



Ordinary Council Meeting

Minutes

Wednesday 18 October 2023

MINUTES

Minutes of a meeting of the Busselton City Council held in the Council Chambers, Administration Building, Southern Drive, Busselton, on Wednesday 18 October 2023 at 5:30pm.

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1. OFFICIAL OPENING

The meeting opened at 5:30pm.

The Presiding Member welcomed Councillors, staff, guests and members of the public to the Ordinary Council Meeting of 18 October 2023.

The Presiding Member acknowledged the Wadandi and Bibbulmun people as the traditional custodians of this region and paid respects to Elders past and present.

This meeting was audio recorded for minute taking purposes and will be live streamed on the City of Busselton YouTube channel. This recording will be available for three months after the meeting date.

Pastor Joe Attwater from Dunsborough Church of Christ read a prayer as part of the opening of this meeting.

2. ATTENDANCE

PRESIDING MEMBER		MEMBERS	
Cr Grant Henley	Mayor	Cr Paul Carter	Deputy Mayor
		Cr Anne Ryan	
		Cr Jodie Richards	
		Cr Kate Cox	
		Cr Phill Cronin	
		Cr Sue Riccelli	
		Cr Mikayla Love	
		Cr Ross Paine	

OFFICERS	
Mr Tony Nottle	Chief Executive Officer
Mr Oliver Darby	Director, Infrastructure and Environment
Mr Paul Needham	Director, Community Planning
Ms Maxine Palmer	Director, Economic and Business Development
Ms Sarah Pierson	Director, Corporate Strategy and Performance
Ms Tegan Robertson	Governance and Risk Coordinator
Ms Jo Barrett-Lennard	Governance Officer

APOLOGIES	
Nil	

LEAVE OF ABSENCE	
Nil	

APPLICATION FOR LEAVE OF ABSENCE

Nil

MEDIA

Busselton - Dunsborough Times

PUBLIC

5

3. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

The Presiding Member acknowledged this was to be his last Council meeting upon retiring from Council at the 21 October 2023 Local Government elections. He noted that he has attended around 270 Council meetings in his tenure at the City of Busselton, and that he has been honoured to sit in a leadership position at the City for a decade, including eight years as Mayor. The Presiding Member thanked City staff, the community and Council colleagues for support and guidance during this time.

Cr Anne Ryan led the Councillors in a standing ovation to thank the Presiding Member.

Deputy Mayor Paul Carter thanked the Presiding Member of behalf of the Council and staff of the City, acknowledging his leadership, guidance and patience with Council, and wished him well in his next ventures.

4. DISCLOSURES OF INTEREST

DISCLOSURES OF FINANCIAL INTEREST

Nil

DISCLOSURES OF IMPARTIALITY INTEREST

The Presiding Member noted that a disclosure of impartiality interest has been received from Cr Phill Cronin in relation to item 10.2 'Policy and Legislation Committee - 13/09/2023 - Bushfire Brigades Local Law'.

The Presiding Member advised that, in accordance with regulation 22(2)(b) of the *Local Government (Model Code of Conduct) Regulations 2021*, this disclosure would be read out immediately before this item was discussed.

5. CONFIRMATION AND RECEIPT OF MINUTES

5.1. Ordinary Council Meeting 20 September 2023

COUNCIL DECISION

C2310/120 Moved Cr Phill Cronin, seconded Cr Anne Ryan

That the Minutes of the Ordinary Council Meeting 20 September 2023 be confirmed as a true and correct record.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

6. PUBLIC QUESTION TIME

6.1. RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

6.3. QUESTION TIME FOR PUBLIC

Mr Peter Kyle

Question

In relation to Item 14.1 on tonight's agenda, specifically officer recommendation 7c pertaining to the Dunsborough Reference Group, there is some suggestion that there will be changes to the ways in which Elected Member representation on the Dunsborough Reference Group operates. Is there any reason why the Group could not continue to operate without the disbandment of the Elected Member representative?

Response

Mr Tony Nottle, Chief Executive Officer

There is a proposed alternative that has been put forward tonight, which does suggest continuing working in partnership with the Dunsborough Reference Group. If this is the decision Council makes tonight, then the City will continue to engage with the Dunsborough Reference Group in the same capacity.

Question

In relation to Item 15.1 on tonight's agenda, specifically the response the City has received from the Chair of the Western Australian Planning Commission (WAPC), the response received displays an unwillingness to share information with local government. What are the City's planned next steps to address that response?

Response

Mayor Grant Henley

The City has undertaken some actions regarding the response received, and has sought further information.

Response

Mr Tony Nottle, Chief Executive Officer

The discussion that the City has had with the WAPC has communicated the responses received did not adequately address the questions put forward. The City will be seeking further response from the Chair of the WAPC, and in addition is working with the local member to seek a meeting with the Minister to outline the City's concerns. The City is also clarifying its position on some of the proposals in the Leeuwin Naturaliste Sub-regional Strategy, from there the recommendations and the approach from City Officers in regards to strategic planning matters are expected to continue.

Mr Keith Sims

Question

In relation to Item 10.4 on tonight's agenda, being the Policy Review - Portable Advertising Signs in Public Places, the Policy states that '*portable advertising signs are not to be mounted to a vehicle or trailer*'. In conjunction with this, the local *Parking Law 2020* states '*no parking of vehicles exposed for sale and in other circumstances if a trailer is unattached to a motor vehicle*'. Noting that Caves Road, the Busselton bypass and parts of Bussell Highway are under the jurisdiction of Main Roads, it is clear that candidate election signage on trailers have been parked illegally around the City.

Is it the candidates responsibility to investigate whether an unhitched trailer sign is allowable?

Response**Mr Tony Nottle, Chief Executive Officer**

This issue depends on location and jurisdiction. It has been made clear through this last election process a review of the City's policy on election signage may be required. In relation to specific trailers, it does depend on where the trailer is parked. As long as the trailer is not impeding public safety and is parked within the City's jurisdiction, the City can then address the matter on a case by case basis. Each candidate is responsible for their own signage, and they should be taking these elements into consideration.

Question

In today's local paper, it was reported that due to Saltwater there has been strain on the roads and recreation facilities, and that Saltwater is one of the main challenges for the incoming Council trying to strike a balance between amenities and financials. Does this mean that Saltwater is consuming so much money the City no longer has any borrowing power for other projects?

Response**Mayor Grant Henley**

The comments in the paper were referring to the City's Recreation Facilities Strategy which has been under review, and includes community consultation on community aspirations, needs and wants in regards to recreational facilities. The Recreational Facilities Strategy had been envisaged in the long term financial plan with a forward-looking \$40 million budget over 10 years. On review with cost escalations that figure has almost doubled. It should be noted this did not include big ticket items that some sections of the community have on their wish list.

7. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

7.1. PETITIONS

7.1.1. Petition - Bus Shelter Albert Street

Strategic Theme:	Key Theme 4: Leadership 4.1 Provide opportunities for the community to engage with Council and contribute to decision making.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Governance Officer - Jo Barrett-Lennard
Authorised By:	Chief Executive Officer - Tony Nottle
Nature Of Decision:	Advocacy: to advocate on its own behalf or on behalf of its community to another level of government/body/agency.
Voting Requirements:	Simple Majority
Disclosures Of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Petition - Albert St (Redacted) [7.1.1.1 - 4 pages]

COUNCIL DECISION

C2310/121 Moved Cr Anne Ryan, seconded Cr Mikayla Love

That the Council receive the petition and refer it to the CEO to prepare a report to Council.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

OFFICER RECOMMENDATION

That the Council receive the petition and refer it to the CEO to prepare a report to Council.

A Petition with 30 signatures (Attachment A) was received from the Petitioners on 4 October 2023 requesting as follows:

We, the undersigned, do respectfully request that the Council:

Install a Bus Shelter on Albert Street located on the left side of the road near number 41 [Albert Street].

It is required for the following reasons:

To provide a place to sit, protection from inclement weather and to give a feeling of safety and security especially for our elderly.

The requirements for a petition to be heard by Council is set out by Standing Order 6.89 of the *City of Busselton Standing Orders Local Law 2018*. The Petition meets all of the requirements.

Pursuant to Standing Order 6.9(3), the Council has the following options:

- (a) receive the petition;
- (b) reject the petition;
- (c) receive the petition and refer it to the CEO to prepare a report to Council / Committee;
- (d) receive the petition and refer it to the CEO for action.

It is recommended that the Petition be received by the Council and referred to the CEO for action.

7.2. PRESENTATIONS BY PARTIES WITH AN INTEREST

Mr Warwick Kindt spoke in relation to item 11.2 “Development Application – DA 20/0437.01 – Industry – Extractive – 157 Haag Road, Yelverton’. Mr Kindt was in support of the officer recommendation.

7.3. DEPUTATIONS

Nil

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

Nil

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

ADOPTION BY EXCEPTION RESOLUTION EN BLOC

COUNCIL DECISION

C2310/122 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Committee Recommendations for items 10.1, 10.3, 10.4, 10.5, 10.6, 10.9 and 10.10, and Officer Recommendations for items 11.1, 11.3, 11.4, 11.6, 12.1, 13.1, 14.2 and 15.1 be carried en bloc.

Item	Report
10.1	Audit and Risk Committee - 13/09/2023 - CEO Review of Systems and Procedures (REG 17) - Update on Recommendations
10.3	Policy and Legislation Committee - 13/09/2023 - Council Policy Review - Compliance and Enforcement Policy
10.4	Policy and Legislation Committee - 13/09/2023 - Council Policy Review - Portable Advertising Signs in Public Places
10.5	Policy and Legislation Committee - 13/09/2023 - Proposed Local Planning Policy: Identification of Complex Development Applications - Consideration for Final Adoption after Advertising
10.6	Policy and Legislation Committee - 13/09/2023 - Various Council Policy Reviews - Environment, Investment, Loan Facilities, Payment and Presentations on Termination, Misconduct, Fraud and Corruption
10.9	Finance Committee - 4 October 2023 - List of Payments Made
10.10	Finance Committee - 4 October 2023 - Financial Activity Statements
11.1	Proposed Amendment 57 To Local Planning Scheme No. 21 - Lots 1 (No 45A) and 2 (No 45B) Clydebank Avenue West Busselton
11.3	Application for Development Approval - DA23/0359 – Holiday Home (Single House) 8 People – Lot101 (18) Eagle Crescent, Eagle Bay
11.4	Bushfire Notice Review
11.6	Application for Development Approval – DA 23/0434 – Single House (Outbuilding) – Lot 6 (4) Wilson Avenue Quindalup
12.1	RFT 12/23 Jalbarragup Rd Shoulder Widening
13.1	Relinquish management over portion of Holgate Reserve 41550
14.2	Recognition of Nina Kennedy
15.1	Councillors Information Bulletin

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

That the Committee Recommendations for items 10.1, 10.3, 10.4, 10.5, 10.6, 10.9 and 10.10, and Officer Recommendations for items 11.1, 11.3, 11.4, 11.6, 12.1, 13.1, 14.2 and 15.1 be carried en bloc.

Item	Report
10.1	Audit and Risk Committee - 13/09/2023 - CEO Review of Systems and Procedures (REG 17) - Update on Recommendations
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10.5	Policy and Legislation Committee - 13/09/2023 - Proposed Local Planning Policy: Identification of Complex Development Applications - Consideration for Final Adoption after Advertising
10.6	Policy and Legislation Committee - 13/09/2023 - Various Council Policy Reviews - Environment, Investment, Loan Facilities, Payment and Presentations on Termination, Misconduct, Fraud and Corruption
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13.1	Relinquish management over portion of Holgate Reserve 41550
14.2	Recognition of Nina Kennedy
15.1	Councillors Information Bulletin

Items to be considered by separate resolution.

Item	Report	Reason
10.2	Policy and Legislation Committee - 13/09/2023 - Bush Fire Brigades Local Law	Absolute Majority Required Disclosure of Interest
10.7	Policy and Legislation Committee - 13/09/2023 - Statutory Review of Delegations of Authority	Absolute Majority Required
10.8	Finance Committee – 04/10/2023 – Budget Amendment – Reserve Closures	Absolute Majority Required
11.5	Surf Lifesaving Services 2023/24 Season	Absolute Majority Required
14.1	2023 Review of Committees, Working Groups and Terms of Reference	Absolute Majority Required

10. REPORTS OF COMMITTEE

10.1 CEO Review of Systems and Procedures (REG 17) - Status of Findings

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Finance and Corporate Services
Reporting Officer:	Director of Corporate Strategy and Performance – Sarah Pierson
Authorised By:	Director of Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Reg 17 Audit Recommendations Status September 23 [6.1.1 - 2 pages] 2. 2023 Reg 17 Report - City of Busselton [6.1.2 - 23 pages]

This item was considered by the Audit and Risk Committee at its meeting on 13 September 2023, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

COUNCIL DECISION

C2310/123 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council acknowledge the status update in relation to the recommendations of the Regulation 17 Review (as at the beginning of September 2023) and note that the next update will be provided to the Audit and Risk Committee post the conclusion of the December 2023 quarter.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

EN BLOC

OFFICER RECOMMENDATION

That the Council acknowledge the status update in relation to the recommendations of the Regulation 17 Review (as at the beginning of September 2023) and note that the next update will be provided to the Audit and Risk Committee post the conclusion of the December 2023 quarter.

EXECUTIVE SUMMARY

Regulation 17 of the *Local Government (Audit) Regulations* (the Audit Regulations) requires the Chief Executive Officer to review the appropriateness and effectiveness of a local government's systems and procedures in relation to risk management, internal control and legislative compliance. The City engaged AMD Chartered Accountants (AMD) to undertake this review on behalf of the CEO, with

findings and recommendations presented to the Audit and Risk Committee and then to Council on 21 June 2023. This report presents a status update in relation to the recommendations.

STRATEGIC CONTEXT

Having appropriate and effective systems and procedures in place in relation to risk management, internal control and legislative compliance provides for the good governance of the City and appropriate levels of risk and risk management activity.

BACKGROUND

In May 2023, the City engaged AMD Chartered Accountants (AMD), a leading local government audit, accounting and advisory firm in Western Australia, to undertake the Regulation 17 review on behalf of the CEO. Officers presented a report on the findings of that review to the Audit and Risk Committee on 7 June 2023 (endorsed by Council on 21 June 2023).

Council resolved (C23066/111)

That the Council

- 1. Accept the CEO's Regulation 17 review of the appropriateness and effectiveness of the City of Busselton systems and procedures in relation to risk management, internal control and legislative compliance; and*
- 2. Request that the Chief Executive Officer provide quarterly updates to the Audit and Risk Committee on the progress of the recommendations for improvement identified as part of the review.*

This report provides an update on the status of the recommendations (Attachment 1), with the Audit and Risk Committee also receiving an update on the status of findings from the 2022 OAG general computer controls audit.

OFFICER COMMENT

Of the twelve recommendations, one has been completed and the remainder are in progress. None are overdue for completion. As noted in the initial management comments, completion of several of the recommendations in full are subject to additional resourcing, with resourcing requirements in the process of being quantified and prioritised. The CEO has recently concluded an organisational review, with the results of that review in terms of structure in the process of being implemented.

Key to recommendations associated with risk management and internal audit is the alignment of risk with governance and legal and the appointment of a broadened Governance and Risk Coordinator position. On commencement of a new incumbent to that role, further assessment of the City's risk systems and processes and requirements to implement the recommendations will be undertaken.

Statutory Environment

Regulation 17 of the Audit Regulations requires the Chief Executive Officer to review the appropriateness and effectiveness of a local government's systems and procedures in relation to risk management, internal control and legislative compliance once every 3 financial years and report to the Audit Committee.

Relevant Plans and Policies

The City of Busselton Risk Management Policy was adopted by Council on May 2006. It has been reviewed on numerous occasions since then, the last time being 8 September 2021.

Plan:

Not applicable.

Policy:

[Risk Management](#)

Financial Implications

There are no financial implications associated with the officer recommendation. Progression of the recommendations in full, however, is likely to have financial implications, with additional resourcing required in order to improve overall coordination of risk management, and to implement an internal audit function. Additionally, if the City was to further centralise coordination of its procurement and contract management functions, additional resourcing may be required. Further information and proposals will be presented to the Audit and Risk Committee/Council as part of the proposed regular updates.

External Stakeholder Consultation

Not applicable.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level are identified, noting the report presents a status update.

Options

As an alternative to the proposed recommendation the Council could request the Chief Executive Officer provide additional information in relation to any of the recommendations.

CONCLUSION

This report provides at Attachment 1 a status update in relation to the recommendations of the City's most recent Regulation 17 Review.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Status Update Noted	On Council's resolution

10.2 Bush Fire Brigades Local Law

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Finance and Corporate Services
Reporting Officer:	Legal Officer - Briony McGinty
Authorised By:	Acting Director Finance and Corporate Services - Sarah Pierson
Nature of Decision:	Legislative: adoption of "legislative documents" such as local laws, local planning schemes and local planning policies.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Marked-up Bush Fire Brigades Local Law [6.1.1 - 24 pages] 2. Clean Bush Fire Brigades Local Law [6.1.2 - 24 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 13 September 2023, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

DISCLOSURE OF INTEREST	
Date	18/10/2023
Meeting	Ordinary Council
Name/ Position	Cr Phill Cronin
Item No./ Subject	10.2 Policy and Legislation Committee - 13/09/2023 - Bush Fire Brigades Local Law
Type of Interest	Impartiality Interest
Nature of Interest	I am a member of the Metricup Bushfire Brigade

COUNCIL DECISION

C2310/124 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council:

1. Resolves to make the *City of Busselton Bushfire Brigades Local Law 2023* in accordance with section 3.12(4) of the *Local Government Act 1995*.
2. Authorises the Chief Executive Officer to carry out the processes required to make the *City of Busselton Bushfire Brigades Local Law 2023* in accordance with section 3.12(5) and section 3.12(6) of the *Local Government Act 1995*.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

BY ABSOLUTE MAJORITY

OFFICER RECOMMENDATION

That the Council:

1. Resolves to make the *City of Busselton Bushfire Brigades Local Law 2023* in accordance with section 3.12(4) of the *Local Government Act 1995*.
2. Authorises the Chief Executive Officer to carry out the processes required to make the *City of Busselton Bushfire Brigades Local Law 2023* in accordance with section 3.12(5) and section 3.12(6) of the *Local Government Act 1995*.

EXECUTIVE SUMMARY

The Bush Fire Advisory Committee (BFAC) and City Officers have identified a need for a new local law relating to bush fire brigades. This is supported by recent advice from Department of Fire and Emergency Services (DFES) and Western Australian Local Government Association (WALGA) regarding the requirement to establish brigades pursuant to a local law.

Council resolved on 21 June 2023 to initiate the law-making process for the *City of Busselton Bush Fire Brigades Local Law 2023* (Proposed Local Law). The matter is now brought back before Council to enable consideration of the submissions made, and to determine whether to make the Proposed Local Law in accordance with section 3.12(4) of the *Local Government Act 1995* (the Act).

STRATEGIC CONTEXT

The provision of appropriate local laws in relation to bush fire brigades within the City supports good governance of the district, whilst also recognising key partnerships that facilitate a safe community.

BACKGROUND

The City has operated a number of bushfire brigades over many years. The management of those brigades has occurred through a variety of policies as well as requirements under the *Bush Fires Act 1954* (BF Act). At the BFAC meeting on 13 December 2022 a motion was passed to review these management policies. It was determined by officers upon review that a bush fire brigade local law could replace these policies.

In addition to this, local governments were contacted by both DFES and WALGA regarding the requirement to establish bushfire brigades pursuant to a local law. Separate advice from DFES and WALGA both confirmed that there are certain risks attached to bushfire brigades operating without being established under a local law. However, those risks are minimal in the short term provided a local government had appointed Bush Fire Control Officers (FCOs) in accordance with the BF Act; which the City does.

In addition, the City already has a local law relating to bush fire brigades. However, it was gazetted in 1968 and no longer fit for purpose.

To comply with the BF Act, City officers drafted a local law, based on the WALGA model template. This model is understood to be acceptable to the Joint Standing Committee on Delegated Legislation (JSC) (discussed further under Statutory Environment). In consultation with BFAC, officers have made changes to the model, to achieve a more contemporary local law, as well as ensuring consistency (where feasible) with existing brigade management practices and policies. Following further feedback from the Department of Local Government, Sport and Cultural Industries (DLGSCI) minor textual amendments have been made to the Proposed Local Law, which can be seen in Attachment A.

OFFICER COMMENT

The Proposed Local Law is based on the WALGA model and is consistent with those of many other local governments who have adopted a bush fire brigades local law.

The local law is divided into parts, described further below:

Part 2 – Establishment of Bush Fire Brigades

This part provides that a local government can create brigades. It then lists the positions to which a local government must appoint persons. Following the first AGM of a brigade, those positions are thereafter appointed by the brigade themselves. In a fire ground situation, the chain of command is also established through Part 2, Division 2. This part also incorporates the Rules (at the first Schedule) to be the Rules of each brigade. Existing brigades continue to operate as if they were established under the local law.

Part 3 – Organisation and maintenance of Bush Fire Brigades

The Chief Bush Fire Control Officer (Chief FCO) has primary managerial responsibility for organisation and maintenance of brigades. Brigades must hold annual general meetings and nominate brigade members to serve as the FCO at the Bush Fire Advisory Committee (BFAC). The BFAC then nominates a person for the position of FCO to the local government.

Part 4 – Types of Bush Fire Brigade Membership

The membership types reflect those currently operating within the City's brigades, with the exception of Honorary life member. This has been included within the Proposed Local Law to reflect a motion passed at the BFAC meeting of 13 December 2022 to amend the bush fire brigade management policies to incorporate this membership type.

Part 5 – Appointment Dismissal and Management of Members

Part 5 refers to the Rules (contained in the first Schedule) for dealing with brigade member management.

Part 6 - Equipment of Bush Fire Brigades

Part 6 provides for the making of policies, the provision of equipment and funding requests to the local government.

First Schedule – The Rules

The first schedule outlines the Rules under which the brigades are to operate. This is akin to the rules (or Constitution) of an incorporated association. City officers have spent time with BFAC members in different forums to ensure that the proposed model is fit for purpose for brigades, and in particular those that are currently incorporated. Under section 42A of the BF Act, a brigade may be incorporated or otherwise. The registration of some brigade groups as incorporated associations for purposes such as fundraising and community engagement, does not impact on the creation of the brigade by the local government for purposes under the BF Act.

Statutory Environment

Bush Fires Act 1954

Pursuant to section 41(1) of the BF Act, where a local government elects to establish a bushfire brigade, it must do so in accordance with local laws it has made for that purpose.

Section 62 of the BF Act provides a general power to make local laws relating to –

- (a) *the appointment, employment, payment, dismissal, and duties of bush fire control officers; and*
- (b) *the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and*
- (c) *any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by this Act.*

Local Government Act 1995

Section 3.5 of the Act provides Council with the head of power for making local laws, which stipulates:

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

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

- the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- the minutes of that Council meeting include the purpose and effect of the proposed local law.

The purpose and effect of the Proposed Local Law is as follows:

Purpose: To make provisions about the organisation, establishment, maintenance, and equipment of bush fire brigades.

Effect: Bush fire brigades are created in accordance with the *Bush Fires Act 1954*.

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

Parliamentary Scrutiny

Section 42 of the *Interpretation Act 1984* allows the WA State Parliament to disallow a local law, which is a mechanism to guard against the making of subsidiary legislation that is not authorised or contemplated by the empowering enactment, has an adverse effect on existing rights or ousts or modifies the rules of fairness. Parliament has appointed the JSC which is a committee of State

politicians from both houses of the Western Australian Parliament, to undertake an overseeing role on its behalf, which includes the power to scrutinise and recommend the disallowance of local laws to the Parliament. After gazettal, a copy of the local law will be sent to the JSC who will examine the local law and determine whether it complies with the abovementioned criteria.

Relevant Plans and Policies

There are a number of City policies relating to bush fire brigades. These policies will continue to operate in the short term. However, should the local law be adopted, these policies will be superseded and will be presented to Council for repeal.

Financial Implications

Costs associated with the advertising and gazettal of the local law will come from the legal budget. These costs are unlikely to exceed \$2,000. Making and implementing the local law should not have any other financial implications for the City.

External Stakeholder Consultation

The Proposed Local Law was advertised publicly in local newspapers, on the City's website, on social media and on public notice boards for a minimum of 6 weeks in accordance with the requirements under section 3.12(3)(a) of the Act.

In accordance with section 3.12(3)(b) of the Act a copy of the Proposed Local Law was forwarded for consideration and comment to the Minister for Local Government and the Minister for Emergency Services.

The DLGSCI responded on behalf of its Minister and made some minor editing suggestions which have been incorporated in the proposed draft before Council. DFES responded on behalf of its Minister

The consultation period did not result in any public submission being received, despite being advertised through a number of platforms including Facebook, City Connect and Your Say. It should be noted that prior to the public advertising City officers undertook extensive consultation with BFAC, as outlined in the prior report to Council. The version of the local law presented to Council was developed in collaboration with BFAC local law working group members.

The local law was again considered by the whole of BFAC at its meeting 13 June 2023 where updates as to its progress through the local-law-making process was provided.

Risk Assessment

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

Under the BF Act the City is required to adopt a bush fire brigades local law to ensure its brigades are properly established and brigade officers are properly appointed and empowered. The Officer Recommendation serves to mitigate the currently identified risk of bushfire brigades not being correctly established under the BF Act. Referring to the WALGA summary of advice, in the short term, the City has a local law (under which brigades are established) and also appoints FCOs pursuant to the BF Act; but the longer-term risks need addressing.

Section 3.16 of the Act requires that all local laws of local governments must be reviewed within an 8-year period after their commencement to determine if they should remain unchanged or be

repealed or amended. Since the Act came into force in 1996 there have been no amendments made to the City's existing local law relating to bushfire brigades.

There are a number of inconsistencies between the existing local law and the WALGA model and established brigade practices. Continuing to have management practices for brigades that conflict with the existing local law is a risk. As such officers consider it prudent to make a local law which is consistent with the WALGA model and in keeping with modern practices.

Options

As an alternative to the proposed recommendation the Council could choose to vary the provisions of the Proposed Local Law in any number of ways. However, for the reasons outlined in this report, the Proposed Local Law is the form of local law recommended. Further, if any changes are of a significant nature the local law would need to be re-advertised.

CONCLUSION

It is recommended that the Council makes the Proposed Local Law at Attachment B and authorises the CEO to carry out the actions required to give effect to that resolution.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Gazettal of Local Law	Within 1 month of adoption
Provision of required material to the JSC	Within 10 days of gazettal
Placement of Local Law on website	14 days after gazettal

10.3 Council Policy Review - Compliance and Enforcement Policy

Strategic Theme:	Key Theme 1: Environment 1.1 Ensure protection and enhancement of environmental values is a central consideration in land use planning Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Finance and Corporate Services
Reporting Officer:	Manager Legal and Property Services - Ben Whitehill
Authorised By:	Director of Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Compliance Policy [6.2.1 - 3 pages] 2. Ranger and Emergency Services - Approach to Regulatory Functions Policy [6.2.2 - 2 pages] 3. Proposed Compliance and Enforcement Policy [6.2.3 - 5 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 13 September 2023, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

COUNCIL DECISION

C2310/125 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council:

1. Rescind the following Council policies:
 - a. Compliance Policy (Attachment 1)
 - b. Ranger and Emergency Services – Approach to Regulatory Functions Policy (Attachment 2)
2. Adopt the Compliance and Enforcement Policy (Attachment 3).

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

EN BLOC

OFFICER RECOMMENDATION

That the Council:

1. Rescind the following Council policies:
 - a. Compliance Policy (Attachment 1)
 - b. Ranger and Emergency Services – Approach to Regulatory Functions Policy (Attachment 2)
2. Adopt the Compliance and Enforcement Policy (Attachment 3).

EXECUTIVE SUMMARY

Council's Compliance Policy was adopted in September 2018 and last amended in May 2020. Council's Ranger and Emergency Services – Approach to Regulatory Functions Policy was last amended in December 2018. This report recommends that both policies be rescinded and be replaced with the proposed Compliance and Enforcement Policy.

STRATEGIC CONTEXT

Council policies are an important part of the City's governance systems. They guide the direction of the organisation in line with the community vision and aspirations. The proposed Compliance and Enforcement Policy aligns with the City's strategic goal to deliver governance systems that facilitate open, ethical and transparent decision making,

BACKGROUND

The City has two policies relating to compliance and enforcement being the Compliance Policy and Ranger and Emergency Services – Approach to Regulatory Functions Policy. Both policies are due for review with the City's Policy Framework setting out an ongoing cycle of policy review, with policies to be reviewed at least once every 3 years.

OFFICER COMMENT

Officers have reviewed the Compliance Policy and Ranger and Emergency Services – Approach to Regulatory Functions Policy. After undertaking that review, it is proposed that both policies be rescinded and replaced with a new Compliance and Enforcement Policy (Attachment 3). This approach has been recommended to consolidate the themes contained in both existing policies, as well as to provide clearer and more structured guidance.

The new Compliance and Enforcement Policy sets out in broad terms (amongst other things):

1. The principles guiding the City's compliance and enforcement activities;
2. How the City determines its compliance priorities;
3. How the City monitors compliance and handles complaints;
4. The types of enforcement tools the City has its disposal and how it selects the appropriate tool; and
5. How the City publishes enforcement actions and outcomes.

It is envisaged that operational practices, work processes and guidelines will be developed by the relevant business units to assist with implementation of the Compliance and Enforcement Policy.

Statutory Environment

The enforcement of regulatory prohibitions is a necessary part of providing for 'good government' by maintaining acceptable standards of behaviour in the community.

Council is the governing body of a local government and is responsible under s 2.7 of the *Local Government Act 1995* for the performance of local government functions, including by determining the local government's policies.

Relevant Plans and Policies

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

Plan:

Not applicable.

Policy:

[Compliance](#)

[Ranger and Emergency Services – Approach to Regulatory Functions](#)

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could choose not to rescind the existing policies and not to adopt the Compliance and Enforcement Policy. Council could also seek amendments to the Compliance and Enforcement Policy.

CONCLUSION

It is recommended that Council rescind the Compliance Policy and Ranger and Emergency Services – Approach to Regulatory Functions Policy. It is also recommended that Council adopt the Compliance and Enforcement Policy at Attachment 3.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Update website to remove rescinded policies and include new policy	30 October 2023

10.4 Council Policy Review - Portable Advertising Signs in Public Places

Strategic Theme:	Key Theme 1: Environment 1.1 Ensure protection and enhancement of environmental values is a central consideration in land use planning Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Planning and Development Services
Reporting Officer:	Manager Regulatory Services - Rachel Runco
Authorised By:	Director Planning and Development Services - Paul Needham
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Council Policy Portable Advertising Signs [6.3.1 - 5 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 13 September 2023, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

COUNCIL DECISION

C2310/126 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council readopt the Portable Advertising Signs in Public Places Policy (Attachment 1).

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

EN BLOC

OFFICER RECOMMENDATION

That the Council readopt the Portable Advertising Signs in Public Places Policy (Attachment 1).

EXECUTIVE SUMMARY

Council Policy: Portable Advertising Signs in Public Places (the Policy) was adopted in May 2018 and last amended in March 2019. This report recommends that Council readopt this policy with no substantive amendments and noting that a further review will be undertaken to coincide with review of the City's Activities in Thoroughfares & Public Places & Trading Local Law 2015.

