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PLANNING AND DEVELOPMENT ACT 2005
APPROVED LOCAL PLANNING SCHEME AMENDMENT
City of Busselton

Town Planning Scheme No. 20—Amendment No. 125

Ref: TPS/0903

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning approved the City of Busselton local planning scheme amendment on 5 August 2013 for the purpose of—

1. Amending Table 2 and Schedule 1 by—
 - i. Inserting the use classes 'Lunch Bar' and 'Service Industry' into Table 2 (Zoning Table);
 - ii. In Table 2 (Zoning Table)—
 - a. in relation to the 'Residential' zone and in relation to the use class 'Aged Persons Home', 'Bed and Breakfast', 'Display Home Centre', 'Multiple Dwelling' and 'Residential Enterprise', replacing the symbol 'SA' with the symbol 'AA';
 - b. in relation to the 'Residential' zone and in relation to the use class 'Educational Establishment', and 'Medical Centre', including the symbol 'SA';
 - c. in relation to the 'Business' zone and in relation to the use class 'Bed and Breakfast', and 'Reception Centre', replacing the symbol 'SA' with the symbol 'AA';
 - d. in relation to the 'Business' zone and in relation to the use class 'Amusement Parlour', 'Convenience Store', 'Corner Shop', 'Educational Establishment', 'Office', 'Professional Consulting Rooms', 'Restaurant', 'Shop', and 'Showroom', replacing the symbol 'AA' with the symbol 'P';
 - e. in relation to the 'Business' zone and in relation to the use class 'Guesthouse', 'Hospital', 'Veterinary Hospital' and 'Winery' including the symbol 'AA';
 - f. in relation to the 'Business' zone and in relation to the use class 'Home Occupation', and 'Residential Enterprise', including the symbol 'P';
 - g. in relation to the 'Restricted Business' zone and in relation to the use class 'Amusement Parlour', replacing the symbol 'SA' with the symbol 'AA';
 - h. in relation to the 'Restricted Business' zone and in relation to the use class 'Bus Station', 'Showroom', 'Veterinary Hospital', and 'Warehouse', replacing the symbol 'AA' with the symbol 'P';
 - i. in relation to the 'Restricted Business' zone and in relation to the use class 'Corner Shop', including the symbol 'P';
 - j. in relation to the 'Restricted Business' zone and in relation to the use class 'Factory Unit Building', 'Lunch Bar', 'Market', 'Restricted Premises', and 'Service Industry', and 'Winery' including the symbol 'AA';
 - k. in relation to the 'Restricted Business' zone and in relation to the use class 'Motor Vehicle & Marine Sales Premises', and 'Professional Consulting Rooms', replacing the symbol 'SA' with the symbol 'P';
 - l. in relation to the 'Industrial' zone and in relation to the use class 'Amusement Parlour', and 'Private Recreation', replacing the symbol 'SA' with the symbol 'AA';
 - m. in relation to the 'Industrial' zone and in relation to the use class 'Bus Station', 'Chandlery', 'Factory Unit Building', 'Motor Vehicle & Marine Sales Premises', and 'Warehouse', replacing the symbol 'AA' with the symbol 'P';

