CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 17 JULY 2014

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 Thursday, 17 July 2014, commencing at 2.00pm.

The attendance of Committee Members is respectfully requested.

MIKE ARCHER

CHIEF EXECUTIVE OFFICER

14 July 2014
# CITY OF BUSSELTON

**AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 17 JULY 2014**

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1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

2. ATTENDANCE

Apologies

Nil

Approved Leave of Absence

3. PUBLIC QUESTION TIME

4. DISCLOSURE OF INTERESTS

5. CONFIRMATION OF MINUTES

5.1 Minutes of the Policy and Legislation Committee held on 19 June 2014

RECOMMENDATION

That the Minutes of the Policy and Legislation Committee Meeting held 19 June 2014 be confirmed as a true and correct record.
6. REPORTS

6.1 TRADING IN PUBLIC PLACES POLICY REVIEW

SUBJECT INDEX: Market and Food Stalls
STRATEGIC OBJECTIVE: A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.
BUSINESS UNIT: Environmental Services
ACTIVITY UNIT: Environmental Services
REPORTING OFFICER: Environmental Health Coordinator - Tanya Gillett
AUTHORISING OFFICER: Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT: Simple Majority
ATTACHMENTS: Nil

PRÉCIS

A revision of the Trading in Public Places Policy is required to address issues raised by the community, license holders and City officers as well as improve and update the Policy. The Policy is presented to Council for review and to initiate public consultation. Once submissions are collated and assessed, the revised Policy will be brought back to Council for final adoption later in 2014.

BACKGROUND

Mobile food vehicles/stalls/vendors provide an important service to the community and visitors particularly in locations where retail premises or permanent places of business are not available to the consumer. These are currently administered under the Trading in Public Places Local Law under the guidance of the Trading in Public Places – Standard Conditions of Approval Version 2 (the Policy). In order to ensure that this Policy remains current and continues to reflect the needs of the community, it is periodically reviewed and updated.

Recent requests by the community, City officers and license holders have been made to endorse applications that have been considered outside the scope of this Policy and it is now proposed that a review be undertaken to address the issues presented.

STATUTORY ENVIRONMENT

Local Law Relating to Trading in Public Places
Local Government Property Local Law 2010

RELEVANT PLANS AND POLICIES

Trading in Public Places – Standard Conditions of Approval Version 2
Commercial Hire Sites Policy

FINANCIAL IMPLICATIONS

There are no budgetary considerations required as a result of this report or revised Policy. A review of the Trading in Public Places Local Law is currently being completed which will be superseded by the Activities in Thoroughfares and Public Places Local Law which will address licensing fees and provide a general update to the legislation at this time.
STRATEGIC COMMUNITY OBJECTIVES

This proposal aligns with the City of Busselton Strategic Community Plan 2013 as follows:

Key Goal Area 1

A welcoming, inclusive, healthy and capable community that provides accessible services for all residents.

RISK ASSESSMENT

An assessment of the potential implication of implementing the officer recommendation has been undertaken using the City’s risk assessment framework. The assessment sought to identify ‘downside’ risks only rather than ‘upside’ risks and where the risk, following implementation of controls has been identified is medium or greater. No such risks were identified.

CONSULTATION

Should the revised Trading in Public Places Policy be accepted by Council, it will be advertised inviting written submissions for consideration to be completed by Friday 10 October 2014. Once all submissions are assessed, a report will be brought back to the Policy and Legislation Committee at its 20 November 2014 meeting for further determination at this time.

OFFICER COMMENT

The Trading in Public Places Policy (the Policy) has been effectively providing guidance to the enforcement of the Trading in Public Places Local Law for some time but recently the City has been questioned on a number of the requirements within the Policy, driving the need for a review of some components. Each of these components will be discussed separately.

1. 300m rule – Currently clause 3.3(c) of the Policy states as follows:

   Mobile food vehicles/vendors are not permitted to operate within 300m of any retail premises or permanent place of business that has for sale any goods or services of the kind being offered for sale by the mobile trader;

   1) without prior approval to operate in such locations being sought,

   2) submitting a written letter of support from the proprietor(s) of such retail premises or permanent place(s) of business.

With the City’s increasing number of events and markets being approved, particularly on the Busselton Foreshore, this clause is increasingly difficult to administer. During City approved events and markets, increased numbers of attendees at these locations places an increased demand on retail premises and permanent places of business, often to the point where these outlets become overwhelmed. To enhance the visitor experience during these times, it is proposed that there be the ability for Council to exercise a relaxation of this clause where it can be demonstrated that the number of attendees proposed at the City approved event or market may overwhelm existing business or the service to the community during this time may become inadequate.

Further, where Council determines that an event or market will be disadvantaged or lose its character or usefulness without the operation of mobile food vehicles/vendors within 300m of an existing retail premises or permanent place of business that has for sale any goods or services of the kind being offered for sale by the mobile trader, then a mobile trader be permitted within 300m. An example of this would be an application for say a Wine Fair located across the road from a premises approved to sell packaged liquor. Currently the Policy would not permit wine vendors without permission from the adjacent permanent premises and the hypothetical Wine Fair would be deemed disadvantaged should this rule be applied. Notwithstanding, the strategic and economic benefits an event such as a
A hypothetical Wine Fair may bring to the region, in instances such as these a common sense approach would be to permit a relaxation of this clause for the success of the Wine Fair.

Additionally, the City’s Market Policy has designated Lion’s Park as a suitable location to conduct the Dunsborough based markets. Conflicts have arisen with the 300m rule in this location as much of the produce presented at these markets is available for purchase within established business premises within 300m. For example, fresh produce presented for sale at the market is also available at a fruit and vegetable outlet, and two supermarkets both within 300m of Lion’s Park. Markets attract the community and visitors into the Dunsborough CBD in their own right. While it may be argued by individual businesses that the markets have a detrimental impact while they are located in Lion’s Park, collectively local business may benefit from the increased customer population drawn into the area by virtue of the markets.

For these reasons, it is recommended that changes be made to the Policy to accommodate duplication of available products within City approved events and markets only. Appropriate discretion is also required to ensure that the City has the right of refusal for these stalls based on the needs of the attendees and the event or market being adequately catered for within the vicinity of the event or market and/or the event or market not attracting the number of attendees to warrant relaxation of this clause. Revisions have been made within the Policy to reflect these proposals.

2. Dogs at Market Stalls – Currently a prohibition exists for stallholders to bring dogs onsite to any market stall. Recently, an approach to Council by a greyhound awareness group to bring their dogs to the markets to raise awareness of the plight of these dogs after the completion of their racing careers and the need for re-homing, has resulted in the need to reconsider this prohibition. While the bringing of dogs to markets by stallholders should not be encouraged due to the dogs being tied up and left during the operation of the market, it is suggested that concessions may be applied where the group can demonstrate the following:
   - they belong to a registered not for profit organisation;
   - they complete an application to the City that details the intentions of their stall and that the intention is not for the sale of animals only;
   - the application satisfies the City that the dogs are separated from the general market, such as being within a marquee, they are under the care and control of designated and adequately trained handlers at all times and the application can demonstrate how the animal interaction with the general public will occur in a controlled environment; and
   - the application is accompanied by a Risk Management Plan detailing the care and control of the dogs at all times from arrival at the market, during the market stall operation and removal from the market. This Risk Management Plan will also detail how the interactions with the general public will occur.
Failure to meet these conditions to the satisfaction of the City will result in the application for dogs to be permitted at a market stall being refused. Revisions have been made within the Policy to reflect these proposals.

It should also be noted that should a market be held in a dedicated dog prohibited area, then the prohibition will remain and no concessions will be granted by virtue of other laws applying to the area.

3. Sale of live animals at markets – Recently a request was received by the City to allow permission to sell live chickens from the markets. Subsequent research conducted by officers resulted in no such prohibition being available to the City through the Department of Agriculture or any other law administered by the City. In order to prevent markets from becoming a place where live animals such as chicken, dogs or other livestock is available for sale, it is recommended that a condition be placed on all market approvals that prohibit the sale of live animals from any market. This will apply a proactive condition to control the welfare of animals through transport and subsequent sale in these instances. Revisions have been made within the Policy to reflect this proposal.
4. Designated Numbers and Locations for Trading in Public Places Licence approvals – Currently should an application for a Licence be received and this complies with the Local Law and Policy, applications are approved. There is no direction given within the Policy to restrict the licences to certain locations nor is there any restriction on the number of licences that will be permitted at any one time. Administration of the applications has traditionally only permitted one type of licence per location at any one time, that is, only one ice cream van or coffee van at each location at the same time. There is however, no maximum number of licences that can be approved at each of those locations. This is proving to be of concern as some areas are becoming popular for stalls and are at times supporting 4 licences for different goods at certain times. This proposal aims to set a maximum of four (4) stalls at any location at any one time due to the approved locations traditionally being car parks and during peak tourism, these stalls can restrict car parking for visitors and the general public.

Within this Policy review it is proposed that the City designate pre-approved locations as areas where Trading in Public Places Licences will be permitted. Currently there is no direction given within the Policy and the City has no lawful means of refusing an area that is not causing a safety hazard. In looking at the desirability of a location and providing a baseline customer level to ensure the viability of the business, designated car parks have been established as a preferable location in which to trade. Notwithstanding the maximum of four (4) stalls to be approved at any one time, the following locations are supported for the delivery of goods and services from mobile food vehicles/stalls:

- Busselton Airport, Yalyalup
- Busselton Drive Ins – Road Reserve, Broadwater
- Busselton Foreshore – West of Equinox
- Busselton Volunteer Marine Rescue Car Park, Busselton
- Centennial Park Car Park, Dunsborough
- Dolphin Road Boat Ramp, West Busselton
- Dunsborough Skate Park, Dunsborough
- Eagle Bay Car Park, Eagle Bay
- Geographe Bay Yacht Club, West Busselton
- Gull Service Station, Broadwater
- Harvest Road Car Park, Broadwater
- Meelup Beach, Dunsborough
- Old Dunsborough Boat Ramp, Dunsborough
- Roberts Road Car Park, Abbey – Abbey Boat Ramp
- Rotary Park, Busselton
- Vasse General Store, Vasse
- Yallingup Beach Car Park – Slippery Rocks, Yallingup
- Yoganup Park, Busselton

Should an application be received that is outside of the locations listed above, it may be considered if the location is within an established car park and meets all other requirements of this Policy and the Local Law.

Additionally, land that is not under the care and control of the City by virtue of vesting or ownership is currently being utilised for Trading in Public Places licences. While in the past this has been completed with the permission of the landholder, normally DPAW or Main Roads WA, it is proposed that only locations where the City has care and control of the land be licenced in future. This reduces the administration required to gain these approvals which are required on an annual basis and often prove difficult to obtain. Further, it reduces complications with the enforcement of the Local Law on land that is not under the care and control of the City.

It is therefore proposed to remove the following previously approved location due to it being land not located within or adjacent to an established car park:
5. Alignment with the Commercial Hire Site Policy – Currently Trading in Public Places Licences are issued for a maximum of 4 hours per day at any one location, except for Yallingup where they are restricted to 2 hours per day between 1 May and 30 November in any given year. Pressure has been recently applied by a Licence holder arguing that the 4 hour rule does not allow the business to operate to its full potential, particularly during peak tourism seasons. The 4 hour rule was originally applied for fairness to allow more than one operator to share a location and reduce the domination that a licensee may perceive over a site.

