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**CITY OF BUSSELTON**

**MINUTES FOR THE COUNCIL MEETING HELD ON 24 APRIL 2018**

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## MINUTES

MINUTES OF A MEETING OF THE A MEETING OF THE BUSSELTON CITY COUNCIL HELD IN THE COUNCIL CHAMBERS, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 24 APRIL 2018 AT 5.30PM.

1. DECLARATION OF OPENING / ACKNOWLEDGEMENT OF COUNTRY AND ANNOUNCEMENT OF VISITORS/ DISCLAIMER

The Presiding Member opened the meeting at 5.30pm.

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

Cr John McCallum Deputy Mayor  
Cr Coralie Tarbotton  
Cr Ross Paine  
Cr Lyndon Miles  
Cr Rob Bennett  
Cr Paul Carter  
Cr Robert Reekie  
Cr Kelly Hick

Officers:

Mr Paul Needham, A/ Chief Executive Officer  
Mr Oliver Darby, Director, Engineering and Works Services  
Mr Cliff Frewing, Director, Community and Commercial Services  
Mr Tony Nottle, Director, Finance and Corporate Services  
Ms Sarah Pierson, Manager Governance and Corporate Services  
Mrs Katie Banks, Executive Assistant to Council

2.1 Apologies

Nil

2.2 Approved Leave of Absence

Nil

Media:

“Busselton-Dunsborough Times”

Public:

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3. PRAYER

In lieu of a prayer, the Mayor delivered the Ode of Remembrance.

**4. APPLICATIONS FOR LEAVE OF ABSENCE**

Leave of Absence

**COUNCIL DECISION****C1804/073**

Moved Councillor Tarbotton , seconded Councillor Bennett

That Leave of Absence be granted to Councillor McCallum for the Ordinary meeting of Council being held on Wednesday 8 August.

**CARRIED 9/0****5. DISCLOSURE OF INTERESTS**

Nil

**6. ANNOUNCEMENTS WITHOUT DISCUSSION BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)**

Nil

**7. QUESTION TIME FOR PUBLIC****7.1 Response to Previous Questions Taken on Notice**

Nil

**7.2 Question time for Public**

Nil

**8. CONFIRMATION AND RECEIPT OF MINUTES****Previous Council Meetings****8.1 Minutes of the Council Meeting held 11 April 2018****COUNCIL DECISION****C1804/074**

Moved Deputy Mayor McCallum, seconded Councillor P Carter

That the Minutes of the Council Meeting held 11 April 2018 be confirmed as a true and correct record.

**CARRIED 9/0**

**9. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS**

9.1 Petitions

Nil

9.2 Presentations

Nil

9.3 Deputations

Nil

**10. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (WITHOUT DISCUSSION)**

Nil

**11. ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY**

Nil

**ITEMS BROUGHT FORWARD AND ADOPTION BY EXCEPTION RESOLUTION**

At this juncture the Mayor advised the meeting that with the exception of the items identified to be withdrawn for discussion, that the remaining reports, including the Committee and Officer Recommendations, will be adopted en bloc.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1804/075** Moved Councillor Tarbotton , seconded Councillor P Carter

That the Committee and Officer Recommendations in relation to the following agenda items be carried en bloc:

- 11.1 AMENDMENT NO. 29 (OMNIBUS NO. 4) TO LOCAL PLANNING SCHEME NO. 21 - CONSIDERATION FOR FINAL ADOPTION
- 11.2 PROPOSED AMENDMENT 28 ('OMNIBUS 3') & PROPOSED AMENDMENT 36 ('VASSE EAST') TO LOCAL PLANNING SCHEME 21 - CONSIDERATION FOR INITIATION FOR COMMUNITY CONSULTATION
- 14.1 RFQ02/18 PROVISION OF ELECTRICAL SUPPLY FOR CITY OF BUSSELTON CONTESTABLE SITES
- 15.1 COUNCILLORS' INFORMATION BULLETIN

**CARRIED 9/0**

**EN BLOC**

## 12. REPORTS OF COMMITTEE MEETINGS

Nil

## 13. PLANNING AND DEVELOPMENT SERVICES REPORT

### 13.1 AMENDMENT NO. 29 (OMNIBUS NO. 4) TO LOCAL PLANNING SCHEME NO. 21 - CONSIDERATION FOR FINAL ADOPTION

<b>SUBJECT INDEX:</b>	Local Planning Scheme 21 Amendments
<b>STRATEGIC OBJECTIVE:</b>	Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
<b>BUSINESS UNIT:</b>	Strategic Planning and Development Services
<b>ACTIVITY UNIT:</b>	Strategic Planning and Development
<b>REPORTING OFFICER:</b>	Senior Strategic Planner - Helen Foulds
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Schedule of Submissions⇒ Attachment B Schedule of Modifications⇒

### PRÉCIS

The Council is requested to consider adopting for final approval Amendment No. 29 to Local Planning Scheme 21 (LPS21).

The Amendment seeks to align the zones within the Scheme with the standard suite of zones set out in the Model Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to review and refine the 'policies and objectives' and other provisions of each of the zones, to review and align the land-use definitions to be more consistent with the Model Provisions and to review the zoning table to avoid unintended consequences.

The amendment further proposes to introduce development standards for the new 'City/Town Centre' zone that would apply to the Busselton City and Dunsborough Town Centres and identify areas within the Centres where a prohibition on 'drive-through facilities' would apply. The amendment also seeks to establish a 'structure plan area' over the Dunbarton/Vasse Rural Residential area to facilitate future re-subdivision/consolidation of that area, consistent with strategic planning direction.

Amendment No. 29 was adopted for public consultation by the Council on 13 December 2017. Advertising of the Amendment resulted in 5 external agency submissions and 39 public submissions. The public submissions were largely focused on the proposed structure planning area for the Dunbarton/Vasse Rural Residential area, with submissions also being received regarding the rezoning of Rural Residential land in Eagle Bay and Dunsborough, proposed CBD provisions and also specific land use terms.

Officers are recommending that Amendment No. 29 be adopted for final approval in accordance with changes proposed in response to submissions (and as set out in the Schedule of Modifications provided at **Attachment B**) and referred to the Western Australian Planning Commission (WAPC) and Hon. Minister for Planning for final endorsement.

### BACKGROUND

At its meeting of 13 December 2017, the Council considered Amendment No. 29 (part of Omnibus Amendment 4, together with Amendment No. 35) to the City of Busselton Local Planning Scheme No. 21 and adopted it for public consultation. The primary purpose of this Omnibus Amendment is to

generally align the Scheme to the Model Provisions, contained within Schedule 1 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The amendment specifically seeks to:

1. Align the zones within the Scheme with the standard suite of zones set out in the Model Provisions;
2. Review and refine the objectives and policies of each of the zones and the relevant provisions more generally;
3. Review and align the land use terms and general definitions with the Model Provisions, along with the zoning table to avoid unintended consequences;
4. Incorporate provisions for the new 'City and Town Centre' zone, including provisions for 'Drive-Through Facilities'; and
5. Pave the way for the future re-subdivision/consolidation of the Dunbarton/Vasse Rural Residential area to a low density Residential zone, by applying a Special Provision requiring an overall Structure Plan for road network planning, public open space and urban water planning, amongst other matters.

## **STATUTORY ENVIRONMENT**

The key elements of the statutory environment with respect to this proposal are set out in the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*. Each is discussed below under appropriate subheadings.

### **Planning and Development Act 2005**

The *Planning and Development Act 2005* outlines relevant considerations when preparing and amending local planning schemes. The relevant provisions of the Act have been taken into account in preparing and processing this Amendment.

### **Planning and Development (Local Planning Schemes) Regulations 2015**

The *Planning and Development (Local Planning Schemes) Regulations 2015*, which came into operational effect on 19 October 2015, identifies 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 because:

- i. The Amendment proposes to amend the Scheme text so that it is consistent with the model provisions in Schedule 1 of the Regulations;
- ii. The Amendment would have minimal impact on land in the Scheme area that is not the subject of the Amendment; and
- iii. The Amendment would not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.

## RELEVANT PLANS AND POLICIES

The key policy implications with respect to the proposal are set out in the following, and are discussed below under appropriate subheadings:

- State Planning Policy 2.5: Rural Planning and Development Control Policy 3.4: Subdivision of rural land;
- Draft State Planning Policy 7: Design of the built environment;
- Liveable Neighbourhoods;
- Draft Local Planning Strategy;
- Local Commercial Planning Strategy; and
- Busselton City and Dunsborough Town Centre Conceptual Plans

### **State Planning Policy 2.5: Rural Planning (2016) and Development Control Policy 3.4: Subdivision of rural land (2016)**

*State Planning Policy 2.5: Rural Planning* (SPP 2.5) is the basis for planning and decision-making for rural and rural living land across Western Australia. The purpose of this policy is to protect and preserve Western Australia's rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values.

*Development Control Policy 3.4: Subdivision of rural land* (DC 3.4) sets out the principles that will be used by the WAPC in determining applications for the subdivision of rural land. The policy is consistent with the objectives of *State Planning Policy 2.5: Rural Planning*, which establishes the statewide policy framework for rural land use planning in Western Australia.

### **Draft State Planning Policy 7: Design of the built environment**

Draft State Planning Policy 7 for Design of the Built Environment (SPP 7) is the lead policy that establishes the requirement for design quality across the whole built environment. SPP 7 includes ten principles for good design and sets up the requirement for expert design review as a part of the evaluation process.

### **Liveable Neighbourhoods**

*Liveable Neighbourhoods* (LN) is a policy document of the WAPC and sets out extensive planning direction relevant to consideration of proposed urban development. LN currently exists in two relevant forms, the adopted 2009 version (LN 2009), and the draft 2015 version (LN 2015). Whilst LN generally applies to structure plans (and other subsidiary planning instruments, such as activity centre plans and local development plans) and applications for subdivision approval, it also sets out the WAPC's overall direction for planning of urban areas, especially with respect to urban design, and as such provides useful and relevant advice when considering urban design requirements of the Scheme.

### **Draft Local Planning Strategy**

The draft Local Planning Strategy (LPS) was adopted by Council for final approval in September 2016 and is currently with the WAPC for endorsement.

'Theme 1' of the LPS, 'Settlement and community', includes the direction to "support and pro-actively plan to identify suitable areas for re-subdivision/consolidation of existing rural-residential development in both the Commonage and Dunbarton rural residential areas."

'Theme 2' of the LPS, 'Activity centres and economy', identifies the following, relevant strategies and objectives:

- Strategy (c) – *"...activity centres shall be...developed along predominantly 'main-street' lines, with activated public streets and high levels of pedestrian amenity..."*
- Objective (d) – *"The continued growth of the Busselton City Centre and Dunsborough Town Centre as the main centres of the economic, social and cultural life of the District;"*

### **Local Commercial Planning Strategy**

The Local Commercial Planning Strategy (LCPS), adopted by Council on 10 November 2010, provides the long term strategic land use planning and strategic direction for the development of commercial land within the District.

The LCPS considered and made recommendations on urban design improvements in and around the Busselton City Centre and Dunsborough Town Centre, including identifying a number of "Key Principles" for both Centres. Relevant principles have been identified as follows:

#### *5.2.3 Urban Design Principles (Busselton)*

- *Encourage mixed uses - residential, offices, hospitality, retail and community – in the town centre, to increase vitality.*
- *Develop a more cohesive, vernacular style for built development in the town and control the intrusion of brands and homogenised building styles.*
- *Encourage pedestrian movement in the town centre.*
- *Traffic circulation in the town centre needs to be managed to ensure that reduced amenity and poor safety does not result.*
- *Provide well located peripheral car parks to encourage pedestrian movement in the town centre.*

#### *5.3.3 Urban Design Principles (Dunsborough)*

- *Encourage mixed uses - residential, offices, hospitality, retail and community – in the town, to increase vitality.*
- *Increase safe and efficient pedestrian movement in the town.*
- *Provide well located car parks to encourage pedestrian movement in the centre of town.*

### **Busselton City and Dunsborough Town Centre Conceptual Plans (2014)**

The Busselton City and Dunsborough Town Centre Conceptual Plans further developed the recommendations of the LCPS and have in turn guided this Amendment. These plans were adopted by Council at its meeting of 29 January 2014 following a period of public consultation in April and May of the previous year.

The Conceptual Plans contain a number of recommendations aimed at making the Busselton City Centre and Dunsborough Town Centre more vibrant, attractive and pedestrian friendly. They include proposed streetscape upgrades, now partially completed, and 'Development/Redevelopment Cells' requiring site-specific design guidance/integration.

### **FINANCIAL IMPLICATIONS**

There are considered to be no direct financial implications arising from the implementation of the Officer Recommendation.

#### **Long-term Financial Plan Implications**

Nil.

## STRATEGIC COMMUNITY OBJECTIVES

The Officer Recommendation is consistent with Key Goal Area 2 of the *City of Busselton Strategic Community Plan 2017* and specifically the following community objectives:

2.1 – “*Planning strategies that foster the development of neighbourhoods that meet our needs as we grow*”; and

2.3 – “*Creative urban design that produces vibrant, mixed-use town centres and public spaces.*”

## RISK ASSESSMENT

An assessment of the potential implications of implementing the Officer Recommendation has been undertaken using the City’s risk assessment framework. The assessment identified ‘downside’ risks only, rather than upside risks as well. The implementation of the Officer Recommendation will involve referring the proposal to the WAPC and Hon. Minister for Planning for final approval. In this regard, there are no risks identified of a medium or greater level.

## CONSULTATION

The Amendment was advertised for 42 days ending 30 March 2018. Given this date fell on a public holiday, submissions continued to be accepted on the following business day, being Tuesday 3 April. Five government agency submissions and 38 public submissions were received. A Schedule of Submissions is provided at **Attachment A**.

The following provides a brief synopsis of the 43 submissions received:

- Specific or general SUPPORT in relation to matters proposed: 21
- Specific or general OBJECTION in relation to matters proposed: 17
- Specific or general CONCERN expressed in relation to matters proposed: 3
- Specific or general COMMENT made in relation to matters proposed: 3
- Request for additional modification to the Scheme: 4

*Note: this will total more than the number of submissions received as some submissions may have supported one aspect of the amendment while raising concerns with another.*

To further assist Councillors, the substance of the submissions can be broadly classified as follows:

### 1. Alignment of Zones and Terms Referred to in Scheme (2 submissions):

- 2 support alignment of scheme land use terms and general definitions with the Model Provisions and request addition of two land use terms into the Scheme.

### 2. City/Town Centre Provisions (4 submissions):

- 1 supports the Amendment as it relates to the Dunsborough Town Centre;
- 1 supports specifically the ‘Drive-Through Facility Exclusion’ area as it relates to the Dunsborough Town Centre;
- 1 citing concerns with regard to the effect on rates and heritage and development generally within the CBD; and

- 1 objection to the 'Drive-Through Facility Exclusion' area as it relates to the Dunsborough Town Centre.
- 3. Dunbarton/Vasse Proposed Structure Planning Area (27 submissions):**
- 14 support subdivision within Vasse/Dunbarton;
  - 2 make general comment and expressions of concern in respect to Vasse/Dunbarton matter; and
  - 11 objections to subdivision/rezoning within Vasse/Dunbarton.
- 4. Rezoning of Eagle Bay Rural Residential Area (2 submissions):**
- 2 objections to rezoning of Rural Residential properties in Eagle Bay.
- 5. Rezoning of Dunsborough Rural Residential Area (4 submissions):**
- 1 supports rezoning of Rural Residential properties in Dunsborough; and
  - 3 objections to rezoning of Rural Residential properties in Dunsborough.
- 6. External agencies (5 submissions):**
- 1 supports alignment of Scheme to Model Provisions generally, as well as seeking the City to reconsider prohibition of 'Aged Persons Home' within the City/Town Centre zone;
  - 3 make general comment or no objection regarding various aspects of the Amendment;
  - Western Power request for the Busselton Substation to be identified as 'Public Purpose' Reserve on Scheme maps.

Officer comments in respect to each of the submissions have been provided within the Schedule of Submissions at **Attachment A**. Further comment and recommendations for modifications to the Amendment are discussed in the Officer Comment section below.

## **OFFICER COMMENT**

The most relevant and substantive issues raised during the public consultation process can be addressed under the following headings:

1. Terms referred to in Scheme (addition of 'Bulky Goods Showroom' and 'Trade Supplies', permissibility of 'Aged Persons Home')
2. City/Town Centre Zone Provisions & 'Drive-Through Facility Exclusion' area
3. Vasse/Dunbarton Proposed Structure Planning Area
4. Rezoning of Rural Residential zoned properties to Residential (Eagle Bay and Dunsborough)
5. Reservation of Busselton Substation within the Scheme
6. Modify various references following gazettal of Amendment No. 25 (Deemed Provisions amendment).

### **1. Terms referred to in Scheme**

#### 'Aged Persons' Home'

The Department of Housing has requested that the City consider modifying the permissibility of 'Aged Persons Home' within the 'City/Town Centre' zone to enable these uses to take advantage of services and public transport that are available in those CBDs.

Currently a 'X' use (not permitted) in the 'Business' zone (and therefore also in the revised 'City/Town Centre' zone), 'Aged Persons' Home' is defined as follows:

*“Aged Persons’ Home’ means a building or group of buildings used primarily as a residence for aged persons and may include a hostel and/or nursing home.”*

Given the recent changes to the Scheme to encourage residential development within the City and Town Centres via the application of the R-AC3 code, the provision of aged persons units would have benefits for those residents, given the proximity to facilities, services and transport options. It is not expected that such a development would be likely to appear in the central areas of the City and Town Centres, however, as market forces are likely to determine that such uses are more economic to deliver on the outskirts of the ‘City/Town Centre’ zone. It is therefore recommended that the land use has the ability to be considered within the zone, by modifying the use to an ‘A’ use within the Zoning Table. This recommendation is identified within the Schedule of Modifications at **Attachment B**.

The ‘Local/Neighbourhood Centre’ zone is considered to be less appropriate for such a use, given their usually small nature, limited availability of land parcels and lack of an R-AC3 code. No change is recommended to the ‘Local/Neighbourhood Centre’ zone.

#### ‘Bulky Goods Showroom’

A request to replace the land use term ‘Showroom’ with ‘Bulky Goods Showroom’ was submitted, citing the ‘Showroom’ definition as outdated and deficient.

The Scheme currently identifies ‘Showroom’ as follows (with no modification proposed as part of this amendment):

*“Showroom’ means any building or part of a building used or intended for use for the purpose of displaying or offering for sale by wholesale or retail, automotive spare parts, carpets, large electrical appliances, furniture, hardware or bulky goods but does not include the sale by retail of foodstuffs, liquor or beverages, items of clothing or apparel, magazines, newspapers, books or paper products, china, glassware or domestic hardware, or items of personal adornment.”*

The Regulations define ‘Bulky Goods Showroom’ as follows:

*“Bulky Goods Showroom’ means premises –*

*(a) used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes –*

- (i) automotive parts and accessories;*
- (ii) camping, outdoor and recreation goods;*
- (iii) electric light fittings;*
- (iv) animal supplies including equestrian and pet goods;*
- (v) floor and window coverings;*
- (vi) furniture, bedding, furnishings, fabrics, manchester and homewares;*
- (vii) household appliances, electrical goods and home entertainment goods;*
- (viii) party supplies;*
- (ix) office equipment and supplies;*
- (x) babies’ and childrens’ goods, including play equipment and accessories;*
- (xi) sporting, cycling, leisure, fitness goods and accessories;*
- (xii) swimming pools;*

*or*

*(b) used to sell by retail goods and accessories by retail if –*

- (i) a large area is required for the handling, display or storage of the goods;*

*or*

*(ii) vehicular access is required to the premises for the purpose of collection of purchased goods;”*

In drafting the Amendment, consideration was given by officers to replacing the existing ‘Showroom’ definition with the Regulations definition ‘Bulky Goods Showroom’ but, following close scrutiny, it was decided against due to concerns for the potential for a broader range of retail uses to be approvable in the ‘Industrial’ zone (to become ‘Light Industry’) and ‘Restricted Business’ zone (to become ‘Service Commercial’), creating further risks of ‘leakage’ out of (and undermining of) existing and planned activity centres, especially the Busselton City Centre and Dunsborough Town Centre.

Part (b) of the Regulations definition provides a very broad scope to allow the retail of any goods and accessories that it could be argued require a large area for handling, display or storage, or if vehicle access is required for the collection of those purchased goods. The main concern that officers have with this definition is that applicants could conceivably propose this land use to cover a raft of unintended uses and the planning direction of the City would be determined by State Administrative Tribunal (SAT) decisions, rather than by the Council. For example, the City could be required to determine whether a proposal to sell a range of goods similar to what may be sold at a discount department store or supermarket is included in the definition of a ‘Bulky Goods Showroom’ because they ‘require’ a large area for handling, display and storage.

That would fundamentally undermine key strategic planning direction to support the primacy of our main centres, shifting such activity away from those centres, which are hubs of community and social life, as well as places for commerce, into vehicle oriented and narrowly commercial settings. It would also reduce the capacity of local and small businesses to benefit from proximity to major retail ‘anchors’.

The issue that officers have with the definition of ‘Bulky Goods Showroom’ has been raised at an officer level with the Department of Planning, Lands and Heritage, with verbal agreement by Departmental officers that the definition provided in the Regulations may be ‘too broad’. Importantly, the Department asked why such a change was not included in Amendment 35, initiated by the Council at the same time as Amendment 29, and accepted the City’s rationale for not doing so.

Informal advice from the Department was that an amendment to the Regulations may be considered to clarify/resolve this matter. It is understood that the Department would consult prior to making such a change, and that once such a change had been made, Council could consider an amendment to reflect that.

In the interim, officers believe that the current definition of ‘Showroom’ is clear and workable, and therefore do not support replacing it with the Regulations definition of ‘Bulky Goods Showroom’.

The definition of ‘Bulky Goods’ (as a general term) is also proposed to be deleted from the Scheme as part of Amendment No. 29. The definition proposed for deletion is as follows:

*“**Bulky Goods**’ means large goods which are, in the opinion of the local government, of such a size and shape as to require -*

- (a) a large area for handling, storage or display; or*
- (b) easy and direct vehicular access to enable the goods to be collected by customers after sale but does not include a building or place used for the sale of foodstuffs or clothing.”*

The deletion of this definition would revert the interpretation of the term to its 'common and normal meaning', which is generally "taking up much space; large and unwieldy" and establishes a more common sense approach to determining uses that fall within the 'Showroom' meaning. Retention of this definition to this could also lead to extensive discussions on, and potentially SAT determination of, what requires "easy and direct vehicle access".

This submission has also brought attention to the proposed definition of 'Shop' which, as advertised and incorrectly, references 'Bulky Goods Showroom' as per the Regulations. The advertised version of 'Shop' is:

*“**Shop**’ means premises other than a bulky goods showroom, used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.”*

It is agreed that referencing a use class that is not included within the Scheme could cause uncertainty and so the definition proposed for 'Shop' is recommended to be modified to remove reference to 'Bulky Goods Showroom'. The recommended definition for 'Shop' would read as follows:

*“**Shop**’ means premises used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.”*

It is not considered necessary to reference excluded uses within this definition as any use that is more specifically defined elsewhere within the Scheme would be that more specific use. Several other use classes exist within the Regulations that also provide for the sale of goods, such as 'Motor Vehicle, Boat or Caravan Sales', but they are not referenced within the definition in the Regulations. This recommendation is provided for in the Schedule of Modifications at **Attachment B**.

#### 'Trade Supplies'

The case was made that there is no directly comparable land use contained within the Scheme that would cover 'Trade Supplies', as defined in the Regulations:

*“**Trade Supplies**’ means premises used to sell by wholesale or retail, or to hire, assemble or manufacture any materials, tools, equipment, machinery or other goods used for the following purposes including goods which may be assembled or manufactured off the premises –*

- (a) automotive repairs and servicing;*
- (b) building including repair and maintenance;*
- (c) industry;*
- (d) landscape gardening;*
- (e) provision of medical services;*
- (f) primary production;*
- (g) use by government departments or agencies, including local government.”*

Officers do not agree this use is necessary, as the selling or hire of goods and services covered by the above definition fall into 'Showroom' or one of the industry uses ('Industry', 'Industry – Light', 'Industry – Primary Production'). In the unlikely instance that a proposed use does not fall into any of the above categories, it could become a 'use not listed' and the appropriateness of the use within the particular zone could be considered.

The introduction of the use class 'Trade Supplies' is therefore not recommended.

## **2. City/Town Centre zone provisions & 'Drive-Through Facility Exclusion' area**

One submission was received that objected to the proposed 'City/Town Centre' zone provisions and 'Drive-Through Facility Exclusion' area.

### City/Town Centre zone provisions

The objection stated the proposed provisions will create an over-complicated and inflexible planning framework in the 'City/Town Centre' zone and that such provisions are better applied within the subsidiary, non-statutory planning documents, such as policies. Officers strongly disagree with this argument as feedback received from the State Solicitor's Office and the State Administrative Tribunal has indicated clearly that the Scheme is lacking in suitable provisions to guide development within the Busselton City and Dunsborough Town Centres. Specific development standards have the ability to be varied, subject to a site-specific response and justification provided through a suitable development proposal. Further, the controls proposed would not be 'inflexible', as they would be development standards, and variations could be considered.