STRATEGIC CONTEXT

Council policies are an important part of the City's governance systems. They guide the direction of the organisation in line with the community vision and aspirations. The Portable Advertising Signs in Public Places Policy aligns with the City's strategic goal to deliver governance systems that facilitate open, ethical and transparent decision making,

BACKGROUND

The Council endorsed the Policy in its current format on 12 March 2019. The Policy was developed as a means of providing a regulatory framework for the design and placement of portable advertising signs within the City of Busselton. The policy, underpinned by the Activities in Thoroughfares and Public Places and Trading Local Law 2015 (the Local Law), is intended to provide clear direction to local business as to where they can display portable advertising signs, the types of signs requiring a permit, and the restrictions with regard to the number of signs and the times they may be displayed.

OFFICER COMMENT

The regulation of portable signs is governed by the Local Law which currently requires permits for the placement of certain signs, while other signs are exempt. The policy guides decision-making around the issue of permits for those signs requiring authorisation.

Officers have reviewed the Policy and consider it provides sufficient direction to the community as to the circumstances where portable advertising signage may be displayed within the district, along with clarity on where a permit may be required and the circumstances in which signs may be removed from public places (if displayed contrary to the Local law or this Policy).

The City is contemplating exempting certain signage from the requirement to obtain a permit under the Local Law. The Local Law is the next local law due for review under the City's local law review program. It is likely that an amended local law will be presented to Council for consideration towards the end of this year.

It is acknowledged that practical implementation and prioritisation of ensuring compliance with this policy has varied over the life of the policy, however without a policy there is no ability outside the broad controls within Part 3 of the Local Law to manage portable signage.

The only edit to the Policy is the layout of the Strategic Context section, to align it to the updated policy template.

Statutory Environment

Council is the governing body of a local government and is responsible under s 2.7(2)(b) of the *Local Government Act 1995* for the performance of local government functions, including by determining the local government's policies.

The enforcement of regulatory prohibitions is a necessary part of providing for 'good government' by maintaining acceptable standards of behaviour in the community.

Pursuant to clause 3.2 of the *Activities in Thoroughfares and Public Places and Trading Local Law 2015*:

- (1) *A person shall not without a permit, erect, place or maintain an advertising sign:*
 - a. *on or above a thoroughfare;*
 - b. *on a path;*
 - c. *over a path where the resulting vertical clearance between the sign and the path is less than 2.5 metres (s.45B of the Building Regulations 2012 requires a vertical clearance of 2.75 metres and supercedes this sub-clause of the Local Law);*
 - d. *in any location where the sign is likely to obstruct line of sight along a thoroughfare or cause danger to the person using the thoroughfare; or*
 - e. *on any natural feature including a rock or tree on a thoroughfare, or on any bridge or the structural approaches to a bridge;*
- (2) *Notwithstanding subclauses (1) and (2), a permit is not required in respect of a home open sign or a garage sale sign provided that:*
 - a. *the sign neither exceeds 500mm in height or 0.5m² in area;*
 - b. *the sign is placed or erected on a thoroughfare no more than half an hour prior to the garage sale or home open and is removed within half an hour of the close of the garage sale or home open; and*
 - c. *there is no more than one garage sale or home open sign at any road intersection and no more than six separate signs which delineate not more than two alternative routes to the home open or garage sale.*

Relevant Plans and Policies

There are no other relevant plans or policies relating to this matter.

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

Risk Assessment

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

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could choose not to readopt the Policy or to seek amendments to the Policy

CONCLUSION

It is recommended that Council readopt the Policy in its current format as it provides guidance and a clear framework for the management of portable advertising signs within the municipal area.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full as per the following table:

Milestone	Completion Date
Update policy framework	30 October 2023

10.5 **Proposed Local Planning Policy: Identification of Complex Development Applications - Consideration for Final Adoption after Advertising**

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Planning and Development Services
Reporting Officer:	Director Planning and Development Services - Paul Needham
Authorised By:	Director Planning and Development Services - Paul Needham
Nature of Decision:	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Proposed Policy [6.4.1 - 2 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 13 September 2023, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

COUNCIL DECISION

C2310/127 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council, pursuant to clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, proceeds with Local Planning Policy: Complex Development Applications (Attachment 1) without modification

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

EN BLOC

OFFICER RECOMMENDATION

That the Council, pursuant to clauses 3 and 4 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, proceeds with Local Planning Policy: Complex Development Applications (Attachment 1) without modification.

EXECUTIVE SUMMARY

The Council is asked to consider adopting for final approval a new local planning policy (Policy) that will identify, in addition to what is set out in State level regulation, the scope of development applications to be identified as “complex applications”. At the June 2023 ordinary meeting, the Policy was adopted as a draft for advertising. During the advertising period no submissions were received.

Complex applications must be advertised for public comment before being determined, and the breadth and duration of the advertising process is longer than is the case for non-complex

applications. The aim of the Policy is to ensure that applications that are likely to be of significant community interest and/or strategic importance would be subject of longer and broader advertising/consultation processes than would be the case in the absence of the policy.

STRATEGIC CONTEXT

Strategic Priority 4.2 of the *Strategic Community Plan 2021-2031* is that the City deliver governance systems that facilitate open, ethical and transparent decision making. It is considered the Policy, if finally adopted as recommended, would help ensure that the community is better able to contribute to consideration of strategically significant development applications, helping facilitate open decision making.

BACKGROUND

The Council is asked to consider adopting the Policy (as at Attachment 1) for final approval. Doing so would mean that, in addition to those set out in State level regulation, the scope of development applications to be identified as 'complex applications' would be expanded. State level regulation only identifies what are known as 'use-not-listed' applications as complex applications.

A use-not-listed is as set out in clause 3.4.2 of the *City of Busselton Local Planning Scheme No. 21* ('Scheme'), and arises where an application is;

"in respect of a use that is not specifically referred to in the zoning table and...cannot reasonably be determined as falling within a use class referred to in the zoning table".

Applications for uses-not-listed are quite unusual and very small in number, with perhaps the key example in the City of Busselton being display homes or display home villages.

State level regulation does, however, explicitly allow local governments to adopt local planning policies that identify other types or forms of applications as complex applications. That is set out in part (b) of the definition of complex application. That definition forms part of clause 1 ('terms used') of Schedule 2 (the 'Deemed Provisions') of the *Planning and Development (Local Planning Schemes) Regulations 2015* ('Regulations'). The Deemed Provisions are incorporated into all local government town planning schemes in Western Australia and, in the event of any conflict between the Deemed Provisions and a local government town planning scheme, the Deemed Provisions prevail.

Where an application is identified as a complex application, it must be advertised for a period of 28 days, and must be advertised by:

- (1) the publication of a notice on the City's website;
- (2) by giving notice to owners and occupiers of land in the vicinity of the site; and
- (3) by the placement of a sign on the site.

Where an application is not a complex application, if it needs to be advertised, it can only be advertised for a period of 14 days and does not need to be advertised through all three means. Note that non-complex applications can be advertised for longer periods, but only with the agreement of the applicant.

Both complex and other applications can also be advertised in other ways, such as through advertising in a newspaper, or through notices on social media. It should be noted that applications of a single residential nature, including outbuildings, that require discretion around matters such as setbacks, are usually only advertised through the sending of a notice to potentially affected neighbours, and are not advertised more broadly.

OFFICER COMMENT

As set out in the report considered by the Council in June 2023, it is considered that, where an application has the potential to be of significant community interest or strategic importance, an advertising period of greater than 14 days is appropriate – with the 28 day period for complex applications being seen as a more appropriate period. It is also considered appropriate that such applications are not only advertised through the sending of notices to the owners and occupiers of land in the vicinity. It is considered that such applications should be advertised more broadly, providing greater opportunity for others in the community to become aware of the application and make submissions.

The rationale for the Policy was set out in more detail in the report considered by the Council in June and, as no submissions were received during the advertising period, there is not seen to a need to further outline or reflect on that rationale or the details of the Policy at this time.

Statutory Environment

The officer recommendation supports the general function of a local government under the *Local Government Act 1995* to provide for the good government of persons in its district. The report considered by the Council in June 2023 also set out key, more specific statutory environment relevant to consideration of the Policy.

Relevant Plans and Policies

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

Plan:

Not applicable.

Policy:

[Community Engagement](#)

Financial Implications

There are no significant financial implications associated with the officer recommendation.

External Stakeholder Consultation

The Policy was advertised through the placement of a notice in the newspaper and the publication of information on the City's website. The open period for submissions was 28 days. No submissions were received. It should be noted that it had been intended that correspondence would be sent to key community stakeholder groups (e.g. PGLOA, DDPA) during the advertising period, but that did not occur. Rather than deferring consideration of the Policy at this time so that can occur, it is seen as preferable that the City engage with such groups after a final decision by the Council, and bring back a report to amend the Policy if significant issues are identified as a result of that engagement.

Risk Assessment

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could not adopt the Policy.

CONCLUSION

It is considered that the Policy, if adopted, will help ensure that applications that are likely to be of significant community interest and/or strategic importance would be subject of longer and broader advertising/consultation processes than would be the case in the absence of the policy. That is considered appropriate and, as such, it is recommended that the Council finally adopt the Policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Advertising of final adoption of Policy	15 October 2023

10.6 Various Council Policy Reviews - Environment, Investment, Loan Facilities, Payment and Presentations on Termination, Misconduct, Fraud and Corruption

Strategic Theme:	Key Theme 4: Leadership 4.4 Govern a professional organisation that is healthy, capable and engaged.
Directorate:	Finance and Corporate Services
Reporting Officer:	Director of Corporate Strategy and Performance - Sarah Pierson
Authorised By:	Director of Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Proposed Council Policy Environment Policy [6.5.1 - 2 pages] 2. Proposed Council Policy Investment [6.5.2 - 3 pages] 3. Proposed Council Policy Loan Facilities [6.5.3 - 3 pages] 4. Proposed Council Policy Payments and Presentat [6.5.4 - 3 pages] 5. Proposed Council Policy Misconduct Fraud and Corru [6.5.5 - 2 pages] 6. Council Policy Environment Policy track changes [6.5.6 - 2 pages] 7. Council Policy Investment track changes [6.5.7 - 3 pages] 8. Council Policy Loan Facilities track changes [6.5.8 - 3 pages] 9. Council Policy Payments and Presentations on Termination track changes [6.5.9 - 3 pages] 10. Council Policy Misconduct Fraud and Corruption track changes [6.5.10 - 2 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 13 September 2023, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

COUNCIL DECISION

C2310/128 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council adopts the following policies to replace the current council policies, with the policies having been reviewed as part of the City's ongoing policy review cycle:

1. Environment (Attachment 1)
2. Investment (Attachment 2)
3. Loan Facilities (Attachment 3)
4. Payment and Presentation on Termination (Attachment 4)
5. Misconduct, Fraud and Corruption (Attachment 5)

CARRIED 9 / 0

**FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox,
Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine**

AGAINST: Nil

EN BLOC

OFFICER RECOMMENDATION

That the Council adopts the following policies to replace the current council policies, with the policies having been reviewed as part of the City's ongoing policy review cycle:

1. Environment (Attachment 1)
2. Investment (Attachment 2)
3. Loan Facilities (Attachment 3)
4. Payment and Presentation on Termination (Attachment 4)
5. Misconduct, Fraud and Corruption (Attachment 5)

EXECUTIVE SUMMARY

This report presents five amended Council Policies (the Policies) (Attachments 1 to 5), each having been reviewed as part of the City's ongoing review of its Council policies. Officers recommend the Policies replace the current Council policies.

STRATEGIC CONTEXT

The regular review of Council policies ensures strategic guidance remains relevant and appropriate and aids in the good governance of the City.

BACKGROUND

It is the function of the Policy and Legislation Committee to consider new and review existing Council policies. The City's Policy Framework sets out an ongoing cycle of policy review, with policies to be reviewed every 3 years, with the aim of determining the ongoing strategic importance and applicability of the policy.

OFFICER COMMENT

The Policies have been reviewed and are considered of ongoing relevance and strategic importance. Minor changes have been made to the Policies to clarify their purpose and improve their readability, as well as update any terms and references used. The strategic context linkage has also been updated in the Investment and Loan Facilities policies.

In the Payment and Presentations on Termination policy and the Investment policy definitions considered unnecessary have been removed. Additionally in the Payment and Presentations on Termination policy reference to Senior Employees (as per 5.37 of the *Local Government Act 1995*) has been removed, with the City no longer designating any positions as Senior Employees. The scope has therefore been amended to exclude the Chief Executive Officer.

Track changes versions are provided at Attachments 6 to 10.

With respect to the Misconduct, Fraud and Corruption policy, it is noted that the City intends to develop a Misconduct, Fraud and Corruption Strategy / Plan over the course of the 2023/2024 financial year, as per the findings of the recently conducted Regulation 17 review. Development of supporting plans and strategies has not been prioritised to date given other work demands.

With respect to the Environment policy, the City (as per the recent Organisational Review) will be recruiting over the next few months a dedicated Manager, Parks and Environment. This position will undertake a review of the City's Environment Strategy and any supporting plans and strategies. It is recommended that, outside of the Environment Strategy, reference to other specific supporting documents are removed from the policy content and retained in related documentation only.

Statutory Environment

In accordance with section 2.7(2)(b) of the Local Government Act 1995 (the Act), it is the role of the Council to determine the local government policies. The Council does this on recommendation of a Committee it has established in accordance with section 5.8 of the Act.

Relevant Plans and Policies

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

Plan:

Not applicable.

Policy:

Not applicable, outside of the policies being reviewed.

The officer recommendation aligns to the City's Policy Framework. The framework sets out the intent of Council policies, as opposed to operational documents such as operational practices and work procedures.

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could decide not to adopt the Policies or require further amendments to be made.

CONCLUSION

The Policies have been reviewed as part of the City's ongoing review of its Council policies are recommended for approval, with minor edits and updates having been made.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Policies placed on Council website	30 October 2023

10.7 Annual Statutory Review of Delegated Authority

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Finance and Corporate Services
Reporting Officer:	Director of Corporate Strategy and Performance - Sarah Pierson
Authorised By:	Director of Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. City-of- Busselton- Register-of- Delegated- Authority- Council-to- CEO Draft Review [6.6.1 - 53 pages]

This item was considered by the Policy and Legislation Committee at its meeting on 13 September 2023, the recommendations of which have been included in this report.

Prior to the meeting, Cr Henley foreshadowed a motion that was different to the committee recommendation. In accordance with clause 10.18(7) of the City's *Standing Orders Local Law 2018*, the committee recommendation was considered first.

SUBSTANTIVE MOTION

C2310/129

That the Council adopts the City of Busselton Delegations of Authority as per Attachment A and as outlined in the table below:

DELEGATION	CHANGES
<i>Local Government Act 1995</i>	
DA 1 – 01 Issuing Notices	No change
DA1 – 02 Entry in an Emergency	No change
DA 1 – 03 Abandoned Vehicle Wreck	No change
DA 1 – 04 Confiscated or Uncollected Goods	No change
DA 1 – 05 Closure of Thoroughfares	No change

DA 1 – 07 Inviting, Rejecting and Accepting Tenders	No change
DA 1 – 08 Expression of Interest for Goods and Services	No change
DA 1 – 10 Panels of Pre-Qualified Suppliers	No change
DA 1 – 11 Amendments to the Consolidated Parking Scheme	Deleted
DA 1 – 12 Disposing of Property (Leases at the Busselton Margaret River Airport)	Functions expanded for completeness and clarity from s.3.58 to 3.58(2) and 3.58(3).
DA 1 – 13 Dispose of Sick or Injured Animals	No change
DA 1 – 14 Power to Defer, Grant Discounts, Waive or Write-Off Debts	No change
DA 1 – 15 Rates and Service Charges	No change
DA 1 – 16 Investment of Surplus Funds	No change
DA 1 – 19 Urgent Legal Representation	Function description added.
DA 1 – 20 Administer Local Laws	No change
DA 1 – 21 Acquisition of Property	Function expanded to better describe the function being delegated
DA 1 – 22A Disposition of Property: Other than by Lease	No change
DA 1 – 22B Disposition of Property: Leasing of Property	Title and conditions amended to remove reference to licence (unless issued in conjunction with a lease), reflecting that a licence is not a disposition of property. Additionally, terminology amended to better align with the Act.
DA1 – 22C Disposition of Residential Property by Lease	New delegation As approved by Council 16 August 2023 (C2308/79)

DA 1 – 23 Payments from Municipal Fund or Trust Fund	No change
DA 1 – 24 Affixing of the Common Seal	No change
DA 1 – 25 Complaints Officer – Code of Conduct	Express power or duty delegated refined to the relevant statutory power.
DA 1 - 26 Rate Exemptions	Function expanded to better describe the function being delegated.
<i>Building Act 2011</i>	
DA 2 – 01 Grant a Building Permit	Function expanded to better describe the function being delegated
DA 2 – 02 Demolition Permits	Function expanded to better describe the function being delegated
DA 2 – 03 Occupancy Permits and Building Approval Certificates	Function expanded to better describe the function being delegated
DA 2 – 04 Designate Employees as Authorised Persons	No change
DA 2 – 05 Building Orders	No change
DA 2 – 06 Inspection and Copies of Building Records	Function expanded to better describe the function being delegated
DA 2 – 07 Referrals and Issuing Certificates	Function expanded to better describe the function being delegated
DA 2 – 08 Private Pool Barriers – Alternative and Performance Solutions	Function expanded to better describe the function being delegated
DA 2 – 09 Smoke Alarms – Alternative Solutions	No change
DA 2 – 10 Appoint Approved Officer	New delegation To cover the appointment of an approved officer under r.70 of the Building Regulations 2012 for the purposes of sections 6(a) and (b) of the <i>Criminal Procedure Act 2004</i> .
<i>Bushfires Act 1954</i>	

DA 3 – 01 The Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954	No change
DA 3 – 02 Appointment of Bush Fire Control Officers	No change
DA 3 – 03 To Institute a Prosecution, or to Issue an Infringement	No change
DA 3 – 04 Variation of Prohibited and Restricted Burning Times	Functions expanded for completeness and clarity from s.17 and s.18 to s.17 (7) (8) and s.18 (5). Additional condition added referencing requirement to comply with requirements of s.18 (5B) when using powers under s.18 (5).
<i>Cat Act 2011</i>	
DA 4 – 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011	No change
<i>Dog Act 1976</i>	
DA 5 – 01 The Powers and Duties of the Local Government pursuant to the Dog Act 1976	No change
<i>Graffiti Vandalism Act 2016</i>	
DA 6 – 01 The Powers and Duties of a Local Government pursuant to the Graffiti Vandalism Act 2016	No change
<i>Planning and Development Act 2005</i>	
DA 7 – 01 Development Control	Updated to reflect Council decision 16 August 2023 (C2308/90)
DA 7 – 02 Unauthorised Development	No change
<i>Strata Titles Act 1985</i>	

DA 8 – 01 Certificate of Approval pursuant to the Strata Titles Act 1985	Deleted. No longer applicable.
Local Government Act 1995 - Delegations to Committees	
DA 11 – 01 Meelup Regional Park Management Committee	No change
DA 11 – 02 Audit and Risk Committee	No change
DA 11 – 03 Behaviour Complaints Committee	No change
LAPSED FOR WANT OF A MOVER	

The motion was lost and the foreshadowed alternative was moved and carried.

COUNCIL DECISION

C2310/130 Moved Cr Grant Henley, seconded Cr Phill Cronin

That the Council adopts the City of Busselton Delegations of Authority as per the Committee Recommendation, with the exception of delegation DA 7 – 01 Development Control which be amended as set out below:

Delete the current condition 2:

- 2. Applications in Special Character Areas requiring the exercise of discretion**
All applications for development approval affecting land within the Special Character Areas, as identified in schedule 4 of the Scheme, and which involve the exercise of discretion, must be brought to the Council for determination, unless the application has been approved under delegated authority.

Replace the current condition 2 with the following new condition:

- 2. Applications in Special Character Areas**
- All applications for development approval affecting land within the Special Character Areas, as identified in Schedule 4 of the Scheme, will be identified in a separate table within the summary of applications received and published on the City's website pursuant to Condition 7.*
 - Prior to determination of applications for development approval affecting land within the Special Character Areas, as identified in Schedule 4 of the Scheme, a summary of the application, outlining key areas of discretion and issues raised in any submissions received, shall be provided to Councillors, and a decision shall not be made to determine the application until at least seven full days has elapsed. This information shall generally be provided in the form of a weekly summary, including all relevant applications that have been assessed and which are considered ready for determination at the time the weekly summary is prepared.*
 - If a Councillor would like to be briefed on an application, they will contact the CEO or*

the CEO's nominee/s.

- d. Note, additionally officers shall pro-actively identify applications which may be of significant community interest, and bring those applications to the monthly development application briefing update required pursuant to Condition 7 and/or to the Council for determination.*
- e. Further note that, if and when Amendment 56 to Local Planning Scheme 21 is Gazetted, the Council shall review whether conditions related to the exercise of delegations in Special Character Areas are necessary (in particular, that reflects the fact that Amendment 56 proposes that discretion would be able to be exercised in relation to development controls specifically contained within Schedule 4).*

Note: The CEO may nominate the Director, Community Planning, or Manager, Planning Development as their nominee for the purpose of parts c above.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

OFFICER RECOMMENDATION

That the Council adopts the City of Busselton Delegations of Authority as per Attachment A and as outlined in the table below:

DELEGATION	CHANGES
Local Government Act 1995	
DA 1 – 01 Issuing Notices	No change
DA1 – 02 Entry in an Emergency	No change
DA 1 – 03 Abandoned Vehicle Wreck	No change
DA 1 – 04 Confiscated or Uncollected Goods	No change
DA 1 – 05 Closure of Thoroughfares	No change
DA 1 – 07 Inviting, Rejecting and Accepting Tenders	No change
DA 1 – 08 Expression of Interest for Goods and Services	No change

DELEGATION	CHANGES
DA 1 – 10 Panels of Pre-Qualified Suppliers	No change
DA 1 – 11 Amendments to the Consolidated Parking Scheme	Deleted
DA 1 – 12 Disposing of Property (Leases at the Busselton Margaret River Airport)	Functions expanded for completeness and clarity from s.3.58 to 3.58(2) and 3.58(3).
DA 1 – 13 Dispose of Sick or Injured Animals	No change
DA 1 – 14 Power to Defer, Grant Discounts, Waive or Write-Off Debts	No change
DA 1 – 15 Rates and Service Charges	No change
DA 1 – 16 Investment of Surplus Funds	No change
DA 1 – 19 Urgent Legal Representation	Function description added.
DA 1 – 20 Administer Local Laws	No change
DA 1 – 21 Acquisition of Property	Function expanded to better describe the function being delegated
DA 1 – 22A Disposition of Property: Other than by Lease	No change
DA 1 – 22B Disposition of Property: Leasing of Property	Title and conditions amended to remove reference to licence (unless issued in conjunction with a lease), reflecting that a licence is not a disposition of property. Additionally, terminology amended to better align with the Act.
DA1 – 22C Disposition of Residential Property by Lease	New delegation As approved by Council 16 August 2023 (C2308/79)
DA 1 – 23 Payments from Municipal Fund or Trust Fund	No change

DELEGATION	CHANGES
DA 1 – 24 Affixing of the Common Seal	No change
DA 1 – 25 Complaints Officer – Code of Conduct	Express power or duty delegated refined to the relevant statutory power.
DA 1 - 26 Rate Exemptions	Function expanded to better describe the function being delegated.
<i>Building Act 2011</i>	
DA 2 – 01 Grant a Building Permit	Function expanded to better describe the function being delegated
DA 2 – 02 Demolition Permits	Function expanded to better describe the function being delegated
DA 2 – 03 Occupancy Permits and Building Approval Certificates	Function expanded to better describe the function being delegated
DA 2 – 04 Designate Employees as Authorised Persons	No change
DA 2 – 05 Building Orders	No change
DA 2 – 06 Inspection and Copies of Building Records	Function expanded to better describe the function being delegated
DA 2 – 07 Referrals and Issuing Certificates	Function expanded to better describe the function being delegated
DA 2 – 08 Private Pool Barriers – Alternative and Performance Solutions	Function expanded to better describe the function being delegated
DA 2 – 09 Smoke Alarms – Alternative Solutions	No change
DA 2 – 10 Appoint Approved Officer	New delegation To cover the appointment of an approved officer under r.70 of the Building Regulations 2012 for the purposes of sections 6(a) and (b) of the <i>Criminal Procedure Act 2004</i> .

DELEGATION	CHANGES
<i>Bushfires Act 1954</i>	
DA 3 – 01 The Powers and Duties of the Local Government pursuant to the Bush Fires Act 1954	No change
DA 3 – 02 Appointment of Bush Fire Control Officers	No change
DA 3 – 03 To Institute a Prosecution, or to Issue an Infringement	No change
DA 3 – 04 Variation of Prohibited and Restricted Burning Times	Functions expanded for completeness and clarity from s.17 and s.18 to s.17 (7) (8) and s.18 (5). Additional condition added referencing requirement to comply with requirements of s.18 (5B) when using powers under s.18 (5).
<i>Cat Act 2011</i>	
DA 4 – 01 The Powers and Duties of the Local Government pursuant to the Cat Act 2011	No change
<i>Dog Act 1976</i>	
DA 5 – 01 The Powers and Duties of the Local Government pursuant to the Dog Act 1976	No change
<i>Graffiti Vandalism Act 2016</i>	
DA 6 – 01 The Powers and Duties of a Local Government pursuant to the Graffiti Vandalism Act 2016	No change

DELEGATION	CHANGES
<i>Planning and Development Act 2005</i>	
DA 7 – 01 Development Control	Updated to reflect Council decision 16 August 2023 (C2308/90)
DA 7 – 02 Unauthorised Development	No change
<i>Strata Titles Act 1985</i>	
DA 8 – 01 Certificate of Approval pursuant to the Strata Titles Act 1985	Deleted. No longer applicable.
<i>Local Government Act 1995</i> - Delegations to Committees	
DA 11 – 01 Meelup Regional Park Management Committee	No change
DA 11 – 02 Audit and Risk Committee	No change
DA 11 – 03 Behaviour Complaints Committee	No change

EXECUTIVE SUMMARY

The *Local Government Act 1995* (the Act) requires all delegations of authority to the CEO under the Act to be reviewed by the delegator at least once every financial year. Additionally, delegations made under the *Cat Act 2011* and the *Dog Act 1976* are required to be reviewed once every financial year. This review is to fulfil those requirements.

Delegations made under the *Planning and Development Act 2005*, *Building Act 2011* and the *Bushfire Act 1954* do not require an annual review, however, officers have reviewed the existing delegations. Delegations under the *Food Act 2008* and the *Public Health Act 2016* are not included in this review and will be reported separately.

STRATEGIC CONTEXT

Delegations of authority are an integral part of the City's governance functions, and are an effective and efficient means of carrying out the functions or discharging the duties of the local government, allowing Council to remain strategically focused.

BACKGROUND

Delegations of authority allow decisions of Council to be made (with or without conditions) by the Chief Executive Officer, who in turn can delegate to other staff where appropriate.

Section 5.46(2) of the Act requires all delegations by Council to the CEO to be reviewed at least once each financial year. The last review was undertaken and adopted by Council in December 2022 (C2212/315), on recommendation from the Policy and Legislation Committee. This was slightly later than in previous years, with the 2021 review adopted by Council in October 2021.

OFFICER COMMENT

This report details the outcomes of the 2023/2024 review and seeks Council's endorsement of the continuing, new and amended delegations of authority, with recommended changes to delegations outlined in the following table.

There are two delegations proposed for deletion and two new delegations, one already approved by Council. All other delegations are recommended to remain unchanged.

Local Government Act 1995	
DELEGATION	CHANGES
DA 1-25 Complaints Officer – Code of Conduct	Express power or duty delegated refined to the relevant statutory power, noting the Council resolution in relation to the initial delegation authorisation.
DA 1-26 Rate Exemptions	Function expanded to better describe the function being delegated.
DA 1-11 Amendments to the Consolidated Parking Scheme	Delegation Removed. The Joint Standing Committee on Delegated Legislation disallowed the previous clause 1.10 of the Parking Local Law that allowed the 'local government' to effectively amend the Consolidated Parking Scheme. The Local Law requires the Council to by resolution.
DA1-12 Disposing of Property (Leases at the BMRA)	Functions expanded for completeness and clarity from s.3.58 to 3.58(2) and 3.58(3).
DA1-19 Urgent Legal Representation	Function description added.
DA1-21 Acquisition of Property	Function expanded to better describe the function being delegated
DA1-22B Disposition of Property: Leasing of Property	Title and conditions amended to remove reference to licence (unless issued in conjunction with a lease), reflecting that a licence is not a disposition of property as it does not dispose of an interest. Additionally, the term property replaces land and buildings to align with the Act, and condition 3 and 4 have been amended to refer to the value and term of the 'disposition' as opposed to value and term of the 'lease or licence'.
DA1-22C Disposition of Residential Property by Lease	New delegation As approved by Council 16 August 2023 (C2308/79)

Building Act 2011	
DELEGATION	CHANGES
DA2-01 Grant a Building Permit	Section 18 function expanded to better describe the function being delegated
DA2-02 Demolition Permits	Section 18 function expanded to better describe the function being delegated
DA2-03 Occupancy Permits and Building Approval Certificates	Section 55 function expanded to better describe the function being delegated
DA2-06 Inspection and Copies of Building Records	Function expanded to better describe the function being delegated
DA2-07 Referrals and Issuing Certificates	Function expanded to better describe the function being delegated
DA2-08 Private Pool Barriers – Alternative and Performance Solutions	Function expanded to better describe the function being delegated
DA2-10 Appoint Approved Officer and Authorised Officers	New Delegation. Delegation to cover the appointment of an approved officer under r.70 of the Building Regulations 2012 for the purposes of sections 6(a) and (b) of the Criminal Procedure Act 2004. While the CEO has the power to authorise employees under s.9.10 and s.9.16 of the Local Government Act 1995 (a precedent to them being appointed under r.70 of the Building Regulations) advice from WALGA indicates it is safer to delegate the power under r.70 to the CEO to carry out the next step of the process under r.70.

Cat Act 2011	
DELEGATION	CHANGES
N/A	No Change

Dog Act 1976	
DELEGATION	CHANGES
N/A	No Change

<i>Bushfires Act 1954</i>	
DELEGATION	CHANGES
DA3-04 Variation of Prohibited and Restricted Burning Times	Functions expanded for completeness and clarity from s.17 and s.18 to s.17 (7) (8) and s.18 (5). Additional condition added referencing requirement to comply with requirements of s.18 (5B) when using powers under s.18 (5).

<i>Planning and Development Act 2005</i>	
DELEGATION	CHANGES
DA7-01 Development Control	Updated to reflect Council decision 16 August 2023 (C2308/90)

<i>Strata Titles Act 1985</i>	
DELEGATION	CHANGES
DA8-01 Certificate of Approval pursuant to the Strata Titles Act 1985	Delegation removed. An amendment to the Strata Titles Act in 2019/2020 deleted a previous section 25 – which this delegation originally referred to – which related to the WAPC providing Certificates of Commission. That function no longer exists. The current section 25 of the Strata Titles Act relates to the approval by the local government of leases creating temporary common property for a term exceeding the period prescribed by regulations. There is however no power of delegation for local governments under the Strata Titles Act, and therefore this delegation is not valid. It is also worth noting that this is not a power City officers have required exercising of.

Statutory Environment

Section 5.42 of the Act provides the Council with the ability to delegate powers and duties to its CEO. Some powers and duties cannot be delegated in accordance with Section 5.43 of the Act, such as matters that require an Absolute Majority decision of Council. Council has the right to impose conditions on any delegation it grants.

Section 5.16 of the Act provides the ability for powers and duties to be delegated to Committees.

