontinue his or her speech.
- (3) A member must comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

8.10 Speaking twice

- (1) A member must not address the meeting more than once on any motion or amendment except—
 - (a) as the mover of a substantive motion or an amendment, to exercise a right of reply;
 - (b) to raise a point of order; or
 - (c) to make a personal explanation.

- (2) A member who asks a question, or who makes a request or responds to a request under clause 10.7, has not addressed the meeting for the purpose of this clause.
- (3) This clause does not apply to a committee meeting unless the committee by resolution decides that it is to apply to the meeting or a part of the meeting.

8.11 Duration of speeches

- (1) A member must not speak on any matter for more than five minutes without the consent of the members which, if given, is to be given without debate.
- (2) An extension under this clause cannot be given to allow a member's total speaking time to exceed ten minutes.

8.12 No speaking after conclusion of debate

A member must not speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the motion or amendment has been put.

8.13 No interruption

A member must not interrupt another member who is speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.14; or
- (d) to move a procedural motion that the member be no longer heard.

8.14 Personal explanations

- (1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.
- (2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.
- (3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

8.15 No reopening of discussion

A member must not reopen discussion on any decision, except to move that the decision be revoked or changed (see Part 15).

8.16 Adverse reflection

- (1) A member must not reflect adversely on a decision of the Council or committee except on a motion that the decision be revoked or changed (see Part 16).

- (2) A member must not—
 - (a) reflect adversely on the character or actions of another member or employee; or
 - (b) impute any motive to a member or employee,unless the meeting resolves, without debate, that the matter then before the meeting cannot otherwise be adequately considered.
- (3) A member must not use offensive or insulting expressions in reference to any member, employee or other person.
- (4) If a member or CEO specifically requests, immediately after their use, that any particular words used by a member that are in breach of this clause be recorded in the minutes, the member making the request is to provide the words to the meeting for verification and the presiding member is to cause the words used to be taken down and recorded in the minutes.

8.17 Withdrawal of offensive language

A member who, in the opinion of the presiding member, uses an expression which—

- (a) in the absence of a resolution under clause 8.16(2)—
 - (i) reflects adversely on the character or actions of another member or an employee; or
 - (ii) imputes any motive to another member or an employee; or
- (b) is offensive or insulting,

must, when directed by the presiding member, withdraw the expression and make a satisfactory apology.

Part 9 - Preserving order

9.1 Presiding member to preserve order

- (1) The presiding member is to preserve order, and, whenever he or she considers necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, must immediately sit down and every member present must preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.8, but to preserve order.

9.2 Point of order

- (1) A member may at any time, draw the attention of the presiding member (including as an objection, by way of a point of order), to a breach of—
 - (a) any of these standing orders; or
 - (b) any other written law.

- (2) Examples of valid points of order are –
 - (a) a speaker's remarks not being relevant to the motion being debated (see clause 8.9); and
 - (b) a speaker's use of offensive or insulting expressions (see clause 8.16(3)).
- (3) Despite anything in this local law to the contrary, a point of order—
 - (a) takes precedence over any discussion; and
 - (b) until determined, suspends the consideration or discussion of any other matter.

9.3 Procedures on a point of order

- (1) A member who is addressing the presiding member must not be interrupted except on a point of order.
- (2) A member interrupted on a point of order must cease speaking and resume his or her seat until—
 - (a) the member raising the point of order has been heard; and
 - (b) the presiding member has ruled on the point of order,and, if permitted, the member who has been interrupted may then proceed.

9.4 Ruling by the presiding member

- (1) The presiding member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the presiding member on a point of order—
 - (a) is not to be the subject of debate or comment; and
 - (b) is to be final unless the majority of members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the presiding member rules that—
 - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
 - (b) a statement made or act done by a member is out of order, the presiding member may direct the member to make an explanation, retraction or apology.

9.5 Continued breach of order

If a member—

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) refuses to comply with a direction from the presiding member (such as a direction under clause 8.9(2)(b) or 9.4(3)(b)),

the presiding member may direct the member to refrain from taking any further part in the debate on the matter then before the meeting, other than by voting, and the member must comply with that direction.