Further guiding information is set to be provided through the development of an Activity Centre Plan (ACP) for the Dunsborough and Busselton Centres, development of an Urban Design Local Planning Policy (LPP) for Dunsborough and a review of the Busselton LPP that will provide guidance for implementing the Scheme and Activity Centre Plan. The preliminary consultation for the Dunsborough ACP and associated LPP has commenced, with a draft report expected to be brought before Council early in the new year. The preparation of the Busselton ACP and associated LPP is likely to commence in 2019.

### 'Drive-Through Facility Exclusion' area

The submission that provided strong objection to the proposed 'Drive-Through Facility Exclusion' area was made on the basis that the mooted proposal will extinguish the ability for a legitimate commercial use to be established within the Busselton and Dunsborough Centres. Also, that little consideration has been given to the location of the Exclusion areas.

The 'Drive-Through Facility Exclusion' area has been proposed as a key component to the 'City/Town Centre' zone provisions and the remainder of the work undertaken by the City through on-the-ground works and the setting up of an associated planning framework that focusses on enhancing the pedestrian environment and reducing vehicle congestion within the City and Town Centres. The proposal also has an impact on main street activation by concentrating on building design that creates a sense of place and encourages social interaction, bringing a very different and more desirable energy to the street.

The primary considerations for the establishment of the Exclusion area, with specific reference to the Dunsborough Town Centre (as the submission mostly addresses Dunsborough), were to specifically exclude the main pedestrian and vehicle thoroughfares through the CBD, being Dunn Bay Road, Naturaliste Terrace and eventually Clark Street. Cyrilleen Way was also excluded given the existing traffic congestion that is currently experienced at certain times in the vicinity of the shopping centre car park.

Consideration was also given to locations where a drive-through facility might be appropriately located, such that it would be least likely to detrimentally impact on traffic flow and the pedestrian environment. Two areas within the Dunsborough Town Centre were put forward that might be considered appropriate locations for a drive-through facility.

These were the existing 'Chicken Treat' site at No. 64 Dunn Bay Road (south west corner) and a portion of currently vacant land along Naturaliste Terrace (No. 61 Dunn Bay Road, but not the area fronting Dunn Bay Road).

During the initiation of the Amendment the Council considered including the whole of the Dunsborough CBD within the Exclusion area to create a clear and definitive boundary. However, the Council determined to retain the two areas outside of the Exclusion area to provide opportunity (although limited) within the Dunsborough Town Centre.

Other locations for Drive-Through Facilities could potentially be found in alternative zones such as the 'Local/Neighbourhood Centre', 'Service Commercial', 'Tourism' and 'Light Industry' zones, as appropriate for the various uses of 'Takeaway Food Outlet', 'Shop', 'Service Station', 'Tavern' and 'Hotel' (or other uses that might propose a Drive-Through Facility).

The Exclusion area does not prohibit the uses of shops, takeaway food outlet and liquor store (shop) as these can be developed without the provision of a Drive-Through Facility.

It is noted that two submissions were received in support of the proposed Exclusion area, including from the Dunsborough and Districts Progress Association.

No change to the proposal regarding the 'City/Town Centre' zone provisions and 'Drive-Through Facility Exclusion' area under Amendment No. 29 is recommended as a result of the submission.

### **3. Dunbarton/Vasse Proposed Structure Planning Area**

The proposed structure planning area for the Dunbarton/Vasse Rural Residential area received a significant amount of interest, after approximately 250 letters of advice and notice were sent to individual landowners within the affected area by the City. The response has been fairly even between support (14) and objection (11) for this proposal under Amendment No. 29.

The proposal has come about from a direction within the draft Local Planning Strategy (LPS) to "*support and pro-actively plan to identify suitable areas for re-subdivision/consolidation of existing rural-residential development in both the Commonage and Dunbarton rural residential areas.*" A significant amount of interest from many residents seeking re-subdivision of lots within that area has also been received by the City over the last decade.

During consideration of the draft LPS, the City identified that a targeted review of the Dunbarton area for re-subdivision and consolidation opportunities was viewed as having a higher priority for review than the Commonage area for a number of reasons, including:

- the land is flat and largely cleared of remnant vegetation;
- lower bush fire risk;
- lower landscape character and visual amenity considerations;
- reticulated water and potentially sewerage services are relatively close by;
- well serviced by the district road network;
- close to Busselton City Centre, community facilities and services; and
- location is more favourable from a settlement planning perspective.

Consequently the City, in consultation with the Department of Planning, Lands and Heritage, is formulating a framework for future subdivision of the area.

However, before any subdivision and rezoning can occur, there needs to be a process in place that allows for the determination of a road network, a provision for public open space and consideration of requirements for bushfire planning and protection, wastewater management

and drainage, etc. Therefore, this Amendment is proposing that an approved Overall Structure Plan is required before any subdivision/rezoning occurs to avoid uncoordinated and ad hoc subdivision driven by individual landowners.

The main reasons for objection are related to:

- Increase in traffic / noise;
- Impact on rates;
- Amenity / what they purchased;
- Continuity of existing uses and businesses; and
- The keeping of animals.

These reasons for objection are discussed in the attached Schedule of Submissions (**Attachment A**). The key message is that the planning framework would generate the potential for re-subdivision of properties, which is expected to be a relatively long process (perhaps 5 to 10 years). Any uptake of subdivision opportunities by landowners may evolve over time and, while there might be a surge of uptake following the eventual adoption of the Overall Structure Plan, it is improbable that all landowners will seek to subdivide simultaneously as the desire to take up the opportunity of subdivision, including the provision of services for the new lots, will be likely to vary widely according to landowner aspirations. The eventual development of the Dunbarton area into a fully Residential-zoned subdivision could take many years (expected to be several decades) and so the impacts that some submitters are concerned about may likely never be realised.

It is anticipated that further extensive public consultation would take place once preparation of the Overall Structure Plan commences, in order to fully inform landowners on the structure plan, subdivision and rezoning processes and to also provide further opportunity for input into the key elements of the design.

#### 'Rural Pursuit/Hobby Farm'

Although not directly related to the proposal for Dunbarton, investigation of one particular submission has resulted in closer examination of the land use definition for 'Rural Pursuit/Hobby Farm'.

The definition was introduced into the Scheme during recent Amendment No. 1 (Omnibus 1), which (amongst other things) updated a number of definitions in line with the Model Provisions within the Regulations. During the course of the amendment process (research, initiation, advertising and adoption), the Regulations were reviewed and came into operational effect with slight modifications to this definition, the main difference being the introduction of "...the keeping of bees".

The original definition of 'Rural Pursuit' under the now repealed *Town Planning Regulations 1967* included uses that were commercially oriented, such as the agistment and training of horses and growing of plants and produce for sale. The modified definition, and as now incorporated into the Scheme reads as follows:

*“Rural Pursuit/Hobby Farm’ means any premises, other than premises used for agriculture – extensive or agriculture – intensive, that are used by an occupier of the premises to carry out any of the following activities if carrying out of the activity does not involve permanently employing a person who is not a member of the occupier’s household —*

- (a) the rearing, agistment, stabling or training of animals;*
- (b) the keeping of bees;*
- (c) the sale of produce grown solely on the premises;”*

The concern that has been raised is that the keeping of bees has been introduced to the definition, without reference to commercial or domestic purposes. This use is permitted (subject to development approval) in the Rural Residential zone and not permitted in the Residential zone. The keeping of bees was not addressed in the Scheme prior to Amendment No. 1, as the Health Local Law dealt with the keeping of bees (much in the way it deals with the keeping of poultry).

The Health Local Law allows for the keeping of up to 2 hives (including within the Residential zone) provided they do not cause a nuisance. Permission can be obtained for the keeping of more than 2 hives in any area other than the Residential zone, provided the property meets certain criteria.

Given the plight of bees around the world (and more recently within the City of Busselton) it is argued by some that bee keeping should be encouraged.

It is therefore recommended that the definition of 'Rural Pursuit/Hobby Farm' be amended to state "...the keeping of bees *on a commercial basis*;" (proposed new text in italics), which would clarify that the keeping of bees for domestic use (in accordance with the Health Local Law) is appropriate in the Residential area. This recommendation is included in the Schedule of Modifications at **Attachment B**.

#### **4. Rezoning of Rural Residential zoned properties to Residential (Dunsborough)**

Three objections were received addressing the Dunsborough Rural Residential rezoning (together with several other related enquiries that have not resulted in a formal submission). It has been clear that there is much concern amongst landowners within this area that rezoning could result in subdivision of some lots and landowners would object very strongly to any further subdivision that might affect the existing vegetation and amenity of the area.

It has come to the attention of officers that the potential for further subdivision, although unlikely, does exist for a small number of lots (e.g. in Sloan Drive/Okapa Rise) if the rezoning were to take place as proposed under the Amendment.

The *Residential Design Codes of WA* (R-Codes) requires a minimum lot size of 4,000m<sup>2</sup> over R2.5 coded lots and 5,000m<sup>2</sup> over R2 coded lots. Notwithstanding this, the R-Codes and the WAPC's *Development Control Policy 2.2: Residential Subdivision*, allow for variations to minimum lot sizes up to 5%, provided that the variation:

- facilitates the protection of an environmental or heritage feature;
- facilitates the retention of a significant element that contributes toward an existing streetscape worthy of retention;
- facilitates the development of lots with separate and sufficient frontage to more than one public street;
- overcomes a special or unusual limitation on the development of the land imposed by its size, shape or other feature;
- allows land to be developed with housing of the same type and form as other land in the vicinity and which would not otherwise be able to be developed; or
- achieves specific objectives of the local planning framework.

Whilst all land parcels are at the 'minimum' size for the respective R-coding, application of the 5% variation could potentially result in subdivision for up to four of the lots in some instances. For reasons stated previously, the intention behind the amendment is not to allow for further subdivision. With further subdivision comes potential for more clearing for development such as the construction of additional house sites, driveways, services and associated bushfire

requirements. Although it may be unlikely such an application for subdivision would be supported by the City, the risk of a successful application through the WAPC, or even via appeal, may be introduced.

Given this information and the concern of landowners expressed during the public submission period, it is recommended that the rezoning from Rural Residential to Residential *not* be proceeded with for the Sloan Drive/Okapa Rise, Dunsborough lots. This recommendation is detailed in the Schedule of Modifications at **Attachment B**.

## **5. Reservation of Busselton Substation within the Scheme**

Western Power has requested that the established Busselton Substation site, located at Lot 1 (No. 531) Rendezvous Road, Vasse, be identified as a 'Public Purpose' Reserve on the Scheme map, where it is currently zoned 'Agriculture'.

Western Power has sought through omnibus amendments to the Metropolitan Region Scheme, Peel Region Scheme and Greater Bunbury Region Scheme, together with local government Schemes, to delineate the reservation of existing substation sites to reflect the ongoing use of those existing sites as a public purpose.

This does not include Western Power depot sites which are non-network land assets and remain in the 'Industrial'/'Light Industry' zone. Therefore, this would be the only site in the City which requires the proposed reservation sought by Western Power.

Officers accept the suitability of the proposal and believe that re-advertising would not be necessary given the well-established nature of the site. This recommendation is detailed in the Schedule of Modifications at **Attachment B**.

## **6. Modify various references following Gazettal of Amendment No. 25**

The purpose of Amendment No. 25 (Omnibus No. 2) was solely to align the City's Scheme with the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The amendment removed Scheme provisions and definitions that were superseded by the Regulations when it came into effect on 19 October 2015.

Amendment No. 25 was Gazetted on 23 March 2018, following the initiation of Amendment No. 29, and has resulted in changes to a number of the parts, clauses and schedules throughout the Scheme, as well as references to 'Council', 'Development Guide Plan' and 'planning approval'. References within this current Amendment No. 29 are now required to reflect the newly endorsed numbering and terminology.

These changes are reflected as a recommendation to the Council in the 'Schedule of Modifications'.

## **CONCLUSION**

The primary purpose of Amendment No. 29 (part of Omnibus 4) is to generally align the Scheme with the Model Provisions contained within the *Planning and Development (Local Planning Schemes) Regulations 2015* through the alignment of the zones, zone objectives and review of the land use terms and general definitions. The current Amendment also proposes to introduce provisions to the Scheme associated with the City's vision for the Busselton City and Dunsborough Town Centres and facilitating further development of the Dunbarton/Vasse Rural Residential area.

The Amendment has been further refined and improved following the public consultation process and a number of adjustments have been recommended in the Schedule of Modifications. The detailed information and explanatory rationales provided within this report (and in the initial report to the Council, on 13 December 2017) will enable the continuing orderly and proper planning of the City of Busselton.

Council is requested to adopt Amendment No. 29 for final approval, subject to the recommended modifications, and provide the Amendment documentation to the Western Australian Planning Commission and Hon. Minister for Planning with a request for formal endorsement and gazettal.

## **OPTIONS**

Should the Council not wish to support the Officer Recommendation, it could consider the following options:

1. Resolve to decline the request to adopt proposed Amendment No. 29 for final approval, and provide necessary reasons and rationales for such a decision.
2. Resolve to adopt the proposed Omnibus Amendment for final approval, subject to revised or additional modification(s) to those recommended in the 'Schedule of Modifications'.

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the Officer Recommendation will require provision of relevant documentation concerning the proposed Scheme Amendment to the WAPC, for review and determination ahead of a report to the Minister. Digital and hard copy transfer of all relevant documentation will be done within 28 days of the date of the Council decision.

## **COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1804/076** Moved Councillor Tarbotton, seconded Councillor P Carter

That the Council:

- A. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, adopts Amendment No. 29 to the City of Busselton Local Planning Scheme No. 21 for final approval, in accordance with the modifications proposed in the 'Schedule of Modifications' shown at **Attachment B**, for the purposes of:

### **1. Alignment of Zones**

- 1.1 Amending the Scheme by retitling the zone names as follows and, unless specifically mentioned within this resolution, subsequent references throughout the Scheme:
- (a) The "Business" zone to "City/Town Centre" zone and "Local/Neighbourhood Centre" zone;
  - (b) The "Restricted Business" zone to "Service Commercial" zone;
  - (c) The "Tourist" zone to "Tourism" zone;
  - (d) The "Industrial" zone to "Light Industry" zone and "General Industry" zone;
  - (e) The "Agriculture" zone to "Rural" zone;

- (f) The “Special Purpose” zone to “Special Use” zone;

1.2 Amending the Scheme Maps by:

- (a) Rezoning all land within the Busselton City Centre to “City/Town Centre” zone as depicted on the Scheme Amendment map, being:
- (i) All land currently zoned “Business” and bound by Marine Terrace, Brown Street, Peel Terrace and West Street;
  - (ii) The portion of Lot 73 Peel Terrace, Busselton currently zoned Business;
  - (iii) Lots 74 and 75 Peel Terrace, Lot 1 (No. 69) Adelaide Street, and Lot 2 (No. 9) Brown Street, Busselton;
- (b) Rezoning all land within the Dunsborough Town Centre to “City/Town Centre” zone as depicted on the Scheme Amendment map, being all land currently zoned “Business” and bound by Cape Naturaliste Road, Reserve 42545, Reserve 35758, Reserve 26513, Chieftain Crescent and Caves Road;
- (c) Rezoning Lot 1001 Switchback Parade, West Busselton from “Restricted Business” to “Local/Neighbourhood Centre” as depicted on the Scheme Amendment map;
- (d) Other than Lot 1001 Switchback Parade, West Busselton, identifying all land currently within the “Restricted Business” zone as being within the “Service Commercial” zone;
- (e) Identifying all land currently within the “Tourist” zone as being within the “Tourism” zone;
- (f) Identifying all land currently within the “Industrial” zone as being within the “Light Industry” zone;
- (g) Identifying all land currently within the “Agriculture” zone as being within the “Rural” zone;
- (h) Rezoning Lot 1 (No. 16) Hobson Street, Geographe and Lot 441 (No. 29A) Avocet Boulevard, Geographe from “Special Purpose” zone to “Public Purpose - Water” Reserve;
- (i) Other than Lot 1 (No. 16) Hobson Street, Geographe and Lot 441 (No. 29A) Avocet Boulevard, Geographe, identifying all land currently within the “Special Purpose” zone as being within the “Special Use” zone, with the following labels:

All land within the “Special Purpose” Zone and labelled with the acronym	being identified with the label
“APH”	“1”
“BDA”	“2”
“BF”	“3”
“BRA”	“4”
“CPK” or “C/CPK”	“5”
“CC”	“6”
“CECH”	“7”
“COM”	“8”
“CS”	“9”

"EE" or "PS"	"10"
"H"	"11"
"HA"	"12"
"HL"	"13"
"HP"	"14"
"RP" or "BP"	"15"
"SST"	"16"
"SSTPN"	"17"
"TE"	"18"
"WD"	"19"
"WFS"	"20"
'no label'	"21"
"AADA"	"22"
"ANDA"	"23"
"DLDA"	"24"
"HLDA"	"25"
"OBFDA"	"26"
"YD"	"27"
"YDD"	"28"
"YID"	"29"

1.3 Amending clause 4.9 (Special Purpose Zone) to read as follows:

**"4.9 SPECIAL USE ZONES**

4.9.1 Schedule 5 sets out:

- (a) special use zones for specified land that are in addition to the zones in the zoning table; and
- (b) the classes of special uses that are permissible in that zone; and
- (c) the conditions that apply in respect of the special uses.

4.9.2 A person must not use any land, or any structure or buildings on land, in a special use zone except for the class of use that is permissible in that zone and subject to the conditions that apply to that use."

1.4 Introducing a new Schedule 5 as provided below, and renumber the remaining Schedules and Schedule references accordingly:

**SCHEDULE 5 – SPECIAL USES**

[cl. 4.9]

<b>No.</b>	<b>Description of land</b>	<b>Special Use</b>	<b>Conditions</b>
1.	As identified on the Scheme map	Aged Person Housing	Nil.
2.	As identified on the Scheme map	Broadwater Development Area	Development must be in accordance with the requirements of the Broadwater Development Area and Special Provision 57.
3.	As identified on the Scheme map	Busselton Foreshore	Development must be in accordance with Special Provision No. 44.

4.	<i>As identified on the Scheme map</i>	<i>Busselton Regional Airport</i>	<i>Nil.</i>
5.	<i>As identified on the Scheme map</i>	<i>Caravan Park</i>	<i>Nil.</i>
6.	<i>As identified on the Scheme map</i>	<i>Child Care</i>	<i>Nil.</i>
7.	<i>As identified on the Scheme map</i>	<i>Church Site, Educational Establishment, Child Care and Hall</i>	<i>Nil.</i>
8.	<i>As identified on the Scheme map</i>	<i>Community Purposes</i>	<i>Nil.</i>
9.	<i>As identified on the Scheme map</i>	<i>Church Site</i>	<i>Nil.</i>
10.	<i>As identified on the Scheme map</i>	<i>Educational Establishment</i>	<i>Nil.</i>
11.	<i>As identified on the Scheme map</i>	<i>Hotel</i>	<i>Nil.</i>
12.	<i>As identified on the Scheme map</i>	<i>Hall</i>	<i>Nil.</i>
13.	<i>As identified on the Scheme map</i>	<i>Hostel</i>	<i>Nil.</i>
14.	<i>As identified on the Scheme map</i>	<i>Historical Precinct</i>	<i>Nil.</i>
15.	<i>As identified on the Scheme map</i>	<i>Road Purposes</i>	<i>Nil.</i>
16.	<i>As identified on the Scheme map</i>	<i>Service Station</i>	<i>Nil.</i>
17.	<i>As identified on the Scheme map</i>	<i>Service Station/Plant Nursery</i>	<i>Nil.</i>
18.	<i>As identified on the Scheme map</i>	<i>Telephone Exchange</i>	<i>Nil.</i>
19.	<i>As identified on the Scheme map</i>	<i>Waste Disposal</i>	<i>Nil.</i>
20.	<i>As identified on the Scheme map</i>	<i>Waterfowl Study</i>	<i>Nil.</i>
21.	<i>As identified on the Scheme map</i>	<i>Blank</i>	<i>Nil.</i>
22.	<i>As identified on the Scheme map</i>	<i>Ambergate Automotive Development Area</i>	<i>Development must be in accordance with Special Provisions 47 and 48.</i>
23.	<i>As identified on the Scheme map</i>	<i>Ambergate North Development Area</i>	<i>Development must be in accordance with Special Provision 39.</i>
24.	<i>As identified on the Scheme map</i>	<i>Dunsborough Lakes Development Area</i>	<i>Development must be in accordance with Special Provision 42.</i>
25.	<i>As identified on the Scheme map</i>	<i>Heron Lake Development Area</i>	<i>Development must be in accordance with Special Provision 55.</i>
26.	<i>As identified on the Scheme map</i>	<i>Old Broadwater Farm Development Area</i>	<i>Development must be in accordance with Special Provision 43.</i>
27.	<i>As identified on the Scheme map</i>	<i>Yalyalup Development</i>	<i>Development must be in accordance with Special Provision 23.</i>
28.	<i>As identified on the Scheme map</i>	<i>Yalyalup Deferred Development</i>	<i>Development must be in accordance with Special Provision 23.</i>

29.	As identified on the Scheme map	Yalyalup Industrial Development	Development must be in accordance with Special Provision 36.
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1.5 Amending Part 5 (General Development Requirements) of the Scheme by:

- (a) Amending subclause 5.16.1(b) (Corner Shop) by replacing the words “in the case of a rural area or land in a rural zone” with “in the case of land in the Rural, Viticulture and Tourism and Rural Residential zones”;
- (b) Amending clause 5.29 (Development of dams in rural areas) by removing the words “in rural areas” from within the title and “In rural zones” from within the clause;
- (c) Amending clause 5.31 (Ancillary Accommodation in rural areas) by replacing the words “a rural zone” with “the Rural, Viticulture and Tourism, Rural Residential, Rural Landscape, Conservation or Bushland Protection zone”.

## 2. Objectives of the Zones

2.1 Amending clause 4.2 (Objectives and Policies of the Zones) to read as follows:

### **“4.2 ZONE OBJECTIVES**

*The objectives of each zone are as follows –*

<b>Zone name</b>	<b>Objectives</b>
<b>Residential</b>	<ol style="list-style-type: none"> <li>a. To provide for a range of housing and a choice of residential densities to meet the needs of the community.</li> <li>b. To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.</li> <li>c. To provide for a range of non-residential uses, which are compatible with and complementary to residential development.</li> </ol>
<b>City/Town Centre</b>	<ol style="list-style-type: none"> <li>a. To provide a genuine centre of community life, socially, culturally and economically.</li> <li>b. To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme or the Activity Centres State Planning Policy.</li> <li>c. To ensure that development provides for activation of the street and public spaces, high quality design and a variety of land uses.</li> <li>d. To provide for medium to high density residential development.</li> </ol>
<b>Local/Neighbourhood Centre</b>	<ol style="list-style-type: none"> <li>a. To provide for development at a scale sufficient to serve the Centre’s catchment, but not detract from the commercial primacy of the City/Town Centre zone.</li> <li>b. Providing for limited expansion of existing smaller centres to ensure access to services at a local level and building neighbourhood identity.</li> <li>c. To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme or the Activity Centres State Planning Policy.</li> </ol>

	<p><i>d. To ensure that development provides for activation of the street and public spaces, high quality design and a variety of land uses.</i></p>
<b>Service Commercial</b>	<p><i>a. To accommodate commercial activities which, because of the nature of the business, require good vehicular access and/or large sites.</i></p> <p><i>b. To provide for a range of wholesale sales, showrooms, trade and services which, by reason of their scale, character, operational or land requirements, are not generally appropriate in, or cannot conveniently or economically be accommodated in the Centre zones.</i></p> <p><i>c. To provide for development which will not result in a detrimental impact on surrounding commercial centres and has regard to the strategic importance and need to maintain the commercial primacy of the City/Town Centre zone.</i></p> <p><i>d. To restrict development which is likely to contribute to ribbon development, the spread of centres, or otherwise detrimentally impact the efficiency of main or arterial roads.</i></p>
<b>Tourism</b>	<p><i>a. To promote and provide for tourism opportunities.</i></p> <p><i>b. To provide for a variety of holiday accommodation styles and associated uses, including retail and service facilities where those facilities are provided in support of the tourist accommodation and are of an appropriate scale where they will not impact detrimentally on the surrounding or wider area, or on the commercial primacy of the City/Town Centre zone.</i></p> <p><i>c. To allow limited residential uses where appropriate.</i></p> <p><i>d. To encourage the location of tourist facilities so that they may benefit from existing road services, physical service infrastructure, other tourist attractions, natural features and urban facilities.</i></p>
<b>Light Industry</b>	<p><i>a. To provide for a range of industrial and service commercial uses generally compatible with urban areas, that generally cannot be located in other zones, whilst maintaining the commercial primacy of the City/Town Centre zone.</i></p> <p><i>b. To ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as not to detract from the residential amenity.</i></p>
<b>General Industry</b>	<p><i>a. To provide for a broad range of industrial, service and storage activities which, by the nature of their operations, should be isolated from residential and other sensitive land uses.</i></p> <p><i>b. To accommodate industry that would not otherwise comply with the performance standards of light industry.</i></p> <p><i>c. Seek to manage impacts such as noise, dust and odour within the zone.</i></p>
<b>Rural</b>	<p><i>a. To provide for the maintenance or enhancement of specific local rural character.</i></p> <p><i>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 pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.</i></p> <p><i>c. To maintain and enhance the environmental qualities of the landscape, vegetation, soils and waterways.</i></p>