Section 44 of the *Cat Act 2011* provides the power for the CEO to delegate the exercise of its functions and discharge of its duties to the CEO.

Section 10AA of the *Dog Act 1976* provides Council with the ability to delegate powers and duties to the CEO.

The *Local Government Act 1995*, the *Cat Act 2011* and the *Dog Act 1976* require the review of delegations at least once every financial year.

Relevant Plans and Policies

Policies have been referenced in the delegations where applicable.

Financial Implications

Not Applicable

External Stakeholder Consultation

Not Applicable.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council may choose:

1. Not to accept proposed amendments to the delegations; or
2. To request that further amendments are made to the delegations.

CONCLUSION

The annual statutory review has been completed and it is recommended that Council adopt the proposed, continuing and amended delegations as per the Officer Recommendation.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Milestone	Completion Date
The Delegation of Authority Register will be amended within 2 weeks of Council's adoption	31 October 2023

10.8 Budget Amendment - Reserve Closures

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making. 4.5 Responsibly manage ratepayer funds to provide for community needs now and in the future.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Manager Financial Services - Paul Sheridan
Authorised By:	Director of Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	Nil

This item was considered by the Finance Committee at its meeting on 4 October 2023, the recommendations from which have been included in this report.

The committee recommendation was moved and carried.

COUNCIL DECISION

C2310/131 Moved Cr Anne Ryan, seconded Cr Sue Riccelli

That the Council:

1. Closes the following reserves:

Reserve Name	Purpose of the Reserve
Commonage Precinct Infrastructure Road Reserve	To be utilised for the purpose of road infrastructure and road safety upgrades within the Commonage Contribution Area in accordance with the Commonage Contributions Area policy provisions.
Community Facilities - City District	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the District.
Community Facilities – Broadwater	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities – Busselton	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities – Dunsborough	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities - Dunsborough Lakes Estate	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities – Geographe	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities - Port Geographe	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities – Vasse	To hold development contributions received by the City for the provision of

Community Facilities - Airport North	new or upgraded community infrastructure within the Precinct as per the adopted contributions plan. To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Commonage Precinct Bushfire Facilities Reserve	For the purpose of the provision of fire protection facilities in accordance with the Commonage Contributions Area policy provisions.
Commonage Community Facilities Dunsborough Lakes South Reserve	For the purpose of the provision of future recreational facilities at Dunsborough Lakes South in accordance with the Dunsborough Lakes Developer Contributions Plan.
Commonage Community Facilities South Biddle Precinct Reserve	To be utilised for the provision of community facilities within the South Biddle Precinct in accordance with the Commonage Area Implementation Policy provisions.
Public Art Reserve	To hold development contributions received by the City for the commissioning, purchase and enhancement of public art works within the District.

2. Acknowledges that funds held in these reserves are also held in restricted fund accounts, with restrictions on use of the funds that mirror the reserve purposes listed at 1 above, and that the funds will continue to be held in restricted fund accounts.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

BY ABSOLUTER MAJORITY

OFFICER RECOMMENDATION

That the Council:

1. Closes the following reserves:

Reserve Name	Purpose of the Reserve
Commonage Precinct Infrastructure Road Reserve	To be utilised for the purpose of road infrastructure and road safety upgrades within the Commonage Contribution Area in accordance with the Commonage Contributions Area policy provisions.
Community Facilities - City District	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the District.
Community Facilities – Broadwater	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities – Busselton	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities – Dunsborough	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities - Dunsborough Lakes Estate	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities – Geographe	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities - Port Geographe	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.

Community Facilities – Vasse	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Community Facilities - Airport North	To hold development contributions received by the City for the provision of new or upgraded community infrastructure within the Precinct as per the adopted contributions plan.
Commonage Precinct Bushfire Facilities Reserve	For the purpose of the provision of fire protection facilities in accordance with the Commonage Contributions Area policy provisions.
Commonage Community Facilities Dunsborough Lakes South Reserve	For the purpose of the provision of future recreational facilities at Dunsborough Lakes South in accordance with the Dunsborough Lakes Developer Contributions Plan.
Commonage Community Facilities South Biddle Precinct Reserve	To be utilised for the provision of community facilities within the South Biddle Precinct in accordance with the Commonage Area Implementation Policy provisions.
Public Art Reserve	To hold development contributions received by the City for the commissioning, purchase and enhancement of public art works within the District.

2. Acknowledges that funds held in these reserves are also held in restricted fund accounts, with restrictions on use of the funds that mirror the reserve purposes listed at 1 above, and that the funds will continue to be held in restricted fund accounts.

EXECUTIVE SUMMARY

This report recommends that Council close a number of reserve accounts where funds are also held in restricted asset accounts. The practice of holding funds in reserve accounts was to aid in the transparency of reporting however it creates administrative inefficiencies and can give rise to misreporting and inaccurate budgeting risks.

It is also no longer necessary for transparency purposes, as details of all restricted funds are capable of being obtained and reported on, regardless of whether they are held in restricted fund liability accounts, or restricted fund reserve accounts.

STRATEGIC CONTEXT

Closing the reserves and removing the overlap of the recording of these funds in two places assists in on-going chart of accounts upgrade and systems improvements projects, as well as progression in the completion of the CEO KPI of Reserves Consolidation. This improves financial governance processes.

BACKGROUND

At present, CoB has a number of restricted assets for various developer contributions that are also recorded in reserve accounts.

Since 1st July 2019, this has not been a technically correct treatment per accounting standards AASB 15 & 1058 as being in reserves indicates that these funds have previously been recognised as revenue (and therefore in retained surplus), which they haven't – they are in liability accounts waiting to be recognised as revenue (when they are used).

CoB has been satisfying accounting standard compliance for audit purposes by having offsetting entries in a different part of the equity (retained surplus) section of the Statement of Financial Position (balance sheet). This negates or offsets the overlapping amount reported as being "in reserves".

Having dual recorded funds creates administrative inefficiencies (and risks of errors), by having to process what is effectively 6 sided entries every time one of these items needs to be adjusted (both from an actual and a budgeting perspective). It is also not necessary as having the cash set aside

and recorded in the restricted assets accounts already ensures the funds can only be used for their original intended purposes.

One of the next parts of the Chart of Accounts upgrade and systems improvement project involves the establishment of a system-based mechanism for recording, transacting and budgeting all the various prepaid grants and contributions – our restricted funds held in liability accounts – which heretofore were administered manually in spreadsheets, outside the core system. To do this however, we need to “uncouple” these restricted funds from the reserves that they were also recorded in.

OFFICER COMMENT

Research and investigation with various officers, particularly those in planning who have knowledge of the original planning policies and agreements with developers, has confirmed that there are no definitive requirements to create a reserve to house the funds. The requirements of these documents were simply to ensure that the funds were “set aside”, and only used for the intended purposes. Up until 2018, the funds were set aside in restricted assets.

In 2018 there was a desire for improved reporting structures that outlined the details of not only restricted reserve funds, but also the developer contributions held in restricted assets. Due to system limitations at the time, plus the technical ability to do so per accounting standards, it was deemed most efficient to transfer these funds to reserve accounts. It should be noted also that not all restricted asset funds were transferred to reserve accounts, which left a complicated mix of fund locations, and increased the administrative burden as fund balances and contribution scenarios grew with the community.

To ensure continued transparent reporting of all restricted funds reports can now be easily created that draw information from restricted funds held in reserves and from restricted funds held in liability accounts, to present a combined restricted funds schedule.

Statutory Environment

Local Government Act 1995, AASB 15, AASB 1058

Relevant Plans and Policies

Not applicable.

Financial Implications

There will be a nil impact on the budget by closure of these reserves as the funds will continue to be held in restricted assets.

External Stakeholder Consultation

Not Applicable

Risk Assessment

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could choose not to adopt the officers recommendations

CONCLUSION

Adoption of the recommendations will help to ensure accounting compliance, systems and administrative efficiency, progression towards completion of CEO KPI's, and minimisation of risks of reporting errors.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full in the month of adoption.

10.9 List of Payments Made - August 2023

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making. 4.5 Responsibly manage ratepayer funds to provide for community needs now and in the future.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Manager Financial Services - Paul Sheridan
Authorised By:	Director Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Noting: The item is simply for information purposes and noting.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. List of Payments for Council August 2023 [6.2.1 - 11 pages]

This item was considered by the Finance Committee at its meeting on 4 October 2023, the recommendations from which have been included in this report.

The committee recommendation was moved and carried.

COUNCIL DECISION

C2310/132 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council notes payment of voucher numbers for the month of August 2023 as follows:

CHEQUE PAYMENTS	119737 - 119770	92,483.40
ELECTRONIC FUNDS TRANSFER PAYMENTS	97225 - 97773	4,869,445.80
TRUST ACCOUNT PAYMENTS	EFT# TR000004 - TR000007	74,287.91
PAYROLL PAYMENTS	01.08.23 - 31.08.23	1,684,144.06
INTERNAL PAYMENT VOUCHERS	DD #5384 - 5421	246,302.37
TOTAL PAYMENTS		6,966,663.54

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

EN BLOC

OFFICER RECOMMENDATION

That the Council notes payment of voucher numbers for the month of August 2023 as follows:

CHEQUE PAYMENTS	119737 - 119770	92,483.40
ELECTRONIC FUNDS TRANSFER PAYMENTS	97225 - 97773	4,869,445.80
TRUST ACCOUNT PAYMENTS	EFT# TR000004 - TR000007	74,287.91
PAYROLL PAYMENTS	01.08.23 - 31.08.23	1,684,144.06
INTERNAL PAYMENT VOUCHERS	DD #5384 - 5421	246,302.37
TOTAL PAYMENTS		6,966,663.54

EXECUTIVE SUMMARY

This report provides details of payments made from the City's bank accounts for the month of August 2023 for noting by the Council and recording in the Council Minutes.

STRATEGIC CONTEXT

Provision of the list of payments, while a statutory requirement, also supports open and accountable governance.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* (the Regulations) requires that, when the Council has delegated authority to the CEO to make payments from the City's bank accounts, a list of payments made is prepared each month for presentation to, and noting by, the Council.

OFFICER COMMENT

In accordance with regular custom, the list of payments made for the month of August 2023 is presented for information.

Statutory Environment

Section 6.10 of the *Local Government Act 1995* and more specifically Regulation 13 of the Regulations refer to the requirement for a listing of payments made each month to be presented to the Council.

Relevant Plans and Policies

Not applicable.

Financial Implications

Not applicable.

External Stakeholder Consultation

Not applicable.

Risk Assessment

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

No risks of a medium or greater level have been identified.

Options

Not applicable.

CONCLUSION

The list of payments made for the month of August 2023 is presented for information.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not applicable.

10.10 Monthly Financial Report - Year to Date 31 August 2023

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making. 4.5 Responsibly manage ratepayer funds to provide for community needs now and in the future.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Manager Financial Services - Paul Sheridan
Authorised By:	Director Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Legislative: adoption of "legislative documents" such as local laws, local planning schemes and local planning policies. Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Monthly Financial Report - August 2023 [6.3.1 - 27 pages] 2. Investment Report - August 2023 [6.3.2 - 1 page] 3. Loan Schedule - August 2023 [6.3.3 - 1 page]

This item was considered by the Finance Committee at its meeting on 4 October 2023, the recommendations from which have been included in this report

The committee recommendation was moved and carried.

COUNCIL DECISION

C2310/133 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council receives the statutory monthly financial report for the period ending 31 August 2023, pursuant to Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996*.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

EN BLOC

OFFICER RECOMMENDATION

That the Council receives the statutory monthly financial report for the period ending 31 August 2023, pursuant to Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996*.

EXECUTIVE SUMMARY

Pursuant to Section 6.4 of the *Local Government Act 1995* (the Act) and Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996* (the Regulations), a local government is to prepare, on a monthly basis, a monthly financial report that reports on the City's Statement of Financial Activity, Statement of Financial Position, and its performance in relation to its adopted / amended budget.

This report has been compiled to fulfil the statutory reporting requirements of the Act and associated Regulations, whilst also providing the Council with an overview of the City's financial performance on a year to date basis, for the period ending 31 August 2023.

STRATEGIC CONTEXT

Provision of the monthly financial report, while a statutory requirement, also supports open and accountable governance.

BACKGROUND

The Regulations detail the form and manner in which the monthly financial report is to be presented to the Council, and is to include the following:

- Annual budget estimates;
- Budget estimates to the end of the month in which the statement relates;
- Actual amounts of revenue and expenditure to the end of the month in which the statement relates;
- Material variances between budget estimates and actual revenue/expenditure (including an explanation of any material variances);
- The net current assets at the end of the month to which the statement relates (including an explanation of the composition of the net current position); and
- Statement of Financial Position

Additionally, and pursuant to Regulation 34(5) of the Regulations, a local government is required to adopt a material variance reporting threshold in each financial year.

At its meeting on 26th July 2023, the Council adopted (C2305/57) the following material variance reporting thresholds for the 2023/24 financial year:

That pursuant to Regulation 34(5) of the Local Government (Financial Management) Regulations, the Council adopts a material variance reporting threshold with respect to financial activity statement reporting for the 2023/24 financial year as follows:

- *Variances equal to or greater than 10% of the year to date budget amount as detailed in the Income Statement by Nature and Type/Statement of Financial Activity report, however variances due to timing differences and/or seasonal adjustments are to be reported only if not to do so would present an incomplete picture of the financial performance for a particular period; and*
- *Reporting of variances only applies for amounts greater than \$50,000.*

OFFICER COMMENT

In order to fulfil statutory reporting requirements and to provide the Council with a synopsis of the City's overall financial performance on a year to date basis, the following financial reports are attached hereto (Attachment 1):

Statement of Financial Activity

This report provides details of the City's operating revenues and expenditures on a year to date basis, by nature (i.e. description). The report has been further extrapolated to include details of non-cash adjustments and capital revenues and expenditures, to identify the City's net current position; which reconciles with that reflected in the associated Net Current Position report.

Statement of Financial Position

A statement of financial position is a financial statement that summarises the reporting entities assets (what it owns), liabilities (what it owes), and equity (assets less liabilities) on a particular date.

Basis of Preparation Note (Note 1)

Explains the regulatory framework upon which the financial statements have been prepared.

Statement of Financial Activity Note (Note 2)

Explains the non-cash items that have been excluded from the calculation of the Net Current Position in the Statement of Financial Activity.

Explanation of Material Variances Note (Note 3)

Provides a breakdown by directorate and cost centre of each of the variances on the face of the Statement of Financial Activity that meet Councils adopted material variance threshold for 2023/24.

Net Current Position Summary Report

This report provides details of the composition of the net current asset position on a year to date basis, and reconciles with the net current position as per the Statement of Financial Activity.

Capital Acquisition & Construction Report

This report provides full year budget performance (by line item) in respect of the following capital expenditure activities:

- Land and Buildings
- Plant and Equipment
- Furniture and Equipment
- Infrastructure

This report outlines the actual and budgeted movement from the start of the financial year to date, that result in the balances listed in the Statement of Financial Position for Property, Plant & Equipment.

Reserve Movements Report

This report provides summary details of transfers to and from reserve funds, and associated interest earnings on reserve funds, on a full year basis.

Additional reports and/or charts can be provided as required to further supplement the information comprised within the statutory financial reports.

Net Current Position Chart

Tracks the net Current Position over the year in comparison to previous 4 years.

Comments on Financial Activity to 31st August 2023

The Statement of Financial Activity (FAS) for the year to date (YTD) shows an overall Net Current Position (NCP) of \$63M as opposed to the YTD budget of \$50.4M.

The following table summarises the major YTD variances that appear on the face of the FAS, which, in accordance with Council's adopted material variance reporting threshold, collectively make up the above difference. Each numbered item in this lead table is explained further in note 3 of the attached Monthly Financial Report.

Description	2023/24 Actual YTD \$	2023/24 Budget YTD \$	2023/24 Budget \$	2023/24 YTD Bud Variance %	2023/24 YTD Bud Variance \$	Change in Variance Current Month \$
Amount Attributable to Operating Activities				13.23%	7,819,375	5,883,597
Revenue from Operating Activities				2.67%	1,885,028	1,324,723
1. Operating Grants, Subsidies and Contributions	904,924	267,711	5,325,685	238.02%	637,213	478,092
2. Interest Earnings	952,739	693,771	4,305,492	37.33%	258,968	182,035
Expenses from Operating Activities				18.24%	2,907,391	1,725,853
3. Materials & Contracts	(2,075,936)	(4,665,757)	(29,072,925)	55.51%	2,589,821	1,174,205
4. Other Expenditure	133,499	(539,071)	(6,823,844)	124.76%	672,570	616,462
Amount Attributable to Investing Activities				72.94%	8,237,928	3,988,500
5. Land & Buildings	(1,751,632)	(8,210,373)	(29,976,325)	78.67%	6,458,741	4,168,408
6. Plant & Equipment	(151,697)	(365,686)	(6,078,421)	58.52%	213,989	192,216
7. Furniture & Equipment	(20,992)	(311,257)	(1,510,209)	93.26%	290,264	115,955
8. Infrastructure	(1,349,327)	(2,531,032)	(21,896,530)	(865.12%)	1,181,704	(394,579)
9. Proceeds from Sale of Assets	187,530	98,300	863,800	90.77%	89,230	(97,500)

Description	2023/24 Actual YTD \$	2023/24 Budget YTD \$	2023/24 Budget \$	2023/24 YTD Bud Variance %	2023/24 YTD Bud Variance \$	Change in Variance Current Month \$
Amount Attributable to Financing Activities				(505.64%)	(3,417,075)	(6,616,892)
10. Transfer to Restricted Assets	(3,761,429)	0	(11,180)	(100.00%)	(3,761,429)	(3,024,515)
11. Transfer from Restricted Assets	1,442,574	3,427,180	20,563,074	(57.91%)	(1,984,606)	(676,572)

Investment Report

Pursuant to the Council's Investment Policy, a report is to be provided to the Council on a monthly basis, detailing the investment portfolio in terms of performance and counterparty percentage exposure of total portfolio. The report is also to provide details of investment income earned against budget, whilst confirming compliance of the portfolio with legislative and policy limits.

As at 31st August 2023 the value of the City's invested funds increased to \$116M from \$108M as at 31st July 2023. The increase is a result of grants & rates received.

As at 31st August 2023 the 11am account balance is \$19.7M, being an increase of \$7M from 31st July 2023. The increase of \$7M to the 11am account is due to funds received from grants and rates.

During the month of August three term deposits totalling the amount of \$8M matured. These were re-invested for a further 223 days at 5% on average.

The official cash rate stayed steady during the month of August 2023 at 4.10%. Further movement in the cash rate is currently uncertain.

Borrowings Update

During the month no new loans were drawn, and no loan repayments were made on existing loans. The attached Loan Schedule outlines the status of all existing loans YTD.

Chief Executive Officer – Corporate Credit Card

Details of transactions made on the Chief Executive Officer's corporate credit card during August 2023 are provided below to ensure there is appropriate oversight and awareness.

Date	Payee	Description	\$ Amount
3/04/2023	WEST AUSTRALIAN	DIGITAL SUBSCRIPTION-PR	28.00
4/08/2023	BURGER BONES	LUNCH FOR INTERVIEW PANEL-DIRECTOR ROLES	68.68
4/08/2023	CALLOWS CORNER NEWS	THANK YOU CARD FOR PANEL-DIRECTOR ROLES	2.99
4/08/2023	THE GOOSE BEACH BAR	DINNER GIFT CARD FOR INTERVIEW PANEL- DIRECTOR ROLES	100.00
4/08/2023	TIM WHITTY KITCHEN	COFFEE FOR INTERVIEW PANEL-DIRECTOR ROLES	14.50

Date	Payee	Description	\$ Amount
7/08/2023	LOCAL GOVERNMENT PROFESSIONALS WA	REGISTRATION FOR ESP NETWORK SEMINAR-C.LOMBARD	50.00
10/08/2023	DEPT OF RACING GAMING AND LIQUOR	OCCASIONAL LIQUOR LICENCE - BUSH FIRE BRIGADE AWARDS	57.00
24/08/2023	ALEX HOTEL PERTH	CEO ACCOMMODATION -RCAWA MEETING-24/08/23	288.00
25/08/2023	CPP ROE STREET NORTHBRIDGE	PARKING -RCAWA MEETING	22.21
24/08/2023	UBER	TRANSPORT BETWEEN HOTEL AND RCAWA DINNER 24/08/23	8.86
24/08/2023	UBER *TRIP	TRANSPORT BETWEEN HOTEL AND RCAWA DINNER 24/08/23- CANCELLATION FEE	10.00
30/08/2023	BAKED BUSSELTON	CATERING- AIRPORT FAMIL WITH AIRPORT CONSULTANT	57.20
31/08/2023	MAILCHIMP	ELECTRONIC NEWSLETTER PR	385.30
		TOTAL	1,092.74

Donations & Contributions Received

During the month no non-infrastructure asset (bridges, roads, POS etc), donations or contributions were received.

Statutory Environment

Section 6.4 of the Act and Regulation 34 of the Regulations detail the form and manner in which a local government is to prepare financial activity statements.

Relevant Plans and Policies

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

Plan:

Annual Adopted Budget 2022-2023

[Strategic Community Plan 2021-2031](#)

[Corporate Business Plan 2022-2026](#)

[Long Term Financial Plan 2022/23 - 2031/32](#)

Policy:

There are no relevant policies for this report.

Financial Implications

Any financial implications are detailed within the context of this report.

External Stakeholder Consultation

Not applicable.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

The Statements of Financial Activity are presented in accordance with Section 6.4 of the Act and Regulation 34 of the Regulations and are to be received by Council. Council may wish to make additional resolutions as a result of having received these reports.

CONCLUSION

As at 31st August 2023, the City's net current position stands at \$63M, and cash reserve balances remain sufficient for their purposes.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Not Applicable.

11. COMMUNITY PLANNING REPORTS

11.1. Proposed Amendment 57 To Local Planning Scheme No. 21 - Lots 1 (No 45A) and 2 (No 45B) Clydebank Avenue West Busselton

Strategic Theme:	Key Theme 2: Lifestyle 2.8 Plan for and facilitate the development of neighbourhoods that are functional, green and provide for diverse and affordable housing choices.
Directorate:	Community Planning
Reporting Officer:	Strategic Planner – Justin Biggar
Authorised By:	Director Community Planning - Paul Needham
Nature of Decision:	Legislative: adoption of “legislative documents” such as local laws, local planning schemes and local planning policies.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> Attachment 1 - Location Plan [11.1.1 - 1 page] Attachment 2 - Scheme Amendment Map [11.1.2 - 1 page] Attachment 3 - Bushfire Management Plan [11.1.3 - 45 pages] Attachment 4 - Schedule of Submissions [11.1.4 - 19 pages] Attachment 5 - Schedule of Modifications [11.1.5 - 2 pages]

The officer recommendation was moved and carried.

COUNCIL DECISION

C2310/134 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council:

- In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, (the Regulations) adopts Amendment 57 to the City of Busselton Local Planning Scheme 21 for final approval, in accordance with the modifications proposed in the ‘Schedule of Modifications’ shown at Attachment 5, for the purposes of:
 - Amending the zoning of Lot 1 (No 45A) Clydebank Avenue, West Busselton from ‘Local Centre’ to ‘Reserve for Public Purposes’ (Water Authority); and
 - Amending the zoning of Lot 2 (No 45B) Clydebank Avenue, West Busselton from ‘Local Centre’ to ‘Residential’ (R30).
- Advise the Western Australian Planning Commission (WAPC) that Amendment 57 is considered a standard amendment pursuant to the Regulations for the following reasons:
 - An amendment that is consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Commission.
- Pursuant to r. 53 of the Regulations, endorses the Schedule of Submissions at Attachment 4 which has been prepared in response to the public consultation process
- Upon preparation of the necessary documentation, refers Amendment 57 to the WAPC for consideration and determination in accordance with the *Planning and Development Act*

2005.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

EN BLOC

OFFICER RECOMMENDATION

That the Council:

1. In pursuance of the *Planning and Development (Local Planning Schemes) Regulations 2015*, (the Regulations) adopts Amendment 57 to the City of Busselton Local Planning Scheme 21 for final approval, in accordance with the modifications proposed in the 'Schedule of Modifications' shown at Attachment 5, for the purposes of:
 - (a) Amending the zoning of Lot 1 (No 45A) Clydebank Avenue, West Busselton from 'Local Centre' to 'Reserve for Public Purposes' (Water Authority); and
 - (b) Amending the zoning of Lot 2 (No 45B) Clydebank Avenue, West Busselton from 'Local Centre' to 'Residential' (R30).
2. Advise the Western Australian Planning Commission (WAPC) that Amendment 57 is considered a standard amendment pursuant to the Regulations for the following reasons:
 - (a) An amendment that is consistent with a Local Planning Strategy for the Scheme that has been endorsed by the Commission.
3. Pursuant to r. 53 of the Regulations, endorses the Schedule of Submissions at Attachment 4 which has been prepared in response to the public consultation process
4. Upon preparation of the necessary documentation, refers Amendment 57 to the WAPC for consideration and determination in accordance with the *Planning and Development Act 2005*.

EXECUTIVE SUMMARY

The Council is requested to adopt Scheme Amendment 57 for Lots 1 (No 45A) and 2 (No 45B) Clydebank Avenue for the rezoning of the subject lots from 'Local Centre' to 'Reserve for Public Purposes' (Water Authority) and 'Residential' (R30), respectively. The Amendment is intended to both support the development of the southern lot for residential purposes as recommended by the Local Planning Strategy (2019) and secure the ongoing use of the northern lot for Water Corporation purposes.

STRATEGIC CONTEXT

Adoption of the proposed amendment aligns with Strategic Theme 2.8 and will assist in delivering additional housing stock while balancing the need for positive environmental outcomes.

BACKGROUND

Lots 1 and 2 Clydebank Avenue are located approximately 4km south of the Busselton City Centre, adjacent to Geographe Primary School with a total area of 7350sqm. Both lots are flat and vegetated

with numerous mature peppermint trees and sparse grass understory. The lots are abutted to the south and east by R20 and R30 density residential development and to the north-west by a Water Corporation sewage pumping station. A vegetated drainage reserve and footpath extends the length of the western boundary of both lots. A location plan and scheme amendment map are provided at Attachments 1 and 2 respectively.

As an advice note to the approved subdivision in September 2020, the Western Australian Planning Commission (WAPC) recommended a scheme amendment to regularise the reservation of the Water Corporation owned lot and a Residential zoning for Lot 2 with appropriate consideration of bushfire protection and buffer requirements from the sewage pumping station on the adjoining Water Corporation managed land parcel.

Following consideration of the WAPC advice, the applicant subsequently lodged a scheme amendment for consideration by the City in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The ownership of Lot 1 by Water Corporation and the various development constraints on Lot 2 mean the land parcel is unlikely to be developed for commercial purposes and is more appropriately zoned as proposed. Accordingly, the amendment is recommended to be adopted and forwarded to the Western Australian Planning Commission (WAPC) for final endorsement and gazettal.

OFFICER COMMENT

Scheme Amendment 57 proposes the rezoning of the 'Local Centre' to 'Reserve for Public Purposes' (Water Authority) and 'Residential' (R30), respectively, to both protect the use of Lot 1 for Water Corporation purposes and enable the development of Lot 2 for residential uses. Detailed comments on the proposal and assessment against the relevant elements of the planning framework are provided below.

In considerations of submissions received during the advertising period raised on matters of bushfire protection and vegetation retention, it is considered appropriate to further modify the amendment to include the requirement for a Local Development Plan (LDP) which will allow for matters raised to be dealt with through one coordinated statutory process rather than on a lot by lot basis through development applications. An LDP will also achieve a site responsive design that minimises vegetation removal and implements the requirements set out under a bushfire management plan.

Viability of Local Centre

A consequence of the proposed rezoning if approved will be the loss of commercially zoned land in the west Busselton/Peppermint Park locality. As per the objectives of the Scheme, 'Local Centres' are intended to service the surrounding neighbourhood and to provide for activation of the street and public spaces. The Local Planning Strategy (2019) (LPS) identifies the site as a 'Local Centre' which is planned but undeveloped and supports an alternate zoning as 'Residential.'

This recommendation was informed by the findings of the Local Commercial Planning Strategy (2011) (LCPS) which identified the Clydebank 'Local Centre' catchment as being potentially insufficient to support a viable commercial centre with a significant portion of the catchment being taken up by 'Recreation Reserve' and 'Public Purposes Reserve' (Drain). The lack of passing vehicle trade was also a detrimental factor restricting commercial development of the site.

While the LCPS considered the future development of Ambergate would potentially assist in generating sufficient demand, the subsequently approved Ambergate Development Guide Plan (2012), includes a significant portion of commercial zoned land to service the new development, with a 'Centre' and 'Local Centre' which are planned to deliver 16,000m² of retail floor space. In the short term it is also considered that the West Busselton 'Local Centre' and Busselton 'City Centre' provide adequate service to the surrounding catchment.

Further, as Lot 1 is restricted to use for Water Corporation purposes only, Lot 2 would be the remaining lot available for commercial use. The location of Lot 2 approximately 60 metres from the Clydebank street frontage would result in a commercial development that does not satisfy key location and design parameters for 'Local Centres' as per Element 7 of Liveable Neighbourhoods which include:

- Located on the intersection of relatively busy streets with good through traffic levels (5000 to 10,000 vehicles per day) and not hidden away in residential cells; and
- Prominent and attractive building located on the street frontage.

A combination of insufficient catchment area, lack of passing vehicle trade and lot layout constraints has resulted in a commercially unviable 'Local Centre' and as such rezoning to Residential is considered a suitable outcome.

Bushfire risk

The subject land is identified as 'bushfire prone' on the 'Map of Bushfire Prone Areas' developed by the Office of Bushfire Risk Management (OBRM) and as such bushfire protection requirements apply. In accordance with 'State Planning Policy 3.7' (SPP 3.7) and the supporting 'Guidelines for Planning in Bushfire Prone Areas,' the applicant has provided a Bushfire Management Plan (BMP) in support of the application which is provided at Attachment 3.

Comments were sought from the Department of Fire and Emergency Services (DFES) during the advertising period, with DFES advising a number of changes were required to the document, which were subsequently addressed by the applicant. Full details of the DFES submission are contained in the Schedule of Submissions at Attachment 4.

Modifications are recommended to inform a final BMP to demonstrate the proposal can achieve a building footprint area to both accommodate grouped dwellings at the R30 density and provide adequate distance from the neighbouring bushfire threat. To do so, refinement to the building exclusion area is required which will prevent the construction of habitable buildings in proximity to the bushfire threat. Further to the above, a Method 2 calculation is proposed which prescribes a horizontal flame length. The recommended scheme provision to require a LDP will allow for adequate protection to be implemented through a building exclusion area.

Vegetation protection

Both lots are vegetated with mature peppermint trees and grass/weed understorey. As required by the Regulations, the proposal was referred to the Environmental Protection Authority (EPA) for assessment against the *Environmental Protection Act 1986* (EP Act). The EPA advised the proposal was ‘unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the (EP) Act.’ However, they did note environmental factors relevant to the proposal, being the presence of *Agonis flexuosa* (peppermint trees) on site, which provides habitat for the critically endangered Western Ringtail Possum (WRP).

The EPA recommended that at subsequent planning stages (subdivision and/or development), the relevant authority take into consideration the protection of flora and fauna through the application of relevant controls available through the existing planning framework. For example, subdivision provides the ability to require Fauna Management Plans, Tree Protection Plans and/or LDP’s to identify and protect flora/fauna prior to subdivision works occurring.