- n. in relation to the 'Industrial' zone and in relation to the use class 'Lunch Bar', 'Market', and 'Place of Public Worship, including the symbol 'AA';
 - o. in relation to the 'Industrial' zone and in relation to the use class 'Offensive or Hazardous Industry', including the symbol 'SA';
 - p. in relation to the 'Industrial' zone and in relation to the use class 'Service Industry', and 'Winery', including the symbol 'P';
 - q. in relation to the 'Agriculture' zone and in relation to the use class 'Bed and Breakfast', 'Bus Station', 'Private Recreation', 'Recreation Establishment', and 'Winery', replacing the symbol 'SA' with the symbol 'AA';
 - r. in relation to the 'Agriculture' zone and in relation to the use class 'Bus Depot', 'Place of Assembly', and 'Restaurant', including the symbol 'AA';
 - s. in relation to the 'Agriculture' zone and in relation to the use class 'Club', 'Hotel', 'Residential Building', and 'Tavern', including the symbol 'SA';
 - t. in relation to the 'Agriculture' zone and in relation to the use class 'Residential Enterprise', including the symbol 'P';
 - u. in relation to the 'Viticulture & Tourism' zone and in relation to the use class 'Bed and Breakfast', 'Recreation Establishment' and 'Winery', replacing the symbol 'SA' with the symbol 'AA';
 - v. in relation to the 'Viticulture & Tourism' zone and in relation to the use class 'Club', 'Hospital', and 'Hotel', including the symbol 'SA';
 - w. in relation to the 'Viticulture & Tourism' zone and in relation to the use class 'Place of Assembly', and 'Plant Nursery', including the symbol 'AA';
 - x. in relation to the 'Viticulture & Tourism' zone and in relation to the use class 'Residential Enterprise', including the symbol 'P';
 - y. in relation to the 'Rural Residential' zone and in relation to the use class 'Bed and Breakfast', and 'Display Home', replacing the symbol 'SA' with the symbol 'AA';
 - z. in relation to the 'Rural Residential' zone and in relation to the use class 'Market', 'Plant Nursery', 'Private Recreation', and 'Restaurant' including the symbol 'SA';
 - aa. in relation to the 'Rural Residential' zone and in relation to the use class 'Residential Enterprise', replacing the symbol 'SA' with the symbol 'P';
 - bb. in relation to the 'Tourist' zone and in relation to the use class 'Bed and Breakfast', and 'Boarding House', replacing the symbol 'AA' with the symbol 'P';
 - cc. in relation to the 'Tourist' zone and in relation to the use class 'Convenience Store', replacing the symbol 'SA' with the symbol 'AA';
 - dd. in relation to the 'Tourist' zone and in relation to the use class 'Home Occupation', including the symbol 'P';
 - ee. in relation to the 'Rural Landscape' zone and in relation to the use class 'Bed and Breakfast', replacing the symbol 'SA' with the symbol 'AA';
 - ff. in relation to the 'Rural Landscape' zone and in relation to the use class 'Hospital', including the symbol 'SA';
 - gg. in relation to the 'Bushland Protection' zone and in relation to the use class 'Bed and Breakfast', replacing the symbol 'SA' with the symbol 'AA'; and
 - hh. in relation to the 'Conservation' zone and in relation to the use class 'Bed and Breakfast', replacing the symbol 'SA' with the symbol 'AA'.
2. Inserting a new sub-clause (5) into clause 12 to read as follows—
- 12 (5) Notwithstanding sub-clause 12 (1), minor additions to, or modifications of an existing lawful development identified as an "SA" Use Class in Table 2—Zoning Table or which are non-conforming uses pursuant to Part 10 of the Scheme, may be exempt from the requirements of sub-clauses 12(1) to 12(4) above, where—
- (a) approval of the proposed development would be consistent with the orderly and proper planning of the locality and the preservation of the amenities of the locality;
 - (b) the development will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the locality or upon the likely future development of the locality;
 - (c) the development is consistent with the policies and objectives of the relevant Council policy pursuant to the Scheme.
3. i. a. Amending clause 104 (1) to read as follows—
- (1) For the purpose of this Scheme, the erection, placement and display of advertisements and the use of land or buildings for that purpose requires planning consent, except as exempted by Schedule 14.
- b. Inserting a new clause as clause 104 (3) as follows—
- (3) Advertisements that advertise goods or services which are not produced, displayed or offered for sale, or which is otherwise not relevant to, the land upon which the advertisement is located are prohibited.

c. Inserting a new Schedule 14 as follows—

Schedule 14—Exempted Advertisements

(A) Subject to (B) below, the following advertisements located on privately owned land are exempt from requiring planning consent—

1. A For Sale Sign or an Institutional Sign less than 2.2m² in size, with a maximum width / length of 2.0 metres, provided that there is no more than 1 For Sale Sign or an Institutional Sign on each street frontage of a lot.
2. An advertisement less than 0.2m² in size erected or affixed on the street alignment or between that alignment and the building line to indicate the name and occupation or profession of the occupier of the property.
3. Advertisements affixed inside or painted on a shop window by the occupier thereof and relating to the business carried on therein.
4. Advertisements which are not visible from a public space outside the boundaries of a property.
5. Advertisements containing changeable public notices or information not larger than 0.7 metres by 0.9 metres in size located on advertising pillars or panels approved by or which have the prior approval of the City for the purposes of displaying public notices or information.
6. A Wall Sign on a residential multiple dwelling or grouped dwelling indicating the name of the building provided that the advertisement comprises of letters and numbers only, and those letters and numbers do not individually exceed 300mm in height.
7. Advertisements used solely for the direction and/or control of people, animals and/or vehicles or to indicate the name, and/or street number of a premises, providing the area of any such advertisement is less than 0.2m² in size and the advertisement is located wholly within the boundaries of land owned by a person who erected or who maintains the advertisement.
8. An advertisement that is required by the Builders Registration Board or other government or statutory bodies or authorities on building sites, providing any such advertisement is less than 1.5m² in size and that any such advertisement is removed within 7 days of completion of the building works on the building site.
9. An advertisement which is a heritage or memorial plaque not exceeding 1m² in size.
10. An advertisement which does nothing other than indicate an exit or exits, warn of the existence of a hazard or indicate that smoking is prohibited on particular premises and which does not exceed 0.5m² in size.
11. An Information Sign erected within a site used or occupied by a tourist, recreational, cultural, religious or other community organisation that does not exceed 2.0m² in size or 1.5 metres in height.
12. An advertisement not exceeding 0.6m² in size that advertises an approved non-residential land use within the Residential zone.
13. A Display Home Sign in the Residential zone not exceeding 2m² in size.
14. An advertisement attached to or painted on the wall of a building other than a residential building that identifies the name of the building or business operating from the building, where the total area of advertising is not greater than 5m² per wall.
15. All advertisements affixed to any shop, showroom or other uses appropriate to a shopping area, below the top of the awning or, in the absence of an awning, below a line measured at 5 metres from the ground floor level of the building.
16. Advertisements within any lot or on any building that is situated in an Industrial Area provided—
 - (a) Advertisements applied to or affixed to the walls of the building do not—
 - (i) exceed a maximum of four advertisements per building;
 - (ii) exceed an area of 6m² for individual advertisements;
 - (iii) exceed a maximum total area of 10m² per building;
 - (iv) project above the eaves or the ridge of the roof of the building;
 - (v) project from a building whether or not those advertisements are connected to a pole, wall or other building; and
 - (b) free standing advertisements do not exceed—
 - (i) a maximum of two free-standing advertisements per lot;
 - (ii) 5m in height above ground level; and
 - (iii) a maximum total area of 15m² per lot.

