



Ordinary Council Meeting

SUPPLEMENTARY

Agenda

Wednesday 16 August 2023



Our Vision

Where environment, lifestyle and opportunity meet

Community Aspirations



KEY THEME 1

Environment

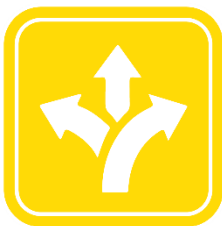
An environment that is valued, conserved and enjoyed by current and future generations.



KEY THEME 2

Lifestyle

A place that is relaxed, safe and friendly, with services and facilities that support positive lifestyles and wellbeing.



KEY THEME 3

Opportunity

A vibrant City with diverse opportunities and a prosperous economy.



KEY THEME 4

Leadership

A Council that connects with the community and is accountable in its decision making.

CITY OF BUSSELTON

Supplementary Agenda for the Council Meeting to be held on Wednesday 16 August 2023

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11. PLANNING AND DEVELOPMENT SERVICES REPORTS

11.3. Proposed Abbey South Structure Plan and Associated Amendment No. 55 to Local Planning Scheme No. 21 - Consideration for Final Approval

Strategic Theme:	Key Theme 1: Environment 1.1 Ensure protection and enhancement of environmental values is a central consideration in land use planning Key Theme 2: Lifestyle 2.8 Plan for and facilitate the development of neighbourhoods that are functional, green and provide for diverse and affordable housing choices.
Directorate:	Planning and Development Services
Reporting Officer:	Strategic Planning Officer – Noah Scott-McDonald
Authorised By:	A/Director Planning and Development Services – Rachel Runco
Nature of Decision:	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none">1. Aerial Photograph [11.3.1 - 1 page]2. Advertised Abbey South Structure Plan [11.3.2 - 467 pages]3. Advertised Scheme Amendment [11.3.3 - 18 pages]4. Schedule of Agency Submissions (3) [11.3.4 - 39 pages]5. Schedule of Public Submissions (3) [11.3.5 - 126 pages]6. CONFIDENTIAL REDACTED - CONFIDENTIAL Table of Submitter Names and Full Addresses (1) [11.3.6 - 3 pages]7. Schedule of Modifications [11.3.7 - 9 pages]8. Leeuwin Naturaliste Sub regional Strategy Plans (1) [11.3.8 - 1 page]9. Intersection Concepts and Technical Note [11.3.9 - 27 pages]10. Peer Review of Technical Note [11.3.10 - 5 pages]11. Further information to Technical Note [11.3.11 - 37 pages]

OFFICER RECOMMENDATION

That the Council:

1. Pursuant to Part 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), adopts the Abbey South Structure Plan at Attachment 2 for final approval, in accordance with the modifications proposed in the Schedule of Modifications at Attachment 7.
2. Pursuant to r.50 of the Regulations, adopts Amendment No. 55 to Local Planning Scheme No. 21 for final approval, in accordance with the modifications proposed in the Schedule of Modifications shown at Attachment 7, for the purposes of:
 - (a) Inserting ‘Special Provision Area No. 76’ to read as follows –

No	Particulars of Land	Zone	Special Provisions
SP76	As identified on the Scheme map	Urban Development	<ol style="list-style-type: none"> 1. A single structure plan is to be prepared for the entire Special Provision Area. 2. In addition to the information to be included in a structure plan outlined in Clause 16 of the Deemed Provisions, the structure plan is to set out the following: <ol style="list-style-type: none"> i. A water management report that takes into consideration the land to the south and addresses all water-related matters relevant to the proposal. ii. Measures to manage risk from coastal inundation. iii. Open space requirements. iv. Measures to retain, manage, and enhance environmental values associated with the Special Provision Area including remnant vegetation, potential habitat for Commonwealth and State listed threatened fauna species, ecological linkages, and wetlands, within 'public open space', road reserves, and/or conservation areas (as identified on the Structure Plan). Such measures are required to also address linkages and connectivity with contiguous areas of similarly important remnant vegetation on land adjoining the special provision area as well as management measures to ensure the habitat functions of these areas are maintained and, where possible, enhanced. v. The provision of vegetated buffers to ensure appropriate visual screening and separation of development from main roads adjoining the Special Provision Area. vi. Measures to provide for the safe and efficient movement of pedestrians and cyclists to, from, and within the Special Provision Area, including crossings of main roads adjoining the Special

			<p style="text-align: center;">Provision Area.</p> <p>3. A Local Development Plan is to be prepared on Lots 12 and 402 Caves Road and Lots 14 and 15 Bussell Highway to address:</p> <p>i. Location of car parking, pedestrian access, and vehicular/service access areas for development where adjacent or located on Lot 402;</p> <p>ii. Landscape values and visual management considerations.</p>
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3. Pursuant to r.53 and Part 4 of Schedule 2 of the Regulations, endorses the Schedules of Agency and Public Submissions at Attachments 4 and 5 respectively, which have been prepared in response to the public consultation process undertaken in relation to the Abbey South Structure Plan and associated Amendment No. 55.
4. Advise the Western Australian Planning Commission that Amendment No. 55 is considered a 'standard' amendment pursuant to r.34 of the Regulations as it is:
 - (a) an amendment that is consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Commission; and
 - (b) an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
5. Upon preparation of the necessary documentation, refers the adopted Amendment No. 55 to the Western Australian Planning Commission for consideration and determination in accordance with the Planning and Development Act 2005.

EXECUTIVE SUMMARY

Council consideration is sought regarding the final adoption of Amendment No. 55 (the Amendment) to *Local Planning Scheme No. 21* (the Scheme), and the associated Abbey South Structure Plan (SP).

The Amendment and SP were adopted for advertising on 16 November 2022 and 30 January 2023, respectively. The purpose of the SP is to guide subdivision and development in the SP area (Refer to Attachment 1: Aerial Photograph). The purpose of the Amendment is to introduce an appropriate zone to guide the preparation of the SP and enable its implementation.

Council deferred consideration of the Amendment and SP at its meeting of 21 June 2023 to allow for the development of revised intersection designs and to consider incorporation of a new area of lower density housing (Residential R10).

The purpose of this report is to set out recommendations relating to the final adoption of the SP and the Amendment, following consideration of the submissions received through the advertising process. The proposals would then be further considered by the Western Australian Planning Commission (WAPC), and the Amendment would require final consideration by the Minister for Planning.

STRATEGIC CONTEXT

The SP area is located on the south-western side of Caves Road opposite the Monaghan's Corner local centre at the Bussell Highway / Caves Road intersection in Abbey. It has an area of approximately 30.5 hectares and comprises Lots 4, 12 and 402 Caves Road and Lots 14 and 15 Bussell Highway. The area is currently zoned 'Rural' and 'Conservation' in the Scheme.

The proposal seeks to facilitate the subdivision and development of the SP area in a manner that is consistent with the applicable State and local level strategic planning frameworks, namely the *City of Busselton Local Planning Strategy (LPS)* and the *Leeuwin-Naturaliste Sub-regional Strategy 2019 (LNSRS)*. Officers have also worked with the proponent prior to submission of the proposal which has resulted in the concurrent submission of an amendment and structure plan. Following Council initiation formal WAPC consent for the preparation of a structure plan has been obtained.

Leeuwin-Naturaliste Sub-Regional Strategy and the City's Local Planning Strategy

The LNSRS was approved by the WAPC in May 2019, and identified Abbey South as a Planning Investigation Area (PIA) (Attachment 8: LNSRS Strategy Plans). The primary purpose of the LNSRS is to manage and plan for growth in the sub-region and to inform a review of *State Planning Policy No. 6.1 Leeuwin-Naturaliste Ridge (SPP 6.1)*. The scope of the document and the purpose is broadly defined as follows:

- An overarching plan for growth within the Leeuwin-Naturaliste area (i.e. Shire of Augusta Margaret-River and City of Busselton) which considers development pressures in the context of landscape and the environment.
- Protect agriculture and food production areas and acknowledge the cumulative development impacts within rural and landscape areas and focus development in the larger settlements in the context of the sub-region over a 20+ year period.
- Provide a local context and more detail for actions set out in the WAPC South West Regional Planning and Infrastructure Framework.

Previous Council decisions regarding the preparation of both the LPS and the LNSRS included in-principal support for the classification of Abbey South as an urban growth area. The previous rationale supported by Council in these decisions was that the area was a large tract of undeveloped land near the coast and one of the last of these areas within the Busselton-Vasse Urban area. In addition, development would 'round off' the full development of Abbey and consolidate residential land around the Monaghan's Corner Local Centre. Lastly, the area would be well serviced by schools, community infrastructure, public transport, and utilities particularly as the Vasse village centre consolidation.

The LNSRS, as originally adopted, identified that the PIA required further investigation to determine the suitability and appropriateness of the land for urban development. Key considerations were identified as follows:

- Biodiversity values (adjacent wetlands and floodway to the south).
- Provision of land for employment generating activities.
- Transition/interface with adjacent tourist uses (Caravan Park to the west, boutique uses to the east).

BACKGROUND

In October and December 2021, the WAPC resolved to make a range of changes to the LNSRS, including the removal of the Abbey PIA. Abbey South SP location was instead designated as part 'Urban' and part 'Open Space Investigation,' with a requirement for the preparation of a single structure plan for the area.

The changes to the LNSRS were made without any formal consultation with the community or the City and, in the case of the decisions for Vasse North and Vasse South, were inconsistent with the position of the City, established via a series of resolutions of the Council relating to both the development of the LNSRS, as well as development of the City of Busselton Local Planning Strategy (LPS). The changes for Abbey South, however, were contrary with long-established City position. WAPC consideration of the changes to the LNSRS occurred behind closed doors, with the reports considered by the WAPC also being kept confidential. In obtaining a copy of one of those reports through a Freedom of Information (FOI) process the following text is noted:

The Abbey PIA is well suited to more intensive forms of urban development...an opportunity exists for the Abbey PIA to respond to the looming land supply issues, and to ensure an adequate supply of affordable land, promoting a variety of housing choice remains available to the Busselton community as it continues to grow.