Comments were also received from the Department of Biodiversity, Conservation and Attractions (DBCA) noting the presence of *Agonis flexuosa* and the lots being located within a WRP Primary Corridor as outlined in Policy Statement 3.10, *Significant impact guidelines for the vulnerable western ringtail possum (Pseudocheirus occidentalis) in the southern Swan Coastal Plain, WA*. The DBCA has recommended the proposed density be reduced to R20 and construction be limited to a single house to best preserve the existing tree canopy on site. Full details of both agencies submissions are contained in the Schedule of Submissions at Attachment 4. A modification to include the requirement for a LDP within LPS 21 is included in the Schedule of Modifications, which will allow for the protection of vegetation through the provision of building envelopes.

Residential density

The amendment proposes a R30 density for the Residential zoned portion. Having regard to the current R20/R30 densities within the immediate locality, the density is considered appropriate and will result in a built form consistent in scale with the existing grouped dwelling and single house typology in the area.

It is acknowledged the policy settings of State Planning Policy 7.3 - Residential Design Codes (R-Codes) can result in a medium density grouped dwelling outcome typified by vegetation removal and limited open space/outdoor living area. This is considered to be further exacerbated by increasing code above R30 to R40, considering lots sizes would be possible at 180m² and in addition an R40 code could allow for multiple dwelling development (limited to two storey) in accordance with Volume 2 of the R-Codes.

While the DBCA has recommended a R20 density, it is not considered a change in density alone would address the issue of vegetation removal, noting R20 could still result in at least four grouped dwellings. This is further discussed in the consideration of a Local Development Plan further below. Further, it is noted a range of densities within a locality is necessary to accommodate a variety of lot sizes and housing types beyond detached single houses, as per the guidance of Liveable Neighbourhoods (2009).

Recommended modifications to amendment – local development plan

Having regard to agency/public submission and the planning framework applicable at future stages of development, it is considered necessary to provide a statutory mechanism that will ensure

adequate protection of the environmental values on site and secure implementation of the bushfire recommendations. To be used in limited situations, a LDP is a mechanism designed to achieve better built form outcomes on small and/or highly constrained lots. Noting the existing constraints of bushfire risk and mature vegetation, the preparation of a LDP prior to development or subdivision of the lot is considered suitable in this instance. To provide the necessary head of power for the preparation of a LDP, the addition of Special Provision 78 in Schedule 3 of the Scheme is recommended.

It is considered a LDP will achieve several important outcomes. First, it will secure the implementation of the bushfire building exclusion area, rather than relying on this being addressed at later development stages. The clear representation of the exclusion area on a readily available and applicable plan will expedite the future assessment of grouped dwelling applications.

Secondly, it will provide for a site responsive design that accommodates existing vegetation where possible and mitigates against excessive removal. While the subdivision process would potentially trigger the requirement for such measures as a Flora and Fauna study and Tree Protection Plan, it does not ensure the retention of vegetation. Further, if the owner were to proceed with a grouped dwelling application prior to subdivision, the mechanisms available to achieve adequate tree retention through the Scheme and the R-Codes are limited, particularly following the revocation of the draft Medium Density R-Codes.

An added benefit of a LDP is the ability it provides to streamline the development approval process. In the likely event development is staged, an approved LDP can remove the need for lodging costly individual applications for each subsequent dwelling when they are compliant with the LDP requirements. In effect, a LDP can provide a blanket development approval for several dwellings on a lot and facilitate improved approval timeframes for the delivery of housing.

Pedestrian Permeability

Lot 55 Codrington Blvd is an existing pedestrian access way (PAW) under management of the City connecting the eastern boundary of the site to the MacNeil Cove cul-de-sac. The PAW provides access directly into the subject lot. While the land has remained undeveloped, the PAW and subjects lots have served as a desire path for nearby residents to access the pedestrian network along Clydebank Avenue.

It is likely the PAW was created with the intention of providing a secondary pedestrian access to the Local Centre. The street design of the locality features a number of similar PAW's providing pedestrian permeability through the wider neighbourhood, though these tend to provide connection through to the street network rather than existing lots.

Considering the general desirability of walkable neighbourhoods, it is always beneficial to retain pedestrian connectivity where possible. However, noting the proposed change from a commercial to residential use, it is considered unreasonable to require the landowner to retain a public pedestrian path of travel into and across the site.

Having regard to the existing PAW located approximately 80 metres to the south (Lot 5132 Curno Place), sufficient pedestrian permeability is still provided for the residents of MacNeil Close and the wider neighbourhood in the event the PAW is closed.

Sewerage buffer to sensitive land uses

There is an existing Water Corporation vacuum pumping station located to the northwest on Lot 261 Clydebank Avenue which is in the process of being upgraded. The purpose of the subdivision approved by the WAPC on 25 September 2022 was to enable purchase of a portion of the parent lot (formerly Lot 158) by Water Corporation in order to secure an appropriate buffer to the pumping station following the upgrades. An advice note from the WAPC advised the zoning should be regularised to better reflect the intended outcome of the subdivision, with appropriate consideration of buffer and bushfire requirements.

The EPA document, 'Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses' establishes best practice buffer distances for industrial land uses with a buffer distance of 20 metres required for a wastewater vacuum pumping station. The ownership of Lot 1 by Water Corporation creates an effective buffer of 45 metres to Lot 2.

As the pump station is currently undergoing upgrades advice was sought from Water Corp as to any potential implications on the required buffer distance. Advice was provided that the upgrades did not trigger a greater buffer requirement and could be accommodated within the current buffer distance in satisfaction of EPA requirements.

Statutory Environment

The key statutory documents relevant to this proposal include the *Planning and Development Act 2005*, the Planning and Development (Local Planning Schemes) Regulations 2015 and the relevant objectives and provisions of the City of Busselton Scheme. Each is discussed below under appropriate subheadings.

Planning and Development Act 2005

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

Planning and Development (Local Planning Schemes) Regulations 2015

The *Regulations* which came into operation effect on 19 October 2015 identify three 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 the choice. This Amendment is considered to be a 'standard' amendment for reasons outlined in the recommended council resolution.

Local Planning Scheme No 21

Due to restrictions on the use of Lot 1 for Water Corporation purposes only and the restrictive layout of Lot 2, the subject sites are not considered suitable for the current 'Local Centre' zoning designation under the Scheme. As outlined in greater detail above, the 'Residential' zoning is considered an appropriate alternative zoning subject to appropriate provisions to ensure site sensitive design that responds to the existing constraints.

Relevant Plans and Policies

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

- State Planning Policy 3.0 – Urban Growth and Settlement
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- Liveable Neighbourhoods 2009
- Guidance for the Assessment of Environmental Factors
- [City of Busselton Local Planning Strategy 2019](#)
- [City of Busselton Local Commercial Planning Strategy 2011](#)

State Planning Policy 3.0 – Urban Growth and Settlement

State Planning Policy 3.0: Urban Growth and Settlement (SPP 3.0) sets out the principles and considerations which apply to planning for urban growth and settlements in Western Australia. The objectives of this policy include to:

- Build on existing communities with established local and regional economies, concentrate investment in the improvement of services and infrastructure and enhance the quality of life in those communities; and
- Manage the growth and development of urban areas in response to the social and economic needs of the community and in recognition of relevant climatic, environmental, heritage and community values and constraints.

Key requirements for sustainable communities identified by SPP 3.0 as they relate to this Scheme Amendment are:

- Sufficient and suitable serviced land in the right locations for housing, employment, commercial, recreational and other purposes, coordinated with the efficient and economic provision of transport, essential infrastructure and human services; and
- Variety and choice in the size, type and affordability of housing to support a range of household sizes, ages and incomes, and which is responsive to housing demand and preference.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

SPP 3.7 directs how land use should address bushfire risk management in Western Australia. It applies to all land which has been designated as 'bushfire prone' by the Fire and Emergency Services Commissioner as highlighted on the 'Map of Bush Fire Prone Areas'. The accompanying *Guidelines for Planning in Bushfire Prone Areas* provide supporting information to assist in the interpretation of the objectives and policy measures outlined in SPP 3.7, providing advice on how bushfire risk is to be addressed when planning, designing or assessing a planning proposal within a designated bushfire prone area.

The detailed advice provided by DFES has been addressed in the Officer Comment section. Through the preparation of a supporting Bushfire Management Plan (BMP), the proposal has demonstrated it is possible to achieve policy compliant development on the lot.

Liveable Neighbourhoods 2009

Liveable Neighbourhoods is a WAPC operational policy that guides structure planning and subdivision for greenfield and brownfield (urban infill) sites. Key aims of the policy as they relate to this Scheme Amendment are:

- To provide a variety of lot sizes and housing types to cater for the diverse housing needs of the community at a density that can ultimately support the provision of local services; and
- To maximize land efficiency wherever possible.

The consistency of the proposal with the objectives of Liveable Neighbourhoods is addressed in the Officer Comments section.

Guidance for the Assessment of Environmental Factors – Separation Distances

As detailed above, the EPA document provides guidance on appropriate buffers for a range of industrial land uses, including wastewater pumping stations. The subdivision and subsequent purchase of Lot 1 by Water Corp was to achieve suitable separation from any future development on the parent lot. The distance provided satisfies the requirements of the policy document.

Local Planning Strategy (LPS)

The LPS sets the long term broad planning direction for the whole of the District of the City of Busselton and provides the strategic rationale for decisions related to the progressive review and amendment of LPS21.

An objective of Theme 1 (Settlement and Community) is for *“the creation of compact, liveable and sustainable settlements that provide residents with housing and lifestyle choice and affordability.”* Strategies associated with this theme are to support and pro-actively plan for urban consolidation and redevelopment in areas close to the Busselton City Centre.

As discussed in the Officer Comments section, the rezoning of the ‘Local Centre’ to provide for residential opportunities is considered consistent with the objectives of the LPS.

Local Commercial Planning Strategy (LCPS)

The LCPS was prepared to provide background rationale to inform the broader LPS and subsequent Activity Centre framework contained within that document. The LCPS identifies a range of issues with the site and its ongoing viability as a ‘Local Centre,’ findings which informed the later recommendation within the LPS for the land to be rezoned to ‘Residential.’

Financial Implications

Not Applicable.

External Stakeholder Consultation

The Amendment was advertised for 42 days ending 30 June. Three (3) agency submissions were received along with three (3) public submissions. A Schedule of Submissions is provided at Attachment 4.

Substantive matters raised were the suitability of the Bushfire Management Plan, the appropriateness of the proposed R30 residential density and the risk of vegetation loss. All matters have been addressed in the Officer Comment section and the Schedule of Submissions.

Risk Assessment

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

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve to not adopt the Amendment for final approval and provide a reason for such a decision. It should be noted that under the relevant legislation there is no right of appeal against a council decision not to adopt an amendment for final approval.
2. To seek further information before making a decision.

CONCLUSION

Officer consider the proposal is consistent with the aims and objectives of the state and local planning framework and recommend the Council provide a recommendation to the WAPC to support the proposed amendment.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full as per the following table:

Milestone	Completion Date
Referral of Amendment 57 to the WAPC.	Within one month of Council decision.

11.2. Development Application - DA20/0437.01 - Industry - Extractive - 157 Haag Road, Yelverton

Strategic Theme:	Key Theme 1: Environment 1.1 Ensure protection and enhancement of environmental values is a central consideration in land use planning
Directorate:	Community Planning
Reporting Officer:	Planning and Development Coordinator - Stephanie Navarro
Authorised By:	Director Community Planning - Paul Needham
Nature of Decision:	Regulatory: To determine an application/matter that directly affects a person's right and interests e.g. development applications, applications for other permits/licences, and other decisions that may be reviewable by the State Administrative Tribunal.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Site Aerial [11.2.1 - 1 page] 2. Location Plan [11.2.2 - 1 page] 3. Approved Development Plans [11.2.3 - 144 pages] 4. Transport Impact Statement [11.2.4 - 21 pages] 5. Schedule of Submission [11.2.5 - 13 pages] 6. Clearing Permit - CPS 8863-1 [11.2.6 - 54 pages] 7. Complete set of amended development conditions [11.2.7 - 4 pages]

Prior to the meeting, Cr Cox foreshadowed a motion that was different to the officer recommendation. In accordance with clause 10.18(6) of the City's *Standing Orders Local Law 2018*, it was taken to be an alternative motion and considered first.

SUBSTANTIVE MOTION

C2310/135 Moved Cr Kate Cox

That the Council determines:

- A. That application DA20/0437.01 submitted for 'Amendment to Development Approval - Industry – Extractive' (sand) at Lot 75 (157), Haag Road, Yelverton is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives of the zone within which it is located.**
- B. That the conditions of Development Approval for the proposal referred to in (A) above be amended as follows –**

General Conditions

- 1. The development hereby approved is permitted to operate over a period of two five years from the date of this the original decision notice. issued by the City on 6 May 2022. The site must be fully rehabilitated in accordance with the approved Closure and Rehabilitation Plan dated 1 October 2021 before the expiry date of this development approval.**

- 2. The owner must ensure that the development hereby approved is undertaken in accordance with the approved plans, which are as follows, and any plans approved pursuant to other conditions of approval:**

- 2.1 Staging Plan with existing contours and maximum seasonal groundwater levels; and**
- 2.2 Concept Final Contour Plan; and**
- 2.3 Conservation Covenant Areas Plan dated 16 November 2021; and**
- 2.4 Operations Environment Management Plan dated 16 November 2021 (OEMP 2021); and**
- 2.5 Social Impact Assessment dated 16 November 2021 (SIS 2021); and**
- 2.6 Closure and Rehabilitation Plan dated 1 October 2021.**

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

Prior to Commencement of any DEVELOPMENT conditions:

- 3. The development hereby approved, or any works required to implement the development, shall not commence until the owner/applicant has applied for, and obtained, a Permit to Commence certificate from the City. The following plans/details are to be submitted to and approved by the City prior to requesting the issue of a Permit to Commence:**
- 3.1 Details validating the water supply available for dust suppression to implement the approved dust management plan and the dust management plan being amended to include a water truck available on site to wet down Haag Road to suppress dust.**
 - 3.2 Details of the proposed crossover. The location / construction of the crossover shall be agreed to by the City and shall ensure that adequate sightlines are achieved.**
 - 3.3 Details of warning signage to be erected along the transport route. Signage shall include signs on both approaches to the pit along Haag Road 100 metres from the crossover.**
 - 3.4 Details of entry signage to be erected within the lot boundaries adjacent to the driveway and pit entrance visible to vehicles entering/exiting the Site. Signage shall include the following details:**
 - i. Approved operating hours; and**
 - ii. Site contact details; and**
 - iii. Ultra high frequency (UHF) channel for operators; and**
 - iv. Approved haulage route.**
 - 3.5 Means of ensuring adequate protection of conservation areas indicated on the approved Conservation Covenant Area Plan.**

- 3.6 A 3D Digital Terrain Model prepared by a licensed surveyor for the whole of Lot 75 (157) Haag Road, Yelverton indicating the following in Australian Height Datum:**
- (i) Existing ground levels;**
 - (ii) Proposed maximum extraction depths to maintain a minimum 500mm above maximum seasonal groundwater table ; and**
 - (iii) Minimum final ground levels after rehabilitation to maintain a minimum 700mm above maximum seasonal groundwater table.**
- 3.7 A Clearing Permit for the removal of the vegetation from the Department of Water and Environmental Regulation.**
- 3.8 The following bonds and agreement:**
- (i) A road maintenance bond of \$20,000 (being an unconditional bank guarantee) to ensure that the surrounding road network is maintained to the satisfaction of the City for the term of the approval. Those portions of public roads affected by the activities related to the approval shall be maintained to a standard acceptable to the City. The City may use the bond to maintain the affected public roads as it deems necessary.**
 - (ii) A dust bond to the value of \$5,000 (being an unconditional bank guarantee), which shall be held against satisfactory compliance with the Dust Management Plan.**
 - (iii) A rehabilitation bond to the value of \$30,000 (being an unconditional bank guarantee), which shall be held against satisfactory compliance with the Closure Plan.**
 - (iv) Further to Conditions 3.8(i) – 3.8(iii) an executed legal agreement with the City (with the costs of preparation of that agreement being borne by the owner or nominee). The legal agreement shall provide for:**
 - (a) The ability for the City to be able to use the bonds, or parts of the bonds as appropriate, and any costs to the City including administrative costs of completing or rectifying any outstanding works in accordance with the conditions of this development approval and any further costs;**
 - (b) Written authorisation from the owner of the land that the City may enter the site at any time and permit the City to complete or rectify any outstanding work to the satisfaction of the City;**
 - (c) If at any time any part of the bond is called upon, used or applied by the City in accordance with the legal agreement, the restoration of the bond to the full amount required by these conditions; and**
 - (d) The ability to lodge a caveat over the site to secure the City's interest.**

Ongoing Conditions:

4. The owner must ensure that the plans, details and works undertaken to satisfy Conditions 1, 2 and 3 are subsequently implemented and maintained for the life of the development and, in addition, the following conditions must be complied with:

4.1 The development hereby approved shall be limited to the excavation or movement of sand from its natural state on the site; screening of sand; transportation of sand within or off the site; construction of internal roads and rehabilitation works. At no time shall any blasting works be carried out.

4.2 Operating hours, including in respect of any use of any vehicle or machinery or the transportation of materials, shall be restricted to the hours between:

a. 7.00am and 6.00pm Mondays to Fridays; and

b. ~~7.00am and 1.00pm Saturdays for rehabilitation works only.~~

No works of any kind to be carried out at any time on Sundays or public holidays.

4.3 The designated haulage route to Bussell Highway will be east along Haag Road and then south along Chambers Road. No other routes may be used until trucks have reached Bussell Highway.

4.4 A maximum number of 70 truck movements (i.e. 35 trucks entering and 35 trucks exiting the site) shall be permitted on any operating day. No truck movements shall be permitted on any other day or outside the approved operating hours.

4.5 Notwithstanding Conditions 4.3 and 4.4 above, should more than 70 truck movements per day and/or an alternative haulage route be proposed, a Traffic Management Plan is to first be both submitted to and approved in writing by the City; with the Plan being submitted to the City at least 7 working days prior to any haulage not consistent with Conditions 4.3 and 4.4 occurring.

Note: The City will not approve additional truck movements and/or an alternative haulage route for more than 20 working days in any calendar year. Any further additional days will require a Modification to Development Approval to be submitted to, and approved by, the City.

4.5 No more than 2 hectares shall be worked at any one time; this area shall then be rehabilitated in accordance with the approved details pursuant to Condition 2.1 concurrently with the extraction of the following 2 hectare area.

4.6 All operations related to the extractive industry shall be carried out in accordance with the approved OEMP 2021 and SIS 2021, including but not limited to:

- i. part 3.1.4 – Quarantine - dieback and weeds of the OEMP; and
- ii. part 3.1.1 – Noise and Dust Management of the OEMP; and
- iii. on-going ground water monitoring in accordance with Table 8 :

Hydrology and Pit Floor Management of the SIS 2021

- 4.7** The approved Closure and Rehabilitation Plan shall be implemented and carried out in accordance with the approved details. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.
- 4.8** The owner must ensure that, annually and within the month following every anniversary of the issue by the City of the Permit to Commence certificate, a 3D Digital Terrain Model is prepared by a licensed surveyor for the whole of Lot 75 (157) Haag Road, Yelverton indicating ground levels at the time of survey in Australian Height Datum.
- 4.9** The owner must ensure that, annually and within three months following every anniversary of the issue by the City of the Permit to Commence certificate, a written report is given to the City that includes the following to the satisfaction of the City:
- (a)** A copy of the 3D Digital Terrain Model prepared in accordance with Condition 6.11 and a statement by a licensed surveyor certifying:
 - (i)** The extent/size and location of the area which has been extracted;
 - (ii)** The extent/size and location of the area which has been rehabilitated;
 - (iii)** The extent/size and location of the area which is currently under operation; and
 - (b)** Details confirming that the conditions of this approval have been complied with and how the conditions have been complied with.
- 4.10** No extraction operations, including the use of any vehicle or machinery or the stockpiling or transportation of extracted material, is to be undertaken on the site at any time when an annual written report is due under Condition 4.8 and has not been provided to the City.
- 4.11** No development, including the use of any vehicle or machinery or the stockpiling or transportation of extracted material, may be carried out at any time when any bond that is required to be in force and effect under Condition 3.8 (or any agreement made in accordance with Condition 3.8) is not in full force and effect.

LAPSED FOR WANT OF A SECONDER

With the alternative being lost, the officer recommendation was moved.

There was opposition and debate ensued.

During debate, Cr Riccelli foreshadowed an alternative motion.

The officer recommendation was lost.

COUNCIL DECISION

C2310/136 Moved Cr Phill Cronin, seconded Cr Anne Ryan

That the Council determines:

- A. That application DA20/0437.01 submitted for 'Amendment to Development Approval - Industry – Extractive' (sand) at Lot 75 (157), Haag Road, Yelverton is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives of the zone within which it is located.**
- B. That the conditions of Development Approval for the proposal referred to in (A) above be amended as follows –**
 - i. Condition 1 to read:**
 - 1. The development hereby approved is permitted to operate over a period of five years from the date of the original decision notice issued by the City on 6 May 2022. The site must be fully rehabilitated in accordance with the approved Closure and Rehabilitation Plan dated 1 October 2021 before the expiry date of this development approval.**
 - ii. Condition 4.4 to read:**
 - 4.4 A maximum number of 70 truck movements (i.e. 35 trucks entering and 35 trucks exiting the site) shall be permitted on any operating day. No truck movements shall be permitted on any other day or outside the approved operating hours.**
 - iii. Condition 4.5 to read:**
 - 4.5 Notwithstanding Conditions 4.3 and 4.4 above, should more than 70 truck movements per day and/or an alternative haulage route be proposed, a Traffic Management Plan is to first be both submitted to and approved in writing by the City; with the Plan being submitted to the City at least 7 working days prior to any haulage not consistent with Conditions 4.3 and 4.4 occurring.**

LOST 2 / 7

FOR: Cr Anne Ryan and Cr Phill Cronin

**AGAINST: Cr Grant Henley, Cr Paul Carter, Cr Jodie Richards, Cr Kate Cox,
Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine**

With the officer recommendation being lost, Cr Riccelli moved her alternative motion.

The alternative recommendation was carried.

COUNCIL DECISION

C2310/137 Moved Cr Sue Riccelli, seconded Cr Paul Carter

That the Council determines:

- A. That application DA20/0437.01 submitted for 'Amendment to Development Approval - Industry – Extractive' (sand) at Lot 75 (157), Haag Road, Yelverton is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives of the zone within which it is located.**
- B. That the conditions of Development Approval for the proposal referred to in (A) above be amended as follows –**

General Conditions

- 1. The development hereby approved is permitted to operate over a period of five years from the date of the original decision notice. issued by the City on 6 May 2022. The site must be fully rehabilitated in accordance with the approved Closure and Rehabilitation Plan dated 1 October 2021 before the expiry date of this development approval.**
- 2. The owner must ensure that the development hereby approved is undertaken in accordance with the approved plans, which are as follows, and any plans approved pursuant to other conditions of approval:**
 - 2.1 Staging Plan with existing contours and maximum seasonal groundwater levels; and**
 - 2.2 Concept Final Contour Plan; and**
 - 2.3 Conservation Covenant Areas Plan dated 16 November 2021; and**
 - 2.4 Operations Environment Management Plan dated 16 November 2021 (OEMP 2021); and**
 - 2.5 Social Impact Assessment dated 16 November 2021 (SIS 2021); and**
 - 2.6 Closure and Rehabilitation Plan dated 1 October 2021.**

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

Prior to Commencement of any development conditions:

- 3. The development hereby approved, or any works required to implement the development, shall not commence until the owner/applicant has applied for, and obtained, a Permit to Commence certificate from the City. The following plans/details**

are to be submitted to and approved by the City prior to requesting the issue of a Permit to Commence:

- 3.1 An amended Dust Management Plan that identifies thresholds for when active dust suppression must occur on the haulage route and provision of a water truck on site to wet down Haag Road as required, to avoid exceeding the identified thresholds.
- 3.2 Details validating the water supply available for dust suppression to implement the approved dust management plan.
- 3.3 Details of the proposed crossover. The location / construction of the crossover shall be agreed to by the City and shall ensure that adequate sightlines are achieved.
- 3.4 Details of warning signage to be erected along the transport route. Signage shall include signs on both approaches to the pit along Haag Road 100 metres from the crossover.
- 3.5 Details of entry signage to be erected within the lot boundaries adjacent to the driveway and pit entrance visible to vehicles entering/exiting the Site. Signage shall include the following details:
 - i. Approved operating hours; and
 - ii. Site contact details; and
 - iii. Ultra high frequency (UHF) channel for operators; and
 - iv. Approved haulage route.
- 3.6 Means of ensuring adequate protection of conservation areas indicated on the approved Conservation Covenant Area Plan.
- 3.7 A 3D Digital Terrain Model prepared by a licensed surveyor for the whole of Lot 75 (157) Haag Road, Yelverton indicating the following in Australian Height Datum:
 - (i) Existing ground levels;
 - (ii) Proposed maximum extraction depths to maintain a minimum 500mm above maximum seasonal groundwater table ; and
 - (iii) Minimum final ground levels after rehabilitation to maintain a minimum 700mm above maximum seasonal groundwater table.
- 3.8 A Clearing Permit for the removal of the vegetation from the Department of Water and Environmental Regulation.
- 3.9 The following bonds and agreement:
 - (i) A road maintenance bond of \$20,000 (being an unconditional bank guarantee) to ensure that the surrounding road network is maintained to the satisfaction of the City for the term of the approval. Those portions of public roads affected by the activities related to the approval shall be maintained to a

standard acceptable to the City. The City may use the bond to maintain the affected public roads as it deems necessary.

- (ii) A dust bond to the value of \$5,000 (being an unconditional bank guarantee), which shall be held against satisfactory compliance with the Dust Management Plan.
- (iii) A rehabilitation bond to the value of \$30,000 (being an unconditional bank guarantee), which shall be held against satisfactory compliance with the Closure Plan.
- (iv) Further to Conditions 3.8(i) – 3.8(iii) an executed legal agreement with the City (with the costs of preparation of that agreement being borne by the owner or nominee). The legal agreement shall provide for:
 - (a) The ability for the City to be able to use the bonds, or parts of the bonds as appropriate, and any costs to the City including administrative costs of completing or rectifying any outstanding works in accordance with the conditions of this development approval and any further costs;
 - (b) Written authorisation from the owner of the land that the City may enter the site at any time and permit the City to complete or rectify any outstanding work to the satisfaction of the City;
 - (c) If at any time any part of the bond is called upon, used or applied by the City in accordance with the legal agreement, the restoration of the bond to the full amount required by these conditions; and
 - (d) The ability to lodge a caveat over the site to secure the City's interest.

Ongoing Conditions:

- 4. The owner must ensure that the plans, details and works undertaken to satisfy Conditions 1, 2 and 3 are subsequently implemented and maintained for the life of the development and, in addition, the following conditions must be complied with:
 - 4.1 The development hereby approved shall be limited to the excavation or movement of sand from its natural state on the site; screening of sand; transportation of sand within or off the site; construction of internal roads and rehabilitation works. At no time shall any blasting works be carried out.
 - 4.2 Operating hours, including in respect of any use of any vehicle or machinery or the transportation of materials, shall be restricted to the hours between:
 - a. 7.00am and 6.00pm Mondays to Fridays; and
 - b. 7.00am and 1.00pm Saturdays for rehabilitation works only.

No works of any kind to be carried out at any time on Sundays or public holidays.

4.3 The designated haulage route to Bussell Highway will be east along Haag Road and then south along Chambers Road. No other routes may be used until trucks have reached Bussell Highway.

4.4 A maximum number of 70 truck movements (i.e. 35 trucks entering and 35 trucks exiting the site) shall be permitted on any operating day. No truck movements shall be permitted on any other day or outside the approved operating hours.

4.5 Notwithstanding Conditions 4.3 and 4.4 above, should more than 70 truck movements per day and/or an alternative haulage route be proposed, a Traffic Management Plan is to first be both submitted to and approved in writing by the City; with the Plan being submitted to the City at least 7 working days prior to any haulage not consistent with Conditions 4.3 and 4.4 occurring.

***Note:** The City will not approve additional truck movements and/or an alternative haulage route for more than 20 working days in any calendar year. Any further additional days will require a Modification to Development Approval to be submitted to, and approved by, the City.*

4.6 No more than 2 hectares shall be worked at any one time; this area shall then be rehabilitated in accordance with the approved details pursuant to Condition 2.1 concurrently with the extraction of the following 2 hectare area.

4.7 All operations related to the extractive industry shall be carried out in accordance with the approved OEMP 2021 and SIS 2021, including but not limited to:

- i. part 3.1.4 – Quarantine - dieback and weeds of the OEMP; and
- ii. part 3.1.1 – Noise and Dust Management of the OEMP; and
- iii. on-going ground water monitoring in accordance with Table 8 : Hydrology and Pit Floor Management of the SIS 2021

4.8 The approved Closure and Rehabilitation Plan shall be implemented and carried out in accordance with the approved details. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

4.9 The owner must ensure that, annually and within the month following every anniversary of the issue by the City of the Permit to Commence certificate, a 3D Digital Terrain Model is prepared by a licensed surveyor for the whole of Lot 75 (157) Haag Road, Yelverton indicating ground levels at the time of survey in Australian Height Datum.

4.10 The owner must ensure that, annually and within three months following every anniversary of the issue by the City of the Permit to Commence certificate, a written report is given to the City that includes the following to the satisfaction of

the City:

(a) A copy of the 3D Digital Terrain Model prepared in accordance with Condition 6.11 and a statement by a licensed surveyor certifying:

- (i) The extent/size and location of the area which has been extracted;**
- (ii) The extent/size and location of the area which has been rehabilitated;**
- (iii) The extent/size and location of the area which is currently under operation; and**

(b) Details confirming that the conditions of this approval have been complied with and how the conditions have been complied with.

4.11 No extraction operations, including the use of any vehicle or machinery or the stockpiling or transportation of extracted material, is to be undertaken on the site at any time when an annual written report is due under Condition 4.8 and has not been provided to the City.

4.12 No development, including the use of any vehicle or machinery or the stockpiling or transportation of extracted material, may be carried out at any time when any bond that is required to be in force and effect under Condition 3.8 (or any agreement made in accordance with Condition 3.8) is not in full force and effect.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

OFFICER RECOMMENDATION

That the Council determines:

A. That application DA20/0437.01 submitted for 'Amendment to Development Approval - Industry – Extractive' (sand) at Lot 75 (157), Haag Road, Yelverton is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives of the zone within which it is located.

B. That the conditions of Development Approval for the proposal referred to in (A) above be amended as follows –

i. Condition 1 to read:

1. The development hereby approved is permitted to operate over a period of five years from the date of the original decision notice issued by the City on 6 May 2022. The site must be fully rehabilitated in accordance with the approved Closure and Rehabilitation Plan dated 1 October 2021 before the expiry date of this development approval.

ii. Condition 4.4 to read:

- 4.4 A maximum number of 70 truck movements (i.e. 35 trucks entering and 35 trucks exiting the site) shall be permitted on any operating day. No truck movements shall be permitted on any other day or outside the approved operating hours.

iii. Condition 4.5 to read:

- 4.5 Notwithstanding Conditions 4.3 and 4.4 above, should more than 70 truck movements per day and/or an alternative haulage route be proposed, a Traffic Management Plan is to first be both submitted to and approved in writing by the City; with the Plan being submitted to the City at least 7 working days prior to any haulage not consistent with Conditions 4.3 and 4.4 occurring.