	<p><i>d. To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses.</i></p> <p><i>e. To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.</i></p> <p><i>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.</i></p> <p><i>g. To provide for the extraction of basic raw materials, where appropriate.</i></p>
<b>Viticulture and Tourism</b>	<p><i>a. To provide for the maintenance or enhancement of specific local rural character.</i></p> <p><i>b. To provide for development and expansion of the viticultural, winemaking and associated industries, in addition to general rural pursuits, in a manner that does not cause adverse environmental impact.</i></p> <p><i>c. To facilitate the development of tourist facilities of a scale and nature appropriate in rural settings without prejudice to the scenic quality of land within this zone and without creating or increasing ribbon development on any road.</i></p> <p><i>d. To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses.</i></p> <p><i>e. To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.</i></p> <p><i>f. To maintain and enhance the environmental qualities of the landscape, vegetation, soils and waterways.</i></p>
<b>Rural Residential</b>	<p><i>a. To provide for lots primarily for residential purposes generally in the range of 1 ha to 4 ha.</i></p> <p><i>b. To provide opportunities for a range of limited rural and related ancillary pursuits on rural-residential lots where those activities will be consistent with the amenity of the locality and the conservation and landscape attributes of the land.</i></p> <p><i>c. To set aside areas for the retention of vegetation and landform or other features which distinguish the land.</i></p>
<b>Rural Landscape</b>	<p><i>a. To facilitate limited closer rural settlement on land which is recognised as being of high landscape or scenic value, but generally unsuitable for agriculture or farming use, in order to protect and enhance those values.</i></p> <p><i>b. To ensure that development maintains the character of the locality, maintains a high level of residential amenity, has consideration for conservation values and minimises disturbance to the landscape.</i></p>
<b>Conservation</b>	<p><i>a. To restrict the type and scale of development which will be considered on lands possessing special aesthetic, ecological or conservation values to those compatible with such environments.</i></p> <p><i>b. To provide for the preservation, maintenance, restoration or sustainable use of the natural environment.</i></p>
<b>Bushland Protection</b>	<p><i>a. To restrict the land uses and type and scale of development that will be</i></p>

	<p><i>considered on lands possessing special biodiversity values to those that will not adversely affect those values, and to provide opportunity for the creation of a subdivision incentive for the protection of those values in perpetuity.</i></p> <p><i>b. To prohibit clearing, grazing or damage to remnant vegetation on the land unless required for bushfire hazard risk mitigation identified on an adopted fire management plan, approved dwellings or any incidental development within building envelopes, or to allow for vehicular access to such buildings.</i></p> <p><i>c. To prohibit the clearing, draining, filling or grazing of wetlands on the land.</i></p>
<b>Special Use</b>	<p><i>a. To facilitate special land use controls, which do not sit comfortably within any other zone.</i></p> <p><i>b. To enable the Council to impose specific conditions associated with the special use.”</i></p>
<b>Vasse Development</b>	<p><u>Objectives</u></p> <p><i>(a) The zone is designed to be flexible in nature so as to overcome the inherent problems associated with detailed zoning of land prior to the creation of lot boundaries through subdivision and survey.</i></p> <p><i>(b) To provide for progressive development of a new, separate community at Vasse.</i></p> <p><i>(c) To progressively provide employment and business opportunities at Vasse.</i></p> <p><i>(d) To encourage a variety of lifestyle opportunities through the use of different development densities.</i></p> <p><i>(e) To create a high quality "village" character by encouraging pedestrian/cycle transport as a preferred mode, a sense of place and a sense of community.</i></p> <p><i>(f) To establish a hierarchy of planning procedures to secure the objectives of the zone.</i></p> <p><i>(g) To provide for the development of neighbourhood retail facilities which support and service the residential population at Vasse only and do not detract from the primacy of Busselton and Dunsborough as the principal commercial centres of the City.</i></p> <p><u>Policies</u></p> <p><i>(a) To provide, in a timely manner, an alternative route for regional, heavy haulage and through traffic so that the existing Bussell Highway alignment can be used as an internal subdivision road to service Vasse village.</i></p> <p><i>(b) To require the preparation and approval of a Development Guide Plan in accordance with the provisions of Schedule 11 of the Scheme as a prerequisite to -</i></p> <p><i>(i) the local government's support for an application to subdivide or amalgamate lots; and/or</i></p> <p><i>(ii) the local government's consideration of an application for planning approval.</i></p> <p><i>(c) Ensure development is compatible with the natural environment.</i></p> <p><i>(d) Programme appropriate road and reticulated service provision.</i></p>

	<p>(e) Programme appropriate provision of social infrastructure.</p> <p>(f) Encourage urban designs which provide a high degree of ‘permeability’ and ‘walkability’.</p> <p>(g) Make provision for business, industry, community uses and recreational areas as well as residential areas.</p> <p>(h) To ensure that Vasse does not become a satellite, dormitory suburb of Busselton and the local government shall recommend against continuing stages of residential subdivision unless there is progressive development of employment opportunities at Vasse.</p> <p>(i) To ensure that subdivision and development conforms to the principal aims of the “Liveable Neighbourhoods Policy”.</p> <p>(j) To ensure retail uses are limited in scale, type and function to service the residential population of Vasse only, in accordance with the settlement hierarchy objectives of the State Planning Policy No. 6.1 – Leeuwin-Naturaliste Ridge.</p>
<p><b>Deferred Vasse Development Zones</b></p>	<p><u>Objectives</u></p> <p>(a) To ensure that the development of Vasse is staged to allow a community size of around 2,000 residents unless the conditions prescribed at Table 5 of the State Planning Policy No. 6.1 – Leeuwin-Naturaliste Ridge and Schedule 12 of the Scheme are met in which case the village of Vasse may be expected to accommodate a maximum population of approximately 5,000 people by the lifting of the deferment from the Deferred Vasse Development zone through an amendment to the Scheme.</p> <p>(b) In the interim, the land within the zone is to be treated as if it were in the Agriculture zone except that the local government has the discretion to refuse incompatible rural land uses that may prejudice the long term development of the area for townsite expansion.</p> <p><u>Policies</u></p> <p>(a) It is the objective and requirement of the zone to link further expansion of Vasse to the demonstration of employment creation at the site to support residential growth. Justification of growth should conform to the principle aims of the Liveable Neighbourhoods as it relates to employment, transport and community design.</p> <p>(b) It is intended that when the local government deems the above condition and those of Schedule 12 of the Scheme have been met that the deferment will be lifted from the Deferred Vasse Development zone and further residential development permitted in accordance with an adopted Development Guide Plan. Deferment shall be lifted by finalisation and gazettal of an amendment to the Scheme rezoning the site from the Deferred Vasse Development zone to the Vasse Development zone.</p>

2.2 Amending clause 5.34 (Subdivision of lots with more than one dwelling in the Agriculture and Viticulture and Tourism Zones) by –

- (a) Amending the title of the clause to “Subdivision of lots in the Rural and Viticulture and Tourism zones”;
- (b) Inserting new subclauses 5.34.1 and 5.34.2 as follows and renumbering subsequent clauses and clause references accordingly:

*“5.34.1 A lot proposed to be created by subdivision for an agricultural purpose shall contain a minimum area of land that actually is useable for commercial farming. Depending upon the circumstances, the area of a lot may be greater than the area necessary for the farm due to remnant and riparian vegetation considered valuable for conservation; streams, dams, wetlands and foreshores; steep terrain and rocky outcrops; setbacks to the above and any environmental buffers within which development or agriculture is not permitted; and existing tourist development. As a general guide, the minimum arable area for a commercial farm that will be recommended by the local government to the Commission is 30 hectares for viticultural and horticultural pursuits.*

*5.34.2 Where environmental conditions allow, subdivision of rural land into lots comprising a minimum arable area of 40 hectares may be supported by the local government.”*

2.3 Amending clause 5.36 (Vegetation Surveys in the Conservation and Bushland Protection Zones) to read as follows –

***“5.36 SPECIAL PROVISIONS RELATING TO THE CONSERVATION ZONE***

*5.36.1 Development will only be permitted where –*

- (a) it can be demonstrated that such development can be carried out in a manner that minimises risks from natural hazards, functions efficiently and does not detract from the scenic quality of the land; and*
- (b) such development is unlikely to have a significant detrimental effect on the growth of native plant communities, the survival of native wildlife populations and the provision and quality of habitats for both indigenous and migratory species.*

*5.36.2 In satisfying 5.36.1 above, there is a general presumption that development shall be in a clustered form.*

*5.36.3 Subdivision will only be supported where –*

- (a) there is no detrimental impact on the aesthetic, conservation or ecological values of the land and where the objective of retention of these values of the land in perpetuity will be achieved;*
- (b) for a lot 40 hectares or greater at 7 September 1999, subdivision based on a ratio of one lot per 20 hectares, preferably in a clustered form;*
- (c) for a lot less than 40 hectares at 7 September 1999, subdivision of one additional lot, preferably in a clustered form; and*
- (d) the proposal is consistent with State Planning Policy No. 6.1 - Leeuwin-Naturaliste Ridge where applicable.*

*5.36.4 Clearing of any vegetation on the land will be prohibited, unless required for fire breaks, dwellings or associated outbuildings within defined*

*building envelopes, or to allow for vehicular access to such buildings*

*5.36.5 Prior to subdivision, subdividers shall undertake a vegetation survey to identify rare, endangered or otherwise significant vegetation within the proposed building envelope and vehicle access areas, in addition to any other area of the lot as deemed appropriate by the local government, and provide for its appropriate conservation to the satisfaction of the Department of Biodiversity, Conservation and Attractions and the local government."*

- 2.4 Amending clause 5.38 (Special provisions relating to the Rural Landscape Zone) by inserting new subclauses 5.38.1 and 5.38.2 as follows and renumbering subsequent clauses accordingly:

*"5.38.1 Subdivision should incorporate a range of lots areas, with an average lot area of not less than 10 hectares and a minimum lot area of 5 hectares using conventional subdivision and providing greater flexibility for lots created by strata or survey strata subdivision, dependent upon the special physical and landscape characteristics of the land and only where it can be clearly established to be consistent with the objectives of the zone.*

*5.38.2 Where the keeping of livestock may be acceptable, stocking rates shall be controlled in order to avoid degradation and erosion of the landscape, and to ensure that the keeping of livestock does not occur where this would be inconsistent with the intent and objectives of the zone."*

- 2.5 Amending clause 5.39 (Special provisions relating to the Bushland Protection Zone) by:

- (a) Modifying subclause 5.39.1 to read as follows:

*"5.39.1 Subdivision will only be supported where –*

- (a) there is no detrimental impact on the aesthetic, conservation or biodiversity values of the land and where the objective of retention of these values in perpetuity will be achieved;*
- (b) for lots less than 60 hectares, subdivision of one additional lot;*
- (c) for lots 60 hectares and greater, subdivision based on a ratio of one lot per 20 hectares with a maximum of 3 lots in total;*
- (d) for lots 60 hectares and greater and with a remnant vegetation cover of 50% or more of the total area of the lot, subdivision based on a ratio of one lot per 20 hectares with a maximum of 4 lots in total;*
- (e) a minimum lot area of 3 hectares is achieved;*
- (f) consistent with the Biodiversity Incentive Strategy for Private Land in the Busselton Shire, or the State Planning Policy No. 6.1 – Leeuwin-Naturaliste Ridge, or other similar strategy as may be adopted by the local government and endorsed by the Commission in the future; and*
- (g) consistent with a Development Guide Plan adopted by local government and endorsed by the Commission."*

- (b) Inserting new subclauses 5.39.2 and 5.39.3 as follows and renumbering subsequent clauses accordingly:

*“5.39.2 No further subdivision of lots created pursuant to the objectives and policies of the Bushland Protection zone is permitted*

*5.39.3 Prior to subdivision, subdividers shall undertake a vegetation survey to identify rare, endangered or otherwise significant vegetation within the proposed building envelope and vehicle access areas, in addition to any other area of the lot as deemed appropriate by the local government, and provide for its appropriate conservation to the satisfaction of the Department of Parks and Wildlife Department of Biodiversity, Conservation and Attractions and the local government.”*

- 2.6 Inserting a new clause 5.20 to read as follows and renumbering subsequent clauses and clause references accordingly:

***“5.20 CONSOLIDATION AND FRAGMENTATION OF LAND IN THE CITY/TOWN CENTRE AND LOCAL/NEIGHBOURHOOD CENTRE ZONE***

*“The consolidation of land to assemble larger land parcels suitable for integrated development or redevelopment in the City/Town Centre and Local/Neighbourhood Centre zones is encouraged and supported. Fragmentation of land within these zones, unless it is part of an overall plan for integrated development or redevelopment, will generally not be supported.”*

- 2.7 Inserting a new clause 5.41 to read as follows:

***“5.41 DEVELOPMENT ALONG MAIN OR ARTERIAL ROADS***

*“Development which is likely to contribute to ribbon development, the spread of town centres, or otherwise detrimentally impact the efficiency of or the rural and natural ambience of main or arterial roads will not be supported by the local government.”*

**3. Terms Referred to in Scheme**

- 3.1 Amending Schedule 1 (Interpretations) by –

- a. Amending the following titles:

- i. “Caretaker’s Residence” to read “Caretaker’s Dwelling”;
- ii. “Jetty and Mooring Envelope” to read “Mooring Envelope”;
- iii. “Light Industry” to read “Industry – Light”;

and associated references throughout the Scheme accordingly, where, in relation to “Caretaker’s Dwelling”, references within the Scheme to “Caretaker/Staff Accommodation”, “Manager’s/Caretakers House”, “Manager’s Dwelling” and “Manager’s House” shall also be amended;

- b. Amending the following definitions to read:

- i. *“Display Home Centre’* means one or more dwellings on the same lot or adjoining, or adjacent lots that are intended to be open for public inspections as examples of dwelling design;”
- ii. *“Home Occupation’* means a dwelling or land around a dwelling used by an occupier of the dwelling to carry out an occupation if the carrying out of the occupation —
  - (a) does not involve employing a person who is not a member of the occupier’s household; and
  - (b) will not cause injury to or adversely affect the amenity of the neighbourhood; and
  - (c) does not occupy an area greater than 20 m<sup>2</sup>; and
  - (d) does not involve the display on the premises of a sign with an area exceeding 0.2 m<sup>2</sup>; and
  - (e) does not involve the retail sale, display or hire of any goods unless the sale, display or hire is done only by means of the Internet; and
  - (f) does not —
    - (i) require a greater number of parking spaces than normally required for a single dwelling; or
    - (ii) result in an increase in traffic volume in the neighbourhood; and
  - (g) does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight; and
  - (h) does not include provision for the fuelling, repair or maintenance of motor vehicles; and
  - (i) does not involve the use of an essential service that is greater than the use normally required in the zone in which the dwelling is located;”
- iii. *“Incidental development’*, for development on land to which the R-Codes applies, shall have the meaning as provided for in the R-Codes, for all other development shall mean outbuildings (including sheds, garages, and freestanding structures enclosed more than 50%), verandahs, carports, patios, gazebos and similar structures, swimming pools, water tanks; and other structures incidental to a dwelling;”
- iv. *“Industry’* means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes —
  - (a) the storage of goods;
  - (b) the work of administration or accounting;

- (c) the selling of goods by wholesale or retail;
    - (d) the provision of amenities for employees;
    - (e) incidental purposes;”
  - v. *“Lunch Bar’* means premises or part of premises used for the sale of takeaway food (in a form ready to be consumed without further preparation) within industrial or commercial areas and does not normally trade outside of normal business hours;”
  - vi. *“Marina’* means –
    - (a) premises used for providing mooring, fuelling, servicing, repairing, storage and other facilities for boats, including the associated sale of any boating gear or equipment; and
    - (b) all jetties, piers, embankments, quays, moorings, offices and storerooms used in connection with the provision of those services;”
  - vii. *“Shop’* means premises other than a bulky goods showroom, used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services;”
- c. Amending the following titles and definitions:
  - i. ‘Major Road Frontage’ to read:

*“Frontage’*, in relation to a building –

    - (a) if the building is used for residential purposes, has the meaning given in the R-Codes; or
    - (b) if the building is used for purposes other than residential purposes, means the line where a road reserve and the front of a lot meet and, if a lot abuts 2 or more road reserves, the one to which the building or proposed building faces;”
  - ii. ‘Motor Vehicle and Marine Sales Premises’ to read:

*“Motor Vehicle, Boat or Caravan Sales’* means premises used to sell or hire motor vehicles, boats or caravans;”
  - iii. ‘Private Recreation’ to read:

*“Recreation – Private’* means premises that are –

    - (a) used for indoor or outdoor leisure, recreation or sport; and
    - (b) not usually open to the public without charge;”
  - iv. ‘Professional Consulting Rooms’ to read:

“*Consulting Rooms*’ means premises used by no more than 2 health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care;”

and associated references throughout the Scheme accordingly;

- d. Inserting the following new definitions:
- i. “*Art Gallery*’ means premises –
    - (a) that are open to the public; and
    - (b) where artworks are displayed for viewing or sale;”
  - ii. “*Car Park*’ means premises used primarily for parking vehicles whether open to the public or not but does not include –
    - (a) any part of a public road used for parking or for a taxi rank; or
    - (b) any premises in which cars are displayed for sale;”
  - iii. “*Cinema/Theatre*’ means premises where the public may view a motion picture or theatrical production;”
  - iv. “*Funeral Parlour*’ means premises used –
    - (a) to prepare and store bodies for burial or cremation;
    - (b) to conduct funeral services;”
  - v. “*Motor Vehicle Wash*’ means premises primarily used to wash motor vehicles;”
  - vi. “*Nightclub*’ means premises the subject of a nightclub licence granted under the *Liquor Control Act 1988*;”
  - vii. “*Resource Recovery Centre*’ means premises other than a waste disposal facility used for the recovery of resources from waste;”
  - viii. “*Small Bar*’ means premises the subject of a small bar licence granted under the *Liquor Control Act 1988*;”
  - ix. “*Telecommunications Infrastructure*’ means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network;”
  - x. “*Waste Disposal Facility*’ means premises used –
    - (a) for the disposal of waste by landfill; or
    - (b) the incineration of hazardous, clinical or biomedical waste;”

- xi. “Waste Storage Facility” means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale;”
- e. Removing the use class definitions for “Grouped Dwelling”, “Multiple Dwelling”, “Residential Building” and “Single House”, while retaining permissibilities within the Zoning Table and references within the Scheme;
- f. Removing the following obsolete or out-dated definitions and associated permissibilities and references throughout the Scheme where relevant:
- |                                   |   |
|-----------------------------------|---|
| i. “The Act”;                     | xix. Marine Facilities;                   |
| ii. Advertisement;                | xx. Natural Ground Level;                 |
| iii. Amusement Machine;           | xxi. Offensive and Hazardous Industry;    |
| iv. Applicant;                    | xxii. Owner;                              |
| v. Boarding House;                | xxiii. Place;                             |
| vi. Boatel;                       | xxiv. Place of Assembly;                  |
| vii. Building;                    | xxv. Public Utility;                      |
| viii. Bulk Store;                 | xxvi. Recreation Facility;                |
| ix. Bulky Goods;                  | xxvii. Retirement Village;                |
| x. Bus Station;                   | xxviii. Rural Worker’s Dwelling;          |
| xi. Chandlery;                    | xxix. Salvage Yard;                       |
| xii. Communal or Cluster Farming; | xxx. Sawmill;                             |
| xiii. Conservation Tourism;       | xxxi. Service Industry;                   |
| xiv. Display Home;                | xxxii. Stabilised Surface Level of a Lot; |
| xv. Dry Industry;                 | xxxiii. Stock & Sale Yard;                |
| xvi. Dwelling;                    | xxxiv. Timber Yard;                       |
| xvii. Generating Works;           | xxxv. Waterway Frontage;                  |
| xviii. Manager’s Residence;       |   |
- g. Rearranging the Schedule into two parts, being “Division 1 – General definitions used in Scheme” and “Division 2 – Land use terms used in Scheme”, whereby:
- i. The following terms are to be included in Division 1:
- |                           |                                   |
|---------------------------|-----------------------------------|
| Canal Frontage            | Mean High Water Mark              |
| Commission                | Mooring Envelope                  |
| Council                   | Net Lettable Area                 |
| Dam                       | Prime Agricultural Land           |
| Discount Department Store | Research and Development Facility |
| Entry Statement           | Rural Tourist Accommodation       |
| Floodway                  | Stabilised Canal Edge             |
| Frontage                  | Supermarket                       |
| Gazettal Date             | Vegetation                        |
| Incidental Development    |                                   |
- ii. The following terms are to be included in Division 2:
- |                              |                                      |
|------------------------------|--------------------------------------|
| Abattoir                     | Lunch Bar                            |
| Aged Persons’ Home           | Marina                               |
| Agriculture – Extensive      | Marine Filling Station               |
| Agriculture – Intensive      | Market                               |
| Amusement Parlour            | Medical Centre                       |
| Animal Establishment         | Mining Operations                    |
| Animal Husbandry – Intensive | Motel                                |
| Aquaculture                  | Motor Vehicle, Boat or Caravan Sales |
| Bed and Breakfast            | Motor Vehicle Repair                 |
| Brewery                      | Motor Vehicle Wash                   |

- Bus Depot
- Caravan Park
- Car Park
- Cinema/Theatre
- Chalet
- Child Care Premises
- Club Premises
- Community Purpose
- Consulting Rooms
- Convenience Store
- Corner Shop
- Educational Establishment
- Exhibition Centre
- Factory Unit Building
- Fuel Depot
- Funeral Parlour
- Garden Centre
- Guesthouse
- Holiday Home (Multiple/Grouped Dwelling)
- Holiday Home (Single House)
- Home Business
- Home Occupation
- Home Office
- Hospital
- Hotel
- Industry
- Industry – Cottage
- Industry – Extractive
- Industry – Light
- Industry – Primary Production
- Nightclub
- Office
- Park Home Park
- Place of Worship
- Produce Sales
- Reception Centre
- Recreation Establishment
- Recreation – Private
- Research Establishment
- Resource Recovery Centre
- Restaurant/Café
- Restricted Premises
- Rural Holiday Resort
- Rural Pursuit/Hobby Farm
- Service Station
- Shop
- Showroom
- Small Bar
- Takeaway Food Outlet
- Tavern
- Telecommunications Infrastructure
- Tourist Accommodation
- Transport Depot
- Tree Farm
- Veterinary Centre
- Warehouse/Storage
- Waste Disposal Facility
- Waste Storage Facility
- Wind Farm
- Winery

3.2 Amending the Zoning Table to read as follows:

Zone / Use Class	Residential	City/Town Centre	Local /Neighbourhood Centre	Service Commercial	Tourism	Light Industry	General Industry	Rural	Viticulture and Tourism	Rural Residential	Rural Landscape	Conservation	Bushland Protection	Special Use	Vasse Development	Deferred Vasse Development
Abattoir	X	X	X	X	X	A	D	A	X	X	X	X	X	In accordance with clause 4.6.1	In accordance Schedule 11, clause 1.7.3	In accordance with Clause 4.2.14 (b) and clause 4.6.3
Aged Persons Home	D	X	X	X	X	X	X	A	X	X	X	X	X			
Agriculture – Extensive	X	X	X	X	X	X	X	P	P	A	D	D	D			
Agriculture – Intensive	X	X	X	X	X	X	X	P	P	X	X	X	X			
Amusement Parlour	X	P	P	D	D	D	D	X	X	X	X	X	X			
Ancillary Accommodation	P	D	D	X	X	X	X	P	P	P	D	D	D			
Animal Establishment	X	X	X	X	X	X	X	D	D	A	A	X	X			
Animal Husbandry – Intensive	X	X	X	X	X	X	X	D	D	X	X	X	X			
Aquaculture	X	X	X	X	X	D	D	D	D	A	A	A	X			
Bed and Breakfast	D	D	D	X	P	X	X	D	D	D	D	D	D			
Brewery	X	A	A	A	A	D	D	A	A	X	X	X	X			
Bus Depot	X	X	X	D	X	D	D	D	X	X	X	X	X			

