



ITEMS FOR DEBATE – COUNCIL MEETING 28 APRIL 2021

ADOPTION BY EXCEPTION RESOLUTION

RECOMMENDATION

That the Committee Recommendations for items 12.1, 12.2 and 12.5, and the Officer Recommendations for items 13.2, 15.1, 15.2, 16.4 and 17.1 be adopted en bloc:

- 12.1 Finance Committee - 14/4/2021 - LIST OF PAYMENTS MADE - FEBRUARY 2021
- 12.2 Finance Committee - 14/4/2021 - FINANCIAL ACTIVITY STATEMENTS - YEAR TO DATE AS AT 28 FEBRUARY 2021
- 12.5 Finance Committee - 14/4/2021 - BUSSELTON GOLF CLUB INC. SELF SUPPORTING LOAN
- 13.2 AMENDMENT NO. 51 TO LOCAL PLANNING SCHEME NO. 21 (SCHEDULE 10 DEVELOPMENT CONTRIBUTION AREA) - CONSIDERATION FOR PREPARATION
- 15.1 ARTGEO RESIDENT ARTIST LEASE STUDIO 2
- 15.2 COMMUNITY ASSISTANCE PROGRAM 2021/22
- 16.4 PILOT PARTICIPATORY BUDGETING BASED PROGRAM
- 17.1 COUNCILLORS' INFORMATION BULLETIN

ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION (WITHOUT DEBATE)

Item No.	Item Title	Reason
12.4	Finance Committee - 14/4/2021 - APPLICATION FOR RATE EXEMPTION – RELATIONSHIPS AUSTRALIA WA INC.	Absolute Majority Required Disclosure of Interest – Cr Paine
16.2	REVIEW OF CAPES REGION ORGANISATION OF COUNCILS (CapeROC) MEMORANDUM OF UNDERSTANDING	Absolute Majority Required
16.5	INTRODUCTION OF SERVICE IMPROVEMENT REVIEWS	Absolute Majority Required

ITEMS FOR DEBATE

Item No. 12.3	Finance Committee - 14/4/2021 - ADOPTION OF THE 2021/22 LIST OF FEES AND CHARGES	Pulled by Officers	Page 55 <i>Absolute Majority</i>
<u>AMENDED RECOMMENDATION</u>			
<p>That the Council endorses the Fees and Charges as detailed in the "Schedule of Fees and Charges - 2021/22" as per Attachment A – Draft Schedule of Fees and Charges, effective from and including 1 July 2021, inclusive of a new parking fee at the Busselton Margaret River Airport being "Secure Car Parking rates of \$15.00 per day for 1-14 days and \$12.00 per day for each day over 14 days".</p>			
<u>REASONS FOR AMENDMENT</u>			
<p>With the introduction of Regular Passenger Transport (RPT) services, an opportunity exists to provide a secure car park offering in addition to the existing public parking. The secure parking will be available in a fenced area with CCTV, however will not be undercover. Officers have reviewed the rates of secure parking across a number of Western Australian and Eastern States airports, most of which offer covered parking. Officers recommend a rate of \$15.00 per day for 1-14 days and then \$12.00 per day for each day after that. This equates to approximately double the rate of the existing car park that also has CCTV without being excessive.</p>			
<u>OFFICER COMMENT</u>			
<p>As above.</p>			
<u>LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT</u>			
<p>Pursuant to regulation 11(da) of the <i>Local Government (Administration) Regulations</i> 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.</p>			