9.6 Right of presiding member to adjourn

- (1) For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

Part 10 - Debate of substantive motions

10.1 Motions to be stated and in writing

A member who wishes to move a substantive motion or an amendment to a substantive motion—

- (a) is to state the substance of the motion before speaking to it; and
- (b) is to put the motion or amendment in writing if he or she is required to do so by the presiding member.

10.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council or committee meeting is not open to debate unless the motion has the support required under regulation 10 of the Administration Regulations.

10.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the presiding member may ask the meeting if any member opposes it.
- (2) If no member opposes the motion, the presiding member may immediately proceed to put the matter to the vote.

10.4 Only one substantive motion at a time

The presiding member is not to accept a substantive motion while another substantive motion is being debated.

10.5 Complex motions

The presiding member may require that a complex substantive motion, or a complex amendment to a substantive motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

10.6 Order of call in debate

- (1) The presiding member is to call speakers to a substantive motion in the following order—
 - (a) the mover to state the motion;
 - (b) a seconder to the motion;
 - (c) the mover to speak to the motion;
 - (d) the seconder to speak to the motion;
 - (e) a speaker against the motion;
 - (f) a speaker for the motion;
 - (g) other speakers against and for the motion, alternating where possible; and
 - (h) mover takes right of reply which closes debate.
- (2) When called on to speak, the seconder to a motion may elect to reserve that right and speak to the motion at a later time when a speaker for the motion is called.

10.7 Member may require motion or amendment to be read

A member may require the motion or amendment or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

10.8 Consent of seconder required for alteration

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

10.9 Number and order of amendments

- (1) No more than three amendments may be proposed to a substantive motion unless the presiding member determines that further amendments are to be permitted.
- (2) Where an amendment is moved to a substantive motion, a second or subsequent amendment is not to be moved or considered until the first amendment has been withdrawn, carried or lost.
- (3) An amendment may be proposed to a substantive motion either in its original terms or as subsequently amended.

10.10 When amendment may be moved

A member may move an amendment to a motion during the debate on the motion, except—

- (a) when the mover has been called by the presiding member to exercise the right of reply; or
- (b) during debate on a procedural motion.

10.11 Form of an amendment

An amendment must add, delete, or substitute words to the substantive motion.

10.12 Amendment must not negate original motion

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

10.13 Relevance of amendments

Each amendment must be relevant to the motion in respect of which it is moved.

10.14 Mover of motion may speak on amendment

Any member, including the mover of a motion, may speak during debate on an amendment.

10.15 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any member may speak and a further amendment may be moved, subject to the limitation on the number of amendments in clause 10.9.

10.16 Withdrawal of motion or amendment

- (1) Subject to subclause (2), the Council or a committee may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.
- (2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

10.17 Right of reply

- (1) The mover of a substantive motion has the right of reply.
- (2) The right of reply under subclause (1) may be exercised only—
 - (a) where no amendment is moved to the substantive motion—at the conclusion of the discussion on the motion; or
 - (b) where one or more amendments have been moved to the substantive motion—at the conclusion of the discussion on the substantive motion and any amendments.
- (3) The mover of an amendment to a substantive motion has the right of reply in relation to that amendment.
- (4) The right of reply under subclause (3) may be exercised only at the conclusion of the discussion on that amendment.
- (5) After the mover of the substantive motion has commenced the reply—
 - (a) no other member is to speak on the motion;

- (b) there is to be no further discussion on, question about or any further amendment to, the motion.
- (6) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (7) At the conclusion of the right of reply under subclause (2), the substantive motion, or the substantive motion as amended, is immediately to be put to the vote, subject to any requirement to read the motion under clause 10.7 before the vote.