EXECUTIVE SUMMARY

The City has received a development application to amend a previously approved 'Industry – Extractive' (sand) at Lot 75 (157) Haag Road, Yelverton (Site). The original application was determined by the Council at its meeting held on 13 April 2022 (C2204/001 refers). The amendment is also being presented to Council for determination, rather than being determined by City officers acting under delegated authority.

Having considered the application, including submissions received in relation to the application, City officers consider that the application is consistent with the City of Busselton *Local Planning Scheme No. 21* (Scheme) and the broader, relevant planning framework including Local Planning Policy 2.3 – Extractive Industries (LPP2.3).

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

STRATEGIC CONTEXT

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

BACKGROUND

At its meeting held on 13 April 2022 the Council approved, subject to conditions, a development application for an Industry – Extractive on the Site. Subsequently, the applicant has lodged a development application with the City to amend the following conditions of the development approval -

1. Amend condition 4.4 and 4.5 which currently limits the maximum number of truck movements to 24 truck movements per day (i.e. 12 entering and 12 exiting);
2. Delete condition 4.2 (b) which permits rehabilitation works to be carried out on a Saturday; and
3. Delete condition 3.8 (iv)(d) in relation to the requirement for a caveat to be placed on the Certificate of Title prior to the commencement of development.

Key information regarding the application is set out below —

1. **Landowner/s:** Staunton Developments Pty Ltd
2. **Applicant:** Staunton Developments Pty Ltd
3. **Site area:** 48.8643 Ha
4. **General description of site:** The Site is located approximately 1.1 kilometres west of the intersection of Haag Road and Chambers Road. The surrounding lots are predominately zoned Rural and are used for agricultural purposes, directly south-east and north-west of the Site there are two short term accommodation operators, Mile End Glamping and Hidden Valley Resort. In addition, there are two Bushland Protection zoned lots located to the north-east of the Site, plus a reserve to the north-west of the Site.
5. **Current development/use:** The northern portion of the Site is currently used for agricultural pursuits and contains a dwelling and ancillary accommodation. The central portion of the Site is the location of a previous sand extraction (DA ref : DA12/0338).
6. **Brief description of proposed development:** The applicant proposes to extract approximately 250,000 cubic metres of sand from an area of 5 hectares broken into three cells. The applicant proposes to transport the materials to Bussell Highway by travelling east from the Site along Haag Road then turning south on to Chambers Road and travelling further east to Bussell Highway.

No change to the amount of material to be extracted is proposed as part of this amendment.
7. **Applicable Zoning and Special Control Area designations:** The Site is located within the Rural Zone.
8. **Land-use permissibility:** Industry – Extractive is an 'A' use in the Rural Zone, meaning that it is a use that may be permitted in the Zone at the reasonable discretion of the City, following a compulsory period of consultation and consideration of any submissions received. Under LPP2.3 the Site is located within Policy Area 3, which is considered less constrained than other policy areas due to the primarily agriculture nature of the area.

The following attachments are provided –

- Attachment 1 – Location plan.
- Attachment 2 – Site aerial.
- Attachment 3 – Plans/documents previously approved.
- Attachment 4 – Transport Impact Statement prepared by Shawmac.
- Attachment 5 – Schedule of submissions.
- Attachment 6 – Copy of Clearing Permit.
- Attachment 7 – Complete set of amended development conditions.

OFFICER COMMENT

Development approval has already been granted by the Council for the same extractive industry on the Site in 2022. As part of the current application only the aspects of the development that are proposed to be amended should be considered. These matters are discussed further below.

Haulage

The original development application imposed a condition limiting the maximum number of truck movements in association with the development to 24 truck movements per day (i.e. 12 trucks entering and 12 trucks exiting). This condition was in line with the maximum number of daily truck movements approved for a previous approval on the Site in 2012 (DA ref : DA12/0338).

The applicant has advised that this maximum number of truck movements is not commercially viable and originally requested that the maximum number of daily truck movements be increased to 80 truck movements per day (i.e. 40 trucks entering and 40 trucks exiting). As the amount of material to be extracted from the Site remains unchanged as part of this amendment the overall number of trucks that will enter/exit the Site over the life of the development will not be increasing.

The applicant has provided a Transport Impact Statement (TIA) in support of these additional truck movements. The TIA is provided at Attachment 4.

The key considerations in regards to increasing the permitted daily maximum truck movements are as follows –

- Additional dust generated from trucks using Haag Road; and
- Suitability of Haag Road to accommodate the additional truck movements.

These matters are discussed further below.

Dust from using a gravel road

A number of submissions received as part of the consultation period raised concerns in relation to the potential impact of dust generated from the haul route by the additional truck movements in particular the impact of these dust upon vegetation within properties which border Haag Road and are protected via covenants within the National Trust. The City's *Dust and Building Waste Control Local Law* (Local Law) and LPP2.3 only deals with dust from a site and requires dust from a vehicle load (i.e. the sand in the tray of a truck) be contained via "effective measures". The Local Law and LPP2.3 do not deal with dust generated from the road surface by a vehicle travelling along a road and it is considered to be outside the scope of a development approval.

As mentioned above, several properties which border Haag Road have covenants with the National Trust relating to the protection of native vegetation on these lots. It should be noted that the provisions within these covenants only bound the relevant property owner, whom has entered into the agreement, and are not enforceable upon any other party.

Suitability of Haag Road

Haag Road is a gravel road with a 7 metre formation. In the last 5 –10 years, the City has approved several extractive operations which proposed to use gravel roads as part of their haulage route. Under the City's LPP2.3 it is recommended that once daily vehicle movements exceed 75 vehicles per day (VPD) the road should be upgraded to a minimum carriageway width of 7.5 metres with a

3.5 metre seal. The City has previously obtained advice from a traffic consultant regarding this requirement and have been advised that, due to the age of the LPP, this requirement is considered to be outdated and has not kept up with current standards, including Austroad Guidelines.

The Austroad Guidelines details standards for the design of sealed roads in Western Australia. As Austroad does not deal with unsealed roads, Main Roads WA have previously advised the City that for guidance on the design of unsealed roads, reference should be made to the "ARRB Unsealed roads manual Guidelines to good practice 3rd edition March 2009-08-19" (ARRB Guidelines). Under the ARRB Guidelines, the carriageway requirements for roads with 'very low volumes' (less than 150 VPD) is one lane with a carriageway width (including shoulders) of 5m–6m. This standard allows for vehicle to pass each other by riding half on the traffic lane and half on the shoulders.

ARRB Guidelines state that roads carrying 'heavy or long vehicles towing multiple trailers' (i.e. any vehicle greater in length or weight than an 'as-of-right' vehicle) should require additional road width in the order of 200mm per lane. It is considered that by requiring the carriageway width to be widened to 7 metres, adequate lane width is provided for two semi-trailers to pass.

Haag Road was upgraded to a 7 metre wide constructed gravel formation as required by a condition of the 2012 development approval and therefore, based on the above, is considered suitable for up to 150vpd. Traffic counts were undertaken along Haag Road between 21 June 2022 and 6 July 2022. Since these traffic counts were undertaken one new residence has been approved along Haag Road. No other traffic generating development has been approved along Haag Road. To accommodate for this additional approved use 8 VPD is to be added to the existing maximum VPD to determine the maximum number of truck movements that can be accommodated along Haag Road before 150 VPD is reached.

The applicant originally requested that the City increase the number of vehicle movements to 80 truck movements per day (40 trucks entering and 40 trucks exiting) on the basis that their consultant used an average of the existing traffic counts to determine the capacity of the road before upgrades to a sealed road were triggered.

A table containing the relevant traffic calculations, utilising both the maximum and average traffic counts, is provided below -

	Maximum Existing Traffic Counts	Average Existing Traffic Counts
Existing traffic counts from the City (VPD)	71.2 (72)	64
Approved DA trips (new dwelling)	+ 8	+ 8
Haulage trips	+ 70 (35 entering and 35 exiting)	+ 78 (39 entering and 39 exiting)
Total	= 150	= 150

The City has since advised that, in accordance with the Western Australian Planning Commission Transport Impact Assessment Guidelines Volume 4 for individual development, peak (or maximum) traffic volumes should be used. This is in line with the City's previous practices for similar proposals. The applicant has subsequently agreed to limit the increase of the truck movements to a maximum of 70 truck movements (i.e. 35 entering and 35 exiting) per day.

Operating hours

Following discussions by the Council when determining the original approval as well as subsequent conversations between the applicant and surrounding land owners the applicant is proposing to remove the operating hours for rehabilitation on Saturdays. The applicant has proposed to reduce the operating hours as a sign of good faith with the surrounding land owners that raised concerns with works being undertaken on a Saturday in regarding to impact on amenity.

It is considered, however, that to maintain consistency with other extractive industry approvals that the condition remain and not be removed. Should the applicant not wish to operate on Saturdays they are not bound to do so.

Caveat

The applicant has requested that as part of this amendment condition 3.8(iv)(d) requiring a caveat over the Site be deleted. Per a condition of development approval, prior to commencement of any works on the Site, the owner must pay bonds to the City and enter into a legal agreement. The legal agreement provides the City with a right of entry to the Site to use the bond/s in the event of breach of a planning condition for example failure to complete the necessary rehabilitation works to the satisfaction of the City.

A caveat is required so that the City may prevent the sale of the land unless the new owner agrees to enter into a legal agreement with the City with the same terms of the original legal agreement. Without the caveat the City has no mechanism to ensure that any new owner enters into a legal agreement on similar terms. If no legal agreement is entered into the City has no ability to enforce the legal agreement against a new owner (including the ability to enter onto the land). Furthermore, should there be issues in relation to breach of planning conditions a direction cannot be given to a new owner of land that did not “undertake the works” the subject of the direction. This matter is discussed within the State Administrative Tribunal case Lafou Pty Ltd and Town of Claremont [2009] WASAT 187.

In addition, a clause simply requiring the old owner to advise the new owner of the existence of the agreement and the requirement to enter into an agreement with the City on similar terms prior to transfer, is not practically enforceable. This is why a caveat is required and it is recommended that the condition remain unchanged.

Timeframe condition

It is recommended that Condition 1 be amended to reflect that the approval timeframe is to be taken from the date of the original development approval was issued and, should Council decide to approve the amendment, not from the date of that the amendment is approved. This is in line with the City’s general practices when dealing with amendments and ensures consistency is maintained when dealing with development applications. The five year time frame is in place for extractive industries as it is considered a reasonable amount of time for the material to be extracted, however it also gives the City the opportunity to re-assess the development in a reasonable time frame in which circumstances, including the planning framework, may have changed. It is noted that should the additional truck movements be approved it is likely that the operations will not require the full timeframe.

Summary

For the reasons discuss above, it is recommended that the conditions of the development approval be amended as outlined below –

- i. Amend Condition 1 to read as follows:
 1. The development hereby approved is permitted to operate over a period of five years from the date of ~~this decision notice~~ **the original decision notice issued by the City on 6 May 2022**. The site must be fully rehabilitated in accordance with the approved Closure and Rehabilitation Plan dated 1 October 2021 before the expiry date of this development approval.
- ii. Retain condition 3.8(iv)(d) to require a caveat to be placed of the Certificate of Title prior to the commencement of any development.
- iii. Retain condition 4.2 b) which permits rehabilitation works to be undertaken on a Saturday.
- iv. Amend condition 4.4 to read as follows:
 - 4.4 A maximum number of ~~24~~ **70** truck movements (i.e. ~~12~~ **35** trucks entering and ~~12~~ **35** trucks exiting the site) shall be permitted on any operating day. No truck movements shall be permitted on any other day or outside the approved operating hours.
- v. Amend condition 4.5 to read as follows:
 - 4.5 Notwithstanding Conditions 4.3 and 4.4 above, should more than ~~20~~ **70** truck movements per day and/or an alternative haulage route be proposed, a Traffic Management Plan is to first be both submitted to and approved in writing by the City; with the Plan being submitted to the City at least 7 working days prior to any haulage not consistent with Conditions 4.3 and 4.4 occurring.

A complete set of conditions incorporating the recommended amendments as outlined above is provided at Attachment 7.

Statutory Environment

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

Zoning

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

- a. *To provide for the maintenance or enhancement of specific local rural character.*
- b. *To protect broad acre agricultural activities such as cropping and grazing and intensive uses such as viticulture and horticulture as primary uses, with other rural activities as*

secondary uses in circumstances where they demonstrate compatibility with the primary use.

- c. To maintain and enhance the environmental qualities of the landscape, vegetation, soils and waterways, to protect sensitive areas especially the natural valley and watercourse systems from damage.*
- d. To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses.*
- e. To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.*
- f. To provide for development and expansion of the viticultural, winemaking and associated tourism activities and other industries related to agricultural activities, in addition to general rural pursuits, in a manner that does not cause adverse environmental impact.*
- g. To provide for the extraction of basic raw materials, where appropriate.*

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

Land-use and permissibility

The proposed land use is defined as follows:

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

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

Industry - Extractive is identified as an ‘A’ or discretionary land use requiring advertising within the Rural zone.

Matters to be considered

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

- (d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
- (g) any local planning policy for the Scheme area;*

- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance;*
- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (s) *the adequacy of —*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*

Relevant Plans and Policies

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

Leeuwin-Naturaliste Ridge Statement of Planning Policy

The LNRSP places a very high priority on the protection of Prime Agricultural Land with the overriding criterion being to ensure the predominant use of land will be agriculture. Other uses, including uses of interspersed lands with lesser agricultural potential, will be compatible with and not jeopardise, agricultural use of adjoining Prime Agricultural Land. The LNRSP requires that development of mineral and basic raw material resources will be subject to programmed rehabilitation which will be recommended as a condition of any Planning Consent (Development Application) granted. The rehabilitation of the extracted area with native vegetation is required as a condition of development approval and the clearing permit from Department of Water and Environmental Regulations (DWER). A copy of the clearing permit issued by DWER is provided at Attachment 6.

State Planning Policy 2.4 - Basic raw materials

The intent of SPP2.4 is to ensure basic raw materials (BRM) and extractive industries matters are considered during planning and development decision-making, to facilitate the responsible extraction and use of the State's BRM resources. The objectives of SPP2.4 are to:

- ensure BRM and its regional importance is considered at the earliest stages of the planning process;
- protect BRM in SGS areas and ES by avoiding encroachment from incompatible land uses;
- ensure BRM resources are used efficiently in land use planning and development;
- identify BRM extraction opportunities through sequential land use without compromising the final intended land use; and
- ensure the extraction of BRM avoids, minimises or mitigates any adverse impacts on the community, water resources and biodiversity values.

Local Planning Policy 2.3 - Extractive Industries

Local planning policies must be given due regard, but cannot and do not bind the City, in the assessment of applications for development approval. LPP2.3 provides guidance regarding the extraction of basic raw materials. The Site is located within Policy Area 3, elements of LPP2.3 considered particularly relevant to assessment of the application are as follows –

4.2.5 Route Assessment and Transportation:

The potential impacts of an extractive industry will be assessed against the Scheme and the following criteria:

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

Financial Implications

Not Applicable.

External Stakeholder Consultation

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

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

The application was open for submissions from 1 August to 1 September 2023. The application was advertised in the following manner:

1. Information regarding the application was posted on the City's website;

2. A portal was created using the City's YourSay platform for the online lodgement of submissions;
3. 69 Letters were sent to all the land owners and occupiers within 1km of the site; and
4. A notice was placed in a local newspaper for four consecutive weeks from the 4 August 2023.

Submissions were received from a total of 11 people. A schedule of submissions is provided as Attachment 5. The schedule identifies who submissions were received from and summarises the submissions. It is noted that this amendment only relates to the increase to the truck movements per day and removal of the caveat requirement. Submissions in relation to other matters relating to the development are not relevant to this consideration of this amendment.

The relevant concerns raised within the submissions can generally be grouped as follows:

- Concerns regarding impact of dust along the haulage route;
- Concerns regarding suitability of Haag Road for additional truck movements.

In addition to the above, the application was referred to DWER, Main Roads WA and the Department of Mines, Industry Regulation and Safety. These agencies' comments, as well as comments from the National Trust, are also provided within Attachment 4.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. The key risk to the City is considered to be the potential reputational and environmental risk that may arise if the Site is not managed in a manner consistent with the conditions of approval. Mitigation of that risk requires proactive and appropriately resourced compliance activity.

Options

As an alternative to the proposed recommendation the Council could:

1. Refuse to amend condition 4.4 and 4.5 pertaining to the maximum number of truck movements; and/or
2. Delete condition 4.2 b) pertaining to operating hours on Saturday for rehabilitation works; and/or
3. Agree to delete condition 3.8(iv)(d) pertaining to the required for a caveat to be placed on the Certificate of Title prior to the commencement of any development.

CONCLUSION

For the reasons discussed above, it is recommended that the proposed amendment to development approval be approved subject to the appropriate development conditions.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

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

11.3. **Application for Development Approval - DA23/0359 – Holiday Home (Single House) 8 People – Lot 101 (18) Eagle Crescent, Eagle Bay**

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Community Planning
Reporting Officer:	Senior Development Planner - Donal Casey
Authorised By:	Director Community Planning - Paul Needham
Nature of Decision:	Regulatory: To determine an application/matter that directly affects a person's right and interests e.g. development applications, applications for other permits/licences, and other decisions that may be reviewable by the State Administrative Tribunal.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> Attachment 1 - Location Plan [11.3.1 - 1 page] Attachment 2 - Development Plans, Bushfire Management Plan and Emergency Evacuation Plan [11.3.2 - 61 pages] Attachment 3 Officer Assessment Report [11.3.3 - 10 pages]

The officer recommendation was moved and carried.

COUNCIL DECISION

C2310/138 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council:

- Consider that the application for a Change of Use Holiday Home (Single House) 8 People is generally consistent with Local Planning Scheme No. 21 and the objectives of the zone in which it is located; and**
- Grant development approval for the proposal subject to the following conditions:**

GENERAL CONDITIONS:

- The development hereby approved shall be substantially commenced within two years of the date of this decision notice, if not substantially commenced within this period, the approval will lapse and be of no further effect.**
- The use hereby approved shall be in accordance with the Approved Plan dated 18 October 2023 and endorsed Bushfire Management Plan and Emergency Evacuation Plan (Version 1 dated 19 May 2023) including any conditions placed thereon by the City of Busselton.**
- The use hereby approved shall at all times comply with the definition of Holiday Home (Single House) as provided in Schedule 1 of the City of Busselton *Local Planning Scheme No. 21*, as follows:**

“Holiday Home (Single House)” means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for hire or reward for no more than 12 people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

Notwithstanding the above interpretation, the approved use is restricted to a maximum of eight persons.

4. Advertising signage associated with the approved use shall be no greater than 0.2m², located within the subject site.
5. A minimum number of three car parking bays shall be provided on site.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS:

6. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and approved in writing:

- 6.1 A notification in the form of a section 70A notification, pursuant to the *Transfer of Lands Act 1893* (as amended) is to be placed on the Certificate of Title of the lot advising that:

“This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner. The approval of the Holiday Home (Single House) is conditional upon the details contained within the Bushfire Management Plan (BMP) prepared by Bushfire Prone Planning, Version 1, dated 19 May 2023 and the accompanying Bushfire Emergency Evacuation Plan (BEEP).”

A copy of the Certificate of Title with section 70A notification registered against it, or a Landgate lodgement receipt, is to be submitted to the City.

- 6.2 Details of on-site effluent disposal works.
- 6.3 Details of the means and method of providing a potable water supply of 135,000 litres or equivalent alternative water supply as otherwise approved in writing by the City.

PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS:

7. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Conditions 2, 3, 4, 5 and 6 have been implemented.

ONGOING CONDITIONS:

8. The works undertaken to satisfy Conditions 2, 3, 4, 5 and 6 shall be subsequently maintained for the life of the development and the following conditions complied with:
 - 8.1 The owner must implement the approved Bushfire Management Plan and Bushfire Emergency Evacuation Plan prepared by Bushfire Prone Planning, Version 1, dated
 - 8.2 19 May 2023 for the duration of the development.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

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OFFICER RECOMMENDATION

That the Council:

1. Consider that the application for a Change of Use Holiday Home (Single House) 8 People is generally consistent with Local Planning Scheme No. 21 and the objectives of the zone in which it is located; and
2. Grant development approval for the proposal subject to the following conditions:

GENERAL CONDITIONS:

1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice, if not substantially commenced within this period, the approval will lapse and be of no further effect.
2. The use hereby approved shall be in accordance with the Approved Plan dated 18 October 2023 and endorsed Bushfire Management Plan and Emergency Evacuation Plan (Version 1 dated 19 May 2023) including any conditions placed thereon by the City of Busselton.
3. The use hereby approved shall at all times comply with the definition of Holiday Home (Single House) as provided in Schedule 1 of the City of Busselton *Local Planning Scheme No. 21*, as follows:

"Holiday Home (Single House)" means a single house (excluding ancillary accommodation), which may also be used for short stay accommodation for hire or reward for no more than 12 people (but does not include a bed and breakfast, chalet development, guesthouse, rural tourist accommodation or tourist accommodation).

Notwithstanding the above interpretation, the approved use is restricted to a maximum of eight persons.

4. Advertising signage associated with the approved use shall be no greater than 0.2m², located within the subject site.
5. A minimum number of three car parking bays shall be provided on site.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS:

6. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and approved in writing:

- 6.1 A notification in the form of a section 70A notification, pursuant to the *Transfer of Lands Act 1893* (as amended) is to be placed on the Certificate of Title of the lot advising that:

"This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner. The approval of the Holiday Home (Single House) is conditional upon the details contained within the Bushfire Management Plan (BMP) prepared by Bushfire Prone Planning, Version 1, dated 19 May 2023 and the accompanying Bushfire Emergency Evacuation Plan (BEEP)."

A copy of the Certificate of Title with section 70A notification registered against it, or a Landgate lodgement receipt, is to be submitted to the City.

- 6.2 Details of on-site effluent disposal works.
- 6.3 Details of the means and method of providing a potable water supply of 135,000 litres or equivalent alternative water supply as otherwise approved in writing by the City.

PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS:

7. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Conditions 2, 3, 4, 5 and 6 have been implemented.

ONGOING CONDITIONS:

8. The works undertaken to satisfy Conditions 2, 3, 4, 5 and 6 shall be subsequently maintained for the life of the development and the following conditions complied with:
- 8.1 The owner must implement the approved Bushfire Management Plan and Bushfire Emergency Evacuation Plan prepared by Bushfire Prone Planning, Version 1, dated
- 8.2 19 May 2023 for the duration of the development.

EXECUTIVE SUMMARY

The City has received a development application for a change of use from a Single House to a Holiday Home (Single House) 8 People at Lot 101 (No. 18) Eagle Crescent, Eagle Bay which is located within the Eagle Bay Special Character Area (EBSCA).

The application has been brought to Council due to recent changes in officer delegations.

Following assessment against the relevant elements of the planning framework, the development is considered suitable for approval subject to conditions.

STRATEGIC CONTEXT

As per Objective 4.2 of the Strategic Community Plan and in accordance with the recent change in CEO delegations, the application has been referred to Council to facilitate transparent decision making, specifically in the Special Character Areas (SCAs) of the City.

BACKGROUND

The subject site (the Site) is zoned 'Residential' under the Scheme with a density coding of R5 and located within the Eagle Bay Special Character Area (EBSCA).

The site is located at the corner of where Eagle Crescent forms a right-angle. Eagle Crescent, in turn, intersects Carnarvon Castle Drive to the north and Fern Road to the east. The lot is irregularly shaped, increasing in width from 20 metres in the front to 57 metres at the rear. It has an area of 2,442m² and rises approximately five metres from 25m AHD at the street boundary to 30m AHD at the rear lot boundary. It adjoins a vacant lot to the south and a Single House to the north. The lot was created as a result of a boundary realignment with the adjoining lot to the south in 2013.

The existing Single House was constructed circa 1994 and has been subject to a number of additions including a garage addition and an extension of a guest bedroom through the enclosure of a small area of existing patio in 2015.

The proponent lodged a development application in May 2023 for a Change of Use to a Single House (Holiday Home) for eight people.

A location plan and development plans are provided at Attachment(s) 1 and 2 respectively.

OFFICER COMMENT

Table 1 – Zoning Table of the *Scheme* lists a 'Holiday Home (Single House)' as a Discretionary (D) land use in the Residential Zone. Clause 61, Part 7, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* contains no exemption for the proposed land use.

Accordingly, the City is required to exercise discretion by granting development approval.

The germane matter for assessment is the development site is bushfire prone and has a determined Bushfire Attack Level (BAL) of Flame Zone (FZ). The land use is classified as 'vulnerable' and the recommendation for approval of the proposal is contingent on the development site being considered as being within a 'Residential Built-Out Area' (RBOA). A full discussion of the bushfire issues is contained in the 'Statutory Environment' section of this report.

Special Character Area Provisions (Eagle Bay):

Schedule 4 of the *Scheme* and Local Planning Policy 3.3 – Eagle Bay Special Character Area (LPP 3.3) establish the baseline development standards for the EBSCA. The development being a change of use application with no physical works (outside of what may be required to upgrade the effluent disposal system and maintain an Asset Protection Zone) does not propose any variations to these standards.

The proposed change of use application is consistent with the 'Objectives for Eagle Bay' as listed in clause 2.2 of LPP 3.3.

Statutory Environment

The key statutory documents relevant to this proposal include the *Planning and Development (Local Planning Schemes) Regulations 2015* (the *Regulations*) and the relevant objectives and provisions of the *Scheme*. Each is discussed below under the relevant subheadings:

Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2 of the Regulations, (the Deemed Provisions) are to be read in conjunction with the *Scheme* with clause 67 setting out the matters to be considered by a local government in the determination of any development application. Attachment 3 provides a detailed assessment against the relevant elements of clause 67.

Part 10A of the Deemed Provisions, Bushfire Risk Management outlines the requirements for development sites that are bushfire prone. The proposed change of use of the habitable building to a 'Vulnerable land use' with a determined BAL of FZ is subject to the requirements of Part 10A including the requirement to obtain development approval.

Local Planning Scheme No. 21

The proposal is consistent with the objectives of the 'Residential' zone as defined by the Scheme, specifically to "provide for a range of non-residential uses, which are compatible with and complementary to residential development."

As no works (other than establishment and maintenance of an Asset Protection Zone and a potential upgrade to the effluent disposal system) are proposed, it is considered that the proposal is fully compliant with cl 5.4 Landscape Value Area. Refer to Attachment 3 for a full assessment.

Further, the application complies with Schedule 4 of the Scheme which sets out the area specific development controls for the EBSCA.

Relevant Plans and Policies

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

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7)

SPP 3.7 was adopted on 7 December 2015; it remains in effect and unchanged. It directs how land use and development should address bushfire risk management and applies to all land which has been designated as 'bushfire prone' by the Fire and Emergency Services Commissioner as per the 'Map of Bushfire Prone Areas.' The subject lot is bushfire prone with an achievable BAL of FZ.

In order to outline the development's compliance with SPP 3.7, it is necessary to step through the history of the bushfire planning framework since the introduction of SPP 3.7 and assess the proposal in context.

The proposed development is classified under SPP 3.7 as a 'Vulnerable land use' which is defined as follows:

"A land use where persons may be less able to respond in a bushfire emergency. Examples of what constitutes a vulnerable land use are provided in the Guidelines."

The *Guidelines for Planning in Bushfire Prone Areas* (Guidelines) outline that tourism land uses are Vulnerable land uses as they involve "visitors who are unfamiliar with the surroundings and/or where they present evacuation challenges".

As the proposal has an achievable BAL of FZ, is a 'Vulnerable land use' and is 'Minor Development', Policy Measure 6.7.1 of SPP 3.7 applies:

"Minor development in areas where BAL-40 or BAL-FZ applies

Minor development in areas where BAL-40 or BAL-FZ applies is to be assessed under the requirements of policy measure 6.5, with the addition of a statement against each of the following in the Bushfire Management Plan:

- a) *where full compliance of 6.5(c) cannot be achieved within the boundary of the development site, evidence must be provided demonstrating to the fullest extent possible how the bushfire protection criteria have been addressed and provide justification for those criteria that have not been met;*
- b) *ensure that the bushfire hazard level is not increased and/or the ability to manage bushfire related hazards on adjoining lands is not otherwise adversely affected;*
- c) *ensure that the siting of the buildings within the boundary of the development site has been optimised to reduce the bushfire impact;*
- d) *give holistic consideration to existing emergency services in the area, existing road networks, water provision, existing places that could function as emergency evacuation centres in a bushfire event, the surrounding landscape, issues that may arise in the course of a bushfire both during and post event, and any other contextual issues relevant to the application of bushfire risk management measures."*

'Minor Development' refers to applications in RBOAs at:

"a scale which may not require full compliance with the relevant policy measures. Classes of development considered under this definition, with the exclusion of applications for unavoidable development, are:

- *a single house on an existing lot 1,100m² or greater;*
- *an ancillary dwelling on a lot of 1,100m² or greater; and*
- *change to a vulnerable land use in an existing residential development."*

The only straightforward pathway under SPP 3.7 and the Guidelines for this proposal to be approved is if it is classified as 'Minor Development' where full compliance with the relevant policy measures (e.g. being able to achieve BAL-29) is not required.

A development application being categorised as 'Minor Development' relies on the development site being located within a RBOA. On 27 March 2019, Council adopted 'Bushfire Local Planning Policy' (BLPP) which was the first local planning policy adopted under SPP 3.7. This replaced the original

'Local Planning Policy 9 – Environmental and Heritage Conservation Policy' which had been adopted on 26 June 2013.

The BLPP transposed the following definition of RBOA from the *Draft Position Statement: Tourism land uses within bushfire prone areas (December 2018)* (Draft PS):

"refers to a lot that is within close proximity to emergency services, access to reticulated water and is within, or contiguous with, an urban area or town (or similar)."

It also, for the first time, mapped areas within the City that complied with the definition.

The Draft PS was made final in November 2019 which necessitated the BLPP being revised and adopted by Council in March 2020. The *Final Position Statement: Tourism land uses in bushfire prone areas (October 2019)* (Final PS) revised the definition of RBOA to be:

"A lot that has access to reticulated water and is within or contiguous with, an urban area or town (or similar)."

The Final PS was rescinded in March 2022 following version 1.4 of the Guidelines becoming operational on 13 December 2021. For the first time, the Guidelines included a definition of RBOA:

"A locality serviced with reticulated water and is within or contiguous with an urban area or town (or similar), which incorporates a suitable destination."

The Guidelines included a number of substantial changes including the inclusion of *Suitable Destination* within the definition and the introduction of a specific *Element 5* (which subsumed the intent of the Final PS for Tourism land uses).

Suitable Destination is defined as:

"An area that can provide shelter during a bushfire event and is either:

- *not classified as bushfire prone on the Map of Bushfire Prone Areas; or*
- *greater than 100m from classifiable vegetation"*

When the RBOA was originally mapped in the first iteration of the bushfire local planning policy in March 2019, a pragmatic approach was taken based on several factors including the proximity of the lot to reticulated water. The definition of RBOA has become more rigorous in the subsequent updates (now including a *Suitable Destination* as above).

If the City implemented SPP 3.7 and the associated Guidelines verbatim, the consequence would be that large areas of the City including all of Eagle Bay and Yallingup would be precluded from approval for a range of tourism land uses (including Holiday Homes, Chalets and Tourist Accommodation). This would also include the eight Holiday Homes approved in Eagle Bay since this definition came into effect on 13 December 2021.

Fundamentally, if SPP 3.7 was implemented as written, it would result in a number of large townsites in Western Australia (including portions of the Perth Hills) where 'vulnerable' land uses could not be approved due to the lack of a 'Suitable Destination'. Presumably, this was not the policy's intended purpose in relation to vulnerable land uses.