Item No. 13.1	DA 20/0916 - MIXED USE DEVELOPMENT (BREWERY, TAVERN, RESTAURANT/CAFE, SHOP AND TOURIST ACCOMMODATION)	Pulled by Cr Hick	Page 111 <i>Disclosure of Interest – Cr Hick</i>
<p><u>ALTERNATIVE RECOMMENDATION</u></p> <p>That the Council defers consideration of this item 13.1 ‘DA 20/0916 – Mixed Use Development (Brewery, Tavern, Restaurant/Café, Shop and Tourist Accommodation)’ until its next Ordinary Meeting on 12 May 2021.</p>			
<p><u>REASONS FOR ALTERNATIVE</u></p> <p>To allow for clarification or additional information to be sought on matters raised by Councillors at the agenda briefing session (namely venue management, parking and traffic safety at Cape Naturaliste Road crossovers) and to provide a reasonable opportunity to hear from members of our community.</p>			
<p><u>OFFICER COMMENT</u></p> <p>Due to an administrative oversight, notices advising submitters that the matter was on the Council agenda were not sent until Wednesday, 21 April. As such, the opportunity for submitters to review the report and participate in the decision-making process was reduced.</p> <p>Ordinarily, the City would seek to send such notices out by the preceding Monday at the latest, preferably the preceding Friday – noting though that notices are only sent to submitters for whom the City has an email address (it is impracticable to advise via phone or mail).</p>			
<p><u>LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT</u></p> <p>Pursuant to regulation 11(da) of the <i>Local Government (Administration) Regulations</i> 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.</p>			

Item No. 13.1	DA 20/0916 - MIXED USE DEVELOPMENT (BREWERY, TAVERN, RESTAURANT/CAFE, SHOP AND TOURIST ACCOMMODATION)	Pulled by Officers	Page 111 <i>Disclosure of Interest – Cr Hick</i>
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AMENDED RECOMMENDATION

That the Council determines:

- A. That application DA 20/0916 submitted for a ‘Mixed Use Development (Brewery, Tavern, Restaurant/Cafe, Shop and Tourist Accommodation)’ is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives and policies of the zone within which it is located.**
- B. That Development Approval is issued for the proposal referred to above (A) subject to the following conditions:**

General Conditions

- 1. The development hereby approved shall be substantially commenced within two years from the date of this decision letter.**
- 2. The development hereby approved shall be undertaken in accordance with the signed and stamped Approved Development Plans except as may be modified by the following conditions.**

Prior to Commencement of Any Works Conditions

- 3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the satisfaction of the City and have been approved in writing:**
 - 3.1 Drainage Management Plan.**
 - 3.2 Odour Management Plan.**
 - 3.3 Venue Management Plan.**
 - 3.4 Acoustic Report which demonstrates that all mechanical services associated with the proposed development, and any other noise source, including noise emanating from Licensed Premises, will comply with the *Environmental Protection (Noise) Regulations 1997*, must be submitted to and approved by the City.**
 - 3.5 A Noise Management Plan which shall include (but not be limited to) all recommendations specified in the Environmental Noise Report dated 9 November 2020, prepared by Gabriels Hearne Farrell in order to reduce noise disturbance to neighbours and generally comply with the *Environmental Protection (Noise) Regulations 1997*.**
 - 3.6 Lighting Management Plan consistent with the ‘dark sky principles’ and the requirements of Australian Standard *AS 4282—2019, Control of the obtrusive effects of outdoor lighting*.**

- 3.7** A schedule of the final materials, finishes and colours. The schedule shall include details of the type of materials proposed to be used, including their colour and texture.
- 3.8** Details of signage, including but not limited to the design, materials and levels of illumination (where applicable).
- 3.9** Details of the proposed bicycle parking facilities. The details shall include, as a minimum, the location, design and materials to be used in their construction.
- 3.10** Details of the entry controls required at the southern crossover to Cape Naturaliste Road to ensure this crossover is only used by service vehicles exiting the site in a left-out movement only.
- 3.11** The southern crossover to Cape Naturaliste Road being designed and constructed to the specification and satisfaction of the City to ensure continuity for pedestrians and that it is of sufficient width to cater for left-out truck movements.
- 3.12** A contribution of \$10,995.80 toward the cost of Road Network Upgrading in the Dunsborough precinct.
- 3.13** A contribution of \$5,795.20 toward the cost of Dual Use Path Network Upgrading in the Dunsborough precinct.
- 3.14** A contribution of \$32,340.00 toward the cost of community facilities in the Dunsborough precinct.
- 3.15** Satisfactory arrangements shall be made with the City to provide public art works within the development site. This entails compliance with the Percent for Art provisions of the City's Development Contribution Policy via appropriate works up to a minimum value of 1% of the Estimated Cost of Development ("ECD"). Where the value of on-site works is less than 1% of the ECD, a payment sufficient to bring the total contribution to 1% of the ECD is required.
- 3.16** A Construction Management Plan (CMP). The CMP shall address the following:
- a. access to and from the site;
 - b. delivery of materials and equipment to the site;
 - c. storage of materials and equipment on the site;
 - d. parking arrangements for contractors and subcontractors;
 - e. management of construction waste; and
 - f. other matters likely to impact on the surrounding properties.
- 3.17** A Landscape Plan which shall include the following:
- a. the location, number, size and species type of existing and proposed trees and shrubs, including calculations for the landscaping area;
 - b. any lawns to be established;
 - c. fencing to the northern site boundary to provide definition with the Dugalup Brook Recreation Reserve (R42673);
 - d. any existing landscape areas to be retained;
 - e. those areas to be reticulated or irrigated; and