Car Park	X	D	D	D	X	D	D	X	X	X	X	X	X
Caravan Park	A	X	X	X	D	X	X	A	A	X	X	X	X
Cinema/Theatre	X	D	D	D	X	X	X	X	X	X	X	X	X
Chalet	X	X	X	X	D	X	X	D	D	X	A	A	X
Child Care Premises	A	D	D	D	A	X	X	D	A	A	X	X	X
Club Premises	X	D	D	D	D	X	X	A	A	X	X	X	X
Community Purpose	A	P	P	D	D	D	D	D	A	A	X	X	X
Consulting Rooms	A	P	P	P	X	X	X	X	X	X	X	X	X
Convenience Store	X	P	P	D	D	D	D	X	X	X	X	X	X
Corner Shop	A	P	P	P	X	D	D	A	A	A	X	X	X
Display Home Centre	D	X	X	X	X	X	X	X	X	D	X	X	X
Educational Establishment	A	P	P	D	X	D	D	D	D	D	X	X	X
Exhibition Centre	X	A	A	A	A	X	X	A	A	X	X	X	X
Factory Unit Building	X	X	X	D	X	P	P	X	X	X	X	X	X
Fuel Depot	X	X	X	X	X	P	P	X	X	X	X	X	X
Funeral Parlour	X	D	D	D	X	D	X	X	X	X	X	X	X
Garden Centre	X	A	A	A	X	D	X	D	D	A	X	X	X
Grouped Dwelling	D	D	D	X	X	X	X	X	X	X	X	X	X
Guesthouse	X	D	D	X	D	X	X	A	A	A	A	A	X
Holiday Home (Multiple/Grouped Dwelling)	A	A	A	X	X	X	X	X	X	X	X	X	X
Holiday Home (Single House)	D*	D*	D*	X	X	X	X	D*	D*	D*	D*	D*	D*
Home Business	D	P	P	X	X	X	X	P	P	P	A	A	A
Home Occupation	P	P	P	X	P	X	X	P	P	P	P	P	P
Hospital	A	D	D	D	X	X	X	A	A	X	A	X	X
Hotel	X	A	A	A	A	X	X	A	A	X	X	X	X
Industry	X	X	X	X	X	D	D	X	X	X	X	X	X
Industry – Cottage	X	X	X	X	D	X	X	P	P	A	D	A	A
Industry – Extractive	X	X	X	X	X	A	A	A	X	X	X	X	X
Industry – Light	X	X	X	D	X	P	P	X	X	X	X	X	X
Industry – Primary Production	X	X	X	X	X	D	D	D	D	X	X	X	X
Lunch Bar	X	X	X	D	X	D	D	X	X	X	X	X	X
Marina	X	D	D	D	D	D	D	X	X	X	X	X	X
Marine Filling Station	X	D	D	D	D	D	D	X	X	X	X	X	X
Market	X	D	D	D	A	D	D	D	D	A	X	X	X
Medical Centre	A	P	P	D	X	D	D	X	X	X	X	X	X
Mining Operations	X	X	X	X	X	A	A	A	X	X	X	X	X
Motel	X	A	A	A	D	X	X	X	X	X	X	X	X
Motor Vehicle, Boat or Caravan Sales	X	D	D	P	X	P	P	X	X	X	X	X	X
Motor Vehicle Repair	X	X	X	D	X	P	P	X	X	X	X	X	X
Motor Vehicle Wash	X	D	D	D	X	D	D	X	X	X	X	X	X
Multiple Dwelling	D	D	D	X	X	X	X	X	X	X	X	X	X
Nightclub	X	A	X	X	A	X	X	X	X	X	X	X	X
Office	X	P	P	X	X	X	X	X	X	X	X	X	X
Park Home Park	A	X	X	X	D	X	X	X	X	X	X	X	X

In accordance with clause 4.6.1

In accordance Schedule 11, clause 1.7.3

In accordance with Clause 4.2.14 (b) and clause 4.6.3

Place of Worship	A	D	D	D	X	D	X	A	A	A	X	X	X
Produce Sales	X	X	X	X	X	X	X	D	D	A	A	A	X
Reception Centre	X	D	D	D	D	X	X	A	A	X	X	X	X
Recreation Establishment	X	X	X	X	D	X	X	D	D	X	A	A	X
Recreation – Private	X	D	D	D	D	D	X	D	A	A	A	A	X
Repurposed Dwelling	D	D	D	X	X	X	X	D	D	D	D	D	D
Research Establishment	X	D	D	D	X	D	D	D	X	X	X	X	X
Residential Building	A	X	X	X	D	X	X	A	A	X	X	X	X
Resource Recovery Centre	X	X	X	X	X	X	A	X	X	X	X	X	X
Restaurant/Cafe	X	P	P	D	D	X	X	D	D	A	X	X	X
Restricted Premises	X	D	D	D	X	X	X	X	X	X	X	X	X
Rural Holiday Resort	X	X	X	X	D	X	X	X	A	X	X	X	X
Rural Pursuit/Hobby Farm	X	X	X	X	X	X	X	P	P	A	A	X	X
Second-hand Dwelling	D	D	D	X	X	X	X	D	D	D	D	D	D
Service Station	X	D	D	D	X	D	D	A	X	X	X	X	X
Shop	X	P	P	X	X	X	X	X	X	X	X	X	X
Showroom	X	P	P	P	X	D	X	X	X	X	X	X	X
Single House	P	D	D	X	X	X	X	P	P	P	P	P	P
Small Bar	X	D	A	A	D	A	X	A	A	X	X	X	X
Takeaway Food Outlet	X	A	A	A	A	X	X	X	X	X	X	X	X
Tavern	X	A	A	A	A	A	X	A	A	X	X	X	X
Telecommunications Infrastructure	A	A	A	D	A	D	D	A	A	A	A	X	X
Tourist Accommodation	X	D	D	X	D	X	X	X	A	X	X	X	X
Transport Depot	X	D	D	D	X	D	D	X	X	X	X	X	X
Tree Farm	X	X	X	X	X	X	X	D	D	X	X	X	X
Veterinary Centre	X	D	D	P	X	D	X	A	A	X	X	X	X
Warehouse/Storage	X	D	D	P	X	P	P	X	X	X	X	X	X
Waste Disposal Facility	X	X	X	X	X	X	A	X	X	X	X	X	X
Waste Storage Facility	X	X	X	X	X	X	A	X	X	X	X	X	X
Wind Farm	X	X	X	X	X	X	X	A	A	X	X	X	X
Winery	X	D	D	D	A	P	X	D	D	X	A	X	X

3.3 Amending subclause 4.5.3(d) (Exceptions to the Zoning Table) to delete the words “or motor vehicle and marine sales”.

3.4 Delete subclauses 4.5.4(f) and (g) (Exceptions to the Zoning Table) and renumber subsequent clauses accordingly.

#### 4. City and Town Centre Zone provisions

4.1 Amending clause 5.20 (Development in the Business Zone) to read as follows –

##### **“5.20 DEVELOPMENT IN THE CITY/TOWN CENTRE ZONE**

5.20.1 Development within the City/Town Centre zone shall demonstrate adherence to the following design principles –

- (a) *Context and character*
- (b) *Landscape quality*
- (c) *Built form and scale*
- (d) *Functionality and build quality*
- (e) *Sustainability*
- (f) *Amenity*
- (g) *Legibility*
- (h) *Safety*
- (i) *Community*
- (j) *Aesthetics*

5.20.2 *Development within the City/Town Centre zone shall address the following provisions, unless otherwise identified in an endorsed Activity Centre Plan:*

- (a) *No residential uses shall be permitted at ground floor fronting Queen Street and Prince Street, Busselton and Dunn Bay Road and Naturaliste Terrace, Dunsborough;*
- (b) *A nil front setback is to be provided to the development, unless otherwise designated in an Activity Centre Plan, or the development is providing for an associated alfresco space within the setback;*
- (c) *Buildings shall be articulated to break up perceived bulk and provide visual interest, particularly with buildings occupying a large/long site frontage;*
- (d) *At the ground floor level, developments shall address the street with a primary business entrance and a shop front façade;*
- (e) *Ground floor commercial uses shall incorporate transparent glazing for 70% of all building frontages to adjacent streets;*
- (f) *Upper levels shall be designed to promote informal surveillance of the street through the use of balconies and/or large windows;*
- (g) *A minimum ceiling height of 3.3 metres shall be achieved for the ground floor level, whilst all other floors shall achieve a minimum ceiling height of 2.7 metres;*
- (h) *Roller doors or screens of solid material on shop fronts will not be permitted, security measures should be located and installed internally behind the glazing line;*
- (i) *Pedestrian shelter, through the provision of a verandah, awning or the like, shall be provided over the public footpath for the full width of the lot frontage;*
- (j) *No vehicle accessways or carparking shall be provided between buildings and the street, or be visible from the street, unless required to provide access to car parking or loading areas behind buildings;*
- (k) *No vehicular access to sites shall be taken from Queen Street, Prince Street or Kent Street (between Queen Street and Brown Street),*

*Busselton or Dunn Bay Road or Naturaliste Terrace, Dunsborough, unless no alternative is available, in which case a single crossover width shall be no greater than 5 metres with a cumulative maximum width of 7 metres;*

- (l) Vehicle crossovers and driveways shall be co-located wherever possible with adjoining properties;*
- (m) Vehicle access to developments shall be designed in a way which minimises potential pedestrian/vehicular conflict, clearly recognising the primacy of pedestrian amenity;*
- (n) Multi-storey car parks shall incorporate interactive street frontages, such as shops or other uses that promote activity and where car parking levels (including undercroft levels) are visible from a street or public space, high quality architectural detailing shall be incorporated into the façade of all floors;*
- (o) General plant, such as air-conditioning, television antennas, bins, hot water storage tanks, rain water tanks, satellite dishes and the like are to be adequately concealed and screened from the street or public view;*
- (p) Where land is zoned 'City/Town Centre' and is designated a residential density coding of R-AC3 the maximum plot ratio shall be 1.5, except for where the following incentives for mixed use development apply:
  - (i) Where residential or short-stay accommodation uses represent more than 25% of the plot ratio area of a proposed mixed use development, the maximum allowable plot ratio area may be 2.0; or*
  - (ii) Where a development incorporates a Restaurant/Café, Tavern or other similar use that will provide for informal social interaction the maximum allowable plot ratio area for the remainder of the development may be 2.0; and*
  - (iii) The plot ratio incentives set out in sub-clauses (a) and (b) above may be combined, provided that the total plot ratio area does not exceed 3.0.**
- (q) Signage and advertising shall not adversely detract from the architectural elements of the building, or visually dominate the building or the streetscape generally;"*

- 4.2 Inserting a new clause 5.5.2(b) (Variations to site and development standards and requirements) as follows:

*"(b) Drive-through facilities in the Drive-through Facility Exclusion Area, as specified by clause 6.13."*

- 4.3 Modifying clause 6.1.1 (Operation of Special Control Areas) by including a new Area - "Drive-through Facility Exclusion" after the Development Contribution Area as listed.

- 4.4 Inserting a new clause 6.13 as follows and renumbering subsequent clauses and clause references accordingly:

***“6.13 DRIVE-THROUGH FACILITY EXCLUSION AREA***

*Drive-through facilities shall not be approved in the Drive-through Facility Exclusion Area.”*

- 4.5 Amending Schedule 1 (Interpretations) by inserting the following new definition:

*“Drive-through facility’ means a facility or development involving vehicles entering a site, such as shop, takeaway food outlet or development with fuel bowsers, whereby a product or service is sold or provided direct to customers or patrons driving or seated in a motor vehicle and also includes the provision of fuel to motor vehicles or a Motor Vehicle Wash.”*

- 4.6 Amending the Scheme map to apply the ‘Drive-through Facility Exclusion Area’ to the Busselton City Centre as depicted on the Scheme Amendment map, being:

- (a) Land being rezoned to ‘City/Town Centre’ bound by West Street, Marine Terrace, Brown Street, Harris Road and Albert Street, Busselton; and
- (b) Land bound by Brown Street, Peel Terrace, Cammilleri Street and Harris Road, Busselton;

And subject to the following exclusions:

- (a) Lots 15 (3), 150 (5), 381(7), 110(9), 454 (11), 453 (15), 9 (17), 19 (10), 11 (23), 120 (25), 391 (27), 7 (37), 8 (39), 10 (41) and portion of Lot 26 (45) Albert Street, Busselton;
  - (b) Portion of Lot 170 (56) Prince Street, Busselton.
- 4.7 Amending the Scheme map to apply the ‘Drive-through Facility Exclusion Area’ to the Dunsborough Town Centre as depicted on the Scheme Amendment map, being:
- (a) Land being rezoned to ‘City/Town Centre’ and bound by Cape Naturaliste Road, Reserve 42673, Reserve 35758, Reserve 26513, Chieftain Crescent, Seymour Boulevard and Caves Road and excluding portion of Lot 1 (No. 61), portion of Lot 1 (No. 64) and Lot 2 (No. 64) Dunn Bay Road, Dunsborough.

**5. Additional clauses to align to Model Provisions**

- 5.1 Amending clause 4.4 (Interpretation of the Zoning Table) to read as follows:

***“4.4 INTERPRETATION OF THE ZONING TABLE***

*4.4.1 A specific use class referred to in the zoning table is excluded from any other use class described in more general terms.*

*4.4.2 The local government may, in respect of a use that is not specifically referred to in the zoning table and that cannot reasonably be determined as falling within a use class referred to in the zoning table –*

- (a) *determine that the use is consistent with the objectives of a particular zone and is therefore a use that may be permitted in the zone subject to conditions imposed by the local government; or*
- (b) *determine that the use may be consistent with the objectives of a particular zone and give notice under clause 64 of the deemed provisions before considering an application for development approval for the use of the land; or*
- (c) *determine that the use is not consistent with the objectives of a particular zone and is therefore not permitted in the zone.”*

5.2 Modifying clause 5.5 (Variations to site and development standards and requirements) by:

- (a) Replacing subclauses 5.5.1, 5.5.3 and 5.5.4 with the following:

*“5.5.1 Except for development in respect of which the R-Codes apply, the local government may approve an application for a development approval that does not comply with an additional site and development requirements.”*

*“5.5.2 An approval under subclause 5.5.1 may be unconditional or subject to any conditions the local government considers appropriate.”*

*“5.5.4 If the local government is of the opinion that the non-compliance with an additional site and development requirement will mean that the development is likely to adversely affect any owners or occupiers in the general locality or in an area adjoining the site of the development the local government must –*

- (a) *consult the affected owners or occupiers by following one or more of the provisions for advertising applications for development approval under clause 64 of the deemed provisions; and*
- (b) *have regard to any expressed views prior to making its determination to grant development approval under this clause.”*

*“5.5.5 The local government may only approve an application for development approval under this clause if the local government is satisfied that –*

- (a) *approval of the proposed development would be appropriate having regard to the matters that the local government is to have regard to in considering an application for development approval as set out in clause 67 of the deemed provisions; and*
- (b) *the non-compliance with the additional site and development requirement will not have a significant adverse effect on the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.”*

- (b) Renumbering existing subclause 5.5.2 to 5.5.3.

## **6. Review of Rural Residential areas**

## 6.1 Inserting Special Provision No. 63 as follows, and amend the Scheme maps accordingly:

No.	Particulars of land	Zone	Special Provisions
63	Land bound by the Busselton Bypass in the north, Queen Elizabeth Avenue to the east and Rendezvous Road to the south; and with Lots 44 to 50 Belltonia Way, and Lot 348 Rendezvous Road, forming the western boundary.	Rural Residential	<ol style="list-style-type: none"> <li>1. An Overall Structure Plan (OSP) shall be prepared for the Special Provision area, which shall determine as a minimum, indicative layout, residential density, strategic road integration and public open space provision.</li> <li>2. Notwithstanding provision 1, an overall structure plan may be prepared specifically for Lots 242-249 Kookaburra Way prior to the general OSP for Special Provision Area 63 being prepared. Should this occur, the specific overall structure plan for these lots must integrate with the approved structure plan for neighbouring Lot 2 Kookaburra Way.</li> <li>3. Any OSP that is prepared shall identify precincts for which further detailed structure planning is required prior to any consideration for subdivision approval.</li> <li>4. Subdivision of land shall be generally in accordance with a Detailed Structure Plan for the land approved by the Western Australian Planning Commission pursuant to Schedule 2 (Deemed Provisions) of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>.</li> <li>5. Immediately following subdivision, a Scheme amendment is to be initiated by the proponent to rezone the land in accordance with the approved detailed structure plan.</li> </ol>

## 6.2 Amending the Scheme maps as depicted on the Scheme Amendment maps and as follows:

- (a) Rezoning Lots 301 to 304 and Lot 311 Carnarvon Castle Drive and Lots 305 to 310 Vixen Close, Eagle Bay from 'Rural Residential' to 'Residential R2.5';
- (b) Rezoning Lot 2000 Okapa Rise, Dunsborough from 'Rural Residential' to 'Recreation Reserve';
- (c) Rezoning Lots 2001 and 2002 Okapa Rise, Dunsborough - Rezone from 'Rural Residential' to 'no zone';
- (d) Rezoning Lots 91 to 95, 401 to 405 Sloan Drive, Lots 96 to 101 Sapphire Place, Lots 406 and 407, Lots 412 to 418, Lots 420 to 421 Okapa Rise, and Lots 408 and 9000 Capstone Close, Dunsborough from 'Rural Residential' to 'Residential R2.5'; and
- (e) Rezoning Lots 422 to 432 Okapa Rise, Dunsborough from 'Rural Residential' to 'Residential R2'.

- B. Advises the Western Australian Planning Commission that Amendment No. 29 is considered a 'standard' amendment pursuant to the *Planning and Development (Local Planning Scheme) Regulations 2015* for the following reasons:

- i. The Amendment proposes to amend the Scheme text so that it is consistent with the model provisions in Schedule 1 of the Regulations.
  - ii. The Amendment would have minimal impact on land in the Scheme area that is not the subject of the Amendment.
  - iii. The Amendment would not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.
- C. Pursuant to r.53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, endorse the Schedule of Submissions shown at **Attachment A**, which has been prepared in response to the public consultation process undertaken in relation to Amendment No. 29.
- D. Upon preparation of the necessary documentation, refers the adopted Amendment No. 29 to the Western Australian Planning Commission for consideration and determination according to the *Planning and Development Act 2005*.
- E. Pursuant to r.56 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, should directions be given that modifications to Amendment No. 29 are required, direct these modifications to be undertaken accordingly, on behalf of the Council, unless they are considered by Officers likely to significantly affect the purpose and intent of the draft Amendment, in which case the matter shall be formally referred back to the Council for assessment and determination.

**CARRIED 9/0**

**EN BLOC**

13.2 PROPOSED AMENDMENT 28 ('OMNIBUS 3') & PROPOSED AMENDMENT 36 ('VASSE EAST') TO LOCAL PLANNING SCHEME 21 - CONSIDERATION FOR INITIATION FOR COMMUNITY CONSULTATION

<b>SUBJECT INDEX:</b>	Town Planning Schemes and Amendments
<b>STRATEGIC OBJECTIVE:</b>	Planning strategies that foster the development of healthy neighbourhoods that meet our needs as we grow.
<b>BUSINESS UNIT:</b>	Strategic Planning and Development Services
<b>ACTIVITY UNIT:</b>	Strategic Planning and Development
<b>REPORTING OFFICER:</b>	Principal Strategic Planner - Louise Korovesi
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Draft Local Planning Strategy⇒
	Attachment B Draft Leeuwin Naturaliste Sub-Regional Strategy extract Vasse South & Vasse East⇒
	Attachment C Yalyalup (Provence)⇒
	Attachment D Ambergate North & Ambergate Industrial⇒
	Attachment E Old Broadwater Farm⇒
	Attachment F Vasse⇒
	Attachment G Dunsborough Lakes⇒
	Attachment H Yalyalup Industrial⇒
	Attachment I Lot 9001 Layman Rd, Geographe⇒
	Attachment J Lots 9501 & 585 Port Lane, Geographe⇒
	Attachment K Lots 509 & 612 Spinnaker Blvd, Geographe⇒
	Attachment L Development Contribution Areas⇒
	Attachment M Development Investigation Area Eagle Bay⇒
	Attachment N Development Investigation Area Sloan Drive Dunsborough⇒
	Attachment O Development Investigation Area Smiths Beach⇒
	Attachment P Development Investigation Area Ambergate North & Ambergate South⇒
	Attachment Q Development Investigation Area Beachgrove Pl, Geographe⇒
	Attachment R Development Investigation Area Rendezvous Rd & Vasse East⇒
	Attachment S Development Investigation Area Molloy St, Busselton⇒
	Attachment T Development Investigation Area Bovell⇒
	Attachment U Development Investigation Area Vasse South⇒

## PRÉCIS

The Council is requested to consider initiating for advertising two proposed Amendments to Local Planning Scheme 21 (LPS21). Proposed **Amendment 28 ('Omnibus 3')** seeks to align the various 'development zone provisions' throughout LPS21 with both the deemed provisions and the model provisions set out by the *Planning and Development (Local Planning Schemes) Regulations 2015*. Amendment 28 also seeks to introduce consolidated and Regulation compliant development zone provisions into the Scheme, including the introduction of three new zones being 'Urban Development', 'Industrial Development' and 'Vasse Townsite'.

It was intended that proposed Amendment 28 would also give consideration to the inclusion, in the 'Urban Development' zone, of 'Vasse East', i.e. land currently zoned 'Rural Residential' and 'Agriculture' but strategically identified as a future urban growth area by the City's *Draft Local Planning Strategy* (LPS) and as an 'urban expansion area' in the Western Australian Planning Commission's *Draft Leeuwin Naturaliste Sub-Regional Strategy* (LNRSP).

In response to advice received from the Environmental Protection Authority that it may require a Structure Plan for the area to be progressed in parallel with the Amendment, officers are now of the view that changes concerning 'Vasse East' should be detached from proposed Amendment 28 and progressed as a separate, stand-alone amendment being proposed **Amendment 36**. Further discussion on this is provided in the Officer Comment section of this report.

The Officer Recommendation is therefore split into two parts being Part A, that deals with the broader changes to the planning framework contained in proposed Amendment 28 and Part B, that deals with more specific changes to the planning framework for 'Vasse East' contained in proposed Amendment 36.

The purpose of this report is to outline the range of changes contained in proposed Amendment 28 and proposed Amendment 36 and their rationale. Officers are recommending that the Council adopts proposed Amendment 28 and proposed Amendment 36 for initiation and consultation, which will include referral to the EPA and relevant state government agencies, and advertising.

## BACKGROUND

On 15 October 2014, the City of Busselton Local Planning Scheme No. 21 (LPS21) was published in the Government Gazette. LPS 21, which incorporates the Scheme text and Scheme map, controls and guides development and growth within the City of Busselton.

In October 2015 new *Planning and Development (Local Planning Schemes) Regulations* came into effect. The Regulations affect arrangements for local planning schemes, strategies and amendments. In addition to a 'model scheme text' (known as the Model Provisions), the Regulations introduced a set of deemed provisions that form part of all local planning schemes.

The deemed provisions, amongst other things, require a structure plan and an activity centre plan to be prepared in a manner and form approved by the Western Australian Planning Commission (WAPC) and set out the information to be included in a structure plan. The manner and form for the preparation of structure plans and activity centre plans, pursuant to the Regulations, is set out in the *Planning and Development (Local Planning Schemes) -Structure Plan Framework 2015*.

Essentially, the purpose of a structure plan is to coordinate the future subdivision and zoning of an area of land. The Regulations outline that a structure plan may be prepared for an area that is:

- identified in a local planning scheme as being suitable for urban or industrial development (through zones such as Urban or Industrial Development);
- otherwise identified in a scheme as being required prior to subdivision or development of land;
- as a requirement under a State Planning Policy (SPP); or
- as required by the WAPC for orderly and proper planning purposes.

The Model Scheme Text contains many of the core legal and administrative provisions of schemes (including zones) which can be applied consistently across the State, with scope to vary the planning content to suit local circumstances. Of relevance to these Amendments, the Model Scheme Text includes an 'Urban Development' zone and an 'Industrial Development' zone.

LPS21 does not contain either of these zones. Instead, LPS21 identifies seven 'development' and 'deferred development' areas that sit within a 'Special Purpose' zone, as well as 'Vasse Development' and 'Deferred Vasse Development' zones, with land use controls and requirements for matters to be addressed prior to, or as part of, the subdivision process (for example, the preparation and approval of environmental management plans, treatment of interfaces between buffers and adjoining land uses and noise amelioration measures) via endorsed structure plans. These zones/areas are –

- Special Purpose (Yalyalup Development Area)
- Special Purpose (Yalyalup Deferred Development Area)
- Special Purpose (Ambergate North Development Area)
- Vasse Development Zone
- Vasse Deferred Development Zone
- Special Purpose (Old Broadwater Development Area)
- Special Purpose (Dunsborough Lakes Development Area)
- Special Purpose (Yalyalup Industrial Development Area)
- Special Purpose (Ambergate Industrial/Service Commercial Development Area)

Additional development area provisions are contained within the Scheme via: various Scheme clauses; Schedule 3 – ‘Special Provision Areas’; Schedule 11 – ‘Vasse Development Zone – Special Provisions’; and Schedule 12 – ‘Deferred Vasse Development Zone – Special Provisions’. In some areas, further subdivision and development controls are afforded by ‘local development plans’, which are a lower level planning instrument than either a structure plan or activity centre plan.

Prior to the Gazettal of the Regulations, the planning framework for the City’s development areas gave the applicable structure plan the force and effect of the local planning scheme in terms of zones and land use. The deemed provisions of the Regulations override any operational scheme provisions that seek to give a structure plan the force and effect of a scheme, however a local government is required to have ‘due regard’ to any approved structure plan.

In order to have the force and effect of a scheme, an approved structure plan needs to be incorporated or ‘normalised’ into a scheme via a scheme amendment or as part of a scheme review – effectively, the structure plan’s provisions need to be incorporated into the scheme itself, which then renders the structure plan itself redundant, at least as far as the land directly affected is concerned.

The City is engaged in an orderly process to update and align its Scheme with the *Planning and Development (Local Planning Schemes) Regulations, 2015*. This process will be achieved through consecutive amendments commencing with Omnibus 2 and extending through a range of other initiatives, as set out in a Council resolution of 26 April 2017, pursuant to a report titled “Development Control framework – Review and Proposed Direction”. That report set out planned Omnibus Amendments as follows –

1. **Omnibus Amendment 2 (Amendment 25)** – Deemed Provisions Alignment: Gazetted on 23 March 2018;
2. **Omnibus Amendment 3 (Amendment 28)** – Development Zones Consolidation: this amendment, currently under consideration for initiation;
3. **Omnibus Amendment 4 (Amendment 29)** – Model Provisions Alignment: initiated by the Council on 13 December 2017 for community consultation;
4. **Omnibus Amendment 5 (Amendment 30)** – Implementation of Adopted Planning Strategy and State Planning Policy Recommendations: details of amendment yet to be scoped;
5. **Omnibus Amendment 6 (Amendment 31)** – Miscellaneous Development Control Changes: details of amendment yet to be scoped;

6. **Omnibus Amendment 7 (Amendment 32)** – Mapping and Schedules Consolidation / Review/rationalization of redundant/outdated structure plans or similar: details of amendment yet to be scoped; and
7. **Omnibus Amendment 8 (Amendment 33)** – Residential Density and Special Character Area Controls Review / review of Special Character Area Policies: details of amendment yet to be scoped.