For consistency it is proposed to allow mobile food vehicles/vendors to apply through the Commercial Hire Site Policy process where greater than 4 hours per day may be requested. This process will allow for a fair and equitable application of licencing for all mobile food vehicles/vendors wanting to trade for longer than a 4 hour timeframe while providing some certainty and tenure for their business at a particular location. Further, this will allow a commercial rate to be applied rather than an annual licence fee to allow this to occur. Should the City philosophically agree to include mobile food vehicles/vendors to be considered under the Commercial Hire Site Policy, a further review of this Policy will be required and presented to Council at a later date.

CONCLUSION

The revision of the Trading in Public Places Policy has been initiated to address issues raised by the community, license holders and City officers as well as improve and update the Policy. The changes are recommended giving consideration to these issues while continuing to give protection to retail premises or permanent places of business.

The Policy is presented to Council for review and to initiate public consultation. Once submissions are collated and assessed, the revised Policy will be brought back to Council for final adoption later in 2014.

OPTIONS

Council may determine to not endorse one or more of the proposed amendments to the Trading in Public Places Policy.

TIMELINE FOR IMPLEMENTATION OF RECOMMENDATION

Should the Officer Recommendation be endorsed and proceed to public consultation, it is proposed that the completed review of the Policy be submitted to the City’s Policy and Legislation Committee Meeting of 20 November 2014 and if accepted be placed before Council for final adoption at the meeting of 10 December 2014.

OFFICER RECOMMENDATION

That the Council:

Support the review of the Commercial Hire Site Policy to include mobile food vehicles/vendors for consideration under this Policy; and

Invite written submissions on the revised Trading in Public Places Standard Condition of Approval Policy renamed as the Trading in Public Places Policy as follows:
1. **PURPOSE**

   This policy will be used to set standard conditions of approval and provide guidance for
   licences issued in accordance with the “City of Busselton Local Law Relating to Trading in Public
   Places”.

2. **SCOPE**

   This policy applies to all applications for Trading in Public Place licences in the City of Busselton.

3. **POLICY CONTENT**

   3.1 **Objective**

   The purpose of this policy is to provide the Council with a consistent framework to encourage,
   control and regulate the location of mobile food vehicles and placement of goods and articles
   in public places across the City of Busselton.

   This policy further aims to encourage a high standard of service delivery to our local
   community and visitors whilst supporting local economic development and commercial viability.

   3.2 **Definitions**

   *Community Association* means an institution, association, club, society or body, whether
   incorporated or not, the objects which are charitable, benevolent, religious, cultural,
   educational, recreational, sporting or other like nature and the members of which are not
   entitled or permitted to receive any pecuniary profit from the transactions thereof.

   *Council* means the Council of the Municipality of the City of Busselton.

   *Event* means an occurrence approved to be held within the City of Busselton on private or
   public land, either indoor or outdoor by a person(s)/group/organisation, where people
   assemble at a given time for entertainment, recreation or community purposes.

   *Facility or Reserve* means any property owned by the City of Busselton and includes buildings,
   recreation centres, community centres, halls, reserves (passive and active).

   *Public Place* means any street, way or place which the public are allowed to use, whether
   street, way or place is or is not on private land.

   *Trading* means selling or hiring of goods, wares, merchandise or services, or offering of goods,
   wares merchandise or services for sale or hire in a street or other public place and includes
   displaying goods, wares or merchandise for the purpose of offering them for sale or hire,
   inviting offers for sale or hire, soliciting orders or carrying out of any other transaction therein,
   it includes the setting up of a stall, or the conducting of business at a stall.

   3.3 **Standard Conditions of Approval for Location of Mobile Food Vehicles/Stalls/ Goods**

   a) Mobile food vehicles/vendors are not permitted to operate in the business district of
      Busselton or Dunsborough as defined by the ‘business’ zoning in the current Town
Planning Scheme except where operating at City approved events or markets.

b) Mobile food vehicles/vendors are only permitted to operate in locations preapproved by the City as follows:
   1) Busselton Airport, Yalyalup
   2) Busselton Drive Ins – Road Reserve, Broadwater
   3) Busselton Foreshore – West of Equinox
   4) Busselton Volunteer Marine Rescue Carpark, Busselton
   5) Centennial Park Car Park, Dunsborough
   6) Dolphin Road Boat Ramp, West Busselton
   7) Dunsborough Skate Park, Dunsborough
   8) Eagle Bay Car Park, Eagle Bay
   9) Geographe Bay Yacht Club, West Busselton
  10) Gull Service Station, Broadwater
  11) Harvest Road Carpark, Broadwater
  12) Meelup Beach, Dunsborough
  13) Old Dunsborough Boat Ramp, Dunsborough
  14) Roberts Road Car park, Abbey – Abbey Boat Ramp
  15) Rotary Park, Busselton
  16) Vasse General Store, Vasse
  17) Yallingup Beach Car Park – Slippery Rocks, Yallingup
  18) Yoganup Park, Busselton

c) Should an application be received requesting a license at a location outside those designated in clause 3.3(b), the City may grant the license if:
   1) the location is on land under the care and control of the City by virtue of vesting or ownership; and
   2) the location is within an established car park; and
   3) the application meets all requirements of this Policy and provisions of the Local Law.

d) Mobile food vehicles/vendors are not permitted to operate within 300m of any retail premises or permanent place of business that has for sale any goods or services of the kind being offered for sale by the mobile trader without:
   1) prior approval to operate in such locations being sought;
   2) submitting a written letter of support from the proprietor(s) of such retail premises or permanent place(s) of business.

e) Subject to clause 3.3(d), the City reserves the right to permit the operation of mobile food vehicles/vendors within 300m of any retail premises or permanent place of business that has for sale any goods or services of the kind being offered for sale by the mobile trader;
   1) during a City approved Event or Market; and
   2) where it can be demonstrated that the number of attendees attracted to the City approved Event or Market warrants the consideration of mobile food vehicles/vendors due to the potential inadequacy or overwhelming of the retail premises or permanent place of business that has for sale any goods or services of the kind being offered for sale by the mobile trader; or
   3) where it can be demonstrated that the City approved Event or Market will be disadvantaged or lose its character or usefulness without the operation of mobile food vehicles/vendors within 300m of any retail premises or permanent place of business that has for sale any goods or services of the kind being offered for sale by the mobile trader.
f) Mobile food vehicles/vendors are not approved to park in a public area, reserve, facility or space unless it can be demonstrated to the satisfaction of the City that the location of the vehicle will not pose a traffic impediment or danger to the safety of the general public.

g) Trading is permitted for a maximum of 4 hours per day in any approved location.

h) A maximum of four (4) mobile food vehicles/stalls are permitted to be approved at any one time at any one location.

i) Only one (1) mobile food vehicle/stall will be permitted to sell any product at any location at any one time. Where a duplication of product occurs that is ancillary to the primary product being offered for sale, this may be approved at the City’s discretion.

j) Displayed goods on footpaths must be at least 2 metres away from a truncation, crossover or street corner.

k) Goods will not be permitted on footpaths where access to a loading zone or disabled parking bay may be impeded.

l) The licensee must not deposit or store any container, vehicle or structure containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles.

3.4 Special Conditions of Approval for Location of Mobile Food Vehicles/Stalls/Goods at Yallingup

a) Trading will only be permitted for a maximum of 2 hours per day between 1 May and 30 November in any year with condition 3.3f) above applying at all other times.

b) Trading will not be permitted in the Torpedo Rocks car park illustrated in Appendix A.

3.5 General Standard Conditions

a) The licensee is responsible for compliance with the Environment Protection (Noise) Regulations 1997.

b) Food vehicles and food operations must comply with the Food Act 2008, Food Regulations 2009 and the Food Safety Standards.

c) Food vehicles are not permitted to set up or provide external tables or chairs for customers.

d) The licensee must maintain a minimum of $10 million Public Liability insurance. The policy must be able to meet any possible claim which may be sustained against the licensee or the City in relation to the death or injury to any person or property arising out of anything authorised by the licence.

e) Solicitation of customers by touting or the use of public address systems is prohibited.

f) The licensee must ensure that the area is kept clean and tidy at all times. The permit holder is responsible for the disposal of litter and cleaning of footpaths.

g) The licensee must ensure that no debris or litter is swept into the street gutter and/or subsequently washed down the storm water drainage system. No detergents and
cleaning agents shall be washed into the street, gutter or drainage system.

h) The licensee is responsible for the maintenance of the permit area and shall maintain all display stands/equipment to a high standard.

i) The licensee must not display or allow to be displayed any advertisement, placard, poster, streamer, sign or signboard other than attached to and forming part of the vendor’s vehicle or display stand.

j) A trading in public places licence is not transferable.

k) Stall holders are not permitted to have or bring dogs onsite to any market stall;

l) Subject to clause 3.5(k), dogs may be considered for permission at a market stall under the following conditions:

1) An application is submitted to the City of Busselton including the following:
   i) the applicant belongs to a registered not for profit organisation and can produce documentation to support that registration;
   ii) the application details the intentions of the stall and the cause to which the application is supporting and is not for the sale of dogs only;
   iii) no sale of dogs is permitted from the market stall;
   iv) the application satisfies the City that the dogs are separated from the general market, such as being within a marquee, the dogs are under the care and control of designated and adequately trained handlers at all times and the application can demonstrate how the animal interaction with the general public will occur in a controlled environment; and
   v) the application is accompanied by a Risk Management Plan detailing the care and control of the dogs at all times from the arrival at the market, during the market operations and removal from the market. This Risk Management Plan will also detail how the interactions with the general public will occur.

2) Failure to meet any of the abovementioned conditions to the satisfaction of the City will result in the application for dogs to be permitted at a market stall being refused.

m) Stall holders are not permitted to have or bring onsite to any market stall any live animal for sale to the public;

3.6 Policy Provisions for Events

a) Traders may be approved to operate for the duration of an Event during the hours it is open to the public.

b) Food vehicles garaged or located within the City of Busselton seeking approval to operate at Events will be required to demonstrate registration under the Food Act 2008 prior to being approved. An application for temporary food stalls/vans will not be required for those businesses registered by the City of Busselton.

c) Food businesses registered by a municipality other than the City of Busselton seeking approval to operate at Events will be required to provide a copy of their Food Act 2008 registration and complete and submit a complete application for Temporary Food Stalls/Vans associated with events and tender the appropriate fee prior to being approved.
3.7 Policy Provisions for Community Associations

a) Community associations are entitled to a fifty percent fee reduction for trading in public place applications.

3.8 Enforcement

In the event that the licence conditions are breached, and in accordance with the Local Law provisions;

a) a licence may be revoked, or

b) compliance action taken.

3.9 Administration of this Policy

The Chief Executive Officer (CEO) has the authority to administer the requirements of the Trading in Public Places Policy on behalf of Council.