- (B) Any advertisement will require planning consent if it—
1. Advertises goods or services which are not produced, displayed or offered for sale, or which is otherwise not relevant to, the land upon which the advertisement is located.
 2. Is located so as to cause an unreasonable impediment to the safe operation of an adjoining road or footpath.
 3. Is likely to be confused with or mistaken for an official traffic light or sign or so as to contravene the *Main Roads Act 1930* or the Regulations made thereunder.
 4. Is located more than 3 metres above the ground level immediately adjacent to it (where a specific height limit is not specified at (A) (1)-(16) above).
 5. Is located upon or inside a vehicle adapted and exhibited to primarily facilitate advertising.
 6. Is in the form of a balloon or air blimp.
 7. Is located to form a part of, or is attached or affixed to a fence or wall which is forward of the approved building setback for any lot in the Industrial zone.
 8. Is located underneath a verandah and does not afford a minimum head clearance of 2.75 metres above the ground level immediately adjacent.

- (C) For the purpose of interpreting the intent of the provisions of this Schedule, the terms and expressions outlined below shall have the following meanings—

“Wall Sign” means a sign attached to or otherwise displayed on a building or a structure no part of which projects further than 0.3m from that building or structure other than an advertisement that is displayed on, above or below a verandah or a verandah facia;

“Display Home Sign” means a sign erected on a lot on which a dwelling is erected where the lot and dwelling have been approved as meeting the City’s requirements for a display home;

“For Sale Sign” means a sign indicating that the property or premises whereon the sign is affixed, are for sale, for letting or to be auctioned;

“Industrial Area” means an area zoned Industrial or zoned primarily for the purpose of industrial or light industrial land use under the Scheme;

“Information Panel” means a panel used for displaying government notices or announcements of a religious, educational, cultural, recreational or similar character which are for the benefit of the public generally or particular sections of the public;

“Institutional Sign” means a sign erected or placed on any private property, public place or building used for or in connection with a medical or dental surgery, clinic, hospital, rest home, home for the aged, or other institution or place of a similar nature;

- ii. Amending Clause 16 to read as follows—

16. EXEMPTIONS FROM PLANNING CONSENT

Notwithstanding any other provision of the Scheme, the following development does not require planning consent—

- (1) the erection on a lot of a Single House including any extension, ancillary outbuildings and swimming pools; or
- (2) any extension to, or development of a similar incidental nature such as the erection of an ancillary outbuilding or the construction of a swimming pool to a developed and lawful Grouped Dwelling;

except where—

- (a) the proposal requires the exercise of discretion by Council under the Scheme to vary the provisions of the Residential Design Codes of Western Australia;
- (b) the development is located in a Heritage Area designated under the Scheme;
- (c) the development is located in a Special Character area designated under the Scheme;
- (d) the development is inconsistent with any other provision of the Scheme;
- (e) the development is inconsistent with any provision of a Scheme policy;
- (f) the development is inconsistent with any Development Guide Plan, Subdivision Guide Plan, Structure Plan, Design Guidelines or any other plan or policy adopted by Council; or
- (g) the proposal is for the erection of a dwelling house on land on which another dwelling house is erected, where the first mentioned dwelling house is intended to replace the other dwelling house.

- iii. Amending clause 87 to read as follows—

Notwithstanding any other provision of the Scheme, an application for Planning Consent is required for the development of a single house and incidental development, on a lot in the Conservation, Rural Landscape and Bushland Protection Zones except where that development is consistent with a development guide plan for the land that has been adopted by the Council and the Western Australian Planning Commission.

4. i. Amending Schedule 6 by—

- a. Renaming “4. Busselton Heritage and Special Character Area” to “4. Adelaide Street Special Character Area” and inserting the following provisions to replace the current provisions—

Front and Side Setbacks

The front setback for development shall be generally not less than 7.5 metres. This also means the front setback to a garage or carport. The front setback may be reduced where the reduction in setback would be consistent with the setback of development on an adjoining lot, and/or such reduction will not be detrimental to the desired streetscape or objectives of these provisions.