f. verge treatments.

3.18 A Tree Protection Plan (TPP) for the mature trees to be retained on the site and adjoining road reserves as indicated on the approved site plan and for vegetation within the adjoining Recreation Reserve – R42673 (Dugalup Brook). The approved TPP shall be implemented before any of the substantive development is commenced and shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site. Within the areas so fenced, nothing shall be stored or placed, and the ground levels shall not be altered.

3.19 Satisfactory arrangements being made with the City for an easement in accordance with sections 195 and 196 of the Land Administration Act for the benefit of the City of Busselton and the public at large is to be shown on the Deposited Plan to be registered on the Certificate of Title over a 3m wide by 13m deep section of the southeast access way (to Dunn Bay Road) to the satisfaction of the City.

3.20 Update Bushfire Management Plan to address the following:

- a. Clearly identify where a Performance Principle Solution has been used to address Bushfire Protection Criteria in place of an Acceptable Solution;
- b. Following an audit of vegetation classifications and distance to vegetation, modify inputs in the BMP as necessary;
- c. Confirm the Landscape Plan will comply with Schedule 1 of the *Guidelines for Planning in Bushfire Prone Areas*.

Prior to Occupation/Use of the Development Conditions

4 The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition 3 have been implemented; and the following conditions have been complied with:

4.1 Arrangements to the satisfaction of the City being entered into to provide for legal access from Cape Naturaliste Road to the development site across the 1.0m wide portion of adjoining recreation reserve (Lot 4959, R42673).

4.2 All vehicle parking, access ways, footpaths and external lighting shall be constructed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking (AS 2890.1) and shall be developed in the form and layout depicted on the approved plans to the satisfaction of the City.

4.3 Accessible car parking and access shall be provided and designed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking for people with disabilities (AS 2890.6).

4.4 Exterior lighting shall be provided under all awnings, in parking areas and all entry points.

4.5 Buildings within the approved development shall be constructed in accordance with the 'Architectural Requirements' specified in the Environmental Noise Report dated 9 November 2020, prepared by Gabriels Hearne Farrell.