Policy Background

Policy Reference No. – 020
Owner Unit – Environmental Health
Originator – Coordinator Environmental Health
Policy approved by – Council
Review Frequency – As required
Related Documents – Local Law relating to Trading in Public Places
6.2 **DRAFT COMMUNITY FACILITIES BOOKING POLICY**

**SUBJECT INDEX:** Community Services  
**STRATEGIC OBJECTIVE:** A City where the community has access to quality cultural, recreation, leisure facilities and services.  
**BUSINESS UNIT:** Community Services  
**ACTIVITY UNIT:** Community Development  
**REPORTING OFFICER:** Community Development Coordinator - Jeremy O’Neill  
**AUTHORIZING OFFICER:** Director, Community and Commercial Services - Naomi Searle  
**VOTING REQUIREMENT:** Simple Majority  
**ATTACHMENTS:**  
Attachment A Draft Community Facilities Booking Policy  
Attachment B Use of Sports Grounds Policy

**PRÉCIS**

This report presents a draft Community Facilities Bookings Policy (Bookings Policy) for the City of Busselton. The objective of the Bookings Policy is to provide a strategic framework for the orderly and fair booking of community facilities.

This report recommends that the Council endorses the Community Facilities Bookings Policy to be advertised for a period of 28 days. Further that subject to submissions received through the advertising process being referred back to the Council for consideration, Council adopts the Community Facilities Bookings Policy to replace the ‘Use of Sports Grounds Policy’.

**BACKGROUND**

Community facilities in the City of Busselton are used for a wide range of activities, such as children’s playgroups, health, fitness and dance programs, craft activities, community and church groups, leisure classes, community events and seasonal sporting competitions. The types of bookings available for Aquatic and Community Centres, Halls, Galleries, Parks and Reserves are as follows:

- Casual Bookings
- Regular Bookings (Annually)
- Regular Bookings (Seasonal)
- Regular Bookings (School Term)
- Events
- Wedding ceremonies
- Exhibitions
- Access to Parks, Reserves

For many years the City of Busselton has had a ‘Use of Sports Grounds Policy’, to govern the utilisation and management of the City’s active playing reserves for seasonal sporting competitions. Whilst being an effective policy for governing this particular purpose its scope does not provide for the growing number of cultural, recreational, sporting and other activities on both active and passive reserves and other City managed facilities. The Community Facilities Policy, if adopted, will include all aspects of the existing policy as well as additional policy statements to govern the increasing activities base.

There have been a number of issues that have arisen regarding City owned or managed facilities that require clarification via a policy framework. These include the commercial use of facilities, activities that do not currently have a permit procedure, priority bookings, non-permissible activities, and in the instances of an agreement not being reached, a dispute resolution process.
The draft Bookings Policy provides a strategic framework to assist in a fair and orderly bookings process of key City of Busselton managed community facilities not currently covered by a Council policy.

STATUTORY ENVIRONMENT

Permits to utilise City of Busselton Community Facilities are granted under *Shire of Busselton Local Government Property Local Law 2010*.

RELEVANT PLANS AND POLICIES

Adoption of a final Community Facilities Bookings Policy will replace *Council Policy 126: Use of Sports Ground*. The new Community Facilities Bookings Policy includes all elements of *Council Policy 126: Use of Sports Ground* and provides a more comprehensive strategic framework for the booking of many other community facilities.

There are several other Council adopted Community policies that govern certain activities on City managed land. These policies are as follows:

- *Council Policy 231: Events Policy*
- *Council Policy 074 Markets Policy*
- *Council Policy 020: Trading in Public Places Policy*
- *Council Policy 008: Commercial Hire Sites Policy*

The intention of the Bookings Policy (and associated procedural documents) is not to replace any of these policies, but to provide additional strategic guidance for activities outside the scope of these documents.

FINANCIAL IMPLICATIONS

There are no financial implications to consider by seeking public comment or by adoption of the draft Bookings Policy. Fees and Charges relating to the various grounds and facilities covered by the Bookings Policy are reviewed by a separate process each year before finally being adopted by Council.

STRATEGIC COMMUNITY OBJECTIVES

The adoption of the Bookings Policy aligns with the following Council’s Strategic Community Plan objectives:

- A community where people feel safe, empowered, included and enjoy a sense of good health and wellbeing.
- An attractive City offering great places and facilities promoting an enjoyable and enriched lifestyle.
- A City where the community has access to quality cultural, recreation, and leisure facilities and services.
- A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections.

RISK ASSESSMENT

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City’s risk assessment framework. No risks rated with a level of ‘medium’ or ‘high’ were identified.
CONSULTATION

Consultation was undertaken with the Department of Lands (Government of Western Australia) in the development of the draft Bookings Policy.

Consultation was also undertaken through the Naturaliste Community Centre (NCC) Reference Group as part of the NCC Bookings Procedure which assisted in the development of this draft Policy.

OFFICER COMMENT

The ‘Use of Sports Grounds Policy’ provides a framework to govern the utilisation and management of the City’s active playing reserves for seasonal sporting competitions. Its scope does not however, provide for the growing number of cultural, recreational, sporting and other activities on both active and passive reserves and other City managed facilities and how the City prioritises and ensures equitable access to its facilities for these growing numbers of users.

The draft Bookings Policy addresses issues experienced with extensive commercial use of some of its facilities by stating a permissible number of hours of use by commercial hirers for facilities on crown land that have a vesting for a specific purpose.

The draft Bookings Policy also addresses the issue of priority bookings by proposing historical bookings by long-term users of community facilities will be honoured in the first instance, but allows the City to review these arrangements if other competing requests for the facility are received. In the absence of a historical booking by a long-term user, competing booking requests will be prioritised by community organisations and individuals first.

Definitions for community, charitable, commercial and types of hire are provided in the draft Policy. These definitions make it clearer to potential hirers which fee structure, aspects of the Policy and associated procedures are applicable to their booking. The definitions also address some historical misperceptions from commercial hirers who have considered themselves community service providers, and help to clarify when concessions for charitable uses are applicable.

CONCLUSION

The draft Bookings Policy will provide the City of Busselton and the community with a strategic framework for the orderly and fair booking of community facilities in the City of Busselton. It clarifies types of hirers and types of bookings, acceptable usage rates by commercial operators at specific community facilities and how booking requests are prioritised.

A period of community consultation of the draft Bookings Policy will allow the Council seek feedback from the community on the Policy content and raise awareness about existing decision making processes formalised in this document.

Options

The Council may decide not to adopt the City of Busselton’s Draft Community Facilities Bookings Policy or undertake community consultation at this point in time.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The draft City of Busselton Community Facilities Bookings Policy will be advertised for public comment within 21 days of the Council decision. Following a public consultation period of 28 days, any submissions will be presented to Council for consideration.
OFFICER RECOMMENDATION

That the Council:

1. Endorses the Community Facilities Bookings Policy to be advertised for public comment for a period of 28 days

2. Subject to submissions received through the advertising process being referred back to the Council for consideration, adopts the Community Facilities Bookings Policy to replace the ‘Use of Sports Grounds Policy’.
PURPOSE
As part of the City of Busselton’s Community Strategic Plan (2013), Council has placed a high priority on providing for quality cultural, recreation, leisure facilities and services. The City of Busselton Community Facilities Bookings Policy will assist in achieving this goal by providing a strategic framework for the orderly, fair booking of all community facilities in the City of Busselton.

The policy will apply to the booking and hiring of City managed community facilities.

SCOPE
This policy applies to community facilities managed by or on behalf of the City of Busselton, including community and commercial hire agreements. This policy excludes individuals or organisations that have entered into a lease or licence with the City of Busselton.

OBJECTIVE
The objective of the Community Facilities Bookings Policy is as follows:
- To provide facilities to the community for cultural, recreational, sporting and other activities as required.
- To manage the facilities in a way that ensures equitable, appropriate and affordable access to the community.
- To maximise community use of facilities through planned asset maintenance and upgrade, promotion of the availability of facilities, booking planning and related strategies.
- To generate income from the use of facilities to contribute towards the cost of maintaining and managing the facilities.

DEFINITIONS
For the purpose of this policy the following definitions apply:

Casual Hire – Casual Hire is defined as a booking that occurs less than twelve (12) times in any 12 month period.

Community Facilities – For the purposes of this policy Community Facilities include community recreation centres, active reserves, passive reserves and City managed Halls.

Crown Land - means land vested to the City of Busselton by the State of Western Australia for a particular purpose.

Long-term User – means an organisation or individual whom has entered into a hire agreement for a community facility with the city as a regular hirer for a period of in excess of 12 months.

Regular hire – Regular Hire is defined as any booking that occurs 12 or more times in any 12 month period. Regular hire bookings will be taken either annually, in line with school terms or bi-annually (seasonally).

Seasonal Hire – The word ‘seasonal’ for the purpose of this policy shall mean the seasons of summer and winter. For the purposes of defining seasonal hire, the summer season shall be regarded as the
period between 1 October and 31 March, and the winter season the period between 1 April and 30 September, all days inclusive.

STANDARDS
For the purpose of this policy the following standards apply:

Commercial Hire Rate - Commercial hire fees will apply to all businesses, organisations and individuals that expect to return a profit from their endeavours, and all hirers that do not meet the community hirer definition standard below.

Community Hire Rate – To be eligible for a community hire rate an organisation or individual is required to be a voluntary association (with an incorporation certificate) or a charitable organisation. Additionally a community rate can also apply in special circumstances whereby individuals or organisations can provide significant evidence of where there is no expectation for profit. An application for this hire rate must be made in writing.

Charitable concession – A charitable concession of up to 50% is available on applicable facility hire fees at City of Busselton facilities for organisations and groups where profits raised from the associated activity are to be donated to a local cause or charity. The applicable facility hire fees are highlighted in the City’s ‘Annual Schedule of Fees and Charges.’

POLICY CONTENT
Principles

Community facilities in the City of Busselton are used for a wide range of activities such as children’s playgroups, health, fitness and dance programs, craft activities, community and church groups, leisure classes, community events and seasonal sporting competitions. Below are types of bookings that may be available for Aquatic and Community Centres, Halls, Art Galleries, Parks and Reserves.

- Casual Bookings
- Regular Bookings (Annually)
- Regular Bookings (Seasonal)
- Regular Bookings (School Term)
- Events
- Access to Parks, Reserves
- Wedding ceremonies
- Exhibitions

Priority Bookings

Historical bookings with long-term users of community facilities will be honoured in the first instance; however the City reserves the right to review bookings as required to provide equitable access to its facilities. In the absence of a historical booking by a long-term user, booking requests made by a Community organisation or individual will be given highest priority when more than one request is made for the same facility at the same time.
Commercial Use

The commercial use of Community Facilities as contained within this policy is governed by and is interpreted in accordance with the laws of the City of Busselton, Western Australia and, where applicable, the laws of the Commonwealth of Australia. The use of facilities on crown land must be consistent with the purpose of that reserve. Any commercial hire undertaken on crown land is limited to a maximum of sixteen (16) hours in total per week by an individual or organisation.

Property Local Law

Permission to utilise City of Busselton Community Facilities (via a permit) is granted under Shire of Busselton Local Government Property Local Law 2010. It is specified in this law as to permissible and non-permissible activities. There are also specific considerations in terms of alcohol consumption and requirements to obtain written approval to serve alcohol on/or from a City of Busselton property.