10.18 Foreshadowing alternative motions

- (1) In this clause, *Alternative Motion* means an alternative substantive motion that negates the terms and intent of a substantive motion that is being considered, or is to be considered, by the Council.
- (2) A member who wishes the Council to consider an Alternative Motion, the member must foreshadow the Alternative Motion before the right of reply in respect of the substantive motion has commenced.
- (3) If the substantive motion is lost, the presiding member must call on the member who foreshadowed the Alternative Motion to move the Alternative Motion.
- (4) Once moved and seconded, the foreshadowed Alternative Motion becomes the substantive motion and the same procedures and rules of debate apply to this motion as any other substantive motion.
- (5) If more than one foreshadowed Alternative Motion is proposed for any item before the Council, the presiding member must deal with them in the order in which they were foreshadowed.
- (6) Where a member has identified an item for exclusion from the adoption by exception resolution under clause 5.10(5), and includes a motion that is different to the employee recommendation, that motion is taken to be a foreshadowed Alternative Motion and is to be the substantive motion that is first considered by the Council.
- (7) Where a member has identified an item for exclusion from the adoption by exception resolution under clause 5.10(5), and includes a motion that is different to the committee recommendation, that motion is taken to be a foreshadowed Alternative Motion and members are first to be given the option to debate the committee recommendation.

Part 11 - Procedural motions

11.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion (under Part 10), a member may move the following procedural motions—

- (a) that the item be referred or adjourned to a Council or a committee meeting;
- (b) that the meeting now adjourn;
- (c) that the motion be now put;
- (d) that the ruling of the presiding member be disagreed with;

- (e) that the member be no longer heard;
- (f) that the meeting be closed to the public (see clause 6.2).

11.2 No debate

- (1) A procedural motion is not open to debate until it has been seconded.
- (2) The mover of a motion specified in paragraph (a), (b), (d) or (f) of clause 11.1 may speak to the motion for not more than 5 minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (3) The mover of a motion specified in paragraph (c) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

11.3 Who may move

A member who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, cannot move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

11.4 Procedural motions—right of reply on substantive motion

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

11.5 Item to be referred or adjourned

- (1) A motion “that the item be referred or adjourned”—
 - (a) is, in the case of a referral, to state the Council or committee meeting to which the item is to be referred and the time of that meeting (and the reasons for the motion);
 - (b) is, in the case of an adjournment, to state the time to which the debate on the item is to be adjourned (and the reasons for the motion); and
 - (c) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but is to continue at the meeting, and at the time, stated in the motion.
- (2) If a motion “that the item be adjourned” is carried at a meeting—
 - (a) the name of each member who has spoken on the item before the adjournment is to be recorded in the minutes; and
 - (b) clause 8.10 is to apply when the debate on the item is resumed.

11.6 Meeting now adjourn

- (1) A member is not to move or second more than one motion of adjournment during the same meeting.

- (2) Before putting the motion for the adjournment, the presiding member may seek leave of the meeting to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.6).
- (3) A motion “that the meeting now adjourn”—
 - (a) is to state the time and date to which the meeting is to be adjourned; and
 - (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.
- (4) The Council or a committee may adjourn any meeting—
 - (a) to a later time on the same day; or
 - (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.
- (5) A meeting adjourned under subclause (3) –
 - (a) is to continue from the point at which it was adjourned, unless the presiding member or the meeting determines otherwise; and
 - (b) in case of a Council meeting –
 - (i) the name of each member who has spoken on any item that is adjourned is to be recorded in the minutes; and
 - (ii) clause 8.10 is to apply when the debate on that item is resumed.

11.7 Motion to be put

- (1) If the motion “that the motion be now put”, is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion “that the motion be now put” is carried during discussion of an amendment, the presiding member is to offer the right of reply in relation to the amendment and then put the amendment to the vote without further debate.
- (3) If the motion “that the motion be now put” is lost, the debate is to continue.

11.8 Member to be no longer heard

If the motion “that the member be no longer heard” is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion or amendment.

11.9 Ruling of the presiding member to be disagreed with

If the motion “that the ruling of the presiding member be disagreed with” is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

Part 12 - Disclosure of interests

12.1 Disclosure of interests

The requirements for members and employees to disclose financial and other interests, the nature of the interests that must be disclosed, and related matters are dealt with in the Act, the Administration Regulations, the Rules of Conduct Regulations and the Code of Conduct.

12.2 Separation of committee recommendations

Where, at a committee meeting -

- (a) a member discloses a financial interest in a matter; and
- (b) the matter is included in the recommendations (or part of the recommendations) of the committee to a Council or committee meeting that will or may be attended by the member,

the agenda of that Council or committee meeting is to separate the relevant recommendation (or the relevant part of the recommendation) from other recommendations of the committee.

Part 13 - Voting

13.1 Motion—when put

- (1) Immediately after the debate on any motion is concluded and the right of reply has been exercised, the presiding member—
 - (a) is to put the motion to the meeting; and
 - (b) if requested by any member, is to again state the terms of the motion.
- (2) A member is not to leave the meeting when the presiding member is putting any motion.

13.2 Voting

Voting is dealt with in the Act and the Administration Regulations.

13.3 Majorities required for decisions

The majorities required for decisions of the Council and committees are dealt with in the Act.

13.4 Method of taking vote

- (1) In taking the vote on any motion the presiding member—
 - (a) is to put the motion, first in the affirmative, and then in the negative;
 - (b) may put the motion in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
 - (c) is to count and determine the votes of members in any way (such as electronically or by a show of hands) that enables a record to be taken of each member's vote; and

- (d) subject to this clause, is to declare the result.
- (2) The CEO is ensure that the minutes record whether or not the motion is carried unanimously, and if the motion is not carried unanimously—
 - (a) the name of each member who voted; and
 - (b) whether he or she voted in the affirmative or negative.

Part 14 - Minutes of meetings

14.1 Keeping of minutes

The keeping and confirmation of minutes are dealt with in the Act.

14.2 Content of minutes

The content of minutes is dealt with in the Administration Regulations.

14.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in the Administration Regulations.

14.4 Confirmation of minutes

- (1) If a member is dissatisfied with the accuracy of the draft minutes, he or she is to provide to the CEO a written copy of the alternative wording to amend the draft minutes no later than 3 clear business days before the meeting where the minutes are to be confirmed.
- (2) At that meeting, during the item dealing with the confirmation of minutes, the member who provided the alternative wording—
 - (a) is to state the item or items with which he or she is dissatisfied; and
 - (b) is to propose a motion clearly outlining the alternative wording to amend the minutes.

Part 15 - Revoking or changing decisions

15.1 Requirements to revoke or change decisions

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Administration Regulations.

Part 16 - Suspension of standing orders

16.1 Suspension of standing orders

- (1) A member may at any time move that the operation of one or more of these standing orders be suspended.
- (2) A motion under subclause (1) which is seconded and carried is to suspend the operation of the standing order or orders to which the motion relates for the duration of the meeting or

such other part of the meeting specified in the motion, unless the meeting earlier resolves otherwise.

16.2 Where standing orders do not apply

- (1) In situations where—
 - (a) one or more of these standing orders have been suspended; or
 - (b) a matter is not regulated by the Act, the Administration Regulations or this local law, the presiding member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.79.

Part 17 - Meetings of electors

17.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

17.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in the Administration Regulations.

17.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

17.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Administration Regulations.

17.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

17.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

17.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in the Act and the Administration Regulations.
- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to this local law.

17.8 Participation of non-electors

A person who is not an elector of the City must not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

Note: A person who is not an elector of the City cannot vote at an electors' meeting (see clause 18.9).

17.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in the Administration Regulations.

17.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in the Act.

17.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in the Act.

Part 18 - Enforcement

18.1 Penalty for breach

A person who breaches a provision of this local law commits an offence. Penalty—\$5,000.00 and a daily penalty of \$500.00.

18.2 Who can prosecute

Who can prosecute is dealt with in the Act.

Dated: **[add date]** 2017.

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

GRANT DOUGLAS
HENLEY, Mayor.

MICHAEL S. L. ARCHER,
Chief Executive Officer.

7. GENERAL DISCUSSION ITEMS

Adopt the 2018 Policy and Legislation Committee dates.

8. NEXT MEETING DATE

Tuesday, 27 March 2018

9. CLOSURE