Building Form, Proportions & Style

- (a) New commercial development on lots facing Adelaide Street should preferably be accommodated within existing buildings, which may be retrofitted or extended to accommodate the change of use. Any building extensions should preferably take place—
- (i) behind the existing dwelling, or
 - (ii) at an upper level, but set back from the front building line by at least 3.0 m.
- (b) In the case of new commercial or residential buildings facing Adelaide Street, their form and style shall be compatible with surrounding and nearby buildings in regard to their type of construction, and their form, style and detailing.
- (c) New development, alterations or extensions to existing buildings is to have a compatible scale and proportion to surrounding development when viewed from the street.

Landscaping

Trees and other significant native vegetation shall not be removed without the written approval of the local government.

- b. Identifying the new “Eagle Bay Special Character Area” and inserting the following provisions—

5. EAGLE BAY SPECIAL CHARACTER AREA

The following provisions shall apply to subdivision and development within the Eagle Bay Special Character Area as identified on the Scheme Map—

- (a) Other than provided for in a Development Guide Plan, Approved Building Envelope Plan or Structure Plan, development within the various planning sectors, as outlined in the ‘Eagle Bay Special Character Area’ Local Planning Policy, shall comply with the following setback requirements—

Table 1—Setbacks by Sector	Density	Minimum Setbacks for Development (in metres)		
		Front	Rear	Secondary Street
Sector 1	R5 Density	9.0*	6.0	4.5
Sector 2	R5 Density	15.0	6.0	6.0
	R2 Density	15.0	10.0	10.0
Sector 3	R2.5 Density	20.0	6.0	12.0
	R2 Density	20.0	10.0	12.0
Sector 4	Rural Residential	As per Development Guide Plan	As per Development Guide Plan	

*In determining the appropriate front setback, consideration shall be given to the setback of dwellings on neighbouring/nearby properties and the impact a 9.0 m front setback may have on the existing streetscape.

- (b) Incidental development shall be setback from front and neighbouring boundaries, including boundaries which interface with coastal foreshore and other public reserves, to protect the prevailing amenity of the locality in accordance with Table 1.
- (c) Where a lot abuts a foreshore or public open space reserve, the setback applicable to development shall be no less than the required front setback distance in order to retain the natural amenity of the Reserve and avoid the encroachment of development on the reserve area.

- (d) The applicable height limits will be 7.5 metres within 150 metres of the high water mark and 9.0 metres for all other areas unless otherwise determined by zoning provisions, a Structure Plan or Development Guide Plan.
- ii. Amending the Scheme Maps accordingly.
5. Modifying Part 4 as follows—
- i. Modifying Clause 20 sub clause (1) by—
- a. Replacing the words ‘8 Areas’ with the words ‘9 Areas’.
- b. Including a new Area—”Development Contribution” after the Special Provision Area as listed.
- ii. Introducing a new clause 34 to Part 4 of the Scheme to read (and renumbering subsequent clauses and clause references accordingly)—

34. DEVELOPMENT CONTRIBUTION AREAS

- (1) This clause applies to all land shown on the Scheme Map (Sheet 31) as being within a Development Contribution Area.
- (2) Development contribution areas are shown on the scheme map as ‘DCA—1’ with a purple border and a number and included in Schedule 15.
- (3) Interpretation

In Clause 34, unless the context otherwise requires—

‘**Administrative costs**’ means such costs as are reasonably incurred for the preparation and implementation of the development contribution plan.

‘**Administrative items**’ means the administrative matters required to be carried out by or on behalf of the local government in order to prepare and implement the development contribution plan, including legal, accounting, planning engineering, and other professional advice.

‘**Cost apportionment schedule**’ means a schedule prepared and distributed in accordance with clause 34(12).

‘**Cost contribution**’ means the contribution to the cost of infrastructure and administrative costs.

‘**Development contribution area**’ means an area shown on the Scheme map as DCA with a number and included in Schedule 15.

‘**Development contribution plan**’ means a development contribution plan prepared in accordance with the provisions of State Planning Policy 3.6 Development Contributions for Infrastructure and the provisions of this clause 34 of the Scheme (as referenced in Schedule 15 to this Scheme).

‘**Development contribution plan report**’ means a report prepared and distributed in accordance with clause 34(12).

‘**Infrastructure**’ means community infrastructure, including recreational facilities; community centres; child care and after school centres; libraries and cultural facilities and such other services and facilities for which development contributions may reasonably be requested having regard to the objectives, scope and provisions of this Scheme.

‘**Infrastructure costs**’ means such costs as are reasonably incurred for the acquisition and construction of infrastructure.

‘**Local government**’ means the local government or local governments in which the development contribution area is located or through which the services and facilities are provided.

‘**Owner**’ means an owner of land that is located within a development contribution area.

- (4) Purpose

The purpose of having development contribution areas is to—

- (a) provide for the equitable sharing of the costs of infrastructure and administrative costs between owners;
- (b) ensure that cost contributions are reasonably required as a result of the subdivision and development of land in the development contribution area; and
- (c) coordinate the timely provision of Infrastructure.