The scope of the changes contained in proposed Amendment 28 are broadly summarised as follows -

1. Remove the 'Vasse Development' and 'Deferred Vasse Development' zones and associated Scheme clauses and Schedules 7 and 8.
2. Introduce new 'Urban Development', 'Industrial Development' and 'Vasse Townsite' zones and associated objectives and consolidated scheme provisions.
3. Rezone the unsubdivided/undeveloped portions of the Vasse Development, Deferred Vasse Development and 'Special Purpose' urban development areas and 'Special Purpose' deferred urban development areas to 'Urban Development' and the un-subdivided/undeveloped portions of 'Special Purpose' industrial development areas to 'Industrial Development'.
4. Review Schedule 3 – 'Special Provision Areas' that are applicable to the 'Special Purpose' development areas and remove provisions that are: duplications of 'deemed provisions' or inconsistent with the *Planning and Development (Local Planning Schemes) Regulations 2015*; superceded or redundant as requirements have been completed or subdivision and development has occurred; or are other requirements of the planning framework (such as requirements for urban water management plans or similar, which are now clearly identified as requirements of subdivision approval in the broader planning framework).
5. Amend Schedule 11 to incorporate adopted development contribution plans.
6. Review 'Landscape Value Area' and 'Wetland Area' designations where land has been subdivided for urban purposes, and the controls have no real planning purpose, but create unnecessary requirements to obtain development approval for development that would otherwise be exempt.
7. Review the 'Development Investigation Area' where requirements for rezoning and structure planning have been completed and to reflect the strategic direction for urban and industrial growth areas set out in the City's *Draft Local Planning Strategy*.
8. Consolidate the zonings applicable to land within the various existing 'development zones' where that land has now been developed, and can now have a substantive zoning directly applied (e.g. in the case of residential land, rezoning the land to 'Residential', and applying a residential density code, e.g. 'R20').

Consideration is also given to areas strategically identified in the City's *Draft Local Planning Strategy* and *Draft Leeuwin Naturaliste Sub-Regional Strategy* for future urban development being 'Bovell (9)' and 'Vasse South' respectively.

The scope of changes proposed by Amendment 36 includes placing the land within 'Vasse East' in the 'Urban Development' zone and a Special Provision Area to allow for comprehensive structure planning and environmental investigations to determine the area(s) suitable for urban development. The EPA has indicated that such a zoning change should, in their view, occur in parallel with consideration of a structure plan. That is, however, clearly contrary to the intent of the Regulations, and is something that the City would seek to address and resolve with the EPA and WAPC. Addressing that issue as a separate amendment would allow that to occur, without unnecessarily holding up the rest of the changes proposed whilst that occurs.

## STATUTORY ENVIRONMENT

The key elements of the statutory environment in relation to the proposed Scheme Amendments are set out in the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015*. The proposed Scheme Amendments have been prepared having regard to the Act, the Regulations and Model Scheme Text and Deemed Provisions contained therein.

The *Planning and Development (Local Planning Schemes) Regulations 2015* identifies 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.

## RELEVANT PLANS AND POLICIES

The key policy implications with respect to the proposed Scheme Amendments are set out in: *State Planning Policy 3.6 – Development Contributions*, the *Draft City of Busselton Local Planning Strategy (2016)*; the *Draft Leeuwin Naturaliste Sub-Regional Strategy*; the various endorsed Structure Plans for the ‘development areas’; and Local Development Plans for specific areas within overall structure plan areas. Each is discussed below under appropriate sub-headings.

### State Planning Policy 3.6 – Development Contributions

State Planning Policies are made under Section 26 of the Planning and Development Act. The Western Australian Planning Commission and local governments must have due regard to the provisions of adopted policies in preparing planning schemes and making decisions on planning matters.

SPP 3.6 sets out the principles and considerations that apply to development contributions for the provision of infrastructure in new and established urban areas, as well as the form, content and process to be followed in preparing a development contributions plan.

The policy provides the capacity to obtain development contributions towards community infrastructure (i.e. contributions that go beyond delivery of public open space or traditional ‘hard’ infrastructure such as roads, drainage and reticulated water, energy or telecommunications services) either by way of a development contributions plan or by a voluntary agreement between the developer and the relevant local government.

The objectives of the policy are:

- i. to promote the efficient and effective provision of public infrastructure and facilities to meet the demands arising from new growth and development;*
- ii. to ensure that development contributions are necessary and relevant to the development to be permitted and are charged equitably among those benefiting from the infrastructure and facilities to be provided;*
- iii. to ensure consistency and transparency in the system for apportionment, collecting and spending development contributions; and*
- iv. to ensure the social well-being of communities arising from, or affected by, development.*

### City of Busselton Draft Local Planning Strategy

The *draft Local Planning Strategy (LPS)* was adopted for final approval by the Council in September 2016 and is currently pending endorsement by the WAPC. The draft LPS map is provided at **Attachment A**. The purpose of the LPS is to: set out the long term (25 years-plus) broad planning

direction for the whole of the District of the City of Busselton; and provide a strategic rationale for decisions related to the planning and development of the District; especially decisions related to the progressive review and amendment of the local planning scheme.

The draft LPS also sets out four 'frameworks' relating to: settlement; urban growth areas; activity centres; and industrial/service commercial growth areas. Of relevance to proposed Amendment 28 is 'Bovell (9)' which is identified by the draft LPS as a medium term 10-15yrs urban growth area.

Of relevance to proposed Amendment 36 is 'Vasse East (11)' which is identified by the draft LPS as a long term urban growth area (25yrs+).

### **Draft Leeuwin Naturaliste Sub-Regional Strategy**

The Western Australian Planning Commission is undertaking a targeted review of *State Planning Policy 6.1 Leeuwin Naturaliste Ridge* (LNRSP) and recently advertised the *Draft Leeuwin Naturaliste Sub-Regional Strategy* for public comment.

Of relevance to proposed Amendment 28 is the identification of the land to the south of Vasse, i.e. 'Vasse South' as a planning investigation unit for future urban development (refer to **Attachment B**). The purpose of this approach is to provide for long term growth and the efficient and orderly delivery of servicing infrastructure. The LNSRS notes that the land is strategically located, least constrained by environmental and physical considerations and is contiguous with the existing settlement of Vasse. The identification of the land as a planning investigation area will allow for consideration of roads and connectivity of infrastructure with the adjoining Vasse development. Comprehensive structure planning for 'Vasse South' would be required as a precursor to subdivision and development.

Of relevance to proposed Amendment 36, 'Vasse East' is identified as an 'Urban Expansion Area' (refer to **Attachment B**).

### **Structure Plans & Local Development Plans**

There are a number of endorsed structure plans (a number of which were adopted as 'development guide plans', pursuant to earlier scheme provisions) that guide the subdivision and development of land for urban and industrial development within their boundaries. Some of the structure plans also identify a requirement for local development plans to guide more detailed development outcomes. The structure plans and local development plans are listed below –

#### *Structure plans -*

- i. Busselton Airport (North) Structure Plan and Lot 31 Bussell Highway, Yalyalup ('Provence')
- ii. Via Vasse Structure Plan
- iii. Ambergate North Structure Plan
- iv. Vasse Overall Structure Plan
- v. Vasse Townsite Structure Plan
- vi. Heron Lake Structure Plan
- vii. Old Broadwater Farm Structure Plan
- viii. Dunsborough Lakes Structure Plan
- ix. Yalyalup Industry Park Structure Plan
- x. Ambergate Industrial/Service Commercial Structure Plan

#### *Local development plans -*

- i. Birchfields Village (Vasse)
- ii. Dawson Village (Vasse)

- iii. Vasse Light Industrial Area
- iv. Vasse Village Centre
- v. Local Development Plans 1 to 4 –Yalyalup ('Provence')
- vi. Local Development Plan 6 'Enterprise Park' ('Dunsborough Lakes')

## **FINANCIAL IMPLICATIONS**

There are considered to be no direct financial implications arising from the implementation of the Officer Recommendation.

### **Long-term Financial Plan Implications**

Nil.

## **STRATEGIC COMMUNITY OBJECTIVES**

The Officer Recommendation is consistent with community objective 2.1 of the *City of Busselton Strategic Community Plan 2017*, which is - '*planning strategies that foster the development of neighbourhoods that meet our needs as we grow*'.

## **RISK ASSESSMENT**

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

## **CONSULTATION**

There is no requirement under the *Planning and Development Act 2005* to advertise a proposed scheme amendment prior to it being initiated by the Council. Accordingly, no advertising has occurred to date.

The developers and/or their consultants of Vasse, Yalyalup, Ambergate North, Dunsborough Lakes and Old Broadwater Farm have been advised on proposed Amendment 28 and it has been generally well received. Further consultation will occur during the formal advertising period.

The proposal to amend the current planning framework for 'Vasse East' to facilitate future residential development has been discussed with the owner of the largest land parcel. The City subsequently provided correspondence with that landowner requesting feedback on rezoning options to facilitate future residential development, but to date no response has been forthcoming. Consultation with this landowner and others within 'Vasse East' would occur should proposed Amendment 36 proceed to advertising.

The City would also engage with the Port Geographe Landowners Association as part of the consultation process for Amendment 28.

All landowners directly affected by proposals contained within the amendments will be sent letters inviting their comment on the proposals.

If the Council resolves to initiate proposed Amendment 28 and proposed Amendment 36, the relevant amendment documentation for each would be referred to the Environmental Protection Authority (EPA) for consideration of the need for formal assessment under Part IV of the *Environmental Protection Act 1986*. Should the EPA resolve that proposed Amendment 28 does not

require formal assessment, it will be advertised for 60 days in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* as it is considered a 'complex' amendment. Proposed Amendment 36 would be advertised for 42 days as it is considered a 'standard' amendment.

#### **OFFICER COMMENT**

The purpose of proposed Amendment 28 is to essentially align the various 'development zone provisions' throughout LPS21 with both the deemed provisions and the model provisions set out by the Regulations and to introduce consolidated development zone provisions into the Scheme.

Proposed Amendment 28 will seek to:

1. Consolidate the 'Development' zones by –
  - a) removing the 'Vasse Development' and 'Deferred Vasse Development' zones and associated Scheme clauses and Schedules 7 and 8;
  - b) introducing new 'Urban Development', 'Industrial Development' and 'Vasse Townsite' zones and associated objectives and consolidated scheme provisions;
  - c) rezoning the unsubdivided/undeveloped portions of the 'Vasse Development', 'Deferred Vasse Development', 'Special Purpose' urban development areas and 'Special Purpose' deferred urban development areas to 'Urban Development' and the unsubdivided/undeveloped portions of the 'Special Purpose' industrial development areas to 'Industrial Development'; and
  - d) incorporating proposals for Port Geographe.
2. Incorporate Development Contribution Plans into LPS21 by amending Schedule 11 - 'Development Contribution Area'.
3. Review Schedule 3 – 'Special Provision Areas' that are applicable to the 'Special Purpose' development areas and remove provisions that are:
  - deemed provisions or inconsistent with the *Planning and Development (Local Planning Schemes) Regulations 2015*;
  - superceded or redundant as requirements have been completed, or subdivision and development has occurred; or
  - subject to other requirements of the planning framework.
4. Review the 'Landscape Value Area' and 'Wetland Area' where land has been subdivided for urban purposes.
5. Review the 'Development Investigation Area' where requirements for rezoning and structure planning have been completed and to reflect the strategic direction for urban growth areas set out in the City's draft Local Planning Strategy.
6. 'Normalise' endorsed structure plans where subdivision has occurred by rezoning existing lots to specific zones (e.g. in the case of residential land, rezoning the land to 'Residential' and applying a residential density code, e.g. 'R20').

The purpose of proposed Amendment 36 is to prevent the sterilisation of the land within 'Vasse East' for future urban development through rural residential subdivision/development and to trigger the requirement for comprehensive structure planning to identify areas that are suitable for urban development and areas that are not suitable.

The elements of each proposed Amendment are discussed in greater detail below.

### **Proposed Amendment 28**

#### **1. Consolidate the ‘Development’ zones**

##### *a) ‘Vasse Development’ and ‘Deferred Vasse Development’ zones*

Clause 3.1.1 of LPS21 sets out the various zones by which the Scheme is classified and reflected on the Scheme map. It is proposed to delete the ‘Vasse Development’ zone and the ‘Deferred Vasse Development’ zone as they represent a planning framework that is not compliant with the Regulations (see resolution **1.1a**). It is proposed to delete the following clauses and Schedules from the Scheme as they will become redundant with the deletion of these zones -

- i. Clauses 3.2.13 and 3.2.14 - objectives and policies for the ‘Vasse Development’ and ‘Deferred Vasse Development’ zones respectively (see Part A resolution **1.1b** and **1.1c** respectively).
- ii. Clause 3.6.2 - establishes the link to Schedule 7 Vasse Development zone – Special Provisions (see Part A resolution **1.1f ii**).
- iii. Clause 3.6.3 – establishes the link to Schedule 8 Deferred Vasse Development zone – Special Provisions (see Part A resolution **1.1f iii**).
- iv. Table 1 – Zoning Table lists the ‘Vasse Development’ and ‘Deferred Vasse Development’ zones with land uses in accordance with Schedule 7 and Schedule 8 respectively. It is proposed to delete these zones from Table 1 (see Part A resolution **1.1f vi**).
- v. Delete Schedule 7 Vasse Development zone – Special Provisions and Schedule 8 Deferred Vasse Development zone – Special Provisions (see Part A resolutions **4.2** and **4.3** respectively).

##### *b) ‘Urban Development’, ‘Industrial Development’ and ‘Vasse Townsite’ zones*

It is proposed to consolidate the nine non-Regulation compliant development areas/zones into two new zones: ‘Urban Development’; and ‘Industrial Development’. A new clause 3.2.13 shall introduce the ‘Urban Development’ zone and associated objectives (see Part A resolution **1.1d i**). Proposed objectives a), b) and c) are MST compliant, with the remaining objectives reflecting the objectives and strategies set out in the draft LPS and the *City of Busselton Strategic Community Plan 2017*.

A new clause 3.2.14 shall introduce the ‘Industrial Development’ zone and associated objectives (see Part A resolution **1.1d ii**). Objectives a) and b) are MST compliant, with the remaining objectives reflecting the objectives and strategies of the draft LPS and the *City of Busselton Strategic Community Plan 2017*.

It is proposed to amend clause 3.6 ‘Land Use Permissibility in the Special Use, Vasse Development and Deferred Vasse Development Zones’ by –

- a. deleting ‘Special Use, Vasse Development and Deferred Vasse Development’ and inserting ‘Urban Development, Industrial Development and Vasse Townsite’(see Part A resolution **1.1f i**); and
- b. replacing those sub-clauses with a new sub-clause 3.6.2 that sets out the requirement for the local government to have due regard to a structure plan, activity centre plan or local development plan that is applicable to land within the ‘Urban Development’ and ‘Industrial Development’ zones (see Part A resolution **1.1f iv**).

The land within the Vasse townsite is currently zoned ‘Vasse Development’ and is subject to the endorsed *Vasse Townsite Structure Plan*. It is proposed to introduce a new ‘Vasse Townsite’ zone and objectives that reflect the intent of the endorsed structure plan to guide redevelopment and

revitalisation and deliver improvements to the streetscape and character of the townsite/contribute to the overall presentation of urban development generally at Vasse (see Part A resolution **1.1d iii**). The zone objectives are reflective of the intent and principles contained on *the Vasse Townsite Structure Plan*.

The *Vasse Townsite Structure Plan* also provides guidance on which lots within the townsite may be developed with a 'Shop' (including retail floorspace allocations) and other general land use permissibilities. It is proposed to incorporate these controls into the Scheme by:

- amending Schedule 3 – 'Special Provision Areas' by placing the Vasse Townsite in a new Special Provision Area 64 (refer to section 3 of this report and Part A resolution **4.1h**);
- amending clause 3.5.3 'Exceptions to the Zoning Table' to prohibit the development of a 'Shop' unless it is in accordance with Special Provision Area 64 (see Part A resolution **1.1e**); and
- introducing a new sub-clause 3.6.3 that directs land use permissibilities as per Special Provision Area 64 (see Part A resolution **1.1f v**).

It is also proposed to amend Part 4 – 'General Development Requirements' by inserting a new sub-clause 4.41 'Special Provisions Relating to the Vasse Townsite Zone'. The intent of this sub-clause is to give statutory force and effect to the design principles currently set out on the *Vasse Townsite Structure Plan* by incorporation into the Scheme (see Part A resolution **2.3**).

Clause 4.3.1 deals with variations and exclusions to the Residential Planning Codes of WA and specifically clause 4.3.1(f) sets out a wall height limit of 2.7m and a ridge height limit of 4.8m for outbuildings. These limits do not necessarily accommodate the height of caravans with rooftop air conditioning units. Discussion with the building industry indicates that increasing the wall and ridge height limits set out in LPS21 would overcome this problem. It is proposed to amend clause 4.3.1(f) to read as follow (see Part A resolution **2.2**)–

*“(f) Notwithstanding the deemed to comply provisions of the R-Codes, outbuildings that do not exceed a wall height of 3.1 metres and a ridge height of 4.8 metres are deemed to meet the relevant performance criteria.”*

*c) Land to be included in the Urban Development and Industrial Development zones*

It is proposed to rezone the un-subdivided/undeveloped portions of the 'Vasse Development' zone, 'Deferred Vasse Development' zone, 'Special Purpose' development areas and 'Special Purpose' deferred development areas to 'Urban Development' and 'Industrial Development'.

The proposals will align the zoning of the land with the Regulations and require subdivision and development to be guided by a comprehensive structure plan.

The land proposed to be rezoned is located in the following areas –

- i. Special Purpose (Yalyalup Development Area) – see Part A resolution **8.1a** and **Attachment C**;
- ii. Special Purpose (Deferred Yalyalup Development Area) – see Part A resolution **8.1b** and **Attachment C**;
- iii. Special Purpose (Ambergate North Development Area) – see Part A resolution **8.2** and **Attachment D**;
- iv. Special Purpose (Old Broadwater Farm Development Area) – see Part A resolution **8.3** and **Attachment E**;
- v. Vasse Development zone – see Part A resolutions **8.4a, 8.4b & 8.4d** and **Attachment F**;
- vi. Vasse Deferred Development – see Part A resolution **8.4c** and **Attachment F**;

- vii. Special Purpose (Dunsborough Lakes Development Area) – see Part A resolution **8.5** and **Attachment G**;
- viii. Special Purpose (Yalyalup Industrial Development Area) – see Part A resolutions **8.6a** & **8.6b** and **Attachment H**; and
- ix. Special Purpose (Ambergate Industrial/Service Commercial Development Area) – see Part A resolution **8.7** and **Attachment D**.

d) *Proposals for Port Geographe*

A proposal has been formally submitted to modify the endorsed structure plan as it relates to Lot 9001 Layman Road, Geographe. The land is already zoned for residential development and, as the structure plan modifications are inconsistent with existing zones and residential density codings, proposed Amendment 28 provides for the inclusion of the land in the 'Urban Development' zone to allow the structure plan to be assessed and applied in a manner consistent with what occurs in other urban growth areas in the City (see Part A resolution **8.8a** and **Attachment I**).

Lot 9501 and Lot 585 Port Lane, Geographe are zoned 'Business' under LPS21. The land parcels form part of the Village Centre precinct on the Port Geographe Structure Plan, with respective land use designations of 'Residential R40' (including tourist accommodation) and 'Residential R60' (including mixed use retail and commercial). The developer is seeking to rationalise the landholdings and development outcomes in order to stimulate development within and around the Village Centre. To assist this process officers are supportive of rezoning the subject land to 'Urban Development' (see Part A resolution **8.8b** and **Attachment J**).

Lot 509 and Lot 612 Spinnaker Boulevard, Geographe are zoned 'Tourist' under LPS21 and designated 'Tourist Accommodation' on the Port Geographe Structure Plan. The two sites are significant in the context of the Port Geographe marina, both being 'landmark' sites, and the 'Tourist' zone is considered to be too restrictive with respect to the range of permissible land uses. The zoning has effectively prevented any coordinated development proposals being progressed for the two sites. It is proposed to rezone the lots to 'Urban Development' to provide more flexibility than the current zoning allows with detailed zoning and land use outcomes to be updated through the preparation of a new a structure plan over the sites (see Part A resolution **8.8c** and **Attachment K**).

## 2. Development Contribution Areas

Clause 5.12 of the Scheme deals with the application and operation of Development Contribution Areas. There is currently one Development Contribution Area (DCA-1) incorporated into LPS21 via Schedule 11: 'Development Contribution Areas'. DCA-1 includes six development contribution 'precincts' for community based infrastructure contributions that are applied as a result of subdivision and development.

Schedule 11 of LPS21 identifies a 'Development Contribution Area' and 'Development Contribution Plan' with a corresponding Scheme clause (clause 5.12) that set out the requirements for the preparation, endorsement and updating of development contributions plans. Schedule 11 also sets out the application and operation of the individual development contribution plans, including infrastructure items to be delivered and cost apportionment within the development contribution area.

Excluded from DCA-1 are the City's principal 'development areas' (Yalyalup, Vasse, Old Broadwater Farm, Port Geographe and Dunsborough Lakes) that have individual development contribution plans prepared and adopted over them, or are subject to Scheme provisions requiring the preparation and approval of a DCP prior to subdivision or development commencing (Ambergate North).

*State Planning Policy 3.6 – Development Contributions* requires development contribution plans to be incorporated into local planning schemes. It is therefore proposed to incorporate the development contribution plans/areas for the City's development areas into Schedule 11 (see Part A resolution **4.5** and **Attachment L**). It is proposed to amend clause 5.12.2 by replacing the specific reference to 'DCA-1' with 'DCA' (see Part A resolution **3.1**) to reflect proposed changes to Schedule 11.

It is also proposed to amend DCA-1 in relation to the method for calculating cost contributions. LPS21 permits contributions at the development application stage where there has been a subdivision approval prior to DCA-1 coming into effect. However, where the Western Australian Planning Commission does not impose a contribution condition at subdivision stage under the current planning framework, it is arguable that the City cannot then impose a condition at the development application stage. It is proposed to clarify the City's ability to do so by amending the relevant clause in Schedule 11 DCA-1 (see Part A resolution **4.4**). That will help ensure fair and consistent development contribution requirements.

### **3. Review of Schedule 3: 'Special Provision Areas'**

A 'Special Provision Area' listed under Schedule 3 of LPS21 and identified spatially on the Scheme map is a type of Special Control Area. With the exception of the 'Vasse Development' and 'Deferred Vasse Development' zones, a number of Special Provision Areas are associated with 'Special Purpose' development areas and endorsed structure plans for the City's urban and industrial growth areas.

The provisions applicable to each Special Provision Area are broadly similar in that they set out: matters to be addressed by a structure plan or local development plan; the process for the assessment, advertising and approval of structure plan/local development plan proposals; requirements relating to subdivision and development approvals; and appeal rights. Other provisions address matters specific to the area such as land use permissibilities and retail floor space restrictions.

A review of Schedule 3 – Special Provision Areas that are applicable to the 'Special Purpose' development areas has been undertaken. The purpose of the review is to remove provisions that are: duplications of deemed provisions or inconsistent with the *Planning and Development (Local Planning Schemes) Regulations 2015*; superceded or redundant as requirements have been completed or subdivision and development has occurred; or are subject to other requirements of the planning framework. It is proposed to retain provisions that the City wishes to continue to have statutory force and effect until development within the Special Provision Area(s) is completed.

The changes proposed to Schedule 3 (see Part A resolution **4.1**) are described below –

- a) Amend Special Provision Area 23 (see Part A resolution **4.1a** and **Attachment C**) – SP23 relates to the 'Special Purpose (Yalyalup Development Area)' and 'Special Purpose (Yalyalup Deferred Development Area)' and requires subdivision and development to be guided by an endorsed structure plan and local development plans. SP23 sets out the matters to be addressed through the preparation of those plans and contains numerous provisions that are either: deemed provisions; inconsistent with the Regulations; matters to be addressed at subdivision stage; or matters that have already been completed. The removal of these provisions is proposed. Provision 11, which relates to the potential requirement for noise amelioration measures consistent with a Noise Management Plan for the Busselton Margaret River Regional Airport, is proposed to be retained. The boundary of Special Provision Area 23 is also proposed to be amended to exclude subdivided land proposed to be 'normalised' into LPS21 and applies only to land in the proposed 'Urban Development' zone (refer to **Attachment C**).

- b) Amend Special Provision Area 36 (see Part A resolution **4.1b**) – SP36 relates to the ‘Special Purpose (Yalyalup Industrial Development Area)’ and requires subdivision and development to be guided by an endorsed structure plan. SP36 sets out the matters to be addressed through the preparation of a structure plan and contains numerous provisions that are either: deemed provisions; inconsistent with the Regulations; or matters to be addressed at subdivision stage. The removal of these provisions is proposed. As the land the subject of SP36 has not received any subdivision approvals, provisions 7, 8 and 9 that require the preparation of a drainage management framework and management plans for remnant vegetation, landscape buffers and fauna are proposed to be retained.
- c) Amend Special Provision Area 39 (see Part A resolution **4.1c**) – SP39 relates to Ambergate North and requires subdivision and development to be in accordance with an endorsed structure plan. SP39 sets out the matters to be addressed through the preparation of a structure plan and local development plans and contains numerous provisions that are either deemed provisions, inconsistent with the Regulations; or matters to be addressed at subdivision stage. The removal of these provisions is proposed. Provisions 12 – 18 are proposed to be retained as they deal with retail floorspace controls for the future village centre and local centre and the requirement for the preparation of a development contribution plan to address the staging of development and the equitable provision of community facilities, public open space and civil infrastructure. As the land the subject of SP39 has not received any subdivision approvals, provisions 19, 20 and 21 are also proposed to be retained. These provisions relate to: drainage outcomes on bushland/wetland areas; the Water Quality Improvement Plan for the Vasse-Wonnerup wetlands; and guidance for achieving sustainability outcomes for development.
- d) Amend Special Provision Area 42 (see Part A resolution **4.1d**) – SP42 relates to the Special Purpose (Dunsborough Lakes Development Area) and requires subdivision and development to be in accordance with an endorsed structure plan. SP42 sets out the matters to be addressed through the preparation of a structure plan and local development plans and contain numerous provisions that are either deemed provisions, inconsistent with the Regulations or matters to be addressed at subdivision stage. The boundary of Special Provision Area 42 is also proposed to be amended to exclude subdivided land proposed to be ‘normalised’ into LPS21 and applies only to land in the proposed ‘Urban Development’ zone, ‘Enterprise Park’ and Lot 1150 Commonage Road – discussed under section 6 of the Officer Comment (refer to **Attachment G**).
- e) Amend Special Provision Area 43 (see Part A resolution **4.1e**) – SP43 relates to the Special Purpose (Old Broadwater Farm Development Area). SP43 sets out the matters to be addressed through the preparation of a structure plan and contains provisions that are either deemed provisions, inconsistent with the Regulations, matters to be addressed at subdivision stage, or are redundant/completed. The removal of these provisions is proposed. The boundary of Special Provision Area 43 is also proposed to be amended to exclude land that has already been ceded to the Crown for the purpose of ‘Reserve’ and applies to land in the proposed ‘Urban Development’ zone and subdivided residential areas to prevent re-subdivision of lots under clause 4.3.1 of LPS21 (refer to **Attachment E**).
- f) Amend Special Provision Area 48 (see Part A resolution **4.1f**) – SP48 relates to the Special Purpose (Ambergate Industrial/Service Commercial Development Area) and requires subdivision and development to be generally in accordance with an endorsed structure plan. SP48 sets out the matters to be addressed through the preparation of a structure plan and contains provisions that are either deemed provisions, inconsistent with the Regulations, matters to be addressed at subdivision stage, or are redundant/completed. The removal of these provisions is proposed. It is proposed to retain the provisions relating to permissible land uses, definitions and development outcomes.

- g) Amend Special Provision Area 55 (see Part A resolution **4.1g**) – SP55 relates to the Special Purpose (Heron Lake Development Area) and requires subdivision and development to be generally in accordance with an endorsed structure plan and contains provisions that are either deemed provisions, inconsistent with the Regulations or are redundant as requirements have already been fulfilled. It is proposed to remove these provisions. The boundary of Special Provision Area 55 is also proposed to be amended to exclude land that has already been ceded to the Crown for the purpose of ‘Reserve’ and applies only to subdivided residential land to prevent re-subdivision of lots under clause 4.3.1 of LPS21 (refer to **Attachment F**).

As part of the above, the endorsed structure plans and local development plans have also been reviewed and it is proposed to carry over certain provisions into Schedule 3 – ‘Special Provision Areas’ to enable statutory force and effect. The key conditions proposed to be transferred from structure plans and local development plans into Schedule 3 are summarised below –

- a) SP36 (Yalyalup Industrial): requirement for a drainage management framework and land use permissibilities for the future local commercial centre (see Part A resolution **4.1a**).
- b) SP42 (Dunsborough Lakes): length of stay provisions for the tourist precinct (see Part A resolution **4.1d**).
- c) SP43 (Old Broadwater Farm): re-subdivision of lots pursuant to clause 4.3.1 of LPS21 not permitted (see Part A resolution **4.1e**).
- d) SP55 (Heron Lake): re-subdivision of lots pursuant to clause 4.3.1 of LPS21 not permitted (see Part A resolution **4.1g**).
- e) Proposed SP64 (Vasse townsite): retail floor space allocation and land use permissibilities (see Part A resolution **4.1h** and **Attachment F**).
- f) Proposed SP65 (Vasse Village Centre): retail floor space cap (see Part A resolution **4.1i** and **Attachment F**).
- g) Proposed SP66 (‘Birchfields’ village – Vasse): development standards (see Part A resolution **4.1j** and **Attachment F**).
- h) Proposed SP67 (‘Dawson’ village – Vasse): development standards (see Part A resolution **4.1k** and **Attachment F**).

For existing and proposed Special Provision Areas that would include land zoned Urban or Industrial Development new provisions outlining requirements for a single, integrated Structure Plan for the whole of the Special Provision Area to allow for orderly and proper planning.

#### **4. Amend the ‘Landscape Value Area’ and ‘Wetland Area’ Boundary**

The ‘Landscape Value Area’ (LVA) identified on the Scheme map considered to have a high level of natural visual amenity. Subdivision and development are not to detrimentally affect the scenic amenity of land within this area. The LVA alignment at Vasse and Old Broadwater Farm is found within the areas zoned for urban development. The LVA alignment also includes land that has been subdivided for residential purposes. The result is that owners of lots within the LVA must submit a Development Application for all development because under clause 9.2.1(b)(ii) of LPS21 development within an LVA is not exempt and requires planning approval. This is clearly not the intent of the residential use of the land in this area and is the result of an outdated LVA alignment.

It is proposed to amend the boundary of the LVA where land has been subdivided and developed for urban purposes. These areas include parts of Vasse (see Part A resolution **5.1i a** and **Attachment F**) and the western portion of the Old Broadwater Farm Development Area (see Part A resolution **5.1i b** and **Attachment E**).

Land within a ‘Wetland Area’ identified on the Scheme map requires planning approval for all development. The alignment of the ‘Wetland Area’ at Vasse is found within the areas zoned for

residential development including land that has been subdivided and developed. It is proposed to realign the boundary of the 'Wetland Area' in relation to Vasse to exclude the urban component (see resolution 6).

## 5. Amend the 'Development Investigation Area' boundary

The 'Development Investigation Area' (DIA) of LPS21 identifies land on the Scheme map for development investigation and requires the preparation of a structure plan and rezoning of the land consistent with the land uses proposed. It is proposed to amend DIA boundaries where –

- a) scheme requirements for structure planning and rezoning have been completed and subdivision/development has either substantially commenced, or has been completed, and therefore the DIA is effectively redundant;
- b) land identified in the *Busselton Urban Growth Strategy* for urban development that is not designated for that purpose in the *draft Local Planning Strategy*, and therefore there is no strategic support to retain the DIA; and
- c) land that is strategically identified in the *draft Local Planning Strategy* and *draft Leeuwin Naturaliste Sub-Regional Strategy* for urban development or as a planning investigation area.

### 5.1 Redundant DIA

There are numerous DIA where requirements for structure planning and rezoning have been completed and subdivision/development has either substantially commenced, or has been completed, and therefore the DIA is redundant. It is proposed to remove these DIA as the Scheme requirements have already been met.

The DIA proposed to be amended or removed include -

- a) rural residential subdivision immediately west of Eagle Bay (see Part A resolution **7.1a** and **Attachment M**);
- b) rural residential subdivision immediately northwest of the Dunsborough urban area (see Part A resolution **7.1b** and **Attachment N**);
- c) Lot 4131 Smiths Beach Road, Yallingup (see Part A resolution **7.1c** and **Attachment O**);
- d) Old Broadwater Farm Development Area and adjacent parts of the New River wetlands (see Part A resolution **7.1d** and **Attachment E**);
- e) Ambergate North (see Part A resolution **7.1e** and **Attachment P**);
- f) Beachgrove Place, Geographe (see Part A resolution **7.1f** and **Attachment Q**);
- g) Subdivided rural residential land between Rendezvous Road and the Busselton Bypass (see Part A resolution **7.1g** and **Attachment R**); and
- h) Molloy Street (see Part A resolution **7.1h** and **Attachment S**).

### 5.2 DIA not Strategically Supported by the Draft Local Planning Strategy

Prior to the formulation of the draft LPS, the *Busselton Urban Growth Strategy 2006* (BUGS) provided the strategic guidance for urban and industrial growth areas within the City and a number of DIA on the Scheme map reflect the recommendations of the BUGS. The draft LPS supercedes the BUGS and, as such, the DIA that are not identified in the draft LPS as urban growth areas have no strategic rationale for retention and are therefore proposed to be removed from the Scheme map. The DIA includes land commonly known as 'Ambergate South' (see Part A resolution **7.1e** and **Attachment P**).

### 5.3 Land Strategically Identified by the Draft Local Planning Strategy and the Draft Leeuwin Naturaliste Sub-Regional Strategy

## a) 'Bovell (9)'

Proposed Amendment 28 considers the areas strategically identified in the City's draft *Local Planning Strategy* and *Draft Leeuwin Naturaliste Sub-Regional Strategy* for future urban development being 'Bovell (9)' and 'Vasse South'. It is proposed to place both land areas in the Development Investigation Area to enable the planned and progressive development of the land for urban purposes in a manner and a time appropriate to the orderly and proper planning and development of the land and the locality (see Part A resolutions **7.1i & 7.1j** and **Attachments T and U** respectively). Land in a DIA requires comprehensive structure planning and rezoning of land prior to subdivision and development occurring.

'Bovell (9)' is identified as a medium-term (10-15yrs) urban growth area. An important consideration in the direction of the draft LPS is the timely commencement of planning processes for medium-term urban growth areas. The land supply/dwelling yield projections that underpin the draft LPS suggest that, based on the current supply of land zoned for urban development, market choice and supply in the Busselton-Vasse Urban Area is likely to be diminishing by around 2026. For dwellings to be created in Bovell in 2027, vacant lots need to be created in 2025, therefore realistically planning processes for Bovell should be commencing by around 2020.

## b) 'Vasse South'

The land supply/dwelling yield projections that underpin the draft LPS indicate that, in Busselton, there is already sufficient zoned and structure planned land, or identified growth areas, to accommodate anticipated population growth for at least the lifetime of the draft LPS without the need to identify additional areas. That is, though, dependent upon planned/proposed urban growth areas (such as Bovell) commencing development in the medium term. Should that not occur, supply will diminish, with choice and diversity in the market becoming more constrained. The 'Vasse South' area has the potential to address that potential shortfall in a meaningful way. It is also important that progressive review of the *Vasse Overall Structure Plan* considers the potential for future urban development within 'Vasse South' and provides for things such as road connectivity.

## 6. 'Normalise' endorsed structure plans where subdivision has occurred within development zones

It is proposed to consolidate the zonings applicable to land within the various existing 'development zones' where that land has now been subdivided, and can now have a substantive zoning directly applied (e.g. in the case of residential land, rezoning the land to 'Residential', and applying a residential density code e.g. 'R20'). It is anticipated that as subdivision and development progresses within each development zone, the applicable structure plan will be progressively consolidated via basic amendments to LPS21. The areas proposed to be consolidated are –

- a) The subdivided land subject to the Provence Structure Plan and the Via Vasse Structure Plan (see Part A resolution **9.1** and **Attachment C**)
- b) The subdivided land subject to the Old Broadwater Farm Structure Plan (see Part A resolution **9.2** and **Attachment E**)
- c) The subdivided land subject to the Vasse Overall Structure Plan (see Part A resolution **9.3a-c** and **Attachment F**)
- d) The subdivided land subject to the Heron Lake Structure Plan (see Part A resolution **9.3d** and **Attachment F**)
- e) The subdivided land subject to the Dunsborough Lakes Structure Plan (see Part A resolution **9.4** and **Attachment G**).

With respect to the Dunsborough Lakes Structure Plan, 'Enterprise Park' and Lot 1150 Commonage Road are to remain under the current zoning i.e. 'Special Purpose (Dunsborough Lakes Development

Area)'. The intended direction for Enterprise Park was to zone the land 'Restricted Business' rather than 'Industrial' as that zone best reflects the existing nature and type of land uses. Amendment 29 to LPS21 (part of the 'Omnibus 4 amendment) which is currently before the Council for consideration for adoption for final approval will, amongst other things, align the zones in LPS21 with the standard set of zones set out in the Model Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the 'Restricted Business' zone will become 'Service Commercial'.

Lot 1150 Commonage Road is currently the subject of a proposal to modify the Dunsborough Lakes Structure Plan by replacing the current 'Aged Care Site' land use designation with 'Residential', 'Restricted Business', 'Office' and 'Aged Persons Accommodation'. Should the proposal be supported by the Council and the WAPC, the Structure Plan will provide the basis for the zoning and subdivision of the land.

Given that draft Amendment 29 is progressing ahead of proposed Amendment 28 and the timing of decisions on the modified Structure Plan are uncertain, it is considered appropriate to undertake one proposed zoning change for 'Enterprise Park' to 'Service Commercial' and Lot 1150 to 'Residential' and 'Service Commercial' with 'Office' as an Additional Use (should the Structure Plan modification proposal gain the appropriate approvals) either via a 'basic' amendment or a future City-initiated omnibus amendment.

### **Proposed Amendment 36**

The City sought the advice of the EPA regarding the inclusion of 'Vasse East' in the 'Urban Development' zone and 'Special Provision Area' as part of proposed Amendment 28. The EPA was advised that the land is strategically identified as a future urban growth area in the City's draft LPS that is pending final approval by the WAPC, and as 'Urban Expansion' in the WAPC *Draft Leeuwin Naturaliste Sub-Regional Strategy*.

The rationale behind this approach is to prevent the sterilisation of the land for future urban development through rural residential subdivision and development, and to trigger the requirement for comprehensive structure planning to identify areas that are suitable for urban development and areas that are not suitable for urban development.

Part 4 cl. 15 of the *Planning and Development (Local Planning Schemes) Regulations 2015* triggers the requirement for the preparation of a structure plan for land zoned 'Urban Development' in a local planning scheme before any subdivision and development can occur.

'Vasse East' contains environmental features worthy of protection and retention including remnant native vegetation, wetlands, ecological linkages and potential habitat for species listed under the Environmental Protection Biodiversity and Conservation Act (EPBC Act). The City advised the EPA that the omnibus amendment would propose placing the entire 'Vasse East' land area within a 'Special Provision Area' and incorporate additional and specific Scheme text provisions that would require comprehensive structure planning (in accordance with the Regulations 2015) and all relevant environmental assessments to determine both developable and non-developable areas, as well as satisfactory measures to ensure the retention, ongoing protection and management of environmentally sensitive areas, features and values.

The City asked if the EPA would be supportive of this suggested approach through the planning framework to manage potential impacts to environmental values and to assist with the timely progression of the omnibus amendment to public advertising. The response received by the EPA was not supportive as it was viewed that the proposal, without environmental investigations, would not be considered acceptable for advertising. The response of the EPA is of concern as there appears to be a lack of understanding on the *Planning and Development (Local Planning Schemes) Regulations*

2015 and how they are meant to work, especially the purpose and function of the 'Urban Development' zone.

It is therefore proposed to progress 'Vasse East' as a separate, stand-alone Amendment so as not to delay the progression of proposed Amendment 28 to advertising. Specific proposals are to (refer to **Attachment R**) –

- a) rezone the land to 'Urban Development' (see Part B resolution **1a & 1b**);
- b) remove the land from the 'Development Investigation Area' (see Part B resolution **1c**); and
- c) amend Special Provision Area 4 to introduce guidance for structure planning and environmental investigations (see Part B resolution **1d**).

## **CONCLUSION**

The purpose of proposed Amendment 28 is to align the various 'development zone provisions' throughout LPS21 with both the deemed provisions and the model provisions and to introduce consolidated development zone provisions into the Scheme, including the introduction of three new zones - 'Urban Development', 'Industrial Development' and 'Vasse Townsite'.

The purpose of proposed Amendment 36 is to prevent the sterilisation of the land within 'Vasse East' for future urban development through rural residential subdivision/development and to trigger the requirement for comprehensive structure planning to identify areas that are suitable for urban development and areas that are not suitable.

The information contained within this report confirms that the changes proposed to LPS21 are an appropriate outcome consistent with the Regulations and the orderly and proper planning of the City of Busselton. Officers are recommending that the proposed Amendment 28 and proposed Amendment 36 are initiated for public consultation.

## **OPTIONS**

Should the Council not support the Officer Recommendation, the Council could consider the following options –

1. Resolve to decline the request to initiate either proposed Amendment 28 or proposed Amendment 36 in their entirety and provide a reason for such a decision.
2. Resolve to initiate either of the proposed Amendments subject to modification(s).

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The implementation of the Officer Recommendation will involve the provision of the documentation for proposed Amendment 28 and proposed Amendment 36 to the Environmental Protection Authority and this will occur within one month of the resolution.

## **COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1804/077**

Moved Councillor Tarbotton, seconded Councillor P Carter

## **PART A:**

That the Council -

- I. In pursuance of Part V of the *Planning and Development Act 2005*, adopts Amendment 28 to the City of Busselton Local Planning Scheme No. 21 for community consultation, for the

purposes of:

**1. Part 3 – Zones**

1.1 Modifying Part 3 (Zones) by –

- a. Amending clause 3.1.1 by deleting ‘Vasse Development’ and ‘Deferred Vasse Development’ and inserting ‘Urban Development’, ‘Industrial Development’ and ‘Vasse Townsite’.
- b. Deleting clause 3.2.13 ‘Vasse Development Zone’.
- c. Deleting clause 3.2.14 ‘Deferred Vasse Development Zone’.
- d. Inserting new sub-clauses as follows:

i. “3.2.13 URBAN DEVELOPMENT ZONE

Objectives

- a. *To designate land for future urban development.*
- b. *To provide for a range of residential densities to encourage a diversity of residential housing opportunities.*
- c. *To provide for the progressive and planned development of future urban areas for residential purposes and for commercial and other uses normally associated with residential development.*
- d. *To proactively plan for vibrant and attractive activity centres in urban areas developed along ‘main-street’ lines with activated public streets, high levels of pedestrian and civic amenity and a mix of public spaces including, retail, commercial, café, restaurant, bar, entertainment, tourism and community uses.*
- e. *To provide for a range of recreational, community, cultural and social facilities to meet the needs of a growing and diverse population.*
- f. *To provide for the protection of natural areas and habitats within urban areas.”*

ii. “3.2.14 INDUSTRIAL DEVELOPMENT ZONE

Objectives

- a. *To designate land for future industrial development.*
- b. *To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme.*
- c. *Encourage and facilitate employment generating development which will contribute to the economic and social well-being of the district;*
- d. *Provide for a range of industrial and associated activities, so as to meet the needs of the wider community for industrial services and facilities;*
- e. *Minimise land use conflict between industrial and other land uses and protect the amenity of zones abutting the Industrial Development Zone;*
- f. *Improve the amenity and visual appearance of industrial areas through appropriate design and landscaping;*
- g. *Encourage the consolidation of industrial development into areas*

*which have been appropriately zoned for that purpose; and provide for appropriate servicing, accessibility and connectivity.”*

iii. **“3.2.15 VASSE TOWNSITE ZONE**

*Objectives*

- a. *To provide for the redevelopment and renewal of the Vasse Townsite into a vibrant and attractive precinct developed along ‘main-street’ principles.*
  - b. *To ensure that new development within the Vasse Townsite provides a high level of pedestrian and civic amenity and a desirable mix of retail, residential and commercial land uses.”*
- e. Amending clause 3.5 (Exceptions to the Zoning Table) by inserting a new sub-clause 3.5.3(e) as follows –
- “(e) on land within the Vasse Townsite zone, the development of a “Shop” unless specified in Special Provision Area 64 as set out in Schedule 3”*
- f. Amending clause 3.6 (Land Use Permissibility in the Special Use, Vasse Development and Deferred Vasse Development zones) as follows –
- i. Amending the title of the clause to *“Land Use Permissibility in the Special Use Zone, Urban Development Zone, Industrial Development Zone and Vasse Townsite Zone”*.
  - ii. Deleting clause 3.6.2.
  - iii. Deleting clause 3.6.3.
  - iv. Inserting a new sub-clause 3.6.2 as follows –
- “3.6.2 In the Urban Development Zone and Industrial Development Zone the local government may, in considering an application for development approval for land within the zone, have due regard to any of the following plans that apply to the land:*
- a. *A structure plan.*
  - b. *An activity centre plan.*
  - c. *A local development plan.”*
- v. Inserting a new sub-clause 3.6.3 as follows –
- “3.6.3 On land within the Vasse Townsite zone, land uses shall be in accordance with Special Provision Area 64 as set out in Schedule 3.”*
- vi. Amending Table 1 - Zoning Table by deleting the ‘Vasse Development’ and ‘Deferred Vasse Development’ columns.

**2. Part 4 – General Development Requirements**

2.1 Amending clause 4.3 (Special Application of Residential Design Codes) by –

- a. Amending the title of the clause to *“Modification of R-Codes”*.

- b. Amending the beginning of clause 4.3.1 as follows –

*“4.3.1 Excluding land affected by a Special Provision Area that excludes the land from the operation of clause 4.3.1 and notwithstanding any other provision of the Scheme, the following variations and exclusions to the R-Codes apply:”*

- 2.2 Amending clause 4.3.1(f) to read as follow –

*“(f) Notwithstanding the deemed to comply provisions of the R-Codes, outbuildings that do not exceed a wall height of 3.1 metres and a ridge height of 4.8 metres are deemed to meet the relevant performance criteria.”*

- 2.3 Inserting a new sub-clause 4.41 as follows –

*“4.41 Special Provisions Relating to the Vasse Townsite Zone*

*4.41.1 Main street retail/commercial development (with residential opportunities at upper levels) shall provide direct pedestrian access and deliver a high level of pedestrian amenity.*

*4.41.2 Changes in building height, façade treatments, building materials and the location of iconic landmark buildings in strategic locations will be encouraged to create visual interest and contribute positively to the streetscape.*

*4.41.3 Where development is proposed along the boundary of existing development adjacent to the Vasse Townsite Zone, it shall be setback as per the setback requirements applicable to the lowest residential coding of the adjacent lots.*

*4.41.4 Significant redevelopment is to consolidate access points, and where possible, be located over common boundaries to facilitate reciprocal access to properties.*

*4.41.5 Direct vehicle access to Northerly Street from the indicative secondary access points will not be supported.*

*4.41.6 Off-street parking is to be located behind, and sleeved by, buildings facing Northerly Street.*

*4.41.7 Prior to development, stormwater and groundwater management, including management of the 100yr ARI event, is to be determined in consultation with the City of Busselton and having regard to Local Planning Policy.”*

**3. Part 5 – Special Control Areas**

- 3.1 Amending sub-clause 5.12.2 as follows –

*“5.12.2 Development contribution areas are shown on the Scheme map as ‘DCA’ with a purple border and a number and included in Schedule 11.”*

**4. Schedules**

- 4.1 Amending Schedule 3 – ‘Special Provision Areas’ by -

- a. Amending ‘Special Provision Area No. 23’ (‘Yalyalup’) to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
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SP23	As identified on the Scheme map	Urban Development	<p>The local government has prepared a draft Noise Management Plan for Busselton Regional Airport, which requires approval by the Environmental Protection Authority. The local government may recommend conditions on the subdivision and development of land requiring noise amelioration measures consistent with the draft Noise Management Plan and subsequently with the Noise Management Plan as finally approved by the Environmental Protection Authority.</p> <p>Notwithstanding the requirement for a structure plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 23.</p> <p>No subdivision (including strata or survey strata subdivision) or other development shall be carried out in Special Provision Area 23 until a Structure Plan has been prepared and adopted under the provisions of Part 4 of the deemed provisions.</p> <p>Where land is specifically zoned the provisions of the zone shall prevail over the Structure Plan.</p>
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b. Amending 'Special Provision Area No. 36' ('Yalyalup Industrial') to read as follows –

No	Particulars of Land	Zone	Special Provisions
SP36	Lots 9501 and 205 Vasse Highway, Lots 9009, 1602, 76 and portion of Lot 74 Neville Hyder Drive, Lots 300, 11 and 17 Vasse Highway and portion of Lot 75 Bussell Highway, Yalyalup	Industrial Development	<ol style="list-style-type: none"> <li>1. Prior to lodgement of a subdivision application, a drainage management framework shall be prepared for Lots 9009, 205, 74 and 75 that outlines a coordinated approach to, and demonstrates acceptable measures for, stormwater management, to the satisfaction of the City of Busselton and Department of Water and Environmental Regulation.</li> <li>2. The 'Local Commercial Centre and Service Station precinct' is intended to accommodate uses for convenience goods and</li> </ol>

			<p>services to cater for workers and visitors to the industrial park generally consistent with uses permissible in the Business zone but the following uses will also be prohibited – Bed and Breakfast, Hotel, Transport Depot, Motel, Single House, Grouped Dwelling, Multiple Dwelling and Tourist Accommodation.</p> <p>3. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 36.</p> <p>4. No subdivision (including strata or survey strata subdivision) or other development shall be carried out in Special Provision Area 36 until a Structure Plan has been prepared and adopted under the provisions of Part 4 of the deemed provisions.</p> <p>5. Where land is specifically zoned the provisions of the zone shall prevail over the Structure Plan.</p>
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c. Amending 'Special Provision Area No. 39' ('Ambergate North') to read as follows –