A Draft SPP 3.7 and associated Draft Guidelines were released for public comment on 17 July 2023. The Department of Planning, Lands and Heritage (DPLH) envisage presenting the final SPP and Guidelines to the Western Australian Planning Commission (WAPC) for final approval in December 2023 or the first quarter of 2024. At this juncture, City officers will undertake a comprehensive review of LPP 4.2 including the definition of RBOA. In the interim, it is recommended that this application be considered in accordance with the adopted local planning policy as being within a RBOA.

Financial Implications

Not Applicable.

External Stakeholder Consultation

The application was not referred to adjoining landowners.

Risk Assessment

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

Risk of implementing the officer recommendation and approving a Single House (Holiday Home) for eight People			
Category	Consequence	Likelihood	Rating
Public Safety/ Health Reputation	Catastrophic	Rare	Medium
Context			
<p>The risk associated with implementing the officer recommendation is that eight people could reside on a short-term basis at the lot during a bushfire event with firefighting personnel also in attendance in a situation where a catastrophic bushfire overwhelms the individuals.</p> <p>If the officer recommendation is not approved, the Single House is existing on the lot and the same scenario as above could eventuate.</p> <p>It is not considered that the change of use alters the assessment of risk under the City's current risk framework.</p>			

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve to refuse the application and provide reasons for such a decision; or
2. Resolve to seek further information before making a decision.

CONCLUSION

The development is considered to satisfy the relevant elements of the planning framework and is of a scale consistent with the residential character of the area. Accordingly, the application is recommended for approval subject to conditions.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Issue the development approval to the applicant.	Within two weeks of council decision.

11.4. Bushfire Notice Review

Strategic Theme:	Key Theme 2: Lifestyle 2.2 Work with key partners to facilitate a safe, healthy and capable community. Key Theme 4: Leadership 4.1 Provide opportunities for the community to engage with Council and contribute to decision making.
Directorate:	Community Planning
Reporting Officer:	Manager Community Safety - Rachel Runco
Authorised By:	Director Community Planning - Paul Needham
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	Nil

The officer recommendation was moved and carried.

COUNCIL DECISION

C2310/139 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council, with respect of the review of the City's Bushfire Notice:

1. Notes that this report satisfies point 3 of the previous resolution (C2209/228); and
2. Supports the planned consultation approach and timeline as described within the officer comment section of this report.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

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OFFICER RECOMMENDATION

That the Council, with respect of the review of the City's Bushfire Notice:

1. Notes that this report satisfies point 3 of the previous resolution (C2209/228); and
2. Supports the planned consultation approach and timeline as described within the officer comment section of this report.

EXECUTIVE SUMMARY

In pursuance of a Council decision September 2022 requesting the CEO present a report to Council providing an update on the review of the City's Bushfire notice by the end of the 2023 calendar year, the Council is asked to consider the planned approach and timeline for the remainder of this project.

STRATEGIC CONTEXT

A regular review of the City's bush fire notice supports the good governance of the district.

BACKGROUND

On 11 March 2020, Council adopted a revised draft Bushfire Notice (Notice) for consultation (C2003/084). The draft notice was released for community consultation between 9 April and 31 May 2021, having been deferred during 2020 because of issues associated with the early phases of the Covid-19 pandemic.

There was an overwhelming response to the consultation process by the community, with a high degree of community interest and concern in relation to potential financial, environmental and amenity impacts that could potentially result from implementation of the draft notice.

Council then considered a matter of urgent business at its ordinary meeting of 28 April 2021, and resolved not to instigate changes to the notice for 2021/22.

On 24 August 2021 Council further considered the outcomes of the community consultation process and determined that the current notice would remain in place for the 2021/22 and 2022/23 fire seasons (C2108/187).

At its ordinary meeting of 21 September 2022, Council with respect to the review of the City's Bushfire Notice resolved as follows (C2209/228):

1. *Supports the City continuing to progress the review;*
2. *Supports the development of an engagement strategy and in particular the formation of a reference group by the CEO as part of the review process, comprised of community members, representatives of key stakeholder groups, Bush Fire Advisory Committee and Councillors, to inform the review process;*
3. *Requests a further report on the matter by the end of the 2023 calendar year;*
4. *Notes that the current notice is likely to remain in place in substantially similar form for the 23/24 fire season; and*
5. *Notes that the Councillors asked to participate in the reference group will be those Councillors that are members of the Bush Fire Advisory Committee.*

This report is to provide an update on the progression of the review and seeks direction from Council in relation to the planned timeline and proposed actions and approach to formation of a notice for Community consultation and Council adoption.

OFFICER COMMENT

As Council is aware, annually bushfire occur within the City of Busselton municipal boundaries. Managing and reducing this risk is a shared responsibility including individuals, businesses,

industries, communities, local and State government which requires a range of activities and approaches.

One of the key approaches used by Local Governments in managing these risks is through the setting and enforcement of local government regulations that define responsibilities of landowners and occupiers to manage bushfire risk on their own properties.

These regulations are set through an annual Bushfire notice. The requirements within the City's Bushfire Notice have remained substantially unchanged for over 10 years. During this time there have been significant changes to State level regulations in relation to development of communities within bushfire prone areas. That, combined with substantial new development and changing climatic conditions triggered the need to review the structure and requirements of the Notice.

At its ordinary meeting 21 September 2022 Council supported reviewing the Notice using a consultation focused approach, which included the following high-level actions:

- I. Develop a reference group comprised of key stakeholders including community members, representatives of key community stakeholder groups, BFAC (Bush Fire Advisory Committee) and Councillors.
- II. Develop a broader engagement strategy to inform the review.
- III. Engage specialist advice from a qualified bushfire consultant to facilitate the review.
- IV. Undertake a series of meetings with the reference group to discuss and seek feedback in a collaborative and coordinated manner.
- V. In consultation with the reference group develop a draft bushfire notice for consultation.
- VI. Hold a Councillor briefing on the draft changes to the notice.
- VII. Carry out broader community consultation in the form of face-to-face workshops and online information sessions on the draft notice.
- VIII. Incorporate community submissions and further revise the draft bushfire notice for Council consideration.

The stakeholder reference group was formed in January 2023 and in June 2023 a facilitator was engaged to lead these workshops. In consultation with this facilitator the City has developed an engagement strategy for the project and has begun undertaking the series of meetings with the stakeholder reference group.

The stakeholder reference group includes representatives from the following groups and agencies:

- Bushfire Ready
- Residents of Eagle Bay Association
- Injidup Residents Association
- Yallingup Residents Association
- Dunsborough and Districts Progress Associations
- Toby Inlet Catchment Group
- Busselton-Dunsborough Environment Centre
- Yallingup Land Conservation District Committee
- Dunsborough Coast and Land Care
- Councillor Cox and Councillor Cronin
- City of Busselton Volunteer Fire Control Officers
- Department of Fire and Emergency Services (DFES)
- Department of Biodiversity, Conservation and Attractions (DBCA)

- Office of Bushfire Risk Management
- Western Australian Local Government Association
- City of Busselton Staff

There are five planned workshops scheduled with the stakeholder reference group. The purpose of this group is to collaboratively guide the City in the development of a new Notice, bringing together an expansiveness of knowledge and opinions to ensure that the diverse needs across community are understood and considered in the drafting of the Notice.

Workshop 1 was held on 18 August 2023. Within this session there was a focus on building understanding within the group on the purpose of the workshops and the role of the participants, along with provision of a background on the purpose of a bushfire notice in the context of other mitigation activities by State and Local Governments. This workshop also saw the development of agreed terms of reference for the working group.

Workshop 2 was held on 1 September 2023 and focussed on the complexities and issues with the current state of the City's notice, the conflicting position of state agencies in relation to the purpose and capacity of a bushfire notice to achieve vegetation management, the need for a notice to be clear and enforceable and clarity from a first responder perspective in managing and also responding to bushfire incidents.

Workshop 3 is scheduled on 6 October 2023. This session is planned to discuss with the group feedback from their representative groups on the process to date, presentation from subject matter experts within the group on environmental values of the community and factors that need to be considered in the drafting of a notice to ensure there is a reasonable balance of mitigation of bushfire risk with environmental and amenity impacts. Following this there will be a dissection of the existing notice by the group and a deep dive into the format and inclusions of the City's current notice and how we can make improvements through the review.

Workshop 4 is scheduled for 3 November 2023. At this workshop, the group will be presented with a draft bushfire notice, that incorporates and considers all the elements that have been identified and explored during the first 3 workshops. The structure of these workshops has allowed commonality across all representatives to be identified along with where there are clearly contrasting views. The intent is to work through the presented version of the notice with the stakeholder reference group to identify where improvements, changes and compromises may be required before undertaking broader community consultation.

Workshop 5 is planned to be scheduled in February or March 2024. This workshop will bring to the stakeholder reference group the community consultation report and outcomes. With the group suggestions from the broader community in relation to the drafted notice will be considered and discussed.

Between workshops 4 and 5 broader community consultation is planned. This will include a facilitated workshop open to all community members to provide feedback and input on the drafted notice. There will also be a yoursay survey available for those who cannot attend in person.

Following workshop 5, prior to presentation of a notice for Council adoption there will be further community consultation in the form of information session on the process of development and reasoning behind inclusions within the drafted notice.

It is planned that community consultation in relation to informing the development of the notice will be completed by the end of March 2024, with a notice to be presented to Council for adopt in April/May 2024.

Following adoption of a notice there will be further consultation with Community in relation to adopted changes and what that means to individual properties owners in the lead up to the 24/25 bush fire season.

Statutory Environment

The statutory framework for the bushfire notice is set out in the Bush Fires Act 1954 (the Act), specifically section 33(1), which states that, inter alia –

(1) Subject to subsection (2) a local government...may,...as a measure for preventing the outbreak of a bush fire, or for preventing the spread... of a bush fire... give notice in writing... to all owners or occupiers of land in its district by publishing a notice in the Government Gazette and in its newspaper circulating in the area requiring...them...to do...all or any of the following things –

(a) To...clear upon the land fire-breaks in such manner...as are specified in the notice, and thereafter to maintain the fire-breaks...;

(b) To act as... specified...with respect to anything which is upon the land, and which...is likely to be conducive to the outbreak of a bush fire or the spread or extension of a bush fire,

And the notice may require the owner or occupier to do so –

(c) As a separate operation, or in co-ordination with any other person, carrying out a similar operation on adjoining or neighbouring land...

Sections 24G (2) and 25(1a) are also of relevance to review of the notice, as they establish powers for local governments to make notices in relation to burning of garden refuse and camp/cooking fires.

In addition, the Bush fire risk treatment standards 2020, made by the FES Commissioner under section 35AA of the Act apply to land in the State designated as bush fire prone under the Fire and Emergency Services Act 1998 section 18p. These standards set out permissible vegetation and clearing treatments within 20m of a relevant building within defined risk treatment area

Relevant Plans and Policies

Key policy guidance is set out in State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP3.7) and the associated Guideline for Planning in Bushfire Prone Areas (Guidelines).

Financial Implications

Not Applicable.

External Stakeholder Consultation

No external stakeholder consultation was required or undertaken in relation to development of this report.

However, should the officer recommendation be supported, extensive consultation with community, brigades, State agencies such as DBCA and DFES, and qualified bushfire consultants will be required to review and develop a new bushfire notice.

Risk Assessment

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

The key risks associated with review of the bushfire notice are reputational damage to the City and Council.			
Category	Consequence	Likelihood	Rating
Reputation	Moderate	Likely	Medium

The Officer Recommendation serves to mitigate the currently identified risk of reputational damage. Previous attempts to review the bushfire notice triggered significant interest from community and the media. It is vital that community are provided the opportunity to be comprehensively involved should Council support the officer recommendation to review the current bushfire notice.

There are also reputational risks associated with not reviewing the notice. Continued inconsistency between the development requirements of the planning and building legislation and the bush fire notice requirements also means there is insufficient controls in place to reduce the vulnerability of bushfire risks in the developed locations of the City.

Options

As an alternative to the proposed recommendation the Council could request officers utilise a differing approach and timeline to complete the consultation related to the City's bushfire notice review.

CONCLUSION

The recommendation of this report will allow the City to undertake a comprehensive review of the bushfire notice in a manner which ensures that community engagement and values are carefully balanced with mitigation of bushfire risks.

It will allow the timing of consultation and development of a revised Notice for Council consideration to be completed early within the 2024 calendar year, ensuring there is ample time to implement any associated changes in the City's inspection systems and operational processes. It will also ensure there is ample time to communicate with and educate community members in how any adopted changes will affect them with sufficient notice to ensure any change requirements can be implemented by property owners prior to the 24/25 bushfire season.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Development of a draft notice for community consultation	December 2023
Community consultation in relation to drafted notice	March 2024
Draft notice presented to Council for consideration/ adoption	May 2024

11.5. Surf Lifesaving Services 2023/24 Season

Strategic Theme:	Key Theme 2: Lifestyle 2.2 Work with key partners to facilitate a safe, healthy and capable community. 2.3 Provide well planned sport and recreation facilities to support healthy and active lifestyles.
Directorate:	Community Planning Adrian Fisher Coordinator Community and Recreation
Authorised By:	Director Community Planning - Paul Needham
Nature of Decision:	Contractual: To enter into a contract e.g. a lease or the award of a tender etc.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	Nil

The officer recommendation was moved and carried.

COUNCIL DECISION

C2310/140 Moved Cr Kate Cox, seconded Cr Phill Cronin

That the Council enter into the optional third season Surf Lifesaving WA (SLSWA) contract to provide professional beach lifeguarding services for 2023/24 Season 3: (15 December 2023 to 30 January 2024).

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

BY ABSOLUTE MAJORITY

OFFICER RECOMMENDATION

That the Council enter into the optional third season Surf Lifesaving WA (SLSWA) contract to provide professional beach lifeguarding services for 2023/24 Season 3: (15 December 2023 to 30 January 2024).

EXECUTIVE SUMMARY

This report presents a recommendation for Council to support the optional third year of the existing contract with Surf Lifesaving WA (SLWA) for beach patrols (SLSWA). SLWA have been an integral partner in ensuring the safety of beachgoers over the summer period and taking up the optional third year is crucial for maintaining current standards of safety and service provision. This extension aligns with the City's commitment to beach safety, community well-being, and strategic goals for the region.

STRATEGIC CONTEXT

This matter aligns with the City of Busselton Strategic Community Plan and principally with the following strategic themes 2.2 Work with key partners to facilitate a safe, healthy and capable community, and 2.3 Provide well planned sport and recreation facilities to support healthy and active lifestyles.

BACKGROUND

SLSWA have provided surf lifesaving services for the City since 2016 delivering effective beach management, public engagement, and education for beachgoers. The current contract with SLSWA was for an initial two-year period for the 2021/22 season and 2022/23 season running December to end of January. The contract was previously entered into by the CEO under delegation. The option of a third season running 2023/24 was at the discretion of the City and results in the contract value over the three year term exceeding the CEO's delegated authority.

The optional third season was put in place to allow time for officers to work with the Shire of Augusta Margaret River (AMRS) on a long-term view of alignment of service provision across the two Cities. This was planned to be in place before the 2023/24 season however is yet to be finalised.

OFFICER COMMENT

The existing contract with SLWA for beach patrols has proven to be an effective means of ensuring the safety of beachgoers in our region. SLWA's expertise, experienced lifeguards, and community presence have contributed to the prevention of water-related incidents and the rapid response to emergencies.

\$182,000 is in the 2023/24 budget. Officers have successfully negotiated with SLSWA to provide full services for the third season to this budget. Approval by Council is required as the addition of the third season exceeds the CEO delegation threshold of \$500k for the 3-year contract

Officers are finalising a partnership arrangement with the Shire of Augusta Margaret River to go out for competitive tender once the current AMRS contract with SLSWA expires in 2024.

Statutory Environment

Not Applicable.

Relevant Plans and Policies

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

Plan:

[Corporate Business Plan 2022-2026](#)

Community Development Plan 2022-2027

Policy:

[Risk Management](#)

Financial Implications

There are no financial implications. Approval of the optional third season will enable service provision within budget.

External Stakeholder Consultation

Not Applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed considering any controls already in place. There are no risks of a medium or higher rating associated with approving the Officer recommendation.

Options

As an alternative to the proposed recommendation the Council could:

1. Not approve SLSWA to provide services.
This could require the City to either provide these services internally or tender for another service provider. If the City were to explore alternative service providers or establish an in-house beach patrol unit, it would entail substantial upfront costs and time and would not be in place for this season. This option is not recommended.
2. Not provide beach safety services for the 2023/24 period noting the heightened risk to public safety by way of water-related incidents, accidents, and emergencies along our coastline that will come with this decision.

CONCLUSION

The decision before the Council to support the optional third year of the SLSWA contract for beach patrols is within budget but is not merely a matter of financial allocation; it is a pivotal choice that profoundly impacts the safety, well-being, and economic vitality of our community. After careful consideration of the alternatives and recognising the strategic context in which this decision lies, it is recommended that extending the contract is both a responsible and prudent course of action.

By supporting the extension of the contract, the City not only upholds its commitment to public safety but also safeguards the region's reputation, promotes community engagement, and exercises fiscal responsibility. It reaffirms the City's dedication to providing a safe and inviting environment for both residents and visitors alike.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Extension of contract	30 November 2023

11.6. Application for Development Approval (DA23/0434) - Single House (Outbuilding) - Lot 6 (4) Wilson Avenue Quindalup

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Community Planning
Reporting Officer:	Planning Officer – Jaymee Daff
Authorised By:	Director Planning and Development Services - Paul Needham
Nature of Decision:	Regulatory: To determine an application/matter that directly affects a person's right and interests e.g. development applications, applications for other permits/licences, and other decisions that may be reviewable by the State Administrative Tribunal.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Attachment 1 - Location Plan [11.6.1 - 1 page] 2. Attachment 2 - Development Plans [11.6.2 - 3 pages] 3. Attachment 3 Planning Assessment Report [11.6.3 - 10 pages]

The officer recommendation was moved and carried.

COUNCIL DECISION

C2310/141 Moved Cr Jodie Richards, seconded Cr Paul Carter

- 1. Consider that the application for a Single House (Outbuilding) is generally consistent with Local Planning Scheme No. 21 and the objectives of the zone in which it is located; and**
- 2. Grant development approval for the proposal subject to the following conditions:**

GENERAL CONDITIONS:

- 1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.**
- 2. The development hereby approved shall be undertaken in accordance with the signed and stamped Approved Development Plans(s), including any notes placed thereon in red by the City of Busselton.**

ONGOING CONDITIONS:

- 3. The works undertaken to satisfy Condition 2 shall be subsequently maintained for the life of the development, and the following Condition(s) complied with:**
 - 3.1 Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 65m² of impervious area.**

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox,

Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

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OFFICER RECOMMENDATION

1. Consider that the application for a Single House (Outbuilding) is generally consistent with Local Planning Scheme No. 21 and the objectives of the zone in which it is located; and
2. Grant development approval for the proposal subject to the following conditions:

GENERAL CONDITIONS:

1. The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped Approved Development Plans(s), including any notes placed thereon in red by the City of Busselton.

ONGOING CONDITIONS:

3. The works undertaken to satisfy Condition 2 shall be subsequently maintained for the life of the development, and the following Condition(s) complied with:
 - 3.1 Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 65m² of impervious area.

EXECUTIVE SUMMARY

The City has received a development application for Single House (Outbuilding) at Lot 6 (4) Wilson Avenue Quindalup which is located within the Quindalup Special Character Area (QSCA).

The application has been brought to Council due to recent changes in officer delegations.

Following assessment against the relevant elements of the planning framework, the development is considered suitable for approval subject to conditions.

STRATEGIC CONTEXT

As per Objective 4.2 of the Strategic Community Plan and in accordance with the recent change in CEO delegations, the application has been referred to Council to facilitate transparent decision making, specifically in the Special Character Areas (SCA's) of the City.

BACKGROUND

The subject site (the Site) is zoned 'Residential' under the *Scheme* with a density coding of R12.5 and located within the Quindalup Special Character Area (QSCA).

The Site has an area of 953m² and is located within a low-density residential area consisting of single houses and grouped dwellings. The Site is an irregular shaped lot, with front boundary to Wilson Avenue and bounded by residential properties to the north and east. Reserve 26524 designated for the purpose of Public Recreation abuts the Site to the south.

The subject site is developed with a single storey dwelling constructed circa 1976 and outbuilding. The existing gable outbuilding (to be demolished) is described as 6m long x 3.6m wide 2.4m high (wall), setback 1.2m from the northern (side) boundary, and 3.5m from the eastern (rear) boundary.

In June 2023, the applicant lodged a development application with the City to demolish the existing outbuilding (floor area 32.4m²) and construct a new outbuilding (floor area 15m²) at the rear of the Site.

The proposed development is described as a 5m long x 3m wide x 2.7m high (wall) gable outbuilding, setback 0.7m from the northern (side) boundary, and 2.1m from the eastern (rear) boundary. The proposed outbuilding is sited in a similar location as the existing outbuilding (to be demolished), albeit with minor variations to the current side and rear setbacks.

The outbuilding features a low-pitched gable roof design with Colorbond® wall and roof cladding (Trimdek® profile). The design and built form of the proposed outbuilding is more conservative than currently exists, is appropriate to its contextual setting, and retains the desired urban form and character of the area.

A location plan and development plans are provided at Attachment(s) 1 and 2 respectively.

OFFICER COMMENT

The below section identifies the elements of the planning framework where assessment is sought and discusses the appropriateness of the City applying discretion. It is noted that most new development in the SCA's and in many other parts of the City require the exercise of discretion.

Special Character Area Provisions (Quindalup):

Schedule 4 and Local Planning Policy 3.5 – Quindalup Special Character Area (LPP 3.5) establish the baseline development standards for the QSCA.

Having regard to the objectives of the Quindalup Special Character Area (LPP 3.5), it is the assessing officer's opinion that the proposal is fundamentally consistent with the relevant development standards, objectives and design elements of the QSCA, and the development is complementary of its contextual setting.

State Planning Policy 7.3 – Residential Design Codes Volume 1 (R-Codes)

During assessment of the proposal, one variation to the deemed to comply standards of the R-Codes was identified, being a reduction in the side lot boundary setback. Where a development does not satisfy a deemed to comply standard, the R-Codes provides for a design principle assessment as an alternative approval pathway.

It should be noted that the deemed to comply measures are not requirements but conservative design standards which provide the most straightforward method of satisfying the objectives and principles of the R-Codes. The R-Codes adopts a performance approach to residential design and

failure to satisfy a deemed to comply standard does not indicate a development is inappropriate. Rather, it indicates that assessment against the design principles are required. Where a decision maker is of the opinion that a proposal reasonably meets the design principles, approval should be granted. Only where it can be reasonably demonstrated that a proposal does not satisfy the design principles, should refusal be issued.

Attachment C provides an assessment against the relevant design principles of the R-Codes where a variation has been proposed. It is the officer's recommendation that the subject proposal satisfies the design principles and is suitable for approval.

Statutory Environment

The key statutory documents relevant to this proposal include the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and the relevant objectives and provisions of the *Scheme*. Each is discussed below under the relevant subheadings:

Planning and Development (Local Planning Schemes) Regulations 2015:

Schedule 2 of the Regulations, (the Deemed Provisions) are to be read in conjunction with the *Scheme* with clause 67 setting out the matters to be considered by a local government in the determination of any development application. Attachment 3 provides a detailed assessment against the relevant elements of clause 67.

Local Planning Scheme No. 21

The proposal is consistent with the objectives of the 'Residential' zone as defined by the *Scheme*, specifically "to facilitate and encourage high quality design, built form and streetscapes." Further, the application complies with Schedule 4 of the *Scheme* which sets out the area specific development controls for the QSCA.

The R-Codes are the over-arching planning document guiding built form outcomes in the 'Residential' zone and are to be read as part of the *Scheme*. The compliance of the proposal with the requirements of the R-Codes has been discussed in Attachment 3.

Relevant Plans and Policies

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

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7)

SPP 3.7 directs how land use and development should address bushfire risk management and applies to all land which has been designated as 'bushfire prone' by the Fire and Emergency Services Commissioner as per the 'Map of Bushfire Prone Areas.' While the site is in a bushfire prone area, the proposed development is a non-habitable building on a lot of less than 1100m² and is thus exempt from further bushfire planning requirements.

Local Planning Policy 3.5 – Quindalup Special Character Area (LPP 3.5)

LPP 3.5 in conjunction with Schedule 4, establishes the baseline development controls for the QSCA with the principal objective of preserving the unique and specific character of the Quindalup strip. Compliance with the policy has been discussed previously in the report.

Financial Implications

Not Applicable.

External Stakeholder Consultation

The application was not referred to adjoining landowners.

Risk Assessment

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

No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Resolve to refuse the application and provide reasons for such a decision; or
2. Resolve to seek further information before making a decision.

CONCLUSION

The development is considered to satisfy the relevant elements of the planning framework and is of a scale consistent with the residential character of the area. Accordingly, the application is recommended for approval subject to conditions.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Issue the development approval to the applicant.	Within two weeks of council decision.

12. INFRASTRUCTURE AND ENVIRONMENT REPORTS

12.1. RFT12/23 Jalbarragup Rd Shoulder Widening and Reseal

Strategic Theme:	Key Theme 2: Lifestyle 2.10 Provide local road networks that allow for the safe movement of people through the District. 2.12 Provide well maintained community assets through robust asset management practices.
Directorate:	Infrastructure and Environment
Reporting Officer:	Civil Works Coordinator – Kevin Bowser
Authorised By:	Director Infrastructure and Environment - Oliver Darby
Nature of Decision:	Contractual: To enter into a contract e.g. a lease or the award of a tender etc.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. CONFIDENTIAL REDACTED - RF T 12-23 Evaluation Panel Report [12.1.1 - 15 pages]

The officer recommendation was moved and carried.

COUNCIL DECISION

C2310/142 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council endorses the outcome of the evaluation panel's assessment of RFT12/23 Jalbarragup Rd Shoulder Widen and Reseal and accepts the tender from Leeuwin Civil Pty Ltd with as most advantageous.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

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OFFICER RECOMMENDATION

That the Council endorses the outcome of the evaluation panel's assessment of RFT12/23 Jalbarragup Rd Shoulder Widen and Reseal and accepts the tender from Leeuwin Civil Pty Ltd with as most advantageous.

EXECUTIVE SUMMARY

The City invited tenders under RFT12/23 Jalbarragup Rd Shoulder Widen and Reseal (the RFT) for road shoulder widening and sealing, and full width reseal of Jalbarragup Road. This report

recommends that Council endorse the outcome of the evaluation panel's assessment and accept the tender submission from Leeuwin Civil Pty Ltd as most advantageous to the City.

STRATEGIC CONTEXT

The nature of the works supports the improvement of our road connections to and from the district, in alignment with Key Theme 2 of the City's Strategic Community Plan – Lifestyle and is also in support of Key Theme 3 - Opportunity.

BACKGROUND

The City previously received funding from the Federal government through the Regional Road Safety Program (RRSP) to provide sealed shoulders and audible edge lines to three (3) strategic rural roads. Jalbarragup Road was identified by the City as requiring attention, however the overall funding program was oversubscribed.

A subsequent funding program was initiated between the Federal government and Main Roads WA titled 'Blackspot – Mass Action Program' which sought to deliver the higher ranked projects that missed funding through the original program. Jalbarragup Road was resubmitted to the new program and was successful in securing funding. This program sought to address road safety concerns where there were a disproportionate number of off-road crashes but did not meet the Benefit Cost Ratio for the blackspot program.

OFFICER COMMENT

On 6 September 2023, tenders were invited via VendorPanel and advertised in 'The West Australian' newspaper, City Connect and on the City of Busselton website. Tenders closed at 2.00pm (AWST) on Wednesday 27th September 2023 and the City received three tender submissions from the following tenderers:

- BCP Contractors Pty Ltd
- Carbone Bros Pty Ltd
- Leeuwin Civil Pty Ltd

Assessment Process

In accordance with the City's procurement practices and procedures, tender submissions were assessed by a tender evaluation panel comprising City officers with relevant skills and experience.

The tender assessment process included:

- Assessing tenders received against relevant compliance criteria. The compliance criteria were not point scored. Each submission was assessed on a Yes/No basis as to whether each criterion was satisfactorily met.
- Assessing compliant tenders against the following qualitative criteria (weighted as indicated in the table below):

Criteria		Weighting
(a)	Price (see paragraph 3.4 for further price information)	40%
(b)	Relevant Experience	25%

(c)	Local Content	5%
(d)	Demonstrated Understanding including resources and safety	30%

Submissions were scored based on the extent to which each tenderer was able to satisfy the qualitative criteria above. The tendered prices were then assessed together with the weighted qualitative criteria and ranked to determine the most advantageous outcome to the City based on principles of best value for money.

The outcome of the evaluation panel's assessment was as follows:

- Leeuwin Civil Pty Ltd ranked first overall (first on price and first on qualitative criteria). The tender price was cheaper than the other tender submissions, and within the City's project budget. A strong tender response with directly relatable relevant experience, local benefit demonstrated within the City of Busselton, and detailed methodology demonstrating a clear understanding of scope and site-specific requirements.
- BCP Contractors Pty Pts ranked second overall (second on price and second on qualitative criteria). The tender submission detailed experience on similar projects of smaller scale, demonstrated local benefit within the City of Busselton, appropriate works methodology and construction program within required periods.
- Carbone Bros Pty Ltd ranked third overall (third on price and third on qualitative criteria). The tender submission highlighted road construction experience for LGAs in rural and urban environments, presented a general local benefit policy lacking detail on specific benefits within the City of Busselton, and included a works methodology summary with program.

Leeuwin Civil Pty Ltd presented a strong submission and was the only response received within the City's project budget. Based on the combination of price and qualitative criteria it is recommended the tender submission from Leeuwin Civil Pty Ltd be accepted.

Statutory Environment

Section 3.57 of the Act requires a local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods and service.

Part 4 of the *Local Government (Functions and General) Regulations 1996 (WA)* (**Regulations**):

- requires that tenders be publicly invited for such contracts where the estimated cost of providing the required goods and/or service exceeds \$250,000; and
- under Regulations 11, 14, 18, 20 and 21A, provides the statutory framework for inviting and assessing tenders and awarding contracts pursuant to this process.

The officer recommendation complies with the above-mentioned legislative requirements. The estimated expenditure is more than \$500,000, which is above the Chief Executive Officer's delegated authority for accepting tenders.

Relevant Plans and Policies

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

Plan:

[Asset Management Plan](#)

Policy:

[Asset Management](#)

[Purchasing](#)

Financial Implications

The estimated total value of the requirements over the full contract term is \$2,100,000.

The requirements will be funded from the adopted 23/24 capital budget allocations totalling \$2,344,420 summarized as follows:

- 14853 Jalbarragup Road - Reseal SLK 0 to 10.75
 - \$600,000 reserve funded
- 15085 Jalbarragup Road New Shoulders
 - \$200,000 reserve funded
 - \$1,544,420 external funding

External Stakeholder Consultation

The consultation for this project has been limited to the funding agencies.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Award the tender in full or in part to an alternative tenderer.
2. Decline to accept any tender.