Ongoing Conditions

- 5 The works undertaken to satisfy Conditions 2, 3 and 4 shall be subsequently maintained for the life of the development; and the following conditions must be complied with:
 - 5.1 The Venue Management Plan for the development shall be implemented and maintained in accordance with the approval details.
 - 5.2 The Noise Management Plan for the development shall be implemented and maintained in accordance with the approval details.
 - 5.3 The southern crossover to Cape Naturaliste Road shall be provided with controlled access to be limited to use only by service vehicles exiting the site in a left-out movement only.
 - 5.4 No roller doors or screens are permitted to be installed to the windows fronting the commercial tenancies fronting Dunn Bay Road.
 - 5.5 All glazing to the commercial tenancies fronting Dunn Bay Road is to be clear, non-tinted glazing and shall not be subsequently obscured by alternative window treatments, signage or internal shelves.
 - 5.6 All doors to shop premises fronting Dunn Bay Road must be kept unlocked for customer access during all hours when the subject premises are trading.
 - 5.7 All services and service-related hardware, including antennae, satellite dishes and air conditioning units, being suitably located away from public view and/or screened to the satisfaction of the City.
 - 5.8 Compliance with the approved Waste Management Plan.
 - 5.9 The approved Bushfire Management Plan shall be implemented and maintained in accordance with the approval details and any recommendations therein.
 - 5.10 Landscaping and reticulation shall be maintained in accordance with the approved Landscape Plan to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die, or are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.
 - 5.11 Within 6 months of the registration of an easement pursuant to Sections 195 and 196 of the *Land Administration Act 1997* over Lot 108 (no. 57) Dunn Bay Road, providing legal access to Lot 2 (no. 59) Dunn Bay Road and completion of the balance crossover on Lot 108 the relevant crossover onto Dunn Bay Road being amended to the specification and satisfaction of the City to allow for shared access to Dunn Bay Road. Within 30 days of the completion of the crossover the redundant portion of the cross over being removed and the area landscaped to the satisfaction of the City.

REASONS FOR AMENDMENT

The need for a condition requiring updates to the Bushfire Management Plan was referenced in the Council agenda text but inadvertently missed from the list of recommended conditions.

The addition of Condition 3.20 is proposed to address this matter.

OFFICER COMMENT

As above.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations 1996*, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.

Item No. 16.1	ADOPTION OF CITY OF BUSSELTON CODE OF CONDUCT FOR COUNCIL MEMBERS, COMMITTEE MEMBERS AND CANDIDATES	Pulled by Officers	Page 546 <i>Absolute Majority</i>
<p><u>AMENDED RECOMMENDATION</u></p> <p>That the Council:</p> <ol style="list-style-type: none"> 1. Adopt the City of Busselton Code of Conduct for Council Members, Committee Members and Candidates (Attachment A), subject to drafting amendments to replace the use of the term ‘point’ with ‘clause’, make some administrative corrections, and generally align the format, in terms of numbering, with the City of Busselton ‘CEO Standards Recruitment, Performance Review and Termination’. 2. Rescind the suite of documents that form the City’s current Code of Conduct (Attachments B to F): <ol style="list-style-type: none"> (i) Consolidated Code of Conduct; (ii) Council Members Code of Conduct; (iii) Committee Members Code of Conduct; (iv) Employees Code of Conduct; and (v) Contractors Code of Conduct. 			
<p><u>REASONS FOR AMENDMENT / ALTERNATIVE</u></p> <p>Further to feedback, officers have reviewed the draft Code in conjunction with the draft CEO Standards and propose it be restructured to align with the format of the Standards. Some administrative corrections have also been made to the draft Code.</p>			
<p><u>OFFICER COMMENT</u></p> <p>As above.</p>			
<p><u>LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT</u></p> <p>Pursuant to regulation 11(da) of the <i>Local Government (Administration) Regulations 1996</i>, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.</p>			

Item No. 16.3	ADOPTION OF CEO STANDARDS RECRUITMENT, PERFORMANCE REVIEW AND TERMINATION	Pulled by Officers	Page 634 Absolute Majority
<u>AMENDED RECOMMENDATION</u>			
<p>That the Council:</p> <ol style="list-style-type: none"> <li data-bbox="193 427 1388 562"> 1. Adopt the City of Busselton Standards CEO Recruitment, Performance Review and Termination as per Attachment A subject to drafting amendments to replace the use of the term 'point' with 'clause', remove the use of the term 'sub-point', remove referencing from terms used, and generally review the numbering format of the document. <li data-bbox="193 595 1388 663"> 2. Note that a CEO performance review process will be developed and presented to Council for adoption. 			
<u>REASONS FOR AMENDMENT / ALTERNATIVE</u>			
<p>Further to feedback, officers have reviewed the draft Standards and propose a change in format to improve readability, noting that the substantive content remains the same.</p>			
<u>OFFICER COMMENT</u>			
<p>As above.</p>			
<u>LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT</u>			
<p>Pursuant to regulation 11(da) of the <i>Local Government (Administration) Regulations 1996</i>, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.</p>			