It is noted that the LPS identifies that the determination of the LNSRS PIAs was to occur in conjunction with the preparation of 'Townsite Strategies' for Vasse and Dunsborough. This process was intended to occur prior to the SP and Amendment process, and would have considered, among several factors, physical boundaries, and the separation of settlements. The preparation of the Townsite Strategies was not supported by the WAPC, and the requirement was removed from the LNSRS.

Following the WAPC investigation of the PIAs, the LNSRS required the preparation of a consolidated structure plan for Abbey South which also required a concurrent scheme Amendment. The LNSRS reconfigures settlement boundaries and for the ongoing physical separation of settlements, as required in SPP 6.1. This is not considered an issue for Abbey South as the area is not visually prominent from the regional road network and requires limited landscape screening.

Submission of draft Structure Plan and Amendment 55 to Scheme 21

In August 2022, the City received the proposed SP and Amendment (lodged for concurrent consideration) along with supporting technical reports from a planning consultant (Rise Urban) acting on behalf of the key landowners. With respect to the Open Space Investigation area, Rise Urban has provided an Assessment and Investigation Report with the SP documentation.

At its meeting of 16 November 2022 Council considered the proposal and resolved to adopt the Amendment for advertising, with modifications, and to seek approval from the WAPC to consent to a Structure Plan being prepared in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015* (LPS Regulations). That consent has been obtained from the WAPC. Council also noted that the City required further matters to be addressed with agreement of the applicant:

- a) Incorporating vegetated buffers within the Structure Plan area to ensure sufficient screening to Caves Road and Bussell Highway;

- b) Applying a range of R-Codes to Lots 12 and 402 Caves Road and Lots 14 and 15 Bussell Highway, Abbey, to accommodate an increased diversity of development opportunities;
- c) Improving permeability of Lots 12 and 402 Caves Road and Lots 14 and 15 Bussell Highway, Abbey, through the modification to the proposed network of roads / paths / reserves; and
- d) Identification of a higher order cycle path through the Structure Plan area that connects to the City's existing and planned network.

Following resolution of the above matters, the SP was adopted for advertising on 30 January 2023 under delegation. The proposal was referred to the EPA which advised that assessment was not required under the *Environmental Protection Act 1986*. The EPA did provide written advice on environmental matters as included in Attachment 4.

A total of 104 written submissions were received (14 Agency and 90 Public). Late submissions were accepted for an additional week following the 42-day advertising period to allow for further community feedback.

Council Deferral

Within the previous Council report on 21 June 2023 the following issues were raised regarding to the movement network:

- The ability of the road network and associated intersections to safely and efficiently accommodate the increase in traffic resulting from the development.
- The location and design of the intersections.
- Lack of pedestrian and cycling crossing facilities and the lack of footpaths. Desire for expanded foot path / cycle path network and safe crossings along / across major roads to link the development to surrounding area and amenities.
- Potential access impacts for properties fronting Caves Road.
- Potential tree removal required to accommodate road widening and the impact on Western Ringtail Possums (WRP).
- Vehicle speeds and lack of gaps in traffic during peak periods.
- Desire for Vasse - Dunsborough Link (VDL) to be constructed in support of the development.

Council deferred consideration of the Amendment and SP at its meeting of 21 June 2023 and considered that the intersections to Caves Road and Bussell Highway and lower density of R10 in certain locations required further investigation to allow for resolution of the following matters:

1. Consultation between the proponent, City of Busselton, and Main Roads Western Australia (MRWA) to:
 - a. Review the location of the intersection to Bussell Highway.
 - b. Develop a preliminary road layout concept for the Bussell Highway intersection which provides for full access.
 - c. Refine the intersection preliminary road layout concept for the Caves Roads intersection which:
 - i. Provides one access point onto Caves Road that limits vegetation removal;
 - ii. Limits the impacts to access and egress of lots on the northern side of Caves Road; and
 - iii. Provides for safe pedestrian crossing.

2. Incorporate areas of lower density (R10) by amendment of Attachment 7 (Schedule of Modifications) to:
 - a. Provide a transition between Urban areas and Public Open Space within the Open Space Investigation area/Conservation Zone; and
 - b. Include areas adjacent the Caravan Park to the west.

Deferral Item 1

Consultation has occurred between the proponent, the City and MRWA in relation to the matters set out in item 1 above. MRWA did not accept the City's request to join the meetings on this proposal, however the proponent has provided the City with outcomes, and actions from meetings they had with MRWA.

The proponent has subsequently prepared an updated Technical Note that includes forecasts for traffic volumes adjacent the SP and explores intersection design options. The Technical Note includes additional traffic modelling and several intersection design options.

A preferred access arrangement has been identified and includes a roundabout on Caves Road which is discussed in the Officer Comment section below. Appropriate SP modifications are outlined in Attachment 7.

A roundabout intersection previously provided to Council has been further refined (and the footprint has been reduced) by MRWA. MRWA have advised that they will not fund any intersection construction, which is to be at the cost of the proponent.

Deferral Item 2

City officers have further considered the appropriateness of a low density (R10) within the existing Conservation Zone to provide a transition and buffer to existing POS and adjacent the RAC Caravan Park to the west. Within the south-west of the SP area modifications are recommended to increase POS areas adjacent the floodway and provide an additional landscape buffer. It would however be appropriate to have R10 in a portion of the south-east corner to provide housing diversity and lower lot yield in an area which is furthest from the local centre (Monaghans Corner), the foreshore and public open space. Lower density as a 'buffer' or similar, though, is not necessary or appropriate.

Currently residential development areas proposed by the SP and the RAC Caravan Park are separated by a 20m road reserve. City officers have further recommended that additional landscape buffering be required in-between the 20m road reserve and the RAC Caravan Park. The use of the R10 coding, however, is not considered to improve this transition between the SP area and the caravan park in any significant way and, furthermore, bulk and scale of buildings of higher density development (R30 and above) could be more effective in screening residential development within the SP area. The new area of Residential R10 is shown in Figure 1 of Attachment 7.

OFFICER COMMENT

The proposal was advertised for 42 days commencing on 4 February 2023 and ending on 17 March 2023. Key matters raised in agency submissions relate to water management, coastal inundation, environmental considerations, the traffic analysis and proposed intersections on Caves and Bussell Highway.

Public submissions raised concerns with the intersection designs, road safety, traffic congestion, clearing of vegetation and the potential loss of habitat (Western Ringtail Possums). Concerns were also raised with the proposed residential density as the future character and design was raised as a conflict with the surrounding areas (e.g. Abbey and Cambridge) particularly within the land proposed to be rezoned from 'Environmental Conservation' to 'Urban Development'. Further concerns to character and design were seen at odds with State Planning Policy No. 6.1. Leeuwin-Naturaliste Ridge (SPP 6.1). The key issues relevant to the proposal area outlined and discussed below.

Main Roads WA, Traffic Analysis and Intersections

During the advertising period MRWA raised concerns with the analysis and design supporting the proposed connections to Caves Road and Bussell Highway within the SP and Transport Impact Assessment prepared by the proponent. Officers highlighted many of the issues in the 21 June 2023 report to Council and the consideration of the proposal by Council was deferred at the meeting 21 June 2023 as an agreement for intersection connections had not been reached between MRWA, the proponent and the City. The proponent has prepared a Technical Note (Attachment 9) that addressed the reasons for deferral and includes updated forecasts for traffic volumes and refined intersection concept designs. This was also the basis for further discussions with MRWA. Further consultation has also occurred between MRWA, the proponent, and the City. Although MRWA declined to meet directly with City officers, consultation has occurred with this agency at officer level and the proponent has provided meeting notes on the outcomes of meetings with MRWA.

Out of three feasible options discussed below the MRWA roundabout connection at Cuthbert Street and Caves Road is supported by City officers on the basis it is further refined to have less impact on surrounding vegetation by a smaller design footprint. This intersection will provide 'day one' access into the SP area and be the only point of connection on Caves Road. City officers also support the Bussell Highway connection option of the 'left out' on the basis that a left in also be provided.

Technical Note and Peer Review

The Technical Note presents intersection design options for each main access point (Caves Road and Bussell Highway), as well as analysis and commentary on each option. Key issues considered for each option were functionality and safety for vehicles, land requirements (and vegetation removal), physical constraints (turning pockets, speed, existing driveways etc.), and impacts to property access.

The analysis utilised updated traffic volumes taken from the Monaghan's Roundabout that are 30% (AM peak) to 46% (PM Peak) higher than previously used. These volumes have been endorsed by MRWA for the purpose of intersection modelling and design review.

The Technical Note concludes that the proponent's preferred t-intersection access to Caves Road satisfies the required engineering standards and is the lowest impact option in terms of vegetation removal. It is noted that MRWA retain a preference for a roundabout design. Discussion on each access point is continued below.

City officers have conducted a further peer review of the proponent's Technical Note which is provided at Attachment 10 and additional information to clarify matters has been raised with the proponent which has resulted in further information being provided (Attachment 11).

Caves Road Access

Three intersection design options were considered by the proponent within the technical note to provide access to Caves Road as follows:

- MRWA Roundabout (aligning with Cuthbert Street, Abbey).
- MRWA t-intersection (two-stage turn).
- proponent t-intersection (single movement turn).

The proponent's analysis undertaken considers the relative strengths and weaknesses of the above intersection design options at the point of full development of the SP, and accounting for continued 'background' growth in traffic volumes at the network level. The Technical Note indicates that all three options would provide for acceptable vehicle access. It is noted by City officers that the t-intersection options, particular the MRWA design which allows for 'two stage' right hand turns, will function within acceptable standards based on results of traffic modelling presented by the proponent.

Below is a summary of the findings from the technical note for each option. Officer comment is also provided reviewing the findings from the technical note for each option. It should be noted that the officer comment is primarily focused on the preferred street environment and safety for road users, pedestrians, and cyclists.