Non-permitted activities

City of Busselton managed facilities are generally located in close proximity to residential areas. Due to this proximity 18th and 21st Birthday parties are not permitted at any of the City of Busselton premises, as are other activities deemed illegal under relevant local, state and federal laws.

Seasonal hire

Of selected facilities seasonal hire availability is advertised by the City of Busselton on a biannual basis. Applications are advertised on the City’s website and in one of the local newspapers and must be lodged by the stated application closure dates. The utilisation of community facilities for seasonal use may be granted on application. Times and periods of use must be stated on the application form. A liaison officer must be nominated by each club/organisation in order to provide close contact with the City. Payment of the hiring fees shall not confer any rights of use of the facility other than for times and periods specifically approved.

Events

In the instance whereby a community facility booking requires one or more formal approvals from the City’s environmental health, building, statutory planning or engineering and works business units it will need to comply with the City’s Events Policy (2006).

Conditions of hire

Hirers of City of Busselton community facilities must adhere to specific conditions, as stated on the Facility Hire Form to book the individual facility. Other hiring related practices and procedures will be outlined in the Operational Procedure document relating to that facility.

The City may reserve the right to cancel bookings with reasonable notice, with the exception of emergencies, in order to conduct activities required by the Local Government. This could include, but is not limited to: local emergencies, maintenance work and elections.
Fees, Charges and Bonds

The hire of City of Busselton community facilities may incur fees, charges and bonds as per the Council adopted fees and charges schedule, which can be found on the City’s website. Full payment is required in advance to confirm booking unless otherwise arranged.

Dispute Resolution

In the instance that a regular, casual or potential hirer of the facility is not in agreement with the booking determination made, a dispute resolution process will be outlined in the Operational Procedure document relating to that community facility.

When receiving a written response the applicant will be advised of their objection and review rights. If the applicant is aggrieved by the decision, there is a right to object to this decision under section 9.5 of the Local Government Act 1995 (LGA). An applicant may also apply to the State Administrative Tribunal for a review of the decision under section 9.7 of the LGA.

Public Liability Insurance

The City of Busselton’s Casual Hirers Public Liability Insurance will only cover casual hire for individuals or community groups that will not be making a profit from the activity. Any activity that does not meet these criteria will require public liability insurance.
## Use of Sports Grounds

### 1. PURPOSE

This policy is to establish guidelines for the use of sports grounds and playing fields by organisations to ensure a fair and equitable allocation of the City’s facilities.

### 2. SCOPE

The policy is to apply to the use of all City sports grounds and playing fields by clubs, associations and organisations.

### 3. POLICY CONTENT

The hire of sports grounds and/or playing fields may be granted on application to the City of Busselton. Organisations will need to lodge applications identifying a liaison officer and the times and periods of use requested.

#### 3.1 Use of Sports Grounds

##### 3.1.1 Seasonal Use

Seasonal use applications need to be made when expressions of interest are advertised in August/September for summer sports and January/February for winter sports.

The hire of any sport ground or playing field and payment of fees by any organisation, association or club does not confer any sole right of access to that City facility and does not confer any rights of use of the grounds other than for those specific approved times and periods. Council charges all organisations using recreation grounds for exclusive use of a portion of, or the whole of, a recreation facility.

No unauthorised person or group of persons shall refuse access to the grounds when they are not in use by the hirer as it is Council’s right to decide the management and use of reserves and recreation areas owned, vested or controlled by it.

##### 3.1.2 Occasional Use

Sports Grounds and playing fields for occasional hire (including pre-season training) may be granted provided that such use does not interfere with any seasonal hire use and the hirer pays the appropriate occasional use charge.

#### 3.2 Marking Out

The City of Busselton will mark out the various sports grounds once at the commencement of each season and thereafter it will be the responsibility of each organisation to re-mark its grounds.
3.3 Equipment and Materials

All sporting clubs are expected to provide and maintain all equipment and materials needed to conduct their sport at their own expense eg: goal posts, goal rings, hockey goals etc.

3.4 Marking, Maintenance Equipment

Unless other arrangements are in place with specific sporting clubs or organisations, all playing surfaces and irrigation systems will be provided by the City of Busselton and the grassed areas will also be maintained (water, mow and re-turf) by the City.

Should abnormal wear and tear occur, necessitating a maintenance program to be implemented, and it is necessary to apply restrictions on the usage of the ground, Council reserves the right to either not permit any usage or to reduce such usage until the City of Busselton considers the ground is sufficiently recovered. This applies whether the ground is booked or not.

4. APPLICATION OF THE POLICY

The policy shall be applied by Community Services in dealing with applications for and management of the usage of the City’s facilities.

Policy Background

Policy Reference No. - 126
Owner Unit – Community Services
Originator – Historical
Policy approved by – Council
Date Approved – 27 June 2012
Review Frequency – As required
Related Documents – N/A

History

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<td>27 June, 2012</td>
<td>Put into new policy format and minor updates Version 2</td>
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6.3 PROPOSED CITY OF BUSSELTON DOGS LOCAL LAW 2014

SUBJECT INDEX: Local Laws

STRATEGIC OBJECTIVE: Governance systems that deliver responsible, ethical and accountable decision-making.

BUSINESS UNIT: Corporate Services

ACTIVITY UNIT: Legal Services

REPORTING OFFICER: Legal Services Coordinator - Cobus Botha

AUTHORISING OFFICER: Manager, Corporate Services - Sarah Pierson

VOTING REQUIREMENT: Simple Majority

ATTACHMENTS: Attachment A Dogs Local Law Working Version
Attachment B Dogs Local Law Gazettal Version

PRÉCIS

Under the Local Government Act 1995 (Local Government Act) local governments are required to carry out periodic reviews of their local laws to determine whether or not it considers that it should be repealed or amended. As a consequence of the recent amendments to the Dog Act 1976 (Dog Act), the City of Busselton’s existing Shire of Busselton Dog Bylaws 1991 (Current Local Law), which has been under review for the past few years, could be finalised. It is recommended that Council repeal the Current Local Law and adopt a new City of Busselton Dogs Local Law 2014 (Proposed Local Law).

The Proposed Local Law has been prepared for consideration by the Council to initiate the law making process under the Local Government Act.

BACKGROUND

The Dog Act provides for the control, registration, ownership and keeping of dogs. Under Section 51 of the Dog Act a local government may make local laws providing for, among other things, the establishment and maintenance of dog management facilities, detention, maintenance, care and release or disposal of dogs seized, licensing, use and inspection of approved kennel establishments and requiring that premises where dogs are kept must be fenced in a manner capable of confining the dog.

After many years of consultation and development, amendments to the Dog Act together with a new set of regulations, were passed by Parliament and came into effect on 1 November 2013. These amendments include a requirement for all new dogs to be micro-chipped, changes to the length of impounding of dogs where the owner can be identified, more uniform restrictions on dangerous dogs and improvements in the dog nuisance provisions.

From a local government perspective the most significant change brought about by the amendment of the Dog Act is in relation to the procedure for determining dog exercise areas and areas where dogs are prohibited. Prior to these amendments taking effect local governments had to determine dog exercise areas and areas where dogs were prohibited through the making or amendment of a local law. As from 1 November 2013 (the date on which the amendments came into effect) local governments are now able to specify dog exercise areas and areas where dogs are prohibited by an absolute majority decision after giving 28 days’ notice of its intention to do so. As a consequence certain parts of the Current Local Law specifying dog exercise areas and dog prohibited areas became obsolete. Dog exercise areas and dog prohibited areas within the City district are currently under review by City officers. A separate report will in due course be presented to Council to consider various options and to exercise Council’s powers under the new provisions of the Dog Act in relation to dog exercise and dog prohibited areas.
The City’s Current Local Law was gazetted during 1991. Since then the Western Australian Local Government Association (WALGA) developed a Model Dog Local Law which is considered to be consistent with the relevant requirements under the Dog Act and also considered to suit the needs and circumstances of most local governments. As part of the City’s periodic local law review project the City’s Current Local Law has been under review since 2010. The review indicated that, in addition to the provisions dealing with dog exercise and prohibited areas which became obsolete, the Current Local Law is to a certain extent inconsistent with the WALGA Model Dog Local Law, is in various respects considered to be outdated and therefore needs to be amended. The Current Local Law for instance:

- Provides for certain fees and charges to be determined and imposed under the local law (e.g. fees and charges for impounding and destruction of dogs and application and registration of kennel establishments). This in effect means that these fees and charges can only be adjusted by way of an amendment to the Current Local Law, which would require the same process as making a new local law. The current tendency is for fees and charges rather to be imposed and determined under Sections 6.16 - 6.19 of the Local Government Act, which enables local governments to review these fees and charges annually as part of their budget process.

- Uses terminology which is inconsistent with current legislation (e.g. reference is made to “Shire Clerk” and Local Government Act “1960” instead of Local Government Act “1995”).

- Provides for outdated modified penalties which need to be reviewed and brought in line with current fines and penalties prescribed under the Dog Act.

- The process for application for a kennel establishment license is outdated and should be brought in line with the corresponding provisions under the WALGA Model Dog Local Law.

The Proposed Local Law seeks to allow the City to effectively regulate those areas of dog ownership and dog management reserved for local governments under the Dog Act. Council is therefore requested to consider the Proposed Local Law and whether to commence the process under Section 3.12 of the Local Government Act to repeal the Current Local Law and make the Proposed Local Law.

**STATUTORY ENVIRONMENT**

*Local Government Act*

The heads of power for Council to make the Proposed Local Law are provided under section 3.5 of the Local Government Act and section 51 of the Dog Act. Section 51 of the Dog Act specify the dog related matters in relation to which local governments may make local laws and 3.5 of the Local Government Act stipulates:

“A local government may make Local Laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act”.

The procedure for making local laws is set out in sections 3.12 to 3.17 of the Act and regulation 3 of the *Local Government (Functions and General) Regulations 1996*. The person presiding at a Council meeting is to give notice of the purpose and effect of a proposed local law by ensuring that —

- the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- the minutes of the Council meeting include the purpose and effect of the proposed local law.
The purpose and effect of the Proposed Local Law is as follows:

**Purpose:**

To repeal the Shire of Busselton Dog Bylaws 1991 and to extend to Council the control over dogs which exist under the Dog Act 1976.

**Effect:**

To provide Council with controls and regulatory measures in relation to impounding of dogs, the number of dogs that can be kept, establishment of approved kennels and the manner in which dogs are to be confined by the occupier of a premises. Offences are created for allowing a dog to excrete on specified areas (unless the excreta are removed) and for non-compliance with certain other provisions of the local law.

Statewide and local public notice is to be given by advertising the Proposed Local Law in accordance with the requirements of sections 3.12(3) and (3a) of the Local Government Act. The submission period must run for a minimum period of six weeks after which Council, having considered any submissions received, may resolve to make the local law as proposed or make a local law that is not significantly different from what was proposed.

The Proposed Local Law is based on the WALGA Model Dog Local Law.