- (5) Development contribution plan required

- (a) A development contribution plan is required to be prepared for each development contribution area.

- (6) Development Contribution Plan Part of the Scheme

The development contribution plan is incorporated into Schedule 15 as part of this scheme.

(7) Subdivision, strata subdivision and development

The local government shall not withhold its support for subdivision or strata subdivision or refuse to approve a development solely for the reason that a development contribution plan is not in effect, there is no approval to advertise a development contribution plan, or that there is no other arrangement with respect to an owners contribution towards the provision of community infrastructure.

(8) Guiding principles for development contribution plans

The development contribution plan for any development contribution area is to be prepared in accordance with the following principles—

(a) Need and the nexus

The need for the infrastructure included in the plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).

(b) Transparency

Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.

(c) Equity

Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.

(d) Certainty

All development contributions should be clearly identified and methods of accounting for cost adjustments determined at the commencement of a development.

(e) Efficiency

Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.

(f) Consistency

Development contributions should be applied uniformly across a development contribution area and the methodology for applying contributions should be consistent.

(g) Right of consultation and review

Owners have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the calculation of the costs of the contributions is not reasonable.

(h) Accountable

There must be accountability in the manner in which development contributions are determined and expended.

(9) Recommended content of development contribution plans

(a) The development contribution plan is to specify—

- (i) the development contribution area and associated precincts to which the development contribution plan applies;
- (ii) the infrastructure and administrative items to be funded through the development contribution plan;
- (iii) the method of determining the cost contribution of each owner; and
- (iv) the indicative priority and/or timing for the provision of infrastructure.

(10) Period of development contribution plan

A development contribution plan shall specify the period during which it is to operate.

(11) Land excluded

In calculating both the area of an owner's land and the total area of land in a development contribution area, the area of land provided in that development contribution area for—

- (a) primary regional roads and other regional roads, as determined by the local government;
 - (b) existing public open space;
 - (c) existing government primary and secondary schools; and
 - (d) such other land as is set out in the development contribution plan,
- is to be excluded.

- (12) Development contribution plan report and cost apportionment schedule
- (a) Within 90 days of the development contribution plan coming into effect, the local government is to adopt and make available a development contribution plan report and cost apportionment schedule to all owners in the development contribution area.
 - (b) The development contribution plan report and the cost apportionment schedule shall set out in detail the calculation of the cost contribution for each owner in the development contribution area, based on the methodology provided in the development contribution plan, and shall take into account any proposed staging of the development.
 - (c) The development contribution plan report and the cost apportionment schedule do not form part of the Scheme, but once adopted by the local government they are subject to review as provided under clause 34(13).
- (13) Cost contributions based on estimates
- (a) The determination of Infrastructure costs and administrative costs is to be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government and adjusted accordingly, if necessary.
 - (b) Where a cost apportionment schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the local government—
 - (i) in the case of land to be acquired, in accordance with clause 34(14); and
 - (ii) in all other cases, in accordance with the best and latest information available to the local government,until the expenditure on the relevant item of infrastructure or administrative costs has occurred.
 - (c) In certain circumstances as specified in the adopted Development Contribution Plan Report the local government may have such estimated costs independently certified by appropriate qualified persons and must provide such independent certification to an owner upon request.
 - (d) Where any cost contribution has been calculated on the basis of an estimated cost, the local government—
 - (i) is to adjust the cost contribution of any owner in accordance with the annual review of estimated costs; and
 - (ii) may accept a cost contribution, based upon estimated costs, as a final cost contribution and enter into an agreement with the owner accordingly.
 - (e) Where an owner's cost contribution is adjusted under clause 34(13)(d), the local government, on receiving a request in writing from an owner, is to provide the owner with a copy of estimated costs and the calculation of adjustments.
 - (f) If an owner objects to the amount of a cost contribution, the owner may give notice to the local government requesting a review of the amount of the cost contribution by an appropriate qualified person ('independent expert') agreed by the local government and the owner at the owner's expense, within 28 days after being informed of the cost contribution.
 - (g) If the independent expert does not change the cost contribution to a figure acceptable to the owner, the cost contribution is to be determined—
 - (i) by any method agreed between the local government and the owner; or
 - (ii) if the local government and the owner cannot agree on a method pursuant to (a) or on an independent expert, by arbitration in accordance with the *Commercial Arbitration Act 1985*, with the costs to be shared equally between the local government and owner.
- (14) Valuation
- (a) Clause 34(14) applies in order to determine the value of land to be acquired for the purpose of providing Infrastructure.
 - (b) In clause 34(14)—

'Value' means the fair market value of land, at a specified date, which is defined as the capital sum that would be negotiated in an arm's length transaction in an open and unrestricted market, assuming the highest and best use of the land with all its potential and limitations (other than the limitation arising from the transaction for which the land is being valued), wherein the parties act knowledgeably, prudently and without compulsion to buy or sell.

The net land value is to be determined by a static feasibility valuation model, consistent with the working sheet model contained

in State Planning Policy 3.6 'Development Contributions for Infrastructure'. As part of that feasibility an appropriate profit and risk factor is to be determined from which a 10 per cent profit factor is to be excluded from the calculation.