Cuthbert Street Roundabout

The Technical Note outlines that the MRWA are advocating for a 50m wide 4-way roundabout at the intersection of Cuthbert Street that will need to accommodate Restricted Access Vehicles (RAV) 4s (27.5m long trucks) as Caves Road is a RAV 4 route. The Technical Note also outlines that the design would need to incorporate design features to reduce vehicle speeds to allow safe negotiation of the roundabout and to improve pedestrian and cyclist safety at crossing points. The concerns raised in the Technical Note in relation to the roundabout are that it requires clearing of more vegetation than the other options and it is less safe for pedestrians and cyclists. In relation to this last point, it is considered that, in the context, a roundabout can deliver a better outcome for pedestrians and cyclists, as these movements would be across rather than along Caves Road.

City officers broadly support a roundabout in the Cuthbert Street location on the basis that the design be refined to a smaller design footprint to reduce the impact on vegetation and more effectively slow traffic travelling along Caves Road. The roundabout design creates low speeds to approaching vehicles through the roundabout geometry (deflection) which slows approaching vehicles this allows for sufficient gaps for vehicles to enter Caves Road. In addition, being single lane, the roundabout provides opportunity for pedestrians and cyclists to cross Caves Road protected by raised medians and by the use of share paths. Lastly it is considered that RAV4 vehicle movement (in all directions) is unnecessary considering freight movement volumes are low and will utilise the VDL in the future. On this basis, the roundabout design is considered to create a street environment which is low speed and safe for pedestrian and cyclists. Officers consider the reduced speed through the roundabout to be safer than the higher through speeds (70 kph) associated with a t-intersection design.

It is expected that the traffic volumes on Cuthbert Street are low and would not significantly increase in the AM/PM weekly peak periods because of the new intersection. An increase to weekend traffic volume may also occur, although this would be more directly the result of traffic

from the surrounding residential areas, particularly as Vasse becomes more developed, as opposed to development within the SP.

The proponent has raised that the cost is a constraint to the delivery of a roundabout intersection at Cuthbert Street based on preliminary investigation when compared with the 't-intersection' options and because of a redesign of the SP. In the scenario where the roundabout is constructed at Cuthbert Street, the maintenance of Caves Road in this location would be offset for several years and this would provide the basis for discussions regarding cost sharing with MRWA.

T-intersection Options

The Technical Note outlines that the MRWA t-intersection option would include use of median islands and filter lanes to channel traffic flow at the proposed Caves Road intersection and would result in a two-stage right turn entry and exit manoeuvre. The main objection raised in the Technical Note is that it would require significant vegetation removal. There is some concession in the Technical Note such that the localised widening with medians provides additional utility to the intersection. This is understood to mean that with the median islands there is the opportunity to provide a central refuge for pedestrians crossing the road.

The proponent t-intersection is for a simpler t-intersection that includes turning pockets and painted median. This would only allow for a single movement right turn exit from the SP area and includes a pedestrian crossing point further east along Caves Road, which could also be included with the previous two options. The technical note states that this is the safest form of intersection type but does not provide any justification for this statement.

The technical note indicates that the performance of a single movement t-intersection would function with a low Level of Service (LOS) D that includes average wait time of 30 seconds for right hand turn movements when exiting the SP area during peak periods. Further, the proponent t-intersection would likely fail by ~2048. It is likely that both t-intersection design options would rely more heavily on the provision of the access point on to Bussell Highway to provide egress during busy periods.

This option from a visual inspection of the plan provided does not address the requirement of vegetation clearance to provide adequate site lines on the western side of the intersection like the clearing requirements of the Main Roads t-intersection.

City officers are of the opinion that the proponent's t-intersection option is the least safe of the proposed intersections as it does not reduce vehicle speeds, will result in longer vehicle waiting times with increased driver frustration and risk taking and makes no provision at the intersection for safe pedestrian and cyclist movements. Therefore, schedule of modifications requires the *"provision of safe and efficient crossing facilities across main roads for pedestrians and cyclists, including median island refuges, at convenient intervals."* This would enable people to cross safely in two stages at mid-block locations adjacent the SP area.

North of Caves Road

All three options would be likely to impact vehicle access to a small number of adjoining properties on Caves Road. The technical note provides an estimate that between two and five properties would have access restrictions depending on the design implemented. It is expected that a service lane and or left-in \ left-out access would be considered as a design solution to provide ongoing access to properties at the detailed design stage. The specific properties impacted for the roundabout design

option would depend on the final design however at the Cuthbert Street location the properties in the vicinity would lose the ability to turn right onto Caves Road or may be redirected through a service road to the existing round network. This would be resolved by consultation between the proponent and MRWA at the subdivision stage.

Vasse-Dunsborough Link

It is noted that Caves Road has sufficient capacity to accommodate average traffic volumes expected from development independent of the VDL. The location and design of intersections and pedestrian crossing points will be key to achieving safe and efficient access to the site. The City continues to support the progression of the VDL project in a timely manner, noting that once other regional road projects, such as the Bussell Highway and Bypass upgrades, are complete it is likely that the VDL will be a priority project. At the best estimate the VDL will be delivered within the next 15 years therefore the size of road infrastructure on Caves Road should be kept conservative and in the case of a roundabout at Cuthbert a smaller design footprint should be supported.

Bussell Highway Access

Main Roads and the City consider that the best location for a full movement intersection connection to Bussell Highway would be to the south of the SP area (south of Amelia Park Lodge). If a full access intersection such as a roundabout was provided south of Amelia Park Lodge (outside the structure plan area) the delivery of this would require an amendment to the LNSRS to facilitate a further amendment to the SP. The benefit to this is it would negate the need for a major access (roundabout) point to Caves Road. Unfortunately, this location is outside the SP area and the area identified as urban/open space investigation within the LNSRS.

Accordingly, four intersection design options were considered to provide access to Bussell Highway as follows:

- Roundabout
- Full Movement. T Intersection
- Left-in / Left-out (LILO).
- Left out (LO).

Roundabout

A roundabout on Bussell Highway was not considered in any detail in the technical note but, if this were to be constructed prior to the SP intersection with Caves Road, it may then allow for the Caves Road intersection to be downgraded to a t-intersection. It is understood that a roundabout cannot fit within the current physical constraints of the SP area between Monaghan's Roundabout and Amelia Park Lodge. However, it is considered that the SP area should be increased to allow for an appropriately designed roundabout on Bussell Highway to be considered in more detail.

Full Movement T intersection

A full movement priority-controlled intersection on Bussell Highway cannot fit within the constraints of the SP area. MRWA has also agreed that this option is problematic. Further, even if the space were available, a full intersection onto Bussell Highway would be expected to fail by 2038 (5 years of operational life from full development) due to the expected growth in traffic volumes. Accordingly, this option is not supported.

Left-in / Left-out (LILO)

A LILO treatment on Bussell Highway would provide egress from the SP area during busy periods as an alternative to turning right across traffic on Caves Road. A LILO design can be accommodated however it would require the consolidation of some crossovers on Bussell Highway and has potential drainage issues associated with Skiff Way that would need to be resolved in next stages of planning. A LILO treatment on Bussell Highway can allow closure of the Skiff Way entry at Caves Road as desired by MRWA.

Left out (LO)

Like a LILO, a LO to Bussell Highway would function as a 'pressure relief valve' for the SP area. However, this option would not allow for the closure of Skiff Way entry at Caves Road, and results in the SP area being serviced by only one access point.

Proposed Modifications

Considering the above it is recommended that the MRWA roundabout option at Cuthbert Street is supported on the basis that it be refined to a smaller design footprint to reduce the impact on vegetation and create a safe pedestrian and cyclist friendly street environment. A LILO intersection design at Bussell Highway is also supported the design of which would also consolidate Skiff Way access to Bussell Highway. As Caves Road and the Bussell Highway are under the care and control of MRWA and the final decision and determination of the intersection treatments will be determined by the WAPC in future decisions noting that MRWA approval for intersection design is also required.

The following is a summary of the modifications (Attachment 7) which have been developed in response to the above matters raised in submissions and since the Council deferral in June:

- a) A single full movement intersection providing access to Caves Road that:
 - i) Includes a roundabout design that aligns with and connects to Cuthbert Street.
 - ii) Provides safe access/egress for vehicles to the Structure Plan Area.
 - iii) Minimises loss of vegetation through the implementation of a small footprint design.
 - iv) Minimises disturbance to Western Ringtail Possum habitat and includes remedial works (Possum rope bridges and tree planting) where disturbance is unavoidable.
 - v) Minimises of impact to property access on northern side of Caves Road.
- b) Deletion of other vehicle access points to Caves Road and the appropriate reconfiguration of the internal road and path network.
- c) A restricted movement intersection (left-in / left-out) providing access to Bussell Highway, consolidated with the southern end of Skiff Way.
- d) The provision of safe and efficient crossing facilities across main roads for pedestrians and cyclists, including median island refuges, at convenient intervals.
- e) A path network that provides safe and direct access to public transport (bus stops).
- f) A higher order shared path on Caves Road adjacent the Structure Plan area.
- g) Extension of the higher order cycle path so that it connects to the Buayanyup Drain Shared Path from the south-west corner of the site, with an alignment and / or design that mitigates the impacts of the floodway on the functioning of the path.
- h) Deletion of the 'Future pedestrian / cycle connection to Buayanyup drain cycle path.' to be require delivery at subdivision stage.

- i) The requirement for all internal and external connecting path infrastructure (cycle and pedestrian) to be funded and constructed by the proponent as part of the subdivision works.

Environmental Impact

The SP area largely consists of cleared agricultural (pastoral) land, and the City has worked with the proponent to retain existing trees, and in some cases, to preserve habitat corridors. However, it is noted that there is a limit to the number of trees and wetland areas that can be retained within the SP area.

Submissions included broad concerns regarding the environmental impacts associated with the proposal including vegetation removal, habitat and wetland destruction, and displacement of fauna. Common matters raised include:

- a) Opposition to the loss of peppermint trees / Western Ringtail Possum (WRP) habitat, and the increased risk of vehicles hitting WRPs.
- b) Desire for the provision of vegetated buffers, habitat corridors and tree retention.
- c) Concerns regarding the loss of wetland areas, with a desire for their retention and conservation.
- d) Opposition to changing the 'Conservation' zone to 'Urban Development.'
- e) Heritage concerns.