No	Particulars of Land	Zone	Special Provisions
SP39	Lots 163, 161, 7, 9, 35, 15, 51, 50, 33, 11, 4, 3, 1, 2363, 2364, 2365 and portion of Lots 2191, 2192 and 2193 Queen Elizabeth Avenue, Lot 301 Busselton Bypass and Lots 2, 126, 22, 804 and portion of Lot 57 Chapman Hill Road, Busselton	Urban Development Agriculture	<p>1. The Local Development Plan for the Village Centre shall include the following requirements to the satisfaction of the City of Busselton and WAPC:</p> <p>a) initial retail facilities to be located at the entrance (northern end) of the Village Centre;</p> <p>b) identification of a Department Store site and proposed interim land use including the method of land use transition and a shop retail floorspace threshold that is not to be exceeded until such time as the interim use has been developed;</p> <p>c) provision for bulky goods retailing in addition to shop retail development; and</p>

			<p>d) inclusion of an education/technology precinct.</p> <ol style="list-style-type: none"><li>2. Retail floor space within the Village Centre shall be limited to 14,000m<sup>2</sup> NLA.</li><li>3. Retail floor space within the Village Centre shall not exceed 9,000m<sup>2</sup> NLA or accommodate a Discount Department Store until the following has occurred:<ol style="list-style-type: none"><li>a) The development of two Discount Department Stores in the Busselton City Centre;</li><li>b) The development of a minimum 50,000m<sup>2</sup> of shop retail NLA in the Busselton City Centre; and</li><li>c) Confirmation of compliance with a City-level hierarchy as established in an adopted Commercial Strategy or Local Planning Strategy for the City.</li></ol></li><li>4. For the purposes of Special Provision Area 39, 'Department Store' shall be defined as "a single large shop retail store organised into departments offering a variety of merchandise; commonly part of a retail chain with NLA of greater than 5,000m<sup>2</sup>.</li><li>5. For the purposes of Special Provision Area 39, 'City Centre' is defined as the land bound by Marine Terrace, Brown Street, Peel Terrace and West Street.</li><li>6. Retail floor space within the Local Centre shall not exceed 500m<sup>2</sup> NLA until the Village Centre has a developed retail floor space of a minimum 5,000m<sup>2</sup> NLA.</li><li>7. Any application for subdivision shall be accompanied by an Urban Water Management Plan (UWMP) applicable to the application area that has been adopted/endorsed by the City of</li></ol>
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			<p>Busselton and Department of Biodiversity, Conservation and Attractions. The UWMP is to provide particular consideration to the usage and impact of drainage outcomes on the northern bushland and wetland area.</p> <p>8. All development and subdivision shall meet the requirements and objectives of an approved Water Quality Improvement Plan for the Vasse Wonnerup Wetlands and Geographe Bay to the satisfaction of the City of Busselton and Department of Water and Environmental Regulation.</p> <p>9. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 39.</p> <p>10. No subdivision (including strata or survey strata subdivision) or other development shall be carried out in Special Provision Area 39 until a Structure Plan has been prepared and adopted under the provisions of Part 4 of the deemed provisions.</p> <p>11. Where land is specifically zoned the provisions of the zone shall prevail over the Structure Plan.</p> <p>12. A Development Contribution Plan shall be prepared to the satisfaction of the City of Busselton and WAPC. The DCP is to be prepared in consultation with all landowners in Special Provision Area 39 and is to comprehensively address the staging of development and the equitable provision of community facilities, public open space and civil infrastructure. Contributions shall be made by all landowners within Special</p>
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			Provision Area 39 in accordance with the requirements of the endorsed DCP.
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- d. Amending 'Special Provision Area No. 42' ('Dunsborough Lakes') to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP42	As identified on the Scheme map	Special Purpose Urban Development	<ol style="list-style-type: none"> <li>1. Land designated 'Tourist' on the Dunsborough Lakes Estate Structure Plan can be developed to permit up to 25% of units as 'unrestricted length of stay' to the satisfaction of the City. No other unit shall be occupied for more than a total of 3 months in any 12 month period.</li> <li>2. Development of the unrestricted length of stay component shall occur on the basis of no more than one unit for every three restricted stay units that have been developed.</li> <li>3. Notwithstanding the requirement for a structure plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 42.</li> <li>4. No subdivision (including strata or survey strata subdivision) or other development shall be carried out in Special Provision Area 42 until a Structure Plan has been prepared and adopted under the provisions of Part 4 of the deemed provisions.</li> <li>5. Where land is specifically zoned the provisions of the zone shall prevail over the Structure Plan.</li> </ol>

- e. Amending 'Special Provision Area No. 43' (Old Broadwater Farm) to read as follows -

No	Particulars of Land	Zone	Special Provisions
SP43	As identified on the Scheme map	Urban Development Residential	<ol style="list-style-type: none"> <li>1. Clause 4.3.1 does not apply to land within Special Provision Area 43.</li> <li>2. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area</li> </ol>

			<p>43.</p> <p>3. No subdivision (including strata or survey strata subdivision) or other development shall be carried out in Special Provision Area 43 until a Structure Plan has been prepared and adopted under the provisions of Part 4 of the deemed provisions.</p> <p>4. Where land is specifically zoned the provisions of the zone shall prevail over the Structure Plan.</p>
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- f. Amending 'Special Provision Area No. 48' ('Ambergate Industrial/Service Commercial') to read as follows -

No	Particulars of Land	Zone	Special Provisions
SP48	Lot 11 and portion of Lot 803 Chapman Hill Road, Bovell	Industrial Development	<p>1. The intent of this special provision area is to enable the use and development of the site as a service commercial and mixed light industrial precinct.</p> <p>2. The following uses shall be "P" uses -</p> <ul style="list-style-type: none"> <li>• Bulk Store</li> <li>• Bus Depot</li> <li>• Chandlery</li> <li>• Convenience Store</li> <li>• Educational Establishment</li> <li>• Lunch Bar</li> <li>• Light Industry</li> <li>• Liquid Fuel Depot</li> <li>• Medical Centre</li> <li>• Motor Vehicle and Marine Sales Premises</li> <li>• Motor Vehicle Repair</li> <li>• Motor Vehicle Wash</li> <li>• Research and Development Facility</li> <li>• Plant Nursery</li> <li>• Public Utility</li> <li>• Recreation Area</li> <li>• Recreation Facility</li> <li>• Service Industry</li> <li>• Service Station</li> <li>• Showroom</li> <li>• Transport Depot</li> <li>• Veterinary Hospital</li> <li>• Warehouse</li> </ul> <p>All other uses are not permitted.</p>

		<p>3. For the purposes of Special Provision 48 'Research and Development Facility' means "a building or buildings predominantly used for tertiary industrial activity involved in the research and development of goods and services, and may include small scale manufacturing that is directly associated with, and ancillary to, the predominant use."</p> <p>4. Notwithstanding Part 4 of the deemed provisions of the Scheme, the Structure Plan shall include the following details and development shall also comply with:</p> <ul style="list-style-type: none"> <li>a) no direct vehicular access to lots from Chapman Hill Road or Busselton Bypass;</li> <li>b) vehicular access to the precinct shall be limited to controlled, shared access points from Chapman Hill Road and the Ambergate North entry road only;</li> <li>c) service roads and shared, coordinated parking and access shall be provided within the land and along the service road frontage;</li> <li>d) protection of sites of heritage, conservation or environmental significance;</li> <li>e) built form and presentation guidelines to ensure the appropriate design and siting of buildings;</li> <li>f) particular design requirements for landmark buildings to be located at the corner of the Busselton Bypass and Chapman Hill Road and the corner of the Ambergate North entry road and Chapman Hill Road; and</li> <li>g) other information considered relevant by the local government.</li> </ul> <p>5. All development that adjoins the Busselton Bypass shall have a</p>
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			<p>minimum 24m building setback.</p> <p>6. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 48.</p> <p>7. No subdivision (including strata or survey strata subdivision) or other development shall be carried out in Special Provision Area 48 until a Structure Plan has been prepared and adopted under the provisions of Part 4 of the deemed provisions.</p> <p>8. Where land is specifically zoned the provisions of the zone shall prevail over the Structure Plan.</p>
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g. Amending 'Special Provision Area 55' ('Heron Lake') to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP55	As identified on the Scheme map	Residential	Clause 4.3.1 of the Scheme does not apply to land within Special Provision Area 55.

h. Inserting a new 'Special Provision Area 64' ('Vasse Townsite') as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions		
SP64	As identified on the Scheme map	Vasse Townsite	1. The 'Shop' retail floor space shall be limited to a net lettable area of 1,150m <sup>2</sup> to be allocated across the eastern and western precincts as follows -		
			<b>Allocated Shop Retail Floorspace (m<sup>2</sup> NLA)</b>		
			<b>Lot No.</b>	<b>East</b>	<b>West</b>
			Lot 3 (Vol 1739 & Folio 662)	100m <sup>2</sup>	-
			Lot 21 (Vol 1670 & Folio 209)	100m <sup>2</sup>	-
			Lots 2 (Vol 1149 & Folio 421), 50 (Vol 1003 & Folio 757) & 51 (Vol 1149 & Folio 422)	319m <sup>2</sup>	-
Lots 2 (Vol 1470 & Folio 802) & 21 (Vol 1999 & Folio 434)	-	437m <sup>2</sup>			

			Lot 19 (Vol 4 & Folio 122A)	-	194m <sup>2</sup>
			Total (1,150m <sup>2</sup> )	519m <sup>2</sup>	631m <sup>2</sup>
			<p>2. 'Shop' retail shall have the same definition as that set out in the Scheme.</p> <p>3. The permissibility of land uses in the 'Vasse Townsite' zone shall be in accordance with the 'Business' zone but the following uses shall be 'X' uses: 'Boatel', 'Chandlery', 'Hospital', 'Marina', 'Marina Facilities', 'Marine Filling Station', 'Motor Vehicle Sales and Repairs', 'Restricted Premises' and 'Transport Depot'.</p>		

- i. Inserting a new 'Special Provision Area 65' ('Vasse Village Centre') to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP65	As identified on the Scheme map	Urban Development	The maximum recommended retail floor space allowable shall generally be limited to 5,800m <sup>2</sup> (NLA).

- j. Inserting a new 'Special Provision Area 66' ('Birchfields Village, Vasse) to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP66	As identified on the Scheme map	Residential Special Purpose	<p>1. With the exception of lots coded R30 or R40 (as identified for strata development potential on a Local Development Plan) clause 4.3.1 of the Scheme does not apply to land within this Special Provision Area.</p> <p>2. Garages or carports accessed from the primary street shall be setback a minimum of 6.0m from the street boundary and, where possible, be a greater setback than the front building elevation to ensure that the garage is not a prominent feature of the streetscape".</p>

- k. Inserting a new 'Special Provision Area 67' ('Dawson Village, Vasse) to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP67	As identified on the Scheme map	Residential Special Purpose	1. For lots with a rear drainage easement, the front setback to the dwelling may be reduced to a minimum of 4 metres. No

			<p>further setback averaging will apply. The front setback to the garage is to comply with the requirements of the R-Codes.'</p> <p>2. Clause 4.3.1 of the Scheme does not apply to land within this Special Provision Area.</p>
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- i. Inserting a new 'Special Provision Area 68' (Vasse 'Urban Development' zone) to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP68	As identified on the Scheme map	Urban Development	<p>1. Notwithstanding the requirement for a structure plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 68.</p> <p>2. No subdivision (including strata or survey strata subdivision) or other development shall be carried out in Special Provision Area 68 until a Structure Plan has been prepared and adopted under the provisions of Part 4 of the deemed provisions.</p> <p>3. Where land is specifically zoned the provisions of the zone shall prevail over the Structure Plan.</p>

- m. Inserting a new 'Special Provision Area 69' ('Port Geographe') to read as follows and amend the Scheme map accordingly –

No	Particulars of Land	Zone	Special Provisions
SP69	As identified on the Scheme map	Urban Development	<p>1. Notwithstanding the requirement for a Structure Plan for land in a Development Zone a single integrated structure plan shall be required for the whole of Special Provision Area 69.</p> <p>2. No subdivision (including strata or survey strata subdivision) or other development shall be carried out in Special Provision Area 69 until a Structure Plan has been prepared and adopted under the provisions of Part 4 of the deemed provisions.</p> <p>3. Where land is specifically zoned the</p>

			<p>provisions of the zone shall prevail over the Structure Plan.</p> <p>4. Prior to subdivision or development the proponent is to prepare a Development Contribution Plan to the satisfaction of the City of Busselton and WAPC to ensure appropriate and timely contributions towards community facilities, public open space and civil infrastructure on a progressive and staged basis.</p>
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4.2 Deleting Schedule 7 - ‘Vasse Development Zone – Special Provisions’.

4.3 Deleting Schedule 8 – ‘Deferred Vasse Development Zone – Special Provisions’ and renumber the remaining Schedules and Schedule references accordingly.

4.4 Amending Schedule 11 – ‘Development Contribution Area’ as it relates to DCA1 by deleting the second paragraph under ‘Method for calculating cost contributions’ and inserting the following –

*“A cost contribution is to be applied only once and at the first available stage of development or subdivision since the coming into effect of the Development Contribution Plan. However, where a contribution is not applied at the earliest stage, a contribution may still be applied at the next available stage where appropriate.”*

4.5 Amending Schedule 11 – ‘Development Contribution Areas’ by inserting the following and amending the Scheme map accordingly –

<b>Ref No:</b>	<b>DCA 2 - Yalyalup</b>
Area	As identified on the Scheme map
Relationship to other planning instruments	The Development Contribution Plan operates in association with the endorsed Yalyalup Structure Plan and endorsed Lot 18 Vasse Highway (“Via Vasse”) Structure Plan and generally conforms with the Long Term Financial Plan
Infrastructure and administrative items to be funded	<ul style="list-style-type: none"> <li>• Multi-purpose Community Centre</li> <li>• Active Open Space</li> <li>• Preparation of the Development Contribution Plan</li> <li>• District Facilities</li> </ul>
Method for calculating contributions	Contributions are apportioned to individual developers based on the proportion of the dwelling yield of their development to the total dwelling yield in the Development Contribution Area
Period of operation	Ten years from the commencement of the operation of the Development Contribution Plan or until completion of the subdivision and development, if sooner
Priority and timing	As set out in the Development Contribution Plan
Review Process	Ten years from the commencement of the operation of the Development Contribution Plan or within that period, when appropriate, having regard to the rate of development.
<b>Ref No:</b>	<b>DCA 3 – Ambergate North</b>
Area	As identified on the Scheme map
Relationship to other	The Development Contribution Plan operates in association

planning instruments	with the endorsed Ambergate North Structure Plan
Infrastructure and administrative items to be funded	In accordance with the Development Contribution Plan
Method for calculating contributions	In accordance with the Development Contribution Plan
Period of operation	Ten years from the commencement of the operation of the Development Contribution Plan or until completion of the subdivision and development, if sooner
Priority and timing	As set out in the Development Contribution Plan
Review process	Ten years from the commencement of the operation of the Development Contribution Plan or within that period, when appropriate, having regard to the rate of development.
<b>Ref No:</b>	<b>DCA 4 – Old Broadwater Farm</b>
Area	As identified on the Scheme map
Relationship to other planning instruments	The Development Contribution Plan operates in association with the endorsed Old Broadwater Farm Structure Plan and generally conforms with the City Of Busselton Strategic Plan 2010 – 2020, City of Busselton Leisure Services Plan, the City of Busselton Cultural Plan and the Long Term Financial Plan
Infrastructure and administrative items to be funded	District - Community Infrastructure: <ul style="list-style-type: none"> <li>• Busselton to Dunsborough Recreation Trail</li> <li>• Dunsborough to Yallingup Recreation Trail</li> <li>• Rails to Trails</li> <li>• Cultural Performing Arts Centre</li> <li>• Lower S/W Learning and Information Facility</li> <li>• Regional Gallery Facility upgrade</li> <li>• Youth Centre</li> <li>• Foreshore facilities and playgrounds</li> <li>• Geographe Leisure Centre (group fitness centre)</li> <li>• Boat Ramps</li> <li>• Environmental protection, management and implementation</li> <li>• Public Art</li> <li>• District Community Centre</li> <li>• Dunsborough Sport and Recreation Zone (6.5 hectare playing field for district facility)</li> <li>• Active playing fields and regional sporting headquarters for soccer and cricket</li> <li>• Administration of the Development Contribution Plan</li> </ul>
Method for calculating contributions	Costs as set out in Schedule 2 of the Development Contribution Plan are apportioned to the developer and are based on the dwelling yield of the development in the Development Contribution Plan Area
Period of operation	Ten years from the commencement of the operation of the Development Contribution Plan or until completion of the subdivision and development, if sooner
Priority and timing	As set out in the Development Contribution Plan
Review process	Ten years from the commencement of the operation of the Development Contribution Plan or within that period, when appropriate, having regard to the rate of development.

<b>Ref No:</b>	<b>DCA 5 - Vasse</b>
Area	As identified on the Scheme map
Relationship to other planning instruments	The Developer Contribution Plan operates in association with the endorsed Vasse Structure Plan, the endorsed Vasse Townsite Structure Plan, the endorsed Heron Lake Structure Plan, the endorsed Vasse Village Centre Structure Plan and generally conforms to the Long Term Financial Plan
Infrastructure and administrative items to be funded	<ul style="list-style-type: none"> <li>• Upgrading and maintenance of Newtown Oval</li> <li>• Development of a consolidated and integrated active open space facility adjacent to the Cape Naturaliste College to be known as the 'Vasse Sporting Complex'</li> <li>• Community purposes site adjacent to the Village Centre</li> </ul>
Method for calculating contributions	Developers within the Development Contribution Area will provide contributions based on a per lot basis at subdivision clearance stage and requirements for ceding land or development of infrastructure in association with specified stages of subdivision
Period of operation	Ten years from the commencement of the operation of the Development Contribution Plan or until completion of the subdivision and development, if sooner
Priority and timing	As set out in the Development Contribution Plan
Review process	Ten years from the commencement of the operation of the Development Contribution Plan or within that period, when appropriate, having regard to the rate of development
<b>Ref No:</b>	<b>DCA 6 – Dunsborough Lakes</b>
Area	As identified on the Scheme map
Relationship to other planning instruments	The Development Contribution Plan operates in association with the endorsed Dunsborough Lakes Structure Plan and generally conforms with the Long Term Financial Plan
Infrastructure and administrative items to be funded	<ul style="list-style-type: none"> <li>• Ceding of land for public purposes (primary school site) and district open space</li> <li>• Development of district level active open space, including playing fields, change rooms, pavilion and related infrastructure such as parking and lighting</li> </ul>
Method for calculating contributions	Cost contributions are apportioned to the developer and are based on the estimated dwelling yield of the development in the Development Contribution Area
Period of operation	Ten years from the commencement of the operation of the Development Contribution Plan or until completion of the subdivision and development, if sooner
Priority and timing	As set out in the Development Contribution Plan
Review process	Ten years from the commencement of the operation of the Development Contribution Plan or within that period, when appropriate, having regard to the rate of development
<b>Ref No:</b>	<b>DCA 7 – Newport Geographe</b>
Area	As identified on the Scheme map
Relationship to other planning instruments	The Development Contribution Plan operates in association with the endorsed Port Geographe Structure Plan and the Port Geographe Development Deed
Infrastructure and administrative items to be	As set out in the Development Contribution Plan

funded	
Method for calculating contributions	As set out in the Development Contribution Plan
Period of operation	Ten years from the commencement of the operation of the Development Contribution Plan or until completion of the subdivision and development, if sooner
Priority and timing	As set out in the Development Contribution Plan
Review process	Ten years from the commencement of the operation of the Development Contribution Plan or within that period, when appropriate, having regard to the rate of development

## 5. Landscape Value Area

### 5.1 Realigning the 'Landscape Value Area' boundary to exclude –

- a. The land generally bound by the Busselton Bypass, the Buayanyup Drain, Harbeck Drive, Octopus Lane and Gribble Court, Vasse as shown on the Scheme map, and amending the Scheme map accordingly.
- b. Lot 9506 New River Ramble, West Busselton as shown on the Scheme map, and amend the Scheme map accordingly.

## 6. Wetland Area

Realigning the 'Wetland Area' boundary to exclude the land generally bound by the Busselton Bypass, Gribble Court and Morwong Street, Vasse as shown on the Scheme map, and amend the Scheme map accordingly.

## 7. Development Investigation Area

### 7.1 Amending the 'Development Investigation Area' boundary by –

- a. Excluding Lot 300 (Reserve 50512) and portion of Lot 338 (Reserve 50575), Lots 301 – 304, Lots 311 – 322 and Lots 329 – 366 Carnarvon Castle Drive, Lots 305 – 310 Vixen Close and Lots 323 – 328 Annamaria Rise, Eagle Bay as shown on the Scheme map, and amend the Scheme maps accordingly.
- b. Excluding Lots 401 – 405 Sloan Drive, Lots 408, 9000 and 2002 (Reserve 49991) Capstone Court, Lots 406 and 407, Lots 412 – 418, Lots 420 – 432 and Lots 2000 (Reserve 49412) and 2001 (Reserve 49928) Okapa Rise, Dunsborough as shown on the Scheme map, and amend the Scheme map accordingly.
- c. Excluding Location 4131 Smiths Beach Road, Yallingup as shown on the Scheme map, and amend the Scheme map accordingly.
- d. Excluding Lots 2001, 2003 & 610 Fairway Drive, portion of Lot 9506 New River Ramble, portion of Lot 502 Swamphen Lane and the land generally bound by Settlers Gate, Pickmore Circus, Mulberry Lane, New River Ramble and Mary Elizabeth Ramble, West Busselton as shown on the Scheme map, and amend the Scheme map accordingly.
- e. Excluding Lots 25, 250, 23, 60, 26, 333, 5136 (Reserve 45588) and portion of Lots 803 and 2321 Chapman Hill Road, portion of Lot 41 Vasse Highway, portion of Lots 80 and 283 Lindberg Road, Bovell and the land generally bound by the Busselton Bypass, Queen Elizabeth Avenue, Ambergate Road, Chapman Hill Road and the

Vasse Diversion Drain as shown on the Scheme map, and amend the Scheme map accordingly.

- f. Excluding Lot 100 and 102 Ford Road, Lots 103 – 118 and Lot 472 Beachgrove Place, Geographe as shown on the Scheme map, and amend the Scheme map accordingly.
- g. Excluding Lots 1 – 10 and Lot 8001 (Reserve 51685) Spoonbill Rd, Lots 8004 (Reserve 51689), 11 – 18 and 28 -33 Penguin Way, Lots 34 & 35 Pardalote Road, Lots 26 & 27, 9000, 202 and 19 - 24 Norwood Pass, Lots 25 and 36 – 48 Goshawk Way, portion of Lot 2005 (Reserve 49437) Carriage Terrace and Lot 9500 Busselton Bypass, Vasse as shown on the Scheme map, and amend the Scheme map accordingly.
- h. Excluding Lots 1 – 3, 228 and B5 Molloy Street, Busselton as shown on the Scheme map, and amend the Scheme map accordingly.
- i. Including Lot 40 and portion of Lot 41 Vasse Highway, Bovell as shown on the Scheme map, and amend the Scheme map accordingly.
- j. Including Lots 1247, 1248 and 1251 Florence Road, Lots 84, 1249, 1250 and portion of Lot 106 Westbrook Glen, Lot 112 Walger Close, Lot 1246 Bussell Highway and portion of Lot 322 Kaloorup Road, Vasse as shown on the Scheme map, and amend the Scheme map accordingly.

## **8. Land proposed to be rezoned to Urban Development, Industrial Development and Vasse Townsite**

### **8.1 In respect of land within Yalyalup ('Provence') -**

- a. Rezoning Lot 501 Vasse Highway, Lot 9033 Joseph Drive, Lot 2 Bussell Highway, Lot 31 Lyddy Road and Lot 9032 Cable Sands Road, Yalyalup from 'Special Purpose (Yalyalup Development Area)' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.
- b. Rezoning Lot 32 Lyddy Road and Lot 6 Cable Sands Road, Yalyalup from 'Special Purpose (Deferred Yalyalup Development Area)' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

### **8.2 In respect of land within Ambergate North -**

Rezoning Lot 301 Busselton Bypass, Lot 2 and 126 Chapman Hill Road and portion of Lots 804 and 22 Chapman Hill Road, Bovell from 'Special Purpose (Ambergate North Development Area)' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

### **8.3 In respect of land within Old Broadwater Farm -**

Rezoning portion of Lot 9506 New River Ramble, West Busselton from 'Special Purpose (Old Broadwater Farm Development Area)' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

### **8.4 In respect of land within Vasse -**

- a. Rezoning portion of Lot 9549 Napoleon Promenade, Vasse from 'Agriculture' and 'Vasse Development' to 'Industrial Development' as shown on the Scheme map,

and amend the Scheme map accordingly.