**National Competition Policy**

Since the early 1990’s State, Territory and Commonwealth Heads of Government through the Council of Australian Governments (COAG) initiated a commitment to achieving a nationally consistent approach to competition policy in Australia. This resulted in the adoption of the National Competition Policy (NCP) which requires, among other things, that local governments ensure that all new local laws which restrict competition are consistent with the following requirements:

- The benefits of the restriction to the community as a whole outweigh the costs; and
- The objectives of the local laws can only be achieved by restricting competition.

In accordance with the *National Competition Local Law Review Guidelines* local governments are however not required to do an assessment against the NCP of a local law based on a WALGA model local law and adopted by Council without substantial change. As the Proposed Local Law is based on the WALGA Model Dog Local Law an assessment against the NCP is therefore not required.

**RELEVANT PLANS AND POLICIES**

None

**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. Progressing the Proposed Local Law should not have any other financial implications for the City.

**STRATEGIC COMMUNITY OBJECTIVES**

The proposal aligns with the *City of Busselton Strategic Community Plan 2013* as follows:
6.2 Governance systems that deliver responsible, ethical and accountable decision making.

RISK ASSESSMENT

The Proposed Local Law does not involve any significant changes from current practices and is therefore considered low risk.

CONSULTATION

No external consultation has been sought. If Council resolve to commence the law making process, public submissions will be invited as part of the statutory consultation process prescribed under Sections 3.12 (3) and (3a) of the Local Government Act.

OFFICER COMMENT

State legislation provides for a three tiered system for regulating the care for and control over dogs:

Dog Act

Under the Dog Act local governments are provided with legislative controls in relation to matters such as registration and identification of dogs, control of dogs (e.g. the obligation to identify dog’s owner, power to seize dogs, dogs to wear collars and registration tags and declaring of and dealing with dangerous dogs), what constitutes a dog nuisance and how to deal with such a nuisance.

Local Laws

The Dog Act also extend to local governments the power to regulate by way of a local law matters such as impounding of dogs, the number of dogs that can be kept, establishment of approved kennels, the manner in which dogs are to be confined by the occupier of a premises and to create offences for non-compliance with certain provisions of a local law (e.g for allowing a dog to excrete on specified areas unless the excreta are removed).

Council resolutions

As a consequence of recent changes to the Dog Act local governments now also have the ability to determine dog exercise areas and areas where dogs are prohibited by an absolute majority decision after giving 28 days’ notice of its intention to do so.

For the reasons mentioned under the BACKGROUND section of this report the Current Local Law is considered to be outdated. It is also considered that, rather than amending the Current Local Law, it would be more appropriate to repeal the Current Local Law and to make a new local law based on the current WALGA Model Dog Local Law and in accordance with the recent changes to the Dog Act. The Proposed Local Law is based on the relevant WALGA model and is considered to be consistent with the relevant empowering provisions under the Dog Act. The Proposed Local Law is structured as follows:

Part 1

The preliminary section deals with matters of a more technical nature including the official title of the local law, the commencement date, the area to which the local law shall apply, repealing the Current Local Law and defining terminology used in the local law.
Part 2

This section deals with the impounding of dogs. It provides for fees, charges and costs to be imposed and determined by Council in relation to the seizure and impounding, release and/or destruction and disposal of a dog, the times at which the pound keeper has to be in attendance at the pound and criminalising breaking into or destruction of a pound.

Part 3

This section requires from an occupier of a premises on which a dog is kept to cause the relevant portion of such premises to be fenced in a manner capable of confining the dog. It also limits the number of dogs which may be kept on any premises other than an approved kennel establishment, to 2 dogs and the young of those dogs under the age of 3 months.

Part 4

This section regulates the process for obtaining and transferring of a license for an approved kennel establishment and the cancellation thereof. It requires from an applicant to give notice of the proposed use of the premises as a kennel establishment (notice to be given in a newspaper circulating in the district and to owners and occupiers of adjoining premises). It also provides for payment of fees in relation to applying for and issuing of a license for an approved kennel establishment.

Part 5

This part of the Proposed Local Law makes reference to the fact that dog prohibited and dog exercise areas are to be determined by Council resolution under the relevant provisions of the Dog Act.

Part 6

Under this section a dog must not excrete on a thoroughfare or other public place or on privately owned land without the consent of the occupier of such land. It also requires from a person in control of such a dog to immediately remove excreta, failing which such a person commits an offence.

Part 7

This section of the Proposed Local Law deals with enforcement. A range of modified penalties (specified in Schedule 3 of the local law) are created and persons responsible for enforcing the Proposed Local Law are authorised to issue infringement notices.

Schedules

Schedule 1 of the Proposed Local Law consists of a template application for a license for an approved kennel establishment. Schedule 2 contains draft conditions which could be imposed on a license for an approved kennel establishment. Under Schedule 3 the offences in respect of which modified penalties apply, are specified.

CONCLUSION

The objective of the Proposed Local Law is to provide the City with adequate and effective controls which will operate together with the provisions of the Dog Act in as seamless a manner as possible to control and regulate dog ownership, behaviour and management within the City’s district. In the process it is considered desirable to repeal the City’s Current Local Law.
OPTIONS

Council have the following options:

Option 1

Not to proceed with progressing the Proposed Local Law and rely on the Current Local Law and the Dog Act to regulate dogs within the City’s district. If Council wishes to pursue this option, it should consider amending the Current Local Law to provide Council with more modern and effective controls for the management and control of dogs within the City’s district. Significant changes to the Current Local Law will be required to achieve such an outcome. Also the process under the Local Government Act for amending a local law is the same as making a new local law. Therefore this option is not recommended.

Option 2

Council could choose to vary the provisions of the Proposed New Local Law in any number of ways. Council should however be aware not to require any changes which may render the Proposed Local Law inconsistent with the Dog Act.

TIMELINE FOR IMPLEMENTATION OF RECOMMENDATION

Implementation of the Officer Recommendation will be through the advertising of the Proposed Local Law for public comment. That will occur within 1 month of Council making a resolution consistent with the Officer Recommendation.

OFFICER RECOMMENDATION

That the Council:

(1) Commences the law-making process for the City of Busselton Dogs Local Law 2014, the purpose and effect of the local law being as follows:

Purpose: To repeal the Shire of Busselton Dog Bylaws 1991 and to extend to Council the control over dogs which exist under the Dog Act 1976.

Effect: To provide Council with controls and regulatory measures in relation to impounding of dogs, the number of dogs that can be kept, establishment of approved kennels and the manner in which dogs are to be confined by the occupier of a premises. Offences are created for allowing a dog to excrete on specified areas (unless the excreta are removed) and for non-compliance with certain other provisions of the local law.

(2) Authorises the CEO to carry out the law-making procedure under section 3.12(3) of the Local Government Act 1995, 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, submit 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.
City of Busselton

DOGS LOCAL LAW 2014

LOCAL GOVERNMENT ACT 1995

DOG ACT 1976
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LOCAL GOVERNMENT ACT 1995  
DOG ACT 1976  

City of Busselton  

DOGS LOCAL LAW 2014  

Under the powers conferred by the Dog Act 1976, the Local Government Act 1995 and under all other powers enabling it, the Council of the City of Busselton resolved on [insert date] to make the following local law.

Dog Act 1976 (Act):  
Selected provisions of the Act 1976 have been included in this document (boxed and shaded) where it is believed these might assist in the interpretation and administration of this local law. These insertions are not an official part of the local law and are therefore not included in the gazettal of the local law.

PART 1 - PRELIMINARY  

1.1 Citation  
This local law may be cited as the City of Busselton Dogs Local Law 2014.

1.2 Repeal  

1.3 Commencement  
This local law comes into operation 14 days after the date of its publication in the Government Gazette.

1.4 Definitions  
In this local law unless the context otherwise requires –
Act means the Dog Act 1976;

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;

CEO means the Chief Executive Officer of the local government;

dangerous dog means a dog which is the subject of a declaration under section 33E of the Act declaring it to be a dangerous dog;

district means the area of the State that has been declared to be the district of the local government under the Local Government Act 1995 and includes, for certain purposes provided for in the Act, other areas which although not being within the boundaries of the district are regarded for those purposes as being part of the district;

local government means the City of Busselton;

local planning scheme means a local planning scheme made by the local government under the Planning and Development Act 2005 which applies throughout the whole or a part of the district;

owner, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

Section 3(1) of the Act –
owner in relation to a dog means —
(a) the person by whom the dog is ordinarily kept; or
(b) a person who is deemed by subsection (2) to be the owner of the dog;

Section 3(2) of the Act -
A person who is shown in the register maintained by a local government under this Act as being the last person recorded by the local government as the registered owner of a dog is deemed to be the owner of that dog, whether or not the registration in his name continues in force, unless he proves that he is not the owner of the dog.

person liable for the control of the dog has the same meaning as in section 3(1) of the Act;

Section 3(1) of the Act –
person liable for the control of the dog means each of the following —
(a) the registered owner of the dog;
(b) the owner of the dog;
(c) the occupier of any premises where the dog is ordinarily kept or ordinarily permitted to live; or
(d) a person who has the dog in his possession or under his control, but does not include —
(e) a registered veterinary surgeon, or a person acting on his behalf, in the course of his professional practice; or
(f) a police officer or other person acting under a statutory duty or in the administration of this Act;
Planning Consent means an approval issued under the a local planning scheme;

pound means any facility, or any replacement facility, established as a pound by the local government under section 11(1) of the Act;

pound keeper means a person authorised by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

premises has the same meaning as in section 3(1) of the Act;

Regulations means the Dog Regulations 1976;

Schedule means a schedule in this local law; and

thoroughfare has the meaning given to it in section 1.4 of the Local Government Act 1995.

1.5 Application

This local law applies throughout the district.

PART 2 - IMPOUNDING OF DOGS

2.1 Fees, charges and costs

The following fees, charges and costs are to be imposed and determined by the local government under sections 6.16 to 6.19 of the Local Government Act 1995 –

(a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;

(b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and

(c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

(1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.
Policy and Legislation Committee

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(2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper (or in the absence of the pound keeper, to the CEO) satisfactory evidence –

(a) of her or his ownership of the dog or of her or his authority to take delivery of it; or

(b) that he or she is the person identified as the owner on a microchip implanted in the dog.

Payment of fees, charges and costs before an impounded dog is returned
Section 29(4) of the Act –
(4) Where a dog is seized pursuant to subsection (3) the authorised person may —

(a) cause it to be returned to the owner; or

(b) detain it,
and the owner shall be liable to pay to the local government detaining the dog, if so required by the local government and whether or not payable to the local government, before the dog is returned to the owner the reasonable cost of returning the dog or of maintaining it during the period of detention, or both where that is appropriate, together with any charges levied in relation to the seizure and impounding of the dog and any other fees or charges relating to that dog which ought to have been, but had not been, paid under this Act, including any penalties imposed on, or costs or expenses payable by, the owner in respect of an offence, whether or not the dog is returned to the owner.

2.4 No breaking into or destruction of pound

A person who –

(a) unless he or she is the pound keeper or a person authorised to do so, releases or attempts to release a dog from a pound; or

(b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof -

(i) any pound; or

(ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,

commits an offence.

PART 3 - REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined
(1) An occupier of premises on which a dog is kept must –

(a) cause that portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;

(b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;

(c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;

(d) maintain the fence and all gates and doors in the fence in good order and condition; and

(e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) An occupier who fails to comply with subclause (1) commits an offence.