It is noted that the Amendment introduces 'Special Provision 76', which requires that the proposal include measures to retain, manage, and enhance remnant vegetation, potential habitat for Commonwealth and State listed threatened fauna species, ecological linkages, and wetlands, within Public Open Space (POS), road reserves, and/or conservation areas.

The wetlands within the site are categorised as Multiple Use which do not typically require buffers or retention for ecological or conservation purposes with specific management objectives or requirements. The proposal attempts to retain much of the native vegetation and protect the hydrological functions of the features within the site. Buffer areas are incorporated within the area identified as 'Open Space Investigation Area' in the LNSRS and will be revegetated with native plant species to enhance their function as wildlife corridors. This may provide for improved water quality outcomes and assist in stormwater management, whilst also providing habitat.

For the protection of the floodway within the Open Space Investigation area, the use of an approximate 30m landscaped foreshore area adjacent the multiuse wetland is considered sufficient to allow for a soft transition to residential areas to the north and east. This is consistent with the requirements of draft Liveable Neighbourhoods which support up to a 30m foreshore area to the edge of the floodway for multiple use wetlands.

To further address issues raised in submissions, officers recommend modifications to the SP (Attachment 7) to further minimise environmental impacts associated with the proposal. These include:

- Provision of a single full movement intersection connecting to Caves Road to minimise the land requirements (and vegetation loss) associated with site access.
- Revegetation and implementation of Possum rope bridges where clearing is unavoidable.
- An approximate 30-metre-wide landscaped buffer around the floodway.

- A 10-metre-wide vegetated buffer to improve visual separation from Vasse North and the adjoining Caravan Park.
- The realignment of an internal road, running north to south adjacent to the eastern boundary, in such a manner that incorporates and preserves existing vegetation along the boundary fence line.

Officers have worked with MRWA and the proponent to minimise the environmental impact from road related vegetation clearing, including through removal of one of the proposed intersections connecting to Caves Road, at the northeast of the site. In further discussions with the proponent and the City, MRWA have further refined the roundabout intersection design concept to reduce the footprint and clearing required.

Officers do not support the areas of residential development proposed by the SP in-between the floodway area (on the peninsula) and near the floodway boundary, as it would result in hard development edges being introduced within a natural area. Further, the narrow shape of the 'peninsula' area would make it difficult to accommodate residential lots with compliant asset protection zones (APZs) within the lot boundaries and provide road and drainage services. In addition, maintaining the natural integration of the floodway with urban areas would also be problematic in this location as hard edges of development (such as retaining) would likely be required. Accordingly, a modification to the SP is proposed to limit development in this location to retain only the existing farm house within a single, relatively large lot, but with most of the land being reserved as POS and revegetated/rehabilitated.

It is noted that the Conservation zone generally reflects the floodway and flood fringe features on the southern portion of the SP area, along with the area identified as having an increased risk of acid sulphate soils occurring within 3m of the natural soil surface. Officers are of the understanding that the Conservation zone was introduced by City of Busselton Town Planning Scheme 20 and that the boundaries of the Conservation zone were revised following public consultation and, at the detailed level, were not based on detailed technical assessment.

Officers remain supportive of urban development within parts of the southern portion of the SP area. It is considered that SP76 of the Amendment and the SP modifications regarding the use of POS will achieve a suitable balance between protection and enhancement of natural features, enhanced areas of open space for public use, and urban development to provide for land supply.

With respect to submissions about the impacts (if any) on Aboriginal heritage sites. The referral documents note that a lodged Aboriginal Heritage Site (ID: 5337) slightly overlaps a western portion of the amendment area and is likely to be associated with the Buayanyup Drain. The works associated would be required to meet legislative requirements and the WAPC being the determining authority for subdivision will provide further advice.

Abbey Planning Investigation Area and SPP 6.1

Submissions raised concerns that the development of Abbey South, especially if considered in conjunction with the development of Vasse North, would directly contradict SPP 6.1. SPP 6.1 identifies the area of the proposal as landscape character unit 'western coastal' and landscape class predominately as 'travel route corridor.' Further SPP 6.1 designates the area as a 'wetland amenity area' that recommends:

- Rural landscape and coastal reserve buffers between Abbey, Vasse and Dunsborough will serve as a natural separation of settlements to avoid urban sprawl and create distinct communities.
- Subdivision development to complement the existing landscape character.
- Protection of the environmental and recreation values of the area.

These matters have informed the preparation of the LNSRS (as amended) and the LPS, both of which contemplate urban development for Abbey South. These strategies have been developed more recently than SPP 6.1, and thus provide contemporary direction in the context of modern planning requirements. As such, the LNSRS is considered to be the WAPC's most relevant planning position when considering the proposal.

It is noted that the Vasse North and Abbey South urban growth areas both have adjacent areas of 'Open Space Investigation.' Open Space Investigation areas are defined in the LNSRS as follows:

- Land that may be suitable for open space (nature/passive recreation) purposes but requires further investigation to determine its suitability and/or refine its area.
- Further investigation is to consider factors that may be relevant to the intended open space purpose, such as wetland buffer and flood management requirements. The final extent of land required for open space purposes is to be determined through the investigation process and informed by appropriate studies, and may be larger, smaller or the same size as the area designated as 'Open Space Investigation.'

The definition allows for a reduction in the size of the investigation area, and thus a reduction in the distance separating Vasse and Abbey. Urban development at Abbey South has been supported in-principle by Council. However, considering the 2021 amendments to the LNSRS, two matters require further consideration as follows:

- Potential for residential development at Vasse North is concerning. Conceptual plans have been provided during public consultation by the Vasse JV which show intentions to develop Vasse North within the both the Urban area and the Open Space Investigation area. This includes large areas of low-lying areas designated as floodway and flood fringe. In addition, the plans identify the construction of a road network which links to the Abbey South area. Should this occur the Abbey and Vasse settlements would no longer be separate and there could be significant impact from a visual perspective, particularly from Bussell Highway, due to Vasse North being low lying with no existing vegetation to screen development. Based on this, the Vasse North is not considered suitable for development.
- Available guidance on the assessment of Open Space Investigation areas is limited. The LNSRS requires the 'investigation' to be undertaken during SP preparation, however, there is limited guidance on how this is to be undertaken particularly in the context of requirements already set out by the LPS Regulations and the planning framework. As a result, the investigation has been concurrently undertaken by the proponent, and it has concluded that the Open Space Investigation area is suitable for urban purposes, predominately residential development.

In considering the two matters above, officers conclude that the SP area is generally suitable for urban purposes, with some exceptions, as follows:

- There is no need by the City for district open space in this location which would amount to more significant open space requirements than are otherwise required through the planning framework.
- The northern and south-east corner of the Open Space Investigation area are suitable for urban development as they are well screened, well elevated (~3.0m AHD) and clear of vegetation except for narrow corridors and isolated pockets.
- Most of the vegetation can be protected within road reserves and POS.
- The areas around the floodway, within the south-west area of the Open Space Investigation area is not considered suitable for urban development as residential development has servicing and bushfire implications that are not easily resolved and will create hard development edges which do not enhance the natural features of the area in accordance with SP76.
- Increased buffer areas within POS are required within the southwestern portion of the Open Space Investigation area.

Proposed modifications to the SP are set out in Attachment 7 to reflect the view outlined above.

Coastal Management

The LNSRS and SP76 require the consideration of measures to manage the risk from coastal inundation. This has been considered in the context of the City's *Coastal Hazard and Management Adaptation Plan* (CHMRAP) and the requirements of *State Planning Policy 2.6 State Coastal Planning Policy* (SPP 2.6). A key consideration of this proposal is the impact of coastal inundation (flooding) in an extreme weather event.

Identified in the CHMRAP as MU 11 (Abbey), the northern extent (approximately one third) of the proposal has been identified in the CHMRAP as being potentially impacted by coastal erosion within the next 100 years if the coast is not protected, and by inundation from a one-in-five hundred event. The CHMRAP identifies a protect response for coastal erosion through the future strategies of groynes, beach nourishment and a buried seawall. The CHMRAP identifies upgrades of the eastern bank of the Buayanyup drain to the approximate height of 3.5m – 4.0m AHD to be completed between 2043-2073. The SP proposes site works would allow for future development to a finished floor level (FFL) of 3.0m AHD.

As set out in the assessment of submission Department of Planning, Lands and Heritage – Coastal (DPLH) have raised that works associated with the Buayanyup drain should be undertaken and Amendment 55 modified to include the requirement for 3.0m (FFL). The CHMRAP, however, recommends that further modelling is undertaken to inform decisions about coastal inundation, but that in the absence of that, indicates that in areas where there is not a long-term, integrated coastal inundation protection strategy, that minimum FFLs for new development should be 3.4 AHD to accommodate coastal inundation hazard (note that figure includes 0.9m allowance for projected sea level rise).

The CHMRAP does recommend a long-term, integrated coastal inundation protection strategy for the Abbey area, consisting of foreshore works to raise and reinforce the coastal foreshore reserve, together with the raising and reinforcing of the eastern bank of the Buayanyup Drain. The CHMRAP recommends that occur in the medium-term, meaning that the minimum FFL for new development be set at approximately 2.7 AHD. At this point, however, the additional modelling recommended by the CHMRAP has not been undertaken – although it is underway – and there is no clear or detailed plan for implementation of a long-term, integrated coastal inundation protection strategy.

Importantly, the costs associated with such a strategy are not known, and nor is there a funding strategy. On that basis, especially where greenfields (rather than infill) development is concerned, a conservative approach should be taken.

Whilst the coastal modelling project currently underway could provide a basis for a lower minimum FFL, at this stage it is considered that the minimum FFL should be set at 3.4 AHD.