- b. Rezoning Lots 122, 102, 108, 109, 110, 120, 111, 106 and portion of Lots 9548 and 9549 Napoleon Promenade, Lots 104 and 105 Birak Lane, Lot 121 Minion Court, Lot 9521 Bussell Highway, Lot 9000 Yebble Drive, Lot 174 and portion of Lot 250 Kaloorup Road and Lot 9052 and portion of Lot 221 Northerly Street, Vasse from 'Vasse Development' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.
- c. Rezoning Lot 461 Florence Road, portion of Lot 250 Kaloorup Road and portion of Lot 221 Northerly Street, Vasse from 'Deferred Vasse Development' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.
- d. Rezoning Lot 22 Newtown Close, Lots 8 and 9 Dowell Road and Lots 74, 75, 2, 21, 19, 51, 50, 2, 3, 4, and 21 Northerly Street, Vasse from 'Vasse Development' to 'Vasse Townsite' and apply a residential density code of R-AC3 as shown on the Scheme map, and amend the Scheme map accordingly.

8.5 In respect of land within Dunsborough Lakes -

Rezoning Lot 5000 Waterville Drive, Lot 9050 Clubhouse Drive, Lot 1150 Commonage Road and Lots 5006, 9055, 9062 and portion of Lot 9061 Dunsborough Lakes Drive, Dunsborough Lakes from 'Special Purpose (Dunsborough Lakes Development Area)' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

8.6 In respect of land within Yalyalup Industrial -

- a. Rezoning Lots 9501, 17 and 205 Vasse Highway, Lots 9009, 76 and portion of Lot 74 Neville Hyder Drive and portion of Lot 75 Bussell Highway, Yalyalup from 'Special Purpose (Yalyalup Industrial Development)' to 'Industrial Development' as shown on the Scheme map, and amend the Scheme map accordingly.
- b. Rezoning Lots 300 and 11 Vasse Highway and Lot 1602 Neville Hyder Drive, Yalyalup from 'Special Purpose (Yalyalup Industrial Development)' to 'Reserve for Public Purposes' as shown on the Scheme map, and amend the Scheme map accordingly.

8.7 In respect of land within Ambergate Industrial/Service Commercial -

Rezoning Lot 11 and portion of Lot 803 Chapman Hill Road, Bovell from 'Special Purpose (Ambergate Industrial/Service Commercial Development Area)' to 'Industrial Development' as shown on the Scheme map, and amend the Scheme map accordingly.

8.8 In respect of land within Port Geographe -

- a. Rezoning portion of Lot 9001 Layman Road, Geographe from 'Residential R20', 'Residential R20/R40', 'Reserve for Recreation' and 'Reserve for Public Purposes' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.
- b. Rezoning Lots 9501 and 585 Port Lane, Geographe from 'Business' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

- c. Rezoning Lots 509 and 612 Spinnaker Boulevard, Geographe from 'Tourist' to 'Urban Development' as shown on the Scheme map, and amend the Scheme map accordingly.

**9. Normalising endorsed structure plans where subdivision and development has occurred**

9.1 In respect of land within Yalyalup (Provence) -

Rezoning land generally bound by Vasse Highway, Lot 501 Vasse Highway, Joseph Drive, Lot 9032 Cable Sands Road and the Busselton Outer Bypass Corridor, Yalyalup from 'Special Purpose (Yalyalup Development Area)' to 'Residential R5', 'Residential R10', 'Residential R12.5', 'Residential R15', 'Residential R20', 'Residential R25', 'Residential R30' and 'Reserve for Recreation' as shown on the Scheme map, and amend the Scheme map accordingly.

9.2 In respect of land within Old Broadwater Farm -

Rezoning the land generally bound by the Busselton Bypass, Fairway Drive, Pickmore Circus, Pianobox Boulevard and Lot 9506 New River Ramble, West Busselton from 'Special Purpose (Old Broadwater Farm Development Area)' to 'Residential R12.5', 'Residential R20', 'Residential R30', 'Residential R40' and 'Reserve for Recreation' as shown on the Scheme map, and amend the Scheme map accordingly.

9.3 In respect of land within Vasse –

*'Birchfields Village'*

- a. Rezoning the land generally bound by the Busselton Bypass, Northerly Street, Orlando Boulevard, Arup Drive, Heritage Drive, Kloorup Road and land zoned 'Rural Residential' and 'Rural' to the east and south from 'Vasse Development' to 'Residential R5', 'Residential R10', 'Residential R20', 'Residential R30', 'Residential R40', 'Special Purpose (Single House, Restaurant, Convenience Store & Cottage Industry)', 'Reserve for Recreation' and 'Reserve for Public Purposes' as shown on the Scheme map, and amend the Scheme map accordingly.

*'Dawson Village'*

- b. Rezoning the land generally bound by Bussell Highway, Lynwood Street, the 'Rails to Trails' reserve and the Buayanyup River Drain reserve from 'Vasse Development' to 'Residential R20', Residential R30', 'Residential R40', 'Special Purpose (Aged Persons Accommodation & Park Home Park)' and 'Reserve for Recreation' as shown on the Scheme map, and amend the Scheme map accordingly.

*'Vasse LIA'*

- c. Rezoning the land generally bound by Bussell Highway, Northerly Street, Lynwood Street and the 'Rails to Trails' reserve from 'Vasse Development' to 'Industrial', 'Urban Development' and 'Reserve for Recreation' as shown on the Scheme map, and amend the Scheme map accordingly.

*'Heron Lake'*

- d. Rezoning the land contained within Special Provision Area 55 from 'Special Purpose (Heron Lake Development Area)' to 'Residential R12.5' and 'Reserve for

Recreation’ as shown on the Scheme map, and amend the Scheme map accordingly.

9.4 In respect of land within Dunsborough Lakes Estate -

Rezoning the land generally bound by Caves Road, Commonage Road, Dunsborough Lakes Drive from ‘Special Purpose (Dunsborough Lakes Development Area)’ to ‘Residential R5’, ‘Residential R10’, ‘Residential R20’, ‘Residential R25’, ‘Residential R30’, ‘Residential R40’, ‘Special Purpose (Private Recreation)’, ‘Special Purpose (Office)’, ‘Reserve for Public Purposes’ and ‘Reserve for Recreation’ as shown on the Scheme map, and amend the Scheme map accordingly.

- II. Pursuant to the Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), determine that Amendment 28 is a ‘complex’ amendment in accordance with r.34(b) of the Regulations as it proposes to identify development contribution areas and amend a development contribution plan.
- III. That, as the draft Amendment is in the opinion of the Council consistent with Part V of the Act and Regulations made pursuant to the Act, that upon preparation of the necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by the Act, and on receipt of a response from the EPA indicating that the draft Amendment is to be subject to formal environmental assessment, be advertised for a period of 60 days, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. In the event that the EPA determines that the draft Amendment is to be subject to formal environmental assessment, this assessment is to be prepared prior to advertising of the draft Amendment.

**PART B:**

That the Council –

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, initiates Amendment 36 to the City of Busselton Local Planning Scheme 21 for the purposes of:
  - a. Rezoning Lots 1445, 178, 501, 9000 and 176 Rendezvous Road and Lot 9003 Vasse-Yallingup Siding Road, Vasse from ‘Rural Residential’ to ‘Urban Development’.
  - b. Rezoning Lots 224 and 634 Rendezvous Road, Vasse from ‘Agriculture’ to ‘Urban Development’.
  - c. Amending the ‘Development Investigation Area’ boundary by excluding Lots 1445, 178, 501, 9000, 201, 176 and 224 Rendezvous Road and Lot 9003 Vasse-Yallingup Road, Vasse.
  - d. Amending ‘Special Provision Area No. 4’ to read as follows –

No	Particulars of Land	Zone	Special Provisions
SP4	As identified on the Scheme map	Urban Development	<ol style="list-style-type: none"> <li>1. Notwithstanding the requirement for a structure plan for land in a Development Zone a single integrated Structure Plan shall be required for the whole of Special Provision Area 4.</li> <li>2. No subdivision (including strata</li> </ol>

			<p>or survey strata subdivision) or other development shall be carried out in Special Provision Area 4 until a Structure Plan has been prepared and adopted under the provisions of Part 4 of the deemed provisions.</p> <p>3. Where land is specifically zoned the provisions of the zone shall prevail over the Structure Plan.</p> <p>4. Structure planning is to identify developable and non-developable areas based on comprehensive environmental assessment that investigates, but is not limited to, the following matters -</p> <ul style="list-style-type: none"> <li>(a) Identification of vegetation having conservation significance.</li> <li>(b) Approved measures to ensure the retention, protection and ongoing management of those remnant vegetated areas having recognised environmental values within 'public open space' and/or conservation areas (as identified on an endorsed 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.</li> <li>(c) Determination of boundaries of geomorphic wetlands including identification of appropriate buffers to development to the satisfaction of the Department of Biodiversity, Conservation and Attractions.</li> <li>(d) Local Water Management</li> </ul>
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			<p>Strategy to establish a framework to ensure that the quality and quantity of surface and groundwater is maintained post-development and is to address (but not be limited to):</p> <ul style="list-style-type: none"> <li>i) flood management (major events);</li> <li>ii) measures to ensure that existing hydrological and ecological functions of the geomorphic wetlands are not impacted by future development;</li> <li>iii) establish groundwater conditions, based on monitoring, and management requirements;</li> <li>iv) identify and describe proposed measures to capture and treat the minor events; and</li> <li>v) outline monitoring and management requirements.</li> </ul> <p>(e) Areas identified as having conservation significance (such as wetlands &amp; buffers) are to be identified on a Structure Plan as 'Reserve for Conservation' and ceded free of cost to the Crown at the time of subdivision in addition to any public open space land required as a condition of subdivision for residential purposes.</p> <p>(f) Prospective conditions of subdivision requiring the requisite preparation of vegetation, fauna, wetland and ASS management plans (e.g.), the primary objective of which would be to ensure the protection and ongoing management of significant environmental, biodiversity, habitat and/or cultural</p>
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			<p>values.</p> <p>5. Prior to subdivision or development the proponent is to prepare a Development Contribution Plan to the satisfaction of the City of Busselton and WAPC to ensure appropriate and timely contributions towards community facilities, public open space and civil infrastructure on a progressive and staged basis.</p>
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- d. Amending the Scheme map accordingly.
2. Pursuant to the Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), determine that Amendment 36 is a ‘standard’ amendment in accordance with r.34 of the Regulations as it:
    - i. The amendment would have minimal impact on land in the Scheme area that is not the subject of the amendment.
    - iii. The amendment would not result in any significant environmental, social, economic or governance impacts on land in the Scheme area.
  3. That, as the draft Amendment is in the opinion of the Council consistent with Part V of the Act and Regulations made pursuant to the Act, that upon preparation of the necessary documentation, the draft Amendment be referred to the Environmental Protection Authority (EPA) as required by the Act, and on receipt of a response from the EPA indicating that the draft Amendment is to be subject to formal environmental assessment, be advertised for a period of 42 days, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. In the event that the EPA determines that the draft Amendment is to be subject to formal environmental assessment, this assessment is to be prepared prior to advertising of the draft Amendment.

**CARRIED 9/0**

**EN BLOC**

**14. ENGINEERING AND WORKS SERVICES REPORT**

Nil

**15. COMMUNITY AND COMMERCIAL SERVICES REPORT**

Nil

## 16. FINANCE AND CORPORATE SERVICES REPORT

### 16.1 RFQ02/18 PROVISION OF ELECTRICAL SUPPLY FOR CITY OF BUSSELTON CONTESTABLE SITES

#### SUBJECT INDEX:

<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	
<b>REPORTING OFFICER:</b>	Legal Services Coordinator - Cobus Botha
<b>AUTHORISING OFFICER:</b>	Director Finance and Corporate Services - Tony Nottle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Confidential A

#### PRÉCIS

The City of Busselton has 14 sites which could potentially be classified as “contestable” under the Electricity (Licensing) Regulations 1991 (Contestable Sites). Electrical supply for these Contestable Sites can be taken to the open electricity market to test the market and ensure best value for money from prospective suppliers.

Pursuant to a request for quotation process it is recommended that Electricity Generation and Retail Corporation trading as Synergy (Synergy) be awarded the contract to provide electricity to the Contestable Sites for the period 1 May 2018 to 30 April 2020.

#### BACKGROUND

The energy market in Western Australia is regulated by the Economic Regulation Authority. Electricity supplied to metered sites with an annual load greater than 50,000 kWh can be taken to the market as “contestable supply”. Contestable supply delivers potential savings to the consumer due to the discounted tariffs applied to these sites. For sites with a lower annual load than the “contestable site” threshold, the City must continue purchasing electricity from the nominated supplier (currently Synergy) at its relevant standard rates.

Currently the following sites are considered eligible for contestable supply:

<ul style="list-style-type: none"> <li>• Geographe Leisure Centre</li> <li>• City of Busselton Depot</li> <li>• City of Busselton Administration Office</li> <li>• Naturaliste Community Centre</li> <li>• Dunsborough Sports Oval</li> <li>• Busselton Library</li> <li>• Bovell Park</li> </ul>	<ul style="list-style-type: none"> <li>• Kookaburra Caravan Park (Adelaide St)</li> <li>• Kookaburra Caravan Park (L7885 Adelaide St)</li> <li>• Kookaburra Caravan Park – Park 3</li> <li>• City Resource Centre</li> <li>• Busselton Regional Airport</li> <li>• ArtGeo Complex, Old Sergeants Quarters, Tea Rooms &amp; Studio</li> <li>• Vasse Lakes Irrigation</li> </ul>
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The City has previously entered into electricity supply agreements (two year contract terms) with Perth Energy Pty Ltd (**Perth Energy**) for contestable sites in 2010, 2012 and 2014 and Alinta Sales Pty Ltd (**Alinta**) in 2016. The City’s current agreement with Alinta expires on 30 April 2018.

For purposes of securing electricity supply for a further term of two years to these Contestable Sites, quotations have been requested through WALGA’s eQuotes system. The WALGA “Energy - Contestable Energy and Related Services” panel comprises of nine panelists. Seven of the panelists are licensed Energy Retailers. Some of these suppliers, like Kleenheat Gas and Landfill Gas & Power,

supply only gas, while some of the others focus mainly on renewable energy. The request for quotation for the Contestable Sites was sent to Synergy, Alinta and Perth Energy as they are well known electrical retailers, operating regionally and with the ability to meet local demand. All three of them have submitted quotations.

Due to the industry's complex charges and rates structures and complex contract terms, a high level of expertise is required to do a thorough assessment of the quotations received from Synergy, Alinta and Perth Energy. The City elected to engage a specialist consultant firm to evaluate each of these submissions and provide a recommendation. The consultant's evaluation report entitled "Review of Proposed Electricity Tariffs" is provided as confidential Attachment A (Evaluation Report). Pursuant to the Evaluation Report this report recommends that Synergy be awarded the contract to provide electricity to the Contestable Sites for the period 1 May 2018 to 30 April 2020.

### **STATUTORY ENVIRONMENT**

In terms of the Local Government (Functions and General) Regulations 1996 (LG Regulations) a local government must publicly invite tenders where the consideration for the supply of the relevant goods or services is likely to exceed the statutory threshold (currently \$150,000), unless one or more of the exemptions under LG Regulation 11(2) apply. In terms of LG Regulation 11(2)(b) tenders do not have to be publicly invited if the supply of the goods or services are to be obtained through the WALGA Preferred Supplier Program.

The consideration for the supply of electricity to the Contestable Sites over the proposed two year term of the contract will exceed \$150,000. However as Synergy, Alinta and Perth Energy are all on the WALGA Preferred Supplier Panel and the Request for Quotation process for electricity supply to the Contestable Sites has been undertaken in accordance with WALGA's eQuotes system (WALGA's Contestable Energy & Related Services Contract C024\_14), the exemption under LG Regulation 11(2)(b) applies.

### **RELEVANT PLANS AND POLICIES**

Policy 239 – City of Busselton Purchasing Policy applies. The procurement process for the supply of electricity to the City's contestable sites complies with this policy.

### **FINANCIAL IMPLICATIONS**

It is estimated that over the next contract term of two years the City will pay between \$1 million and \$1.2 million (excluding GST) for electricity supply to the Contestable Sites (based on the estimated electricity consumption and the estimated cost over life of the supply contract). The costs of supplying electricity to the Contestable Sites are included in the City's annual budget. The estimated electricity consumption at the Contestable Sites (based on the City's historical use) and the three respondents' quoted rates have been used to assess their quotations. Further detail of the assessment is provided in the OFFICER COMMENT section of this report.

#### **Long-term Financial Plan Implications**

The estimated electricity consumption at the Contestable Sites and cost of supply over the proposed contract period aligns with current projections in the City's Long-term Financial Plan.

## **STRATEGIC COMMUNITY OBJECTIVES**

Entering into an electricity supply agreement for the Contestable Sites aligns with Community Objective 6.4 of the City's Strategic Community Plan:

*6.4 Assets are well maintained and responsibly managed.*

## **RISK ASSESSMENT**

WALGA has prequalified and contracted a range of suppliers, an arrangement designed to mitigate risks to Local Governments. Through this process, comprehensive due diligence has been undertaken to ensure the integrity and sustainability of the suppliers, including Synergy. Compliance risks are therefore mitigated through WALGA's centralised supplier panel model. In addition, the following comments on Synergy are relevant.

Synergy is the State's largest electricity generator and retailer of gas and electricity with more than 1 million residential, business and industry customers. Synergy provides 52% of the electricity sold to households and business customers in the South West Interconnected System (SWIS) and about 55% of the contestable gas load in the industrial and commercial market. Synergy's generating portfolio is extensive and diverse. We own and operate power stations in the electricity grid called the SWIS which extends from Kalbarri in the north, east to Kalgoorlie and south to Albany. Synergy is owned by the Government of Western Australia, represented by the Minister for Energy.

The proposed contract with Synergy does not involve any significant changes from current practices and is therefore considered low risk.

## **CONSULTATION**

None.

## **OFFICER COMMENT**

In the past the City has achieved substantial savings on its energy expenses through the use of the "contestable supply" scheme. The proposed contract with Synergy will continue this procurement strategy and also provides for additional sites to be included under the contract as and when they qualify as "contestable". All sites with the potential of reaching the "contestable" threshold will be monitored on an ongoing basis.

The City received quotations for the Contestable Sites from Synergy, Alinta and Perth Energy through the WALGA e-Quotes system. Each of the three respondents have their own daily supply charges as well as on-peak and off-peak rates. The submissions received from the respondents provided their estimated annual costs per site, based on their estimated on-peak and off-peak demand for each of the sites. The estimation of annual energy consumption data used by the respondents in their submissions varied to a certain extent. Therefore, in order to compare their submissions on equal terms, the consumption data for the Contestable Sites was normalized and each respondent's daily charges/on-peak and off-peak rates were applied to the adjusted data. This method is considered the most reliable for making a fair and impartial assessment and for determining best value for money. As part of the assessment, consideration was also given to potential savings should the City decide to install roof-top solar panels on some of the Contestable Sites during the contract term.

The Evaluation Report details abovementioned methodology, which can be summarized as follows:

Supplier	Estimated Annual Costs
Perth Energy	\$514,634
Alinta	\$497,516
Synergy	\$499,869

The Evaluation Report noted that Alinta offered a low off-peak while Perth Energy had low on-peak charges, with Perth Energy on average being more expensive than the other two respondents. However Synergy, although slightly more expensive than Alinta, represented best value for money on the basis that Synergy have reduced on peak rates for high consumption sites and will also, importantly, pass through the savings should the City decide to install solar panels on some of the Contest able Sites during the contract term.

An operational assessment of the variables between the respondents indicated similarity in relation to account management, terms of supply and service standards.

Synergy's proposal includes the following terms:

- The rates offered are not subject to CPI increases.
- Synergy's offer does not have a minimum take which means that the City of Busselton will not be penalised if there is reduction in consumption and will only pay for the electricity consumed which provides an increased ability to budget.
- The Synergy agreement does not contain a maximum take which means that if the consumption increases for any specific reason, the City of Busselton will not be penalised.
- The Synergy agreement does not have a 'Change of Event Clause' which means that a decision by the City to install solar panels at the Contestable Sites (or the occurrence of any other event that leads to a change in consumption), will not impact on the validity of the contract or give rise to a price adjustment.
- Synergy offers an online portal which will assist the City of Busselton to:
  - Keep track of your usage;
  - Compare your usage with others;
  - Put an energy action plan;
  - Access quick & secure payment options;
  - Update account details;
  - Reporting (carbon emission and usage);
  - View billing history for all accounts.

The general conditions of contract proposed by Synergy for the new contract (2018 – 2020) are based on the *Synergy Business Terms and Conditions – Version 14 – November 2016*, which is standard to all Synergy's customers who are provided with a similar service.

## CONCLUSION

Energy prices have historically been volatile and the City's electricity supply is expected to increase year-over-year. Entering into an electricity supply contract for a fixed term of two years should provide the City with savings when compared to the suppliers' standard business tariffs and will, to a certain extent, shelter the City from large increases in electricity tariffs during the term of the agreement.

In accordance with Evaluation Report, the Synergy quotation represents best value for money. It is therefore recommended that Synergy be awarded the contract resulting from RFQ02/18 for the supply of electricity to the Contestable Sites for the period of 1 May 2018 to 30 April 2020 on the basis of their submitted rates and the general terms and conditions contained in Synergy's Synergy Business Terms and Conditions - Version 14 – November 2016.

## OPTIONS

As alternatives to the Officer's Recommendation, the following options are available to Council:

- 1) Enter into an electricity supply agreement with the current supplier, Alinta. However should the City elect to install solar panels at some of the Contestable Sites during the term of this contract, Alinta may potentially review their contract charges/rates and adjust them upwards to recover revenue lost due to "loss of volume", which in turn may result in Alinta being more expensive over the full contract term.
- 2) Not enter into a "contestable site" electricity supply agreement and revert to the standard Synergy business tariffs. Over a two year period this could result in the cost of electricity for the Contestable Sites being approximately 30% more than under the proposed Synergy contract.

For the reasons mentioned in this report neither one of these options is recommended.

## TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The current Alinta contract expires on 30 April 2018. Therefore, if endorsed by Council, the City will enter into a new electricity supply agreement with Synergy to take effect from 1 May 2018.

## COUNCIL DECISION AND OFFICER RECOMMENDATION

**C1804/078** Moved Councillor Tarbotton , seconded Councillor P Carter

1. Accepts the quotation received in response to Request for Quotation RFQ 02/18 from Electricity Generation and Retail Corporation trading as Synergy for supply of electricity to the City of Busselton contestable sites and authorizes the Chief Executive Officer to enter into a two year contract with Synergy on terms and conditions which are materially the same as Synergy's standard terms and conditions to their business customers.
2. Notes that by previous resolution Council has authorized the Chief Executive Officer to sign documents as necessary or appropriate to give effect to resolution 1 above.

**CARRIED 9/0**

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## **17. CHIEF EXECUTIVE OFFICE REPORT**

### **17.1 COUNCILLORS' INFORMATION BULLETIN**

<b>SUBJECT INDEX:</b>	Councillors Information Bulletin
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Governance Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Administration Officer - Governance - Katie Dudley
<b>AUTHORISING OFFICER:</b>	Chief Executive Officer - Mike Archer
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Planning Applications received by the City between 16 March, 2018 and 31 March, 2018⇒
	Attachment B Planning Applications determined by the City between 16 March, 2018 and 31 March, 2018⇒
	Attachment C SAT Appeals⇒
	Attachment D Meelup Regional Park Management Park Committee⇒

### **PRÉCIS**

This report provides an overview of a range of information that is considered appropriate to be formally presented to the Council for its receipt and noting. The information is provided in order to ensure that each Councillor, and the Council, is being kept fully informed, while also acknowledging that these are matters that will also be of interest to the community.

Any matter that is raised in this report as a result of incoming correspondence is to be dealt with as normal business correspondence, but is presented in this bulletin for the information of the Council and the community.

### **INFORMATION BULLETIN**

#### **17.1.1 Planning and Development Statistics**

##### Planning Applications

Attachment A is a report detailing all Planning Applications received by the City between 16 March, 2018 and 31 March, 2018. A total of 30 formal applications were received during this period.

Attachment B is a report detailing all Planning Applications determined by the City between 16 March, 2018 and 31 March, 2018. A total of 39 applications (including subdivision referrals) were determined by the City during this period with 38 approved / supported and 1 refused / not supported.

#### **17.1.2 State Administrative Tribunal (SAT) Appeals**

Attachment C is a list showing the current status of State Administrative Tribunal Appeals involving the City of Busselton as at 5 April, 2018.

#### **17.1.3 Meelup Regional Park Management Park Committee**

Attachment D shows the informal minutes for the Meelup Regional Park Management Park Committee held Meeting held on 26 March 2018.

**17.1.4 Scheme Amendment No. 25**

The above scheme was published in the Western Australian Government Gazette on 23rd March 2018

The purpose of this amendment is to amend Local Planning Scheme No. 21 to align with the Deemed Provisions.

**COUNCIL DECISION AND OFFICER RECOMMENDATION**

**C1804/079** Moved Councillor Tarbotton , seconded Councillor P Carter

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

- 17.1.1 Planning and Development Statistics
- 17.1.2 State Administrative Tribunal (SAT) Appeals
- 17.1.3 Meelup Regional Park Management Park Committee
- 17.1.4 Scheme Amendment No. 25

**CARRIED 9/0**

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**18. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**19. URGENT BUSINESS**

Nil

**20. CONFIDENTIAL MATTERS**

Nil

**21. CLOSURE**

The meeting closed at 5.33pm. The next Council meeting will be held on Wednesday, 9 May.

<p>THESE MINUTES CONSISTING OF PAGES 1 TO 96 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON WEDNESDAY, 9 MAY 2018.</p> <p>DATE: _____ PRESIDING MEMBER: _____</p>
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