'Valuer' means a licensed valuer or the Valuer-General as determined by the local government.

- (c) If an owner objects to a valuation made by the valuer, the owner may give notice to the local government requesting a review of the amount of the value, at the owner's expense, within 28 days after being informed of the value.
 - (d) If following a review, the valuer's determination of the value of the land is still not a figure acceptable to the owner, the value is to be determined—
 - (i) by any method agreed between the local government and the owner; or
 - (ii) if the local government and the owner cannot agree, the owner may apply to the State Administrative Tribunal for a review of the matter under part 14 of the *Planning and Development Act 2005*.
- (15) Liability for cost contributions

- (a) An owner must make a cost contribution in accordance with the applicable development contribution plan and the provisions of clause 34.
- (b) An owner's liability to pay the owner's cost contribution to the local government arises on the earlier of—
 - (i) at the time of seeking clearance of conditions of subdivision or strata subdivision from the local government;
 - (ii) the Western Australian Planning Commission endorsing its approval on the deposited plan or survey strata plan of the subdivision of the owner's land within the development contribution area;
 - (iii) prior to the commencement of any development that requires planning consent on the owner's land within the development contribution area;
 - (iv) prior to the final approval and endorsement of any strata plan by the local government or Western Australian Planning Commission on the owner's land within the development contribution area; and
 - (v) the approval of a change or extension of use by the local government on the owner's land within the development contribution area.

The liability arises only once upon the earliest of the above listed events.

- (c) Notwithstanding clause 34(15)(b), an owner's liability to pay the owner's cost contribution does not arise if the owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided or strata subdivided since the coming into effect of the development contribution plan.
 - (d) Where a development contribution plan expires in accordance with clause 34(10), an owner's liability to pay the owner's cost contribution under that development contribution plan shall be deemed to continue in effect and be carried over into any subsequent development contribution plan which includes the owner's land, subject to such liability.
- (16) Payment of cost contribution

- (a) The owner, with the agreement of the local government, is to pay the owner's cost contribution by—
 - (i) cheque or cash;
 - (ii) transferring to the local government or a public authority land in satisfaction of the cost contribution;
 - (iii) the provision of physical infrastructure;
 - (iv) some other method acceptable to the local government; or
 - (v) any combination of these methods.
- (b) The owner, with the agreement of the local government, may pay the owner's cost contribution in a lump sum, by instalments or in such other manner acceptable to the local government.
- (c) Payment by an owner of the cost contribution, including a cost contribution based upon estimated costs in a manner acceptable to the local government, constitutes full and final discharge of the owner's liability under the development contribution plan and the local government shall provide certification in writing to the owner of such discharge if requested by the owner.

(17) Charge on land

- (a) The amount of any cost contribution for which an owner is liable under clause 34(15), but has not paid, is a charge on the owner's land to which the

cost contribution relates, and the local government may lodge a caveat, at the owner's expense, against the owner's certificate of title to that land.

- (b) The local government, at the owner's expense and subject to such other conditions as the local government thinks fit, can withdraw a caveat lodged under clause 34(17)(a) to permit a dealing and may then re-lodge the caveat to prevent further dealings.
- (c) If the cost contribution is paid in full, the local government, if requested to do so by the owner and at the expense of the owner, is to withdraw any caveat lodged under clause 34(17).

(18) Administration of funds

- (a) The local government is to establish and maintain a reserve account in accordance with the *Local Government Act 1995* for each development contribution area into which cost contributions for that development contribution area will be credited and from which all payments for the infrastructure costs and administrative costs within that development contribution area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that development contribution area.
- (b) Interest earned on cost contributions credited to a reserve account in accordance with clause 34(18)(a) is to be applied in the development contribution area to which the reserve account relates.
- (c) The local government is to produce an annual statement of accounts for that development contribution area as soon as practicable after the audited annual statement of accounts becomes available.

(19) Shortfall or excess in cost contributions

- (a) If there is a shortfall in the total of cost contributions when all cost contributions have been made or accounted for in a particular development contribution area, the local government may—

- (i) make good the shortfall;
- (ii) enter into agreements with owners to fund the shortfall; or
- (iii) raise loans or borrow from a financial institution,

but nothing in paragraph 34(19)(a)(i) restricts the right or power of the local government to impose a differential rate to a specified development contribution area in that regard.

- (b) If there is an excess in funds available to the development contribution area when all cost contributions have been made or accounted for in a particular development contribution area, the local government is to refund the excess funds to contributing owners for that development contribution area. To the extent, if any, that it is not reasonably practicable to identify owners and/or their entitled amount of refund, any excess in funds shall be applied, to the provision of additional facilities or improvements in that development contribution area.

(20) Powers of the local government

The local government in implementing the development contribution plan has the power to—

- (a) acquire any land or buildings within the Scheme area under the provisions of the *Planning and Development Act 2005*; and
- (b) deal with or dispose of any land which it has acquired under the provisions of the *Planning and Development Act 2005* in accordance with the law and for such purpose may make such agreements with other owners as it considers fit.

(21) Arbitration

Subject to clauses 34(14)(c) and 34(14)(d), any dispute between an owner and the local government in connection with the cost contribution required to be made by an owner is to be resolved by arbitration in accordance with the *Commercial Arbitration Act 1985*.

- iii. Amending the Scheme Map to introduce a new sheet Development Contribution Area DCA 1—Community Infrastructure, as depicted on the Scheme Amendment Map.
- iv. Introducing a new Schedule 15—Development Contribution Area and inserting the following provisions for DCA 1—Community Infrastructure—within the Schedule;

Ref No:	DCA 1—Community Infrastructure
Area:	As depicted on the Scheme Map (Sheet 31)
Relationship to other planning instruments	The Development Contribution Plan generally conforms to the City of Busselton Strategic Plan 2010—2020, City of Busselton Leisure Services Plan and the City of Busselton Cultural Plan.

Ref No:	DCA 1—Community Infrastructure
Area:	As depicted on the Scheme Map (Sheet 31)
Infrastructure and administrative items to be funded	<p>District Facilities Busselton to Dunsborough Recreation Trail—Dual Use Path Dunsborough to Yallingup Recreation Trail—Dual Use Path Rails to Trails recreation trail Lower South West Learning and Information Facility Regional Gallery Facility upgrade to former Agriculture Bank Building Cultural/Performing Arts Centre Foreshore facilities (toilet block and car park) and Playgrounds Geographe Leisure Centre (group fitness centre) Environmental protection, management and implementation Dunsborough Sport and Recreation Zone including a 6.5 hectare playing field for district facilities Public Art Youth Centre District Community Centre (incorporated in new City Administration Centre) Boat Ramps New active playing fields and development of regional sporting headquarters for soccer and cricket</p> <p>Local Facilities (Busselton) Beachfront amenities—BBQs etc Foreshore Facilities (toilet block and car park) Playgrounds Lou Weston Oval (lighting, resurfacing etc) Sir Stewart Bovell Park (resurfacing, road improvements, additional playing fields)—local use</p> <p>Local Facilities (Dunsborough including Quindalup, Eagle Bay, Commonage and Yallingup) Dunsborough Hall kitchen upgrade Beachfront amenities—BBQs etc Playgrounds Foreshore facilities (toilet block and car park) Naturaliste Community and Cultural Centre (new gym facility) Redevelopment of playing fields Eagle Bay to Rocky Point Path</p> <p>Local Facilities (Broadwater) Foreshore facilities (toilet block and car park) Playgrounds Beachfront amenities BBQs etc Boat ramp Local community centre (in partnership with DCD)</p> <p>Local Facilities (Geographe) Playgrounds Beachfront amenities—BBQs etc Foreshore facilities (toilet block and car park) Sports playing field (NB: covered by Port Geographe DCP) Administrative costs including— Costs to prepare and administer the Contribution Plan during the period of operation (including legal expenses, valuation fees, cost of design and cost estimates, proportion of staff salaries, computer software or hardware required for the purpose of administering the plan). Cost to prepare and review estimates including the costs for appropriately qualified independent persons. Costs to prepare and update the Community Infrastructure Cost Contribution Schedule and ‘Cost Apportionment’ Schedule.</p>

Ref No:	DCA 1—Community Infrastructure
Area:	As depicted on the Scheme Map (Sheet 31)
Method for calculating cost contributions	<p>The City's Plan for the District identifies the needs that impact on the Development Contribution Plan. The cost contributions outlined in this plan have been derived based on the need for the facilities generated by the additional development in the Development Contribution Plan. This calculation excludes the—</p> <ul style="list-style-type: none"> • demand for a facility that is generated by the current population in existing dwellings; • land required for public roads, public open space, drainage and other uses not including residential development; • existing dwelling(s) on an existing lot. <p>A cost contribution liability arises only once and at the earliest stage of development in accordance with clause 34(15) and the following.</p> <p>Cost contributions shall be calculated on the number of new lots and/or accommodation units/dwelling units proposed, as follows—</p> <ul style="list-style-type: none"> • Where a subdivision is proposed, cost contributions will be sought on a per lot basis at the subdivision approval stage; or • Where residential dwellings/units and/or accommodation units are proposed without concurrent subdivision, cost contributions will be sought on a per dwelling/unit basis at the development approval stage; and • Where a lot may have further subdivision potential (for example, as a grouped dwelling site or conventional freehold subdivision), cost contributions will also be required at the next development stage where additional dwellings or lots are proposed; • Cost contributions applying to development of “Aged or dependent persons’ dwellings” or “Single bedroom dwellings” pursuant to the Residential Design Codes shall be calculated on the number of dwelling units permitted prior to the application of the variations permissible under clause 6.1.3.A3.1 of the Residential Design Codes. • A cost contribution rate of 50% of the full dwelling/lot rate will apply to lots/units used for the purpose of tourist accommodation and “Aged Persons’ Home” in any zone other than the Residential zone. <p>Notwithstanding the definition of ‘lot’ as contained in the Residential Design Codes, for the purposes of calculating cost contribution liability within DCA1, the term lot will be inclusive of green title, survey strata and built strata subdivisions.</p>
Period of operation	Until 30 June 2021. However the DCP may also be extended for further periods with or without modification by subsequent Scheme Amendments.
Priority and timing	In accordance with the City of Busselton Strategic Plan 2010-2020 and subsequent revisions of this document.
Review process	<p>The plan will be reviewed when considered appropriate, though not exceeding a period of five years duration, having regard to the rate of subsequent development in the catchment areas since the last review and the degree of development potential still existing.</p> <p>The estimated community infrastructure costs contained in the Community Infrastructure Cost Apportionment Schedule will be reviewed at least annually to reflect changes in funding and revenue sources and indexed based on the Building Cost Index or other appropriate index as approved by an appropriately qualified independent person.</p>
Participants and contributions	In accordance with the Scheme Map and the Community Infrastructure Cost Apportionment Schedule adopted by the local government for DCA 1.”

6. i. Amending Table 1 by modifying clause (i) to the Objectives of 'Business Zone' to read as follows—
 - (i) To provide for conveniently-located shopping and other service associated commercial activities to service each centre's catchment area, as determined by the relevant planning framework;
- ii. Amending Table 1 by adding clause (e) to the Policies of 'Business Zone' as follows—
 - (e) The consolidation of land to assemble larger land parcels suitable for integrated development or redevelopment is encouraged and supported. Fragmentation of land, unless it is part of an overall plan for integrated development or redevelopment will generally not be supported;
7. Amending clause 36(21) to read as follows—
 - (21) The Council and or the Planning Commission may require a heritage assessment to be carried out prior to the approval of any subdivision or development proposed in a heritage area or in respect of a heritage place listed on the Heritage List and may require a conservation plan to be prepared. The heritage assessment and conservation plan is to determine the extent of the cultural heritage significance of the place and how the place is to be conserved.
8. Deleting sub-clause 37(4).
9. Inserting a new sub-clause (d) into clause 57 to read as follows—
 - (d) In respect of sub-clauses (a) and (b) above, reference to a commercial vehicle or truck shall include any such vehicle exceeding 3.5 tonnes tare weight.
10. Amending clause 108 (1) to read as follows—

A Designated Bushfire Prone Area is an area designated as Bush Fire Prone on the Bush Fire Hazard Assessment maps. Dwelling construction within an identified area will be subject to the relevant bushfire prone area building requirements pursuant to the Building Code of Australia, Australian Standard 3959—2009 and otherwise as set out pursuant to the Scheme.
11. Amending Table 1 by modifying clause (1) to the policies of the 'Bushland Protection Zone' at sub clauses (1) (b), (c) and (d) by replacing the words '40 hectares' with the words '60 hectares' where they appear in each of these sub clauses.
12. i. Amending clause 85(12) to read as follows—
 - (12)(a) No dam or lake shall be developed unless Planning Consent has been granted.
 - (b) No dams or lakes shall be developed unless they are shown on a Development Guide Plan, or in circumstances where the proposed dam or lake—
 - (i) will not adversely affect environmental flows within the catchment or downstream of the dam;
 - (ii) will only capture sufficient water to be used for domestic requirements, and/or, for the irrigation of a domestic garden, or for the purposes of a water supply to an approved land-use on the site;
 - (iii) is an off stream dam;
 - (iv) does not exceed a capacity of 1500 cubic metres or comprises a surface area greater than 500 square metres whichever is the lesser; and
 - (v) will not significantly or unreasonably diminish the flow of water for use by downstream users including the environment.
- ii. Amending Schedule 1 Interpretations by including a new term and meaning as follows—

'Dam' means any man made structure or excavation designed and constructed to intercept, accumulate and impound water flowing across, through or under any land and includes an off-stream dam, an on-stream dam, a gully-wall dam, a turkey-nest dam, an excavated soak and any structure, excavation or other device designed to act either solely or partly as a nutrient stripping basin.
13. Deleting clause 81(6).
14. Renumbering clause 36 (23) to replace reference to sub clause (17) with reference to sub clause (22).
15. Amending clause 59 to read—

If no reticulated sewerage system is available, development in excess of a single house is not permitted unless—

 - (a) adequate and appropriate provision can be made for the on-site disposal of effluent, having particular regard to the comments or requirements specified by the Department of Health; or
 - (b) the development replaces an existing lawful development and the redevelopment does not represent an increase of more than 10% over and above the density of the existing development.
16. Deleting Clause 81(3) (and renumbering subsequent clauses and clause references accordingly).
17. Amending Schedule 7 Special Provisions by deleting Special Provision Area No. 11 (SP11, Portion of Lots 2 and 5 Bussell Highway and Lyddy Road, Yalyalup) and all associated special provisions in the schedule.