Water and Drainage

Several water and drainage issues were raised in submissions, in particular from relevant state agencies including the Department of Water and Environmental Regulation (DWER) and the Water Corporation. Key issues raised include the following:

- Local Water Management Strategy (LWMS) issues including:
 - Requirement to adequately demonstrate containment of the flows from a one in one-hundred-year storm event on site.
 - Potential cumulative impacts on adjacent floodway (should Vasse North development proceed).
 - Storm water modelling assumptions and how this may affect proposed storm water infrastructure sizing.
 - Modelling of 1–100-year flood events and wastewater upgrades.
- Lack of a secured water supply to irrigate POS.
- Alignment of higher order cycle path through floodway.
- The interface between the floodway and the development area.

Modifications are proposed to address water and drainage issues and are included in Attachment 7, in particular the requirement for reticulated POS and the provision of a turfed POS area of between 3,000m² and 5,000m² be able to accommodate unrestricted open space. Further, the requirement for the lots within the SP area to retain a 1 in 100-year event is not supported by City officers as it would place a significant, unenforceable, and potentially unachievable burden on individual lots.

Proposed modifications to modelling would allow this to be resolved and are supported and proponent has further advised that sensitivity testing is underway in consultation with DWER. A buffer adjacent the floodway area would allow for a natural interface (i.e., swales not constructed retained edges) and would be appropriately revegetated with native plant species to enhance its function as wildlife corridors in accordance with SP76 of the Amendment. Proposed modifications to the SP are set out in Attachment 7 to reflect the view outlined above.

Housing Density and Character

Several submissions expressed a desire for the proposal to be in keeping with the existing housing density and character of Abbey, and to a lesser extent, Cambridge Estate, and that the proposal does not align with the existing character of Abbey.

Matters raised include:

- Concerns that smaller lots sizes will attract holiday homes and / or rentals.
- Concerns about overcrowding and that the infrastructure and services of the local area cannot support the population associated with R40 and R60 densities.
- Concern about poor design outcomes associated with R30 – R40 including house frontages dominated by parked cars and garages.

- Some concerns about the R60 coded areas which were considered as broadly unsuitable for the area.
- Concerns about the ability of small lots to accommodate trees.
- Concerns about the impact of density on the environmental and as a contributing factor to climate change.
- General desire for the development to be above the 'average' with regard to sustainability, potentially including higher building standards / design guidelines, and the retention of existing trees on lots.

It is noted that the majority of the site was proposed to coded R20 – R40 which is a common coding for new residential areas and is broadly in keeping with the existing character of the locality, i.e., detached residential dwellings. Modifications are proposed in light of feedback to replace R20 – R40 with R20, and to introduce a new area of R10 at the expense of a portion of R20.

R40 may still be developed in specific areas, based on refined location criteria in accordance with the SP. R40 sites are to be located adjacent POS, at the end of street blocks, or where lots are serviced by rear laneways.

Lots coded R60 make up a small portion of the overall site area and are located exclusively within the Monaghan's Store walkable catchment, in accordance with the LPS, which states that the inclusion of 'housing choice' and 'urban consolidation' are to be considered. Further, as this is the last near-coastal land with significant development potential in the Busselton-Vasse Urban Area. It is seen as appropriate that as many people as reasonably possible should be able to be accommodated for.

A single submission sought to increase the density of an R60 lot to R80. Officers consider at R60 achieves the most appropriate balance between intensification (as per the LPS), the existing amenity and character of the area, and the access constraints associated with the lot in question. Accordingly, R80 is not supported.

The area currently identified as R10 is proposed to be modified to R2.5. The introduction of a 10 metre to 30-metre-wide buffer from the boundary of the floodway renders the area currently proposed as R10 Residential unsuitable for intensive development. A coding of Residential R2.5 provides an option to retain the existing dwelling.

A new area of R10 is proposed in response to submitter feedback and would provide a transition between Urban areas and Public Open Space within the Open Space Investigation area/Conservation Zone. The proposed area of R10 is shown in Figure 1 of Attachment 7.

It is noted that the Department of Planning, Lands and Heritage (DPLH) is currently in the process of implementing a new medium density housing code. This will assist to guide medium density R40 and R60 coded development towards improved design outcomes including single width car ports / garages, promotion of tree planting and retention, better water infiltration, and management of heat island effect. The provision of low to medium density development would provide for a range of lot sizes, design typologies, and price points which would provide opportunities for a range of potential buyers and investors.

Finally, the requirement for a street tree implementation plan has been included as a modification in Attachment 7, to ensure that the Streetscape Planting Strategy contained in the SP is enacted to the satisfaction of the City. This requirement, combined with the vegetated buffers that have been

required along selected SP boundaries, would contribute to the minimisation of any perceived character impacts affecting existing residential areas.

Local Centre

One submission requested an expansion of the allowable floorspace at Lot 402 Caves Road, to 1,000m². This is more than double the floorspace of the existing 400m² of shop retail floorspace at the adjacent Monaghan's Corner local centre. An expansion of this size would potentially undermine the existing settlement / retail hierarchy and does not appear to sufficiently consider the sustainability and potential future expansion of Monaghan's Corner and the nearby Broadwater local centre.

To address this, the LPS includes an Activity Centre Framework which states that the approximate maximum potential size of the local centre is to be determined by more detailed planning processes and following retail sustainability analysis. As such, the SP limits retail floor space within the proposed SP area Local Centre zone to not more than 300m² gross floor area. Accordingly, any increase in floor space is not supported at the SP stage and should instead be considered at the LDP or Development Application stage and must be supported by a retail sustainability analysis.

With respect to the LDP requirements, further modifications are recommended to the amendment text of SP 76 to remove provisions referring to the requirement to prepare an LDP to address amenity of the surrounding locality. This has been recommended as LDP requirements within the structure plan are considered sufficient to warrant removal of this text.

Infrastructure

Several submissions raised broad concerns that local services and supporting infrastructure would not cope with the population increase associated with the development. This included impacts on schools, internet, hospitals, electricity, water, and impacts on the Abbey Foreshore, including:

- Parking.
- Boat ramp access.
- Impacts on the dunes and vegetation.
- Footpaths.
- Toilets (lack of).
- Increased rubbish.
- Illegal parking on the bike path.

Relevant service providers and Government agencies were consulted during the public advertising period and raised no significant issues with the proposal outside of roads and water (addressed previously). The Abbey Foreshore is located outside of the project area, and it is noted that the primary driver for the increased usage of the Abbey Foreshore is likely associated with the much larger and ongoing development of the residential areas of Vasse.

Finally, it is noted that the City is undertaking a separate project to select a new site and design for a regional recreational boating facility between Abbey and Dunsborough. This would provide additional capacity and reduce pressure on existing facilities.

Bushfire

The Department of Fire and Emergency Services (DFES) identified a few minor issues regarding vegetation classification, exclusions, and vehicular access. These are not considered to be significant and can be addressed through modifications (included in Attachment 7) to the Bushfire Management Plan (BMP).

Statutory Environment

The key statutory documents relevant to this proposal include the *Planning and Development Act 2005* (the Act), the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the relevant objectives and provisions of the *City of Busselton Local Planning Scheme No. 21* (LPS 21). Each is discussed below under appropriate subheadings.

Planning and Development Act 2005

The Act outlines the relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been considered in preparing and processing this Amendment.

Planning and Development (Local Planning Schemes) Regulations 2015

The Regulations came into operational effect on 19 October 2015 and introduced deemed provisions for the preparation, advertising, and approval of structure plans. Local governments are to have 'due regard' to approved structure plans when making decisions relating to subdivision and development.

The Regulations identify three different levels of amendments – basic, standard, and complex. The resolution of the local government is to specify the level of the amendment and provide an explanation justifying this choice. This Amendment is considered to be a 'standard' amendment.

Local Planning Scheme No. 21

LPS 21 sets out the aims for the Scheme area, and controls, regulates, and guides orderly and proper land use and development. A local planning scheme is to be read in conjunction with the Regulations.

At present LPS 21 zones most of the SP area, including the entirety of Lots 12, 402, 14 and 15 and the northern half of lot 4 as 'Rural'. The Rural zoned portion of the Structure Plan area is not affected by any special control areas or similar. The southern portion of Lot 4, along with the lower lying land to the south is zoned 'Conservation'. The Amendment proposes to rezone the area to the 'Urban Development' zone; thereby providing a head of power for the SP to proceed and be determined.

Special Provision Area No. 76

Prior to public advertising, the Amendment was adopted with modifications to designate Special Provision Area No. 76 (SP76) over the site. SP76 transfers the intent of the LNSRS to LPS21 and supports the inclusion of buffer areas with the SP area and the retention and enhancement of native vegetation within POS and road reserves.

Relevant Plans and Policies

The key plans and policies most relevant to the proposal include:

1. State Planning Policy 6.1 Leeuwin-Naturaliste Ridge (SPP 6.1)
2. Leeuwin-Naturaliste Sub-regional Strategy 2019 (LNSRS)
3. Liveable Neighbourhoods (2009)
4. City of Busselton Local Planning Strategy (2019) (LPS)
5. State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP 3.7)
6. State Planning Policy 2.9 Water Resources (SPP 2.9)
7. State Planning Policy 2.6 State Coastal Planning Policy (SPP 2.6)

Each is discussed under appropriate subheadings.

1. State Planning Policy 6.1 Leeuwin-Naturaliste Ridge

State Planning Policy 6.1 Leeuwin-Naturaliste Ridge (SPP 6.1) provides the strategic planning framework for the Leeuwin-Naturaliste Region establishing the greater vision and guidance for land use distribution. The policy promotes sustainable development, conservation and land and resource management. The SP area is identified as a Wetland Amenity Area under SPP 6.1. Wetland Amenity Area Policies relevant to the proposal include:

- LUS 3.30 Rural landscape and coastal reserve buffers between Abbey and Vasse, and Dunsborough and Abbey will be maintained to avoid urban sprawl and to create distinct communities.
- LUS 3.33 The landscape separation of Abbey, Vasse and Dunsborough will be maintained.