CONCLUSION

The submission from Leeuwin Civil Pty Ltd is considered most advantageous to the City. Based on the Evaluation Panel's assessment and overall ranking of the tenders, Officers recommend that the City award the contract for Jabarragup Road shoulder widening and reseal to Leeuwin Civil Pty Ltd.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Date for Contract Commencement	23 October 2023
Date for giving the contractor possession of the site	30 October 2023
Date for Practical Completion	29 April 2024
Date of Expiry of Defects Liability Period	29 April 2025

13. ECONOMIC AND BUSINESS DEVELOPMENT REPORTS

13.1. Relinquish management over portion of Holgate Reserve 41550

Strategic Theme:	Key Theme 1: Environment 1.2 Work with the community to manage and enhance natural areas and reserves and their biodiversity.
Directorate:	Economic and Business Development
Reporting Officer:	Senior Leasing and Property Officer - Ann Strang
Authorised By:	Director of Economic and Business Development - Maxine Palmer
Nature of Decision:	Regulatory: To determine an application/matter that directly affects a person's right and interests e.g. development applications, applications for other permits/licences, and other decisions that may be reviewable by the State Administrative Tribunal.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	1. Holgate Reserve Enclosed Area [13.1.1 - 1 page]

The officer recommendation was moved and carried.

COUNCIL DECISION

C2310/143 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council endorses excision of an area up to 629m from Lot 4896 on Crown Reserve 41550 as shown hatched on Attachment 1 to enable the adjoining landowner to acquire the land from the State, to facilitate continuity of use.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

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OFFICER RECOMMENDATION

That the Council endorses excision of an area up to 629m from Lot 4896 on Crown Reserve 41550 as shown hatched on Attachment 1 to enable the adjoining landowner to acquire the land from the State, to facilitate continuity of use.

EXECUTIVE SUMMARY

The Owners of Strata Plan 21918, Broadwater (Strata Owners) wish to acquire a portion of Reserve 41550, Lot 4896, 9 Holgate Road, Broadwater. The land comprises approximately 629m² as shown hatched on Attachment 1 and has for some time been incorporated into the recreational area of the neighbouring Strata units (the Resort).

The Department of Planning, Lands and Heritage (DPLH) require formal endorsement of the proposed excision of this land from the Reserve as it is currently the subject of a management order issued to the City. This report recommends that Council provide that endorsement.

STRATEGIC CONTEXT

The excision of the portion of land promotes appropriate use of land, being the formalisation of previously unauthorised use of state land. The fact that the land concerned has negligible impact on the enjoyment of the remainder of the Reserve and will not require City expenditure or involve further resource time reflects responsible management of ratepayer funds.

BACKGROUND

Reserve 41550 consists of two lots. Lot 4896 on Diagram 77066, 9 Holgate Road, Broadwater adjoins the Resort (Lot 4896) and Lot 33 on Strata Plan 37864, 553 Bussell Highway, Broadwater adjoins the Sebel Resort. The Reserve is crown land owned by the State.

In 1992, the City was issued with a management order with power to lease or licence for any term not exceeding 21 years over Lot 4896. This was when the land was transferred to the State as part of the development approval. The whole of Lot 4896 was subject to lease up until 2010.

Alfresco Area

On 8 December 2010, the Council resolved (C1012/425) to enter into a licence agreement with Helium Holdings Pty over the alfresco area (approximately 724 m²) adjoining the Resort for a term of 5 years with a further 5 years term. When requesting approval from the DPLH in 2021 to renew the commercial licence over this section, DPLH refused. DPLH cited changes to internal policies which no longer supported commercial use of public recreation reserves created as part of the subdivision process under planning legislation.

To allow continuation of a long-standing business (formerly 'Stilts' and now 'Tonic By the Bay'), DPLH agreed to grant approval for the City to enter into a 2-year licence agreement with the adjoining business owner, subject to the creation of a new lot. This was subject to the City agreeing to the excision of a portion of Lot 4896 for the conveyance and amalgamation into the adjoining freehold land and the variation to the management order for the remainder of Lot 4896 to revoke the power to lease.

In late 2021 the City was issued with a new management order with the power to licence for any term up to 5 years. The excision of 724m² (alfresco area) from Lot 4896 is still in progress.

Subject Area

Also in 2010 Council resolved to enter into a licence agreement with Broadwater Resort Management Ltd (BRM) for a similar term over the remainder of Lot 4896. BRM did not wish to enter into this agreement, therefore the City has managed and maintained the land since, excluding the enclosed section, the subject of this report.

In the course of investigating the areas impacted by commercial use for the Alfresco area it became apparent to DPLH that the Strata Owners of the Resort had encroached onto a portion of the public recreation Reserve. The encroachment consists of the installation of paving, a fence, and gate

installed as part of the Resort development. There is also an outdoor shower just beyond the area that will require relocating.

The Strata Owners have acknowledged that the area used by them is part of the Reserve. They have requested that the State allow the infrastructure to remain if they purchase the land from them. DPLH first require Council endorsement that this land can be excised from the Reserve.

OFFICER COMMENT

Officers recently updated Councillors on the proposed excision of land from the Reserve and informed Council of the submission made to DPLH. An option to excise and return the enclosed area to the State was presented as well as the option for the City to retain the land.

If the City wishes to retain this portion of land then the fence and all other infrastructure would need to be removed. As the subject land is in very close proximity to 6 ground floor units, when the fence is removed it would be unlikely that members of the public would enter this area to utilise the land unless gaining access to the Resort.

The officer recommendation is based on there being limited public benefit in returning the area of encroachment to the Reserve. Should the City reclaim management of this area the level of maintenance would be returned to the same as the remainder of the Lot 4896.

For these reasons, it is suggested it would be of no detriment to the City to relinquish this portion of land. In doing so the State will then negotiate with the Strata Owners to either acquire the land at market value or enter into an agreement which will determine their ongoing maintenance obligations. The City will have no further obligations in respect to this area.

Statutory Environment

Pursuant to section 46 of the *Land Administration Act 1997 (LAA)*, the Minister for Lands may, with the consent of the management body vary any condition to which the care, control and management of the reserve is subject.

The Reserve was created as part of the subdivision process under Section 152 of the *Planning and Development Act 2005*. Such reserves have a high level of protection to ensure they provide free and uninterrupted access to the whole of the reserve for the general public.

Relevant Plans and Policies

Not Applicable.

Financial Implications

There will be no financial implications if the Officer recommendation is supported, as all costs associated with the transfer will be borne by the Strata Owners. If the City wishes to retain the area it would in all likelihood remove much of the built form to facilitate a sustainable level of maintenance in the future.

External Stakeholder Consultation

Ongoing discussions have been held with DPLH and the Strata Owners in respect to both the alfresco area and the enclosed area on the reserve.

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. require the Strata Owners to remove all infrastructure on Lot 4896 within the 629m2 area shown on the attached plan.
2. decline to endorse the proposal and direct officers to refer the matter back to DPLH with a request that the City be permitted to enter into a licence agreement with the Strata Owners.

CONCLUSION

Encroachment onto a reserve by a private land owner would not generally be supported by the State or the City as land manager. The area is relatively small in comparison to the remainder of the Reserve however and the recommendation to support the proposal of DPLH to relinquish the same is considered a proportionate response, particularly as there will no cost to the City in doing so. In addition, the impact on the users of the remainder of the Reserve will be negligible.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Write to DPLH confirming City's intention	30 October 2023

14. CORPORATE STRATEGY AND PERFORMANCE REPORTS

14.1. 2023 Review of Committees, Working Groups and Terms of Reference

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Director of Corporate Strategy and Performance - Sarah Pierson
Authorised By:	Director of Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. CEO Performance Review Committee ToR Clean [14.1.1 - 2 pages] 2. CEO Performance Review Committee ToR Tracked Changes [14.1.2 - 3 pages] 3. Behaviour Complaints Committee ToR [14.1.3 - 2 pages] 4. Behaviour Complaints Committee ToR track changes [14.1.4 - 2 pages] 5. ToR Meelup Regional Park Committee [14.1.5 - 2 pages] 6. ToR Meelup Regional Park Committee Track Changes [14.1.6 - 3 pages] 7. Bush Fire Advisory Committee ToR [14.1.7 - 3 pages] 8. Local Emergency Management Committee ToR [14.1.8 - 3 pages]

Prior to the meeting, Cr Riccelli foreshadowed an alternative that was different to the officer recommendation. In accordance with clause 10.18(6) of the City's *Standing Orders Local Law 2018*, it was taken to be an alternative and moved first.

There was opposition and debate ensued.

SUBSTANTIVE MOTION

C2310/144 Moved Cr Sue Riccelli, seconded Cr Kate Cox

That the Council,

1. Pursuant to s. 5.8 of the *Local Government Act 1995*, retains the following Committees:
 - a. Audit and Risk Committee
 - b. Finance Committee
 - c. Policy and Legislation Committee
 - d. Airport Advisory Committee
 - e. CEO Performance Review Committee
 - f. Behaviour Complaints Committee
 - g. Meelup Regional Park Committee
2. Pursuant to s. 67 of the *Bushfires Act 1954*, retains the Bush Fire Advisory Committee.

- 3. Pursuant to s. 38 of the *Local Emergency Management Act 2005*, retains the Local Emergency Management Committee.**
- 4. Notes the Terms of Reference previously endorsed by Council for the following Committees:**
 - a. Audit and Risk Committee (C2306/110)**
 - b. Finance Committee (C2306/115)**
 - c. Policy and Legislation Committee (C2208/80)**
 - d. Airport Advisory Committee (C2307/61)**
- 5. Endorses the attached Terms of Reference for the following Committees:**
 - a. CEO Performance Review Committee (Attachment 1)**
 - b. Behaviour Complaints Committee (Attachment 3)**
 - c. Meelup Regional Park Committee (Attachment 5)**
 - d. Bush Fires Advisory Committee (Attachment 7)**
 - e. Local Emergency Management Committee (Attachment 8)**
- 6. Retains the following Reference / Working Groups / Panels with elected member representation of 2 elected members and 1 deputy member for each:**
 - a. Economic Development Advisory Group**
 - b. Busselton Jetty Reference Group**
 - c. Disability Access and Inclusion Plan Reference Group**
 - d. Business Development, Events and Marketing Reference Group**
 - e. Saltwater Working Group**
 - f. Community Assistance Program Panel**
- 7. Disbands the following Reference / Working Group / Panels and / or elected member representation as specified:**
 - a. Sustainability and Energy Working Group (elected member representation)**
 - b. Economic Development Working Group (disband group)**
- 8. Requests the CEO to work in partnership with the DRG to determine if any amendments need to be made to their Terms of Reference to ensure it functions in a manner consistent with the original Council's resolution.**
- 9. Endorses the appointment of an Elected Member representative, as an ex-officio board member to the Busselton Jetty Inc. board upon invitation from Busselton Jetty Inc.**
- 10. Endorses the continued delegation of 1 elected member and 1 deputy elected member to the following external groups:**
 - a. Peron-Naturaliste Partnership**
 - b. Busselton and Sugito Cities Association**
 - c. Regional Road Group and Convention**
- 11. Endorses the continued attendance of an elected member at the Australian Coastal Councils annual conference / Annual General Meeting.**
- 12. Endorses the continued appointment of the Mayor to the following external groups:**
 - a. Regional Capital Australia Alliance (subject to appointment by the Regional Capitals Australia Alliance Board)**
 - b. Regional Capitals Western Australia Alliance**
 - c. South West Zone Local Government Association**

- 13. Endorses the nomination of elected members as required to the following Ministerial Committees subject to approval of the relevant Minister:**
- a. Yallingup Land Conservation District Committee (1 member)**
 - b. Development Assessment Panel (2 members, 2 deputy members)**
 - c. Vasse Ministerial Taskforce (1 member, 1 deputy member)**
 - d. GeoCatch (the Mayor or delegate as appointed by the Minister)**

During debate, Cr Love moved the following amendment to the substantive motion.

AMENDMENT 1

C2310/145 Moved Cr Mikayla Love, seconded Cr Ross Paine

Amend part 6 substantive motion, inserting a new part 7, and renumber the motion accordingly.

- 6. Retains the following Reference / Working Groups / Panels with elected member representation of 2 elected members and 1 deputy member for each:**
- a. ~~Economic Development Advisory Group~~**
 - b. Busselton Jetty Reference Group**
 - c. Disability Access and Inclusion Plan Reference Group**
 - d. ~~Business Development, Events and Marketing Reference Group~~**
 - e. Saltwater Working Group**
 - f. ~~Community Assistance Program Panel~~**
- 7. Retains the following Reference / Working Groups / Panels with elected member representation of 3 elected members and 1 deputy member for each:**
- a. Economic Development Advisory Group**
 - b. Business Development, Events and Marketing Reference Group**
 - c. Community Assistance Program Panel**

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

The amendment to the substantive motion was moved and carried.

Debate resumed on the amended substantive motion.

Cr Henley moved an amendment to the substantive motion.

AMENDMENT 2

C2310/146 Moved Cr Grant Henley, seconded Cr Jodie Richards

Amend part 8 to read as follows:

8. Disbands the following Reference / Working Group / Panels and / or elected member representation as specified:
- Sustainability and Energy Working Group (elected member representation)
 - Economic Development Working Group (disband group)
 - Dunsborough Reference Group (elected member representation)

CARRIED 7 / 2

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards,, Cr Phill Cronin, , Cr Mikayla Love and Cr Ross Paine

AGAINST: Cr Sue Riccelli and Cr Kate Cox

The amendment was carried.

COUNCIL DECISION

C2310/147 Moved Cr Sue Riccelli, seconded Cr Kate Cox

That the Council,

- Pursuant to s. 5.8 of the *Local Government Act 1995*, retains the following Committees:
 - Audit and Risk Committee
 - Finance Committee
 - Policy and Legislation Committee
 - Airport Advisory Committee
 - CEO Performance Review Committee
 - Behaviour Complaints Committee
 - Meelup Regional Park Committee
- Pursuant to s. 67 of the *Bushfires Act 1954*, retains the Bush Fire Advisory Committee.
- Pursuant to s. 38 of the *Local Emergency Management Act 2005*, retains the Local Emergency Management Committee.
- Notes the Terms of Reference previously endorsed by Council for the following Committees:
 - Audit and Risk Committee (C2306/110)
 - Finance Committee (C2306/115)
 - Policy and Legislation Committee (C2208/80)
 - Airport Advisory Committee (C2307/61)
- Endorses the attached Terms of Reference for the following Committees:
 - CEO Performance Review Committee (Attachment 1)
 - Behaviour Complaints Committee (Attachment 3)
 - Meelup Regional Park Committee (Attachment 5)
 - Bush Fires Advisory Committee (Attachment 7)
 - Local Emergency Management Committee (Attachment 8)

6. Retains the following Reference / Working Groups / Panels with elected member representation of 2 elected members and 1 deputy member for each:
 - a. Busselton Jetty Reference Group
 - b. Disability Access and Inclusion Plan Reference Group
 - c. Saltwater Working Group
7. Retains the following Reference / Working Groups / Panels with elected member representation of 3 elected members and 1 deputy member for each:
 - a. Economic Development Advisory Group
 - b. Business Development, Events and Marketing Reference Group
 - c. Community Assistance Program Panel
8. Disbands the following Reference / Working Group / Panels and / or elected member representation as specified:
 - a. Sustainability and Energy Working Group (elected member representation)
 - b. Economic Development Working Group (disband group)
 - c. Dunsborough Reference Group (elected member representation)
9. Requests the CEO to work in partnership with the DRG to determine if any amendments need to be made to their Terms of Reference to ensure it functions in a manner consistent with the original Council's resolution.
10. Endorses the appointment of an elected member representative, as an ex-officio board member to the Busselton Jetty Inc. board upon invitation from Busselton Jetty Inc.
11. Endorses the continued delegation of 1 elected member and 1 deputy elected member to the following external groups:
 - a. Peron-Naturaliste Partnership
 - b. Busselton and Sugito Cities Association
 - c. Regional Road Group and Convention
12. Endorses the continued attendance of an elected member at the Australian Coastal Councils annual conference / Annual General Meeting.
13. Endorses the continued appointment of the Mayor to the following external groups:
 - a. Regional Capital Australia Alliance (subject to appointment by the Regional Capitals Australia Alliance Board)
 - b. Regional Capitals Western Australia Alliance
 - c. South West Zone Local Government Association
14. Endorses the nomination of elected members as required to the following Ministerial Committees subject to approval of the relevant Minister:
 - a. Yallingup Land Conservation District Committee (1 member)
 - b. Development Assessment Panel (2 members, 2 deputy members)
 - c. Vasse Ministerial Taskforce (1 member, 1 deputy member)
 - d. GeoCatch (the Mayor or delegate as appointed by the Minister)

CARRIED 8 / 1

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Cr Kate Cox**OFFICER RECOMMENDATION**

That the Council,

1. Pursuant to s. 5.8 of the *Local Government Act 1995*, retains the following Committees:
 - a) Audit and Risk Committee
 - b) Finance Committee
 - c) Policy and Legislation Committee
 - d) Airport Advisory Committee
 - e) CEO Performance Review Committee
 - f) Behaviour Complaints Committee
 - g) Meelup Regional Park Committee
2. Pursuant to s. 67 of the *Bushfires Act 1954*, retains the Bush Fire Advisory Committee.
3. Pursuant to s. 38 of the *Local Emergency Management Act 2005*, retains the Local Emergency Management Committee.
4. Notes the Terms of Reference previously endorsed by Council for the following Committees:
 - a) Audit and Risk Committee (C2306/110)
 - b) Finance Committee (C2306/115)
 - c) Policy and Legislation Committee (C2208/80)
 - d) Airport Advisory Committee (C2307/61)
5. Endorses the attached Terms of Reference for the following Committees:
 - a) CEO Performance Review Committee (Attachment 1)
 - b) Behaviour Complaints Committee (Attachment 3)
 - c) Meelup Regional Park Committee (Attachment 5)
 - d) Bush Fires Advisory Committee (Attachment 7)
 - e) Local Emergency Management Committee (Attachment 8)
6. Retains the following Reference / Working Groups / Panels with elected member representation of 2 elected members and 1 deputy member for each:
 - a) Economic Development Advisory Group
 - b) Busselton Jetty Reference Group
 - c) Disability Access and Inclusion Plan Reference Group
 - d) Business Development, Events and Marketing Reference Group
 - e) Saltwater Working Group
 - f) Community Assistance Program Panel
7. Disbands the following Reference / Working Group / Panels and / or elected member representation as specified:
 - a) Sustainability and Energy Working Group (elected member representation)
 - b) Economic Development Working Group (disband group)
 - c) Dunsborough Reference Group (elected member representation)

8. Notes that the City will continue to engage with the Dunsborough Reference Group, while resolving not to seek to bring the relationship into line with the arrangements described in Council Resolution C2111/089.
9. Endorses the appointment of a Councillor as an ex-officio board member to the Busselton Jetty Inc. board upon invitation from Busselton Jetty Inc.
10. Endorses the continued delegation of 1 elected member and 1 deputy elected member to the following external groups:
 - a) Peron-Naturaliste Partnership
 - b) Busselton and Sugito Cities Association
 - c) Regional Road Group and Convention
11. Endorses the continued attendance of an elected member at the Australian Coastal Councils annual conference / Annual General Meeting.
12. Endorses the continued appointment of the Mayor to the following external groups:
 - a) Regional Capital Australia Alliance (subject to appointment by the Regional Capitals Australia Alliance Board)
 - b) Regional Capitals Western Australia Alliance
 - c) South West Zone Local Government Association
13. Endorses the nomination of elected members as required to the following Ministerial Committees subject to approval of the relevant Minister:
 - d) Yallingup Land Conservation District Committee (1 member)
 - e) Development Assessment Panel (2 members, 2 deputy members)
 - f) Vasse Ministerial Taskforce (1 member, 1 deputy member)
 - g) GeoCatch (the Mayor or delegate as appointed by the Minister)

EXECUTIVE SUMMARY

In the lead up to the local government elections to be held on 21 October 2023, officers have undertaken a review of the various Council committees, reference / working groups and panels with elected member representation, and elected member appointments to external groups. The purpose of the review is to assess their functioning and to provide recommendations to Council as to their ongoing purpose.

STRATEGIC CONTEXT

The review of committees, working groups and elected member representation aligns with Strategic Theme 4.2 through the deliverance of governance systems that facilitate open, ethical and transparent decision making. Regular review also assists in providing effective governance processes through continuous improvement.

BACKGROUND

The Council currently has seven Council committees established under the *Local Government Act 1995* (the Act), one established under the *Bush Fires Act 1954* and one established under the *Local Emergency Management Act 2005*. The Council has also over the years formed many working

groups to assist with the progressing of various initiatives. In addition, the Council is represented on a number of external groups and committees.

It is appropriate to review on a regular basis whether or not these Committees, working groups and representations are still performing the function originally intended and / or are still warranted, noting the resource requirements associated (from elected members and administration requirements) and that travel allowances are payable for elected member attendance.

OFFICER COMMENT

Review of Formal Committees

Between Friday 18 April 2023 and Monday 1 May 2023, officers facilitated a review of Committees, with Committee members asked to respond to the following questions and provide comments where appropriate or required:

- a. Do you feel the Committee's purpose and objectives are being met? – Yes / No / Partly.
- b. In your opinion, is the Committee functioning effectively? If no, how could this be improved?

In addition to the questions asked of Committee Members, City officers assessed the following questions through a review of attendance and minutes:

- a. Is the Committee functioning as per the functions of the Act?
- b. Are committee members' regularly attending meetings?

A review of the Audit and Risk Committee, Finance Committee, Airport Advisory Committee and Policy and Legislation Committee were completed, with Council adopting, on recommendation from each Committee, a new Terms of Reference (ToR) for each Committee, as summarised below.

Committee	ToR endorsed by Council	Council Resolution
Audit and Risk Committee	21 June 2023	C2306/110
Finance Committee	21 June 2023	C2306/115
Airport Advisory Committee	26 July 2023	C2307/61
Policy and Legislation Committee	16 August 2023	C2308/80

CEO Performance Review Committee

The CEO Performance Review Committee has not met to complete the review process. The table below sets out the collated responses from the Committee members to the survey:

Question	Collated Response
Do you feel the Committee's purpose and objectives are being met?	2 responses Yes
In your opinion, is the Committee functioning effectively?	2 responses Yes
What improvements can be made (if any)?	<p>The ToR be amended to insert the following "Following Council elections, the CEO is to ensure those councillors elected to this Committee are provided with the current Terms of Reference, Local Government Act, Regulations, or Guidelines along with copies of any policy, local law, or document related to this Committee which will enable the member to fully understand the his/her role and function on this Committee".</p> <p>Adjust clause 7.1 to something like "Where the CEO has legislative responsibility and / or delegated authority, the Committee does not have authority to implement actions over and above these powers". As it reads currently it could infer that the CEO does not have the legislative authority rather than the Committee.</p> <p>Quarterly reporting on 2.2 (e)</p>
Is the Committee functioning as per the functions of the Act?	Yes, the Committee has been established in accordance with the Act and meets all requirements of the Act
Are committee members' regularly attending meetings?	Yes

Based on the responses provided, it is recommended that the Committee is generally operating effectively.

The suggestion with respect to additional training is noted and able to be provided. With respect to amending the ToR to require relevant reference documentation to be provided to Committee members, the reference documents noted are available on Doc on Tap for Councillors.

Ensuring they are more readily available to Committee members through training and having them more directly linked to the Committee folder is something that can be incorporated. It is not however recommended that a specific reference is added to the ToR as the ToR set out more the purpose and objectives along with the membership and meeting frequencies of the Committee.

With respect to clause 7.1 it is recommended that this be amended to align to other Committee clauses with reference to delegated powers only – “The Committee does not have any delegated power from Council”. The Act already sets out the role of the CEO and the Council (Committees) and Councillors.

With respect to a quarterly report on the progress of achievement by the CEO against the performance criteria, this is supported.

With respect to the ToR the following amendments are proposed (Attachment 1):

- Amendment to point 5.1 to provide for quarterly meetings, generally in October, January, April, and July of each year.
- Amendment to point 7.1 as described above.
- Amendment of point 8 evaluation of the committee’s effectiveness to provide for one single Committee review report to be presented to Council as opposed to each Committee evaluating their own effectiveness. For many years officers have undertaken a review of the committees and their terms of reference (ToR) (along with working groups) and provided a report to Council with Council then determining which Committees are to continue and any changes to ToR’s. This has worked efficiently and has provided Council with the opportunity to review their Committee structure. It is therefore recommended that this process be used;
- Replacement of ‘shall’ with ‘will’.

Behaviour Complaints Committee

The ToR for this Committee does not include a review mechanism. Notwithstanding Committee members were surveyed. The table below sets out the collated responses from the Committee members to the survey:

Question	Collated Response
Do you feel the Committee’s purpose and objectives are being met?	<p>4 responses Yes 2 responses Partly 1 response No</p> <p><u>Comments:</u> A little clunky; Legal constraints hinder common sense application of behaviour principles; Difficult to answer; Impartiality, fairness, natural justice and accuracy not front of mind for Committee. Perception of impartiality with no declaration, additional arguments being made without right to respond, concern over accuracy of findings.</p>
In your opinion, is the Committee functioning effectively?	<p>3 responses Yes 3 responses Partly 1 response No</p>

What improvements can be made (if any)?	<p>Members need to ensure impartiality and correctness.</p> <p>The ToR be amended to insert the following "Following Council elections, the CEO is to ensure those councillors elected to this Committee are provided with the current Terms of Reference, Local Government Act, Regulations, or Guidelines along with copies of any policy, local law, or document related to this Committee which will enable the member to fully understand the his/her role and function on this Committee".</p> <p>Links to all of the relevant policies provided within ToR</p> <p>Reference at 7.2 to action plans</p> <p>Better information as the various options if any breaches are found to be substantiated eg what training could be undertaken.</p> <p>Question objectivity of the Committee with elected members asked to consider and make determination on the behaviour of others where personal conflicts may already be apparent.</p>
Is the Committee functioning as per the functions of the Act?	Yes, the Committee has been established in accordance with the Act and meets all requirements of the Act
Are committee members' regularly attending meetings?	Yes

The Committee has been established to fulfil the requirements of Council under the Act and associated Regulations, which set out that Council is to determine complaints made in relation to breaches of behaviours outlined in the Code of Conduct. While comments in relation to the effectiveness / appropriateness of this model are noted, it is a requirement of the Act.

The suggestion with respect to additional training is noted and able to be provided. With respect to amending the ToR to require relevant reference documentation to be provided to Committee members, the reference documents noted are available on Doc on Tap for Councillors. Ensuring they are more readily available to Committee members through training and having them more directly linked to the Committee folder is something that can be incorporated. It is not however recommended that a specific reference is added to the ToR as the ToR set out more the purpose and objectives along with the membership and meeting frequencies of the Committee. Links to related documentation can however be added to the ToR.

Clause 7.2 of the current ToR provides the Committee with the power to vary and / or approve a proposed action plan. This action plan is generally proposed by the Assessor assessing the claim under the City's relevant Council policy.

The suggestion with respect to more information about possible actions to be taken if a breach was to be found is also noted. Officers will seek to provide information where they can (or request the Assessor to).

With respect to the ToR the following amendments are proposed (Attachment 3):

- Removal of 5.5 as there are no deputy committee members (with all members being appointed). Any member to which a complaint relates or any member who makes a complaint is required to be an apology.
- Removal of 5.9 as the Committee has delegated decision making powers.
- Replacement of 'shall' with 'will'.

Meelup Regional Park Committee; Bush Fires Advisory Committee; Local Emergency Management Committee

The Meelup Regional Park Committee, Bush Fire Advisory Committee and Local Emergency Management Committees are all Committees comprising elected members and other persons. For this reason the Committee members were not surveyed. Additionally the Bush Fire Advisory Committee and the Local Emergency Management Committee are not committees established under the *Local Government Act 1995*.

A review has instead been undertaken by governance in conjunction with relevant officers involved in the running of the Committees.

Meelup Regional Park Committee

While the Meelup Regional Park Committee only meets twice a year (noting that there is also a working group with the same membership that meets more regularly), it is considered of ongoing relevance given the importance of the Meelup Regional Park. An amended ToR is attached for Council endorsement (Attachment 5). Substantively the following changes are proposed:

- Removal of point 1.4 which seeks to provide guidance on the sorts of matters to be considered by the Committee. This is not generally a feature of Committee ToR and it is felt that point 1.3 is adequate, when read in conjunction with the Committee's delegated powers.
- Removal of point 7.2. The Committee is entitled to use any delegated decision making powers it has.
- Amendment of point 8 evaluation of the committee's effectiveness to provide for one single Committee review report to be presented to Council as opposed to each Committee evaluating their own effectiveness. For many years officers have undertaken a review of the committees and their terms of reference (ToR) (along with working groups) and provided a report to Council with Council then determining which Committees are to continue and any changes to ToR's. This has worked efficiently and has provided Council with the opportunity to review their Committee structure. It is therefore recommended that this process be used, noting that it is also not practicable given the Meelup Committee's meeting frequency for a review to be carried out formally by the Committee.

Bush Fires Advisory Committee

The Bush Fires Advisory Committee is established under Section 67 of the Bush Fires Act 1954 for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires.

The current ToR is structured similarly to that of a Committee established under the Local Government Act, which it is not. It is not subject to the Act or the City's Standing Orders. The ToR has therefore been reviewed and a new ToR is recommended for approval (Attachment 7). Elected member membership of the Committee is proposed to remain the same – one elected member and one deputy.

Membership will continue to consist of the Chief Bush Fire Control Officer and the Deputy Chief Bush Fire Control Officer(s) however changes are proposed to the number of Fire Control Officers that are members, with one Fire Control Officer per brigade appointed to the Committee by the CEO under delegation DA 3 - 01. This is to ensure a more effective committee structure, with less overall members. A range of other representatives may continue to attend in an advisory capacity. The details of membership have been moved to a Schedule, to align to the recommended format of the Local Emergency Management Committee (below).

Local Emergency Management Committee

The Local Emergency Management Committee is established under Section 38 of the Emergency Management Act 2005 to collaborate with local support organisations, hazard management agencies, and industry representatives to collectively build a resilient community that is prepared to respond and recover from an emergency.

The current ToR is structured similarly to that of a Committee established under the Local Government Act, which, again, it is not. Like the Bush Fire Advisory Committee it is not subject to the Act or the City's Standing Orders. The ToR has therefore been reviewed and a new ToR is recommended for approval (Attachment 8).

The new ToR has been structured to align more closely to the draft SEMC guidance for Local Emergency Management Committees, including the suggested committee ToR template, which is targeted for adoption in October 2023. Elected member membership of the Committee is proposed to remain the same – the Mayor and the Deputy Mayor, with one deputy elected member. The Chairperson will continue to be the Mayor. Meeting frequency is recommended to be reduced to a minimum of twice per year, noting that this aligns to current practice. The Committee can meet more often if it wishes.

Membership of the Committee has been clarified to be 'a representative' from each of the emergency management agencies listed in Schedule 1 of the ToR. The difference between Committee members and non-voting advisory members has also been clarified. Committee members may be appointed by the Committee itself.

Reference / Working Officers and Panels (Working Groups)

Officers have considered the original purpose behind the establishment of Working Groups and elected member representation to Working Groups, and if that purpose is still relevant and necessary. Officers also considered where there might be duplication between Working Groups or

where the original purpose is now able to be effectively managed at an administrative level, with matters brought to Council as required.

It is recommended that elected member representation continue in relation to the following Working Groups, but that in all instances the representation be amended to two elected members and one deputy elected member:

- Economic Development Advisory Group
- Busselton Jetty Reference Group
- Disability Access and Inclusion Plan Reference Group
- Business Development, Events and Marketing Program
- Saltwater Working Group
- Community Assistance Program Panel

It is recommended that the following groups and / or elected member representation (as specified) be disbanded:

- Sustainability and Energy Working Group (elected member representation)
- Economic Development Working Group (disband group)
- Dunsborough Reference Group (elected member representation)

The Sustainability and Energy Working Group is of an operational nature and it is recommended that elected member representation is no longer required. It is noted from a briefing in relation to working groups that Councillors would however like further information on sustainability, waste and energy strategy via briefings.