3.2 Limitation on the number of dogs

(1) This clause does not apply to premises which have been –

(a) licensed under Part 4 as an approved kennel establishment; or

(b) granted an exemption under section 26(3) of the Act.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs under that age.

PART 4 - APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2 -

adjoining includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;

licence means a licence to keep an approved kennel establishment on premises;

licensee means the holder of a licence;

premises means, in addition to the meaning given to it in section 3 of the Act, the premises described in the application for a licence; and
transferee means a person who applies for the transfer of a licence to her or him under clause 4.13.

4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with –

(a) plans and specifications of the kennel establishment, including a site plan;

(b) copies of the notices to be given under clause 4.3;

(c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the CEO, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;

(d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs adopted or nominated by the local government;

(e) the fee for the application for a licence referred to in clause 4.9(1); and

(f) a copy of a Planning Consent issued by the local government under a local planning scheme.

4.3 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –

(a) once in a newspaper circulating in the district; and

(b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that –

(a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and

(b) the application and plans and specifications may be inspected at the offices of the local government.

(3) Where –

(a) the notices given under subclause (1) do not clearly identify the premises; or

(b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the CEO, would fail to serve the purpose of notifying persons of the proposed use of the premises,
then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.

4.4 **Exemption from notice requirements**

Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a –

(a) permitted use; or

(b) use which the local government may approve subject to compliance with specified notice requirements,

under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 **When application can be determined**

An application for a licence is not to be determined by the local government until –

(a) the applicant has complied with clause 4.2;

(b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and

(c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 **Determination of application**

In determining an application for a licence, the local government is to have regard to –

(a) the matters referred to in clause 4.7;

(b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;

(c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;

(d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;

(e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and

(f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.
4.7 Where application cannot be approved

The local government cannot approve an application for a licence where –

(a) an approved kennel establishment cannot be permitted by the local government on the premises under a local planning scheme; or

(b) an applicant for a licence or another person who will have the charge of the dogs will not reside on the premises, or, in the opinion of the local government, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare.

4.8 Conditions of approval

(1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.

(2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

(3) A licensee who fails to comply with the conditions of a licence commits an offence.

Under Section 27(2) of the Dog Act 1976:
A person who fails to comply with a kennel licence and conditions of approval commits an offence; and
A penalty of $5000 and daily penalty of $100 for noncompliance with a kennel licence and conditions of approval can be imposed.

4.9 Fees

(1) On lodging an application for a licence, the applicant is to pay a fee to the local government.

(2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.

(3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.

(4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the Local Government Act 1995.

4.10 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

4.11 Period of licence
(1) The period of effect of a licence is set out in section 27(5) of the Act.

(2) A licence is to be renewed if the fee referred to in clause 4.9(2) is paid to the local government prior to the expiry of the licence.

(3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

Section 27(5) of the Dog Act 1976 provides –
A licence under this section has effect for a period of 12 months, and is renewable upon payment of the prescribed fee, but may be cancelled at any time by the local government if the local government is dissatisfied with the conduct of the establishment.

4.12 Variation or cancellation of licence

(1) The local government may vary the conditions of a licence.

(2) The local government may cancel a licence –
   (a) on the request of the licensee;
   (b) following a breach of the Act, the Regulations or this local law; or
   (c) if the licensee is not a fit and proper person.

(3) The date a licence is cancelled is to be, in the case of –
   (a) paragraph (a) of subclause (2), the date requested by the licensee; or
   (b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.

(4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

(1) An application for the transfer of a valid licence from the licensee to another person must be –
   (a) made in the form determined by the local government;
   (b) made by the transeree;
   (c) made with the written consent of the licensee; and
   (d) lodged with the local government together with –
      (i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and
(ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).

(2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).

(3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.

(4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 Notification

The local government is to give written notice to -

(a) an applicant for a licence of the local government’s decision on her or his application;

(b) a transferee of the local government’s decision on her or his application for the transfer of a valid licence;

(c) a licensee of any variation made under clause 4.12(1);

(d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;

(e) a licensee when her or his licence is renewed;

(f) a licensee of the cancellation of a licence under clause 4.12(2)(a); and

(g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

4.15 Objections and appeals

(1) Where the local government makes a decision as to whether it will –

(a) grant an application for a licence;

(b) vary or cancel a licence; or

(c) impose or amend a condition to which a licence is subject,

the provisions of Division 1 of Part 9 of the Local Government Act 1995 and regulation 33 of the Local Government (Functions and General) Regulations 1996 apply to that decision.
(2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

4.16 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

**Entry of premises**

Section 12A.(2) of the Act –
With the authority of a warrant, an authorised person, and any other person named in the warrant, may enter and inspect any premises for any purpose relating to the enforcement of this Act.

Section 12A.(3) of the Act –
If he is satisfied that there are reasonable grounds for doing so, a Justice of the Peace may issue a warrant for the purposes of subsection (2).

**PART 5 - DOGS IN PUBLIC PLACES**

**Control of dogs in certain public places**

Section 31 of the Act -

(1) A dog shall not be in a public place unless it is —
(a) held by a person who is capable of controlling the dog; or
(b) securely tethered for a temporary purpose, by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.

(2A) Despite subsection (1), a dog shall not be in a public place —
(a) at all if the place is specified under subsection (2B) as a place where dogs are prohibited at all times; or
(b) at a time when the place is specified under subsection (2B) as a place where dogs are prohibited at that time.

(2B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited —
(a) at all times; or
(b) at specified times.

(2) A dog is exempt from the requirements of subsection (1) if —
(a) it is in a dog exercise area specified under subsection (3A); or
(b) it is in a public place that is in an area of the State outside the metropolitan region or outside a townsite, and that is not a rural leashing area specified under subsection (3B); or
(c) it is in or on a vehicle; or
(d) it is being exhibited for show purposes; or
(e) it is participating in an obedience trial or classes conducted under the auspices of the body known as the Canine Association of Western Australia (Inc.) or a
body approved by the local government in whose district the obedience trial or classes are conducted; or

(f) it is registered as being bona fide used in the droving or tending of stock and is being so used or is going to or returning from a place where it will be, or has been, so used; or

(g) it is a foxhound in a pack bona fide engaged in hunting or hound exercise or in going to or returning from hunting or hound exercise; or

(h) it is being used for retrieving, duck hunting or other customary sporting purposes.

[the definition of **townsite** under section 3 of the Act includes ...(d) land within a town or a city under the **Local Government Act 1995** that is outside the metropolitan area.

Therefore:
- There are no public places within the City of Busselton that are outside a townsite; and
- The exemption under section 31(2)(b) does not apply to the City of Busselton]

### 5.1 Places where dogs are prohibited absolutely

(1) Designation of places where dogs are prohibited absolutely is dealt with in the Act.

**Local Government may specify public places where dogs are prohibited**

See section 31(2B) of the Act above.

(2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

(3) Subclause (2) does not apply to a dog who is being used as an assistance animal as defined in the **Disability Discrimination Act 1992** (Cth).

### 5.2 Places which are dog exercise areas

Designation of places which are dog exercise areas is dealt with in the Act.

**Local Government may specify dog exercise areas**

Section 31 (3A) of the Act –

A local government may, by absolute majority as defined in the **Local Government Act 1995** section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.

**Control of dogs in exercise areas and rural areas**

Section 32 of the Act-

(1) A dog shall not be in —

(a) a dog exercise area specified under section 31(3A); or

(b) a public place that is in an area of the State outside the metropolitan region or outside a townsite, and that is not a rural leashing area specified under section 31(3B),
6.3 PROPOSED CITY OF BUSSELTON DOGS LOCAL LAW 2014
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unless —
(c) the dog is being held in the way referred to in section 31(1)(a); or
(d) the dog is being tethered in the way referred to in section 31(1)(b); or
(e) the dog is not a greyhound and is being supervised by a competent person who is in reasonable proximity to the dog.

(2) A person is a competent person for the purposes of subsection (1) only if —
(a) he is a person who is liable for the control of the dog;
(b) he is capable of controlling it; and
(c) he is carrying and capable of attaching to the dog for the purpose of controlling it, a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.

The exemptions in section 31(2) (other than paragraphs (a) and (b)) also apply for the purposes of subsection (1).

(4) If a dog is at any time in any place in contravention of subsection (1) every person liable for the control of the dog at that time commits an offence unless the person establishes a defence under section 33B.

Penalty: a fine of $5 000.

(5) This section does not apply to a dangerous dog.

PART 6 - MISCELLANEOUS

6.1 Offence to excrete

(1) A dog must not excrete on –

(a) any thoroughfare or other public place; or

(b) any land which is not a public place without the consent of the occupier.

(2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

(3) A person liable for the control of a dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 7 - ENFORCEMENT

7.1 Interpretation

In this Part -

infringement notice means the notice referred to in clause 7.5; and

notice of withdrawal means the notice referred to in clause 7.8(1).
7.2 **Offences**

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

7.3 **General penalty**

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding $5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding $100 for each day or part of the day during which the offence has continued.

7.4 **Modified penalties**

(1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if -

   (a) the offence does not involve a dangerous dog; or

   (b) the offence involves a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

(3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the offence involves a dangerous dog.

7.5 **Issue of infringement notice**

Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

7.6 **Failure to pay modified penalty**

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

7.7 **Payment of modified penalty**

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgement.
7.8 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) A person authorised to issue an infringement notice under clause 7.5 cannot sign or send a notice of withdrawal.

<table>
<thead>
<tr>
<th>Restriction on appointment of authorised persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 9.23 of the Local Government Act 1995 -</td>
</tr>
<tr>
<td>A person who is authorised to give infringement notices under section 9.16 is not eligible to be an authorised person for the purposes of section 9.17, 9.19 or 9.20.</td>
</tr>
<tr>
<td>[In effect a person appointed by the local government to perform the function of issuing infringement notices, is not eligible to be appointed to perform the function of withdrawing infringement notices]</td>
</tr>
</tbody>
</table>

7.9 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by the local government under the Act, or as ascertained from inquiries made by the local government.
SCHEDULE 1
[clause 4.2]

City of Busselton Dogs Local Law 2014
Application for a licence for an approved kennel establishment

I/we (full name) .............................................................................................................
of (postal address) ...........................................................................................................
(telephone number) ........................................................................................................
(facsimile number) .........................................................................................................
(E-mail address) .............................................................................................................

Apply for a licence for an approved kennel establishment at (address of premises) ......................
........................................................................................................................................

For (number and breed of dogs) ........................................................................................
  * (insert name of person) ............................................................................................... will be residing at the premises on and from (insert date).
  *
  * (insert name of person) ............................................................................................... will be residing (sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare) at .........................
  ........................................................................................................................................
  ........................................................................................................................................ (insert address of residence)
on and from ........................... (insert date).

Attached are -
(a) a site plan of the premises showing the location of the kennels and yards and all other buildings and
structures and fences;
(b) plans and specifications of the kennel establishment;
(c) copy of notice of proposed use to appear in newspaper;
(d) copy of notice of proposed use to be given to adjoining premises;
(e) written evidence that a person will reside -
  (i) at the premises; or
  (ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and
  welfare; and
(f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of
the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as
..........................................................................................................................................., in the keeping of dogs at the proposed kennel
establishment**.

Signature of applicant .................................................................

Date .........................................................................................................................

* delete where inapplicable.
** see clause 4.2(d).

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act 1976.
SCHEDULE 2
[clause 4.8(1)]

Conditions of a licence for an approved kennel establishment

An application for a licence for an approved kennel establishment may be approved subject to the following conditions -

(a) each kennel, unless it is fully enclosed, must have a yard attached to it;

(b) each kennel and each yard must be at a distance of not less than -

(i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
(ii) 10m from any dwelling; and
(iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption.

(c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;

(d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;

(e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;

(f) the upper surface of the kennel floor must be –

(i) at least 100mm above the surface of the surrounding ground;
(ii) smooth so as to facilitate cleaning;
(iii) rigid;
(iv) durable;
(v) slip resistant;
(vi) resistant to corrosion;
(vii) non-toxic;
(viii) impervious;
(ix) free from cracks, crevices and other defects; and
(x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;

(g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
(h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;

(i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;

(j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of -

   (i) 2m; or
   (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;

(k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zinalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;

(l) all external surfaces of each kennel must be kept in good condition;

(m) the roof of each kennel must be constructed of impervious material;

(n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;

(o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;

(p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;

(q) suitable water must be available at the kennel via a properly supported standpipe and tap; and

(r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -

   (i) at the premises; or
   (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.
### SCHEDULE 3
[clause 7.2]

Offenses in respect of which Modified Penalties apply

<table>
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This local law was made at the meeting of the Council of the City of Busselton on [insert date].

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

____________________________________
IAN WILLIAM STUBBS, Mayor

____________________________________
MIKE STEPHEN LEE ARCHER, Chief Executive Officer
City of Busselton

DOGS LOCAL LAW 2014

LOCAL GOVERNMENT ACT 1995

DOG ACT 1976
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LOCAL GOVERNMENT ACT 1995

DOG ACT 1976

City of Busselton

DOGS LOCAL LAW 2014

Under the powers conferred by the Dog Act 1976, the Local Government Act 1995 and under all other powers enabling it, the Council of the City of Busselton resolved on [insert date] to make the following local law.

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the City of Busselton Dogs Local Law 2014.

1.2 Repeal


1.3 Commencement

This local law comes into operation 14 days after the date of its publication in the Government Gazette.

1.4 Definitions

In this local law unless the context otherwise requires –

Act means the Dog Act 1976;

authorised person means a person appointed by the local government to perform all or any of the functions conferred on an authorised person under this local law;
CEO means the Chief Executive Officer of the local government;

dangerous dog means a dog which is the subject of a declaration under section 33E of the Act declaring it to be a dangerous dog;

district means the area of the State that has been declared to be the district of the local government under the Local Government Act 1995 and includes, for certain purposes provided for in the Act, other areas which although not being within the boundaries of the district are regarded for those purposes as being part of the district;

local government means the City of Busselton;

local planning scheme means a local planning scheme made by the local government under the Planning and Development Act 2005 which applies throughout the whole or a part of the district;

owner, in relation to a dog, has the same meaning as in section 3(1) and (2) of the Act;

person liable for the control of the dog has the same meaning as in section 3(1) of the Act;

Planning Consent means an approval issued under the a local planning scheme;

pound means any facility, or any replacement facility, established as a pound by the local government under section 11(1) of the Act;

pound keeper means a person authorised by the local government to perform all or any of the functions conferred on a “pound keeper” under this local law;

premises has the same meaning as in section 3(1) of the Act;

Regulations means the Dog Regulations 1976;

Schedule means a schedule in this local law; and

thoroughfare has the meaning given to it in section 1.4 of the Local Government Act 1995.

1.5 Application

This local law applies throughout the district.

PART 2 - IMPOUNDING OF DOGS

2.1 Fees, charges and costs

The following fees, charges and costs are to be imposed and determined by the local government under sections 6.16 to 6.19 of the Local Government Act 1995 –

(a) the charges to be levied under section 29(4) of the Act relating to the seizure and impounding of a dog;
(b) the additional fee payable under section 29(4) of the Act where a dog is released at a time or on a day other than those determined under clause 2.2; and

(c) the costs of the destruction and the disposal of a dog referred to in section 29(15) of the Act.

2.2 Attendance of pound keeper at pound

The pound keeper is to be in attendance at the pound for the release of dogs at the times and on the days of the week as are determined by the CEO.

2.3 Release of impounded dog

(1) A claim for the release of a dog seized and impounded is to be made to the pound keeper or in the absence of the pound keeper, to the CEO.

(2) The pound keeper is not to release a dog seized and impounded to any person unless that person has produced, to the satisfaction of the pound keeper (or in the absence of the pound keeper, to the CEO) satisfactory evidence –

(a) of her or his ownership of the dog or of her or his authority to take delivery of it; or

(b) that he or she is the person identified as the owner on a microchip implanted in the dog.

2.4 No breaking into or destruction of pound

A person who –

(a) unless he or she is the pound keeper or a person authorised to do so, releases or attempts to release a dog from a pound; or

(b) destroys, breaks into, damages or in any way interferes with or renders not dog-proof -

(i) any pound; or

(ii) any vehicle or container used for the purpose of catching, holding or conveying a seized dog,

commits an offence.

PART 3 - REQUIREMENTS AND LIMITATIONS ON THE KEEPING OF DOGS

3.1 Dogs to be confined

(1) An occupier of premises on which a dog is kept must –

(a) cause that portion of the premises on which the dog is kept to be fenced in a manner capable of confining the dog;
(b) ensure the fence used to confine the dog and every gate or door in the fence is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it;

(c) ensure that every gate or door in the fence is kept closed at all times when the dog is on the premises and is fitted with a proper latch or other means of fastening it;

(d) maintain the fence and all gates and doors in the fence in good order and condition; and

(e) where no part of the premises consists of open space, yard or garden or there is no open space or garden or yard of which the occupier has exclusive use or occupation, ensure that other means exist on the premises (other than the tethering of the dog) for effectively confining the dog within the premises.

(2) An occupier who fails to comply with subclause (1) commits an offence.

3.2 Limitation on the number of dogs

(1) This clause does not apply to premises which have been –

(a) licensed under Part 4 as an approved kennel establishment; or

(b) granted an exemption under section 26(3) of the Act.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act, 2 dogs over the age of 3 months and the young of those dogs under that age.

PART 4 - APPROVED KENNEL ESTABLISHMENTS

4.1 Interpretation

In this Part and in Schedule 2 -

*adjoining* includes land or premises which have a portion of a common boundary with a lot or is separated from that lot by a public reserve, road, right-of-way, pedestrian access way, access leg of a battle-axe lot or the equivalent not more than 6m in width;

*licence* means a licence to keep an approved kennel establishment on premises;

*licensee* means the holder of a licence;

*premises* means, in addition to the meaning given to it in section 3 of the Act, the premises described in the application for a licence; and

*transferee* means a person who applies for the transfer of a licence to her or him under clause 4.13.
4.2 Application for licence for approved kennel establishment

An application for a licence must be made in the form of that in Schedule 1, and must be lodged with the local government together with –

(a) plans and specifications of the kennel establishment, including a site plan;
(b) copies of the notices to be given under clause 4.3;
(c) written evidence that either the applicant or another person who will have the charge of the dogs, will reside on the premises or, in the opinion of the CEO, sufficiently close to the premises so as to control the dogs and so as to ensure their health and welfare;
(d) a written acknowledgement that the applicant has read and agrees to comply with any code of practice relating to the keeping of dogs adopted or nominated by the local government;
(e) the fee for the application for a licence referred to in clause 4.9(1); and
(f) a copy of a Planning Consent issued by the local government under a local planning scheme.

4.3 Notice of proposed use

(1) An applicant for a licence must give notice of the proposed use of the premises as an approved kennel establishment after the application for a licence has been lodged –

(a) once in a newspaper circulating in the district; and
(b) to the owners and occupiers of any premises adjoining the premises.

(2) The notices in subclause (1) must specify that –

(a) any written submissions as to the proposed use are to be lodged with the CEO within 14 days of the date the notice is given; and
(b) the application and plans and specifications may be inspected at the offices of the local government.

(3) Where –

(a) the notices given under subclause (1) do not clearly identify the premises; or
(b) a notice given under subclause (1)(a) is of a size or in a location in the newspaper which, in the opinion of the CEO, would fail to serve the purpose of notifying persons of the proposed use of the premises,

then the local government may refuse to determine the application for a licence until the notices or notice, as the case may be, is given in accordance with its directions.
4.4 Exemption from notice requirements

- Where an application for a licence is made in respect of premises on which an approved kennel establishment is either a –
  - (a) permitted use; or
  - (b) use which the local government may approve subject to compliance with specified notice requirements,

- under a local planning scheme, then the requirements of clauses 4.2(b), 4.3 and 4.5(a) do not apply in respect of the application for a licence.

4.5 When application can be determined

An application for a licence is not to be determined by the local government until –

- (a) the applicant has complied with clause 4.2;
- (b) the applicant submits proof that the notices referred to in clause 4.3(1) have been given in accordance with that clause; and
- (c) the local government has considered any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises.

4.6 Determination of application

In determining an application for a licence, the local government is to have regard to –

- (a) the matters referred to in clause 4.7;
- (b) any written submissions received within the time specified in clause 4.3(2)(a) on the proposed use of the premises;
- (c) any economic or social benefits which may be derived by any person in the district if the application for a licence is approved;
- (d) the effect which the kennel establishment may have on the environment or amenity of the neighbourhood;
- (e) whether the approved kennel establishment will create a nuisance for the owners and occupiers of adjoining premises; and
- (f) whether or not the imposition of and compliance with appropriate conditions of a licence will mitigate any adverse effects of the approved kennel establishment identified in the preceding paragraphs.

4.7 Where application cannot be approved

The local government cannot approve an application for a licence where –
4.8 Conditions of approval

(1) The local government may approve an application for a licence subject to the conditions contained in Schedule 2 and to such other conditions as the local government considers appropriate.

(2) In respect of a particular application for a licence, the local government may vary any of the conditions contained in Schedule 2.

(3) A licensee who fails to comply with the conditions of a licence commits an offence.

4.9 Fees

(1) On lodging an application for a licence, the applicant is to pay a fee to the local government.

(2) On the issue or renewal of a licence, the licensee is to pay a fee to the local government.

(3) On lodging an application for the transfer of a valid licence, the transferee is to pay a fee to the local government.

(4) The fees referred to in subclauses (1) to (3) are to be imposed and determined by the local government under sections 6.16 to 6.19 of the Local Government Act 1995.

4.10 Form of licence

The licence is to be in the form determined by the local government and is to be issued to the licensee.

4.11 Period of licence

(1) The period of effect of a licence is set out in section 27(5) of the Act.

(2) A licence is to be renewed if the fee referred to in clause 4.9(2) is paid to the local government prior to the expiry of the licence.

(3) On the renewal of a licence the conditions of the licence at the time of its renewal continue to have effect.