2. Leeuwin-Naturaliste Ridge Sub-Regional Strategy 2019

The *Leeuwin-Naturaliste Ridge Sub-Regional Strategy* (LNSRS) is an overarching strategic land use planning document outlining the WAPC approach to future planning and development within the City of Busselton and Shire of Augusta-Margaret River for the next 20 years. The LPS identifies the majority of the Site as 'Urban' and the southern section of the Site as 'Open Space Investigation.' The degree to which the proposal aligns with the 'Open Space Investigation' area will be determined by the WAPC.

3. Liveable Neighbourhoods (2009)

Liveable Neighbourhoods is the primary policy for the design and assessment of structure plans and subdivision for new and infill urban areas. The policy promotes an urban structure of walkable neighbourhoods. Community facilities and services are accessed by walking, cycling and public transport through an efficient, interconnected movement network. Employment opportunities and economic sustainability are facilitated through a coherent hierarchy of activity centres. The SP has been designed to address certain principles of Liveable Neighbourhoods including the urban form, road hierarchy, public open space distribution and urban water management.

4. City of Busselton Local Planning Strategy

The City of Busselton LPS sets out the long-term planning direction for the City and provides an overarching, strategic rationale for decisions related to the planning and development of the District. The LPS identifies the Site as a PIA, subject to PIA Assessment via the WAPC process. The northeast corner of the Site is identified in the catchment of the Monaghan's Corner Local Centre and as being suitable for urban consolidation.

5. State Planning Policy 3.7 Planning in Bushfire Prone Areas and Guidelines for Planning in Bushfire Prone Areas

State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP 3.7) and the associated Guidelines assist in reducing the risk of bushfire to people, property, and infrastructure by encouraging a conservative approach to strategic planning, subdivision, development, and other planning proposals in bushfire prone areas. The proposal has due regard to SPP 3.7 and demonstrates that bushfire risk can be managed within the Site.

6. State Planning Policy 2.9 Water Resources

State Planning Policy 2.9 Water Resources (SPP 2.9) and the associated Water Resources Guidelines provide guidance for the implementation of integrated water resource management principles and protection, and management and consideration of water resources. The proposal has had due regard to SPP 2.9 and includes a Local Water Management Strategy (LWMS) that takes an integrated water cycle management approach and application of Water Sensitive Urban Design (WSUD) principles to provide improvements in the management of water.

7. State Planning Policy 2.6 State Coastal Planning Policy

State Planning Policy 2.6 State Coastal Planning Policy (SPP 2.6) and the associated Guidelines provide guidance for decision-making within the coastal zone including managing development and land use change; establishment of foreshore reserves; and to protect, conserve and enhance coastal values. The proposal has had due regard to SPP 2.6 and the City's CHRMAP.

Financial Implications

Not applicable.

External Stakeholder Consultation

The proposal was advertised for 42 days and closed on 17 March 2023. Late submissions were accepted for an additional week to allow for further community feedback. A total of 105 written submissions were received (13 Agency and 92 Public).

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

The following risks have been identified:

Risk Impact of Major Road Connections			
Category	Consequence	Likelihood	Rating
Environmental	Moderate	Possible	Medium
Reputation	Minor	Possible	Low

Controls: A ‘small footprint’ roundabout on Caves Road would mitigate the impacts associated with the connection of the structure plan area on the road network by:

- Approach speed of vehicles, due to the designed deflection will slow traffic approaching the intersection.
- Vehicle masking risks are significantly lower.
- Gaps would be presented to allow vehicles to safely enter Caves Road in an easterly direction.

Risk Inundation			
Category	Consequence	Likelihood	Rating
Financial	Moderate	Possible	Medium
Reputation	Minor	Possible	Medium

Controls: There is inundation risk associated with the SP site due to proximity to waterways, the Buayanyup drain and the coast. The officer recommendation of a minimum FFL of 3.4 AHD aligns with the City’s adopted CHRMAP recommendation that in areas where there is not a long-term, integrated coastal inundation protection strategy, that minimum FFLs for new development should be 3.4 AHD.

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve to not adopt the SP and/or the Amendment for final approval (and provide a reason for such a decision).
2. Seek further information before making a decision.
3. Seek to make additional or different modifications.

CONCLUSION

It is recommended that the Council adopt the SP and Amendment for final approval (subject to the recommended modifications) and forward them to the WAPC and Minister for Planning for consideration.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Milestone	Completion Date
Referral of the SP and Amendment to the WAPC	within one month of Council decision

11.4. Application for Development Approval (DA21/0822) - Proposed Extractive (Sand) - Lot 4205 Gale Road Kaloorup

Strategic Theme:	Key Theme 1: Environment 1.1 Ensure protection and enhancement of environmental values is a central consideration in land use planning 1.6 Promote and facilitate environmentally friendly responsible practices. Key Theme 3: Opportunity 3.2 Facilitate an innovative and diversified economy that supports local enterprise, business, investment and employment growth. Key Theme 4: Leadership 4.1 Provide opportunities for the community to engage with Council and contribute to decision making.
Directorate:	Planning and Development Services
Reporting Officer:	Senior Planning Officer – Louise Hughes
Authorised By:	Director Planning and Development Services – Paul Needham
Nature of Decision:	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Excavation/Rehabilitation Plan [11.4.1 - 98 pages] 2. Water Management Plan [11.4.2 - 22 pages] 3. Planning History [11.4.3 - 9 pages] 4. Schedule of Submissions [11.4.4 - 6 pages]

OFFICER RECOMMENDATION

That the Council:

- 1. consider that application DA21/0822 submitted for development of Industry – Extractive (Sand) at Lot 4205 Gale Road Kaloorup is generally consistent with Local Planning Scheme No. 21 and the objectives of the zone within which it is located.**
- 2. grants Development Approval for the proposal referred to in (1) above subject to the following conditions:**

GENERAL CONDITIONS

- 1. The development hereby approved is permitted to operate for five years from the date of this Decision Notice. The site shall be fully rehabilitated in accordance with the approved development plans before the expiry date of this development approval.**
- 2. The owner must ensure that the development is undertaken in accordance with the approved development plans, the following management plans and any plans or details approved pursuant to other conditions of this approval:**

- 2.1 Excavation – Rehabilitation Management Plan (Landform Research) dated 8 August 2023; and
- 2.2 Water Management Plan (Accendo Australia) dated August 2023.

Where there is a conflict between a provision contained within a condition of this development approval and a provision contained within one of the plans listed above, the requirements of the condition shall prevail.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS:

3. The owner must ensure that no material is extracted from the site or any other works undertaken until the following plans/details have been submitted to, and approved by, the City:
 - 3.1 A revised Water Management Plan to demonstrate Cell 1 being amended to remove the area to the east of the internal haul road and remove the reference to infiltration basins and holding areas.
 - 3.2 Satisfactory arrangements being made with the City of Busselton for the rehabilitation of that portion of Cell 1 which has already been extracted.
 - 3.3 Details of warning signage to be erected along the transport route. Signage shall include signs on both approaches to the pit along Gale Road 100m from the access.
 - 3.4 Details of entry signage to be erected within the lot boundary adjacent to the driveway and pit entrance visible to vehicles entering /exiting the site. Signage shall include the following details:
 - a) Approved operating hours as per condition 4;
 - b) Approved haulage hours including exclusion times during school bus times as per condition 5;
 - c) Site contact details;
 - d) Ultra high frequency (UHF) channel for operators and
 - e) Approved haulage route.
 - 3.5 A 3D Digital Terrain Model prepared by a licensed surveyor, to the specifications of the City for the whole of Lot 4205 Gale Road Kloorup indicating the following in Australian Height Datum:
 - a) Existing ground levels;
 - b) Proposed maximum extraction depths to maintain a minimum 500mm above maximum seasonal groundwater table; and
 - c) Finished ground levels after rehabilitation to ensure 700mm above the maximum seasonal groundwater table has been achieved.
 - 3.6 Details for the upgrading of the existing crossover to ensure that adequate sightlines are achieved.
 - 3.7 The section of Gale Road between the proposed crossover for Lot 4205 and the Gale/Gibb/Carbunup Road South intersection to be upgraded in accordance with the approved details to the satisfaction of the City (Advice note 11).

3.8 The following bonds being provided to the City:

- a) **A road maintenance bond of \$10,000 (being an unconditional bank guarantee) to ensure that the surrounding road network is maintained to the satisfaction of the City for the term of the extractive industry. Those portions of public roads affected by the activities related to the approval shall be maintained to a standard acceptable to the City at the cost of the owner. The City may use the bond to maintain the affected public roads as it deems necessary.**
- b) **A dust bond of \$5,000, which shall be held against satisfactory compliance with the Dust Management Plan.**
- c) **Further to conditions 4.7(a)-(b) (bond conditions), the bonds are to be accompanied by an executed legal agreement with the City at the full cost of the owner. The legal agreement shall include:**
 - i. **The ability for the City to be able to use the bond, or part of the bond as appropriate, and any costs to the City including administrative costs of completing or rectifying any outstanding works on site in accordance with the conditions of this development approval and any further costs;**
 - ii. **Written authorisation from the owner of the land that the City may enter the site at any time and permit the City to complete or rectify any outstanding work to the satisfaction of the City;**
 - iii. **If at any time part of the bond is called upon, used or applied by the City in accordance with the legal agreement, the restoration of the bond to the full amount required by these conditions; and**
 - iv. **The ability to lodge a caveat over the site to secure the City's interest.**

PRIOR TO COMMENCEMENT OF EXTRACTION CONDITIONS:

- 4 **The owner must ensure that no material is extracted until information setting out how the plans and details required by Conditions 2, 3 and 4 have been implemented, and provided to the satisfaction of the City, and the City has subsequently issued a 'Permit to Commence', confirming that extraction can commence.**

ON-GOING CONDITIONS:

- 5 The owner must ensure that the plans, details and works undertaken to satisfy Conditions 1, 2, 3, 4, and 5 are subsequently implemented and maintained for the life of the development and, in addition, the following conditions must be complied with:**
- 5.1 The development hereby approved shall be limited to: the excavation or movement of sand from its natural state on the site, transportation of sand within or off the site, access ways, and rehabilitation works. At no time shall any blasting or screening works be carried out.**
- 5.2 To ensure a minimum separation of at least 500mm between extraction cells and the maximum water table level, the maximum depth of the Extraction areas are as follows:**
- a. Cell 1 – maximum depth of 71.5m AHD**
 - b. Cell 2 – maximum depth of 71.5m AHD**
 - c. Cell 3 – maximum depth of 71.25m AHD**
 - d. Cell 4 – maximum depth of 72m AHD**
 - e. Cell 5 – maximum depth of 72m AHD.**
- 5.4 All operations related to the extractive industry shall be carried out strictly in accordance with the approved Excavation – Rehabilitation Management Plan.**
- 5.5 Trucks going to and from the development must not use the designated haulage route between 7.30am and 8.40am and between 3:30pm and 4:20pm on any given school day on a school bus route. Other times may be agreed in writing with the local government.**
- 5.6 The approved Water Management Plan shall be implemented and carried out strictly in accordance with the approval details, including any notes placed thereon in red by the City.**
- 5.7 Rehabilitation of extraction areas will consist of ensuring a 500mm separation to maximum groundwater levels, reinstating the topsoil and returning these areas to productive grazing pasture.**
- 5.8 No more than 2 hectares of the approved pit areas shall be worked at any one time. This area shall then be rehabilitated in accordance with the approved Excavation – Rehabilitation Management Plan concurrently with the extraction of the following 2ha area.**
- 5.9 Operating hours, including the transportation of materials, shall be restricted to the hours between:**
- 7.00am and 5.00pm Mondays to Fridays;**
 - 7.00am and 1.00pm Saturdays for rehabilitation works only; and,**
 - There shall be no operations on Sundays or public holidays.**

- 5.10 The designated haulage route will be Gale Road westbound and onto Bussell Highway. The use of Jindong Treeton Road and the eastern portion of Gale Road is strictly prohibited.
- 5.11 A maximum number of 40 truck movements (i.e. 20 trucks entering and 20 trucks exiting the site) shall be permitted on any operating day (i.e. Sundays and public holidays are not operating days). No truck movements are permitted on any other day.
- 5.12 Notwithstanding Conditions 6.9 and 6.10 above, should more than 40 truck movements per day and/or an alternative haulage route be proposed, a Traffic Management Plan is to be submitted to and approved in writing by the City; with the Plan being submitted to the City at least 7 working days prior to any haulage not consistent with the approval.

Note: The City will only approve additional movements or alternate routes where it is determined that an acceptable Traffic Management Plan has been provided. The City will not approve additional truck movements and/or an alternative haulage route for more than 20 working days in any calendar year. Any additional days will require a Modification to Development Approval to be submitted to, and approved by, the City.

- 5.13 The operator/owner shall ensure that annually and within the month following every anniversary of the issue by the City of the Permit to Commence certificate, a 3D Digital Terrain Model is prepared by a licensed surveyor for the whole of Lot 4205 Gale Road Kaloorup, indicating ground levels at the time of survey in Australian Height Datum.
- 5.14 The owner must submit to the City annually within three months of every anniversary of the issue of the Permit to Commence certificate a written report detailing the following to the satisfaction of the City:
- a) A survey conducted by a licensed surveyor certifying:
 - i. The extent/size and location of the area which has been extracted;
 - ii. The extent/size and location of the area which has been rehabilitated;
 - iii. The extent/size and location of the area which is currently under operation;
 - b) Details as to which conditions of this development approval have been complied with and how the conditions have been complied with; and
 - c) No extraction operations, including stockpiling or transportation of extracted material, are to be undertaken on the site at any time when an annual written report is due and has not been submitted to the City.

5.15 No development (including any extraction) may be carried out at any time when any bond that is required to be in force and effect under Condition 3.10 is not in full force and effect.

EXECUTIVE SUMMARY

The City has received a development application for an 'Industry – Extractive' to extract approximately 255,000m³ of sand from Lot 4205 Gale Road, Kaloorup 'the Site'. It is proposed to extract to a level of 0.5m from the maximum ground water level, commencing in the southern cell and moving in a northerly direction in stages of approximately 2ha. The site has undergone clearing of predominantly Peppermint trees in accordance with an approved clearing permit which has now expired. It is proposed that post extraction the land will be rehabilitated to pasture, with batter slopes of no less than 1:5 vertical to horizontal.

Due to the nature of the issues requiring consideration and raised during the referral process, the application is being presented to Council for determination, rather than being determined by City officers acting under delegated authority.

Having considered the application, including submissions received in relation to the application, it is considered that the application is generally consistent with the *City of Busselton Local Planning Scheme No. 21* (Scheme) and the broader, relevant planning framework including Local Planning Policy 5A – Extractive Industries (LPP5A).

It is therefore recommended that the application be approved, subject to conditions.

STRATEGIC CONTEXT

In accordance with the City's Strategic Community Plan the application is considered in the context of ensuring protection and enhancement of environmental values is a central consideration in land use planning.

BACKGROUND

Development approval was granted for a five year period on 13 April 2016 for the extraction of sand on the site, the approval included the extraction of sand in two areas on the lot. One area has been extracted and rehabilitated, whilst the other area had not been completed before the development approval had expired.

A development application was submitted on 6 May 2021, further information including management plans was received by the City on 16 September 2021. Numerous exchanges of correspondence and meetings have taken place between City officers and the applicant over the past two years in order to gather sufficient information such that the application could be supported by the City. The outstanding information required to assess the application was received on 28 April 2023 and the application was referred for advertising and to State Agencies.

Comments received from both Department of Water and Environmental Regulation (DWER) and Department of Primary Industries and Regional Development (DPIRD) advised that there was still insufficient detail to undertake a full assessment. A site meeting was held with City officers, DWER and the applicant to discuss the additional information required to facilitate assessment of the proposal and the updated document was submitted to the City on 19 July 2023.

The updated information was provided to both DWER and DPIRD on 19 July 2023 and comments received back from both agencies on 20 July 2023.

OFFICER COMMENT

The proposed Extractive Industry is a discretionary land use in the Rural zone and consideration is therefore given to the potential impacts and whether they can be suitably mitigated.

The referral process highlighted a number of concerns relating to noise, dust, traffic management, groundwater, vegetation clearing and future agricultural use.

Noise Management

The site is 113ha and the extraction is proposed on the north-western portion of the lot covering an area of approximately 11ha. The nearest sensitive receptor is located over 565m to the southwest which is in excess of the minimum 300m requirement for buffer distance as outlined in the Environmental Protection Authority's *Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses* document.

The City's Local Planning Policy 2.3 *Extractive Industries* also requires a minimum setback of 500m from a sensitive land use and the proposal satisfies this requirement.

The proposal includes the following measures to control the impact of noise:

- setback distance
- operating machinery behind bunds and
- the maintenance of machinery in good order

These measures are considered to satisfactorily mitigate potential noise impacts. In addition, the application includes a complaints mechanism setting out the procedure for receiving and responding to complaints by the applicant.

Screening of sand is not proposed in the current proposal but is identified as something which may be undertaken in future. That would result in the need to modify any development approval in order that the impacts can be assessed at the relevant time; this is in addition to any requirements for a works approval as required by the Department of Water and Environmental Regulation.

Overall, it is considered that noise relating to the extraction of sand can be satisfactorily managed.

Dust Management

The generation of dust can occur through the extraction, loading and transportation process all of which are impacted by climatic conditions.

The application incorporates several measures to mitigate the risk of dust generation and manage where required, adopting measures in accordance with the DEC (DWER) 2011 *Guideline for Managing the Impacts of Dust and Associated Contaminants from Land Development Sites, Contaminated Sites Remediation and other Related Activities* to manage impacts.

The risk assessment identifies the main risk of dust is from easterly winds on mornings especially in summer when the sand, hardstand and stockpiles are at their driest but that the risk is 'negligible'. Mitigation of any risk is provided by the following:

- 20m setback of the pit from the boundary
- Use of water carts to dampen material and haulage routes during dry weather
- the excavation pit is set behind screening bunds and
- the existence of tree buffers on adjoining lots. Tree buffers effectively reduce the speed of wind causing particles of sand to fall and reduce the distance they travel. Given the nearest sensitive receptor is located more than 500m away, the risk is considered to be low.

Monitoring of activities is a critical component of mitigation, as effective management can be undertaken where there is sighting of visible dust.

It is considered that the proposed measures and compliance with setback requirements will ensure that dust is managed and there is a suitable process to ensure any issues will be addressed and resolved.

Traffic management

The application proposes to transport sand from the site along Gale Road to the east and west. The majority of movements are proposed to the west with only local destinations being accessed along the eastward route.

The assessment of the previous application concluded that the use of Gale Road to the west is most suitable, whilst to the east is not suitable and neither was the use of Gibb Road or Jindong Treeton Road. This has been reviewed as part of the assessment process and concluded that Gibb Road to the west provides the best access to Busselton and other routes and is therefore recommended.

In terms of volumes of trucks the application states in the Water Management Plan:

'The number of trucks traversing the site will be variable but average up to 10 laden trucks per day. For large contracts there may be 20 per day and at other times less than 5 per day.'

'Given the highly variable nature of the campaigns, these calculations are estimates only, there may be periods in which these daily truck numbers are exceeded'

The issue of truck movements was raised during the consultation process due to the potential to impact on residential amenity. The impact is in part mitigated through the restriction in operating hours to ensure that there are times where no movements occur to protect residential amenity, including weekends and public holidays.

This has to be balanced with the ability for the operator to respond to demand for the resource and meet contractual obligations. The reference to 10 laden trucks equates to 20 vehicle movements (ie entering and leaving the site) and the proposed maximum is therefore 40 movements per day, though it is anticipated this will not be a regular occurrence.