The Economic Development Working Group is redundant to needs given the Economic Development Advisory Group.

In relation to the Dunsborough Reference Group (DRG), City engagement with, and formal representation by the City to the group, was established in accordance with Council Resolution (C2111/089), as follows:

That the Council, in line with its adopted Community Engagement Framework, supports engagement with a 'Dunsborough Reference Group' on strategic planning and other issues or proposals of strategic importance to the long term future of the Dunsborough community, generally as described below -

1. *Key aims from a City perspective are as follows:*
 - a) *Provision of greater opportunity for stakeholders to contribute to considered decision making with respect to the future development of Dunsborough;*
 - b) *Assisting in identifying current and future community needs, and identifying and assessing options to meet those needs; and*
 - c) *Assisting in building partnerships and two-way communication between the City and the community, and within the community.*
2. *Formation of a 'Dunsborough Reference Group' led by members of the community, and consistent with the following –*
 - a) *The Group endeavours to establish and maintain a diverse membership base, broadly representative of the Dunsborough community as a whole, including –*

- *Representatives of the Dunsborough & Districts Progress Association;*
 - *Representatives of the Dunsborough-Yallingup Chamber of Commerce & Industry;*
 - *Representatives of Dunsborough 2030;*
 - *Persons involved in community and sporting clubs and associations; and*
 - *Other residents and ratepayers from Dunsborough and nearby areas;*
- b) *The Group forms an 'executive' or similar, and adopts terms of reference broadly consistent with this resolution;*
- c) *The Group's executive is able to provide feedback or other input to the City and other stakeholders on behalf of the Group;*
- d) *When input is sought from the Group by the City or other stakeholders, the individual members of the Group involved identify and declare potential or perceived financial conflicts of interest that may arise, and not involve themselves in the providing of input through the Group in those cases (although they would remain able to provide input through other means, in the same ways as any other citizen);*
- e) *In the narrow range of circumstances where input is sought from the Group by the City or other stakeholders on a confidential basis, that confidence is respected; and*
- f) *The Group and its members understand and respect the fact that City officers and Councillors may be limited in what they can say with respect to a particular matter due to confidentiality requirements and the need to avoid 'apprehended bias'.*
3. *Subject to the formation and maintenance of a Group consistent with point 2 above, the City commits to engage with the Group on the following terms:*
- a) *The City shall seek the input of the Group, through the Group's executive, prior to making decisions or forming positions on strategic planning and other issues or proposals of strategic importance to the long term future of the Dunsborough community;*
- b) *The City shall consider the input provided by the Group, but is not obligated to accept or agree with the views expressed by the Group;*
- c) *Matters about which input shall be sought include:*
- *Strategic planning matters, including planning strategies or amendments to such strategies (which includes both City of Busselton and WAPC planning strategies), town planning schemes and amendments, and structure plans (including precinct structure plans);*
 - *Major development proposals that may have strategic implications (with the preference being that input is sought at the pre-application phase, but noting that will only occur with the agreement of the proponent, which the City will actively seek to obtain, and noting that timeframes may mean that input may not be able to sought through a meeting with the Group's executive);*
 - *City plans or projects relating to new or modified community, recreation or other infrastructure or services; and*
 - *State-led infrastructure projects;*

- d) *Input may be sought either through meetings with the Group's executive, or through written communications, and the City will seek to meet with the Group's executive approximately 4 times per year, or as reasonably required;*
- e) *When the City meets with the Group's executive to seek input, the City shall be represented by the following delegates of the City –*
 - *Cr Kate Cox and Cr Paul Carter;*
 - *Cr Sue Riccelli and Cr Jodie Richards as deputies; and*
 - *City staff as determined by the CEO;*
- f) *If, during the course of a meeting between the City and the Group's executive, attendees are asked to vote or similar, City delegates shall not participate; and*
- g) *The key role of both Councillors and City staff in such meetings shall be to listen to the input provided, respond to and ask questions, and provide information.*
4. *These arrangements will be reviewed and potentially adjusted, in consultation with the Group, in approximately 12 months.*
5. *These arrangements do not preclude other means of engagement with the Dunsborough community.*

The DRG is now a well-established reference group within Dunsborough, and has proved to be a valuable group for the purposes of City engagement on matters affecting Dunsborough, as intended. It is envisaged that the City would continue to have a proactive and constructive relationship with the DRG, which brings together a range of stakeholders and stakeholder groups with an interest in the future of Dunsborough. The City's relationship with the DRG is not, however, functioning in a manner entirely consistent with the Council's resolution and has, instead, developed in a somewhat organic and flexible fashion.

While officers have, at times relatively soon after the Council first made its decision, sought to bring actual practice into line with the Council resolution, in substantial part on the basis that the relationship has developed in a fashion that appears to be useful for all stakeholders, officers have not sought to do so in more recent times.

The option of seeking to develop revised, but more formal arrangements has been considered in the drafting of this report. As the relationship appears to be working fairly well without, in reality, such formality, that is not considered necessary or appropriate. Further, if the relationship is to be formalised, it is considered that it should fully reflect the identified formal arrangements. That would prevent the more organic development of the relationship over time, and would require the City and the DRG to spend a lot of time working out what those arrangements should be, rather than spending that time actually engaging on the issues of mutual interest.

Summary

The tables below summarise the proposals for ongoing Committees and reference / working groups and elected member representation.

Formal Committees under the Act

Committee/ Group	Function/ Membership	2023 Outcome
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Committee/ Group	Function/ Membership	2023 Outcome
Audit and Risk Committee	<ul style="list-style-type: none"> Assist Council to fulfil its corporate governance, stewardship, leadership and control responsibilities Meets four times per year Membership <ul style="list-style-type: none"> 4 elected members 2 deputy members 	Committee reviewed and Terms of Reference endorsed. No change to membership
Finance Committee	<ul style="list-style-type: none"> Assist Council to oversee the allocation and use of the local governments finances and resources Meets monthly Membership <ul style="list-style-type: none"> 5 elected members 4 deputy members 	Committee reviewed and Terms of Reference endorsed. No change to membership
Airport Advisory Committee	<ul style="list-style-type: none"> Assists Council in considering Airport associated policies and oversees the development of the Airport. Meets bi-monthly Membership <ul style="list-style-type: none"> 4 elected members 2 deputy members 	Committee reviewed and Terms of Reference endorsed. No change to membership
Policy and Legislation Committee	<ul style="list-style-type: none"> Assists the Council in determining the Local Government Policies and to carry out its legislative functions. Meets bi- monthly Membership <ul style="list-style-type: none"> 5 elected members 4 deputy members 	Committee reviewed and Terms of Reference endorsed. No change to membership
Behaviour Complaints Committee	<ul style="list-style-type: none"> Established for the purpose of dealing with complaints submitted under Part 3, clause 13 of the City of Busselton Code of Conduct for Council Members, Committee Members and Candidates. Membership <ul style="list-style-type: none"> All elected members 	Retain. See attached ToR revisions. No change to membership proposed.
CEO Performance Review Committee	<p>Assists the Council in reviewing the performance of the Chief Executive Officer.</p> <ul style="list-style-type: none"> Membership <ul style="list-style-type: none"> Mayor 2 elected members 1 deputy member 	Retain. See attached ToR revisions. No change to membership proposed.

Committee/ Group	Function/ Membership	2023 Outcome
Meelup Regional Park Committee	<p>Assists the Council in managing and promoting Meelup Regional Park. Supported by a working group with the same membership.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 2 elected members ○ 1 deputy member 	

Other Committees

Committee/ Group	Function/ Membership	2023 Recommendations
Bush Fires Advisory Committee	<p>Established pursuant to the <i>Bush Fires Act 1954</i> to provide advice to Council in regard to matters relating to bush fire control. Prevention and management.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 1 elected member ○ 1 deputy member 	Retain. See attached ToR revisions. No change to membership proposed.
Local Emergency Management Committee	<p>Established pursuant to the <i>Local Emergency Management Act 2005</i> to assist Council and ensure local emergency management arrangements are established.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ Mayor ○ Deputy Mayor ○ 1 deputy member 	Retain. See attached ToR revisions. No change to membership proposed.

City Formed Reference and Working Groups

Committee/ Group	Function/ Membership	2023 Recommendations
Saltwater Working Group	<p>Consults with key stakeholders, seeks specialist advice and enables communication regarding the promotion of Saltwater.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 3 elected members ○ 1 deputy member 	Retain. Reduce membership to 2 elected members
Sustainability and Energy Working Group	<p>Considers the development and implementation of energy efficiency initiatives.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 2 elected members ○ 1 deputy member 	Disband

Community Assistance Program Panel (CAP)	<p>Assess and provide recommendation to Council on applications received through the Community Assistance Panel</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ Mayor ○ 2 elected members 	<p>Retain.</p> <p>Reduce membership to 2 elected members. No specific reference to Mayoral membership.</p>
Economic Development Advisory Group	<p>Provides advice and recommendations as to the Economic Development Strategy. Is supported by a working group.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ Mayor ○ 2 elected members ○ 1 deputy member 	<p>Retain. Reduce membership to 2 elected members</p>
Economic Development Working Group	<p>Supports the Economic Development Taskforce. Oversees the implementation of the Economic Development Strategy</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 1 elected member 	<p>Disband</p>
Busselton Jetty Reference Group	<p>Provides a forum for discussion on Jetty related matters between Busselton Jetty Inc. and Council</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 1 elected member ○ 1 deputy member 	<p>Retain. Increase membership to 2 elected members</p>
Disability Access and Inclusion Plan Reference Group	<p>Assists with the implementation of initiatives identified in the Disability Access and Inclusion Plan.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 1 elected member ○ 1 deputy member 	<p>Retain. Increase membership to 2 elected members</p>
Business Development and Events Marketing Program	<p>Makes recommendations to Council on the allocation of marketing and events funding</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 3 elected members ○ 1 deputy member 	<p>Retain. Reduce membership to 2 elected members</p>
Meelup Regional Park Working Group	<p>Supports the Meelup Regional Park Committee.</p>	<p>Retain. No change to representation as governed by broader Meelup Governance Policy.</p>

External Groups with elected member representation

Committee/ Group	Function/ Membership	2023 Recommendations
Peron-Naturaliste Partnership	<p>One of 9 local governments on the board. Works with the state government to lobby Federal government about environmental issues.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 1 elected member ○ 1 deputy member 	Retain. No change to representation.
Busselton and Sugito Sister Cities Partnership	<p>Manages the sister city relationship with Sugito, Japan and arranges adult and youth exchanges.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 1 elected member ○ 1 deputy member 	Retain. No change to representation.
Regional Road Group and Convention	<p>The group prioritises and resolves projects for the allocation of monies received from State and Federal governments.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 1 elected member ○ 1 deputy member 	Retain. No change to representation.
Australian Coastal Councils Association	<p>The City is a member of this group which is a lobby group to develop resources relating to climate change.</p> <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ No set membership – elected member selected to attend conference and represent the City. 	Continue
Dunsborough Reference Group	<p>Arrangements formed to structure engagement with the group by the City on matters of strategic importance to Dunsborough.</p>	Recommend that we do not seek to bring arrangements into line with the resolution, and that formal Councillor representation is therefore not required.

Mayoral Board Appointments

Board	Function/ Membership	2023 Recommendations
Regional Capitals Australia	Brings Australia's 51 regional capital cities together as one unified voice to provide an alliance that understands and presents to the Federal government the needs of combined regional communities. <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ Mayor (by appointment by the Board) 	No change
Regional Capitals WA Alliance	Provides a WA alliance of regional capitals <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ Mayor 	No change
South West Zone Local Government Association	An association of 12 South West Local Governments that meet to consider WA Local Government Association initiatives. <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ Mayor ○ 1 deputy member 	No change

Ministerial Appointments

Board	Function/ Membership	2023 Recommendations
Development Assessment Panel	Invite and appointment by relevant Minister <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 2 elected members ○ 2 deputy member 	No change
Yallingup Land Conservation District Committee	Invite and appointment by relevant Minister <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 1 elected member 	No change
Vasse Ministerial Taskforce	Invite and appointment by relevant Minister <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ 1 elected member 	No change
GeoCatch	Mayor or delegate, noting the appointment by the Minister is for a three-year term. <ul style="list-style-type: none"> • Membership <ul style="list-style-type: none"> ○ Mayor or delegate 	No change

Additionally an elected member will be appointed as an ex-officio member of the Busselton Jetty Inc. Board.

Statutory Environment

Under Section 5.8 of the Act, a local government may, by absolute majority, establish committees of three or more persons to assist the Council. Section 5.10 and 5.11A of the Act relates to the appointments of Committee members and Deputy Committee members. Appointments will be made following the 2023 local government election.

Relevant Plans and Policies

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

Plan:

Not applicable.

Policy:

[Meetings, Information Sessions and Decision Making Processes](#)

Financial Implications

Elected members may claim an allowance for travel to and from committee and working group meetings. Financial provisions for these claims have been accounted for in the Annual Budget.

External Stakeholder Consultation

Not Applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could:

1. Retain any Committees or Groups which have been recommended to discontinue;
2. Discontinue any Committee or Groups which have been recommended to retain and establish; and/or
3. Further amend the Terms of Reference of the Committees.

CONCLUSION

This report represents a review of committees, working groups, advisory groups, and appointments of elected members to various boards prior to the 2023 local government election. Council will appoint members at the next practicable Council meeting after the 2023 Local Government elections.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Recommendations implemented	Immediately upon Council endorsement, with elected member appointment following the 2023 election.

14.2. Recognition of Nina Kennedy

Strategic Theme:	Key Theme 2: Lifestyle 2.1 Recognise, respect and support community diversity and cultural heritage.
Directorate:	Corporate Strategy and Performance
Reporting Officer:	Governance and Risk Coordinator - Tegan Robertson
Authorised By:	Director of Corporate Strategy and Performance - Sarah Pierson
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	Nil

The officer recommendation was moved and carried.

COUNCIL DECISION

C2310/148 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the Council supports the provision of a letter from the Mayor on behalf of the City of Busselton, recognising and congratulating Nina Kennedy on her achievements at the 2023 World Athletics Championships, and exploring the opportunity for Ms. Kennedy to attend the upcoming City of Busselton Sports Awards.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

EN BLOC

OFFICER RECOMMENDATION

That the Council supports the provision of a letter from the Mayor on behalf of the City of Busselton, recognising and congratulating Nina Kennedy on her achievements at the 2023 World Athletics Championships, and exploring the opportunity for Ms. Kennedy to attend the upcoming City of Busselton Sports Awards.

EXECUTIVE SUMMARY

In August 2023, Busselton born Nina Kennedy received a gold medal at the 2023 World Athletics Championships in Budapest, Hungary. This report provides an overview of City's policy framework for recognition, and officers' recommendation to recognise Ms. Kennedy's achievements and celebrate her connection to the City of Busselton, in response to a successful notice of motion carried at the 20 September 2023 Ordinary Council Meeting (C2307/118).

STRATEGIC CONTEXT

The recommendation supports recognition of community achievement and the furthering of positive lifestyles through the promotion of sport and recreation pursuits.

BACKGROUND

Nina Kennedy has achieved significant success representing Australia in the women's pole vault, most recently winning the title of World Champion with a gold medal win at the 2023 World Athletics Championships in Budapest, Hungary. Additionally, Ms Kennedy is the current Oceanian record holder for women's pole vault, and won gold and bronze at the 2022 and 2018 Commonwealth Games respectively.

Ms. Kennedy was born and lived in Busselton until the age of seven, when she moved with her family to Perth. She commenced Little Athletics in Perth at age 11 and commenced pole vault at age 13. She subsequently represented the UWA Athletics Club.

In response to Ms. Kennedy's significant achievements, and in celebration of her recent success and connection to the City of Busselton, at the 20 September 2023 Ordinary Council Meeting the Council passed resolution C2307/118: *That the Council requests the CEO to prepare a report outlining potential recognition of Nina Kennedy.*

OFFICER COMMENT

The City has two policies that provide a framework for the recognition of persons who have made significant contributions to the City and community.

1. Honorary Freeman of the City of Busselton

The award of the title Honorary Freeman of the City of Busselton is the City's highest honour, and is reserved for longstanding residents of the City of Busselton (15 years or more is preferred). The award of this prestigious title is for the extraordinary contribution and demonstrable benefits delivered to the City of Busselton through the extensive and distinguished service of the recipient.

While Nina Kennedy's international sporting achievements are significant, they do not meet the rigorous criteria for awarding the title of Honorary Freeman of the City of Busselton.

2. Naming of City Roads and Assets

Council may consider naming a Road or City Asset in honour of a person on the basis of a number of criteria including the person's contribution to the City Asset, length of residency (10 or more years is preferred) and contribution to the local community. Where personal names are used, it is preferable the person commemorated is recognised in memoriam and as such, this is not recommended in this case.

It is considered that neither of these policies are applicable in this instance. The recommendation of a personal letter of congratulations, which also explores the opportunity for Ms Kennedy to attend the upcoming City of Busselton Sports Awards, provides an appropriate alternative avenue for the recognition and celebration of Ms. Kennedy's impressive achievements and her connection to the City of Busselton.

Statutory Environment

Not Applicable

Relevant Plans and Policies

Plan:

Not applicable.

Policy:

Not Applicable

Financial Implications

Financial implications (if any) are considered minor.

External Stakeholder Consultation

Not Applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed considering any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative, Council could choose not to support the above officer recommendation.

CONCLUSION

Busselton born Nina Kennedy's achievements on the international athletics stage are significant, and are deserving of recognition and celebration by the City of Busselton, as reflected in the motion carried at the 20 September 2023 Ordinary Council Meeting (C2307/118).

A personal letter of congratulations from the Mayor is considered an appropriate mechanism of recognition for Ms. Kennedy. Further exploring the prospect for Ms. Kennedy to participate in the upcoming City of Busselton Sports Awards may present additional opportunities to highlight her connection to the City of Busselton.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Provision of congratulatory letter from the Mayor to Nina Kennedy	19 October 2021

15. OFFICE OF THE CHIEF EXECUTIVE OFFICER

15.1. Councillors Information Bulletin

Strategic Theme:	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
Directorate:	Office of the Chief Executive Officer
Reporting Officer:	Executive Assistant to Council - Katie Banks
Authorised By:	Chief Executive Officer - Tony Nottle
Nature of Decision:	Noting: The item is simply for information purposes and noting.
Voting Requirements:	Simple Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	<ol style="list-style-type: none"> 1. Current Active Tenders [15.1.1 - 1 page] 2. Current SAT Reviews [15.1.2 - 4 pages] 3. Council Resolution Status Update [15.1.3 - 15 pages] 4. KKAC Letter of Support - Saltwater Busselton [15.1.4 - 1 page] 5. Letter to WAPC - Leeuwin- Naturaliste Sub- Regional Strategy [15.1.5 - 9 pages] 6. Response from WAPC - Leeuwin-Naturaliste Sub-regional Strategy [15.1.6 - 1 page] 7. Response from WAPC - Attachments [15.1.7 - 3 pages]

The officer recommendation was moved and carried.

COUNCIL DECISION

C2310/149 Moved Cr Jodie Richards, seconded Cr Paul Carter

That the items from the Councillors Information Bulletin be noted:

- Minutes of Committee Meetings
- Minor Donations Program
- Current Active Tenders
- State Administrative Tribunal Reviews Update
- Council Resolution Status Update

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

EN BLOC

OFFICER RECOMMENDATION

That the items from the Councillors Information Bulletin be noted:

- Minutes of Committee Meetings
- Minor Donations Program
- Current Active Tenders
- State Administrative Tribunal Reviews Update
- Council Resolution Status Update

EXECUTIVE SUMMARY

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

Minutes of Committee Meetings

Minutes of the following Committee Meetings listed in the table below are to be noted as received:

Committee	Meeting Date	Minutes
Audit and Risk Committee	13 September 2023	Minutes
Policy and Legislation Committee	13 September 2023	Minutes
Finance Committee	4 October 2023	Minutes

Minor Donations Program – August 2023

The Council allocates an annual budget allowance to the Minor Donations Program. This is provided such that eligible groups and individuals can apply for and receive sponsorship to assist them in the pursuit of endeavours that bring direct benefit to the broader community. Allocation of funds is delegated to the Chief Executive Officer, in accordance with the published guidelines and funding availability.

6 applications were approved throughout September 2023 as outlined below:

Recipient	Purpose	Amount
Lacey Heys	Selected to represent WA as part of the U18s Girls WA State School Soccer Team competing in Canberra 10-15 September 2023. This donation will assist with covering the costs associated with attending the competition.	\$500.00

Recipient	Purpose	Amount
John Isaacson	John is competing in the AFL Masters National Carnival in QLD. This donation will help with travel related expenses	\$500.00
Dunsborough Art Society	Dunsborough Art Society are holding their annual art exhibition in January 2024. This donation will assist with covering the cost of hiring the Yallingup Hall.	\$500.00
Southwest Indonesian Community Inc.	The SW Indonesian Community Inc. are organising their annual community event 'Indonesian Cultural Day' being held at Churchill Park. This donation will assist with covering the cost of stage, venue hire, sound, decorations etc. as per previous years.	\$1,000.00
Ava Simpson	Ava has been appointed to represent WA to umpire the National U12 netball competition being held this year in Jolimont. This donation will assist with covering the costs associated with attending the competition.	\$250.00
St George's Anglican Church	St Georges Anglican Church are holding their annual community Christmas dinner in Dunsborough on 12 December. This donation will assist with covering the cost of catering for the free community event.	\$1,000.00
TOTAL		\$3,750.00

Donations approved as of 28 September 2023 total \$22,607.00. Total budget remaining \$7,393.00.

Current Active Tenders

The Tender update for October 2023 is provided at Attachment 1.

State Administrative Tribunal Reviews Update

The Current State Administrative Tribunal Reviews is at Attachment 2.

Letter of Support – Saltwater Busselton

A letter of support for the Saltwater project received from Karri Karrak Aboriginal Corporation is provided at Attachment 3.

Council Resolution Status Update

The current Council Resolution Status Update is at Attachment 4.

Leeuwin- Naturaliste Sub-regional Strategy

A letter sent to David Caddy, Chairman of Western Australian Planning Commission on 30 May 2023 from the City is at Attachment 5.

The response received is at Attachments 6 and 7.

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

17. URGENT BUSINESS

The Presiding member called on a member to a motion to consider an item of urgent business on as it cannot practically wait inclusion in the Agenda of the next Council Meeting.

The motion was moved and carried.

COUNCIL DECISION

C2310/150 Moved Cr Ross Paine, seconded Cr Phill Cronin

That the Council consider the Item 'Budget Amendment Bussell Highway Resurfacing SLK 0 to 3.8' as urgent business on the basis it cannot wait inclusion in the agenda of the next Council Meeting.

This item will be considered at item 17.1.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

17.1. BUDGET AMENDMENT BUSSELL HIGHWAY RESURFACING SLK 0 TO 3.8

17.1 Budget Amendment Bussell Highway Resurfacing Slk 0 To 3.8

Strategic Theme:	Key Theme 2: Lifestyle 2.10 Provide local road networks that allow for the safe movement of people through the District. Key Theme 4: Leadership 4.5 Responsibly manage ratepayer funds to provide for community needs now and in the future.
Directorate:	Infrastructure and Environment
Reporting Officer:	Manager Civil Infrastructure – Matthew Twyman
Authorised By:	Director Infrastructure and Environment - Oliver Darby
Nature of Decision:	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
Voting Requirements:	Absolute Majority
Disclosures of Interest:	No officers preparing this item have an interest to declare.
Attachments:	Nil

The officer recommendation was moved and carried.

COUNCIL DECISION

C2310/151 Moved Cr Kate Cox, seconded Cr Paul Carter

That the Council endorse the following requested budget amendments:

	Amendment Description				
	Project Description				
Item #	Budgeted Municipal Net Current Position	Operational Expenditure Budget	Capital Expenditure Budget	Grant	Reserves or Restricted Assets
	Increase / (Decrease)	Increase / (Decrease)	Increase / (Decrease)	(Increase) / Decrease	Increase / (Decrease)
1	New capital project				
	Project 15108 - Bussell Highway Resurfacing SLK 0 to 3.8 (C)				
	-	-	181,000	-	(181,000)
2	Remove capital project				
	Project 14857 West Street - Rehabilitation SLK 1.02 to 1.15 (C)				
	-	-	(181,000)	-	181,000
TOTALS	-	-	-	-	-

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

BY ABSOLUTE MAJORITY

OFFICER RECOMMENDATION

That the Council endorse the following requested budget amendments:

	Amendment Description				
	Project Description				
Item #	Budgeted Municipal Net Current Position	Operational Expenditure Budget	Capital Expenditure Budget	Grant	Reserves or Restricted Assets
	Increase / (Decrease)	Increase / (Decrease)	Increase / (Decrease)	(Increase) / Decrease	Increase / (Decrease)
1	New capital project				
	Project 15108 - Bussell Highway Resurfacing SLK 0 to 3.8 (C)				
	-	-	181,000	-	(181,000)
2	Remove capital project				
	Project 14857 West Street - Rehabilitation SLK 1.02 to 1.15 (C)				
	-	-	(181,000)	-	181,000
TOTAL S	-	-	-	-	-

EXECUTIVE SUMMARY

This report seeks Council approval for budget amendments for items within the Infrastructure and Environment Directorate, as detailed in this report. Adoption of the officer recommendation will have no impact on the City's budgeted net current position.

STRATEGIC CONTEXT

The nature of the works supports the provision of a local road network that allows for the safe movement of people through the District, in alignment with Key Theme 2 of the City's Strategic Community Plan – Lifestyle and is also in support of Key Theme 4 - Leadership.

BACKGROUND

In accordance with section 6.8(1) of the *Local Government Act 1995*, a local government is not to incur expenditure from its Municipal fund for an additional purpose except where the expenditure:

- is incurred in a financial year before the adoption of the annual budget by the local government; and
- is authorised in advance by Council resolution - absolute majority required; or

- is authorised in advance by the Mayor in an emergency.

Approval is therefore sought for budget amendments as outlined in the Officer Comment below.

OFFICER COMMENT

Council adopted its 2023/2024 Municipal budget on Wednesday 26 July 2023 and since then, officers have identified the following budget items that require adjustments within the Infrastructure and Environment Directorate. It is good management practice to revise the adopted budget when it is known that circumstances have changed.

Item 1: Project 15108 Bussell Highway Resurfacing SLK 0 to 3.8

Council approval is sought to add a new project to the 2023/2024 Budget valued at \$181,000 to complete resurfacing works on Bussell Highway between SLK 0 and SLK 3.8. This includes the intersection with West Street and Albert Street and several locations between this intersection and Dolphin Road.

Works are required due to road surface deterioration that requires urgent attention prior to summer. Contractor coordination for the project has progressed to the point that the City is ready to complete these logistically complex works.

Without this project funding only limited resurfacing will be possible, utilising the operational maintenance budget. Notwithstanding this amendment request, external funding opportunities under the Main Roads WA Regional Road Group funding stream will continue to be investigated for this project.

Item 2: Project 14857 West Street - Rehabilitation SLK 1.02 to 1.15

Council approval is sought to remove this project from the budget and postpone it until the 2024/25 financial year. This project can be delayed due to proactive maintenance works undertaken last financial year lasting longer than expected. The delay of the project will also allow a request for external funding to be lodged under the Main Roads WA Regional Road Group funding stream.

Statutory Environment

Section 6.8 of the *Local Government Act 1995* refers to expenditure from the Municipal fund that is not included in the annual budget. In the context of this report, where no budget allocation exists, expenditure is not to be incurred until such time as it is authorised in advance, by an absolute majority decision of the Council.

Relevant Plans and Policies

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

Plan:

[Asset Management Plan](#)

Policy:

[Asset Management](#)

Financial Implications

The following table summarises the financial implications.

	(Increase) / Decrease in Operational Revenue	Increase / (Decrease) in Operational Expenditure	(Increase) / Decrease in Capital Revenue	Increase / (Decrease) in Capital Expenditure	Increase / (Decrease) in Reserves and/or Restricted Assets	Increase / (Decrease) in Net Current Position
Item 1	-	-	-	181,000	(181,000)	-
Item 2	-	-	-	(181,000)	181,000	-
TOTALS	-	-	-	-	-	-

External Stakeholder Consultation

Not Applicable

Risk Assessment

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk management framework, with risks assessed taking into account any controls already in place. No risks of a medium or greater level have been identified.

Options

As an alternative to the proposed recommendation the Council could decide not to proceed with the proposed budget amendment requests.

CONCLUSION

The postponement of West Street - Rehabilitation SLK 1.02 to 1.15 (Project 14857) and creation of Bussell Highway Resurfacing SLK 0 to 3.8 (Project 15108) will allow for urgent resurfacing works to be undertaken while maximising funding opportunities available to the City.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The officer recommendation will be implemented in full, or in stages as per the following table:

Milestone	Completion Date
Date for completion of resurfacing	1 December 2023

18. CONFIDENTIAL MATTERS

The Presiding Member called on a Councillor to move a motion to close the meeting to the public.
The motion was moved and carried.

COUNCIL DECISION

C2307/152 Moved Cr Phill Cronin, seconded Cr Jodie Richards

That the Council close the meeting to the public to consider the report items listed below.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

6:56pm At this time, the meeting was closed to the public and the livestream was ceased.

18.1 Audit and Risk Committee – 13/09/2023 - General Computer Controls Audit 2022 – Status of Findings

This report contains information of a confidential nature in accordance with Section 5.23(2)(f)(ii) of the *Local Government Act 1995*, as it contains information relating to a matter that if disclosed, could be reasonably expected to endanger the security of the local government's property.

This report was considered by the Audit and Risk Committee at its meeting held on 13 September 2023, the recommendations of which have been included in this report.

COUNCIL DECISION

C2307/153 Moved Cr Phill Cronin, seconded Cr Jodie Richards

That the Council, acknowledge the progress of the actions taken to-date to address the findings identified in the audit report.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

18.2 Purchase of Lot 9020 Caves Road, Dunsborough

This report contains information of a confidential nature in accordance with Section 5.23(2)(c) of the *Local Government Act 1995*, as it contains information relating to a contract which may be entered into.

Prior to the meeting, officer foreshadowed an amendment to the officer recommendation. The amended recommendation was moved first and carried.

COUNCIL DECISION

C2310/154 Moved Cr Phill Cronin, seconded Cr Jodie Richards

That the Council, with respect to the acquisition of part Lot 9020 Caves Road, Dunsborough, resolve as per Confidential Attachment 6.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

BY ABSOLUTE MAJORITY

The Presiding Member called on a member to move a motion to reopen the meeting to the public.

The motion was moved and carried.

COUNCIL DECISION

C2310/155 Moved Cr Phill Cronin, seconded Cr Kate Cox

That the Council re-open the meeting to the public.

CARRIED 9 / 0

FOR: Cr Grant Henley, Cr Paul Carter, Cr Anne Ryan, Cr Jodie Richards, Cr Kate Cox, Cr Phill Cronin, Cr Sue Riccelli, Cr Mikayla Love and Cr Ross Paine

AGAINST: Nil

6:58pm At this time, the meeting was re-opened to the public and the live stream recommenced.

The Presiding Member advised the gallery that the officer recommendations has been adopted for items 18.1 and 18.2.

19. CLOSURE

The Presiding Member closed the meeting at 7:01pm.

The minutes for the Ordinary Council Meeting held 18 October were confirmed as a true and correct record on 15 November 2023.

Date:

Presiding Member: