



Ordinary Council Meeting

# Minutes

Wednesday 19 June 2024

**MINUTES**

**Minutes of a meeting of the Busselton City Council held in the Council Chambers, Administration Building, Southern Drive, Busselton, on Wednesday 19 June 2024 at 5:30pm.**

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## 1. OFFICIAL OPENING

The meeting opened at 5.32pm.

The Presiding Member welcomed Councillors, staff, guests and members of the public to the Ordinary Council Meeting of 19 June 2024.

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 was live streamed on the City of Busselton YouTube channel.

Reverend Stephen van Schalkwyk from Bay Uniting Church Busselton read a prayer as part of the opening of this meeting.

## 2. ATTENDANCE

PRESIDING MEMBER	MEMBERS
Cr Anne Ryan (Deputy Mayor)	Cr Val Kaigg
	Cr Jodie Richards
	Cr Kate Cox
	Cr Jarrod Kennedy
	Cr Mikayla Love
	Cr Andrew Macnish

OFFICERS	
Mr Tony Nottle	Chief Executive Officer
Mr Oliver Darby	Director Infrastructure and Environment
Mr Gary Barbour	Director Community Planning
Ms Sarah Pierson	Director Corporate Strategy and Performance
Mr Trevor Ayers	Acting Director Economic and Business Development
Ms Tegan Robertson	Governance and Risk Coordinator
Ms Jo Barrett-Lennard	Governance Officer

APOLOGIES	
Mayor Phill Cronin	
Cr Richard Beecroft	

**LEAVE OF ABSENCE**

Nil

**APPLICATION FOR LEAVE OF ABSENCE**

Nil

**MEDIA**

Nil

**PUBLIC**

13

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

The Presiding Member noted that Busselton has won the Western Australia Top Tourism Town award, and thanked residents, businesses, community groups, volunteers, and individuals who have contributed to the success of Busselton as the winner of the award. Busselton will now go on to represent Western Australia on the national stage at Australia's Top Tourism Town awards in September 2024. Busselton celebrates a beautiful and vibrant City, with a thriving hospitality industry and some of the most picturesque coastlines.

The Presiding Member also congratulated Josh Whiteland from Koomal Dreaming, who was named the winner of the Individual Excellence in Aboriginal Tourism Award at the same event.

**4. DISCLOSURES OF INTEREST**

**DISCLOSURES OF FINANCIAL INTEREST**

The Presiding Member noted that a disclosure of financial interest had been received from Cr Andrew Macnish in relation to item 13.1 'Management Agreement Public Toilets Dunsborough Park Shopping Centre'

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.

## DISCLOSURES OF IMPARTIALITY INTEREST

The Presiding Member noted that a disclosure of impartiality interest had been received from Mr Trevor Ayers in relation to item 13.1, 'Management Agreement Public Toilets Dunsborough Park Shopping Centre'

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 15 May 2024

#### COUNCIL DECISION

**C2406/151** Moved Cr Mikayla Love, seconded Cr Jodie Richards

That the minutes of the Ordinary Council Meeting held 15 May 2024 be confirmed as a true and correct record (as published at 6 June 2024 on the [City of Busselton's website](#), inclusive of any confidential material published on the restricted internal Docs on Tap application)

**CARRIED 7 / 0**

**FOR:** Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy

**AGAINST:** Nil

### 5.2. Special Council Meeting 1 May 2024

#### COUNCIL DECISION

**C2406/152** Moved Cr Val Kaigg, seconded Cr Jodie Richards

That the minutes of the Special Council Meeting held 1 May 2024 be confirmed as a true and correct record (as published at 6 June 2024 on the [City of Busselton's website](#), inclusive of any confidential material published on the restricted internal Docs on Tap application)

**CARRIED 7 / 0**

**FOR:** Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy

**AGAINST:** Nil

5.3. **Special Council Meeting 8 May 2024**

**COUNCIL DECISION**

**C2406/153** Moved Cr Jarrod Kennedy, seconded Cr Val Kaigg

**That the minutes of the Special Council Meeting held 8 May 2024 be confirmed as a true and correct record (as published at 6 June 2024 on the [City of Busselton's website](#), inclusive of any confidential material published on the restricted internal Docs on Tap application)**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love,  
Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**



## 6. PUBLIC QUESTION TIME

### 6.1. RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE

The following question was taken on notice at the 15 May 2024 ordinary Council meeting.

Below is a summary of the question and response provided by the CEO.

#### **Mr Terry Ealing**

##### **Question**

In relation to DA17/0866.01 - Application for Modification to Development Approval - Industry - Extractive (Gravel) [Item 11.4], what consultation has occurred between the applicant and the neighbouring landowners?

##### **Response**

The Development Application (DA17/0866) for Industry - Extractive (Gravel) was originally approved in February 2021. The City of Busselton received an application for an amendment to the DA in December 2023, and public comments were invited as per the Regulations. Specific consultation with neighbouring landowners regarding the amendment was not conducted by the applicant prior to the application being submitted.

### 6.2. QUESTION TIME FOR PUBLIC

Nil

## 7. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

### 7.1. PETITIONS

Nil

### 7.2. PRESENTATIONS BY PARTIES WITH AN INTEREST

Mr Craig McConville spoke in relation to item 12.1 'Hannay Lane'. Mr McConville spoke in opposition to 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**

**C2406/154** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the Committee Recommendations for items 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8 and 18.1 and Officer Recommendations for items 13.2, 14.1, and 15.1 be carried en bloc.**

Item	Report
10.1	Audit and Risk Committee - 8 May 2024 - Complaints Handling Process
10.2	Audit and Risk Committee - 8 May 2024 - Complaints and Audit List
10.3	Policy and Legislation Committee - 15 May 2024 - New Council Policy: Model Litigant
10.4	Policy and Legislation Committee - 15 May 2024 - Council Policy Review: Private works on City land including private coastal protection works
10.5	Policy and Legislation Committee - 15 May 2024 - Council Policy Review: Waste Collection Services
10.6	Policy and Legislation Committee - 15 May 2024 - Council Policy Review: Public Artwork and Urban Art
10.7	Finance Committee - 5 June 2024 - List of Payments Made - April 2024
10.8	Finance Committee - 5 June 2024 - Monthly Financial Report - Year to Date 30 April 2024
13.2	Sublease - Left Coast Chocolate Pty Ltd 25 Marine Terrace, Busselton - submissions received in response to local public notice
14.1	2024 Financial Management Systems Review
15.1	Elected Member Information Bulletin
18.1	Audit and Risk Committee - 8 May 2024 - Legal Advice

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

## 10. REPORTS OF COMMITTEE

### 10.1 Audit and Risk Committee - 8 May 2024 - Complaints Handling Process

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.4 Govern a professional organisation that is healthy, capable and engaged.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Director Corporate Strategy and Performance - Sarah Pierson
<b>Authorised By:</b>	Director Corporate Strategy and Performance - Sarah Pierson
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	Nil

This item was considered by the Audit and Risk Committee at its meeting held 8 May 2024 and 15 May 2024, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

#### **COUNCIL DECISION**

**C2406/155** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the Council re-iterates its resolution C2402/39 and clarifies that all three action items for moving forward contained therein (3 a), b), c)), be implemented.**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**

#### **OFFICER RECOMMENDATION**

That the Council

1. request the CEO to undertake a review of the Council's Complaints Management Policy through its Policy and Legislation Committee; and
2. include complaints handling as a topic for audit in the City's internal audit plan when established.

## EXECUTIVE SUMMARY

Further to Council Resolution C2402/39, this report seeks consideration of, and a recommendation from, the Audit and Risk Committee (ARC) in relation to a review or audit of the City's complaint handling process. Officers recommend that the Council include the topic in an Internal Audit Plan to be established, and that ahead of this the CEO undertake a review of the Council's Complaints Management Policy

## STRATEGIC CONTEXT

A robust complaint handling process aids in a positive customer experience and provides opportunity for the organisation to continually improve its service delivery.

## BACKGROUND

At its ordinary meeting on 21 February 2024, the Council considered a report in relation to a review undertaken by officers of customer service and communications practices at the City, and what improvements the City could look to implement. This review was undertaken in response to the following CEO performance criterion:

*Outcome:*

*To have a best practice customer service and communication model in place across the City which increases community engagement and understanding of City processes and decisions.*

*Deliverable:*

*Provide a report to council outlining measures undertaken to:*

- a. implement a best practice customer service model following consultation with peer local governments;*
- b. ensure the City's communication with its customers is understandable, uses simple language wherever possible, and clearly explains the impacts of decisions or potential decisions and why they have been made.*

The Council resolved in response to the report (C2402/39):

*That the Council:*

- 1. Observes the report providing measures and opportunities increasing community engagement and understanding of City processes and decisions addressing the relevant CEO KPI deliverable, but also notes the strategy to be a collection of process inputs NOT outcomes (which are yet to be fully assessed in terms of successfully delivering the desired customer service experience levels).*
- 2. Accordingly, refers the matter of consideration of the CEO's performance meeting KPI criterion #4 to the next CEO Performance Committee meeting for its advice to the Council.*
- 3. Refers the opportunity identified in the officer's report of a risk-based approach to communications and capitalising on the value offered primarily from complaints to its Audit and Risk Committee (ARC) to consider (but not be limited to) the following options moving forward:*

- a. *the CEO undertake a review of the City's complaint handling process and provide a report to the ARC outlining the risks and opportunities for improvement of the current process as it relates to customer service.*
- b. *the CEO to engage an independent auditor to undertake a review of the City's complaint handling processes and provide a report to the ARC outlining the risks and opportunities for improvement.*
- c. *the CEO include complaints handling as an area for audit in any future internal audit plan (noting that there is a report scheduled for the March ARC meeting that will address an internal audit plan).*

This report responds to part 3 of that resolution.

## **OFFICER COMMENT**

### **Current complaints management approach**

The Council has an adopted Complaints Management Policy (the Policy) which sets out the City's complaints management approach as applicable to complaints as defined within the Policy.

A Complaint is defined in the Policy as:

*an expression of dissatisfaction with a level of service, repeated lack of promised service or response, or the conduct of any person employed by the City of Busselton, which is not anonymous, made to the City of Busselton through its Councillors, the Chief Executive Officer or any of its employees in writing or verbally, where a response or resolution is explicitly or implicitly expected*

The Policy further sets out that a Complaint is not:

- a. *a request for service;*
- b. *a request for information;*
- c. *the lodging of an appeal in accordance with a standard procedure or policy;*
- d. *a freedom of information enquiry;*
- e. *an allegation of a breach of the law by a third party; or*
- f. *an expression of dissatisfaction with a decision.*

The Policy identifies Complaints as an opportunity to learn and improve service delivery, and outlines principles to guide the management of Complaints, including being responsive, empathetic, objective, fair, outcome focused, and there being no reprisals for any person involved in the process.

The City's customer service area is responsible for recording and coordinating the management of Complaints in accordance with the Policy. Officers who receive a Complaint are asked to forward the Complaint to the Customer Service Coordinator, who will then log them in the City's complaints system, and work with the relevant Manager to ensure they are responded to. It is important to note that only Complaints that meet the definition of a Complaint under the Policy, noting also the specific exclusions in the Policy, are centrally recorded and coordinated.

## **Review or Audit of Complaints Handling**

The Council resolved to request the ARC to consider (but not be limited to) the following options for review of the City's complaints handling process:

- a. the CEO undertake a review of the City's complaint handling process and provide a report to the ARC outlining the risks and opportunities for improvement of the current process as it relates to customer service.
- b. the CEO to engage an independent auditor to undertake a review of the City's complaint handling processes and provide a report to the ARC outlining the risks and opportunities for improvement.
- c. the CEO include complaints handling as an area for audit in any future internal audit plan

The Council's decision was in relation to how complaints handling relates to or influences customer experience (customer service and communications).

Officers believe that improvements can be made to the City's approach to complaints management, including through a review of the City's Complaints Management Policy and specifically how complaints are defined. Officers therefore recommend that the Council (on recommendation from the ARC) requests the CEO to undertake a review of the City's Complaints Management Policy through its Policy and Legislation Committee. This will set / reconfirm the strategic direction in relation to complaints management.

Further to this, it is then recommended that the Council resolve to include complaints handling as an area for audit in its internal audit plan, to be established.

The City is currently seeking quotations from suitably qualified consultancies to establish an internal audit plan. It is anticipated that this plan will span over multiple years, commencing 2024/2025, with the Council (again on recommendation from the ARC) determining the areas of audit.

### **Statutory Environment**

Not Applicable

### **Relevant Plans and Policies**

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

Plan:

Not applicable.

Policy:

[Complaints Management](#)

### **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

1. request the CEO engage a suitably qualified consultant to audit the City’s complaint handling process, outside of and separate to its internal audit plan; or
2. request the CEO to undertake an internal review of the City’s complaints handling processes.

If the Council was to resolve on option 1 there would be financial implications, with additional costs to conduct a standalone audit estimated at around \$7,000. This would need to be funded from the CEO’s contingency budget.

**CONCLUSION**

Officers believe that a review of the City’s complaints process would be of benefit to identify improvements. In particular officers believe that the definition of a Complaint and the Council’s strategic approach to Complaints should be reviewed. Officers note that an internal audit function / plan is in the process of being established and therefore believes it would be prudent for the Council to include an audit of complaints handling processes as part of that plan.

**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
Complaints Management Policy Review to P&L	31 July 2024
Internal Audit Plan established	30 September 2024

## 10.2 Audit and Risk Committee - 8 May 2024 - Complaints and Audit List

This item was considered by the Audit and Risk Committee at its meeting held 8 May 2024 and 15 May 2024, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

### **COUNCIL DECISION**

**C2406/156** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

- 1. Pursuant to Council resolution C2402/39\*, the ARC establish a list of items/functions/matters the subject of 'complaint', to be reviewed through an independent or internal audit/auditor^.**
- 2. An internal audit plan list be drafted prior to the commencement of the application of the budgeted resourcing and it be priority headed by the following list. The draft internal audit plan list to be presented by the scheduled July ARC meeting.**
- 3. The internal audit plan list to include (in order of priority) but not be limited to:**
  - **A review of the definition of a Complaint (for monitoring/analysis).**
  - **The process of assessing and monitoring and also dealing with third parties (pre and post approval) involving extractive industry Development Applications.**
  - **The City's Planning department's system of application of assessment and subsequent interaction with applicants where i) DA's are triaged upon receipt and ii) about to or have progressed to their 60/90 day limit.**
- 4. The Council requests members of the ARC to submit (complaint-related) matters with accompanying justification/reasons by 5:30, 22<sup>nd</sup> May 2024 , for the CEO to collate and list as an ARC agenda item for discussion for future programming into the internal audit function at the next ARC meeting.**

*^ The Council has allocated a combined \$145,000 to resource (via officer and consultant) the undertaking of the internal audit function.*

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love,  
Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**



## **COMMITTEE RECOMMENDATION**

1. Pursuant to Council resolution C2402/39\*, the ARC establish a list of items/functions/matters the subject of 'complaint', to be reviewed through an independent or internal audit/auditor<sup>^</sup>.
2. An internal audit plan list be drafted prior to the commencement of the application of the budgeted resourcing and it be priority headed by the following list. The draft internal audit plan list to be presented by the scheduled July ARC meeting.
3. The internal audit plan list to include (in order of priority) but not be limited to:
  - A review of the definition of a Complaint (for monitoring/analysis).
  - The process of assessing and monitoring and also dealing with third parties (pre and post approval) involving extractive industry Development Applications.
  - The City's Planning department's system of application of assessment and subsequent interaction with applicants where i) DA's are triaged upon receipt and ii) about to or have progressed to their 60/90 day limit.
4. The Council requests members of the ARC to submit (complaint-related) matters with accompanying justification/reasons by 5:30, 22<sup>nd</sup> May 2024 , for the CEO to collate and list as an ARC agenda item for discussion for future programming into the internal audit function at the next ARC meeting.

<sup>^</sup> *The Council has allocated a combined \$145,000 to resource (via officer and consultant) the undertaking of the internal audit function.*

## **NOTICE OF MOTION**

Cr Andrew Macnish has given notice that at the Audit and Risk Committee meeting on 8 May 2024, he will move the above motion.

## **REASONS**

- The originating resolution had the Council recognising the value to be sourced in reviewing complaints for future learning.
- The Internal Auditor (function) will, once commenced, need functional direction from the ARC as per the ARC's ToR.
- There is currently a growing reputational risk the City does not listen to nor care to resolve long-standing matters of concern. This is a chance to honour the efforts of those to have their complaints heard AND assessed for improvement.
- Another matter of significant complaint, Saltwater (at least the business plan and associated decision-making) has not been included on the priority list given its particulars are ideally to be dealt with separately directly by the Council.
- The ARC members are asked to consider what other matters would be valuable to consider for audit assessment. This might include such things as the Vasse River project management and cyno- bacteria communication.
- The CEO could also avail himself of this opportunity to request the ARC to consider more administrative matters to be included on the list to be discussed and recommended to the Council.

\*

viewer Refers the opportunity identified in the officer's report of a risk-based approach to communications and capitalising on the value offered primarily from complaints to its Audit and Risk Committee (ARC) to consider (but not be limited to) the following options moving forward:

- a. the CEO undertake a review of the City's complaint handling process and provide a report to the ARC outlining the risks and opportunities for improvement of the current process as it relates to customer service.
- b. the CEO to engage an independent auditor to undertake a review of the City's complaint handling processes and provide a report to the ARC outlining the risks and opportunities for improvement.
- c. the CEO include complaints handling as an area for audit in any future internal audit plan (noting that there is a report scheduled for the March ARC meeting that will address an internal audit plan).

CARRIED 7 / 0

### OFFICER COMMENT

Officers do not support this notice of motion for the reasons outlined below.

At its ordinary meeting in February Council resolved (C2402/39):

*That the Council:*

1. *Observes the report providing measures and opportunities increasing community engagement and understanding of City processes and decisions addressing the relevant CEO KPI deliverable, but also notes the strategy to be a collection of process inputs NOT outcomes (which are yet to be fully assessed in terms of successfully delivering the desired customer service experience levels).*
2. *Accordingly, refers the matter of consideration of the CEO's performance meeting KPI criterion #4 to the next CEO Performance Committee meeting for its advice to the Council.*
3. *Refers the opportunity identified in the officer's report of a risk-based approach to communications and capitalising on the value offered primarily from complaints to its Audit and Risk Committee (ARC) to consider (but not be limited to) the following options moving forward:*
  - a. *the CEO undertake a review of the City's complaint handling process and provide a report to the ARC outlining the risks and opportunities for improvement of the current process as it relates to customer service.*
  - b. *the CEO to engage an independent auditor to undertake a review of the City's complaint handling processes and provide a report to the ARC outlining the risks and opportunities for improvement.*
  - c. *the CEO include complaints handling as an area for audit in any future internal audit plan (noting that there is a report scheduled for the March ARC meeting that will address an internal audit plan).*

Item 6.1 on the current Audit and Risk Committee agenda responds to (relevantly) part 3 of that Council decision and recommends that the Council include complaints handling as a topic for audit in the City's internal audit plan when established (in addition to recommending that a review of the Council's Complaints Management Policy is undertaken).

An internal audit program / plan provides an independent overview of the adequacy and effectiveness of reporting and management frameworks and corporate governance processes. An internal audit program is designed to explore frameworks, processes and systems in place within an organisation, and identify opportunities for improvement. While an internal auditor may look at individual examples to determine how a process has, or has not, been applied, it's important to note that it is not the role of an auditor to make findings in relation to individual examples; in this context, individual complaints. It is also important for the Auditor to maintain independence and to determine how they audit the various matters. To provide particular examples or a set of examples, as proposed in part 1 and 4 of this notice of motion, puts at risk this independence, and would also be in advance of the auditor determining their audit approach.

The Council has (C2403/51) resolved to establish an internal audit function and has allocated \$35,000 to engage an experienced and appropriately qualified external consultant for that purpose. The engagement of an external consultant also ensures independence. Development of an internal audit plan by officers, as proposed in part 2 of the motion, goes against that council decision, and is not recommended. The RFQ for the engagement of the internal auditor has been / will be imminently released, and it is expected that an appointment would be made in July.

With respect to part 3 of the motion, it is recommended that the ARC (and the Council) await discussion with, and the advice of the appointed auditor, before determining (more broadly) what to include in the internal audit plan. It is anticipated that the ARC will have the opportunity to discuss the plan with the auditor in August / September, post their appointment.

**10.3 Policy and Legislation Committee - 15 May 2024 - New Council Policy: Model Litigant**

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Manager Legal and Governance - Ben Whitehill
<b>Authorised By:</b>	Director Corporate Strategy and Performance - Sarah Pierson
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	1. Model Litigant Policy [6.1.1 - 2 pages]

This item was considered by the Policy and Legislation Committee at its meeting held 15 May 2024, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

**COUNCIL DECISION**

**C2406/157** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the Council adopt the Model Litigant Policy (Attachment 1).**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**

**OFFICER RECOMMENDATION**

That the Council adopt the Model Litigant Policy (Attachment 1).

**EXECUTIVE SUMMARY**

This report presents a Model Litigant Policy in response to a Council resolution at the 20 March 2024 ordinary Council meeting.

**STRATEGIC CONTEXT**

The adoption of a Model Litigant Policy is consistent with the strategic goal of delivering governance systems that facilitate open, ethical and transparent decision making.

## **BACKGROUND**

At the ordinary Council meeting on 20 March 2024 the Council resolved (in part):

1. *That the CEO draft a Council "Model Litigant Policy".*
2. *The "Model Litigant Policy" be referred to the subsequent Policy & Legislation Committee meeting in May 2024.*

When a government body is a party to litigation, there is an expectation that it will behave as a model litigant. This means that it must uphold the highest ethical and professional standards by acting honestly and fairly and seeking to resolve the dispute as quickly as possible.

Government bodies are recognised as having greater power than individuals and businesses and therefore must not be seen to be abusing the power that comes with their greater experience, resources and authority.

## **OFFICER COMMENT**

Officers have prepared a Model Litigant Policy in response to the Council resolution at the 20 March 2024 ordinary meeting.

The policy incorporates the general principles that relate to being a model litigant, which include:

- dealing with claims promptly;
- minimising delay in proceedings;
- not taking advantage of a claimant who lacks the resources to litigate a legitimate claim;
- paying legitimate claims;
- avoiding litigation; and
- keeping costs to a minimum.

Officers recommend that the Council adopt the Model Litigant Policy.

## **Statutory Environment**

Not Applicable.

## **Relevant Plans and Policies**

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

Plan:

Not applicable.

Policy:

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**

As an alternative to the proposed recommendation the Committee could not adopt the Model Litigant Policy or amend the proposed policy.

### **CONCLUSION**

Officers have presented a Model Litigant Policy for adoption by the Council.

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

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

<b>Milestone</b>	<b>Completion Date</b>
Adopted policy published on the City's website	Late June 2024

**10.4 Policy and Legislation Committee - 15 May 2024 - Council Policy Review: Private works on City land including private coastal protection works**

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Director Corporate Strategy and Performance - Sarah Pierson
<b>Authorised By:</b>	Director Community Planning - Gary Barbour
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	1. Council Policy Private works on City Land [6.2.1 - 2 pages] 2. Council Policy Private works on City Land track changes [6.2.2 - 2 pages]

This item was considered by the Policy and Legislation Committee at its meeting held 15 May 2024, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

**COUNCIL DECISION**

**C2406/159** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the Council adopts the Council Policy ‘Private works on City land including private coastal protection works’ as per attachment 1 to replace the current policy.**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**

**OFFICER RECOMMENDATION**

That the Council adopts the Council Policy ‘Private works on City land including private coastal protection works’ as per attachment 1 to replace the current policy.

**EXECUTIVE SUMMARY**

This report presents for the Council’s readoption Council Policy ‘Private works on City land including private coastal protection works (the Policy), with the current policy having been reviewed as part of the City’s ongoing policy review process. No substantive changes are recommended.

## STRATEGIC CONTEXT

The Policy sets out the City's position with respect to private works on City land and forms part of the City's overall governance system, facilitating open, ethical and transparent decision making.

## BACKGROUND

The current policy was first adopted in February 2019 to replace two previous Council policies:

- Policy 134 - Works and Development on Foreshore and Landscape Protection Reserves and
- Policy 240 - Reserves Vegetation Protection.

Having regard to the Governance System Review (GSR) carried out in 2017, those existing policies were rescinded, as they either set out things which are already established in law or other Council policies, or created some impression that works for private benefit may be supported, and replaced with a new, much more targeted policy.

The Policy retains a broader scope / policy statement reflecting that private works on City land will not generally be supported except where provided for in a plan, policy or legislation (such as a vehicle crossover, or portable signage) and then identifies the only circumstance in which the City may contemplate private works or actions on City land, which is for private coastal protection works, or in some circumstances the removal of vegetation on City land for the purposes of private works.

## OFFICER COMMENT

Officers identified value in the Council adopting a policy that would guide the consideration of proposals for private works on City land for private coastal protection works; being in situations where properties directly adjoin foreshore reserves, but other adjoining or nearby properties may be 'high water mark' titles, or be surveyed titles that extend beyond the high water mark, and where physically, it does not make sense to limit coastal protection works to private property only (in simple terms, private seawalls all need to 'line up with each other').

The Policy sets out under what circumstances such works might be supported, and that approval be time limited, to a maximum of ten years, to avoid the incorrect assumption that such works can or should provide 'long-term' protection, and allow for a timely change of strategic direction, should that be necessary.

Having reviewed the Policy, no substantive changes are recommended with the Policy considered to be of continuing relevance. A minor amendment to the title is recommended to streamline it, and one grammatical edit.

## Statutory Environment

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

Controls relating to the undertaking of private actions or works on City land are set out in a broad range of legislation, most particularly –

1. *Planning and Development Act 2005* and City of Busselton Local Planning Scheme No. 21;
2. *Building Act 2012*; and



3. *Local Government Act 1995*, Local Government (Uniform Local Provisions) 1996 and City of Busselton Property and Thoroughfares Local Laws.

The above set out that, with some very limited exceptions, no works can occur on City land without at least one form of approval having first been granted by the City.

**Relevant Plans and Policies**

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

Plan:  
Not applicable.

Policy:

The City also has a Policy Framework which sets out the purpose of a Council Policy as opposed to an Operational Practice, with a Council Policy to provide strategic direction to the Council and the CEO.

**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 require further amendments to the Policy.

**CONCLUSION**

A review of the Policy has been undertaken, with no substantive changes proposed. The Policy is recommended for readoption by the Council.

**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
Policy updated on the City’s website	Within one week of adoption

**10.5 Policy and Legislation Committee - 15 May 2024 - Council Policy Review: Waste Collection Services**

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
<b>Directorate:</b>	Infrastructure and Environment
<b>Reporting Officer:</b>	Manager Waste and Fleet Services - Mark Wong
<b>Authorised By:</b>	Director Infrastructure and Environment - Oliver Darby
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Proposed Council Policy - Waste Collection Service [6.3.1 - 3 pages]</li> <li>2. Council Policy - Waste Collection Service track changes [6.3.2 - 3 pages]</li> </ol>

This item was considered by the Policy and Legislation Committee at its meeting held 15 May 2024, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

**COUNCIL DECISION**

**C2406/160** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the Council adopts the Council Policy – Waste Collection Services as per attachment 1 to replace the current policy.**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**

**OFFICER RECOMMENDATION**

That the Council adopts the Council Policy – Waste Collection Services as per attachment 1 to replace the current policy.

**EXECUTIVE SUMMARY**

This report presents for the Council’s consideration a revised Council Policy for Waste Collection Services (the Policy), with the current Policy amended as part of the City’s ongoing policy review process and following a decision of the Council at its April ordinary meeting (C2404/88) to refer the Policy to the Policy and Legislation Committee for further review.

## STRATEGIC CONTEXT

The Policy supports the delivery of Strategic Priority 1.5 in Key Theme 1 of the City's Strategic Community Plan: Environment which is to implement best practice waste management strategies (with a focus on waste avoidance, reduction, reuse and recycling). The collection of waste is a core service supporting this priority.

## BACKGROUND

The current Policy was first adopted in 2012 (C2002/033), to replace a previous Refuse Collection Service Policy. It was last reviewed in 2019 (C1910/212) having regard to the Governance System Review outcomes which recommended that policies be strategic in nature.

As part of the City's regular review of Council policies the current Policy was reviewed and presented to the Policy and Legislation Committee (the Committee), and subsequently recommended for readoption to the Council by the Committee, with only minor amendments (to remove reference to the "Organic Waste Mobile Garage Bin (MGB) as the City is not currently providing this service).

The Council requested that the Policy be further reviewed by officers and considered by the Committee with specific reference to the criteria and mechanism used by the Authorised Officer (specified within the Policy) to amend the Prescribed Area, that is the area within which kerbside general waste and recycling collection services are provided.

The current Policy outlines that the Authorised Officer may amend the Prescribed Area (for example in response to requests for a service outside of the area) based on consideration of the following criteria:

- Suitability in terms of distances, roads, access and safety
- Demand for the service; and
- Cost of providing the service.

Councillor Macnish at the Council's ordinary Council meeting in April presented an alternative motion:

*That the Council adopts:*

.....

*2. its Waste Collection Service Policy (Attachment 2) with an amendment to point 5.8 to include the calculation used by the Authorised Officer to determine the viability of providing a service.*

In response officers noted that the areas within which the City provides waste collection services are assessed based on the criteria outlined in the policy and that this assessment is undertaken by the Authorised Officer (authorised within the Policy), however is not a mathematical calculation; instead requiring a considered assessment of each factor as it relates to the requested service. Accordingly, officers instead proposed that the outcomes of an assessment for a new service could instead, if the Council wished, be presented to the Council for the service endorsement.

As a result, the Council resolved (C 2404/88):

*That the Waste Collection Service Policy (Attachment 2) be referred to the Policy and Legislation Committee at its next meeting of 15 May 2024.*

#### **OFFICER COMMENT**

Officers have further reviewed the current Policy, with the following amendments recommended:

- Simplification of definitions;
- Simplification of policy wording throughout for readability;
- Clarification at point 5.1 and 5.2 as to the scope of service provision within the Prescribed Area; specifically noting that the service will apply to residential premises whether occupied or vacant (and as per point 5.8 will be charged) and that the City does not provide services to premises on unsealed roads. This is consistent with current practices;
- Limitation of the Authorised Officers discretion to determine the provision of new services; limited to services in areas adjacent to the Prescribed Area. Amendments which are not adjacent will be assessed by the Authorised Officer and presented to the Council by the CEO. The criteria for assessment remain as per the current Policy.

Officers consider that the Policy provides sufficient strategic guidance in relation to waste collection services, and while the Policy removes some discretion from the Authorised Officer, officers are comfortable that this is reasonable and will not impose an unreasonable administrative burden, noting that the Authorised Officer retains the discretion to amend the Prescribed Area where services are to be added adjacently.

#### **Statutory Environment**

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

#### **Relevant Plans and Policies**

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

Plan:

Not applicable.

Policy:

[Waste Collection Services](#)

The City also has a Policy Framework which sets out the purpose of a Council Policy as opposed to an Operational Practice, with a Council Policy to provide strategic direction to the Council and the CEO.

#### **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 require further amendments to the Policy.

### **CONCLUSION**

A review of the Policy has been undertaken in response to the Council's decision to refer the Policy for further review to the Committee. Officers feel the Policy as reviewed is of continuing relevance and recommends it for adoption.

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

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

<b>Milestone</b>	<b>Completion Date</b>
Policy updated on the City's website	Within one week of adoption

**10.6 Policy and Legislation Committee - 15 May 2024 - Council Policy Review: Public Artwork and Urban Art**

<b>Strategic Theme:</b>	Key Theme 3: Opportunity 3.1 Work with key partners to facilitate the activation of our town centres, creating vibrant destinations and consumer choice.
<b>Directorate:</b>	Economic and Business Development
<b>Reporting Officer:</b>	Manager Events and Culture - Peta Pulford
<b>Authorised By:</b>	Director Economic and Business Development - Maxine Palmer
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	1. Council Policy: Public Art [6.4.1 - 2 pages] 2. Council Policy: Public Art (Marked Up) [6.4.2 - 3 pages]

This item was considered by the Policy and Legislation Committee at its meeting held 15 May 2024, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

**COUNCIL DECISION**

**C2406/161** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the Council:**

- 1. Adopts the amended Council Policy ‘Public Art’ as per Attachment 1 to replace the current Council Policy ‘Public Artwork’; and**
- 2. Rescind the Council Policy ‘Urban Art’.**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: NIL**

**EN BLOC**

**OFFICER RECOMMENDATION**

That the Council:

1. Adopts the amended Council Policy ‘Public Art’ as per Attachment 1 to replace the current Council Policy ‘Public Artwork’; and
2. Rescind the Council Policy ‘Urban Art’.

## **EXECUTIVE SUMMARY**

This report presents for the Council's consideration a revised Council Policy for 'Public Art' which incorporates key elements of the Council Policy for 'Urban Art' as part of the City's ongoing policy review process. It recommends that the amended 'Public Art' policy be adopted, and that the 'Urban Art' policy be rescinded.

## **STRATEGIC CONTEXT**

The Public Art Policy sets out the City's position with respect to public art and supports the activation of public spaces, events and cultural experiences that provide social connection. The establishment and review of Council policies form part of the City's overall governance system, facilitating open, ethical and transparent decision making.

## **BACKGROUND**

The City currently has a Public Artwork Policy and an Urban Art Policy.

The Public Artwork Policy recognises and articulates the significant role that public artwork has in the development of cultural, economic, social and artistic vitality of a City, adding a sense of community, belonging and place. It deals with public artwork installed on City owned or managed land. It was last adopted by the Council in February 2020 (C2002/036).

The Urban Art Policy deals with a type of public art, namely paint or similar medium applied on City owned or managed buildings or infrastructure. The purpose of the Policy is to engage, encourage and guide the community in the creation of urban art which reflects the cultures and lifestyles of the people who live within the City. It was last adopted by the Council in October 2019 (C1910/211).

Both policies are being reviewed in line with the City's regular review of Council policies.

## **OFFICER COMMENT**

Officers recommend minor amendments to the Council Policy 'Public Artwork' to incorporate elements of the Council Policy 'Urban Art' so that the 'Urban Art' policy can be rescinded. Urban art is a subset of public art and therefore officers believe it is unnecessary to have two policies. Other minor typographical changes have also been made to the 'Public Art' policy. The Public Artwork Policy is considered of continuing relevance and is therefore recommended for re-adoption.

## **Statutory Environment**

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

## **Relevant Plans and Policies**

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

Plan:

Not applicable.

Policy:

[Public Artwork](#)

[Urban Art](#)

**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:

1. require further amendments to the Public Art Council Policy; or
2. choose not to rescind the Urban Art Council Policy.

**CONCLUSION**

A review of the Council Policies ‘Public Artwork’ and ‘Urban Art’ has been undertaken as part of the City’s ongoing review of its Council policies, with a recommendation that the ‘Urban Art’ Council Policy be rescinded after being incorporated into and amended ‘Public Art’ Council 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
Policies updated on the City’s website	Within one week of adoption and rescission



**10.7 Finance Committee - 5 June 2024 - List of Payments Made - April 2024**

<b>Strategic Theme:</b>	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.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Manager Financial Services – Paul Sheridan
<b>Authorised By:</b>	Director Corporate Strategy and Performance – Sarah Pierson
<b>Nature of Decision:</b>	Noting: The item is simply for information purposes and noting.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	1. CONFIDENTIAL REDACTED - Confidential List of Payments for Council April 2024 [6.1.1 - 1 page] 2. List of Payments for Council April 2024 [6.1.2 - 11 pages]

This item was considered by the Finance Committee at its meeting held 5 June 2024, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

**COUNCIL DECISION**

**C2406/162** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the Council notes payment of voucher numbers for the month of April 2024 as follows:**

<b>CHEQUE PAYMENTS</b>	119952 - 119964	83,036.23
<b>ELECTRONIC FUNDS TRANSFER PAYMENTS</b>	102211 - 102818	7,549,508.38
<b>TRUST ACCOUNT PAYMENTS</b>	EFT# TR000042 - TR000046	46,494.47
<b>PAYROLL PAYMENTS</b>	01.04.2024 - 30.04.2024	2,756,104.56
<b>INTERNAL PAYMENT VOUCHERS</b>	DD #5670 - 5708	809,955.88
<b>TOTAL PAYMENTS</b>		<b>11,245,099.52</b>

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**

**OFFICER RECOMMENDATION**

That the Council notes payment of voucher numbers for the month of April 2024 as follows:

CHEQUE PAYMENTS	119952 - 119964	83,036.23
ELECTRONIC FUNDS TRANSFER PAYMENTS	102211 - 102818	7,549,508.38
TRUST ACCOUNT PAYMENTS	EFT# TR000042 - TR000046	46,494.47
PAYROLL PAYMENTS	01.04.2024 - 30.04.2024	2,756,104.56
INTERNAL PAYMENT VOUCHERS	DD #5670 - 5708	809,955.88
<b>TOTAL PAYMENTS</b>		<b>11,245,099.52</b>

**EXECUTIVE SUMMARY**

This report provides details of payments made from the City’s bank accounts for the month of April 2024 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 April 2024 is presented for information.

Also attached is a separate confidential payment listing relating to confidential matters under section 5.23(2)(c) of the *Local Government Act 1995* (the Act).

**Statutory Environment**

Section 6.10 of the *Local Government Act 1995* (the Act), 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 April 2024 is presented for information.

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

Not applicable.

**10.8 Finance Committee - 5 June 2024 - Monthly Financial Report - Year to Date 30 April 2024**

<b>Strategic Theme:</b>	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.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Manager Financial Services – Paul Sheridan
<b>Authorised By:</b>	Director Corporate Strategy and Performance – Sarah Pierson
<b>Nature of Decision:</b>	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.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	1. Monthly Financial Report - April 2024 [6.2.1 - 28 pages] 2. Investment Report - April 2024 [6.2.2 - 1 page] 3. Loan Schedule - April 2024 [6.2.3 - 1 page]

This item was considered by the Finance Committee at its meeting held 5 June 2024, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

**COUNCIL DECISION**

**C2406/163** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the Council receives the statutory monthly financial report for the period ending 30 April 2024, pursuant to Regulation 34(4) of the *Local Government (Financial Management) Regulations 1996.***

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**

**OFFICER RECOMMENDATION**

That the Council receives the statutory monthly financial report for the period ending 30 April 2024, 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 30 April 2024.

## 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 26 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**

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 the Council's 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 30 April 2024

The Statement of Financial Activity (FAS) for the year to date (YTD) shows an overall Net Current Position (NCP) of \$7.7M as opposed to the YTD budget of \$1.6K. 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 \$
<b>Amount Attributable to Operating Activities</b>				<b>25.51%</b>	<b>6,007,314</b>	<b>(1,085,036)</b>
<b>Revenue from Operating Activities</b>				<b>6.46%</b>	<b>5,568,194</b>	<b>516,868</b>
1. Grants, Subsidies and Contributions	3,235,625	1,922,801	5,452,685	68.28%	1,312,824	458,755
2. Other Revenue	492,493	174,872	334,933	181.63%	317,622	123,073
3. Interest Earnings	5,236,510	3,617,538	4,305,492	44.75%	1,618,972	(338,166)
<b>Expenses from Operating Activities</b>				<b>5.09%</b>	<b>4,272,146</b>	<b>(1,669,955)</b>
4. Materials & Contracts	(18,439,110)	(23,984,720)	(29,232,925)	23.12%	5,545,611	(69,418)
5. Other Expenditure	(3,382,443)	(5,277,045)	(6,823,844)	35.90%	1,894,601	148,466
<b>Amount Attributable to Investing Activities</b>				<b>55.35%</b>	<b>10,254,456</b>	<b>(5,189,535)</b>
6. Capital Grants, Subsidies and Contributions	4,462,495	7,995,340	20,026,075	(44.19%)	(3,532,845)	(6,042,253)
7. Land & Buildings	(12,029,071)	(25,215,584)	(29,887,475)	52.30%	13,186,513	494,163
8. Plant & Equipment	(1,973,032)	(3,802,830)	(6,118,421)	48.12%	1,829,798	821,222

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 \$
9. Furniture & Equipment	(396,218)	(1,230,801)	(1,477,759)	67.81%	834,583	67,204
10. Infrastructure	(10,266,928)	(17,422,298)	(22,540,982)	41.07%	7,155,370	(638,247)
11. Proceeds from Sale of Assets	509,881	614,800	863,800	(17.07%)	(104,919)	91,440
<b>Amount Attributable to Financing Activities</b>				<b>(141.66%)</b>	<b>(21,632,767)</b>	<b>6,545,682</b>
12. Proceeds from New Loans	0	2,000,000	2,000,000	(100.00%)	(2,000,000)	0
13. Advances to Community Groups	0	(250,000)	(250,000)	100.00%	250,000	0
14. Transfer to Restricted Assets	(20,761,849)	(9,034,678)	(9,200,455)	(129.80%)	(11,727,171)	(732,343)
15. Transfer from Reserves	35,492,511	43,734,907	60,267,588	(18.85%)	(8,242,396)	5,261,833

### Investment Report

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

A brief summary of the details contained in the report are as follows:

As at the 30 April the value of the City's invested funds decreased to \$117M from \$120M as at 31 March 2024. The decrease is a result of one term deposit being closed and 2 others reduced, with the funds used for standard operational needs.

As at 30 April 2024 the 11am account balance is \$13M, being an increase of \$10M from 31 March 2024. The increase of \$3M to the 11am account is due to funds being transferred in from term deposit closures and which will be needed for standard operational needs in the near future.

During the month of April, six term deposits matured. One was closed, two were reduced and reinvested and three were fully re-invested for a further 279 days at 5.05% on average.

The official cash rate remained steady during the month of March 2024 at 4.35%. Timing of further movements of the cash rate are currently uncertain, although it is expected to stay steady in the short term and then begin to drop later in the year.



**Borrowings Update**

During the month no new loans were drawn, with \$463K of principal and \$58K of interest paid 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 April 24 are provided below to ensure there is appropriate oversight and awareness.

Date	Payee	Description	\$ Amount
4/08/2024	SUSHI SUSHI	COUNCILLOR LUNCH	166.00
4/08/2024	PUBLIC SECTOR NETWORK	ONLINE TRAINING -A. MARSIC	1,337.50
11/04/2024	WEST AUSTRALIAN DIGITAL	DIGITAL SUBSCRIPTION-PR	28.00
19/04/2024	BUNBURY GEOGRAPHE CHAMBER OF COMMERCE	2024-25 STATE BUDGET BREAKFAST	77.38
30/04/2024	MAILCHIMP	ELECTRONIC NEWSLETTER PR	425.57
		<b>TOTAL</b>	<b>2,034.45</b>

**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 30 April 2024, the City's net current position stands at \$7.7M, and cash reserve balances remain sufficient for their purposes.

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

Not Applicable.

## **11. COMMUNITY PLANNING REPORTS**

NIL

## 12. INFRASTRUCTURE AND ENVIRONMENT REPORTS

### 12.1. Hannay Lane

<b>Strategic Theme:</b>	Key Theme 2: Lifestyle 2.10 Provide local road networks that allow for the safe movement of people through the District.
<b>Directorate:</b>	Infrastructure and Environment
<b>Reporting Officer:</b>	Director Infrastructure and Environment - Oliver Darby
<b>Authorised By:</b>	Director Infrastructure and Environment - Oliver Darby
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	1. Petition Photos [ <b>12.1.1</b> - 3 pages]

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

The motion was moved, there was opposition and debate ensued.

#### **SUBSTANTIVE MOTION**

Moved Cr Val Kaigg, seconded Cr Andrew Macnish

#### **That the Council:**

- 1. Retain and re-affix 'pot plants' to the dedicated pedestrian and cyclist area/path on Hannay Lane as soon as practicable to improve safety and clearly delineate the path as a no parking area.**
- 2. Request the CEO to investigate the following options for the future of Hannay Lane during the 2024/2025 financial year:**
  - a. retaining two way traffic flow and constructing a kerbed raised footpath;**
  - b. one way traffic flow retaining the at grade footpath with the potential of an additional loading zone; and**
  - c. one way traffic flow constructing a kerbed raised footpath with the potential of an additional loading zone.**
- 3. Request the CEO to provide a report to the Council on the outcome of the above investigation, including expected costs, in advance of the adoption of the 2025/2026 budget.**

During debate, Cr Jarrod Kennedy moved an amendment to the substantive motion.

The amendment lapsed for want of a seconder.

**AMENDMENT**

Moved Cr Jarrod Kennedy

**That the Council:**

- 1. Retain and re-affix 'pot plants' to the dedicated pedestrian and cyclist area/path on Hannay Lane as soon as practicable to improve safety and clearly delineate the path as a no parking area.**
- 2. Request the CEO to investigate the following options for the future of Hannay Lane during the 2024/2025 financial year:**
  - a. retaining two way traffic flow and constructing a kerbed raised footpath;**
  - b. one way traffic flow retaining the at grade footpath with the potential of an additional loading zone; and**
  - c. one way traffic flow constructing a kerbed raised footpath with the potential of an additional loading zone; and**
  - d. opportunities to review the 'pot plants' and their locations.**
- 3. Request the CEO to provide a report to the Council on the outcome of the above investigation, including expected costs, in advance of the adoption of the 2025/2026 budget.**

**LAPSED FOR WANT OF A SECONDER**

Debate resumed on the substantive motion.

The substantive motion was carried.

**COUNCIL DECISION**

**C2406/165** Moved Cr Val Kaigg, seconded Cr Andrew Macnish

**That the Council:**

- 1. Retain and re-affix 'pot plants' to the dedicated pedestrian and cyclist area/path on Hannay Lane as soon as practicable to improve safety and clearly delineate the path as a no parking area.**
- 2. Request the CEO to investigate the following options for the future of Hannay Lane during the 2024/2025 financial year:**
  - a. retaining two way traffic flow and constructing a kerbed raised footpath;**
  - b. one way traffic flow retaining the at grade footpath with the potential of an additional loading zone; and**

c. **one way traffic flow constructing a kerbed raised footpath with the potential of an additional loading zone.**

- 3. Request the CEO to provide a report to the Council on the outcome of the above investigation, including expected costs, in advance of the adoption of the 2025/2026 budget.**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

Reasons: Further investigations into the options available would assist the Council in considering safety outcomes and preventing illegal parking in the lane.

### **OFFICER RECOMMENDATION**

That the Council retain and re-affix 'pot plants' to the dedicated pedestrian and cyclist area/path on Hannay Lane to improve safety and clearly delineate the path as a no parking area.

### **EXECUTIVE SUMMARY**

The City received a 166 signature petition in July 2023, seeking the removal of the painted sewer pot plants from Hannay Lane in Dunsborough due to concerns with traffic flow disturbance and manoeuvring accidents. In response, the Council resolved (C2307/58) to receive the petition and referred it to the CEO to prepare a report to the Council. The petition suggests that the removal of the pot plants will improve traffic flow and increase parking for unloading of trucks.

This report responds to that resolution, provides background on the Hannay Lane pot plants, user integration, and offers recommendations to improve pedestrian safety.

### **STRATEGIC CONTEXT**

The nature of the works supports the improvement of our commitment to safe road networks, in alignment with Key Theme 2 of the City's Strategic Community Plan – Lifestyle.

### **BACKGROUND**

Hannay Lane is located within the Dunsborough Town Centre, connecting Naturaliste Terrace to Dunn Bay Road, and services businesses from a commercial delivery perspective, provides customer parking and, for several businesses, provides a shop frontage. Additionally, Hannay Lane also provides significant pedestrian and cycle linkage to Rivergum Park which contains both the Djiljit Mia community gathering space and an alternative path connection to Gifford Road and Geographe Bay through to Old Dunsborough.

The City's 2014 Dunsborough Town Centre Conceptual Plan (C1401/007) identified Hannay Lane as an area within the Dunsborough townscape that was a 'Hidden Jewel' or 'Forgotten Space' which included an element of 'potential reconfiguration of Hannay Lane to improve pedestrian environment.' Ruminations to improve the vibrancy and usability of Hannay Lane included the reconfiguration to a one-way street, narrowing to calm and slow traffic, introducing paving

treatments, consolidation of bins, artworks, improved property fencing, seating and landscaping with significant greenery.

In June 2021, as part of the ongoing upgrades of the Dunsborough Town Centre, the City was successful in securing a \$50,000 grant from the Royal Automotive Club Western Australia (RAC) to revitalise Hannay Lane. The project, was in part instigated in collaboration with the Dunsborough and District Progress Association (DDPA), with views and consideration of ongoing improvement to the town centre.

The acknowledgement of the high existing usage by pedestrian and cyclists was at the forefront of all design considerations. The need to provide protection of pedestrians and cyclists presented significant challenges primarily due to the overall narrowness of the lane's 'road' reserve and community complacency in respect to compliance with parking restrictions. It is worth noting that the laneway, other than designated parking areas, was delineated as 'no stopping' for the full length prior to the revitalisation works.

The City's preference was for the introduction of a one-way road system, however through the consultation process officers received objections to this from the author of the petition. The final design did not introduce any new parking restrictions or allocate new parking bays other than a single loading zone to enable business servicing and to lessen impacts on the traffic flow.

The overall Hannay Lane is approximately 150m long with a serviceable road width varying between 5.2m and 5.8m depending on adjacent 'path' width, road geometry and parking bays. To safely accommodate the pedestrians and cyclists within Hannay Lane with a two-way traffic configuration, paving treatments were introduced to dedicate an area for sole use by pedestrians and cyclists. This dedicated area is where the pot plants were located. The landscape/greenery component was introduced through concrete planters derived from drainage, not sewerage pipes; sourced from different sizes and lengths to enhance the area. These were painted to compliment the pavement treatments and strategically placed to offer additional protection to pedestrians and cyclists where they were assessed to be at the highest risk of conflict compared to other sections.

A survey was conducted of the broader community post the revitalisation with 81% of respondents considering that the changes added value and vibrancy to the Town Centre and indicating they would like to see similar projects replicated elsewhere.

Speed data collected within Hannay Lane indicated an 85th percentile speed of 17-19km/h. This data enabled the City to seek and receive Main Roads WA approval to implement a 10km/h shared space speed limit in place of the default 'Built Up Area' limit of up to 50km/h.

The City received a Safe Systems Approach – Road Infrastructure Improvement 'Commendation' recognition for this project by the Western Australian Local Government Association (WALGA).

#### **OFFICER COMMENT**

The petition presented to the City included photos depicting traffic congestion which appears to largely be the result of supplies being unloaded as the loading zone is being utilised by a truck backed up to the dock. The photos also appear to have a truck unloading earthmoving equipment and other illegally parked vehicles on the path area.

A photo included depicts a damaged vehicle, reportedly sustained from the pot plants. The petition refers to the photos being samples from an extensive library. Due to the nature of the lane's layout, there is little crash data with only a singular reported crash up to 31 December 2022, being a parking manoeuvre crash with a Property Damage Only Major outcome.

As noted in the background above, there were significant changes to the overall road environment through the Hannay Lane revitalisation. In acknowledgement of the high pedestrian and cycling usage, there was included a dedicated area to allow for safe passage for pedestrians and cyclists. The use of the 'pot plants' to delineate this path area have been the primary concern for the community due to restrictions on traffic and the unloading of stock from commercial vehicles.

The City notes that the planters used to delineate the path area have been moved (not by the City), either to behind the kerb line or against the buildings, likely to increase the traffic lane width and allow people to park in the paved pedestrian and cyclist path area. This action restricts the path area forcing users to mingle with moving traffic and/or parked vehicles which may include vehicles unloading.

The petition has unfortunately highlighted a number of ongoing pedestrian safety concerns that need to be addressed. The presence of shop front activities, cafe, gathering space and path connection to Old Dunsborough reiterates the need to maintain the protected pedestrian and cyclist area which should be at the forefront of any further alterations to the configuration of Hannay Lane.

Recent inspection of the area has highlighted that people continue to use the path area to park illegally. Note that this is the equivalent of a vehicle parking on or across a footpath in Queen Street or similar. This forces pedestrians onto the road area.

To ensure that there is a protected space/path for pedestrians and cyclists a review of the existing pot plant locations needs to be undertaken. Further, these pots could be replaced with taller pots and painted in a more vibrant theme to further increase their visibility and prominence for reversing vehicles where evidence of impact is clear.

The pot plants, once re-established into their original or alternative position should be affixed to the pavement to reduce the likelihood of them being removed or manipulated in the future. In addition to this, additional signage should be installed clarifying the existence of the parking regulations along Hannay Lane.

### **Statutory Environment**

Section 55 of the Land Administration Act 1997 refers to the management of the road reserve in which the road is constructed:

*"Subject to the Main Roads Act 1930 and the Public Works Act 1902, the local government within the district of which a road is situated has the care, control and management of the road."*

### **Relevant Plans and Policies**

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

Plan:

[Corporate Business Plan 2022-2026](#)



Policy:  
Not applicable.

**Financial Implications**

The officer recommendation would require staff resources to relocate the pot planters to their original or agreed alternative locations and for the affixing to the road pavement. This cost could be accommodated within the Dunsborough Town Centre general maintenance budget.

**External Stakeholder Consultation**

Stakeholder consultation will be undertaken once direction from the Council has been received.

**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. Remove all pot plants and markings along Hannay Lane or
2. Request the CEO investigate the provision of a kerb and raised path option along Hannay Lane and provide a report of the expected costs to the Council in the 2024/25 financial year;  
or
3. Request the CEO to investigate the possibility of making Hannay Lane one way, to improve traffic flow and pedestrian safety.

**CONCLUSION**

City officers consider that the concerns identified and action requested within the petition will compromise the safety of pedestrians and cyclists using Hannay Lane. Officers have therefore proposed an alternative treatment to reduce pot plant impacts.

**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
Completes agreed minor works	30 December 2024

**13. ECONOMIC AND BUSINESS DEVELOPMENT REPORTS**

**13.1. Management Agreement Public Toilets Dunsborough Park Shopping Centre**

<b>Strategic Theme:</b>	Key Theme 2: Lifestyle 2.12 Provide well maintained community assets through robust asset management practices.
<b>Directorate:</b>	Economic and Business Development
<b>Reporting Officer:</b>	Senior Leasing and Property Officer - Ann Strang
<b>Authorised By:</b>	Director Economic and Business Development - Maxine Palmer
<b>Nature of Decision:</b>	Contractual: To enter into a contract e.g. a lease or the award of a tender etc.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	Nil

DISCLOSURE OF INTEREST	
Date	19 June 2024
Meeting	Ordinary Council
Name/ Position	Mr Trevor Ayers, Acting Director Economic and Business Development
Item No./ Subject	13.1 Management Agreement Public Toilets Dunsborough Park Shopping Centre'
Type of Interest	Impartiality Interest
Nature of Interest	I have a niece leasing a premises and operating a business from within the Dunsborough Park Shopping Centre.

DISCLOSURE OF INTEREST	
Date	19 June 2024
Meeting	Ordinary Council Meeting
Name/ Position	Cr Andrew Macnish
Item No./ Subject	13.1 'Management Agreement Public Toilets Dunsborough Park Shopping Centre'
Type of Interest	Financial Interest
Nature of Interest	I am closely associated with a tenant of the shopping centre.

5:51pm: At this time, Cr Andrew Macnish left the meeting.

The officer recommendation was moved and carried.

### **COUNCIL DECISION**

**C2406/166** Moved Cr Val Kaigg, seconded Cr Mikayla Love

**That the Council reconfirm its commitment to refurbish the public toilets located on Lot 22, Strata 34316 within the Dunsborough Park Shopping Centre at the City's cost, subject to a new agreement being entered into with Strata Company in accordance with the following terms and conditions:**

- 1. The City to take responsibility for the maintenance and cleaning of Lot 22; and**
- 2. The Strata Company be required to pay to the City 50% of the ongoing cleaning and maintenance costs incurred for Lot 22 including consumables, water consumption and sewer charges.**

**CARRIED 6 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Mikayla Love,  
Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

### **OFFICER RECOMMENDATION**

That the Council reconfirm its commitment to refurbish the public toilets located on Lot 22, Strata 34316 within the Dunsborough Park Shopping Centre at the City's cost, subject to a new agreement being entered into with Strata Company in accordance with the following terms and conditions:

1. The City to take responsibility for the maintenance and cleaning of Lot 22; and
2. The Strata Company be required to pay to the City 50% of the ongoing cleaning and maintenance costs incurred for Lot 22 including consumables, water consumption and sewer charges.

### **EXECUTIVE SUMMARY**

This report provides the Council with a summary of the history of the toilet block owned by the City and located within the Dunsborough Park Shopping Centre (DPSC) and informs the Council of recent negotiations with the Strata Owners.

### **STRATEGIC CONTEXT**

The improvement of the existing toilet facilities within the Dunsborough Central Business District supports the City Strategic Community Plan – Key Theme 2: Lifestyle 2.12 by providing well maintained community assets through robust asset management practices.

### **BACKGROUND**

In 1997, the City granted conditional Development Approval (DA) to Camden Park Enterprises Pty Ltd for the construction of the Dunsborough Park Shopping Centre (DPSC). Condition 22 of the DA required the demolition of the public toilets located on Dunsborough Lion Park (Lions Park) and the

provision of replacement public toilets within the DPSC or within the town square at the developer's cost.

The Strata Management Statement (Management Statement) for Strata 34316 was lodged on 20 May 1998. The Management Statement states that Lot 22 is designated for use as public toilets and that it was to be transferred to the City. The City has since been the registered proprietor of Lot 22 on Strata Plan 34316 Volume 2132 Folio 325 (Lot 22).

The Management Statement also required that the Strata Company enter into an agreement with the City for the management and cleaning of Lot 22 on the terms of the agreement annexed to the Management Statement. A signed agreement was never provided to the City.

In the agreement annexed to the Management Statement, the Strata is responsible for the cleaning and maintenance of the public toilets with the City being required to contribute \$2,500 per annum (adjusted annually for CPI). This equates to approximately \$5,000 per annum today. Despite this agreement, at some time during the early 2000s the City entered into an undocumented informal arrangement where the City agreed to contribute 60% towards the cost of consumables, water usage, sewerage, cleaning and maintenance.

#### **OFFICER COMMENT**

Although the cleaning and maintenance of the toilets are the responsibility of the Strata Company, the City has received numerous complaints about their condition, which although passed onto the Strata Company does not address the issue with the age and state of disrepair of the infrastructure. The matter of the refurbishment of the toilets has been raised at several annual general meetings with officers seeking to obtain a contribution from the Strata Company towards these costs given the shared use.

In August 2021, officers informed elected members of the current arrangement and presented options on the future management. Elected members questioned the current arrangement with the Strata Company, in particular the City's 60% contribution towards the costs of cleaning and maintenance.

The Strata Manager wrote to the City in February 2022 advising that they had sought legal advice in respect to the agreement and the City's obligations. The Strata Company, on behalf of the owners, requested that the toilets be refurbished and that the City pay the full costs associated with the refurbishment as the owner of Lot 22.

In July 2022, officers updated elected members on negotiations with the Strata Company and presented three options to consider for future management. The options included, agree to the request to refurbish the toilets; refurbish the toilet with conditions that ongoing contributions from the Strata Company are received; or relinquish Lot 22 to the Strata Company for conversion into common property.

It was agreed that the City should reject the Strata Company proposal which failed to recognise that the toilets service the businesses and customers of the DPSC, including three licensed premises that depend on the toilets to operate their businesses. Officers wrote to the Strata Company informing them of this and asked them to reconsider their proposal. Officers were also asked to present back to the elected members on alternative locations and costs for public toilets within the CBD if the City were to close or relinquish the toilets to the Strata Owners as common property.

In October 2022, officers provided elected members with details of the process to relinquish the toilets to the Strata as common property and the approximate costs associated with this. An option to sell to the open market was also considered. Alternative locations and indicative costs for public ablutions within the CBD were also presented for discussion.

Given the expense to replace the toilets within the CBD and the impact the closure of the current toilets would have on several businesses (tenanted) within the DPSC due to their liquor licence conditions, the proposal from the Strata Company was reconsidered and it was agreed that that City should refurbish the toilets within the DPSC subject to the Strata contributing towards the ongoing cleaning and maintenance costs.

In August 2023, officers presented an update to elected members on the discussions with the Strata Company in respect to the refurbishment and redistribution of ongoing maintenance costs in accordance with existing by-laws / agreement. It was recommended that, once refurbished, the City maintain and clean the toilets and seek a contribution of 50% or more from the Strata Company, initially seeking a percentage that would be consistent with the agreement annexed to the Management Statement.

Officers wrote to the Strata Company requesting that a new agreement be entered into with the City cleaning and maintaining the toilets and the Strata contributing 70% towards these costs.

The Strata rejected this offer as they felt the toilets are used by the public more than the customers of the DPSC and that they have no obligation to provide toilets within the DPSC under the building code. The City counter offered with a proposal to share the costs evenly.

The Strata Company wrote to the City on 16 November 2023 confirming that they agree to the proposed Heads of Terms as follows:

- The City will undertake all maintenance and cleaning associated with the toilets;
- The Strata will contribute 50% towards the cleaning and maintenance costs;
- The Strata will contribute 50% towards all consumables for the toilets;
- The City will contribute 50% towards the water consumption cost based on sub-meter readings;
- The Strata will contribute 50% towards the annual sewer charges;
- The City will pay the Strata levy applied to Lot 22; and
- The City will be responsible for refurbishment costs of Lot 22.

The City advised it was prepared to accept the offer of an ongoing contribution of 50% towards the cleaning and maintenance costs, water consumption and sewer costs associated with the toilets on Lot 22, subject to the Management Statement being amended and a new agreement being entered into to reflect the terms as outlined above.

If a new agreement can be entered into as detailed above this will provide each party with clarity and direction for the future. It is believed that this is a reasonable outcome for all parties.

### **Statutory Environment**

Lot 22 is regulated under the *Strata Titles Act 1985* (Act). The Management Statement was lodged on 20 May 1998. The Management Statement refers the agreement for the use, cleaning and maintenance of Lot 22. The new agreement will need to be regulated by the Act.

The City will be required to obtain the consent of the Strata Company to undertake the proposed building works in accordance with the Management Statement and the Act.

### **Relevant Plans and Policies**

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

Plan:

[Asset Management Plan](#)

Policy:

Not applicable.

### **Financial Implications**

There will be no financial impact regarding the refurbishment costs as there is a budget allocation of \$250,000.00 this financial year for these works.

The City is required to pay the monthly Strata Levy endorsed at each Annual General Meeting. This is currently \$799.93 per month, being \$729.93 towards the administration fund and \$50.00 towards the reserve fund.

If the parties agree to evenly split the costs associated with the cleaning, maintenance, consumables, water and sewer for Lot 22, the City will be contributing less than we currently do. The toilet block maintenance levy is currently \$2,220.90 per month, \$26,650.80 per annum. This is based on 60% of the previous financial year cleaning and maintenance costs for Lot 22.

It is proposed that the City manage all the cleaning and maintenance in the future then seek a reimbursement from the Strata Company. It is anticipated that with the refurbishment the maintenance costs will initially be minimal. The cleaning costs may increase as the current cleaning schedule does not appear to be sufficient for the usage. This will be monitored and amended, as necessary.

There is no change proposed to the insurance requirements. The City has building and public liability insurance cover over Lot 22.

### **External Stakeholder Consultation**

Officers have worked closely with the Strata Company and the Strata Manager (formerly WA Strata Management) for many years to achieve an amicable outcome. In recent months, the Strata Company engaged Oakfield as the new Strata Managers.

The City also undertook a consultation process in Dunsborough for the Dunsborough CBD Structure Plan and the lack of public toilets and the condition of the public toilets was raised on several occasions.

### **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 amend the percentage of contribution required from the Strata Company towards the cost of ongoing maintenance and cleaning. This is not recommended as it has taken years of negotiations to reach this point.
2. Resolve to close the public toilets on Lot 22 and inform the public the location of alternative public toilets. This is not recommended as this would put pressure on the two toilets located at Seymour Park and the toilets located on Dunsborough Playing Fields. This would also impact a number of businesses within the DPSC that require the public toilets to operate their business. Three of the current tenants require the toilets for their liquor licence, without which they would not be able to operate. The City would still be required to pay the monthly Strata levy.
3. Resolve to close the public toilets on Lot 22 and consider alternative locations to construct new public toilets within the CBD. This option is not recommended for the reasons mentioned in option 2 as well as the indicative costs for the relocation of the toilets, which would incur significant additional costs for connection to sewer and power. The City would also be responsible for the full costs of cleaning and maintenance. Appropriate land will also need to be identified.
4. Resolve to relinquish Lot 22 to the Strata Company for inclusion in the common property. This option has been discussed with the Strata Company in the past, however, early indication is that this would not be supported and if they did they would potentially close the toilet to the public and only allow access to their customers. This is not recommended as there is already a perception of insufficient public toilets being provided in the CBD.
5. Resolve to sell Lot 22 on the open market, this is not recommended due to the costs of supplying replacement toilets and the impact on local businesses as mentioned in option 2 above.

## **CONCLUSION**

Officers recommend that the City refurbish the toilets on Lot 22, subject to a new agreement being entered into as per the terms outlined in the officer recommendation.

The tender process has been undertaken and closed with the award of tender being held until a formal agreement has been entered into with the Strata Company. Officers are continuing discussions with the Strata Manager aiming to have this agreement finalised within the timeframe of the tender.

## **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
Execution of agreement	By 15 July 2024
Lodgement of maintenance agreement	By 30 December 2024

5:53pm: At this time, Cr Andrew Macnish returned to the meeting.

**13.2. Sublease - Left Coast Chocolate Pty Ltd 25 Marine Terrace, Busselton - submissions received in response to local public notice**

<b>Strategic Theme:</b>	Key Theme 3: Opportunity 3.1 Work with key partners to facilitate the activation of our town centres, creating vibrant destinations and consumer choice.
<b>Directorate:</b>	Economic and Business Development
<b>Reporting Officer:</b>	Senior Leasing and Property Officer - Ann Strang
<b>Authorised By:</b>	Director Economic and Business Development - Maxine Palmer
<b>Nature of Decision:</b>	Contractual: To enter into a contract e.g. a lease or the award of a tender etc.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Submission of Steve Reynolds [13.2.1 - 1 page]</li> <li>2. Submission of Paul Liedermoy [13.2.2 - 1 page]</li> <li>3. Submission of Debby Hallyburton [13.2.3 - 1 page]</li> <li>4. Submission of Narelle Hopkins [13.2.4 - 1 page]</li> </ol>

The officer recommendation was moved and carried.

**COUNCIL DECISION**

**C2406/167** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the Council, after considering the submissions received under s3.58 of the *Local Government Act 1995*, approves the sublease of Lot 448, 25 Marine Terrace, Busselton (Old Tennis Club Building) to Left Coast Chocolate Pty Ltd, subject to the consent of the Minister for Lands and authorises the Chief Executive Officer to enter into a sublease on the following terms and conditions, and in accordance with the *Commercial Tenancy (Retail Shops) Agreements Act 1985*:**

- 1. Term: Initial term of 10 years with an option to renew for a further 2, 10 year terms, last term less one day.**
- 2. Rent:**
  - Year 1 - \$100.00 plus GST
  - Year 2 - \$16,250.00 plus GST
  - Year 3 - \$32,500.00 plus GST
  - Year 4 - \$48,750.00 plus GST
  - Year 5 – market rent
- 3. From year 6 onwards, annual rent reviews will be adjusted according to CPI, with market rent reviews undertaken every 5 years.**
- 4. Permitted Purpose: Family restaurant/cafe, chocolatier and retail outlet for the sale of chocolate and gelato or other merchandise approved from time to time by the City.**



**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love,  
Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**

### **OFFICER RECOMMENDATION**

That the Council, after considering the submissions received under s3.58 of the *Local Government Act 1995*, approves the sublease of Lot 448, 25 Marine Terrace, Busselton (Old Tennis Club Building) to Left Coast Chocolate Pty Ltd, subject to the consent of the Minister for Lands and authorises the Chief Executive Officer to enter into a sublease on the following terms and conditions, and in accordance with the *Commercial Tenancy (Retail Shops) Agreements Act 1985*:

1. Term: Initial term of 10 years with an option to renew for a further 2, 10 year terms, last term less one day.
2. Rent:
  - Year 1 - \$100.00 plus GST
  - Year 2 - \$16,250.00 plus GST
  - Year 3 - \$32,500.00 plus GST
  - Year 4 - \$48,750.00 plus GST
  - Year 5 – market rent
3. From year 6 onwards, annual rent reviews will be adjusted according to CPI, with market rent reviews undertaken every 5 years.
4. Permitted Purpose: Family restaurant/cafe, chocolatier and retail outlet for the sale of chocolate and gelato or other merchandise approved from time to time by the City.

### **EXECUTIVE SUMMARY**

This report follows a decision of the Council at its ordinary Council meeting 17 April 2024 (C2404/96) to enter into a sublease with Left Coast Chocolate Pty Ltd (LCC) for Lot 448, 25 Marine Terrace, Busselton (Old Tennis Club Building), subject to the Minister for Lands approval and s3.58 *Local Government Act 1995* (the Act) advertising of the proposed disposition.

Four submissions were received in response to public advertising of the disposition. This report outlines the issues raised in those submissions which centred on the annual rent and lease term. Section 3.58 (3) (b) of the Act requires consideration of any submissions made. This report contains details around how the lease rents and term were arrived at and recommends that, after considering the submissions and further details provided, the Council proceed with the sublease to LCC in accordance with the officer recommendation.

All parties who made submissions have been contacted.

## STRATEGIC CONTEXT

The Council endorsed strategy for the Busselton Foreshore is aimed at revitalising the foreshore into a family friendly, vibrant and active area, and to additionally bring the offerings of the Busselton CBD and Cultural Precinct together with the foreshore to create a seamless transition from one to the other.

## BACKGROUND

On 17 April 2024, the Council resolved (C2404/96) to enter into a sublease with LCC, subject to the Minister for Lands approval and there being no objections raised through the required advertising process under section 3.58 of the Act, as set out below:

*“That the Council:*

*.....*

*2. resolves to sublease the Old Tennis Club Building to Left Coast Chocolate Pty Ltd, subject to the consent of the Minister for Planning, Lands and Heritage and there being no objections raised through the required section 3.58 (of the Local Government Act 1995) advertising, and delegates power and authority to the Chief Executive Officer to negotiate and agree the sublease on the following terms and conditions:*

*a. Term: same as the Headlease term (less one day)*

*b. Rent:*

*Year 1 - \$100 + GST*

*Year 2 - \$16,250 + GST*

*Year 3 - \$32,500 + GST*

*Year 4 - \$48,750 + GST*

*Year 5 - \$65,000 + GST (subject to market rent review)*

*Year 6 and onwards – previous year’s rent annually reviewed and adjusted in accordance with CPI each year and market reviews to undertaken on the 5<sup>th</sup> Anniversary of the term and every 5 years thereafter;*

*c. Permitted Purpose: Family restaurant/cafe, chocolatier and retail outlet for the sale of chocolate and gelato or other merchandise approved from time to time by the City;*

*d. Such further terms and conditions as required by the CEO.”*

Public notice was given of the proposed disposition on 24 April 2024 in the City Connect, on the City website, the City’s Facebook page and on the notice boards at the Libraries and the Administration Building, as per below:

Description of Property: whole of Lot 448, DP 193977, 25 Marine Terrace Busselton

Details of Disposition:

- (a) Tenant: Left Coast Chocolate Pty Ltd (ACN 676 086 990).
- (b) Consideration: Rent (excluding GST and outgoings)
  - Year 1 \$100;
  - Year 2 \$16,250;
  - Year 3 \$32,500;
  - Year 4 \$48,750;
  - Year 5 \$65,000 (subject to market rent review);

Year 6 and onwards annually previous years rent reviewed by CPI and market reviews every 5 years.

- (c) Sublease Term: 30 years (less one day)
- (d) Market Rent Value: \$75,000 per annum (exclusive of GST and outgoings) valuation dated 16 January 2024.

Submissions were invited, closing Friday 10 May 2024.

#### **OFFICER COMMENT**

The City received 4 submissions in response to advertising, as attached. In summary, the key concerns raised by the submissions can be grouped into the following categories:

- the rental being achieved across the first 5 years of the lease is below the market valuation, with this being an arrangement that submitters didn't believe would normally be available to a commercial tenant
- The length of the sub-lease, creating the risk that the proposed use no longer fits a future vision for that area of the City and the City becomes liable for a payout to the lessees in order to break the lease.

Officers have addressed each of those concerns below.

#### **Rent below market valuation**

The proposal to step the annual rent and use a lower value than the January 2024 valuation was based on several factors. In July 2021, prior to the Expression of Interest (EOI) process the City received a valuation in the range of \$30,00 to \$35,000. The EOI submission made in October 2021 by the LCC (the Geographe Bay Brewing Company Pty Ltd at that time) based their financial modelling around this figure. Due to the protracted head lease negotiations between the City and the Department of Planning, Lands and Heritage (DPLH), there have been delays outside of LCC's control.

Costs associated with bringing the building to code is higher than originally anticipated, with additional costs, unknown at the time of the EOI. The site requires a power upgrade, a water connection and pump station upgrade, along with a refurbishment to the existing sewer pump station. These upgrades are required for any party to enter into a sublease with the City.

The power supply for the building is currently sourced from a meter located on a different parcel of land (that previously held the tennis courts). A separate power supply to the building is necessary, with the works quoted at \$95,000. The quote for the sewer pump refurbishment is \$22,950.

The power supply and sewer works are a cost that a landlord would normally be liable for, however, LCC have agreed to fund these works upfront and be compensated over time by a stepped rent. The other head works cost that LCC have agreed to include upgrades to water services and building fire compliance, being more than \$20,000. A total cost of at least \$140,000.

Additional to these costs, LCC are also undertaking substantial fit out works that include new ablutions and kitchen facilities. It should be noted that the current building was a tennis club, community facility, and is over 30 years old. Total building works are expected to cost approximately \$2.5M to bring the building up to a standard to enable trading to commence. There are significant upgrades to areas such as the toilets to bring them to a commercial standard.

The stepped rent has been negotiated in light of the additional costs being incurred up-front by LCC, that would not normally be incurred by a commercial tenant (over and above normal fit-out cost responsibilities), along with an allowance for the fact that these additional works are going to result in an extended works period during the initial stages of the sublease. Given this, it is unlikely that LCC will be trading in the first year.

The process of a stepped rental increase over the initial years of a lease is consistent with previous commercial negotiations that have required significant up-front expenditure by lessees prior to operations being able to commence. While reduced rent applies over the first four years, full Council rates will apply, and all current service charge expenses will move from being the City's responsibility to the LCC.

In response to feedback however, the recommendation has been reworded to make it clear that the rent will be reviewed in year 5 with an up-to-date market revaluation.

### Term

This building has largely sat vacant since the Tennis Club relocated to their new facility. It is a key activation node connecting the Busselton foreshore and CBD. The EOI process generated just two submissions, with the submission from LCC progressing. The City's focus has been on securing a commercial tenant who will diversify the range of activities available for locals and visitors to Busselton and a tenant who will operate the asset successfully into the future.

While comments regarding the length of the term (30 years) is noted, the term has been a key element of negotiations with both the State and LCC from the commencement of this process. The extended term recognises the substantial investment LCC are making into the premises and provides them with a reduced level of risk to obtain the finances needed to establish this new venture. The lease term also demonstrates a commitment from LCC, reducing the risk to the Council that the building could once more become vacant and helping to support the growth and development of our local economy.

### **Statutory Environment**

The City advertised the proposed disposition in accordance with s3.58 of the Act. Under s3.58 (3) (b) of the Act the Council is required to consider the submissions made before resolving on the disposal.

### **Relevant Plans and Policies**

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

Plan:

Not applicable.

Policy:

[Leasing of City Premises](#)

### **Financial Implications**

There are no financial implications associated with the proposed amendments to the terms of the disposal (contained in the officer recommendation), as compared to the Council's previous decision (C2404/96).

No headlease rental payments to the State apply for the first three years. The sublease income (net of State headlease charges) will be placed into the Jetty Maintenance Reserve and only able to be used for that purpose.

### **External Stakeholder Consultation**

Local public notice of the proposed disposal was given in accordance with section 3.58 of the Act, as outlined in this report. Each of the four submitters were contacted to discuss their concerns. Officers also took this opportunity to explain the background to the officer recommendation.

### **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. There are no risks of a medium or greater level identified.

There are reputational risks identified however should the City not proceed with the sublease substantially in its current form. The City has been negotiating in good faith for almost three years to reach an agreement with both the State and LCC with regards to this proposal. Major changes to the lease terms at this stage could impact on future negotiations with both the State and commercial operators.

### **Options**

As an alternative to the proposed recommendation the Council could amend any of the terms within a) to c) of the officer’s recommendation.

### **CONCLUSION**

It is proposed that the Council proceed with the sublease to LCC. Significant negotiations have been undertaken with both the State and LCC since the proponent was nominated by the Council as the preferred proponent in October 2021, to result in a proposal that meets the needs of all parties.

The submissions received through the recent advertising focussed on the reduction in rent against the licensed valuation and the term of the proposed lease. The rent reduction (via the stepped increase) is considered justified due to the large headworks and building costs being incurred by LCC, which would normally be a cost to the landlord. The term is an integral part of the proposal to de-risk the project sufficiently for LCC to build and operate a successful business.

### **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
Finalise head and sub leases	July 2024

**14. CORPORATE STRATEGY AND PERFORMANCE REPORTS**

**14.1. 2024 Financial Management System Review**

<b>Strategic Theme:</b>	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.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Finance Coordinator - Jeffrey Corker
<b>Authorised By:</b>	Director Corporate Strategy and Performance - Sarah Pierson
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	1. City of Busselton 2024 FMSR Report FINAL [14.1.1 - 30 pages]

The officer recommendation was moved and carried.

**COUNCIL DECISION**

**C2406/168** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the Council**

- 1. Receives the 2024 Financial Management System Review and acknowledges the outcomes as presented in Attachment 1, in accordance with Regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*; and**
- 2. Requests the CEO to provide update reports on the findings and recommendations to the Audit and Risk Committee at its November 2024 meeting and thereafter quarterly.**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**

**OFFICER RECOMMENDATION**

That the Council

- 1. Receives the 2024 Financial Management System Review and acknowledges the outcomes as presented in Attachment 1, in accordance with Regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996*; and**

2. Requests the CEO to provide update reports on the findings and recommendations to the Audit and Risk Committee at its November 2024 meeting and thereafter quarterly.

## **EXECUTIVE SUMMARY**

In accordance with Regulation 5(2)(c) of the *Local Government (Financial Management) Regulations 1996* (the Regulations), a local government is to undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government not less than once in every 3 financial years. This report provides the findings of the Financial Management System Review (FMSR) as completed by AMD Chartered Accountants (AMD) in April/May 2024.

## **STRATEGIC CONTEXT**

Review of the appropriateness and effectiveness of systems and procedures aids in the good governance of the organisation.

## **BACKGROUND**

As per the Regulations, City officers engaged AMD to undertake an independent review of the City's financial management systems. AMD had previously undertaken the FMSR on the City's behalf in February 2021 (C2105/093). This report presents the findings of that FMSR.

## **OFFICER COMMENT**

The FMSR was comprehensive, with seven key focus areas being considered. A summary of those, and the appropriate scope and approach undertaken, is as follows:

### **1. Collection of monies**

Site visits were completed to nine outstations and the City's central Customer Service. The following procedures were completed (as applicable) at each site:

- Documented internal controls, procedures and reconciliations in relation to all source of income;
- Tested collection, receipting, invoicing and posting procedures over cash receipts on a sample basis;
- Counted petty cash and float on hand ensuring materially correct;
- Reviewed fees and charges schedule and ensure adequate internal controls in place over receipting; and
- Reviewed credit control procedures in respect to sundry debtors and rate debtors.

### **2. Custody and security of money**

Site visits were completed to nine outstations and the City's central Customer Service at the Administration Building. These visits reviewed the security of cash and banking procedures to ensure the appropriate controls and procedures are in place.

### **3. Maintenance and security of the financial records**

Reviewed information technology (IT) systems to assess physical security, access security, data backups, contingency plans, compliance and systems development; and also reviewed registers

maintained (including key register, tender register, gifts and travel registers etc.) and Council minutes.

#### **4. Accounting for Municipal or trust transactions**

The scope and approach was as follows:

- Reviewed all monthly reconciliations including bank, sundry debtors, sundry creditors, fixed assets, rates debtors and rateable value reconciliations ensuring correctly reconciled and reviewed;
- Reviewed and tested in detail most recent municipal and trust bank reconciliations prepared;
- Reviewed processes in respect to BAS, FBT Return and other statutory returns preparation;
- Reviewed use of reserve funds and determined whether changes in reserve purposes have been budgeted or public notice was provided;
- Reviewed trust ledger balances; and
- Reviewed policies and procedures in respect to insurance, recording claims and insuring newly acquired assets.

#### **5. Authorisation for incurring liabilities and making payments**

The scope and approach was as follows:

- Reviewed controls and procedures over the authorisation of purchase orders and making of payments;
- Tested sample of payments to ensure compliance with stated procedures;
- Reviewed credit card processes and procedures, testing transactions on a sample basis;
- Reviewed petty cash processes and procedures, testing transactions on a sample basis;
- Completed sample testing of asset additions and asset disposals;
- Reviewed asset capitalisation and depreciation policy and ensure compliance with stated policies; and
- Reviewed new loans received ensuring budgeted for or public notice provided.

#### **6. Maintenance of payroll, stock control and costing**

The scope and approach was as follows:

- Completed site visit to the depot to review security over stocks held and allocation / costings of stocks used (including fuel and inventory stocks);
- Reviewed of the allocation of public works overheads, plant operating costs and administration overheads completed;
- Reviewed payroll controls and procedures to ensure effective controls are in place, and complete tests on a sample basis to ensure these controls were operating effectively;
- Reviewed procedures and policies in place in respect of human resource management legislative and compliance requirements, recruitment, performance appraisal, disciplinary and termination procedures and leave entitlements;
- Reviewed listing of leave taken by employees ensuring authorised leave forms completed; and
- Reviewed annual leave balances and identify employees with more than eight weeks annual leave.



## 7. Preparation of budgets, budget reviews, accounts and reports required by the Act or the Regulations

The scope and approach was as follows:

- Reviewed policy and procedure manual;
- Reviewed the procedures for preparation of the monthly financial statements, annual financial statements and annual budget, including assessment of accounting policy, notes and applicable reporting requirements and efficiency of the process;
- Reviewed monthly financial statements ensuring presented to Council within two months and information contained within monthly financial statements in accordance with Regulation 34 of the Regulations;
- Reviewed the mid-year budget review to ensure compliance with Regulation 33A of the Regulations and assessment of budgetary expenditure controls in place;
- Ensured prior year audit report and management letter have been presented to audit committee and Council; and
- Reviewed compliance with Part 6 of the *Local Government Act 1995* and the Regulations.

As a result of the above, AMD found that *“in context of the City’s overall internal control environment, policies, procedures and processes in place are appropriate, and have been operating effectively at the time of the review”*.

AMD have also made a number of recommendations to further improve the City’s overall financial management systems. These are listed within the attached report. Officer comment has been provided on each of the recommendations. Of the twelve recommendations, six have a moderate risk rating, with the remainder rated as low.

With respect to the moderate risk items, the following areas have been identified for improvement:

- A formal Fraud and Corruption Control Plan be developed and implemented throughout the City. Additionally, AMD recommends the development of a communications strategy for ethics, fraud and corruption awareness to be integrated into the Fraud and Corruption Control Plan. *As per the management comments this is acknowledged, with work on this yet to be prioritised.*
- Some policies and procedures are outdated, requiring review. *This is acknowledged, with large numbers of policies and procedures.*
- Currently no framework in place in respect of Workplace Psychosocial Hazards. *As per the management comments, there are several priorities for the WHS team, with an action plan being drafted to identify them for the next 12 months.*
- No post tender review process completed. *The City has post tender / project review documentation available on the City’s intranet however its use is not mandated. As per the management comments, centralisation of procurement and contract management functions would facilitate reductions in risk, however is subject to resourcing levels.*
- The City does not have a Contractor Management Framework or dedicated contract manager to oversee contracts. *Similarly to above, centralisation of procurement and contract management functions is subject to further discussion and resourcing levels.*
- Staff Performance Appraisal not consistently completed across all City employees and no appraisals completed for casual employees. *As noted in the management comments, the City considers its performance appraisal processes to be robust overall and notes that the carrying out of performance appraisals can be influenced by employment circumstances and is dependant on both management and employee action. With respect to casual employees,*

*due to the nature of the employment relationship, the City manages the performance of casual employees on an informal basis.*

No recommendations were made in respect to Focus Area 7 of the report (Preparation of budgets, budget reviews, accounts and reports required by the Act or the Regulations). The FMSR indicated key underlying policies and processes in relation to the preparation of budgets, budget reviews, accounts and reports required by the Act or Regulations are appropriate, in line with the best practice and are operating effectively.

City officers will implement amendments and improvements to ensure risks are controlled in accordance with the comments provided within the attached report.

### **Statutory Environment**

Section 6.10 of the *Local Government Act 1995* states that the Regulations may provide for the controls over the financial management of the local government.

Regulation 5 of the *Local Government (Financial Management) Regulations 1996* outlines the areas a CEO is to establish efficient systems and procedures over. Regulation 5(2)(c) requires that a review of those systems be undertaken regularly and reported to the local government.

### **Relevant Plans and Policies**

Various Operational Practices (OP) and other documents are referred to within the FMSR.

### **Financial Implications**

The financial impact of implementing changes to systems or processes contained within the recommendations will be considered in future budget deliberations.

### **External Stakeholder Consultation**

No external stakeholder consultation was required or undertaken in relation to this matter.

### **Risk Assessment**

The FMSR contains an assessment of risk with each recommendation given an individual risk rating. Six findings were found to be of moderate risk, with the remaining six rated as minor.

### **Options**

The Council may determine to recommend additional requirements upon officers in response to recommendations contained within the FMSR

### **CONCLUSION**

In accordance with Regulation 5(2)(c) of the Regulations, this report provides the findings of the Financial Management System Review as completed by AMD in April/May 2024.

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

Responses to the specified individual recommendations of the FMSR will be undertaken in accordance with management comments contained within the document.

## 14.2. CEO Performance Review Committee appointments

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Director Corporate Strategy and Performance - Sarah Pierson
<b>Authorised By:</b>	Director Corporate Strategy and Performance - Sarah Pierson
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Absolute Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	Nil

The officer recommendation was moved, there was opposition and debate ensued.

During debate, Cr Andrew Macnish foreshadowed an alternative to the officer recommendation.

The officer recommendation was lost.

### COUNCIL DECISION

**C2406/169** Moved Cr Mikayla Love, seconded Cr Jarrod Kennedy

**That the Council amend the CEO Performance Review Committee Terms of Reference to increase its membership to 4 elected members.**

**LOST 1 / 6**

**FOR: Cr Kate Cox**

**AGAINST: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish,  
Cr Mikayla Love and Cr Jarrod Kennedy**

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

There was opposition and debate ensued. The motion was lost for want of an absolute majority.

### COUNCIL DECISION

**C2406/170** Moved Cr Andrew Macnish, seconded Cr Jodie Richards

**That the Council:**

- 1. Thank and disband the CEO Performance Review committee for its 2023/2024 efforts,  
and**

- 2. Request the CEO to provide a report to the Council in 2025 to consider the establishment of the new committee with its Terms of Reference that include inviting all elected members to be members of the committee.**

**LOST 4 / 3**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Andrew Macnish and Cr Jarrod Kennedy**

**AGAINST: Cr Val Kaigg, Cr Mikayla Love and Cr Kate Cox**

**ABSOLUTE MAJORITY NOT ACHIEVED**

During debate, Cr Val Kaigg foreshadowed an alternative to the substantive motion.

The alternative motion was moved, there was opposition and debate ensued.

The motion was lost for want of an absolute majority.

#### **COUNCIL DECISION**

**C2406/171** Moved Cr Val Kaigg, seconded Cr Kate Cox

**That the Council, on request of Cr Kaigg, remove Cr Kaigg from the CEO Performance Review Committee, and retain the current Terms of Reference for the CEO Performance Review committee.**

**LOST 4 / 3**

**FOR: Cr Val Kaigg, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Cr Anne Ryan, Cr Jodie Richards and Cr Andrew Macnish**

**ABSOLUTE MAJORITY NOT ACHIEVED**

#### **OFFICER RECOMMENDATION**

That the Council amend the CEO Performance Review Committee Terms of Reference to increase its membership to 4 elected members.

#### **EXECUTIVE SUMMARY**

This report formally acknowledges an administrative error resulting in the appointment of an additional (fourth) member to the CEO Performance Review Committee, and recommends that the Council, in response, amend the CEO Performance Review Committee Terms of Reference to resolve the discrepancy between the number of members appointed and the membership in the terms of reference.

#### **STRATEGIC CONTEXT**

The appointments of members to committees supports the good governance of the district.

## BACKGROUND

At the 25 October 2023 Special Council Meeting (post 2023 ordinary elections) the Council resolved to appoint Mayor Phill Cronin, Cr Kate Cox and Cr Jodie Richards as members of the CEO Performance Review Committee (the Committee).

Unfortunately, appointments to the Committee were incorrectly input into an internal City register of committee appointments as Mayor Phill Cronin, Cr Kate Cox and Cr Sue Riccelli.

On 14 February 2024, Cr Sue Riccelli resigned and at the 21 February 2024 Ordinary Council Meeting, a report was provided to the Council with incorrect advice (based on that register), that the resignation of Cr Riccelli left a vacant position on the Committee. The Council subsequently resolved to appoint Cr Val Kaigg to the Committee, in addition to Cr Richards and not in replacement of Cr Riccelli. While acknowledging the error, an administrative error does not impact on the decision of the Council to appoint Cr Kaigg to the Committee. Under Section 5.8 of the *Local Government Act 1995* (the Act) the Council may establish committees of 3 or more persons and, under Section 5.10, may appoint persons by absolute majority. The Council may resolve to appoint more members to a committee than its terms of reference specify.

## OFFICER COMMENT

The purpose of this report is to formally report the administrative error to the Council and to propose that the Council amend its Terms of Reference for the Committee to resolve the discrepancy between the number of members appointed and the membership in the Committee terms of reference. A committee of four people for the purposes of assisting the Council with the CEO performance review process is considered appropriate and all members have indicated a desire to remain on the Committee.

### Statutory Environment

Section 5.8 of the Act specifies that a local government may establish (by absolute majority) committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government.

Section 5.10 of the Act provides that members of a committee are persons appointed (by absolute majority) by the local government (other than those referred to in paragraph (b)).

Section 5.11 of the Act provides that a person appointed as a member of a committee (other than under section 5.10(4) or (5)), continues until —

- (a) the term of the person's appointment as a committee member expires; or*
  - (b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant; or*
  - (c) the committee is disbanded; or*
  - (d) the next ordinary elections day,*
- whichever happens first.*

**Relevant Plans and Policies**

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

Plan:  
Not applicable.

Policy:  
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**

As an alternative to the proposed recommendation the Council could:

1. Resolve to remove a member from the Committee
2. Resolve to otherwise determine the constitution of the Committee.

**CONCLUSION**

Amending the Committee Terms of Reference resolves the discrepancy, created by an administrative error that caused a fourth member to be appointed to the Committee, between the number of members appointed to the Committee and the membership specified in the Terms of Reference.

**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
Amended Committee Terms of Reference published on website	June 2024

## 15. CHIEF EXECUTIVE OFFICER REPORTS

### 15.1. Elected Member Information Bulletin

<b>Strategic Theme:</b>	Key Theme 4: Leadership 4.2 Deliver governance systems that facilitate open, ethical and transparent decision making.
<b>Directorate:</b>	Corporate Strategy and Performance
<b>Reporting Officer:</b>	Executive Assistant to Council - Katie Banks
<b>Authorised By:</b>	Chief Executive Officer - Tony Nottle
<b>Nature of Decision:</b>	Noting: The item is simply for information purposes and noting.
<b>Voting Requirements:</b>	Simple Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. Council Tender Report: May 2024 [<b>15.1.1</b> - 1 page]</li> <li>2. Current Running SAT Reviews: May 2024 [<b>15.1.2</b> - 1 page]</li> <li>3. Council Resolution Status Update: May 2024 [<b>15.1.3</b> - 61 pages]</li> <li>4. Civil Litigation Update: May 2024 [<b>15.1.4</b> - 1 page]</li> <li>5. Busselton Jetty Reference Group: Minutes 17 May 24 [<b>15.1.5</b> - 5 pages]</li> <li>6. Submission to Minister Hon Chris Bowen - Proposed Offshore wind area in the Indian Ocean off Bunbury [<b>15.1.6</b> - 2 pages]</li> <li>7. Email Acknowledgement of Submission - Proposed Offshore Wind Area [<b>15.1.7</b> - 2 pages]</li> <li>8. Letter to Hon Don Punch MLA - Proposed Offshore Wind Area in the Indian Ocean off Bunbury [<b>15.1.8</b> - 1 page]</li> <li>9. Letter to Hon Roger Cook MLA Premier - Proposed Offshore Wind Area in the Indian Ocean off Bunbury [<b>15.1.9</b> - 1 page]</li> <li>10. Letter to Hon Tanya Plibersek MP - Proposed Offshore Wind Area in the Indian Ocean off Bunbury [<b>15.1.10</b> - 1 page]</li> <li>11. Letter to Hon Reece Whitby MLA - Proposed Offshore Wind Area in the Indian Ocean off Bunbury [<b>15.1.11</b> - 1 page]</li> <li>12. Letter to Senator Hon Murray Watt - Proposed Offshore Wind Area in the Indian Ocean off Bunbury [<b>15.1.12</b> - 1 page]</li> <li>13. Letter to Hon Chris Bowen MP - Proposed Offshore Wind Area in the Indian Ocean off Bunbury [<b>15.1.13</b> - 1 page]</li> </ol>

The officer recommendation was moved and carried.

#### COUNCIL DECISION

**C2406/172** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the items from the elected member information bulletin be noted\*:**

- **Minutes of Committee Meetings**
- **Minor Donations Program**
- **Current Active Tenders**
- **State Administrative Tribunal Reviews Update**
- **Council Resolution Status Update**
- **Civil Litigation Update**
- **Minutes – Busselton Jetty Reference Group**



- **Submission to Hon Chris Bowen MP: Proposed Offshore Wind Area in the Indian Ocean off Bunbury**
- **Acknowledgement of submission to Hon Chris Bowen MP: Proposed Offshore Wind Area in the Indian Ocean off Bunbury**
- **Ministerial Correspondence: Proposed Offshore Wind Area in the Indian Ocean off Bunbury**

*\*Shall not be in any way read that the Council endorses or supports or agrees with the matter being 'noted'. In addition, this 'noting' form of communication does not excuse any party from any obligation or responsibility in relation to the matter/s being 'noted'. It is simply a recognition that the CEO has authorised the placing of the information (being 'noted') on the public Council agenda (as opposed to other media or not at all).*

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**

#### **OFFICER RECOMMENDATION**

That the items from the elected member information bulletin be noted\*:

- Minutes of Committee Meetings
- Minor Donations Program
- Current Active Tenders
- State Administrative Tribunal Reviews Update
- Council Resolution Status Update
- Civil Litigation Update
- Minutes – Busselton Jetty Reference Group
- Submission to Hon Chris Bowen MP: Proposed Offshore Wind Area in the Indian Ocean off Bunbury
- Acknowledgement of submission to Hon Chris Bowen MP: Proposed Offshore Wind Area in the Indian Ocean off Bunbury
- Ministerial Correspondence: Proposed Offshore Wind Area in the Indian Ocean off Bunbury

*\*Shall not be in any way read that the Council endorses or supports or agrees with the matter being 'noted'. In addition, this 'noting' form of communication does not excuse any party from any obligation or responsibility in relation to the matter/s being 'noted'. It is simply a recognition that the CEO has authorised the placing of the information (being 'noted') on the public Council agenda (as opposed to other media or not at all).*

#### **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 elected member, 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:

<b>Committee</b>	<b>Meeting Date</b>	<b>Minutes</b>
Audit and Risk Committee	8 May 2024	<a href="#">Minutes</a>
Policy and Legislation Committee	15 May 2024	<a href="#">Minutes</a>
Finance Committee	5 June 2024	<a href="#">Minutes</a>

**Minor Donations Program – May**

The Minor Donations Program is currently on hold and scheduled for review. Therefore, no applications were approved in May.

**Current Active Tenders**

The Tender update for May 2024 is provided at Attachment 1.

**State Administrative Tribunal Reviews Update**

The Current State Administrative Tribunal Reviews is at Attachment 2.

**Council Resolution Status Update**

The Council Resolution Status Update is at Attachment 3.

**Civil Litigation Update**

The Civil Litigation Update is at Attachment 4.

**Minutes – Busselton Jetty Reference Group**

The minutes from the Busselton Jetty Reference Group meeting held 17 May 2024 is at Attachment 5.

**Submission to Hon Chris Bowen MP: Proposed Offshore Wind Area in the Indian Ocean off Bunbury**

The above submission is provided at Attachment 6.

**Acknowledgement of submission to Hon Chris Bowen MP: Proposed Offshore Wind Area in the Indian Ocean off Bunbury**

The above correspondence is provided at Attachment 7.

**Ministerial Correspondence from the City: Proposed Offshore Wind Area in the Indian Ocean off Bunbury**

Copies of the abovementioned correspondence are provided at Attachments 8, 9, 10, 11, 12 and 13.

## 16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

### 16.1. Notice of Motion - District Sport and Recreation Reserve

Cr Andrew Macnish, having given notice, moved the below motion.

#### **SUBSTANTIVE MOTION**

Moved Cr Andrew Macnish, seconded Cr Anne Ryan

**That the Council:**

1. **Include in its Long Term Financial Plan an annual 2% of rates revenue amount for a Reserve for the purpose of contributing funding to District Sport and Recreation Facilities (Council resolution C2405/132), and**
2. **In direct response to the recent Catalyse community scorecard outcomes:**
  - a) **Create a new District Sport and Recreation Reserve, for the purpose of setting aside, accumulating and providing funding in order to facilitate the identification, location/siting, design, development and construction of new sporting and recreation infrastructure; and**
  - b) **Initiate this funding contribution to the Reserve (of 2% of rates revenue) in the 2024/25 budget in addition to the 'general' rates increase for a balanced budget.**

Cr Anne Ryan moved an amendment to the substantive motion.

The amendment was carried.

#### **AMENDMENT**

**C2406/174** Moved Cr Anne Ryan, seconded Cr Jodie Richards

**That the Council:**

**In direct response to the recent Catalyse community scorecard outcomes:**

1. **Include in its Long Term Financial Plan an annual amount of 1% of rates revenue plus unspent budget funds as at 30 June each year and for this combined sum to be directed into the new District Sport and Recreation Reserve for the purpose of contributing funding to District Sport and Recreation Facilities (Council Resolution C2405/132); and**
2. **In direct response to the recent Catalyse community scorecard outcomes:**
  - a) **Create a new District Sport and Recreation Reserve, for the purpose of setting aside, accumulating, and providing (co-)funding in order to facilitate the identification, location/siting, design, development and construction of new sporting and recreation**

infrastructure; and

- b) Initiate this funding contribution to the Reserve (of 1% of rates revenue plus end of financial year unspent funds\* in the 2024/25 budget) in addition to the 'general' rates increase currently proposed for a balanced budget.

\*The surplus funds as at 30 June 2024 to be those in excess of \$500,000 retained for other infrastructure projects.

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

The substantive motion as amended was carried.

### **COUNCIL DECISION**

**C2406/175** Moved Cr Andrew Macnish, seconded Cr Anne Ryan

**That the Council:**

**In direct response to the recent Catalyse community scorecard outcomes:**

1. Include in its Long Term Financial Plan an annual amount of 1% of rates revenue plus unspent budget funds as at 30 June each year and for this combined sum to be directed into the new DSR Reserve for the purpose of contributing funding to District Sport and Recreation Facilities (Council Resolution C2405/132); and
2. In direct response to the recent Catalyse community scorecard outcomes:
  - a) Create a new DSR, for the purpose of setting aside, accumulating, and providing (co-)funding in order to facilitate the identification, location/siting, design, development and construction of new sporting and recreation infrastructure; and
  - b) Initiate this funding contribution to the Reserve (of 1% of rates revenue) plus end of financial year unspent funds\* in the 2024/25 budget) in addition to the 'general' rates increase currently proposed for a balanced budget.

\*The surplus funds as at 30 June 2024 to be those in excess of \$500,000 retained for other infrastructure projects.

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

## NOTICE OF MOTION

Cr Andrew Macnish has given notice that at the meeting on 19 June 2024, he will move the above motion.

## REASONS

The City is currently considering its rating levels for its 2024/2025 Draft Budget, noting CPI (March to March) is sitting at 3.4% and that there is a nominal rating gap to CPI over the last 5 years of 4.26%.

Whilst cost of living pressures are being experienced in many sectors, local government is not immune and its labour and materials costs have increased just like everyone else. In the last five years land values in the district have increased by nearly 50% resulting in a windfall of hundreds of thousands of dollar's worth of equity to those land owners. 2% (approx. \$35 on average residential rates) on top of the rates bill reveals itself as a small price to pay for owning land in this district.

The community have clearly indicated its short term need for funds to be expended on sport and recreation and such should only be done with a longer term plan to give the shorter term expenditure needed context. The community have clearly indicated sport and recreation facilities are core business and such ties in with Busselton marketing itself as the events capital of the SW.

The GLC in particular, and other sport and recreation facilities, are tired and overused given extraordinary population growth. A recent independent study has estimated an amount of \$107M will be needed to construct the District level infrastructure to meet the future demand. This is in 2023/4 dollars. Clearly the City will not be in a position to fund the infrastructure in its own right so will have to demonstrate a solid commitment to the community (rates) contribution in order to attract State and other co-funding sources.

A '%' (in this case 2%) for a dedicated significant project will help the community identify and be interested in the progressing of such an important project. This model has been shown to apply for dedicated purposes in the City's past budgeting.

## OFFICER COMMENT

Further to a previous Council resolution (C2309/119), as part of drafting its 2024/2025 Draft Budget, the City is considering creating a new District Sport and Recreation Reserve and allocating a value equivalent to 1% of rates to that new reserve. This reserve would be for the purpose of setting aside, holding and providing funding to facilitate the identification, location, design, development and construction of new sporting and recreation infrastructure.

The value of 1% of rates is currently estimated to be approximately \$600,000. If the Council were to resolve to allocate a value equivalent to 2% of rates to this reserve, it would be approximately \$1.2M.

With respect to the Long Term Financial Plan (LTFP), officers are currently drafting a new LTFP which includes (again pursuant to the above Council resolution) modelling of a percentage of rates to be allocated to a proposed District Sport and Recreation Reserve. Officers would need to model the impact of a 2% per annum allocation across the LTFP.

**17. URGENT BUSINESS**

Nil

## 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**

**C2406/176** Moved Cr Jodie Richards, seconded Cr Jarrod Kennedy

**That the Council close the meeting to the public to discuss items which are confidential under sections 5.23(c) of the *Local Government Act 1995*.**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love,  
Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

7:01pm: At this time, the meeting was closed to the public and the livestream of the meeting ceased.



### **18.1. Audit and Risk Committee - 8 May 2024 - Legal Advice**

This item contains information of a confidential nature in accordance with sections 5.23(2)(d) of the *Local Government Act 1995*, as it contains information relating to legal advice obtained, or which may be obtained by the local government.

This item was considered at the Audit and Risk Committee meeting held 8 May 2024 and 15 May 2024, the recommendations of which have been included in this report.

The committee recommendation was moved and carried.

#### **COUNCIL DECISION**

**C2406/178** Moved Cr Andrew Macnish, seconded Cr Jarrod Kennedy

**That the ARC recommend the following motion to the Council:**

- 1. The CEO source external alternative legal advice (to that provided in December 2020 by McLeods) to provide a second opinion on the statutory requirement to advertise the BPACC (now Saltwater) business plan pursuant to s3.59 (Major Land Transaction) *Local Government Act 1995*.**
- 2. The brief for the external alternative legal advice to provide all of the information that was provided to McLeods causing its initial advice (to Dec 15, 2020 inclusive), and the new information causing subsequent advice (post 15 Dec, 2020) along with the Council's most up to date position for purposes of seeking advice in relation to:**
  - a) The appropriateness (or otherwise) of including contracts including but not limited to; construction, management and leases together for a common overall purpose being that of contributing/combining to the implementation of the BEACH then BPACC (later to be described as Saltwater) project proposal for the purposes of forming a Major Land Transaction (s3.59 LG Act); and**
  - b) The triggering of the need to re-advertise a business plan (under s3.59) when planned State funding of \$9.5m<sup>^</sup> did not eventuate (causing this amount to be replaced via further debt funding contributed by City ratepayers).**

**If the balance of the advice in the interests of transparency is to support public advertising under s3.59 at any time now or in the past then what options exist to ameliorate this situation from this point forward to mitigate risk (in a broad sense). Specific advice is required pursuant to LG Act s3.59(9).**

**<sup>^</sup>\$9.5m exceeded the Reg 8 threshold of approx. \$7.7m at the time.**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**EN BLOC**

## 18.2. Event Proposal

<b>Strategic Theme:</b>	Key Theme 2: Lifestyle 2.5 Facilitate events and cultural experiences that provide social connection. Key Theme 3: Opportunity 3.3 Continue to promote the District as the destination of choice for events and unique tourism experiences
<b>Directorate:</b>	Economic and Business Development
<b>Reporting Officer:</b>	Manager Events and Culture – Peta Pulford
<b>Authorised By:</b>	Director Economic and Business Development – Maxine Palmer
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations.
<b>Voting Requirements:</b>	Absolute Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	Nil

This item contains information of a confidential nature in accordance with sections 5.23(2)(c) of the *Local Government Act 1995*, as it contains information relating to a contract which may be entered into by the local government.

The officer recommendation was moved and carried.

### COUNCIL DECISION

**C2406/179** Moved Cr Mikayla Love, seconded Cr Jodie Richards

**That the Council endorses the single year funding allocation of \$10,000 cash towards the event proposal that is the subject of this report.**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love, Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

**BY ABSOLUTE MAJORITY**

### 18.3. Funding Proposal - South West Development Commission

<b>Strategic Theme:</b>	Key Theme 3: Opportunity 3.2 Facilitate an innovative and diversified economy that supports local enterprise, business, investment and employment growth
<b>Directorate:</b>	Office of the CEO
<b>Reporting Officer:</b>	Chief Executive Officer – Tony Nottle
<b>Authorised By:</b>	Chief Executive Officer – Tony Nottle
<b>Nature of Decision:</b>	Executive: Substantial direction setting, including adopting budgets, strategies, plans and policies (excluding local planning policies); funding, donations and sponsorships; reviewing committee recommendations
<b>Voting Requirements:</b>	Absolute Majority
<b>Disclosures of Interest:</b>	No officers preparing this item have an interest to declare.
<b>Attachments:</b>	<ol style="list-style-type: none"> <li>1. CONFIDENTIAL - IIF Keynote suggestions 240324 [<b>18.3.1</b> - 7 pages]</li> <li>2. CONFIDENTIAL - IPP Planner Draft [<b>18.3.2</b> - 8 pages]</li> <li>3. CONFIDENTIAL - IIF Sponex partner presentation CO Bus 240429 [<b>18.3.3</b> - 11 pages]</li> <li>4. CONFIDENTIAL - IIF MOU SWDC Partnerships Bunbury 240527 [<b>18.3.4</b> - 6 pages]</li> </ol>

This item contains information of a confidential nature in accordance with sections 5.23(2)(c) of the *Local Government Act 1995*, as it contains information relating to a contract which may be entered into by the local government.

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

There was opposition and debate ensued. The motion was carried.

#### **COUNCIL DECISION**

**C2406/180** Moved Cr Andrew Macnish, seconded Cr Jodie Richards

#### **That the Council:**

- 1. Agrees to the request and proposal from the South West Development Commission to deliver the Innovative Industries Forum in partnership with the City of Bunbury to further attract Economic Development opportunities for the City of Busselton and surrounding regions;**
- 2. Agree to provide the following contribution to the South West Development Commission to deliver the to the Innovative Industries Forum as follows:**
  - a) \$50,000 2024/25 financial year; and**
  - b) \$150,000 2025/26 financial year.**

3. The contribution in 2a) and 2b) is conditional upon the South West Development Commission agreeing to conduct a study, at its cost, assessing the employment opportunities and economic development benefits of matters raised in the Forum, broadly and specifically in relation to the Busselton Margaret River Airport. This shall include but not be limited to, transport to and from the airport, logistics and timing of future industry development and identification of government assistance via strategy, programs and funding.
4. The contribution in 2b) is conditional upon consideration of a detailed assessment of the success (or otherwise) of the Forum prepared objectively by the South West Development Commission and presented orally and in written form prior to the end of March 2025.
5. Thanks the South West Development Commission for its offer to be involved and requests the CEO to suggest future such forums could be held in the City of Busselton given its growth rate will make it the largest regional district in WA.

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love,  
Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

Reasons: While supportive of the partnership opportunity for the Innovative Industries Forum, a study to assess and quantify the employment opportunities and economic development benefits of matters raised in the forum provides a tangible benefit outcome for the funding contribution.

The Presiding Member called on a Councillor to move a motion to reopen the meeting to the public.

The motion was moved and carried.

**COUNCIL DECISION**

**C2406/181 Moved Cr Andrew Macnish, seconded Cr Mikayla Love**

**That the meeting be reopened to the public.**

**CARRIED 7 / 0**

**FOR: Cr Anne Ryan, Cr Jodie Richards, Cr Val Kaigg, Cr Andrew Macnish, Cr Mikayla Love,  
Cr Kate Cox and Cr Jarrod Kennedy**

**AGAINST: Nil**

7:18pm: At this time, the meeting reopened to the public and the livestream recommenced.  
The Presiding Member read out the decisions for items 18.2 and 18.3 to the gallery.

**19. CLOSURE**

The meeting closed at 7:21pm.

The minutes for the Ordinary Council Meeting held 19 June 2024 were confirmed as a true and correct record on

Date: 31-July 2024

Presiding Member:

A handwritten signature in blue ink, consisting of a stylized, cursive name followed by a horizontal line extending to the right.