The location of the site is rural in nature and surrounded by rural lots and where there are dwellings, they are generally setback from Gale Road at a distance which will generally minimise impacts from truck movements. The suitability of the road has been assessed and concluded that utilising Gale

Road to the west and then to Bussell Highway is suitable and the road is capable of accommodating this number of trucks.

In order to minimise transfer of material from the haul road onto Gale Road and minimise risk from a safety perspective, a condition of approval will require the crossover is sealed to the satisfaction of the City of Busselton prior to operations commencing.

Groundwater

The site is known to be in an area where groundwater expresses at the surface or just below the surface. Provisions of the City's LPS21 and requirements of the Department of Water and Environmental Regulation's statutory framework require development to be undertaken so as to minimise the risk of negative impacts on groundwater, wetlands and watercourses (Buayanyup River).

The existing extraction has demonstrated the significance of ensuring that separation of a minimum of 500mm is maintained to prevent the potential for groundwater to express at the surface. The consultation process established that the initial data submitted in support of the application was not sufficient to fully determine the maximum groundwater level height; this data is critical in establishing the level to which extraction can occur without impacting on groundwater.

Where groundwater is expressed at surface during excavation there are a number of risks:

- Exposure of ground water table can lead to evaporation and also provides a pathway for contamination to enter the aquifer. Where ground water is exposed for long periods of time, concentration of salt through evaporation results in land degradation and a site can become unproductive for future agricultural uses. This can have a further effect on the resource enhancement wetland to the north and to the south east of the extraction area and the watercourse to the south east;
- It impacts the ability for the land to be rehabilitated. To successfully ensure the ongoing use of the land for agricultural purposes there needs to be adequate separation to maximum groundwater level to ensure that pasture can be grown and not to create potential winter inundation over large parts of the lot.

To ensure that the separation to the groundwater table is achieved, DWER have provided advice that a minimum pit floor level should be conditioned for each cell. The pit floor height ranges between 71.5m AHD to 72m AHD.

Based on the recommendations of DWER, cell 1 has been reduced in area and is required to be rehabilitated due to existing exposed groundwater within the area from the previous extraction. In response to the concerns, the applicant updated the Water Management Plan to reflect these requirements.

It is considered that the proposal can be supported subject to conditions of approval requiring monitoring of maximum groundwater levels and extraction levels.

Vegetation clearing

The north western part of the site previously benefited from an area of mature peppermint trees and the clearing of vegetation was a concern raised through the referral process at the time.

The applicant sought clearing approval from the Department of Water and Environmental Regulation for removal of the trees which was granted, conditional upon a revegetation condition. It is understood that the replanting has occurred and the condition been complied with.

Future agricultural use

The application proposes that once extracted the site will be rehabilitated to pasture for future agricultural use. This is considered to be consistent with the existing use of the site and the Rural zoning of the land.

The operation involves removal of the sand from each cell and then the stockpiled topsoil is put back prior to seeding. The reduced sand profile increases proximity to ground water which aids grassland productivity by extending the growth period prior to the heat of summer.

Statutory Environment

The key statutory environment is set out in the City of Busselton *Local Planning Scheme 21 (Scheme)*, the *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)*, Schedule 2 of which is the 'deemed provisions', which also functionally form part of the Scheme. The key aspects of the Scheme and Regulations relevant to consideration of the application are set out below.

Zoning

The site is zoned 'Rural'. The objectives of the 'Rural' zone are as follows:

- a. To provide for the maintenance or enhancement of specific local rural character.
- b. To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as viticulture and horticulture as primary uses, with other rural activities as secondary uses in circumstances where they demonstrate compatibility with the primary use.
- c. To maintain and enhance the environmental qualities of the landscape, vegetation, soils and waterways, to protect sensitive areas especially the natural valley and watercourse systems from damage.
- d. To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses.
- e. To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.
- f. To provide for development and expansion of the viticultural, winemaking and associated tourism activities and other industries related to agricultural activities, in addition to general rural pursuits, in a manner that does not cause adverse environmental impact.
- g. To provide for the extraction of basic raw materials, where appropriate.

The proposal is considered to satisfy the objectives of the zone.

Land-use and permissibility

The proposed land uses is defined as follows:

“Industry – Extractive” means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any of the following purposes –

- (a) the processing of raw materials including crushing, screening, washing, blending or grading,*
- (b) activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.*

Industry - Extractive is identified as an ‘A’ or advertised use within the Rural zone.

Matters to be considered

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

- (d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
- (g) any local planning policy for the Scheme area;*
- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance;*
- (n) the amenity of the locality including the following —*
 - (i) environmental impacts of the development;*
 - (ii) the character of the locality;*
 - (iii) social impacts of the development;*
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*

- (s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;...*

Relevant Plans and Policies

The officer recommendation aligns to the following adopted plan or policy:

State Planning Policy 2.4 Basic Raw Materials

State Planning Policy 2.4 Basic Raw Materials (SPP 2.4) and the associated Guidelines provide guidance to facilitate the responsible extraction and use of basic raw materials, taking into account the compatibility with surrounding land uses, avoids/minimises or mitigates any adverse impacts on the community, water resources and biodiversity values whilst ensuring the final intended land use is not compromised. The proposal has had due regard to SPP 2.4.

Local Planning Policy 5A - Extractive Industries

Local Planning Policy 5A - Extractive Industries (LPP5A) provides guidance regarding the extraction of basic raw materials. The application site is located within Policy Area 3. The elements of LPP5A considered particularly relevant to assessment of the application are as follows:

1. 4.2.2.3 Policy Areas 2 and 3:
Notwithstanding 6.2.1 and 6.2.2 above, the extraction of sand and limestone may be located less than 500m but generally no closer than 300m from a sensitive land use dependent upon the nature and scale of the operation and the content of a Dust and Noise Management Plan, including consideration of the requirement for dust and noise measuring equipment to be installed within the site for the duration of the extraction process. However, this will not apply to the extraction of basalt and other hard rock quarrying which requires greater setback distances (generally a minimum of 1000m) to a sensitive land use.
2. 4.2.2.5 Policy Areas 2 and 3:
Where an extractive industry is approved within 1km of a residence or tourist accommodation or attraction, additional conditions to reduce amenity impact from noise and dust may be imposed, including operating times.
3. 4.2.5 Route Assessment and Transportation:
The potential impacts of an extractive industry will be assessed against the Scheme and the following criteria:

- a) The outcomes of the Schedule 1 – Traffic Impact Assessment and Road Upgrading Guidelines.
- b) Any comments or recommendations from Main Roads WA.
- c) The impacts of haulage traffic noise, vibration and amenity loss on surrounding areas.

The proposal has had due regard to LPP5A.

Financial Implications

Not Applicable

External Stakeholder Consultation

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

The purpose of public consultation is to provide an opportunity for issues associated with a proposed development to be identified by those who potentially may be affected. A development application should not be approved or refused based on the number of submissions it receives, for or against, rather all applications must be determined on the merits of the particular proposal, including consideration of any relevant planning issues raised through consultation.

The application was open for submissions from 23 June to 14 July 2023. The application was advertised in the following manner:

1. Information regarding the application was posted on the City's website;
2. A portal was created using the City's YourSay platform for the online lodgement of submissions;
3. Letters were sent to all the land owners within 1km of the site; and
4. A notice was placed in a local newspaper on 23 June 2023.

Submissions were received from a total of 4 people. A schedule of submissions is provided as Attachment 4. The schedule identifies who submissions were received from and summarises the submissions. The submissions can generally be grouped as follows:

Objection

- Noise and dust impacts on residential amenity;
- Traffic management and impact amenity;
- Groundwater and impacts on adjoining Resource Enhancement Wetlands;
- Vegetation clearing of established Peppermint trees and their Western Ringtail Possum habitat.
- Future Agricultural use.

Support

- Nil

Where issues are raised which are not able to be considered, as they do not relate to the relevant planning framework, the comment provided (note comments have been grouped given the number

of submissions received) indicates that, but does not provide further commentary or discussion. That does not necessarily suggest that the issues are not genuine issues of concern to the submitter or more broadly, but they are unfortunately not issues that can or should be addressed in the assessment of the application.

In addition to the above, the application was referred to DWER, DPIRD, Department of Biodiversity, Conservation and Attractions and the Department of Mines, Industry Regulation and Safety. The agencies' comments are provided as Attachment 4.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place.

The following risks has been identified

Risk Potential environmental damage resulting in damage to the City's reputation.			
Category	Consequence	Likelihood	Rating
Environmental Reputation	Moderate	Possible	High
Context			
The extraction of sand under the 2016 approval has resulted in the ground water table being intercepted which has required remediation by the operator. In view of this the risk of a reoccurrence is considered to be possible and the risk implications are high due to the proximity of the resource enhancement wetland and conservation category wetland to the north and south east of the subject site.			

The officer recommendation seeks to mitigate the identified risk relating to maximum groundwater level, by requiring extraction to be a minimum of 500mm above the maximum groundwater levels. This is considered to ensure that ground water will not be intercepted and the rehabilitation to pasture will be successful and facilitate ongoing agricultural use of the land.

Options

As an alternative to the proposed recommendation the Council could refuse the application on the grounds that until further groundwater monitoring data is available it is not possible to determine with sufficient certainty, that the extraction will not intercept the water table and potentially harm the resource enhancement wetland, river and prevent successful rehabilitation to pasture.

CONCLUSION

The application is considered to be generally consistent with the objectives of the Rural zone provisions of LPS21 and the broader statutory framework and sand is an essential resource for a wide variety of projects across the City and wider geographical area.

The high level of demand for sand resources is acknowledged and it is also recognised that on the subject site sand extraction has the potential for relatively significant impacts to the environment if not managed appropriately.

The application has been updated to address the environmental concerns that have been raised, particularly in relation to groundwater and the potential adverse impact on the adjoining river system and resource enhancement wetlands to ensure that the risks are minimised and capable of being managed. As a result the application is recommended for approval subject to conditions.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Milestone	Completion Date
Issue the Development Approval to the Applicant	Within two weeks of Council decision