4.12 Variation or cancellation of licence

(1) The local government may vary the conditions of a licence.
6.3 PROPOSED CITY OF BUSSELTON DOGS LOCAL LAW 2014
Attachment B Dogs Local Law Gazetted Version

(2) The local government may cancel a licence –

(a) on the request of the licensee;

(b) following a breach of the Act, the Regulations or this local law; or

(c) if the licensee is not a fit and proper person.

(3) The date a licence is cancelled is to be, in the case of –

(a) paragraph (a) of subclause (2), the date requested by the licensee; or

(b) paragraphs (b) and (c) of subclause (2), the date determined under section 27(6) of the Act.

(4) If a licence is cancelled the fee paid for that licence is not refundable for the term of the licence that has not yet expired.

4.13 Transfer

(1) An application for the transfer of a valid licence from the licensee to another person must be –

•

(a) made in the form determined by the local government;

(b) made by the transferee;

(c) made with the written consent of the licensee; and

(d) lodged with the local government together with –

(i) written evidence that a person will reside at or within reasonably close proximity to the premises the subject of the licence; and

(ii) the fee for the application for the transfer of a licence referred to in clause 4.9(3).

(2) The local government is not to determine an application for the transfer of a valid licence until the transferee has complied with subclause (1).

(3) The local government may approve, whether or not subject to such conditions as it considers appropriate, or refuse to approve an application for the transfer of a valid licence.

(4) Where the local government approves an application for the transfer of a valid licence, then on the date of approval, unless otherwise specified in the notice issued under clause 4.14(b), the transferee becomes the licensee of the licence for the purposes of this local law.

4.14 Notification
The local government is to give written notice to -

(a) an applicant for a licence of the local government’s decision on her or his application;

(b) a transferee of the local government’s decision on her or his application for the transfer of a valid licence;

(c) a licensee of any variation made under clause 4.12(1);

(d) a licensee when her or his licence is due for renewal and the manner in which it may be renewed;

(e) a licensee when her or his licence is renewed;

(f) a licensee of the cancellation of a licence under clause 4.12 (2)(a); and

(g) a licensee of the cancellation of a licence under paragraphs (b) or (c) of clause 4.12(2), which notice is to be given in accordance with section 27(6) of the Act.

4.15 Objections and appeals

(1) Where the local government makes a decision as to whether it will –

(a) grant an application for a licence;

(b) vary or cancel a licence; or

(c) impose or amend a condition to which a licence is subject,

the provisions of Division 1 of Part 9 of the Local Government Act 1995 and regulation 33 of the Local Government (Functions and General) Regulations 1996 apply to that decision.

(2) Under these provisions, an affected person may have the right to object to, or to appeal against, a decision of the local government.

4.16 Inspection of kennel

With the consent of the occupier, an authorised person may inspect an approved kennel establishment at any time.

PART 5 - DOGS IN PUBLIC PLACES

5.1 Places where dogs are prohibited absolutely

(1) Designation of places where dogs are prohibited absolutely is dealt with in the Act.

(2) If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.
(3) Subclause (2) does not apply to a dog who is being used as an assistance animal as defined in the Disability Discrimination Act 1992 (Cth).

5.2 Places which are dog exercise areas

Designation of places which are dog exercise areas is dealt with in the Act.

PART 6 - MISCELLANEOUS

6.1 Offence to excrete

(1) A dog must not excrete on –
   (a) any thoroughfare or other public place; or
   (b) any land which is not a public place without the consent of the occupier.

(2) Subject to subclause (3), if a dog excretes contrary to subclause (1), every person liable for the control of the dog at that time commits an offence.

(3) A person liable for the control of a dog does not commit an offence against subclause (2) if any excreta is removed immediately by that person.

PART 7 - ENFORCEMENT

7.1 Interpretation

In this Part -

infringement notice means the notice referred to in clause 7.5; and

notice of withdrawal means the notice referred to in clause 7.8(1).

7.2 Offences

A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

7.3 General penalty

A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding $5,000 and if the offence is of a continuing nature, to an additional penalty not exceeding $100 for each day or part of the day during which the offence has continued.

7.4 Modified penalties
(1) The offences contained in Schedule 3 are offences in relation to which a modified penalty may be imposed.

(2) The amount appearing in the third column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if:

(a) the offence does not involve a dangerous dog; or

(b) the offence involves a dangerous dog, but an amount does not appear in the fourth column directly opposite that offence.

(3) The amount appearing in the fourth column of Schedule 3 directly opposite an offence is the modified penalty payable in respect of that offence if the offence involves a dangerous dog.

7.5 Issue of infringement notice

- Where an authorised person has reason to believe that a person has committed an offence in respect of which a modified penalty may be imposed, he or she may issue to that person a notice in the form of Form 7 of the First Schedule of the Regulations.

7.6 Failure to pay modified penalty

Where a person who has received an infringement notice fails to pay the modified penalty within the time specified in the notice, or within such further time as may in any particular case be allowed by the CEO, he or she is deemed to have declined to have the offence dealt with by way of a modified penalty.

7.7 Payment of modified penalty

A person who has received an infringement notice may, within the time specified in that notice or within such further time as may in any particular case be allowed by the CEO, send or deliver to the local government the amount of the penalty, with or without a reply as to the circumstances giving rise to the offence, and the local government may appropriate that amount in satisfaction of the penalty and issue an acknowledgement.

7.8 Withdrawal of infringement notice

(1) Whether or not the modified penalty has been paid, an authorised person may withdraw an infringement notice by sending a notice in the form of Form 8 of the First Schedule of the Regulations.

(2) A person authorised to issue an infringement notice under clause 7.5 cannot sign or send a notice of withdrawal.

7.9 Service

An infringement notice or a notice of withdrawal may be served on a person personally, or by leaving it at or posting it to her or his address as ascertained from her or him, or as recorded by
the local government under the Act, or as ascertained from inquiries made by the local government.
SCHEDULE 1
[clause 4.2]

City of Busselton Dogs Local Law 2014
Application for a licence for an approved kennel establishment

I/we (full name) .................................................................................................................................
of (postal address) ...............................................................................................................................
(telephone number) ............................................................................................................................
(facsimile number) .............................................................................................................................
(E-mail address) .................................................................................................................................
Apply for a licence for an approved kennel establishment at (address of premises) ..............................
............................................................................................................................................................
For (number and breed of dogs) ............................................................................................................
* (insert name of person) ........................................................... will be residing at the premises on and
from (insert date) .................................................................
* (insert name of person) ........................................................ will be residing (sufficiently close to the
premises so as to control the dogs and so as to ensure their health and welfare) at
.................................................................................................................. (insert address of residence)
on and from ........................................ (insert date).

Attached are -
(a) a site plan of the premises showing the location of the kennels and yards and all other buildings and
structures and fences;
(b) plans and specifications of the kennel establishment;
(c) copy of notice of proposed use to appear in newspaper;
(d) copy of notice of proposed use to be given to adjoining premises;
(e) written evidence that a person will reside -
(i) at the premises; or
(ii) sufficiently close to the premises so as to control the dogs and so as to ensure their health and
welfare; and
(f) if the person in item (e) is not the applicant, written evidence that the person is a person in charge of
the dogs.

I confirm that I have read and agree to comply with the Code of Practice known as
................................................................................................................................., in the keeping of dogs at the proposed kennel
establishment**.

Signature of applicant ..........................................................................................................................
Date ....................................................................................................................................................

* delete where inapplicable.
** see clause 4.2(d).

Note: a licence if issued will have effect for a period of 12 months – section 27.5 of the Dog Act 1976.
An application for a licence for an approved kennel establishment may be approved subject to the following conditions -

(a) each kennel, unless it is fully enclosed, must have a yard attached to it;

(b) each kennel and each yard must be at a distance of not less than -
   
   (i) 25m from the front boundary of the premises and 5m from any other boundary of the premises;
   (ii) 10m from any dwelling; and
   (iii) 25m from any church, school room, hall, factory, dairy or premises where food is manufactured, prepared, packed or stored for human consumption.

(c) each yard for a kennel must be kept securely fenced with a fence constructed of link mesh or netting or other materials approved by the local government;

(d) the minimum floor area for each kennel must be calculated at 2.5 times the length of the breed of dog (when it is fully grown), squared, times the number of dogs to be housed in the kennel and the length of the dog is to be determined by measuring from the base of the tail to the front of its shoulder;

(e) the floor area of the yard attached to any kennel or group of kennels must be at least twice the floor area of the kennel or group of kennels to which it is attached;

(f) the upper surface of the kennel floor must be –
   
   • (i) at least 100mm above the surface of the surrounding ground;
   • (ii) smooth so as to facilitate cleaning;
   • (iii) rigid;
   • (iv) durable;
   • (v) slip resistant;
   • (vi) resistant to corrosion;
   • (vii) non-toxic;
   • (viii) impervious;
   • (ix) free from cracks, crevices and other defects; and
   • (x) finished to a surface having a fall of not less than 1 in 100 to a spoon drain which in turn must lead to a suitably sized diameter sewerage pipe which must be properly laid, ventilated and trapped in accordance with the health requirements of the local government;

(g) all kennel floor washings must pass through the drain in item (f)(x) and must be piped to approved apparatus for the treatment of sewage in accordance with the health requirements of the local government;
(h) the kennel floor must have a durable upstand rising 75mm above the floor level from the junction of the floor and external and internal walls, or internal walls must be so constructed as to have a minimum clearance of 50mm from the underside of the bottom plate to the floor;

(i) where a yard is to be floored, the floor must be constructed in the same manner as the floor of any kennel;

(j) from the floor, the lowest internal height of a kennel must be, whichever is the lesser of -
   (i) 2m; or
   (ii) 4 times the height of the breed of dog in the kennel, when it is fully grown, measured from the floor to the uppermost tip of its shoulders while in a stationary upright position;

(k) the walls of each kennel must be constructed of concrete, brick, stone or framing sheeted internally and externally with good quality new zincalume or new pre-finished colour coated steel sheeting or new fibrous cement sheeting or other durable material approved by the local government;

(l) all external surfaces of each kennel must be kept in good condition;

(m) the roof of each kennel must be constructed of impervious material;

(n) all kennels and yards and drinking vessels must be maintained in a clean condition and must be cleaned and disinfected when so ordered by an authorized person;

(o) all refuse, faeces and food waste must be disposed of daily into the approved apparatus for the treatment of sewage;

(p) noise, odours, fleas, flies and other vectors of disease must be effectively controlled;

(q) suitable water must be available at the kennel via a properly supported standpipe and tap; and

(r) the licensee or the person nominated in the application for a licence, must, in accordance with the application for the licence, continue to reside -
   (i) at the premises; or
   (ii) in the opinion of the local government, sufficiently close to the premises so as to control the dogs, and to ensure their health and welfare.
### SCHEDULE 3
[clause 7.2]

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</tr>
</tbody>
</table>

This local law was made at the meeting of the Council of the City of Busselton on [insert date].

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

______________________________
IAN WILLIAM STUBBS, Mayor

______________________________
MIKE STEPHEN LEE ARCHER, Chief Executive Officer
7. GENERAL DISCUSSION ITEMS

8. NEXT MEETING DATE

21 AUGUST 2014

9. CLOSURE